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# BULLETIN

OF THE  
NEW YORK CITY BOARD OF STANDARDS  
AND APPEALS

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## DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

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**Roy Starrin, *Deputy Director***

**Margaret P. Stix, *Counsel***

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<b>OFFICE -</b>	<b>40 Rector Street, 9th Floor, New York, N.Y. 10006</b>
<b>HEARINGS HELD -</b>	<b>40 Rector Street, 6th Floor, New York, N.Y. 10006</b>
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<b>TELEPHONE - (212) 788-8500</b>
<b>FAX - (212) 788-8769</b>

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Tuesday, January 8, 2008**

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**Affecting Calendar Numbers:**

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426-83-BZ	1880 Hylan Boulevard, Staten Island
170-47-BZ	1982 Crotona Parkway, Bronx
742-70-BZ	830 Bay Street, Staten Island
1199-88-BZ	29 Nelson Avenue, Staten Island
83-97-BZ	214-18 24 <sup>th</sup> Street, Queens
1038-80-BZ	31-07/09/11 Downing Street, Queens
222-03-BZ	30-04 73 <sup>rd</sup> Street, Queens
155-07-A	55 Chipperfield Court, Staten Island
162-06-A&	
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219-06-A thru	
225-06-A	241-10/16/22/28/15/21/25 128 <sup>th</sup> Drive, Queens
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**Affecting Calendar Numbers:**

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306-06-BZ	50 Lawrence Avenue, Brooklyn
68-07-BZ	102-48 65 <sup>th</sup> Road, Queens
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88-07-BZ	1633 East 29 <sup>th</sup> Street, Brooklyn
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158-07-BZ	184-20 Union Turnpike, Queens
173-07-BZ	1061 East 21 <sup>st</sup> Street, Brooklyn
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235-07-BZ	1148 East 27 <sup>th</sup> Street, Brooklyn

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**Affecting Calendar Number:**

262-06-BZ	71-13 60 <sup>th</sup> Lane, Queens
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# DOCKETS

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New Case Filed Up to January 8, 2008

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**280-07-A**

158 Dikeman Street, Premises is situated on the north side of Dikeman Street, 100 feet west of Conover Street., Block 574, Lot(s) 34, Borough of **Brooklyn, Community Board: 6**. Construction within mapped street, contrary to Section 35 of the General City Law.

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**281-07-BZ**

1960 East 4th Street, West side of East 4th Street between Kings Highway and Avenue S (approximately 100' north of Avenue S)., Block 6681, Lot(s) 263, Borough of **Brooklyn, Community Board: 15**. Special Permit (73-622) for the enlargement of a single family home.

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**282-07-BZ**

774 Scheneck Avenue, Linden Boulevard and Hendrix Avenue, Block 4330, Lot(s) 28C, Borough of **Brooklyn, Community Board: 5**. Variance to allow the construction of two, two family dwellings on one zoning lot where the dwellings, garages , and open parking spaces encroach within one front yard.

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**283-07-BZ**

774 Schenck Avenue, Linden Boulevard and Hendrix Avenue., Block 4330, Lot(s) 28C, Borough of **Brooklyn, Community Board: 5**. Variance to allow construction of two, two family dwellings on one zoning lot, where the dwellings, garage, and open parking spaces encroach within one front yard.

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**284-07-BZ**

52-54 East 13th Street, South side of East 13th Between Broadway and University Place., Block 564, Lot(s) 11, Borough of **Manhattan, Community Board: 2**. Special Permit (73-03; 73-36) to allow legalization of a Physical Culture Establishment.

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**285-07-BZ**

312 Fifth Avenue, Located on the northwest side of Fifth Avenue between West 31st and 32nd Streets, Block 833, Lot(s) 44, Borough of **Manhattan, Community Board: 5**. Special Permit (73-36) to allow legalization of a Physioical Culture Establishment.

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**286-07-BZ**

129-01 Merrick Boulevard, Located on the north side of Merrick Boiulevard between Zoller and Eveleth Roads., Block 12490, Lot(s) 11, Borough of **Queens, Community**

**Board: 12**. Special Permit (73-36) to allow legalization of a Physical Culture Establishment.

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**287-07-A**

697 West Street, North side of West 247th Street between Palisade Avenue and Indenpence Avenue. Block 5926 is also located on the property and tennis court., Block 5937, Lot(s) 300, Borough of **Bronx, Community Board: 8**. Construction within mapped street, contrary to Section 35 of the General City Law.

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**288-07-BZY**

421 Burgher Avenue, Bound by Burgher and Mason Avenue, Block 3361, Lot(s) 27, Borough of **Staten Island, Community Board: 2**. Extension of Time (11-332) to complete construction under the prior zoning district.

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**289-07-BZY**

425 Burgher Avenue, Bound by Burgher and Mason Avenue, Block 3361, Lot(s) 27 & 25, Borough of **Staten Island, Community Board: 2**. Extension of Time (11-332) to complete construction under the prior zoning district.

-----

**290-07-A**

10 Clinton Walk, East of Clinton Walk (unmapped street) north of Rockaway Point Boulevard (mapped)., Block 16350, Lot(s) 300, Borough of **Queens, Community Board: 14**. Construction within mapped street, contary to Section 35 of General City Law.

-----

**291-07-BZ**

1912 New York Avenue, Between Avenues J and K., Block 7614, Lot(s) 66, Borough of **Brooklyn, Community Board: 18**. Variance to allow a synagouge and Rabbi's quarters, contrary to bulk regulations.

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**292-07-A**

41 Queens Walk, East side of Queens Walk (unmapped street) south of Oceanside Avenue (mapped street)., Block 16350, Lot(s) 400, Borough of **Queens, Community Board: 14**. Construction within mapped street, contrary to Section 35 ogf the General City Law.

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**1-08-A**

65 Giegerich Avenue, West side 154'.75' to Minerva, Block 7792, Lot(s) 242(ten. 286), Borough of **Staten Island, Community Board: 3**. Constructionnot fronting a legally mapped street contrary to Section 36of the General City Law.

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# DOCKETS

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**2-08-A**

69 Giegerich Avenue, West side 154'.75' to Minerva, Block 7792, Lot(s) 242(ten. 286), Borough of **Staten Island, Community Board: 3**. Construction within mapped street, contrary to Section 36 of the General City Law.  
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**3-08-A**

73 Giegerich Avenue, West side 154'.75' to Minerva, Block 7792, Lot(s) 242(ten. 286), Borough of **Staten Island, Community Board: 3**. Construction within mapped street, contrary to Section 36 of the General City Law.  
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**4-08-A**

77 Giegerich Avenue, West side 154'.75' to Minerva, Block 7792, Lot(s) 242(ten. 286), Borough of **Staten Island, Community Board: 3**. Construction within mapped street, contrary to Section 36 of the General City Law.  
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**5-08-A**

83 Giegerich Avenue, West side 154'.75' to Minerva, Block 7792, Lot(s) 242(ten. 286), Borough of **Staten Island, Community Board: 3**. Construction within mapped street, contrary to Section 36 of the General City Law.  
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**6-08-A**

87 Giegerich Avenue, West side 154'.75' to Minerva, Block 7792, Lot(s) 242(ten. 286), Borough of **Staten Island, Community Board: 3**. Construction within mapped street, contrary to Section 36 of the General City Law.  
-----

**7-08-A**

91 Giegerich Avenue, West side 154'.75' to Minerva, Block 7792, Lot(s) 242(ten. 286), Borough of **Staten Island, Community Board: 3**. Construction within mapped street, contrary to Section 36 of the General City Law.  
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**8-08-A**

93 Giegerich Avenue, West side 154'.75' to Minerva, Block 7792, Lot(s) 242(ten. 286), Borough of **Staten Island, Community Board: 3**. Construction within mapped street, contrary to Section 36 of the General City Law.  
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**9-08-BZ**

555 Foster Road, East side 0'0" from the intersection of Foster Road and Stafford Avenue., Block 6892, Lot(s) 8, Borough of **Staten Island, Community Board: 3**. Variance to allow a single family home. Contrary to bulk regulations.  
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**10-08-BZ**

66-68 Bradhurst Avenue, Easterly side of Bradhurst Avenue 0 feet easterly of West 145th Street., Block 2045, Lot(s) 21, Borough of **Manhattan, Community Board: 10**. Special Permit (73-36) to allow the operation of a physical culture establishment.  
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**11-08-BZ**

3573 Bedford Avenue, Bedford Avenue between Avenue N and Avenue O., Block 7679, Lot(s) 23, Borough of **Brooklyn, Community Board: 14**. Special Permit (73-622) to legalize the enlargement of a single family residence.  
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**12-08-BZ**

317 Lenox Avenue, Premises is situated on the west side of Lenox Avenue, between 125th Street and 126th Street., Block 1910, Lot(s) 7501, Borough of **Manhattan, Community Board: 10**. Special Permit to allow the operation of a physical culture establishment.  
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**13-08-BZ**

40-42 Charlton Street, Bounded by Varick and Charlton Streets, Avenue of the Americas, and Vandam Street., Block 506, Lot(s) 11,12, Borough of **Manhattan, Community Board: 2**. Variance to enlarge an existing school, contrary to bulk regulations.  
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**14-08-BZ**

1958 East 13th Street, West side of East 13th Street between Avenue S and Avenue T., Block 7291, Lot(s) 108, Borough of **Brooklyn, Community Board: 15**. Special Permit (73-622) for 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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**JANUARY 29, 2008, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, January 29, 2008, 10:00 A.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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**SPECIAL ORDER CALENDAR**

**531-86-BZ**

APPLICANT – Spencer Groff, P.E., for Vincent Fantauzzi (agent for owner); Athletic Club at the Equitable Center, lessee.

SUBJECT – Application December 14, 2007 – Extension of Term/Waiver for a Physical Culture Establishment in a portion of the concourse, mezzanine and sub-cellar levels of a fifty-one (51) story office building in a C6-6/C6-6.5 MID zoning district which expired on December 16, 2006.

PREMISES AFFECTED – 787 Seventh Avenue, Seventh Avenue, West 51<sup>st</sup> Street and 52<sup>nd</sup> Street, Block 1004, Lot 20, Borough of Manhattan.

**COMMUNITY BOARD #5M**

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**190-03-BZ**

APPLICANT – Sheldon Lobel, P.C, for Satya Sanatan Dharma Sabha Incorporated, owner.

SUBJECT – Application December 19, 2007 – Extension of Time to Complete Construction and to obtain a Certificate of Occupancy for a previously granted Variance (§72-21) to permit the enlargement and legalization of a portion of a two-story building to a temple and conversion of the remainder of the building to a temple in an R2 zoning district which expired on January 13, 2008.

PREMISES AFFECTED – 87-48 215<sup>th</sup> Place, Hillside Avenue and 215<sup>th</sup> Place, Block 10682, Lot 45, Borough of Queens.

**COMMUNITY BOARD #13Q**

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**APPEALS CALENDAR**

**229-07-A**

APPLICANT – Gary D. Lenhart, for The Breezy Point Cooperative, owner; Patricia & Dennis Kane, lessees.

SUBJECT – Application October 9, 2007 – Proposed reconstruction and enlargement of an existing single family dwelling not fronting on a mapped street contrary to General City Law §36 and the upgrade of an existing non-conforming private disposal system partially in the bed of a service road contrary to Building Department Policy. R4 Zoning district.

PREMISES AFFECTED – 9 Gotham Walk, east side, 106.78' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

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**260-07-A**

APPLICANT – Gary D. Lenhart, for The Breezy Point Cooperative, owner; Catherine & George Chave, lessees.

SUBJECT – Application November 9, 2007 – Reconstruction and enlargement of an existing one family home not fronting on mapped street, contrary to General City Law and the proposed upgrade of the private disposal system in the bed of the service road contrary to Building Department Policy. R4 zoning district.

PREMISES AFFECTED – 14 Devon Walk, west side, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

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**JANUARY 29, 2008, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, January 29, 2008, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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**ZONING CALENDAR**

**280-06-BZ**

APPLICANT – Carl A. Sulfaro, Esq., for Charles P. Green, owner; Exxon Mobil Oil Corporation, lessee.

SUBJECT – Application October 18, 2006 – Under (§ 73-211) to permit in a C2-2 within R3-2 zoning district, the reestablishment of a Special Permit granted by the BSA for an Automotive Service Station with accessory uses, including an existing accessory convenience store which expired on December 20, 2002.

PREMISES AFFECTED – 181-08 Horace Harding Expressway, southeast corner of Utopia Parkway and Horace Harding Expressway, Block 7070, Lot 2, Borough of Queens.

**COMMUNITY BOARD #8Q**

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**119-07-BZ**

APPLICANT – Sheldon Lobel, P.C., for SCO Family of Services, owner.

SUBJECT – Application May 11, 2007 – Variance under (§ 72-21) to allow a four-story community facility building (UG4A) to violate regulations for use (§ 42-10), rear yard (§ 43-26) and parking (§ 44-21). M1-2 district.

PREMISES AFFECTED – 443 39<sup>th</sup> Street, northern side of 39<sup>th</sup> Street, midblock between 4<sup>th</sup> Avenue and 5<sup>th</sup> Avenue, Block 705, Lot 59, Borough of Brooklyn.

**COMMUNITY BOARD #7BK**

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# CALENDAR

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**205-07-BZ**

APPLICANT – Omnipoint Communications Inc., for Joseph Wroblewski, owner; Omnipoint Communications, Inc., lessee.

SUBJECT – Application August 20, 2007 – Special Permit (§73-30) to allow a non-accessory radio tower on the rooftop of an existing building. The tower will be disguised as a 25' flagpole. The site is located in an R4-1 zoning district.

PREMISES AFFECTED – 53-20 72<sup>nd</sup> Place, west side of the intersection of 53<sup>rd</sup> Road and 72<sup>nd</sup> Place, Block 2506, Lot 52, Borough of Queens.

**COMMUNITY BOARD #5Q**

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**233-07-BZ**

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for TIAA-CREF, owner; Pure 86th Street Incorporated, lessee.

SUBJECT – Application October 11, 2007 – Special Permit (§73-36) to allow a physical culture establishment on the first floor, cellar, sub-cellar 1 and sub-cellar 2 in an existing 35-story mixed-use building. The proposal is contrary to section 32-10. C2-8A zoning district.

PREMISES AFFECTED – 203 East 86<sup>th</sup> Street, northeast corner of the intersection of 86<sup>th</sup> Street and Third Avenue, Block 1532, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #8M**

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**273-07-BZ**

APPLICANT – Moshe M. Friedman, for Abraham Greenstein, owner.

SUBJECT – Application November 29, 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(a)); side yards (§23-461) and rear yard (§23-45) in an R-2 zoning district.

PREMISES AFFECTED – 1435 East 22<sup>nd</sup> Street, 140' north from the intersection of East 22<sup>nd</sup> Street and Avenue N, Block 7658, Lot 13, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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*Jeff Mulligan, Executive Director*

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# MINUTES

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**REGULAR MEETING  
TUESDAY MORNING, JANUARY 8, 2008  
10:00 A.M.**

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

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**SPECIAL ORDER CALENDAR**

**651-60-BZ**

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

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

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

**COMMUNITY BOARD #8BX**

APPEARANCES –

For Applicant: Elizabeth Larsen.

**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

Abstain: Commissioner Montanez.....1

**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 variance for a  
valet service/ packaged goods store and a stationary store,  
which expired on March 7, 2001; and

WHEREAS, a public hearing was held on this  
application on December 4, 2007, after due notice by  
publication in *The City Record*, and then to decision on  
January 8, 2008; and

WHEREAS, Community Board 8, Bronx, recommends  
approval of this application; and

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

WHEREAS, the subject site is bounded by the south side  
of West 246<sup>th</sup> Street, the east side of Independence Avenue,  
and the north side of Blackstone Avenue; and

WHEREAS, the site is located within an R4 zoning  
district and is occupied by a 13-story apartment building; and

WHEREAS, the Board notes that at some point  
subsequent to 1961 the Block was re-numbered from Block  
3418 to Block 5909; and

WHEREAS, on March 7, 1961, under the subject  
calendar number, the Board granted a variance to allow the  
conversion of one apartment in the cellar of an existing  
apartment building into a valet service's office; and

WHEREAS, this grant was extended three times; and

WHEREAS, most recently on February 8, 1994, the grant  
was extended for a term of ten years from the expiration of the  
prior grant, and was also amended to permit the legalization of  
the enlargement of the space to accommodate office space,  
which is now occupied by a stationery store; and

WHEREAS, on August 14, 2002, the Board approved a  
change to permit the sale of packaged non-perishable goods in  
a portion of the converted space; and

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

WHEREAS, the applicant represents that there have not  
been any changes to the site; and

WHEREAS, the Board inquired as to whether the store  
was accessible to the general public; and

WHEREAS, in response, the applicant stated that there  
was no access to the valet space/package goods store from  
outside the building, but that the stationery store is accessible  
from outside the building; and

WHEREAS, pursuant to ZR § 11-411, the Board may  
permit an extension of term for a previously granted variance;  
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 March 7, 1961, so  
that as amended this portion of the resolution shall read: "to  
grant an extension of the variance for a term of ten years  
from the expiration of the prior grant, to expire on March 7,  
2011; on condition that the use and operation shall  
substantially conform to the approved drawings; and on  
further condition:

THAT the term of this grant shall expire on March 7,  
2011;

THAT the above condition 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."

(DOB App. No. 201107202)

Adopted by the Board of Standards and Appeals, January  
8, 2008.

# MINUTES

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**426-83-BZ**

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

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

PREMISES AFFECTED – 1880 Hylan Boulevard, Hylan Boulevard and Slater Boulevard, Block 3657, Lot 7, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

APPEARANCES – None.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**THE RESOLUTION:**

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an amendment to permit construction of an elevator and ramp for disabled access and to legalize non-complying signage and changes to the previously approved plans for parking, and an extension of the term of a previously granted variance permitting a Use Group 6 building in an R3-1 zoning district, which expired on November 27, 2004; and

WHEREAS, a public hearing was held on this application on October 30, 2007, after due notice by publication in *The City Record*, with a continued hearing on December 11, 2007 and then to decision on January 8, 2008; and

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

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

WHEREAS, the subject site is located on the northeast corner of Hylan Boulevard and Slater Boulevard, within an R3-1 zoning district; and

WHEREAS, the site is occupied by a two-story commercial building with six stores (Use Group 6) on the first floor and office uses above; and

WHEREAS, on November 27, 1984, under BSA Cal. No. 426-83-BZ, the Board granted a variance to permit the construction of a two-story commercial building for use as retail stores on the first floor and offices on the second floor, for a term of twenty years; and

WHEREAS, the term of the grant expired on November 27, 2004; and

WHEREAS, the applicant now seeks an additional twenty-year term; and

WHEREAS, because the grant has expired, the Board has determined that the new term shall be reduced for the period between the expiration of the prior term on November 27, 2004 and the date of this grant; and

WHEREAS, additionally, the applicant seeks an amendment of the previously approved plans to reduce the number of parking spaces to 20 spaces from the 27 spaces required by the previous grant; and

WHEREAS, the applicant represents that the parking stalls and circulation aisles in the previously approved parking plans for 27 cars were too narrow; and

WHEREAS, the applicant further represents that the as-built condition of 20 spaces allows for improved vehicle circulation and access to refuse dumpsters; and

WHEREAS, the applicant further seeks permission to install a ramp along the southeast side of the building and a passenger elevator to make the building accessible to persons with disabilities; and

WHEREAS, the Board notes that no changes are proposed to the building envelope; and

WHEREAS, the applicant initially also sought to legalize two non-complying signs which each exceed the maximum size of 50 sq. feet, with one sign calculated at 52.50 sq. ft. and the second sign calculated at 59.50 sq. ft.; and

WHEREAS, at hearing, the Board directed the applicant to instead replace the non-complying signage; and

WHEREAS, applicant agreed to replace one sign immediately and to replace the second non-complying sign after the existing tenant vacates in July 2008; and

WHEREAS, based upon its review of the record, the Board finds that the requested waiver of the Rules of Practice and Procedure, the reopening, amendment to install an elevator and ramp and to legalize the non-complying parking, and extension of the term are appropriate with the conditions set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, as adopted November 27, 1984, so that as amended this portion of the resolution shall read: “to reflect the actual parking conditions, to permit construction of an elevator and ramp, and to extend the term for twenty years from November 27, 2004 to expire on November 27, 2024, *on condition* that any and all use shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked “Received November 3, 2006”-(5) sheets and “October 2, 2007”-(1) sheet; and *on further condition*:

THAT this grant shall expire on November 27, 2024;

THAT the premises shall remain graffiti-free;

THAT all signage shall comply with C1 zoning district regulations;

THAT the above conditions and all relevant conditions from prior resolutions shall appear on the certificate of occupancy;

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# MINUTES

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THAT subsequent to construction of the ramp that landscaping be installed and maintained in accordance with ZR § 25-60;

THAT a new certificate of occupancy shall be obtained by January 8, 2009;

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 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 App. No. 500855461)

Adopted by the Board of Standards and Appeals, January 8, 2008.

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## **170-47-BZ**

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

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

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

### **COMMUNITY BOARD #6BX**

APPEARANCES –

For Applicant: Kenneth M. Koons.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to January 29, 2008, at 10 A.M., for decision, hearing closed.

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## **742-70-BZ**

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for 830 Bay Street LLC, owner.

SUBJECT – Application July 13, 2007 – Application filed pursuant to §§72-01 and 72-22 for an Extension of Term/Amendment/Waiver for a previously approved variance which allowed in a C1-1(R3-2) zoning district the erection and maintenance of an automotive service station with accessory uses. The application seeks to legalize the installation of two storage containers contrary to the previously approved grant. The current term of the variance expired on May 18, 2001.

PREMISES AFFECTED – 830 Bay Street, Southwest corner of the intersection of Bay Street and Vanderbilt Avenue, Block 2836, Lot 14, Borough of Staten Island.

### **COMMUNITY BOARD #1SI**

APPEARANCES –

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** – Laid over to February 12, 2008, at 10 A.M., for continued hearing.

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## **1199-88-BZ**

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

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

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

### **COMMUNITY BOARD #3SI**

APPEARANCES –

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** – Laid over to February 12, 2008, at 10 A.M., for continued hearing.

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## **83-97-BZ**

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

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

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

### **COMMUNITY BOARD #11Q**

APPEARANCES –

For Applicant: Elizabeth Safian.

**ACTION OF THE BOARD** – Laid over to January 19, 2008, at 10 A.M., for continued hearing.

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## **1038-80-BZ, VII**

APPLICANT – Davidoff Malito & Hutcher, LLP, for Feinrose Downing LLC, owner; Expressway Arcade Corporation, lessee.

SUBJECT – Application November 5, 2007 – Extension of Term of a Special Permit for the continued operation of a UG15 Amusement Arcade (Smile Arcade) in an M2-1 zoning district which expires on January 6, 2008.

PREMISES AFFECTED – 31-07/09/11 Downing Street, Whitestone Expressway, Block 4327, Lot 1, Borough of Queens.

### **COMMUNITY BOARD #7Q**

APPEARANCES –

For Applicant: Ron Mandel.

THE VOTE TO CLOSE HEARING –

# MINUTES

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to February 5, 2008, at 10 A.M., for decision, hearing closed.

## 222-03-BZ, Vol. II

**APPLICANT** – Alfonse Duarte, for Emanuel T. Lorras, owner.

**SUBJECT** – Application November 15, 2007 – Extension of Time to Complete Construction of a Variance (§72-21) previously granted on November 18, 2003 for the enlargement of a single family home, in an R-4 zoning district, which expired on November 18, 2007

**PREMISES AFFECTED** – 30-04 73<sup>rd</sup> Street, south west corner of 30<sup>th</sup> Avenue, Block 1121, Lot 6, Borough of Queens.

### COMMUNITY BOARD #3Q

**APPEARANCES** –

For Applicant: Alfonse Duarte. P.E.

**THE VOTE TO CLOSE HEARING** –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to January 29, 2008, at 10 A.M., for decision, hearing closed.

## APPEALS CALENDAR

### 155-07-A

**APPLICANT** – Jorge F. Canepa, for Sonja Keyser, owner.  
**SUBJECT** – Application June 11, 2007 – Proposed construction of a swimming pool, tennis court and changing room located within the bed of a mapped street (Tiber Place) contrary to General City Law §35. R1-2 Zoning District.

**PREMISES AFFECTED** – 55 Chipperfield Court, 413.88’ south of the corner between Chipperfield Court and Ocean Terrace, Block 687, Lot 21, Borough of Staten Island.

### COMMUNITY BOARD #2SI

**APPEARANCES** – None.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Staten Island Borough Commissioner, dated June 1, 2007, acting on Department of Buildings Application No. 500907753, reads in pertinent part: “Objection #1 – Proposed swimming pool, tennis

court and changing room in the bed of mapped street is contrary to the General City Law”; and

WHEREAS, this application requests permission to build a proposed in-ground swimming pool, tennis court, and changing room within the bed of a mapped street (Tiber Place); and

WHEREAS, a public hearing was held on this application on December 11, 2007 after due notice by publication in the *City Record*, and then to decision on January 8, 2008; and

WHEREAS, by letter dated July 31, 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, by letter dated June 25, 2007, the Fire Department states that it has reviewed the above application and has no objection; and

WHEREAS, by letter dated July 11, 2007, the Department of Environmental Protection (DEP) states that it reviewed the above application and advises the Board that there is an adopted Drainage Plan PRD-1B & 2B, sheet 4 of 14, which calls for a future 10-in. diameter sanitary sewer and a 15-in. diameter storm sewer starting in Tiber Place off of Ocean Terrace; and

WHEREAS, accordingly, DEP requires a sewer corridor on Lot 21 in the bed of Tiber Place with a minimum width of 32’-0” for the future 10-in. diameter sanitary sewer and 15-in. diameter storm sewer and for the purpose of installation, maintenance, and/or reconstruction of these sewers; and

WHEREAS, in response to DEP’s request, the applicant has agreed to provide a sewer corridor with a width of 32’-0” on Lot 21 in the bed of Tiber Place for the future drainage plan; and

WHEREAS, by letter dated November 14, 2007, DEP states that it has reviewed the revised site plan and finds it acceptable; and

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

*Therefore it is Resolved* that the decision of the Staten Island Borough Commissioner, dated June 1, 2007, acting on Department of Buildings Application No. 500907753, 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 November 2, 2007,” “BSA-3”– one (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 a sewer corridor with a width of 32’-0” shall be

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provided for DEP access on Lot 21 in the bed of Tiber Place, as reflected on the BSA-approved plans; and

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

Adopted by the Board of Standards and Appeals, January 8, 2008.

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## 162-06-A & 165-06-A

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

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

PREMISES AFFECTED – 2852 & 2848 Faber Terrace, intersection of Faber Terrace and Proposed Edgewater Road, Block 15684, Lot 161, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** – Laid over to February 12, 2008, at 10 A.M., for an adjourned 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 (128<sup>th</sup> Drive) contrary to §35 of the General City Law and not fronting on a legally mapped street contrary to Article 3, §36 of the General City Law. Premises is located within the R-2 Zoning District.

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

### COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** – Laid over to February 12, 2008, at 10 A.M., for an adjourned hearing.

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## 154-07-A

APPLICANT – Troutman Sanders, LLP, for 435 East 57<sup>th</sup> Apartments, Inc., owner.

SUBJECT – Application June 11, 2007 – Appeal seeking to revoke permits and approvals that allow a mechanical room which exceeds the maximum height permitted under §23-692(a) and is not listed as a permitted obstruction in Section 23-62. R10 Zoning district.

PREMISES AFFECTED – 441 East 57<sup>th</sup> Street, north side of east 57<sup>th</sup> Street, between 1<sup>st</sup> Avenue and Sutton, Block 1369, Lot 15, Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to February 5, 2008, at 10 A.M., for an adjourned hearing.

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*Jeffrey Mulligan, Executive Director*

Adjourned: 10:30 A.M.

## REGULAR MEETING TUESDAY AFTERNOON, JANUARY 8, 2008 1:30 P.M.

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

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## ZONING CALENDAR

### 227-06-BZ

#### CEQR #07-BSA-015R

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 – None.

**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

Abstain: Commissioner Montanez.....1

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated June 13, 2006, acting on Department of Buildings Application No. 500834868, reads in pertinent part:

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“ZR 22-00 Proposed Office Building (Use Group 6) is not permitted as-of-right in a Residential R3-2 Zoning District;”

and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R3-2 zoning district, the construction of a two-story commercial office building (Use Group 6) which does not conform to district use regulations, contrary to ZR § 22-00; and

WHEREAS, the Board notes that the application as originally filed contemplated a two-story building with a basement and cellar with floor area of 9,040 sq. ft. (0.56 FAR), a rear yard of 5'-6", a front yard of 20'-0", a total height of 36'-0", and 23 parking spaces; and

WHEREAS, additionally, the applicant initially filed a companion application under BSA Cal. No. 228-06-A, pursuant to General City Law Section 35, to permit accessory off-street parking to be provided on the northern side of the site in the bed of a mapped but unbuilt portion of Rivington Avenue; and

WHEREAS, the applicant withdrew BSA Cal. No. 228-06-A due to a plan by the Department of Transportation to open Rivington Avenue; and

WHEREAS, a public hearing was held on this application on June 5, 2007, after due notice by publication in *The City Record*, with continued hearings on August 7, 2007, September 25, 2007, October 30, 2007, and November 27, 2007 and then to decision on January 8, 2008; and

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

WHEREAS, Community Board 2, Staten Island, recommended approval of this application, while recommending disapproval of BSA Cal. No. 228-06-A; and

WHEREAS, the proposed building will have two stories and a cellar with a total floor area of 8,528 sq. ft. and an FAR of 0.54, a rear yard of 30'-0", a front yard ranging from 10'-0" to 15'-0", a total height of 26'-0", and 30 parking spaces; and

WHEREAS, the site has a slightly irregular rectangular shape, with approximately 139 feet of frontage on Richmond Avenue extending approximately 112'-0" in depth at its shortest point and 120'-0" in depth at its longest point; and

WHEREAS, the site is currently vacant and has a lot area of 15,972 sq. ft.; and

WHEREAS, the site is the subject of a prior Board action, under BSA Cal. No. 752-87-BZ, which permitted the construction of a two-story building for medical use (Use Group 4) and commercial use (Use Group 6) with 22 parking spaces; and

WHEREAS, the approved development was not constructed; and

WHEREAS, the applicant states that the proposed first and second floors will be occupied by commercial office use; the cellar will be occupied by storage; and

WHEREAS, as noted above, however, the proposed building requires a use waiver; thus, the instant variance application was filed; and

WHEREAS, the applicant states that the following are unique physical conditions which create unnecessary hardship

and practical difficulties in developing the site with a complying development: (1) the need to install a sanitary sewer connection; (2) the site's slope; and (3) the site's location on a heavily-traveled arterial road; and

WHEREAS, as to the lack of a sanitary sewer, the applicant represents that the site is more than 200 feet from an existing sanitary sewer and that no sewers exist on Richmond Avenue from Draper Place to Amsterdam Avenue; and

WHEREAS, the applicant further represents that Richmond Avenue is unique in being a developed arterial roadway in Staten Island without sewers; and

WHEREAS, in response to a question by the Board, the applicant submitted materials confirming that that no capital sewer projects were planned for the area of the subject site; and

WHEREAS, the construction of a sanitary sewer would therefore have to be undertaken by the owner at his or her expense; and

WHEREAS, the Board asked the applicant to evaluate possible options for providing a sanitary sewer to the subject property; and

WHEREAS, in response, the applicant submitted an evaluation of three possible options: (1) construction of a private sanitary sewer connection in Richmond Avenue; (2) construction of a septic system; and (3) construction of an internal sanitary drain through an adjacent property to connect to the nearest existing sanitary sewer; and

WHEREAS, the applicant represents that construction of a private sanitary sewer connection in Richmond Avenue would require construction of a drain extending approximately 950 linear feet from the subject property to a drainage plan outlet in Draper Place; and

WHEREAS, the applicant further represents that the installation of the private sanitary connection would be cost-prohibitive; and

WHEREAS, regarding the second option evaluated -- construction of a septic system -- materials submitted by the applicant, the subject property is located within an R3 zoning district on the west side of Richmond Avenue, and the installation of a septic system would require a minimum lot size of 10,000 sq. ft. and minimum frontage of 100 feet, and be costly; and

WHEREAS, the applicant represents that compliance with these requirements would allow development only of a two-family home or a commercial building on the subject site, either of which could be served by the one permissible septic system; and

WHEREAS, the applicant further represents that a septic system also imposes numerous restrictions on as-of-right development, including certain separation distances between the system and buildings, property lines, drywells and water service that taken together constrain the placement of buildings on the site; and

WHEREAS, regarding the third option evaluated by the applicant -- that of connecting the subject site to the nearest sanitary sewer at Freeman Street -- the applicant submitted materials indicating that doing so would require the execution of a "homeowners association" (HOA) with the owner of adjacent tax lot 45 legally outlining the relationship between the two properties to allow for common internal sanitary drains; and

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WHEREAS, the applicant notes that the owner of the adjacent tax lot is under no obligation to execute such an HOA; and

WHEREAS, the applicant represents that a connection to the nearest sanitary sewer would necessitate construction of a pump station and force main at considerable cost, reduce the buildable area of the property, and be noisy and unsightly; and

WHEREAS, the applicant also notes that this construction would also require the performance of a topographical survey to determine whether the subject property could have uninterrupted gravity flow and, if that were the case, DEP might refuse approval of the connection to the Freeman Street sewer and may instead require construction of a private sewer to the Draper Place outlet 950 linear feet from the site; and

WHEREAS, as to the site's slope and irregular shape, the applicant states that the site has a six percent slope; and

WHEREAS, the applicant represents that this topographical condition impedes the development of the site for a complying use; and

WHEREAS, as to the historic use of the site, the applicant has submitted evidence establishing that the subject lot has been in existence and vacant since at least 1985; and

WHEREAS, based upon the above, 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, as to its location, the applicant states that the site is located on Richmond Avenue, an eight-lane north/south arterial roadway approximately 150'-0" in width; and

WHEREAS, the applicant represents that the heavy incidence of traffic on Richmond Avenue stifles demand for residential development; and

WHEREAS, the Board notes that the previous grant under BSA Cal. No. 752-87-BZ acknowledged that the site's frontage on a busy thoroughfare in Staten Island when coupled with the difficulty in obtaining the necessary sanitary sewer system creates unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant initially submitted a feasibility study which analyzed two as-of-right residential alternatives: a single two-family house that could be constructed without installation of sanitary sewer service, and a development consisting of two two-family and four one-family homes which included a sewage pumping station; and

WHEREAS, the study concluded that neither complying scenario would realize a reasonable return; and

WHEREAS, the Board directed the applicant to examine three additional scenarios: (1) a complying scenario consisting of two two-family homes and three one-family homes which substituted a pumping station for a sewer connector with an FAR of 0.59; (2) a non-complying scenario consisting of six two-family homes with an FAR of 0.9, which included the sewer connector; and (iii) a non-complying scenario consisting of three one-family and two two-family homes with an FAR of

0.8, which included a pumping station; and

WHEREAS, the response by the applicant concluded that none of these three scenarios would realize a reasonable return given the high per unit cost associated with construction of either a sewer connector or a pumping station; and

WHEREAS, the Board questioned whether the expense of a sewer connection could be recouped from charging adjacent property owners a fee to obtain a connection; and

WHEREAS, a submission by the applicant in response indicated that only one property on Richmond Avenue could potentially take advantage of the sewer extension and that the potential expense recovery would not compensate for the premium cost; and

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

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

WHEREAS, the applicant represents that the surrounding area is occupied by an abundance of commercial uses; and

WHEREAS, the applicant has submitted a land use map of the area indicating that within a 400' radius of the site, slightly more than half of the frontage along the east and west sides of Richmond Avenue has been developed for commercial uses; and

WHEREAS, further, photographs submitted by the applicant depict two two-story commercial office buildings similar in scale to the proposed building located across Richmond Avenue; and

WHEREAS, the Board notes that the current proposal respects the height and yard requirements of the subject zoning district; and

WHEREAS, the Board also notes that after reducing the amount of floor area and FAR, the applicant also increased the number of parking spaces provided, from 23 to 30; and

WHEREAS, the Board further notes that the provision of one wide curb cut on Richmond Avenue will mitigate the impact of entering and exiting vehicular traffic from the site on the four bus lines that service it; and

WHEREAS, the Board notes that the original plans did not provide buffering landscaping surrounding the parking area, as would now be required by ZR § 25-60 if the proposed building were in a commercial district; and

WHEREAS, at the Board's request, the applicant submitted revised plans which indicate that landscaping, including shrubbery and plantings will screen the open parking area from the adjoining frontage and from Rivington Avenue; and

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

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WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is the result of the site's pre-existing slope and its lack of a sewer connection; and

WHEREAS, the Board notes that the application as originally filed contemplated a two-story building with basement and cellar, with a floor area of 9,040 sq. ft. (0.56 FAR), a rear yard of 5'-6", a total height of 36'-0", and 23 parking spaces; and

WHEREAS, because the applicant reduced the size of the proposed building and will provide yards which comply with those required for a residential use in the zoning district, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, based upon the above, 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 pursuant to 6 NYCRR, Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07BSA015R, dated May 1, 2007; and

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

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

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

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R3-2 zoning district, the proposed construction of a two-story commercial building, which does not conform with applicable zoning use regulations, contrary to ZR § 22-00; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 13, 2007"- nine (9) sheets and "Received January 3, 2008" – two (2) sheets; and *on further condition*:

THAT the following are the bulk parameters of the proposed building: a total floor area of 8,528 sq. ft. (0.54 FAR), a rear yard of 30'-0", a front yard ranging from 10'-0" to 15'-0", a total height of 26'-0", and 30 parking spaces, as indicated

on the BSA-approved plans;

THAT landscaping, including shrubbery and plantings screening the open parking area, shall be provided and maintained as per the BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, January 8, 2008.

## 48-07-BZ

APPLICANT – Alfonso Duarte, for Jerry Trianafillou, owner.

SUBJECT – Application February 20, 2007 – Variance (§72-21) for the enlargement of an existing single family residence on an undersized lot which seeks to vary (§23-47) less than the required rear yard and (§23-141(b)) for lot coverage in an R2A zoning district.

PREMISES AFFECTED – 7-12 126<sup>th</sup> Street, west side 90' south of 7<sup>th</sup> Avenue, Block 3970, Lot 11, Borough of Queens.

## COMMUNITY BOARD #7Q

APPEARANCES – None.

**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

Abstain: Commissioner Montanez.....1

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated July 26, 2007, acting on Department of Buildings Application No. 402314848, reads in pertinent part:

"Non-compliant of minimum 30'-0" required rear yard;" and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R2A zoning district, the proposed enlargement of a two-story single-family home that does not provide the required rear yard and is contrary to ZR § 23-47; and

WHEREAS, an earlier iteration of the application required the noted rear yard waiver and a lot coverage waiver; and

WHEREAS, a public hearing was held on this application on October 23, 2007, after due notice by publication in *The City Record*, with a continued hearing on December 11, 2007, and then to decision on January 8, 2008; and

WHEREAS, the premises and surrounding area had site

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and neighborhood examinations by Chair Srinivasan and Commissioner Hinkson; and

WHEREAS, Community Board 7, Queens, recommends disapproval of the earlier iteration of the proposal, which required lot coverage and rear yard waivers, citing concerns about neighborhood character and whether the request for two waivers reflected the minimum variance; and

WHEREAS, City Council Member Tony Avella provided written testimony questioning the FAR calculations; and

WHEREAS, the site is located on the west side of 126<sup>th</sup> Street, 90 feet south of Seventh Avenue, in an R2A zoning district; and

WHEREAS, the site has a width of approximately 75 feet, a depth ranging from 70.11 feet to 52.31 feet, and a total lot area of approximately 4,590 sq. ft.; and

WHEREAS, the site comprises two lots, Lot 11 (on the northern portion of the site) and Lot 13 (on the southern portion of the site), which will be merged into a new Lot 11; and

WHEREAS, the site is currently occupied by a single-family home, built in 1935, on the northern portion of the lot and a detached garage on the southern portion of the lot; and

WHEREAS, the applicant proposes to construct a two-story enlargement to the existing home on the southern portion of the lot and to reduce the size of the existing detached garage; and

WHEREAS, the applicant initially proposed to provide for an enlargement that retained all of the existing garage and resulted in a non-complying lot coverage of 36 percent (30 percent lot coverage is the maximum permitted); and

WHEREAS, the proposed home will have the following complying parameters: 2,256 sq. ft. of floor area (0.49 FAR), a lot coverage of 30 percent, a perimeter wall height of 21'-0", a total height of 28'-7", and a front yard of 15'-0"; and

WHEREAS, however, the applicant proposes to provide a rear yard with a depth of 20'-0" (a minimum depth of 30'-0" is required); and

WHEREAS, the applicant states that rear yard relief is necessary, for reasons stated below; thus, the instant application was filed; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: (1) the subject lot is shallow; and (2) the subject lot is irregularly-shaped; and

WHEREAS, as to the shallow depth, the applicant represents that the site has a range of depths from 52.31 feet along the southern lot line to 70.11 feet along the northern lot line; and

WHEREAS, the applicant represents that the requested rear yard waiver is necessary to develop the site with a viable enlargement; and

WHEREAS, specifically, the applicant represents that the lot depth cannot feasibly accommodate as of right development; and

WHEREAS, the applicant states that if a complying front yard of 15 feet and a complying rear yard of 30 feet were

provided, any proposed enlargement would have an exterior depth of only approximately seven feet at the southernmost point and then reach a depth of approximately 16 feet at the center of the site; and

WHEREAS, accordingly, the applicant represents that the rear yard waiver is necessary to create an enlargement of a reasonable depth; and

WHEREAS, the applicant represents that the subject lot has the shallowest depth of any lot within a 200-ft. radius; and

WHEREAS, as to the irregular shape, the applicant states that the shape constrains a conforming development because the varying depth prohibits the provision of a uniform complying rear yard across the site; and

WHEREAS, the applicant represents that the site is one of only three such irregularly shaped lots within the 200-ft. radius; and

WHEREAS, based upon the above, the Board finds that the cited unique physical conditions create practical difficulties in developing the site in strict compliance with the applicable side yard regulations; and

WHEREAS, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that compliance with applicable zoning regulations will result in a habitable home; and

WHEREAS, the Board notes that the applicant also asserted that until the rezoning of the site on September 28, 2005, from an R3-2 zoning district to an R2A zoning district, a rear yard with a depth of 20'-0" would have been permitted under the shallow lot provisions; and

WHEREAS, the Board does not find the prior zoning relevant to the proposed variance request; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, or impact adjacent uses; and

WHEREAS, the applicant notes that the proposed bulk is compatible with nearby residential development; and

WHEREAS, specifically, the applicant provided information on the six homes on the adjacent lots, which reflects a range in FAR from 0.25 to 0.55; and

WHEREAS, the applicant states that the home will remain a single-family home after the enlargement; and

WHEREAS, as to the question, raised by the Board and Council Member Avella, of whether any floor area associated with the detached garage would be included in floor area calculations, the applicant submitted a determination from DOB which states that, within the subject zoning district, up to 300 sq. ft. of floor space associated with an accessory garage may be excluded from floor area calculations; and

WHEREAS, accordingly, the revised plans provide for a single car garage with floor space of 249 sq. ft., which is not included in the floor area calculations; and

WHEREAS, in response to the Board's concerns about lot coverage and neighborhood context, the applicant reduced the size of the garage so that the lot coverage, initially proposed to be 36 percent, did not exceed the maximum permitted in the zoning district of 30 percent; and

WHEREAS, the Board agrees that the location of the enlargement on the lot and the non-complying rear yard is

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compatible with the neighborhood context; and

WHEREAS, the Board notes that the existing home does not provide a complying front yard on the northern portion of the site, yet the proposed enlargement will provide the required front yard; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is a result of the historical lot dimensions; and

WHEREAS, as noted above, the proposal complies with all R2A zoning district regulations except for the required rear yard on a portion of the lot; and

WHEREAS, further, the Board notes that during the hearing process, the applicant reduced the proposed lot coverage from 36 percent to 30 percent and agreed to demolish a portion of the existing garage; and

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 72-21, to permit, within an R2A zoning district, the proposed enlargement of a two-story single-family home that does not provide the required rear yard and is contrary to ZR § 23-47; *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 November 27, 2007"– (11) sheets; and *on further condition*:

THAT the parameters of the proposed building shall be as follows: 2,256 sq. ft. of floor area (0.49 FAR), a maximum lot coverage of 30 percent, two stories, a wall height of 21'-0", a total height of 28'-7", a rear yard with a minimum depth of 20'-0", and two parking spaces, as per the BSA-approved plans;

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

THAT there shall be no habitable room in the cellar;

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

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

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

Adopted by the Board of Standards and Appeals, January 8, 2008

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**202-07-BZ**

**CEQR #07-BSA-013K**

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

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

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

**COMMUNITY BOARD #11BK**

APPEARANCES –

For Applicant: Howard Hornstein and Peter Geis.

**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

Abstain: Commissioner Montanez.....1

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated July 16, 2007, acting on Department of Buildings Application No. 302368303, reads, in pertinent part:

"Proposed School, UG3 is not permitted in M1 Zoning District. Refer to Board of Standards and Appeals"; and

WHEREAS, this is an application under ZR § 73-19 to permit, within an M1-1 zoning district, the proposed operation of a religious pre-school and kindergarten; and

WHEREAS, the application is brought on behalf of Mattan Basseter, a nonprofit corporation (the "applicant"), and the building will be occupied by Magen David Yeshiva ("Magen David"), an operator of religious schools in Brooklyn; and

WHEREAS, a public hearing was held on this application on October 30, 2007, after due notice by publication in the *City Record*, with a continued hearing on December 4, 2007 and then to decision on January 8, 2008; and

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

WHEREAS, Community Board 11, Brooklyn, recommends approval of this application; and

WHEREAS, certain neighborhood residents testified in opposition to the school (the "Opposition") citing concerns with traffic, lack of parking, and the preservation of a nearby historic home; and

WHEREAS, the site is located on the west side of McDonald Avenue, 40 feet north of Avenue T in the Gravesend section of Brooklyn; and

WHEREAS, the site is located in an M1-1 zoning district and has a lot area of 16,286 sq. ft.; and

WHEREAS, the subject site is occupied by a vacant two-story office building with approximately 27,016 sq. ft. in floor

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area; and

WHEREAS, the building runs the entire length of the site's 225'-0" frontage and is predominately built to a depth of 75'-0" abutting the rear lot line; and

WHEREAS, the applicant proposes to renovate the existing building for use as a pre-school and kindergarten (UG 3) with a floor area of 27,016 sq. ft. and an FAR of 1.65; and

WHEREAS, the applicant proposes no change to the building envelope or increase in floor area; and

WHEREAS, the applicant represents that the special permit request is necessitated by the need to provide religious and secular education to benefit members of the surrounding Orthodox Jewish community; and

WHEREAS, a Magen David school serving kindergarten through eighth grade is located north of the subject site on the west side of McDonald Avenue; and

WHEREAS, the proposed building will allow Magen David to offer religious education to approximately 410 pre-school and kindergarten students: 100 three-year-olds; 140 four-year-olds; and 170 five-year-olds; and

WHEREAS, the applicant represents that the proposed pre-school meets the requirements of the special permit authorized by ZR § 73-19 for permitting a school in an M-1 zoning district; and

WHEREAS, ZR § 73-19 (a) requires an applicant to demonstrate difficulty in obtaining land for the development of a school within the neighborhood to be served and with an adequate size, within districts where the school is permitted as-of-right, sufficient to meet the programmatic needs of the school; and

WHEREAS, the applicant notes that Magen David must vacate its existing facility pursuant to a lease agreement that will expire in 2008; and

WHEREAS, the applicant represents that most of the families to be served by the school live within the area bounded by Avenue P to the north, Avenue V to the south, Coney Island Avenue to the east and West 6<sup>th</sup> Street to the west; and

WHEREAS, additionally, the applicant states that a one-story or two-story building with floor area of least 15,000 sq. ft. is necessary to accommodate Magen David's program; and

WHEREAS, thus, Magen David undertook a search for a property of adequate size in a zoning district near its families which permitted the proposed use; and

WHEREAS, the applicant further represents that there are no available sites near the current location of Magen David's pre-school where construction of a new pre-school and kindergarten would be feasible; and

WHEREAS, according to information submitted to the Board, all adequately-sized sites in the community are built upon; and

WHEREAS, at hearing, the Opposition identified two sites as potential alternatives; and

WHEREAS, a response by the applicant indicated that one of the identified sites was significantly smaller in size, and the other was in a location too remote to be feasible; and

WHEREAS, the applicant maintains that the results of the site search shows that there is no practical possibility of

obtaining a site of adequate size for the school in a district where it is permitted as of right; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (a) are met; and

WHEREAS, ZR § 73-19 (b) requires an applicant to demonstrate that the proposed school is located no more than 400 feet from the boundary of a district in which such a school is permitted as of right; and

WHEREAS, evidence in the record indicates that the rear lot line of the site directly abuts an R5 district in which a school would be permitted as of right; and

WHEREAS, therefore, Board finds that the requirements of ZR § 73-19 (b) are met; and

WHEREAS, ZR § 73-19 (c) requires an applicant to demonstrate how it will achieve adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district; and

WHEREAS, the applicant represents that adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district is provided through the use of sound-attenuating window and wall construction; and

WHEREAS, the applicant has submitted evidence supporting the above representation; and

WHEREAS, the Board accepts that the use of sound attenuating window and wall construction will adequately separate the school from noise, traffic and other adverse effects of the surrounding non-residential district; thus, the Board finds that the requirements of ZR § 73-19 (c) are met; and

WHEREAS, ZR § 73-19 (d) requires an applicant to demonstrate how the movement of traffic through the street on which the school will be located can be controlled so as to protect children traveling to and from the school; and

WHEREAS, the applicant has submitted a school safety plan addressing measures necessary for the safety of the students and staff traveling to and from the school; and

WHEREAS, a bus loading and unloading area will be provided along McDonald Avenue which permits children to be delivered to and picked up from the school entirely within the safety of the school property; and

WHEREAS, the New York City Department of Transportation ("DOT") has conducted a traffic safety review of the subject proposal; and

WHEREAS, the Board notes that the DOT School Safety Engineering Office has also begun preparations for the installation of signs and marking at intersections surrounding the preschool; and

WHEREAS, the Board finds that the movement of the traffic through the street on which the school is located can be controlled so as the protect children going to and from the school; and

WHEREAS, therefore, Board finds that the requirements of ZR § 73-19 (d) are met; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-19; and

WHEREAS, neighborhood residents testified to a lack of available parking in the area surrounding the school and raised

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concerns with the need for staff parking for the school; and

WHEREAS, the applicant notes that there is no parking requirement for a school located in an M1 zoning district; and

WHEREAS, at hearing, the applicant agreed to try to identify available parking for Magen David's staff; and

WHEREAS, neighborhood residents also testified to the need to take protect a historic house located at 2138 McDonald Avenue ("Hubbard House") during construction; and

WHEREAS, the Board notes that there will be no change to the building envelope and that no below-ground or in-ground construction is contemplated at the subject site; and WHEREAS, the Executive Order No. 9 of 07 mission has determined that no adverse

WHEREAS, the Board accordingly agrees that there is no need for additional protective measures for Hubbard House during construction of the school; 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, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR §73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 08BSA013K, dated November 14, 2007; and

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

WHEREAS, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the applicant: August 2007 EAS, the July 2007 Phase I Environmental Site Assessment Report; and the November 30, 2007 Air Quality and Noise response submissions; and

WHEREAS, these submissions specifically examined the proposed action for Hazardous Materials, Air Quality; and Noise; and

WHEREAS, DEP waived their request for further hazardous materials assessment based on the proposal being a conversion and not new construction; and

WHEREAS, DEP has determined that there would not be any potential air quality and noise impacts from the subject proposal, based on the November 30, 2007 submission; and

WHEREAS, no other significant effects upon the

environment that would require an Environmental Impact Statement are foreseeable; and

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

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and the Executive Order No. 9 of 07 mission has determined that each and every one of the required findings under ZR §§ 73-19 and 73-03 and grants a special permit, to allow the proposed operation of a pre-school and kindergarten (Use Group 3), located within an M1-1 zoning district; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 10, 2007"-(4) sheets and "Received November 10, 2007"-(2) sheets; and *on further condition*:

THAT the premises shall comply with all applicable fire safety measures, as required and as illustrated on the BSA approved plans;

THAT the certificate of occupancy shall state that the number of students shall be limited to 500;

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

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

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

Adopted by the Board of Standards and Appeals, January 8, 2008.

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## 216-07-BZ

### CEQR #08-BSA-013K

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

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

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

### COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Adam W. Rothkrug.

**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

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Negative:.....0

Abstain: Commissioner Montanez.....1

## THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated September 2, 2007, acting on Department of Buildings Application No. 104845250, reads in pertinent part:

“Proposed Physical Culture Establishment is not permitted as-of-right in C1-9 zoning district and it is contrary to ZR 32-10.”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C1-9 zoning district, the establishment of a physical culture establishment (PCE) on portions of the first and second floors and in the three cellar levels of a proposed 30-story mixed-use commercial/residential building, contrary to ZR § 32-10; and WHEREAS, a public hearing was held on this application on December 4, 2007, after due notice by publication in *The City Record*, and then to decision on January 8, 2008; and

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

WHEREAS, Community Board 8, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the northwest corner of Second Avenue and East 74<sup>th</sup> Street; and

WHEREAS, a 30-story mixed-use commercial/residential building is currently under construction at the site; and

WHEREAS, the PCE will occupy a total of approximately 13,745 sq. ft. of floor area on the first and second floors and 25,530 sq. ft. of floor space on the cellar and two sub-cellar levels; and

WHEREAS, the PCE will be operated as Equinox Fitness; and

WHEREAS, the applicant represents that the services at the PCE will include cardiovascular exercise machines, weight-training equipment, and individual and group instruction; and

WHEREAS, the hours of operation will be: Monday through Thursday, 5:30 a.m. to 11:00 p.m.; Friday, 5:30 a.m. to 10:00 p.m.; and Saturday and Sunday, 7:00 a.m. to 9:00 p.m.; and

WHEREAS, at hearing, the Board asked the applicant if there will be residential use on the third floor of the proposed building; and

WHEREAS, the applicant responded that there will be residential use on the third floor and on a small portion of the second floor, but that any residential purchaser would be aware that a PCE is planned to occupy the second floor, among other portions of the building; and

WHEREAS, further, the applicant represents that there will be buffer space occupied by mechanicals above the second floor and sound attenuation measures provided between the PCE and residential use on the second and third floors; and

WHEREAS, the Board finds that this action will

neither: 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

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

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 08BSA018M, dated December 5, 2007; and

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

WHEREAS, the Board has determined that the operation of the PCE will not have a significant adverse impact on the environment.

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C1-9 zoning district, the establishment of a physical culture establishment on portions of the first and second floors and in the three cellar levels of a proposed 30-story mixed-use commercial/residential building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received December 27, 2007”- (2) sheets; and *on further condition*:

THAT the term of this grant shall expire on January 8, 2018;

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

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

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

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

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

THAT prior to the issuance of any permits, DOB shall review the floor area and location of the PCE for compliance with all relevant commercial use regulations;

THAT sound attenuation measures shall be installed and maintained in accordance with the approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, January 8, 2008.

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## 223-07-BZ

### CEQR #08-BSA-024M

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

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

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

### COMMUNITY BOARD #5M

APPEARANCES – None.

For Applicant: Meloney McMurry.

**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

Abstain: Commissioner Montanez.....1

**THE RESOLUTION:**

WHEREAS, the decision of the Manhattan Borough Commissioner, dated September 19, 2007, acting on Department of Buildings Application No. 104729698, reads in pertinent part:

“Proposed use of physical culture establishment in Commercial C5-3/(Midtown) district at third floor,

is contrary to ZR 32-10 (uses permitted as of right).”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-3 zoning district in the Special Midtown District, the legalization of a physical culture establishment (PCE) on the third floor of a ten-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on December 4, 2007, after due notice by publication in *The City Record*, and then to decision on January 8, 2008; and

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

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

WHEREAS, the subject site is located on the south side of 57<sup>th</sup> Street, between Fifth Avenue and Sixth Avenue; and

WHEREAS, the PCE occupies 5,463 sq. ft. of floor area on the third floor of a ten-story commercial building; and

WHEREAS, the PCE is operated as Bliss Spa; and

WHEREAS, the Board notes that the PCE has been in operation at this site since June 15, 2007 when it relocated from a nearby location; and

WHEREAS, accordingly, the Board has determined that the term of the grant shall be reduced for the period of time, between June 15, 2007 and the date of this grant, when the PCE operated without the special permit; and

WHEREAS, the applicant represents that the services at the PCE include body treatments and beauty services, including massages, facials, and manicures; and

WHEREAS, the hours of operation are: Monday through Friday, 9:00 a.m. to 8:30 p.m.; Saturdays, 9:30 a.m. to 6:30 p.m.; and Sundays, 10:00 a.m. to 6:00 p.m.; and

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

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

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

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

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

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

WHEREAS, the Board has conducted an environmental

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review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 08BSA024M, dated November 19, 2007; and

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

WHEREAS, the Board has determined that the operation of the PCE will not have a significant adverse impact on the environment.

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-3 zoning district in the Special Midtown District, the legalization of a physical culture establishment on the third floor of a ten-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received November 20, 2007"-(-1) sheet; and *on further condition*:

THAT the term of this grant shall expire on June 15, 2017;

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

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, January 8, 2008.

## 39-06-BZ

APPLICANT – Moshe M. Friedman, P.E., for Rachel Klagsbrun, owner.

SUBJECT – Application March 8, 2006 – Variance (§72-21) to allow the legalization of two (2) dwelling units (U.G. 2) in an existing three-story industrial building. Ground floor is proposed to be retained as manufacturing space (U.G. 17d). M1-2 zoning district.

PREMISES AFFECTED – 245 Varet Street, north side 100' east of intersection of White Street and Varet Street, Block 3110, Lot 33, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to February 26, 2008, at 1:30 P.M., for deferred decision.

## 160-06-BZ

APPLICANT – Rothkrug Rothkrug and Spector, for Barbara Berman, owner.

SUBJECT – Application July 24, 2006 – Variance under §72-21 to permit the proposed one-story and cellar Walgreens drug store with accessory parking for 24 cars. The proposal is contrary to §22-00. R3-1 district.

PREMISES AFFECTED – 2199 (a/k/a 2175) Richmond Avenue, corner of Richmond Avenue and Travis Avenue, Block 2361, Lots 1, 7, Borough of Staten Island.

### COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Adam W. Rothkrug and Frank Tioglio, R.A..

**ACTION OF THE BOARD** – Laid over to February 5, 2008, at 1:30 P.M., for continued hearing.

## 212-06-BZ

APPLICANT – Jeffrey A. Chester, for AAC Douglaston Plaza, LLC, owner.

SUBJECT – Application August 22, 2006 – Variance (§72-21) to convert an existing supermarket (Use Group 6) into an electronics store with no limitation in floor area (Use Group 10). The Premises is located in an R4 zoning district. The proposal is contrary to §22-10.

PREMISES AFFECTED – 242-02 61<sup>st</sup> Avenue, Douglaston Parkway and 61<sup>st</sup> Avenue, Block 8286, Lot 185, Borough of Queens.

### COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Jeffrey A. Chester and Harvey M. Guman.

For Opposition: Anna Levine, J.D., Davie Kerpen and Rosemarie Guidice.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to January

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29, 2008, at 10 A.M., for decision, hearing closed.  
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**293-06-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Veronica Nicasro, owner.

SUBJECT – Application November 6, 2006 – Variance (§72-21) for the proposed enlargement of an existing one-family dwelling which exceeds the permitted floor area and does not provide the required open space (§23-141) in an R1-2 zoning district.

PREMISES AFFECTED – 54-07 254<sup>th</sup> Street, east side of 254<sup>th</sup> Street, 189’ north of Horace Harding Expressway, Block 8256, Lot 11, Borough of Queens.

**COMMUNITY BOARD #11Q**

APPEARANCES –

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** – Laid over to January 29, 2008, at 1:30 P.M., for continued hearing.  
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**306-06-BZ**

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

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

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

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Richard Lobel.

**THE VOTE TO CLOSE HEARING** –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to February 5, 2008, at 10 A.M., for decision, hearing closed.  
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**68-07-BZ**

APPLICANT – Jeffrey A. Chester, Avram Babadzhyanov, owner; Congregation Rubin Ben Issac Haim, lessee.

SUBJECT – Application March 22, 2007 – Under §72-21 – Proposed community facility synagogue, which does not comply with front and side yard requirements.

PREMISES AFFECTED – 102-48 65<sup>th</sup> Road, southwest corner Yellowstone Boulevard and 65<sup>th</sup> Road, Block 2130, Lot 37, Borough of Queens.

**COMMUNITY BOARD #6Q**

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to January 29, 2008, at 1:30 P.M., for an adjourned hearing.  
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**79-07-BZ**

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

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

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

**COMMUNITY BOARD #12Q**

APPEARANCES –

For Applicant: Josh Rinesmith.

# MINUTES

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

**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**

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to January 15, 2008, at 1:30 P.M., for deferred decision.

**152-07-BZ**

APPLICANT – Eric Palatnik, P.C., for 8701 Fourth Avenue, LLC., owner.

SUBJECT – Application June 8, 2007 – Special Permit (§73-36) to allow the legalization of a Physical Culture Establishment on the second floor of a two-story commercial building. The proposal is contrary to §32-00 of the Zoning Resolution. C4-2A zoning district.

PREMISES AFFECTED – 8701 Fourth Avenue, southeast corner of Fourth Avenue and 87<sup>th</sup> Street, Block 6050, Lot 8, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to February 5, 2008, at 1:30 P.M., for deferred decision.

**158-07-BZ**

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

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

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

**COMMUNITY BOARD #8Q**

APPEARANCES –

For Applicant: Adam W. Rothkrug and Julia Shildkret.

**ACTION OF THE BOARD** – Laid over to February 12, 2007, at 1:30 P.M., for continued hearing.

**173-07-BZ**

APPLICANT – Sheldon Lobel, P.C., for Gitty Gubitz-Rosenberg, owner.

SUBJECT – Application June 21, 2007 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area and open space ratio (§23-141(a)); side yard (§23-461(a)) and less than the required rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1061 East 21<sup>st</sup> Street, located on the east side of East 21<sup>st</sup> Street between Avenue I and Avenue J, Block 7585, Lot 33, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** – Laid over to February 12, 2008, at 1:30 P.M., for continued hearing.

**176-07-BZ**

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

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

PREMISES AFFECTED – 50-34 69<sup>th</sup> Street, a/k/a 68-18 Garfield Avenue, southwest corner of the intersection of Garfield Avenue and 69<sup>th</sup> Street, Block 2425, Lot 33, Borough of Queens.

**COMMUNITY BOARD #2Q**

APPEARANCES –

For Applicant: Adam W. Rothkrug.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to February 5, 2008, at 10 A.M., for decision, hearing closed.

**209-07-BZ**

APPLICANT – Raymond J. Irrera, for The Summit School, owner.

SUBJECT – Application August 29, 2007 – Variance (§72-21) to enlarge and maintain the use of the existing school. The proposal is contrary to floor area (§24-11), enlargement not permitted obstruction in the required front yard (§24-33), and front yard (§24-34). R1-2 district.

PREMISES AFFECTED – 187-30 Grand Parkway, southwest corner of 188<sup>th</sup> Street and Grand Central Parkway, Block 9969, Lot 12, Borough of Queens.

**COMMUNITY BOARD #8Q**

APPEARANCES –

For Applicant: Raymond J. Irrera, Howard Gordan and Judith Gordon Phd.

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**ACTION OF THE BOARD** – Laid over to February 5, 2008, at 1:30 P.M., for continued hearing.  
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**235-07-BZ**

APPLICANT – Law Office of Fredrick A. Becker for Shoshana Hager and David Hager.

SUBJECT – Application October 16, 2007 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary open space ratio and floor area (§23-141); side yard (§23-461) and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1148 East 27<sup>th</sup> Street, East 27<sup>th</sup> Street between Avenue K and Avenue L, Block 7626, Lot 65, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Lyra J. Altman and David Shteirman.

**ACTION OF THE BOARD** – Laid over to January 29, 2008, at 1:30 P.M., for continued hearing.  
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*Jeff Mulligan, Executive Director*

*Adjourned: 4:40 P.M.*

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## \*CORRECTION

This resolution adopted on September 11, 2007, under Calendar Nos. 262-06-BZ and printed in Volume 92, Bulletin Nos. 34-35, is hereby modified to read as follows:

### 262-06-BZ

#### CEQR #07-BSA-021Q

APPLICANT – Law Offices of Howard Goldman, LLC for Ridgewood Equities, LLC, owner.

SUBJECT – Application September 26, 2006 – Variance (§72-21) to allow the residential conversion of an existing four (4) story industrial building. The proposed project would include fifty-five (55) dwelling units and twenty-seven (27) accessory parking spaces and is contrary to requirements for minimum distance between legally required windows and walls or lot lines (§23-861). R6B zoning district.

PREMISES AFFECTED – 71-13 60<sup>th</sup> Lane, between 71<sup>st</sup> Avenue and Myrtle Avenue, Block 3538, Lot 67, Borough of Queens.

#### COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Chris Wright.

**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 July 25, 2007, acting on Department of Buildings Application No. 402442031, reads in pertinent part:

- “1. Proposed residential building is contrary to the minimum distance requirements between legally required windows and walls or lot line of Section 23-861 of the Zoning Resolution.
2. Proposed residential building is contrary to the street wall, height, and setback requirements pursuant to 23-633 of the Zoning Resolution.
3. Proposed residential building is contrary to the parking requirements pursuant to 25-23 of the Zoning Resolution”; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R6B zoning district, the modification and conversion of an existing four-story manufacturing building to residential use, which does not comply with height, setback, street wall, and parking requirements and is contrary to ZR §§ 23-861, 23-633, and 25-23; and

WHEREAS, a public hearing was held on this application on March 13, 2007, after due notice by publication in the *City Record*, with continued hearings on June 5, 2007, July 17, 2007, and August 21, 2007, and then to decision on September 11, 2007; and

WHEREAS, the premises and surrounding area had site

and neighborhood examinations by Chair Srinivasan, Vice-Chair Collins, Commissioner Hinkson, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 5, Queens, recommends disapproval of this application, citing concerns about residential density and insufficient parking; and

WHEREAS, the site is located on the east side of 60<sup>th</sup> Lane, between Myrtle Avenue and 71<sup>st</sup> Avenue, within an R6B zoning district; and

WHEREAS, the site is long and irregularly-shaped with varying widths; it has a width of approximately 44.97 feet at its narrowest point on the 60<sup>th</sup> Lane frontage and a width of approximately 128.48 feet at the rear of the site; and

WHEREAS, the site extends to a depth of approximately 308 feet and has a lot area of 27,919 sq. ft.; and

WHEREAS, there is also a narrow portion of the site, occupied by a driveway with a width of 11'-3", running perpendicular to the rear of the site, which provides access to 71<sup>st</sup> Avenue; and

WHEREAS, the site is occupied by a four-story former factory building, which extends for almost the entire depth of the site and is built to the northern lot line; and

WHEREAS, the applicant proposes to convert the existing building into a 50-unit residential building; the plans include the demolition of a one-story portion at the rear of the building and a four-story portion at the front of the building; and

WHEREAS, the proposal includes the partial demolition (to create emergency vehicle access and room for parking) and reconstruction of the existing building, which results in a total floor area of 54,327 sq. ft. (1.95 FAR); and

WHEREAS, as to street wall, building height, and setback, the existing building height of 60'-2", without setback, is an existing non-complying condition (50 feet is the maximum height permitted in the zoning district and a 15'-0" setback is required at a height of 40 feet); and

WHEREAS, the street wall of 60'-2" will be maintained, but a waiver is also required for its location in relationship to the street, which does not match adjacent street walls; and

WHEREAS, the proposed penthouse at a height of 70 feet will increase the degree of non-compliance as to height; and

WHEREAS, the Board notes that the proposed building will maintain the existing distance between its side windows and the rear walls and lot lines of adjacent lots, but that this creates a new non-compliance due to the introduction of residential occupancy (a minimum distance of 30 feet is required between a legal window and the rear wall or rear lot line of adjacent lots); and

WHEREAS, as to parking, the applicant proposes to provide 24 parking spaces, which meet the minimum width requirement of 8'-6", and one parking space, which has a width of 8'-0"; zoning district regulations require that parking be provided for 50 percent of the 50 dwelling units, which is 25 spaces; and

WHEREAS, the original proposal provided for 55 units and 27 parking spaces; and

WHEREAS, the original proposal required the waiver for

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failure to provide the minimum distance between legally required windows and adjacent walls or lot lines as well as a waiver of the Building Code for failure to meet the requirement that at least eight percent of the building's total perimeter wall length be located at the street frontage; the request for a waiver of the Building Code was brought under BSA Cal. No. 59-07-A and was subsequently withdrawn; and

WHEREAS, the Board notes that the height and setback waivers are required because of the noted non-complying street wall and the redistribution of the demolished floor area to the top of the building; and

WHEREAS, further, the parking was reduced to below the required amount in order to provide sufficient clearance for emergency vehicles; and

WHEREAS, the applicant provided several iterations of the proposal throughout the hearing process, and revised the plans to reflect the demolition of the narrowest part of the building at the street frontage and to provide for additional frontage above the 60<sup>th</sup> Lane driveway, which reduced the total amount of perimeter wall and resulted in sufficient frontage to meet the Building Code requirement; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the existing historic building is obsolete and does not comply with zoning district regulations; and (2) the site is irregularly-shaped, with very limited frontage; and

WHEREAS, as to the existing building, the applicant states that the building, built in 1930, is a historic former factory, which was abandoned many years ago; and

WHEREAS, the configuration of the building and the constraints on access to the site are not compatible with the requirements for a modern factory and, further, the use is not permitted under the current zoning; and

WHEREAS, specifically, as to the position of the building on the site, the applicant notes that the front portion of the building is built to the northern lot line and it follows the angle of the lot along its southern side; and

WHEREAS, the applicant notes that the site and building extend in a perpendicular line behind the rear yards of the adjacent properties to the north and south and runs parallel to the properties on the east side; and

WHEREAS, accordingly, the site is flanked by a total of 25 rear yards on its north and south sides; and

WHEREAS, because of these condition, the windows along these the north and south walls do not all meet the 30 ft. required distance between legal windows and adjacent walls or lot lines; and

WHEREAS, the applicant notes that in order to comply with the legal window requirements, the entire front portion of the building and a portion of the rear building would need to be demolished; and

WHEREAS, during the hearing process, the applicant explored the option of demolishing portions of the front building along the northern lot line to create small courtyards and provide for alternate means of access for light and air, but found these alternatives to be cost-prohibitive; and

WHEREAS, additionally, the applicant found that the

structural integrity of the building would be compromised with additional demolition to the existing walls; and

WHEREAS, the Board notes that the height and setback are existing non-compliances; and

WHEREAS, the applicant proposes to increase the degree of non-compliance by adding a penthouse to the rear portion of the building to redistribute a portion of the floor area that is demolished; and

WHEREAS, additionally, in order to meet the Fire Department's requirement for emergency vehicle access at the front of the site, the applicant plans to demolish a portion of the front of the building and to maintain an open space in that area; and

WHEREAS, as noted, this setback of the building creates a new non-compliance as to the required street wall; and

WHEREAS, the applicant represents that due to the configuration of the site and the building and the building's position on the site, it is not feasible to provide all of the required parking spaces; and

WHEREAS, as to the parking requirement, the applicant will provide 24 spaces for 50 dwelling units and requires a waiver of one space; and

WHEREAS, the applicant agreed to demolish the building at the rear to provide additional room for parking; and

WHEREAS, the Board notes that the noted constraints do not support a re-use of the building that would be in compliance with all zoning district regulations; and

WHEREAS, as to the shape of the lot, as noted, the lot is long and narrow with a range of widths from 44.97 feet to 128.48 feet widths; and

WHEREAS, the applicant represents that this is the only such irregularly-shaped lot within a 400 sq. ft. radius of the site; and

WHEREAS, this condition, and the building's position on the site, results in varying distances between the windows on the southern portion of the building and adjacent buildings, some of which provide the required width and others which are insufficient; and

WHEREAS, specifically, the range in distances from legal windows to walls or rear lot lines varies from 14 feet to 40 feet across the southern portion of the site and none of the windows on the northern portion of the site can comply as the building is built on the lot line or to a maximum distance of eight feet from it; and

WHEREAS, the applicant notes that the rear windows and the majority of the windows on the upper floors can comply with the required distance; and

WHEREAS, the configuration of the lot and the building precludes compliance with the required 30 feet between residential windows; and

WHEREAS, the applicant has documented the premium construction costs associated with the demolition and reconstruction of the building; and

WHEREAS, based upon the above, 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 conformance with the applicable zoning regulations; and

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WHEREAS, the applicant submitted a feasibility study analyzing (1) a complying community facility scenario, (2) a complying residential development, and (3) the initial proposal for a 55-unit non-complying residential building; and

WHEREAS, the applicant concluded that complying scenarios would result in a loss, due to the unique conditions of the site; and

WHEREAS, the applicant concluded that the initial proposal would result in a reasonable return, but it required the additional waiver of the Building Code and an increased degree of non-compliance as to the required parking; and

WHEREAS, at hearing, the Board asked the applicant if it was possible to reduce the number of units below the revised proposal's 50; and

WHEREAS, the applicant provided an additional analysis of comparable buildings, which reflects that fewer apartments, with more floor area each, would not provide a reasonable rate of return at this site; and

WHEREAS, further, the applicant represents that a reduced number of apartments cannot generate the income required to offset the incremental costs incurred in addressing the site's physical conditions, specifically, costs associated with the demolition of the building to create an emergency access area and the other required demolition and reconstruction, which are not present on the typical building site; and

WHEREAS, the applicant represents that the addition of the penthouse is required to achieve a reasonable rate of return due to the construction costs associated with the partial demolition and reconstruction of the building and the other unique characteristics noted above; and

WHEREAS, based upon its review of the applicant's submissions, the Board has determined that because of the subject site's unique physical conditions, there is no reasonable possibility that development in strict conformance 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, as to the proposed use, the applicant notes that the site and surrounding area were zoned R6B to reflect the residential character of the neighborhood and that the factory use has been abandoned for many years; and

WHEREAS, the applicant notes that the proposed building complies with floor area and FAR regulations; and

WHEREAS, the proposal reflects a floor area of 54,327 sq. ft. (1.95 FAR), which is almost identical to the existing floor area; 55,838 sq. ft. (2.0 FAR) is the maximum permitted; and

WHEREAS, the existing building has a floor area of 54,453 sq. ft. (1.95 FAR); and

WHEREAS, the Board notes that the applicant has placed the penthouse at the rear of the site, so as to minimize its visibility; and

WHEREAS, as to the creation of a courtyard and the

setting back of the front wall, the applicant has improved emergency access to the building; and

WHEREAS, additionally, the demolition of the rear one-story building improves parking conditions and circulation at the site; and

WHEREAS, as to the windows, the Board has required that the windows on the north side of the building, which are on the lot line, remain inoperable and other means of light and ventilation must be provided there, as noted on the plans; and

WHEREAS, this will eliminate the potential for encroachments, such as air conditioners, into adjacent rear yards and maintain privacy with adjacent properties as well as contain noise; and

WHEREAS, the applicant notes that the rear yards of adjacent buildings contribute to the 30'-0" distance from legal windows; and

WHEREAS, the proposed demolition at the front and rear of the building will increase the depth of the front and rear yards and the amount of open space; and

WHEREAS, the Board notes that since the number of dwelling units was reduced from 55 to 50 and because of the demolition at the rear of the building, the applicant is able to provide at least 24 parking spaces, which is only one less than what is required; and

WHEREAS, the Board agrees that the proposed use has been designed to minimize any effect on nearby uses and that the changes to the existing building envelope are compatible with the surrounding area; and

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

WHEREAS, the 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 notes that the applicant initially stated that a 55-unit building 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 and the existing building that require portions of the building to be demolished and reconstructed, but disagrees that the initial plan was required to make the building feasible; and

WHEREAS, accordingly, the applicant revised the proposal to eliminate the waiver of the Building Code and decreased the degree of non-compliance as to parking by reducing the number of dwelling units, as noted above; and

WHEREAS, as noted, the applicant also increased the frontage and demolished more of the building, in order to improve access and to reflect a more appropriate distribution of floor area on the site; and

WHEREAS, through a redesign of the building, the applicant also reduced the number of units with non-complying windows from 44 to 21 and agreed to find alternate means of light and ventilation for remaining windows which are adjacent to residential rear yards; and

WHEREAS, the Board notes that, although the current

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proposal increases the degree of non-compliance as to height for a portion of the building, it increases the amount of open space and provides greater vehicle access and circulation; and

WHEREAS, accordingly, the Board finds that the current proposal is the minimum necessary to offset the additional construction costs associated with the uniqueness of the site and 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 6 NYCRR, Part 617 and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07BSA021Q, dated September 26, 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; and

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §72-21 and grants a variance, to permit, within an R6B zoning district, the modification and conversion of an existing four-story manufacturing building to residential use, which does not comply with height, setback, street wall, and parking requirements and is contrary to ZR §§ 23-861, 23-633, and 25-23, *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 August 7, 2007” – six (6) sheets and “Received August 30, 2007” – five (5) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the proposed building: five stories; a total floor area of 54,327 sq. ft. (1.95 FAR); a maximum total height of 70 feet; and a minimum of 25 parking spaces;

THAT DOB shall confirm compliance with the light and air requirements of Section 277 of the Multiple Dwelling Law for all units;

THAT the driveway on 71<sup>st</sup> Avenue shall be for egress

only;

THAT signs shall be posted at the entrance/exits stating that there be no standing or parking in those areas;

THAT all windows on the lot line shall be inoperable and an alternate means of ventilation is required;

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

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

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

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

**\*The resolution has been modified in the 77<sup>th</sup> WHEREAS and second THAT clauses. Corrected in Bulletin No. 1, Vol. 93, dated January 17, 2008.**