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# BULLETIN

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

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August 16, 2007

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### DIRECTORY

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### CONTENTS

DOCKET .....599

**CALENDAR** of September 11, 2007

Morning .....600

Afternoon .....600/601

---

# CONTENTS

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**MINUTES of Regular Meetings,  
Tuesday, August 7, 2007**

Morning Calendar .....602

**Affecting Calendar Numbers:**

247-85-BZ	40/60 West 34 <sup>th</sup> Street, Manhattan
81-93-BZ	2255 Bedford Avenue, Brooklyn
102-95-BZ, Vol IV	50 West 17 <sup>th</sup> Street, Manhattan
242-02-BZ	1 North Railroad Street, Staten Island
284-05-BZ	34-29 37 <sup>th</sup> Street, Queens
287-06-BZ	32-12 23 <sup>rd</sup> Street, Queens
517-68-BZ	1667 East Gun Hill Road, Bronx
558-71-BZ, Vol. II	1949 Richmond Avenue, Staten Island
175-95-BZ	205-35 Linden Boulevard, Queens
297-99-BZ	45-05 Bell Boulevard, Queens
8-05-BZ	85-15 Queens Boulevard, Queens
309-05-BZ	53-03 Broadway, Queens
77-07-A	32 Adele Street, Staten Island
82-07-A	71 Bedford Avenue, Queens
84-07-A & 85-07-A	12 & 14 Brook Avenue, Staten Island
87-07-A	347 Roxbury Avenue, Queens
70-06-A	4 Rockwell Avenue, Staten Island
170-06-A & 171-06-A	3546 and 3548 Ely Avenue, Bronx
219-06-A thru 225-06-A	241-10/16/22/28/15/21/25 128 <sup>th</sup> Drive, Queens
326-06-A	1523 Richmond Road, Staten Island
153-07-BZY	20 Bayard Street, Brooklyn

Afternoon Calendar .....612

**Affecting Calendar Numbers:**

75-06-BZ	108-20 71 <sup>st</sup> Avenue, Queens
126-06-BZ	1762 East 23 <sup>rd</sup> Street, Brooklyn
378-04-BZ	94 Kingsland Avenue, Brooklyn
426-05-BZ	57-02/08 39 <sup>th</sup> Avenue & 39-02 58 <sup>th</sup> Street, Queens
116-06-BZ	172 Norfolk Street, Brooklyn
227-06-BZ	2066 Richmond Avenue, Staten Island
264-06-BZ	1632 East 28 <sup>th</sup> Street, Brooklyn
286-06-BZ	1847 60 <sup>th</sup> Street, Brooklyn
315-06-BZ	1739 Ocean Avenue, Brooklyn
16-07-BZ	2614 Halperin Avenue, Bronx
33-07-BZ	25 Carroll Street, Brooklyn
69-07-BZ	240 West Broadway, Manhattan
112-07-BZ	1089-1093 East 21 <sup>st</sup> Street, Brooklyn
126-07-BZ	555 West 42 <sup>nd</sup> Street, Manhattan
128-07-BZ	1382 East 26 <sup>th</sup> Street, Brooklyn

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# DOCKETS

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New Case Filed Up to August 7, 2007

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**185-07-BZ**

36 Fountain Avenue, West side, between Atlantic Avenue and Wells Street., Block 4154, Lot(s) 62, Borough of **Brooklyn, Community Board: 5**. Under §72-21 – To permit the proposed three family residential development (UG2) within the underlying M1-1 ZD.

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**186-07-A**

122-02 Liberty Avenue, Liberty Avenue Southside 122-123 Street, Block 9576, Lot(s) 1, Borough of **Queens, Community Board: 10**. Interpretative Appeals – Former movie theatre converted into 3 (three) stores with an unenclosed cockloft. Recommend an automatic wet sprinkler system throughout premise

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**187-07-BZ**

4677 Hylan Boulevard, North side of Hylan Boulevard 175.03 feet west of Arden Avenue, Block 5408, Lot(s) 43, Borough of **Staten Island, Community Board: 3**. Under §72-01 & §72-21 – To increase the size of the zoning lot and enlarge the structure contrary to previous approval. Increase the number of off Stret parking spaces.

-----

**188-07-BZ**

301 Park Avenue, Entire block bounded by Park & Lexington Avenues and East 49th & 50th Streets., Block 1304, Lot(s) 1, Borough of **Manhattan, Community Board: 5**. (SPECIAL PERMIT) §73-03 & §73-36 – To allow a Physical Culture Establishment in portion of an existing building(19th floor & p/o lobby level) in a C5-2.5/C5-3/C6-6 ZD.

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**189-07-BZ**

40-55 College Point Boulevard, East side of College Point Boulevard between the LIRR right-of-way and 41st Avenue., Block 5037, Lot(s) 2, Borough of **Queens, Community Board: 7**. Under §72-21 – To permit the ground floor commercial use of the proposed mixed use development, which is located in an R6 district.

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**190-07-A**

7 Chester Walk, East side Chester Walk 44.0' south of Oceanside Avenue., Block 16350, Lot(s) p/o 400, Borough of **Queens, Community Board: 14**. General City Law §36, Article 3 – Proposed alteration and enlargement to existing single family dwelling not fronting a mapped street.

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**191-07-BZ**

34-19 31 Street, Located on 31 Street between 34th & 35th Avenue., Block 608, Lot(s) 20, Borough of **Queens, Community Board: 1**. – To allow the use of an office (UG6) on the 1st floor of a 1 family house. Owner occupies the 1st floor as his primary, professional administrative offices as a licensed rigger.The second & third floor is occupied and rented to a single family.

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**192-07-A**

3546 Decatur Avenue, Intersection of the east side of Decatur Avenue and the bed of East 211th Street., Block 3356, Lot(s) 190, Borough of **Bronx, Community Board: 7**. General City Law §35, Article 3 – To permit construction of a building in the bed of a final mapped street.

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**193-07-BZ**

3591 Bedford Avenue, Location on the eastern side of Bedford Avenue between Avenue N and Avcenue O., Block 7679, Lot(s) 17, Borough of **Brooklyn, Community Board: 14**. (SPECIAL PERMIT) §73-622 – To allow the enlargement of a single family residence.

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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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**SEPTEMBER 11, 2007, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, September 11, 2007, at 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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**ZONING 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**

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**244-97-BZ**

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP, for Parkwood Realty Assoc., LLC, owner; AGT Crunch New York, lessee.  
SUBJECT – Application July 6, 2007 – Extension of Term/Time/Amendment/ Waiver for a Physical Cultural Establishment "Crunch Fitness" filed pursuant to §§ 73-11 and 73-36 to reopen the resolution for a special permit for a physical culture establishment "Crunch Fitness" adopted November 4, 1998, amended December 21, 1999, and corrected January 20, 2000: for a waiver for an extension of term which expires November 4, 2008; for the extension of time to obtain the Certificate of Occupancy; and for an amendment to the Resolution for an enlargement of the total PCE floor area within an existing two story commercial building, which the PCE will fully occupy, located in a C2-5/R-8B zoning district.  
PREMISES AFFECTED – 162 West 83<sup>rd</sup> Street, south side of West 83<sup>rd</sup> Street, between Columbus and Amsterdam Avenues, Block 1213, Lot 58, Borough of Manhattan.  
**COMMUNITY BOARD #7M**

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**APPEALS CALENDAR**

**73-07-A**

APPLICANT– Fire Department of The City of New York  
OWNER – L. W. Equity Associates Incorporated  
LESSEE – Fabco Shoe Store  
SUBJECT – Application March 30, 2007 – Application seeking to modify Certificate of Occupancy No. 300217414, to permit the issuance of an order by the Fire Department to require additional fire protection for the occupied cellar of the commercial structure in the form of an automatic sprinkler system under the authority of Section 27-4265 of the Administrative Code.  
PREMISES AFFECTED – 2169-2171 86<sup>th</sup> Street, North side of 86th Street, 100' west from the corner of Bay Parkway, Block 6347, Lot 49, Borough of Brooklyn.  
**COMMUNITY BOARD #11BK**

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**138-07-A**

APPLICANT – New York City Department of Buildings.  
OWNER: 614 NYC Partners, Incorporated  
SUBJECT – Application May 24, 2007 – Appeal seeking to revoke Certificate of Occupancy No. 104114487 that allowed the conversion of single room occupancy units (SRO) to Class A apartments without obtaining a Certificate of No Harassment from NYC Housing Preservation and Development (HPD). R8 Zoning District.  
PREMISES AFFECTED – 614 West 138<sup>th</sup> Street, West 138<sup>th</sup> Street, east of Riverside Drive and west of Broadway, Block 2086, Lot 141, Borough of Manhattan.  
**COMMUNITY BOARD #7M**

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**SEPTEMBER 11, 2007, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, September 11, 2007, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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**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**

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# CALENDAR

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**88-07-BZ**

APPLICANT – Eric Palatnik, P.C., for Lisa Roz and Ronnie Roz, owners.

SUBJECT – Application April 19, 2007 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary floor area and lot coverage (23-141(b)); side yard (23-461(a)) and rear yard (23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 1633 East 29<sup>th</sup> Street, eastern border of 29<sup>th</sup> Street, south of Avenue P and North of Quentin Road, Block 6792, Lot 62, Borough of Brooklyn.

**COMMUNITY BOARD # 15BK**

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**144-07-BZ**

APPLICANT – Sheldon Lobel, P.C., for Yuta Shlesinger, owner.

SUBJECT – Application May 30, 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) and side yards (23-461) in an R3-2 zoning district.

PREMISES AFFECTED – 3810 Bedford Avenue, southwest corner of Bedford Avenue and Quentin Road, Block 6807, Lot 11, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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*Jeff Mulligan, Executive Director*

# MINUTES

## REGULAR MEETING TUESDAY MORNING, AUGUST 7, 2007 10:00 A.M.

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

### SPECIAL ORDER CALENDAR

#### 247-85-BZ

APPLICANT – Francis R. Angelino, Esq., for Herald Towers, LLC, owner; TSI Herald, Inc., lessee.

SUBJECT – Application January 8, 2007 – Extension of Term/Waiver – Reopening of a special permit for a Physical Culture Establishment located in an C5-3, C6-6(MID) zoning district.

PREMISES AFFECTED – 40/60 West 34<sup>th</sup> Street, a/k/a 1282/130 Broadway, southeast corner of West 34<sup>th</sup> Street and Broadway, Block 835, Lot 1, Borough of Manhattan.

#### COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Francis R. Angelino.

**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, and an extension of the term for a previously granted special permit for a Physical Culture Establishment (PCE), which expired on November 19, 2005; and

WHEREAS, a public hearing was held on this application on July 24, 2007 after due notice by publication in *The City Record*, and then to decision on August 7, 2007; and

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

WHEREAS, the subject premises is located on the southeast corner of West 34<sup>th</sup> Street and Broadway; and

WHEREAS, the site is located partially within a C5-3 zoning district and partially within a C6-6 zoning district, within the Special Midtown District, and is occupied by a 27-story hotel; and

WHEREAS, the PCE occupies a total of approximately 13,785 sq. ft. of floor area on portions of the 24<sup>th</sup>, 25<sup>th</sup>, and 26<sup>th</sup> floors; and

WHEREAS, the PCE is operated as a New York Sports Club; and

WHEREAS, on November 19, 1985, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-36, for the subject PCE for a ten-year term; and

WHEREAS, the grant was subsequently amended and extended for a term of ten years; and

WHEREAS, the instant application seeks to extend the term of the special permit for an additional ten years; and

WHEREAS, the applicant does not propose any other changes; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of term is appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated November 19, 1985, so that as amended this portion of the resolution shall read: “to grant an extension of the special permit for a term of ten years from the expiration of the last grant to expire on November 19, 2015; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received January 8, 2007” –(4) sheets; and; and *on further condition*:

THAT there shall be no change in ownership or operating control of the PCE without prior approval from the Board;

THAT this grant shall expire on November 19, 2015;

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 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.

(Alt. 884/85)

Adopted by the Board of Standards and Appeals,  
August 7, 2007.

#### 81-93-BZ

APPLICANT – Rothkrug Rothkrug & Spector, for 2255 Bedford Development Assoc., LP, owner.

SUBJECT – Application November 30, 2006 – Amendment of a previous resolution to permit conversion of portions of the cellar to artist studio space and portions of the first floor to residential apartments within a building that the Board granted the re-establishment of residential use on the upper floors and the approval of a childcare center on portions of the cellar and the entire ground floor of a building located in a C8-2 zoning district.

PREMISES AFFECTED – 2255 Bedford Avenue, east side of Bedford Avenue 34’ north of intersection with Snyder Avenue, Block 5107, Lot 3, Borough of Brooklyn.

#### COMMUNITY BOARD #17BK

APPEARANCES –

For Applicant: Adam Rothkrug.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Collins,

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# MINUTES

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Commissioner Ottley-Brown and Commissioner Hinkson...4  
Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an amendment to an existing variance, which allowed for the re-establishment of residential use and the establishment of a child care use in an existing six-story building in a C8-2 zoning district; and

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

WHEREAS, Community Board 17, Brooklyn, recommended disapproval of an earlier iteration of this application which proposed the conversion of the cellar to artists' studio space, citing concerns about the safety of such use in the cellar; and

WHEREAS, the site is located on the east side of Bedford Avenue, 34 feet north of the intersection with Snyder Avenue, within a C8-2 zoning district; and

WHEREAS, the subject site is occupied by a six-story building with a floor area of 42,139 sq. ft.; and

WHEREAS, on April 26, 1994, under the subject calendar number, the Board granted a variance, pursuant to ZR § 72-21, to permit the re-establishment of a non-conforming residential use (Use Group 2) on the second through sixth floors of the existing building, and the establishment of a child care use (Use Group 3) on the first floor and in portions of the cellar; and

WHEREAS, the grant was subsequently amended by letter to permit a change in use of the cellar to storage space and a change in use of the first floor to retail (Use Group 6), a conforming use, in the front portion and storage space in the rear portion; and

WHEREAS, in an earlier iteration of this proposal, the applicant proposed (1) to convert the rear portion of the first floor into five additional apartments (increasing the total number of units from 45 to 50), and (2) to convert the rear portion of the cellar from a storage area into commercial studio space for artists; and

WHEREAS, at hearing, the Board expressed concern about the conversion of the cellar to artists' studios and noted that this use would be permitted as of right on the first floor; and

WHEREAS, in response to the Board's concerns and the concerns of the Community Board, the applicant revised the plans to eliminate the conversion of the cellar to artists' studios; and

WHEREAS, the revised plans provide for (1) the noted residential conversion of the first floor and (2) the conversion of portions of the cellar to residential storage and a meeting room; and

WHEREAS, as to the residential conversion of the first floor, the Board notes that the building was historically occupied by residential use, but that, prior to the 1994 grant, it had been abandoned and the non-conforming use was discontinued for a period of more than two years; and

WHEREAS, accordingly, the Board notes that the proposed residential use on the first floor is appropriate and

consonant with the intended use of the building; and

WHEREAS, the Board observes that the proposed amendment to convert 4,823 sq. ft. of floor area to residential use is modest and that no changes to the building envelope are proposed; and

WHEREAS, accordingly, the Board agrees that all of the requested changes are within the scope of the original grant and has determined that none of the requested changes affects the required findings; and

WHEREAS, based upon its review of the record, the Board finds that the proposed amendments are appropriate, with the conditions set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on April 26, 1994, so that as amended this portion of the resolution shall read: "to permit the conversion of a portion of the first floor of the existing building from retail use to residential use and to permit the noted modifications to the BSA-approved plans *on condition* that all work and site conditions shall comply with drawings marked "Received July 6, 2007"- (2) sheets; and *on further condition*:

THAT there shall be no habitable space in the cellar;

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

THAT all conditions from the prior resolution NOT specifically waived by the Board shall remain in effect; 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. 302242384)

Adopted by the Board of Standards and Appeals, August 7, 2007.

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## 102-95-BZ, Vol. IV

APPLICANT – The Law Office of Fredrick A. Becker, for The Argo Corporation as agent for 50 West 17 Realty Company, owner; Renegades Associate d/b/a Splash Bar, lessee.

SUBJECT – Application May 8, 2007 – Extension of Term of a special permit (§73-244) for a previously granted UG12 eating and drinking establishment with dancing (Splash Bar) for a term of three years which expired on March 5, 2007 in a C6-4A zoning district.

PREMISES AFFECTED – 50 West 17<sup>th</sup> Street, south side of West 17<sup>th</sup> Street, between 5<sup>th</sup> Avenue and 6<sup>th</sup> Avenue, Block 818, Lot 78, Borough of Manhattan.

## COMMUNITY BOARD #5M

### APPEARANCES –

For Applicant: Fredrick A. Becker.

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

### THE VOTE TO GRANT –

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

Negative:.....0

# MINUTES

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

**THE RESOLUTION:**

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term for a previously granted special permit for an eating and drinking establishment that expired on March 5, 2007; and

WHEREAS, on April 9, 2007, the Manhattan Borough Commissioner of the Department of Buildings, acting on Application No. 104718496, issued objections, which stated:

Proposed use of eating and drinking establishment with entertainment and a capacity of more than 200 persons, or establishments of any capacity with dancing, in Commercial district C6-4A at first floor, is contrary to ZR 32-21 (uses permitted as of right).

It shall be obtained by a special permit of the BSA in accordance with section 73-244; and

WHEREAS, a public hearing was held on this application on June 12, 2007, after due notice by publication in *The City Record*, with a continued hearing on July 17, 2007, and then to decision on August 7, 2007; and

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

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

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

WHEREAS, the Board has subsequently granted other applications for extensions of the term of the variance as well as minor amendments to the resolution, most recently on February 15, 2005; and

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

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens and amends* the resolution, so that as amended this portion of the resolution shall read: “To extend the term of the variance for an additional three (3) years from March 5, 2007, to expire on March 5, 2010, *on condition:*

THAT the term of this grant is from March 5, 2007 to March 5, 2010;

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

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

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

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

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 104718496)

Adopted by the Board of Standards and Appeals, August 7, 2007.

## 242-02-BZ

APPLICANT – Joseph Fullam, for Helen Fullam, owner.

SUBJECT – Application June 4, 2007 – Extension of Time to complete construction of a previously granted Variance (§72-21) in July 22, 2003 to construct a two family residence in an R3X/SR zoning district which expires on July 27, 2007.

PREMISES AFFECTED – 1 North Railroad Street, Annadale, west side of North Railroad, between Belfield Avenue and Burchard Court, Block 6274, Lot 1, Borough of Staten Island.

## COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Joseph Fullam.

**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 reopening and an extension of time to complete construction of a two-family home in an R3X zoning district within the Special South Richmond Development District; and

WHEREAS, a public hearing was held on this application on July 10, 2007, after due notice by publication in *The City Record*, and then to decision on August 7, 2007; and; and

WHEREAS, the site is located on the north side of North Railroad Street between Belfield Avenue and Burchard Court; and

WHEREAS, the site is located in a R3X zoning district within the Special South Richmond Development District and is currently vacant; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 22, 2003 when, under the instant Calendar Number, the Board permitted, pursuant to Z.R. § 72-

# MINUTES

21, the construction of a two-family residence that does not comply with requirements for lot area per dwelling unit, front yards and lot area for two-family occupancy; and

WHEREAS, the applicant now requests an extension of time to complete construction, which expired on July 22, 2007; and

WHEREAS, commencement of construction has been delayed pending completion of a sewer construction project that will serve the premise; and

WHEREAS, applicant has presented evidence that construction of the sewer project would begin in June/July 2007; and

WHEREAS, the Board may permit an extension of time to complete construction under a previously granted variance; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to complete construction appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on July 22, 2003, so that as amended this portion of the resolution shall read: "to extend the time to complete construction for four years until July 22, 2011, *on condition*:

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 500866020)

Adopted by the Board of Standards and Appeals, August 7, 2007.

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## 284-05-BZ

APPLICANT – Alfonso Duarte for Constantine Zahria, owner.

SUBJECT – Application September 9, 2005 – To consider dismissal for lack of prosecution – proposed bulk variance to allow a four-story industrial building with rooftop parking in an M1-1 district.

PREMISES AFFECTED – 34-29 37<sup>th</sup> Street, East side 290.28' south of 37th Avenue, Block 645, Lot 15, Borough of Queens.

### COMMUNITY BOARD # 1Q

APPEARANCES – None.

ACTION OF THE BOARD – Application dismissed.

THE VOTE TO DISMISS –

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, 2006, acting on Department of Buildings Application No. 402034776, reads in pertinent part:

1. Floor area ratio (FAR) exceeds that permitted by Section 43-12 Z.R.
2. Comply with permitted obstructions in required yards as per Section 43-23 Z.R.
3. Provide required rear yard as per Section 43-26 Z.R.
4. Comply with requirements for maximum heights of front wall and required front setback as per Section 43-43 Z.R.
5. Comply with required off-street parking spaces as per Section 44-21 Z.R.
6. Off-street accessory parking spaces located on roof above a story other than a basement is contrary to Section 44-11 Z.R.; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-1 zoning district, the enlargement of an existing one-story building to be occupied by retail or service use on the first floor (Use Group 6, 7, or 8) and manufacturing use (Use 17B) on the upper floors, which does not comply with FAR, rear yard, height and setback, and parking regulations, and is contrary to ZR §§ 43-12, 43-23, 43-26, 43-43, 44-21, and 44-11; and

WHEREAS, the variance application was filed on September 9, 2005; and

WHEREAS, on November 7, 2005, Board staff issued a Notice of Objections to the applicant; and

WHEREAS, on April 7, 2006, the applicant made an incomplete submission, without the requested air quality analysis or a sufficient Statement of Facts; and

WHEREAS, on May 18, 2006, Community Board 1, Queens, voted to disapprove the application, citing concerns about roof-top parking and potential air quality impacts on adjacent residential uses; and

WHEREAS, on August 1, 2006, the applicant modified the proposal to include a rear yard above a height of 23 feet; retail use, rather than manufacturing, on the first floor; and revisions to the EAS; and

WHEREAS, on September 21, 2006, Board staff issued a second Notice of Objections, which reiterated the request for an air quality analysis, among other concerns; and

WHEREAS, the applicant failed to cure the deficiencies of the application; and

WHEREAS, on February 28, 2007, Board staff issued a dismissal warning letter; and

WHEREAS, on May 24, 2007, Board staff issued a second dismissal warning letter; and

WHEREAS, on July 10, 2007, the Board placed the application on the dismissal calendar for August 7, 2007; and

WHEREAS, the applicant did not appear at the August 7, 2007 hearing; and

WHEREAS, accordingly, because of the applicant's lack of good faith prosecution of this application, it must be dismissed in its entirety.

*Therefore it is Resolved* that the application filed under BSA Cal. No. 284-05-BZ is hereby dismissed for lack of prosecution.

# MINUTES

Adopted by the Board of Standards and Appeals,  
August 7, 2007.

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**287-06-BZ**

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

**SUBJECT** – Application October 27, 2006 – To consider dismissal for lack of prosecution – proposed bulk variance to legalize a recently developed residential/community facility building with two non-complying side yards in an R5 dis.

**PREMISES AFFECTED** – 32-12 23<sup>rd</sup> Street, 33<sup>rd</sup> Avenue and Broadway, Block 555, Lot 36, Borough of Queens.

**COMMUNITY BOARD # 1Q**

**APPEARANCES** –

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** – Application dismissed for lack of prosecution.

**THE VOTE TO DISMISS** –

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

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the instant application seeks the same relief, based on essentially the same facts and sought under the same provision of the Zoning Resolution, as a prior application, BSA Cal. No. 380-04-BZ, filed by the applicant and subsequently withdrawn on the date set for decision by the Board; and

**THE PRIOR APPLICATION**

WHEREAS, a decision of the Queens Borough Commissioner dated November 24, 2004, acting on Department of Buildings Application No. 401515017, reads:

“Proposed conversion of one dwelling unit in a new building previously approved exclusively for residences to a community facility use in an R5 zone without two side yards complying with Section 24-35 of the Zoning Resolution is not permitted”; and

WHEREAS, acting on the November 24, 2004 decision of the Queens Borough Commissioner, the applicant filed an application under BSA Calendar No. 380-04-BZ pursuant to Z.R. § 72-21, to permit, on a lot within an R5 zoning district, the legalization of a mixed-use two-family/medical office building that does not provide the required side yards, contrary to Z.R. § 24-35; and

WHEREAS, on the date on which the decision by the Board was scheduled, the applicant appeared, requested, and the Board granted, permission to withdraw BSA Cal. No. 380-04-BZ, without prejudice ; and

**THE INSTANT APPLICATION**

WHEREAS, a second decision of the Queens Borough Commissioner, also with respect to the Premises, dated September 16, 2006, acting on Department of Buildings Application No. 401515017, states:

“Proposed conversion of one dwelling unit in a new

building previously approved exclusively for residences to a community facility use in an R5 zone without two side yards complying with Section 24-35 of the Zoning Resolution is not permitted”; and

WHEREAS, on September 29, 2006, the Queens Borough Superintendent denied reconsideration of the second decision; and

WHEREAS, acting on the September 29, 2006 denial of reconsideration of the Queens Borough Superintendent, the applicant filed the instant application with the Board on October 27, 2006; and

WHEREAS, like BSA Cal. No. 380-04-BZ, this is an application under ZR § 72-21, to permit, on a site within an R5 zoning district, the conversion of the first floor of an existing building to a community facility use, which does not comply with the zoning requirements for side yards, contrary to Z.R. § 24-35; and

WHEREAS, the instant application seeks the same relief, based on essentially the same facts and arguments, as the application made under the prior application, which was voluntarily withdrawn by the applicant on the decision date; and

WHEREAS, on March 8, 2007, after consultation with the Board’s staff, applicant filed a revised Statement of Facts and Findings with the Board; and

WHEREAS, after reviewing the Applicant’s revised Statement of Facts and Findings, by a letter dated April 4, 2007, the Board advised the applicant that the instant application had been improperly filed on the BZ calendar and instructed applicant to file for a rehearing on the SOC calendar under Cal. No. 380-04-BZ; and

WHEREAS, applicant did not respond in a timely manner to the Board’s letter of April 4, 2007; and

WHEREAS, by a Notice of Hearing Dated July 10, 2007, the application was placed on the SOC calendar to consider dismissal for lack of prosecution on August 7, 2007; and

WHEREAS, by a letter dated August 3, 2007, applicant questioned the Board’s authority under its Rules of Practice and Procedure (Rules) to require the applicant to appear on the SOC calendar to request a rehearing; and

WHEREAS, the scheduled public hearing was held on this application on August 7, 2007 after due publication in *The City Record*, and at applicant’s request on to decision at the close of the August 7, 2007 hearing; and

**DISCUSSION**

WHEREAS, the April 4, 2007 letter to the applicant directed the applicant that pursuant to § 1-10(e) of the Board’s Rules it was required to refile its application under the prior calendar number on the Special Order Calendar and request a rehearing; and

WHEREAS, §1-10(e), titled “Request for Rehearing,” requires that a request for rehearing “shall be made in writing on a Special Order Calendar application form reciting the reasons for the request,” and that if the request for rehearing is granted by the Board, “the case shall be placed on the appropriate docket and calendared for rehearing”; and

WHEREAS, applicant argues that § 1-10(e) governs only cases in which the initial application has been denied by the Board; and

# MINUTES

WHEREAS, unlike § 1-10(d) of the Board's Rules, which governs requests for re-argument, § 1-10(e), here applied by the board, does not limit its applicability only to applications that have been previously denied; and

WHEREAS, applicant further argues that the Board's requirement that the request for rehearing be heard on the Special Order Calendar contradicts § 1-10(b) of the Board's Rules; and

WHEREAS, § 1-10(b) of the Board's Rules governs only the circumstances under which the Board may dismiss a case with or without prejudice, depending on the circumstances of the application and does not govern procedures for requesting a rehearing; and

WHEREAS, applicant argues that it is the Board's "longstanding practice" to apply the provision of the Rules that govern the procedure to request rehearings only to applications that have been denied; and

WHEREAS, in support of the argument, applicant cites four (4) cases in which the Board granted a rehearing after denial of an application; and

WHEREAS, the board does not agree that its disposition of four applications constitutes a "longstanding practice" or "overwhelming precedent" as applicant states in its letter of August 3, 2007; and

WHEREAS, the Board's resolution in none of the cases cited by applicant contains language that would limit the Board's use of § 1-10(e) only to applications that have been denied; and

WHEREAS, the applicant's citation of four applications in which an application for rehearing was granted for applications that had been denied does not establish that the Board has not – or can not – require an application for rehearing for an application that has been withdrawn; and

WHEREAS, furthermore, the resolution in BSA Cal. No. 146-03-BZ/139-02-A, cited by applicant, explicitly underscores "the Board's authority to direct its own process"; and

WHEREAS, that resolution is consonant with the Board's broad authority as an administrative agency to adopt, interpret and administer its own Rules, and to control its own procedures and calendar; and

WHEREAS, the procedure required by the Board's rules to request a rehearing for an application previously withdrawn by the applicant is not unreasonably burdensome, time-consuming or costly for applicants who have withdrawn applications immediately prior to decision; and

WHEREAS, the Board's reasonable application of its own Rules permits the Board to operate efficiently, and prevent applicants from unfairly taking "a second bite of the apple" by withdrawing and refiling non-meritorious applications; and

WHEREAS, the Board's interpretation of its Rules governing applications for rehearings reasonably protects the Board from rehearing non-meritorious applications on the merits, promotes efficiency, and prevents abuse of process by applicants; and

WHEREAS, the applicant has, contrary to the Board's direction, refused to make any substantive argument in support why the Board should give further consideration to the application that was withdrawn on the date set for decision; and

WHEREAS, accordingly, because of the applicant's lack

of good faith prosecution of this application and applicant's refusal to comply with the Board's Rules of Practice and Procedure, it must be dismissed in its entirety.

*Therefore it is Resolved* that the application filed under BSA Cal. No. 287-06-BZ is hereby dismissed for lack of prosecution, with prejudice.

Adopted by the Board of Standards and Appeals, August 7, 2007.

## 517-68-BZ

APPLICANT – Alfonso Duarte, for 1667 Rental Depot Incorporated, owner.

SUBJECT – Application November 15, 2006 – Extension of Term/Amendment/Waiver of a variance previously granted pursuant to §72-21 permitting in an R3-2 district open automobile sales (UG 16A) with accessory office and automobile repairs on cars for sale. The application seeks to legalize the rental of automobiles and trucks (UG 8C). The term of the variance expired on October 7, 2005.

PREMISES AFFECTED – 1667 East Gun Hill Road, East side 175' south of Tiemann Avenue, Block 4802, Lot 21, Borough of the Bronx.

## COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Alfonso Duarte, P.E.

**ACTION OF THE BOARD** – Laid over to September 11, 2007, at 10:00 A.M., for continued hearing.

## 558-71-BZ, Vol. II

APPLICANT – Eric Palatnik, P.C., for George Feig, owner.

SUBJECT – Application February 20, 2007 – Amendment to permit the legalization of the change in use from the previously approved greenhouse and nursery establishment with accessory uses (UG6) to an eating and drinking establishment (UG6) located in a R3-1 zoning district.

PREMISES AFFECTED – 1949 Richmond Avenue, north of Rockland Avenue, Block 2030, Lot 1, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Adam 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 August 21, 2007, at 10 A.M., for continued hearing.

## 175-95-BZ

APPLICANT – H Irving Sigman, for Twi-light Roller Skating Rink, Incorporated, owner.

SUBJECT – Application April 25, 2007 – Extension of Term/Amendment/Waiver – To permit at the first floor level the extension of the existing banquet hall (catering establishment), (UG9) into an adjoining unoccupied

# MINUTES

space, currently designated as a store, (UG6) located in an C1-2/R3-2 zoning district.

**PREMISES AFFECTED** – 205-35 Linden Boulevard, North south 0' east of the corner formed by Linden Boulevard & 205th Street, Block 11078, Lot 1, Borough of Queens.

## **COMMUNITY BOARD # 12Q**

**APPEARANCES** –

For Applicant: Alan Sigman.

**ACTION OF THE BOARD** – Laid over to September 11, 2007, at 10 A.M., for continued hearing.

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## **297-99-BZ, Vol. II**

**APPLICANT** – Walter T. Gorman, P.E., for Bell & Northern Bayside Co., LLC, owner; Exxon Mobil Corp., lessee.

**SUBJECT** – Application May 29, 2007 – Extension of Time to obtain a Certificate of Occupancy/Waiver of the rules for an existing gasoline service station (Mobil Station) which expired on September 19, 2004 in a C2-2/R6B zoning district.

**PREMISES AFFECTED** – 45-05 Bell Boulevard, east side blockfront between Northern Boulevard and 45<sup>th</sup> Road, Block 7333, Lot 201, Borough of Queens.

## **COMMUNITY BOARD #11Q**

**APPEARANCES** –

For Applicant: John Ronan.

**ACTION OF THE BOARD** – Off Calendar.

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## **8-05-BZ**

**APPLICANT** – Sheldon Lobel, P.C., for James Pi, owner.

**SUBJECT** – Application January 18, 2005 – To consider dismissal for lack of prosecution – propose use, bulk and parking variance to allow a 17 story mixed-use building in R6/C1-2 and R5 zoning districts.

**PREMISES AFFECTED** – 85-15 Queens Boulevard, a/k/a 51-35 Reeder Street, entire frontage on Queens Boulevard between Reeder Street and Broadway, Block 1549, 41 (a/k/a 41 & 28), Borough of Queens.

## **COMMUNITY BOARD # 4Q**

**APPEARANCES** –

For Applicant: Jordan Most.

**ACTION OF THE BOARD** – Laid over to September 25, 2007, at 10 A.M., for continued hearing.

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## **309-05-BZ**

**APPLICANT** – Gerald J. Caliendo, RA, AIA for Pafos Realty Corporation, owner.

**SUBJECT** – Application October 17, 2005 – To consider dismissal for lack of prosecution – proposed bulk variance to allow.

**PREMISES AFFECTED** – 53-03 Broadway, North side of Broadway on the corner of Broadway and 53rd Place, Block 1155, Lot 36, Borough of Queens.

## **COMMUNITY BOARD # 1Q**

**APPEARANCES** –

For Applicant: Sandy Anagnostou.

**ACTION OF THE BOARD** – Laid over to August 14, 2007, at 10 A.M., for continued hearing.

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## **APPEALS CALENDAR**

### **77-07-A**

**APPLICANT** – Burgher Avenue Property Management LLC, owner

**SUBJECT** – Application April 9, 2007 – Proposed construction of a one story commercial building not fronting on a mapped street contrary to Article 3, §36 of the General City Law. C2-1 Zoning District.

**PREMISES AFFECTED** – 32 Adele Street, between Burgher and Evergreen Avenue, Block 3329, Lot 63, Borough of Staten Island.

## **COMMUNITY BOARD #2SI**

**APPEARANCES** –

For Applicant: Anthony Tucci.

**ACTION OF THE BOARD** – Appeal granted on condition. **THE VOTE TO GRANT** –

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

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Staten Island Borough Commissioner, dated March 13, 2007, acting on Department of Buildings Application No. 500851697, reads in pertinent part:

“No permit for the erection of any building shall be issued unless a street or highway giving access to such proposed structure has been duly placed on the official map and such a special permit of the Board of Standards and Appeals is required”; and

WHEREAS, a public hearing was held on this application on August 7, 2007, after due notice by publication in the *City Record*, and then to decision on that same date; and

WHEREAS, the proposal is for the construction of a one-story commercial structure located in a C2-1 zoning district which does not front a mapped street; and

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

WHEREAS, by letter dated June 21, 2007, the Fire Department states that it has reviewed the application and has no objections; and

WHEREAS, based upon the above, the Board has determined that the applicant has submitted adequate evidence to warrant this approval.

Therefore it is Resolved that the decision of the Staten Island Borough Commissioner, dated March 13, 2007, acting on Department of Buildings Application No. 500851697, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited

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# MINUTES

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to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received April 18, 2007" -(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

THAT the lot subdivision, including the creation of Lot 63, is to be as approved by DOB; 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, August 7, 2007.

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## 82-07-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Nadine & Edward Frerks, owner.

SUBJECT – Application April 17, 2007 – Proposal to reconstruct and enlarge an existing single family dwelling and upgrade an existing private disposal system partially located within the bed of a mapped street (12th Avenue) is contrary to General City Law §35 and the Department of Buildings Policy. R4 zoning district.

PREMISES AFFECTED – 71 Bedford Avenue, Bedford Avenue and mapped 12<sup>th</sup> Avenue, 88.81' east of Beach 204<sup>th</sup> Street, Block 16350, Lot p/o 300, Borough of Queens.

## COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

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

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated March 29, 2007, acting on Department of Buildings Application No. 402558139, reads in pertinent part:

“The existing building to be reconstructed and altered lies within the bed of a mapped street contrary to General City Law Article 3, Section 35 and

The proposed upgraded private disposal system is in the bed of a mapped street contrary to General City Law Article 3, Section 35 and Department of Buildings Policy”; and

WHEREAS, a public hearing was held on this application on August 7, 2007, after due notice by publication

in the *City Record*, and then to decision on that same date; and  
WHEREAS, by letter dated April 23, 2007, the Fire Department states that it has reviewed the application and has no objections; and

WHEREAS, by letter dated June 5, 2007, the Department of Environmental Protection states that it has reviewed the application and has no objections; and

WHEREAS, by letter dated June 21, 2007, the Department of Transportation (DOT) states that it has reviewed the application and has no objections; and

WHEREAS, the Board notes that DOT did not indicate that it intends to include the applicant’s property in its ten-year capital plan; and

WHEREAS, based upon the above, the Board finds that the applicant has submitted adequate evidence to warrant this approval.

*Therefore it is Resolved* that the decision of the Queens Borough Commissioner, dated March 29, 2007, acting on Department of Buildings Application No. 402558139, is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received April 17, 2007"-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals, August 7, 2007.

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## 84-07-A & 85-07-A

APPLICANT – Law Office of Anthony J. Tucci, for Brook Property Management, LLC, owner.

SUBJECT – Application April 18, 2007 – Proposal to build two, semi- attached, one family homes which does not front on a mapped street contrary to Article 3, §36 of the General City Law and NYC Building Code §27-291. R3-1 Zoning District.

PREMISES AFFECTED –12 & 14 Brook Avenue, near Hylan Boulevard, Block 4721, Lots 45 & 46, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Anthony Tucci.

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

THE VOTE TO GRANT –

# MINUTES

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

## THE RESOLUTION:

WHEREAS, the decision of the Staten Island Borough  
Commissioner, dated March 30, 2007, acting on Department of  
Buildings Application Nos. 500863283 & 500863292, reads in  
pertinent part:

“The street giving access to the proposed building is  
not duly placed on the official map of the City of  
New York. Therefore refer to the Board of Standards  
& Appeals for Approval.

Proposed construction does not have at least 8% of  
the total perimeter of the building fronting directly  
upon a legally mapped street or frontage space”; and

WHEREAS, a public hearing was held on this  
application on July 24, 2007, after due notice by publication in  
the *City Record*, and then to decision on August 7, 2007; and

WHEREAS, by letter dated June 11, 2007, the Fire  
Department states that it has reviewed the application and has  
no objections; and

WHEREAS, based upon the above, the Board has  
determined that the applicant has submitted adequate evidence  
to warrant this approval.

*Therefore it is Resolved* that the decision of the Staten  
Island Borough Commissioner, dated March 30, 2007, acting  
on Department of Buildings Application Nos. 500863283 &  
500863292, is modified by the power vested in the Board by  
Section 36 of the General City Law, and that this appeal is  
granted, limited to the decision noted above; *on condition* that  
construction shall substantially conform to the drawing filed  
with the application marked “Received April 18, 2007” -(1)  
sheet; that the proposal shall comply with all applicable zoning  
district requirements; and that all other applicable laws, rules,  
and regulations shall be complied with; and *on further  
condition*:

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

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

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

Adopted by the Board of Standards and Appeals,  
August 7, 2007.

## 87-07-A

APPLICANT – Robert C. Miller, for Breezy Point  
Cooperative, Inc., owner; James Naus, lessee.

SUBJECT – Application April 19, 2007 – Proposal to  
reconstruct and enlarge an existing one family home and  
upgrade of an existing private disposal system within the  
bed of mapped street, (Bayside Drive) is contrary to  
General City Law Section 35 and the Department of

Buildings Policy. R4 Zoning district.

PREMISES AFFECTED – 347 Roxbury Avenue,  
northwest of Seabreeze Avenue, Block 16350, Lot 50,  
Borough of Queens.

## COMMUNITY BOARD #14Q

### APPEARANCES –

For Applicant: Michael Harley.

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

### THE VOTE TO GRANT –

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

Negative:.....0

## THE RESOLUTION:

WHEREAS, the decision of the Queens Borough  
Commissioner, dated April 5, 2007, acting on Department of  
Buildings Application No. 402439492, reads in pertinent part:

“The existing building to be altered lies within the  
bed of a mapped street contrary to General City Law  
Article 3, Section 35; and

The proposed upgraded private disposal system is in  
the bed of a mapped street contrary to Department of  
Buildings Policy”; and

WHEREAS, a public hearing was held on this  
application on August 7, 2007, after due notice by publication  
in the *City Record*, and then to decision on that same date; and

WHEREAS, by letter dated April 27, 2007, the Fire  
Department states that it has reviewed the application and has  
no objections; and

WHEREAS, by letter dated June 5, 2007, the  
Department of Environmental Protection states that it has  
reviewed the application and has no objections; and

WHEREAS, by letter dated June 21, 2007, the  
Department of Transportation (DOT) states that it has reviewed  
the application and has no objections; and

WHEREAS, the Board notes that DOT did not indicate  
that it intends to include the applicant’s property in its ten-year  
capital plan; and

WHEREAS, based upon the above, the Board finds that  
the applicant has submitted adequate evidence to warrant this  
approval.

*Therefore it is Resolved* that the decision of the Queens  
Borough Commissioner, dated April 5, 2007, acting on  
Department of Buildings Application No. 402439492, is  
modified by the power vested in the Board by Section 35 of the  
General City Law, and that this appeal is granted, limited to the  
decision noted above; *on condition* that construction shall  
substantially conform to the drawing filed with the application  
marked “Received August 7, 2007”-(1) sheet; that the proposal  
shall comply with all applicable zoning district requirements;  
and that all other applicable laws, rules, and regulations shall be  
complied with; and *on further condition*:

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

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

# MINUTES

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, August 7, 2007.

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## 70-06-A

APPLICANT – Eric Palatnik, P.C., for James Pullano, owner.

SUBJECT – Application April 19, 2006 – Proposed construction of a two- story, three family dwelling located within the bed of mapped street (Zev Place) is contrary to General City Law Section 35. Premises is located within an R3-2 Zoning District.

PREMISES AFFECTED – 4 Rockwell Avenue, west of the intersection of Virginia Avenue and Rockwell Avenue, Block 2998, Lot 1(tent), Borough of Staten Island.

### COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Adam 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 September 11, 2007, at 10 A.M., for continued hearing.

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## 170-06-A & 171-06-A

APPLICANT – Adam Rothkrug, Esq., for Ely Building LLC, owner.

SUBJECT – Application August 11, 2006 – Proposed construction of two, three family homes located within the bed of a mapped but unbuilt street (Needham Avenue) contrary to Section 35 of General City Law. R5 Zoning District.

PREMISES AFFECTED – 3546 and 3548 Ely Avenue, north of Boston Road, Block 4892, Lots 24, 25, Borough of Bronx.

### COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Adam 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 August 21, 2007, at 10 A.M., for continued hearing.

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

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

SUBJECT – Application August 30, 2006 – Application to permit the construction of seven two story one family

dwellings within the bed of a mapped street (128th Drive) contrary to Section 35 of the General City Law and not fronting on a legally mapped street contrary to Article 3, Section 36 of the General City Law. Premises is located within the R-2 Zoning District.

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

### COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Adam Rothkrug.

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 August 21, 2007, at 10 A.M., for continued hearing.

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## 326-06-A

APPLICANT – David L. Businelli, R.A., for Oleg Amayev, owner.

SUBJECT – Application December 20, 2006 – An appeal seeking a determination that the owner of said premises has acquired a common law vested right to continue development commenced under the R1-2 district regulations in effect prior to the zoning text change on September 9, 2004. R1-2 zoning district.

PREMISES AFFECTED – 1523 Richmond Road, north side of Richmond Road, 44.10' west of Forest Road and Richmond Road, Block 870, Lot 1, Borough of Staten Island.

### COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: David L. Businelli.

For Administration: Lisa Orrantia, Department of Buildings.

**ACTION OF THE BOARD** – Laid over to September 18, 2007, at 10 A.M., for continued hearing.

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## 153-07-BZY

APPLICANT – Mitchell A. Korbey, Esq., for 20 Bayard Views, LLC, owner.

SUBJECT – Application June 8, 2007 – Extension of time (§11-332) to complete construction of a minor development commenced prior to the amendment of the zoning district regulations on May 11, 2005. M1-2 /R6B & M1-2 /R6A.

PREMISES AFFECTED – 20 Bayard Street, a/k/a 27-35 Richardson Street, a/k/a 17 Richardson Street, Bayard Street between Union Avenue and Lorimer Street, Block 2721, Lot 11, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Jennifer Dickson.

THE VOTE TO CLOSE HEARING –

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

# MINUTES

**ACTION OF THE BOARD** – Laid over to September 18, 2007, at 10 A.M., for continued hearing.

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*Jeffrey Mulligan, Executive Director*

Adjourned: A.M.

spaces. The project site is located within an R7-1/C1-2 zoning district.

**PREMISES AFFECTED** – 108-20 71<sup>st</sup> Avenue, northeast corner of Queens Boulevard and 71<sup>st</sup> Avenue, Block 2224, Lot 1, Borough of Queens.

**COMMUNITY BOARD #6Q**

**APPEARANCES** –

For Applicant: Joseph P. Morsellino.

**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, decision of the Queens Borough Commissioner, dated July 6, 2007, acting on Department of Buildings Application No. 402256269, reads in pertinent part:

- “1. Residential floor area is in excess of the maximum permitted for the C1-2/R7-1 zoning districts by sections 23-142 and 35-22.
2. Open space is less than the open space required by the section 23-142, 35-22, and 35-33”; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site partially within a C1-2 (R7-1) zoning district and partially within an R7-1 zoning district, a proposed 16-story residential building with 102 dwelling units (4.11 FAR), a community facility (0.09 FAR), commercial use (0.59 FAR), a total FAR of 4.79, and 126 parking spaces, which does not comply with residential floor area and open space regulations, and is contrary to ZR §§ 23-142, 35-22, and 35-33; and

WHEREAS, a public hearing was held on this application on November 21, 2006, after due notice by publication in the *City Record*, with continued hearings on March 6, 2007, June 12, 2007, and July 17, 2007, and then to decision on August 7, 2007; and

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

WHEREAS, Community Board 6, Queens, recommends approval of the application on condition that the owner be responsive to community concerns during the construction process and that the supermarket remain open for business during construction; and

WHEREAS, the Queens Borough President recommends approval of the application, citing the same conditions as the Community Board; and

WHEREAS, certain neighbors provided testimony in opposition to the application, citing concerns about traffic congestion, the scale of the building, the strain on local resources, such as schools, the absence of unique site conditions, and the potential for damage to adjacent structures during construction; and

WHEREAS, the subject premises is located on the northwest corner of Queens Boulevard and 71<sup>st</sup> Road, with additional frontage on 71<sup>st</sup> Avenue; and

WHEREAS, the site is irregularly-shaped, with 87.5 feet

**REGULAR MEETING**

**TUESDAY AFTERNOON, AUGUST 7, 2007**

**1:30 P.M.**

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

**ZONING CALENDAR**

**75-06-BZ**

**CEQR #06-BSA-078Q**

APPLICANT – Joseph P. Morsellino, Esq., for Cord Meyer Development, owner.

SUBJECT – Application April 25, 2006 – Zoning variance pursuant to §72-21 to allow a proposed twenty-one (21) story residential building with ground floor retail and community facility uses to violate applicable FAR (§23-142 and §35-22), open space ratio (§23-142, §35-22 and §35-33) and sky exposure plane (§23-632) regulations. The proposed building would include 136 dwelling units and 146 parking

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# MINUTES

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of frontage on 71<sup>st</sup> Avenue, 191.45 feet of frontage on Queens Boulevard, 91.36 feet of frontage on 71<sup>st</sup> Road, and a lot area of approximately 27,002 sq. ft.; and

WHEREAS, a small triangular portion of the site along 71<sup>st</sup> Avenue is within an R7-1 zoning district and the remainder of the site is within a C1-2 (R7-1) zoning district; and

WHEREAS, the site is currently occupied by a one-story commercial building with a supermarket and other retail uses, the majority of which will remain; and

WHEREAS, the applicant initially proposed a 21-story building with a height of 215.04 feet, a floor area of 167,486 sq. ft. (6.20 FAR), 136 residential units, and 146 parking spaces; and

WHEREAS, the original proposal required the requested waivers noted above as well as a waiver for encroachment into the sky exposure plane because the height and setback requirements were not met; and

WHEREAS, the applicant now proposes a 16-story residential building with 102 dwelling units, 111,109 sq. ft. of residential floor area (4.11 FAR), 2,313 sq. ft. of community facility floor area (0.09 FAR), 16,065 sq. ft. of commercial floor area (0.59 FAR), a total floor area of 129,487 sq. ft. (4.79 FAR), and 126 parking spaces; and

WHEREAS, the maximum permitted floor area is 129,610 sq. ft. (4.80 FAR), for a building with a larger portion of community facility use, and the maximum permitted residential floor area is 92,077 sq. ft. (3.44 FAR); and

WHEREAS, additionally, the applicant proposes to provide 16,893 sq. ft. of open space (24,444 sq. ft. is the minimum required); and

WHEREAS, the applicant proposes to provide attended parking in the cellar and sub-cellar; and

WHEREAS, as noted, the applicant proposes to maintain the majority of the existing one-story commercial building for commercial use and to add a community facility use and a residential entrance on the 71<sup>st</sup> Avenue frontage; and

WHEREAS, the second through sixteenth floors will be occupied with residential units; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in compliance with applicable zoning district regulations: (1) the site is irregularly-shaped; (2) the site is directly adjacent to the 71<sup>st</sup> Avenue subway entrance and subway tunnel on Queens Boulevard; and (3) the soil composition is poor; and

WHEREAS, as to the site's shape, the applicant states that the site is irregular with frontage on three streets and has six corners (some on the interior portions of the site and some at the exterior) with varying angles; and

WHEREAS, the applicant represents that because the site is irregularly-shaped and has a higher percentage of perimeter wall area than a standard rectangular site, there is difficulty in providing the required open space and there are premium construction costs; and

WHEREAS, the applicant represents that the condition of an irregularly-shaped site with as many angles is unique and that there are none like it within a 400-ft. radius; and

WHEREAS, as to the proximity of the subway, the applicant states that (1) the subway tunnel runs underground

adjacent to the site and (2) an entrance to the subway stop is adjacent to the site; and

WHEREAS, the applicant represents that because the subway tunnel and the mezzanine for the subway station are at a shallow depth, the foundation and underpinning system must be carefully designed to avoid putting stress on them during and after construction; and

WHEREAS, additionally, the foundation system and construction must be designed in consultation with and approved by the Metropolitan Transit Authority (MTA); and

WHEREAS, as to the soil conditions, the applicant represents that the soil has been detected to be unusually porous and sandy in nature; and

WHEREAS, the applicant submitted boring tests which support the representation that the soil condition is poor and that a water infiltration system may need to be implemented in the cellar; and

WHEREAS, the applicant represents that other recent developments in the area around the site have not encountered such poor sub-surface conditions; and

WHEREAS, the applicant submitted a geotechnical study reflecting the noted sub-surface conditions; and

WHEREAS, the applicant represents that the presence of the subway tunnel and station and the poor soil conditions require additional construction costs due to the need for complicated construction methods, including a pile foundation; and

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

WHEREAS, the applicant provided a financial analysis for (1) a complying 4.8 FAR 21-story mixed-use community facility/commercial/residential scenario, which maximized the FAR available on the site by providing more community facility space, and (2) the original non-complying 6.2 FAR 21-story mixed-use scenario; and

WHEREAS, the applicant concluded that a complying scenario would not result in a reasonable return primarily because the construction costs related to the soil conditions and the subway would be prohibitively high and could not be supported by a reduced amount of residential space; and

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

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

WHEREAS, the applicant states that Queens Boulevard is characterized by multiple dwelling buildings and commercial uses and that 71<sup>st</sup> Avenue and 71<sup>st</sup> Road are characterized by multiple dwelling buildings and community facility use; and

WHEREAS, the Board notes that the proposed total floor

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# MINUTES

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area and FAR are within the zoning district parameters for floor area and that the applicant could develop a community facility with an FAR of 4.80 or another 4.80 FAR building, with a different proportion of community facility, commercial, and residential uses, as of right; and

WHEREAS, accordingly, other than the open space waiver, the proposed building could be constructed as of right if occupied by a modified allocation of uses; and

WHEREAS, the applicant asserts that the proposed residential use, although in excess of the permitted residential FAR, would generate less traffic than a new as of right commercial or community facility use at the site; and

WHEREAS, as to residential bulk, the applicant represents that there are a number of residential buildings of comparable height along Queens Boulevard, including one with 31 stories (three blocks away), one with 21 stories (diagonally across the street), and one with 18 stories (diagonally across the street); and

WHEREAS, in support of this representation, the applicant submitted an aerial photograph of the area which identified four buildings within six blocks of the site on Queens Boulevard with at least 18 stories and five with 14 stories; and

WHEREAS, additionally, the applicant proposes to provide an open space on the roof and a large common terrace over the one-story base of the building to compensate for any loss of open space at grade; and

WHEREAS, in response to the Community Board and the Borough President, the applicant has agreed to keep the existing supermarket open during construction and to provide a construction schedule, noting all required approvals; and

WHEREAS, additionally, the applicant provided an analysis for the school seat requirements for the proposed 102 dwelling units in two income brackets which reflects that the need generated by the building is well below any threshold that would require additional analysis; and

WHEREAS, based upon the above, the Board finds that this action will neither alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor 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, but is rather a function of the unique physical characteristics of the site; and

WHEREAS, the Board does not regard these conditions to be a self-created hardship; and

WHEREAS, the Board notes that the applicant initially claimed that additional floor area and an encroachment into the sky exposure plane was required to overcome the hardship at the site; and

WHEREAS, the Board agrees that there is practical difficulty due to the unique conditions of the site, which require a residential floor area and open space waiver, but disagrees that 6.2 FAR or height and setback waivers are needed to make the building feasible; and

WHEREAS, as noted, the applicant revised the application to eliminate the sky exposure plane encroachment and to reduce the degree of floor area and FAR waiver, and to reflect the 4.79 FAR distributed appropriately on the site; and

WHEREAS, the Board notes that the applicant has reduced the number of residential units from the initially

proposed 136 (the maximum permitted at the site), and increased the size of some units so that the proposal does not exceed the maximum permitted density; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 06BSA078Q, dated September 28, 2006; and

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

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration, 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, on a site partially within a C1-2 (R7-1) zoning district and partially within an R7-1 zoning district, a proposed 16-story residential building with 102 units, a community facility, commercial use, and 126 parking spaces, which does not comply with residential floor area and open space regulations, and is contrary to ZR §§ 23-142, 35-22, and 35-33, *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 July 2, 2007" - ten (10) sheets and "Received August 6, 2007" - four (4) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum of 16 stories, 102 dwelling units, a total height of 178.22 feet, a residential floor area of 111,109 sq. ft. (4.11 FAR), a total floor area of 129,487 sq. ft. (4.79 FAR), an open space of 16,893 sq. ft., and 126 parking spaces, all as illustrated on the BSA-approved plans;

THAT the parking layout shall be as approved by DOB;

THAT all parking shall be attended parking;

# MINUTES

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, August 7, 2007.

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## 126-06-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Norma Hafif, owner.

SUBJECT – Application June 14, 2006 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary floor area and lot coverage (§23-141); less than the required side yards (§23-461) and less than the minimum rear yard (§23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 1762 East 23<sup>rd</sup> Street, East 23<sup>rd</sup> Street, between Quentin Road and Avenue R, Block 6805, Lot 33, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman.

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

**THE VOTE TO GRANT** –

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

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated May 16, 2006, acting on Department of Buildings Application No. 302053024, reads in pertinent part:

“The proposed enlargement of the existing one family residence in an R3-2 zoning district:

1. Creates non-compliance with respect to floor area by exceeding the allowable floor area ratio and is contrary to section 23-141 of the Zoning Resolution.
2. Creates non-compliance with respect to the lot coverage and is contrary to section 23-141 of the Zoning Resolution.
3. Creates non-compliance with respect to the side yards by not meeting the minimum requirements of section 23-461 of the Zoning Resolution.
4. Creates non-compliance with respect to the rear yard by not meeting the minimum requirements of section 23-47 of the Zoning Resolution”;

WHEREAS, this is an application under ZR § 73-622 to

permit, in an R3-2 zoning district, the proposed enlargement of a single-family residence, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, side yards and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on July 17, 2007, after due notice by publication in *The City Record*, and then to decision on August 7, 2007; and

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

WHEREAS, the subject site is located on the west side of East 23<sup>rd</sup> Street, between Quentin Road and Avenue R; and

WHEREAS, the subject site has a total lot area of 5,000 sq. ft., and is occupied by a 2,622 sq. ft. (0.52 FAR) single-family home; and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,622 sq. ft. (0.52 FAR) to 4,170 sq. ft. (0.83 FAR); the maximum floor area permitted is 2,500 sq. ft. (0.5 FAR); and

WEREAS, the proposed enlargement will increase lot coverage from 26% to 38% (a maximum of 35% is permitted); and

WHEREAS, the proposed enlargement will reduce the size of one side yard from 16’-9” to 10’-11” and maintain the existing non-complying side yard of 4’-1” (side yards with a minimum total width of 13’-0” and a minimum width of 5’-0” each are required); and

WHEREAS, the proposed enlargement calls for a rear yard of 20’-3” (30’-0” is required); and

WHEREAS, the Board notes that the enlargement will consist of extensions at both the first and second stories; 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, 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 the City Environmental Quality Review and makes the required findings under ZR § 73-622 to permit, in an R3-2 zoning district, the proposed enlargement of a two-family dwelling, which does not comply with the zoning requirements for floor

# MINUTES

area, FAR, lot coverage, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received June 1, 2007"-(9) sheets and "July 31, 2007"-(2) sheets; and *on further condition*:

THAT the above condition 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 4,170 sq. ft., a total FAR of 0.83, side yards of 10'-11" and 4'-1", and rear yard of 20'-3", as illustrated on the BSA-approved plans;

THAT the garage, porch and bay window at front of second floor shall be 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. (DOB Application No. 302053024)

Adopted by the Board of Standards and Appeals, August 7, 2007.

## 378-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Hieronima Rutkowska, owner.

SUBJECT – Application November 29, 2004 – Variance (§72-21) to permit the construction of a four-story residential building and a four-car garage. The Premise is located on a vacant lot in an M1-1 zoning district. The proposal is contrary to §42-00.

PREMISES AFFECTED – 94 Kingsland Avenue, northeast corner of the intersection between Kingsland Avenue and Richardson Street, Block 2849, Lot 1, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Jordan Most.

**ACTION OF THE BOARD** – Laid over to September 18, 2007, at 1:30 P.M., for deferred decision.

## 426-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Expert Realty, LLC, owner.

SUBJECT – Application December 28, 2005 – Variance (§72-21) to allow a two-level enlargement of an existing one-story commercial building contrary to FAR regulations (§43-12). M1-1 district.

PREMISES AFFECTED – 57-02/08 39<sup>th</sup> Avenue and 39-02 58<sup>th</sup> Street, Block 1228, Lots 48, 52, 57, Borough of Queens.

### COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Jordan Most and Jerry Pi.

**ACTION OF THE BOARD** – Laid over to September 25, 2007, at 1:30 P.M., for continued hearing.

## 116-06-BZ

APPLICANT – Harold Weinberg, P.E., for David Nikchemny, owner.

SUBJECT – Application June 8, 2006 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary lot coverage and floor area (§23-141); side yards (§23-461) and rear yard (§34-47) in an R3-1 zoning district.

PREMISES AFFECTED – 172 Norfolk Street, west side, 200' north of Oriental Boulevard and Shore Boulevards, Block 8756, Lot 26, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg and Frank Sellitto.

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 August 21, 2007, at 1:30 P.M., for decision, hearing closed.

## 227-06-BZ

APPLICANT – Eric Palatnik, P.C., for George Smith, owner.

SUBJECT – Application September 6, 2006 – Variance (§72-21) to allow a two-story commercial office building (U.G.6) contrary to use regulations (§ 22-00). R3-2 district.

PREMISES AFFECTED – 2066 Richmond Avenue, Richmond Avenue, north of Knapp Street, Block 2102, Lot 90, Borough of Staten Island.

### COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Eric Palatnik, Mark Lipton and Charles Bontempo.

**ACTION OF THE BOARD** – Laid over to September 25, 2007, at 1:30 P.M., for continued hearing.

## 264-06-BZ

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

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

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

### COMMUNITY BOARD #15BK

APPEARANCES –

# MINUTES

For Applicant: Lyra Altman and David Shteierman.  
For Objection: Jack Cooperman and Sol Mermelstein.

## 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  
September 11, 2007, at 1:30 P.M., for decision, hearing  
closed.

## 286-06-BZ

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

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

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

## COMMUNITY BOARD #12BK

### APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to  
September 18, 2007, at 1:30 P.M., for continued hearing.

## 315-06-BZ

APPLICANT – Eric Palatnik, P.C., for Merkaz, The Center,  
Inc., owner.

SUBJECT – Application December 6, 2006 – Variance  
(§72-21) to permit the proposed three-story religious-based  
pre-school, which will include an accessory synagogue. The  
premises is located within two zoning districts, an R5B and  
R2, with the vast majority (95%) resting within the R5B  
district. The proposal is contrary to §§24-11, 24-34, 24-35,  
24-36 and 24-521.

PREMISES AFFECTED – 1739 Ocean Avenue, between  
Avenues L and M, Block 7638, Lot 24, Borough of  
Brooklyn.

## COMMUNITY BOARD #14BK

### APPEARANCES –

For Applicant: Eric Palatnik, Councilman Deblasio, Rabbi  
David Goldwasser, Jacob Felman, Lea Bruder, Miraim  
Lefkoartz, Gil Ben-Ari, Rabbi Moshe Fetman, Rickie  
Weingarten, Chaim Cohen, Zui Borsstein, Joby Fisher, Arie  
Blum, Ivonne Alfandary, Shmiel Deutsch, Jon Lefkowitz,  
Sara Ovitsh, Amanda Schiff, Tammy Fetman, and Yaeot  
Fetman.

For Opposition: Inna Kogan and Mikhail Charny.

**ACTION OF THE BOARD** – Laid over to  
September 25, 2007, at 1:30 P.M., for continued hearing.

## 16-07-BZ

APPLICANT – Juan D. Reyes, III, for Daytop Village,  
Inc., owner.

SUBJECT – Application January 12, 2007 – Special Permit  
(§73-44) to permit a reduction in required parking for a  
Use Group 4A ambulatory and diagnostic treatment center  
located in M1-1 and C1-2 (R2) zoning districts.

PREMISES AFFECTED – 2614 Halperin Avenue,  
Halperin Avenue between Blandell Avenue and  
Williamsburg Road, Block 4074, Lot 11, Borough of  
Bronx.

## COMMUNITY BOARD #10BX

### APPEARANCES –

For Applicant: Juan D. Reyes, III, Amy Sliorra, John  
Strauss and Steve Winston.

For Opposition: Carl Anderson, Marianne LaCrole, Edwin  
Cruz, Anthony LaCrole, Marie A. LaCrole.

**ACTION OF THE BOARD** – Laid over to  
September 18 2007, at 1:30 P.M., for continued hearing.

## 33-07-BZ

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

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

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

## COMMUNITY BOARD #6BK

### APPEARANCES –

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** – Laid over to  
September 11, 2007, at 1:30 P. M., for conintued hearing.

## 69-07-BZ

APPLICANT – Jay A. Segal, for Greenberg Traurig, LLP,  
for 240 West Broadway, LLC, owner.

SUBJECT – Application March 23, 2007 – Variance (§72-  
21) to allow a nine (9) story residential building containing  
seven (7) dwelling units; contrary to use regulations (§42-  
10). M1-5 district (Area B-1 of Special TriBeca Mixed Use  
District).

PREMISES AFFECTED – 240 West Broadway, northwest  
corner of the intersection of North Moore Street and West  
Broadway, Block 190, Lot 44, Borough of Manhattan.

## COMMUNITY BOARD #1M

### APPEARANCES –

For Applicant: Jay Segal and Jan Morse.

For Opposition: Leo Weinberg, Jack Lester, Charles  
Harris, Joel Perlman and Lee G. Dary.

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# MINUTES

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**ACTION OF THE BOARD** – Laid over to September 25, 2007, at 1:30 P.M., for continued hearing.  
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**112-07-BZ**

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

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

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

**COMMUNITY BOARD # 14BK**

APPEARANCES –

For Applicant: Lyra Altman, Jack Kluger and Rabbi Frankel.

**ACTION OF THE BOARD** – Laid over to September 11, 2007, at 1:30 P.M., for continued hearing.  
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**126-07-BZ**

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP, for Massachusetts Mutual Life Insurance Co., owner; AGT Crunch New York, LLC, lessee.

SUBJECT – Application May 17, 2007 – Special Permit (§73-36) to legalize the operation of a Physical Culture Establishment on a portion of the ground floor, second floor mezzanine, and on part of the second floor in a 43-story residential building. The proposal is contrary to §32-00. C6-4 zoning district.

PREMISES AFFECTED – 555 West 42<sup>nd</sup> Street, north side of West 42<sup>nd</sup> Street, at 11<sup>th</sup> Avenue, Block 1071, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #4M**

APPEARANCES –

For Applicant: Ellen Hay.

**ACTION OF THE BOARD** – Laid over to September 11, 2007, at 1:30 P.M., for continued hearing.  
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**128-07-BZ**

APPLICANT – Law Office of Fredrick A. Becker, for Sharon Perlstein and Sheldon Perlstein, owners.

SUBJECT – Application May 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); less than the minimum side yards (§23-461 and §23-48) and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1382 East 26<sup>th</sup> Street, west side of East 26<sup>th</sup> Street, between Avenue M and Avenue N, Block

7661, Lot 76, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Lyra Altman.

**ACTION OF THE BOARD** – Laid over to September 11, 2007, at 1:30 P.M., for continued hearing.  
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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*