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# BULLETIN

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

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

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Volume 93, Nos. 27-28

July 10, 2008

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### DIRECTORY

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**170-08-BZ**

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42-59 Crescent Street, Northeast corner of the intersection of Crescent Street and 43rd Avenue., Block 430, Lot(s) 37,38, Borough of **Queens, Community Board: 2**. Variance to allow the construction of a hotel, contrary to use regulations.  
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**174-08-A**

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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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**JULY 29, 2008, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, July 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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**APPEALS CALENDAR**

**95-08-A**

APPLICANT – Blank Rome LLP by Marvin Mitzner, for 6701 Realty, LLC, owner.

SUBJECT – Application April 16, 2008 – An appeal seeking a determination that the property owner has acquired common law vested right to continue development under the prior C4-3 zoning district regulations. C4-2A zoning district.

PREMISES AFFECTED – 6701 Bay Parkway, southeast corner of the intersection of Bay Parkway and West 8<sup>th</sup> Street, Block 6576, Lot 10, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

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

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, July 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**

**51-08-BZ**

APPLICANT – Francis R. Angelino, Esq., for Sephardic Institute, owner.

SUBJECT – Application March 6, 2008 – Variance (§72-21) to permit the development of a new six-story & mezzanine synagogue. The proposal is contrary to ZR sections 24-11 (lot coverage, FAR, & open space), 24-382 (required rear yard equivalent), 24-522 & 23-633 (building height exceeding maximum permitted height & required front setback not provided.) R6A (Ocean Parkway Special Zoning District).

PREMISES AFFECTED – 511 Avenue R, Kings Highway and Ocean Parkway, Block 6681, Lot 394, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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APPLICANT – The Law Office of Fredrick A. Becker, for 429-441 86<sup>th</sup> Street, LLC, owner; TSI Bay Ridge 86<sup>th</sup> Street, LLC dba New York Sports Club, lessee.

SUBJECT – Application March 25, 2008 – Special Permit (§73-36) to allow the operation of a Physical Culture Establishment on the second and third floors of an existing building. The proposal is contrary to ZR section 32-10. C4-2A (BR) district.

PREMISES AFFECTED – 439 86<sup>th</sup> Street, north side of 86<sup>th</sup> Street and east of 4<sup>th</sup> Avenue, Block 6035, Lot 64, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

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**67-08-BZ**

APPLICANT – Sheldon Lobel, P.C., for Jack M. Skaba, owner.

SUBJECT – Application March 31, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary open space, lot coverage and floor area (§23-141); less than the minimum side yards (§23-461) and less than the required rear yard (§23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 3842 Bedford Avenue, west side of Bedford Avenue, Block 6807, Lot 22, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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**93-08-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Worlds Fair Development LLC, owner.

SUBJECT – Application June 30, 2008 – Variance (§ 72-21) to allow a six-story transient hotel (UG 5), contrary to use regulations (§ 22-00). R6 district.

PREMISES AFFECTED – 112-12, 112-18, 112-24 Astoria Boulevard, southwest of the intersection of 112<sup>th</sup> Place and Astoria Boulevard, Block 1706, Lots 5, 9, 11, Borough of Queens.

**COMMUNITY BOARD #3Q**

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*Jeff Mulligan, Executive Director*

**61-08-BZ**

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, JULY 1, 2008  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**853-53-BZ**

APPLICANT – Walter T. Gorman, P.E., for Knapp LLC, Owner, Exxon Mobil Coperati, Lessee.

SUBJECT – Application May 13, 2008 – Extension of Term/waiver to permit the continued operation of a gasoline service station (Mobil) which expired on October 23, 1999 and an Extension of Time to obtain a Certificate of Occupancy which expired on April 1, 1996 in R3-2/C2-2 zoning district.

PREMISES AFFECTED – 2402/16 Knapp Street, South west corner of Avenue X. Block 7429, Lot 10, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES – None.

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

**713-55-BZ**

APPLICANT – Walter T. Gorman, P.E., for Exxon Mobil Corporation, owner; Brendan Utopia Mobil, lessee.

SUBJECT – Application May 23, 2008 – Extension of Time to obtain a Certificate of Occupancy/waiver for a gasoline service station (Mobil), in a C2-2/R3-2 zoning district, which expired on May 22, 2003.

PREMISES AFFECTED – 181-05 Horace Harding Expressway, north side blockfront between Utopia Parkway and 182<sup>nd</sup> Street, Block 7065, Lot 8, Borough of Queens.

**COMMUNITY BOARD #11Q**

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to July 22, 2008, at 10 A.M., for postponed hearing.

**151-90-BZ**

APPLICANT – Mitchell S. Ross, for Mega Real Estate Management, Incorporated, owner.

SUBJECT – Application March 13, 2008 – Amendment to allow legalization of existing conventional office use by amending resolution to remove condition limiting occupancy to governmental office use only previously granted by the Board. Located in a R3-2 zoning district.

PREMISES AFFECTED – 115-49 118<sup>th</sup> Street, 115-70 Lefferts Boulevard, East side of 118th Street, 240' north of Sutter Avenue, Block 11711, Lot 18, Borough of Queens.

**COMMUNITY BOARD #10Q**

APPEARANCES –

For Applicant: Mitchell Ross.

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 July 22, 2008, at 10 A.M., for decision, hearing closed.

**268-06-BZ**

APPLICANT – Slater & Beckerman, LLP, for Mokom Shalom Cemetery Association, owner; Northrop Grumman Information Technology, Inc., lessee.

SUBJECT – Application April 24, 2008 – Reopening for an Amendment to previously approved Special Permit (§73-30) to permit a 90-foot non-accessory radio tower as part of the New York City Department of Information Technology and Telecommunications (“DoITT”) New York City Wireless Network (“NYCWIn”).

PREMISES AFFECTED – 80-35 Pitkin Avenue, 150’ east of 80<sup>th</sup> Street, Lot 9141, Lot 20, Borough of Queens.

**COMMUNITY BOARD #10Q**

APPEARANCES –

For Applicant: Robert Gurdioso.

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 July 22, 2008, at 10 A.M., for decision, hearing closed.

**APPEALS CALENDAR**

**162-06-A**

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

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

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

**COMMUNITY BOARD #14Q**

APPEARANCES –

For Applicant: Todd Dale.

**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

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Negative:.....0

## THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated July 12, 2006, acting on Department of Buildings Application Nos. 402295565 and 402296118, reads in pertinent part:

“Proposed construction of a new two-story one-family dwelling in the bed of a mapped street which is contrary to General City Law 35. Refer to the BSA for their review;” and

WHEREAS, a public hearing was held on this application on September 25, 2007, after due notice by publication in the *City Record*, and then to continued hearings on October 23, 2007, March 18, 2008, May 6, 2008, and June 24, 2008, and then to decision July 1, 2008; and

WHEREAS, this application seeks to build two single-family homes each of which extend into the mapped but unbuilt portions of the intersection of mapped Faber Terrace and mapped Edgewater Road; and

WHEREAS, by letter dated September 24, 2007, the Fire Department states that it has reviewed the application and has advised the Board that they have no objections; and

WHEREAS, by letter dated September 1, 2006, the Department of Environmental Protection (DEP) states that it has reviewed the application and advised the Board that there is an Amended Drainage Plan No. 50 SW(54) and 50 S(79), which calls for a future 36-in. diameter storm sewer and 12-in. diameter sanitary sewer in the bed of Edgewater Road between Faber Terrace and Egmont Place and 30-in. diameter sewer and 10-in. diameter sanitary sewer in Faber Terrace at the intersection with Edgewater Road; and

WHEREAS, DEP also advises that there is an existing 54-in. diameter storm sewer and 15-in. sanitary sewer in Edgewater Road between Faber Terrace and Egmont Place; a 24-in. diameter storm sewer and 10-in. sanitary sewer in Faber Terrace at the intersection with Edgewater Road; and an 8-in. diameter City water main in the bed of Faber Terrace at the intersection with Edgewater Road, but that there are no existing water mains in the bed Edgewater Road between Faber Terrace and Egmont Place; and

WHEREAS, DEP required the applicant to submit a survey showing the total width of the widening portion of Faber Terrace at the intersection with Edgewater Road, the total width of the mapped street and distance between the proposed development and existing sewers and water mains; and

WHEREAS, DEP also requires that there be a minimum 35-ft. corridor in the bed of Edgewater Road between Faber Terrace and Egmont Place for the purpose of maintenance, repair and/or reconstruction of existing and future sewers; and

WHEREAS, by letter dated June 11, 2007, in response to DEP’s request, the applicant provided a revised site plan which includes a proposed 12.5-ft. easement on the subject premises; and

WHEREAS, the applicant represents that the proposed 12.5-ft. easement represents the maximum that can be provided on the site without impacting construction on the property; the applicant also provided a map, which reflects that the property

to the north of the subject premises, in the bed of Edgewater Road, is owned by the City, so that the additional 22.5-ft requested by DEP can be accommodated there; and

WHEREAS, by letter dated July 11, 2007, DEP states that the revised plan was not sufficient; DEP also notes that it requires a minimum 32-in. “Sewer Corridor” in the bed of Faber Terrace, at the northwest corner with Edgewater Road for the purpose of maintenance, repair and/or reconstruction of the existing 24-in. diameter storm sewer; and

WHEREAS, subsequently, the applicant provided a copy of the title reports for the three lots that border the subject premises, which reflect ownership by the City to support the assertion that this City-owned portion is adequate to satisfy the needs of the DEP; and

WHEREAS, during the hearing process, the applicant requested additional time to revise surveys in order to provide the requested information to DEP’s satisfaction; and

WHEREAS, the applicant has submitted a revised plan which includes the sewer easement requested by DEP; and

WHEREAS, by letter dated June 20, 2008, DEP states that the applicant has provided a revised plan that reflects the total mapped width of Edgewater Road, 35-ft. of the traveled portion of Edgewater Road between Faber Terrace and Egmont Place and an additional 17.5-ft. wide Sewer Corridor; and

WHEREAS, further, a total width of 52.5 feet will be available for the installation, maintenance and/or reconstruction of the existing 54-ft. diameter storm sewer, a 15-ft. diameter sanitary sewer and for the future 36-in. diameter storm sewer and 12-in. diameter sanitary sewer; and

WHEREAS, based on the above the DEP has no further objections; and

WHEREAS, by letter dated November 21, 2006, the Department of Transportation (DOT) states that it has reviewed the application and has advised the Board that DOT requires the applicant to provide for a sidewalk and curb in alignment with the existing sidewalk and curb on the north side of Faber Terrace for the entire length of the proposed lots; 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, in response to DOT’s request, by letter dated June 11, 2007, the applicant submitted a revised site plan showing a that the new sidewalk will match the existing sidewalk adjacent to the premises; and

WHEREAS, by letter dated September 13, 2007, DOT states that it has reviewed the revised site plan and has no further objections; and

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

*Therefore it is Resolved* that the decision of the Queens Borough Commissioner, dated July 12, 2006, acting on Department of Buildings Application Nos. 402295565 and 402296118 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 June 18, 2008” one (1)

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sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals, July 1, 2008.

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## 165-06-A

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

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

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

### COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Todd Dale.

**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 Queens Borough Commissioner, dated July 12, 2006, acting on Department of Buildings Application Nos. 402295565 and 402296118, reads in pertinent part:

“Proposed construction of a new two-story one-family dwelling in the bed of a mapped street which is contrary to General City Law 35. Refer to the BSA for their review;” and

WHEREAS, a public hearing was held on this application on September 25, 2007, after due notice by publication in the *City Record*, and then to continued hearings on October 23, 2007, March 18, 2008, May 6, 2008, and June 24, 2008, and then to decision July 1, 2008; and

WHEREAS, this application seeks to build two single-family homes each of which extend into the mapped but unbuilt portions of the intersection of mapped Faber Terrace and mapped Edgewater Road; and

WHEREAS, by letter dated September 24, 2007, the Fire Department states that it has reviewed the application and has

advised the Board that they have no objections; and

WHEREAS, by letter dated September 1, 2006, the Department of Environmental Protection (DEP) states that it has reviewed the application and advised the Board that there is an Amended Drainage Plan No. 50 SW(54) and 50 S(79), which calls for a future 36-in. diameter storm sewer and 12-in. diameter sanitary sewer in the bed of Edgewater Road between Faber Terrace and Egmont Place and 30-in. diameter sewer and 10-in. diameter sanitary sewer in Faber Terrace at the intersection with Edgewater Road; and

WHEREAS, DEP also advises that there is an existing 54-in. diameter storm sewer and 15-in. sanitary sewer in Edgewater Road between Faber Terrace and Egmont Place; a 24-in. diameter storm sewer and 10-in. sanitary sewer in Faber Terrace at the intersection with Edgewater Road; and an 8-in. diameter City water main in the bed of Faber Terrace at the intersection with Edgewater Road, but that there are no existing water mains in the bed Edgewater Road between Faber Terrace and Egmont Place; and

WHEREAS, DEP required the applicant to submit a survey showing the total width of the widening portion of Faber Terrace at the intersection with Edgewater Road, the total width of the mapped street and distance between the proposed development and existing sewers and water mains; and

WHEREAS, DEP also requires that there be a minimum 35-ft. corridor in the bed of Edgewater Road between Faber Terrace and Egmont Place for the purpose of maintenance, repair and/or reconstruction of existing and future sewers; and

WHEREAS, by letter dated June 11, 2007, in response to DEP’s request, the applicant provided a revised site plan which includes a proposed 12.5-ft. easement on the subject premises; and

WHEREAS, the applicant represents that the proposed 12.5-ft. easement represents the maximum that can be provided on the site without impacting construction on the property; the applicant also provided a map, which reflects that the property to the north of the subject premises, in the bed of Edgewater Road, is owned by the City, so that the additional 22.5-ft requested by DEP can be accommodated there; and

WHEREAS, by letter dated July 11, 2007, DEP states that the revised plan was not sufficient; DEP also notes that it requires a minimum 32-in. “Sewer Corridor” in the bed of Faber Terrace, at the northwest corner with Edgewater Road for the purpose of maintenance, repair and/or reconstruction of the existing 24-in. diameter storm sewer; and

WHEREAS, subsequently, the applicant provided a copy of the title reports for the three lots that border the subject premises, which reflect ownership by the City to support the assertion that this City-owned portion is adequate to satisfy the needs of the DEP; and

WHEREAS, during the hearing process, the applicant requested additional time to revise surveys in order to provide the requested information to DEP’s satisfaction; and

WHEREAS, the applicant has submitted a revised plan which includes the sewer easement requested by DEP; and

WHEREAS, by letter dated June 20, 2008, DEP states that the applicant has provided a revised plan that reflects the

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total mapped width of Edgewater Road, 35-ft. of the traveled portion of Edgewater Road between Faber Terrace and Egmont Place and an additional 17.5-ft. wide Sewer Corridor; and

WHEREAS, further, a total width of 52.5 feet will be available for the installation, maintenance and/or reconstruction of the existing 54-ft. diameter storm sewer, a 15-ft. diameter sanitary sewer and for the future 36-in. diameter storm sewer and 12-in. diameter sanitary sewer; and

WHEREAS, based on the above the DEP has no further objections; and

WHEREAS, by letter dated November 21, 2006, the Department of Transportation (DOT) states that it has reviewed the application and has advised the Board that DOT requires the applicant to provide for a sidewalk and curb in alignment with the existing sidewalk and curb on the north side of Faber Terrace for the entire length of the proposed lots; 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, in response to DOT's request, by letter dated June 11, 2007, the applicant submitted a revised site plan showing a that the new sidewalk will match the existing sidewalk adjacent to the premises; and

WHEREAS, by letter dated September 13, 2007, DOT states that it has reviewed the revised site plan and has no further objections; and

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

*Therefore it is Resolved* that the decision of the Queens Borough Commissioner, dated July 12, 2006, acting on Department of Buildings Application Nos. 402295565 and 402296118 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 June 18, 2008" 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 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, July 1, 2008.

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## 255-07-A

APPLICANT – Eric Palatnik, P.C., for Yee Kon LLC, owner.

SUBJECT – Application April 8, 2008 – Proposed construction of a daycare center located within the bed of mapped street (Francis Lewis Boulevard contrary to General City Law Section 35. R3-2 Zoning district.

PREMISES AFFECTED – 40-54 Francis Lewis Boulevard (aka 196-23 42<sup>nd</sup> Ave.) corner of Francis Lewis Boulevard and 42<sup>nd</sup> Avenue, Block 5361, Lots 10 & 12, Borough of Queens.

## COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Trevis Savage.

**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 Queens Borough Commissioner, dated October 11, 2007, acting on Department of Buildings Application No. 402430231, reads in pertinent part:

“Proposed application to build in the bed of a mapped street requires approval from the New York City Board of Standards and Appeals pursuant to GCL Section 35”; and

WHEREAS, a public hearing was held on this application on April 8, 2008 after due notice by publication in the *City Record*, with continued hearings on May 13, 2008 and on June 17, 2008, and then to decision on July 1, 2008; and

WHEREAS, this application seeks to build a daycare facility which will be located within the bed of a mapped street (Francis Lewis Boulevard); and

WHEREAS, this site was the subject of a prior GCL 35 approval under BSA Cal. No. 217-06-A; herein the applicant seeks to include an additional adjacent lot; and

WHEREAS, by letter dated March 11, 2008, the Fire Department states that it has reviewed the application and has no objection; and

WHEREAS, by letter dated December 17, 2007, the Department of Environmental Protection (DEP) advised the Board that Adopted Drainage Plan Nos. 39A(2), 39AS(18) and 39ASAW(6), which provide for two 12-in. diameter combined sewers in the bed of Francis Lewis Boulevard between Station Road and 42<sup>nd</sup> Avenue, and for an 18-in. diameter combined sewer in the bed of 42<sup>nd</sup> Avenue between Francis Lewis Boulevard and 196<sup>th</sup> Street; and

WHEREAS, DEP also advises that there is an existing 12-in. diameter water main and a 12-in. diameter combined sewer in the bed of Francis Lewis Boulevard between Station Road and 42<sup>nd</sup> Avenue and a 12-in. diameter water main and 18-in. diameter combined sewer in the bed of 42<sup>nd</sup> Avenue between Francis Lewis Boulevard and 196<sup>th</sup> Street; and

WHEREAS, DEP requested that the applicant submit a survey showing the total width of Francis Lewis Boulevard, the width of the widening portion of the street at the proposed location, and the distances between the proposed development

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and the existing sewers and water mains; and

WHEREAS, in response, by letter dated February 12, 2008, the applicant provided a site plan indicating that 144'-11" of the total irregular width of Francis Lewis Boulevard and the remaining approximately 108'-0" of Francis Lewis Boulevard between Station Road and 42<sup>nd</sup> Avenue will be available for the installation, maintenance and/or reconstruction of the existing 12-in. diameter combined sewer, the existing two 12-in. diameter City water mains and the proposed two 12-in. diameter combined sewers ("February 12<sup>th</sup> Plan"); and

WHEREAS, the February 12<sup>th</sup> Plan also shows a 60'-0" total width of 42<sup>nd</sup> Avenue and the remaining 50'-0" width of 42<sup>nd</sup> Avenue between Francis Lewis Boulevard and 196<sup>th</sup> Street that is available for the purpose of installation, maintenance and/or reconstruction of the existing 18-in. diameter combined sewer and 12-in. diameter water main, and for the future 18-in. diameter combined sewer; and

WHEREAS, by letter dated February 14, 2008, DEP states that it has reviewed the February 12<sup>th</sup> Plan and has no further objections; and

WHEREAS, by letter dated June 9, 2008, the Department of Transportation (DOT) stated that it reviewed the application and has advised the Board that the applicant is required to provide for a full width sidewalk and curb for the entire length of property on the north side of 42<sup>nd</sup> Avenue and to adjust the irregular sidewalk width adjacent to the lot on north side of the Francis Lewis Boulevard to match the existing sidewalk between Station Road and 42<sup>nd</sup> Avenue; and

WHEREAS, DOT further requires the installation of a pedestrian ramp at the corner of 42<sup>nd</sup> Avenue and Francis Lewis Boulevard; and

WHEREAS, in response, the applicant submitted a revised site plan indicating: (i) a full width sidewalk and curb on the north side of 42<sup>nd</sup> Avenue for the entire length of the property; (ii) that the sidewalk width adjacent to the lot on the north side of Francis Lewis Boulevard has been adjusted to mirror the existing sidewalk at Station Road and 42<sup>nd</sup> Avenue; and (iii) a pedestrian ramp at the corner of 42<sup>nd</sup> Avenue and Francis Lewis Boulevard; and

WHEREAS, by letter dated June 16, 2008, DOT states that it has reviewed the revised site plan and has no further 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, Community Board 11, Queens, recommended disapproval of this application, citing concerns about potential impacts on traffic and children's safety during arrival and departure; and

WHEREAS, State Senator Frank Padavan and City Council Member Tony Avella submitted letters in opposition to the application, also citing concerns regarding traffic, parking, and the impact on local services and infrastructure; and

WHEREAS, neighborhood residents submitted written and oral testimony in opposition to the application similarly citing concerns with traffic, parking, and the impact on local services and infrastructure; and

WHEREAS, the Board reviewed these concerns, but

notes that the proposed use is permitted as of right, and that all zoning regulations and Building Code requirements must be complied with; and

WHEREAS, furthermore, by letter dated May 29, 2008, the DOT School Safety Engineering Office reported that the proposed daycare facility did not meet the minimum threshold of 250 full-time students necessary to warrant implementation of child safety measures; and

WHEREAS, the applicant nonetheless submitted a letter seeking the designation of the main entrance of the proposed daycare facility on 42<sup>nd</sup> Avenue as a "No Standing (School Zone)" by DOT; and

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

*Therefore it is Resolved* that the decision of the Queens Borough Commissioner, dated October 11, 2007, acting on Department of Buildings Application No. 402430231, 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 June 13, 2008 (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals, July 1, 2008.

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# MINUTES

## 48-08-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Kathleen Brunton, lessee.  
SUBJECT – Application March 4, 2008 – Proposed reconstruction and enlargement of an existing single family dwelling not fronting on a legally mapped street contrary to GCL Section 36 and partially located within the bed of a mapped street contrary to GCL Section 35. R4 Zoning District.

PREMISES AFFECTED – 126 Oceanside Avenue, north side Oceanside Avenue, 220.50’ east of Beach 207<sup>th</sup> Street, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to July 29, 2008, at 10 A.M., for adjourned hearing.

## 49-08-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Charles & Kim Thompson, lessee.  
SUBJECT – Application March 4, 2008 – Proposed reconstruction and enlargement of an existing single family home not fronting on a legally mapped street contrary to General City Law Section 36 and located within mapped street contrary to General City Law Section 35. R4 zoning district.

PREMISES AFFECTED – 305 Hillside Avenue, east side Newport Walk, 110/19’ south of Oceanside Avenue, Block 16340, Lot 50, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to July 29, 2008, at 10 A.M., for adjourned hearing.

## 146-08-A

APPLICANT – Fire Department of the City of New York  
OWNER: 1620 LLC DBAPK International c/o Jacob Ullman

Lessee: Plastic Kitchens Corp.

SUBJECT – Application May 16, 2008 – Application seeking to modify Certificate of Occupancy No. 84836 to require additional fire protection in the form of an automatic wet sprinkler system for the entire building under the authority under Section 27-4265. C8-2 Zoning District.

PREMISES AFFECTED – 1618-1620 Broadway, Hopkinson Avenue, Block 144, Lot 4, Borough of Brooklyn.

### COMMUNITY BOARD #16BK

APPEARANCES –

For Applicant: Anthony Scaduto.

For Opposition: Moshe M. Friedman.

**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 July 15, 2008, at 10 A.M., for decision, hearing closed.

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*Jeffrey Mulligan, Executive Director*

Adjourned: 12:30 P.M.

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

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

## ZONING CALENDAR

### 197-05-BZ

APPLICANT – Blank Rome LLP, by Marvin Mitzner, for B & E 813 Broadway, LLC & Broadway Realty, owner.

SUBJECT – Application August 17, 2005 – Variance (§72-21) to allow a 11-story residential building with ground floor retail; contrary to regulations for FAR and open space ratio (§23-142), front wall height, setback and sky-exposure plane (§33-432), and maximum number of dwelling units (§23-22). C6-1 district.

PREMISES AFFECTED – 813/815 Broadway, west side of Broadway, 42’ south of East 12<sup>th</sup> Street, Block 563, Lots 33 & 34, Borough of Manhattan.

### COMMUNITY BOARD #2M

APPEARANCES – None.

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

**THE VOTE TO GRANT** –

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

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Manhattan Borough Commissioner, dated October 26, 2007, acting on Department of Buildings Application No. 104072076, reads in pertinent part:

- “1. Proposed FAR and Open Space Ratio are contrary to Section ZR 23-142.
2. Proposed front wall height, setback and sky exposure plane are contrary to ZR 33-432.
3. Proposed dwelling unit count is contrary to ZR 23-22;” and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within a C6-1 zoning district, the proposed development of an 11-story mixed-use building with ground floor commercial space and 40 dwelling units, which is non-complying as to residential FAR, open space

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ratio, height, setback, and dwelling count, contrary to ZR §§ 23-142, 33-432, and 23-22; and

WHEREAS, a public hearing was held on this application on December 11, 2007 after due notice by publication in the *City Record*, with continued hearings on February 5, 2008, April 1, 2008, May 6, 2008, and June 3, 2008 and then to decision on July 1, 2008; and

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

WHEREAS, Community Board 2, Manhattan, initially voted to recommend approval of this application on November 20, 2007; the Community Board subsequently voted to disapprove the application on the basis that it did not find that (1) there was a hardship on the site or (2) that an as of right building was not viable; and

WHEREAS, the Tenth Street Block Association provided testimony in opposition to the proposal, citing the same concerns cited by the Community Board in its second vote; and

WHEREAS, the site is located on the west side Broadway, between East 11<sup>th</sup> Street and East 12<sup>th</sup> Street; and

WHEREAS, together, Lots 33 and 34 have a total lot area of 5,029 sq. ft., with a frontage of 50 feet along Broadway and with varying depths of approximately 100 feet; and

WHEREAS, Lot 33 is currently occupied by a two-story mixed-use commercial/residential building and Lot 34 is occupied by a four-story mixed-use commercial/residential building, both of which will be demolished; and

WHEREAS, the proposed building has the following bulk parameters: 11 stories, a residential floor area of 28,153 sq. ft., a residential FAR of 5.6, a commercial floor area of 1,970 sq. ft., a commercial FAR of 0.4, 2,022 sq. ft. of open space, an open space ratio of seven percent, 40 dwelling units, and a street wall and total height of 129'-8"; and

WHEREAS, of these parameters, the following are non-compliant: the residential floor area and FAR (the maximum permitted residential floor area and FAR are 17,300 sq. ft. and 3.44, respectively); open space and open space ratio (a minimum of 5,631 sq. ft. and 20 percent are required); dwelling unit count (a maximum of 25 dwelling units are permitted); and height and setback (a setback of 15'-0" is required at 85 feet); 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 existence of a subway tunnel within approximately 6'-0" to 7'-0" of the site; (2) subsurface soil conditions; (3) the small size of the site; and (4) the adjacent built conditions, including lot line walls on adjacent lots at both sides and the rear of the site; and

WHEREAS, the applicant states that the combination of the presence of the subway and the subsurface soil conditions compromises complying development, in that the

conditions result in increased construction costs; and

WHEREAS, specifically, the applicant notes that the subway is approximately only 1'-0" below the sidewalk vault and 24 feet below grade where the bedrock is at 40 feet and the subway tunnel rests on subsurface soil that is sandy in nature, rather than on the bedrock; and

WHEREAS, the applicant represents that these conditions necessitate a foundation design that includes caisson-driven piles and a complex system of shoring and underpinning as opposed to a slab foundation, which would be feasible at a site that was not so near to a subway tunnel; and

WHEREAS, the applicant notes that additional time and expenditures will be required to satisfy the Metropolitan Transit Authority's (MTA) requirements to protect the tunnel and the sidewalk grate, which is continuous in front of the site, during construction; this includes the use of two smaller cranes, rather than one larger one during construction; and

WHEREAS, the applicant represents that, although many sites may abut subway tunnels in New York City, this site is unusually close to one; and

WHEREAS, further, the MTA will supervise and monitor the site for vibration during construction; and

WHEREAS, the applicant submitted the following evidence in support of these representations: a geotechnical report reflecting the purported nature of the soil, with a recommendation that caisson piles be employed for the foundation and engineering reports addressing the line of influence of the subway and the need for a pile-driven foundation; and

WHEREAS, the applicant represents that the site, with a total lot area of 5,009 sq. ft. is small and is not suitable for a higher proportion of floor area dedicated to a commercial use; and

WHEREAS, specifically, the Board notes that the site has an as-of-right FAR of 6.0 for commercial use or 6.5 for community facility use, yet the resultant floor plates of 3,000 to 5,000 sq. ft. (at the base) cannot accommodate Class A office space, are inefficient, and cannot command market rate rents; and

WHEREAS, the applicant states that a mixed use building, which limits the residential floor area to the as of right 3.44 FAR is even less efficient because two elevator/stair cores would be required, compromising the floor plates even further; and

WHEREAS, finally, the applicant notes that an adjacent 14-story building is built to the lot line, wrapping around the site along the entire northern side lot line and half of the western/rear lot line; and, the southern lot line is occupied by a five-story building for 80 percent of its depth; and

WHEREAS, the applicant represents that the noted built conditions result in a walled-in effect for the rear yard and reduces the value of the rear-facing dwelling units; and

WHEREAS, to help overcome the walled-in effect at the rear, the applicant proposes to provide a rear yard with a depth of between approximately 43'-8" and 43'-11", which

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reduces the depth of the floor plates while making the dwelling units more marketable; and

WHEREAS, the applicant submitted the following evidence in support of these assertions: Sanborn maps and multiple floorplate schemes; and

WHEREAS, the applicant notes that a complying scheme results in a building with inefficient floor plates on the residential floors; and

WHEREAS, the applicant states that this inefficiency and the afore-mentioned construction costs can only be overcome with the additional residential FAR; and

WHEREAS, as to uniqueness, the applicant submitted evidence which analyzes the development on Broadway from East Houston Street to East 14<sup>th</sup> Street, which is within C6-1, M1-5A, and M1-5B zoning districts; and

WHEREAS, the analysis reflects that out of 90 sites, only nine are significantly under-developed (built up to 50 percent or less of the allowable development potential); of those nine, only four, that are neither landmarked nor within the NoHo Historic District, are similarly-sized and are within comparable proximity to the subway; and

WHEREAS, the applicant notes that the required elevator cores, hallways and stairwells further constrain the floor plates; and

WHEREAS, the applicant concludes that the bulk waivers reduce design inefficiencies by allowing for improved apartment layouts; and

WHEREAS, the applicant notes that the total FAR of 6.0 is permitted at the site, if the building were occupied exclusively by commercial use or if the residential use were limited to 3.44 FAR; the maximum permitted FAR for a community facility is 6.5; and

WHEREAS, however, as noted, the hardship on the site prevents the feasibility of such uses; and

WHEREAS, as noted the floor plates could not accommodate commercial use; as to community facility use, the applicant represents that a nearby university was approached to see if it would be interested in using the site for dormitory/community facility use, which would be permitted as of right and at 6.5 FAR; the applicant submitted a response stating that the university was not interested; and

WHEREAS, the applicant notes that the amount of open space for the proposed building is 5,631 sq. ft., which is in excess of the site's actual lot area of 5,029 sq. ft.; and

WHEREAS, the applicant represents that the proposed 2,022 sq. ft. of open space is the most that can be provided and still result in efficient floor plates; as noted, the applicant proposes to provide a deep rear yard, in excess of 43 feet; and

WHEREAS, similarly, the applicant represents that, due to the small size of the lot, the required setback cannot be provided because it would not allow for uniform floor plates or an efficient layout; and

WHEREAS, finally, the applicant represents that, in order to compensate for the increased construction costs and to realize a reasonable return, the proposed residential FAR is required; and

WHEREAS, the Board observes that the applicant has

established each of the bases of hardship and uniqueness and has justified the requested waivers; and

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

WHEREAS, the applicant initially submitted a feasibility study that analyzed (1) an as of right seven-story residential development with ground floor retail; and (2) an as of right eight-story mixed-use development with ground floor retail; and

WHEREAS, the applicant concluded that neither of the two noted complying scenarios would realize a reasonable return due to the site's constraints; and

WHEREAS, specifically, the applicant has identified significant premium costs related to the site's unique features that render a complying development infeasible; and

WHEREAS, additionally, the applicant provided a financial analysis of the as of right scenarios without the premium costs associated with the subway, which reflect that they do not result in a reasonable return; and

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

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

WHEREAS, the applicant notes that both of the proposed uses are permitted as of right in the zoning district; and

WHEREAS, additionally, the total FAR of 6.0 is permitted as of right if the building were occupied by a lower proportion of residential FAR; and

WHEREAS, the applicant notes that the buildings on Broadway, between East 10<sup>th</sup> Street and East 14<sup>th</sup> Street range in height from two to 23 stories and are predominantly built without setbacks, with a small number of buildings providing one setback floor; and

WHEREAS, further, the applicant states that none of the nearby buildings appears to provide the required height and setback or exclusion from the sky exposure plane; and

WHEREAS, specifically, the applicant notes that directly north of the site, at the corner of East 12<sup>th</sup> Street, is a 14-story building without a setback, and the remaining three corners at East 12<sup>th</sup> Street and Broadway are occupied by buildings of 11 or 13 stories; and

WHEREAS, further, the corridor of Broadway between East 10<sup>th</sup> Street and East 14<sup>th</sup> Street is occupied by at least nine buildings, which are ten stories or taller; and

WHEREAS, as to residential density, the applicant notes that several of the nearby ten-story or taller buildings are occupied by residential use and the shorter buildings of five and six stories are built at or near full lot coverage, so they also have comparable residential density; and

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WHEREAS, as to the proposed ground floor retail, the applicant notes that that use is consistent with the commercial character along Broadway; and

WHEREAS, the Board has reviewed the map and photos submitted with this application, and has also conducted site visits, and concludes that the proposed bulk and height of the building will be compatible with the existing conditions in the immediate neighborhood; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but instead results from the above-mentioned unique physical conditions; and

WHEREAS, as to minimum variance, the Board directed the applicant to provide a financial analysis for a lesser variance of 5.0 FAR, with less residential floor area; and

WHEREAS, the applicant states that it examined several complying scenarios, as well as the 5.0 FAR lesser variance alternative (which resulted in a ten-story building) and found that none provide a reasonable return; and

WHEREAS, the applicant represents that without the FAR waiver, construction costs could not be overcome, and the floor plates would be less efficient and therefore less marketable; and

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

WHEREAS, therefore, 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. 06BSA013M, dated October 19, 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; Construction Impacts and Public Health; and

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration, with the condition stipulated below and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under ZR § 72-21, to permit, on a site within a C6-1 zoning district, the proposed development of an 11-story mixed-use building with ground floor commercial space and 40 dwelling units, which is non-complying as to residential FAR, open space ratio, height, setback, and dwelling count, contrary to ZR §§ 23-142, 33-432, and 23-22; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 19, 2007"— twelve (12) sheets; and *on further condition*:

THAT the total FAR of the development is limited to 6.0, with a residential FAR of 5.6 and a commercial FAR of 0.4;

THAT the street wall of the building is limited to a height of 129'-8" and the open space is limited to a minimum of 2,022 sq. ft. (seven percent OSR); other bulk parameters of the building shall be as indicated on the BSA-approved plans;

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

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

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

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

Adopted by the Board of Standards and Appeals, July 1, 2008.

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## **169-07-BZ**

APPLICANT – Jacqueline M. Cigliano, for Chen Lai Ho, owner.

SUBJECT – Application June 18, 2007 – Variance (§72-21) to allow a single-family home; contrary to regulations for minimum lot width (§23-32). R1-1(NA-2) district.

PREMISES AFFECTED – 626 West 254<sup>th</sup> Street, southerly line of 254<sup>th</sup> Street, east of intersection of West 254<sup>th</sup> Street and Independence Avenue, Block 5942, Lot 308, Borough of Bronx.

## **COMMUNITY BOARD #8BX**

APPEARANCES – None.

**ACTION OF THE BOARD** – Application withdrawn.

**THE VOTE TO WITHDRAW** –

Affirmative: Chair Srinivasan, Vice Chair Collins,

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Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0  
Adopted by the Board of Standards and Appeals, July 1, 2008.

## 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 – 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 Brooklyn Borough Superintendent, dated June 4, 2007, acting on Department of Buildings Application No. 302351256, reads in pertinent part:

- “1) Proposed floor area and OSR is contrary to section: ZR 23-141(a)
- 2) Proposed one side yard is contrary to section ZR 23-461(a)
- 3) Proposed rear yard is contrary to section ZR 23-47;” and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, open space ratio, side yard and rear yard, contrary to ZR §§ 23-141(a), 23-461(a) and 23-47; and

WHEREAS, a public hearing was held on this application on November 20, 2007, after due notice by publication in *The City Record*, with continued hearings on January 8, 2008, February 12, 2008, March 18, 2008, May 6, 2008 and June 3, 2008, and then to decision on July 1, 2008; and

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

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

WHEREAS, the subject site is located on the east side

of East 21<sup>st</sup> Street, between Avenue I and Avenue J; and

WHEREAS, the subject site has a total lot area of 3,500 sq. ft., and is occupied by a single-family home with floor area of 1,976 sq. ft. (0.564 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 1,976 sq. ft. (0.564 FAR), to 3,498 sq. ft. (0.99 FAR); the maximum floor area permitted is 1,750 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will provide an open space ratio of 52.4 percent (a minimum of 150 percent is required); and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 20’-0” (a minimum rear yard of 30’-0” is required); and

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

WHEREAS, the proposed enlargement will maintain the existing complying side yard with a width of 8’-0” and increase the existing non-complying side yard from a width of 2’-0” to 2’-1 1/2” (side yards with a total width of 13’-0” and a minimum width of 5’-0” each are required); and

WHEREAS, at hearing, the Board directed the applicant to (1) confirm which portions of the existing home will be retained, (2) confirm zoning calculations including basement floor area, (3) confirm compliance of the driveway slope into the basement, and (4) remove the porches from the plans; and

WHEREAS, in response, the applicant (1) provided revised plans reflecting the portions of the building, which would be retained, (2) provided revised zoning calculations including basement floor area, (3) removed the below grade garage and associated driveway, and (4) eliminated all but an outline of the porches and noted on the plans that they were subject to DOB approval; and

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

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 73-622 and 73-03.

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR

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§§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, open space ratio, side yard and rear yard, contrary to ZR §§ 23-141(a), 23-461(a) and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received June 30, 2008"-(12) sheets and "July 1, 2008"-(1) sheet; and *on further condition*:

THAT the floor area of the attic shall be limited to 442 sq. ft.;

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

THAT the following shall be the bulk parameters of the building: a total floor area of 3,498 sq. ft. (0.99 FAR), an open space ratio of 52.4 percent, one side yard with a width of 8'-0", one side yard with a width of 2'-1 1/2", and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

THAT porches, balconies, bay windows, and exterior staircases shall be reviewed and approved by DOB;

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

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

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

Adopted by the Board of Standards and Appeals, July 1, 2008.

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## **258-07-BZ**

APPLICANT – Carl A. Sulfaro, Esq., for Exxon Mobil Oil Corp., owner.

SUBJECT – Application October 24, 2007 – Special Permit (§73-211) to permit in a C2-2/R6 zoning district, the reconstruction of an existing automotive service station with accessory uses including an accessory convenience store.

PREMISES AFFECTED – 105-55 Horace Harding Expressway, northwest corner of 108<sup>th</sup> Street, Block 1964, Lot 23, Borough of Queens.

## **COMMUNITY BOARD #4Q**

APPEARANCES –

For Applicant: Carl. A. Sulfaro.

**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 Queens Borough Superintendent, dated October 12, 2007, acting on Department of Buildings Application No. 402649951, reads in pertinent part:

"The proposal to continue to occupy the premises as a gasoline service station in a C2-2 within R6 zoning district is . . . inconsistent with the terms and conditions of the special permit previously granted by the Board of Standards and Appeals under BSA Cal. No. 791-51-BZ and is hereby denied.

The proposal to remove the existing convenience store, canopy and fuel dispensing equipment and pump islands and to erect a new convenience store, new metal canopy and new fuel dispensing area at a gasoline service station located within a C2-2 within R6 zoning district. . . is contrary to the special permit previously granted by the Board of Standards and Appeals under Cal. No. 791-51-BZ and is hereby denied"; and

WHEREAS, a public hearing was held on this application on March 18, 2008, after due notice by publication in the *City Record*, with continued hearings on May 6, 2008 and June 3, 2008 and then to decision on July 1, 2008; and

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

WHEREAS, Community Board 4, Queens, recommends approval of this application; and

WHEREAS, the premises is located on the northwest corner of 108<sup>th</sup> Street and the Horace Harding Expressway, an arterial highway; and

WHEREAS, this is an application for a special permit under ZR § 73-211, on a site previously before the Board, to permit the proposed demolition of the existing structure and the proposed construction of a new automotive service station (Use Group 16) within a C2-2 (R6) zoning district; and

WHEREAS, the applicant states that automobile repairs will no longer be performed at the subject premises, but that gasoline sales will remain; and

WHEREAS, on May 13, 1952, under BSA Cal. No. 791-51-BZ, the Board granted a variance to permit, partly in a business district, the construction and maintenance of a gasoline service station with automobile repair accessory uses for a term of 15 years; and

WHEREAS, the grant was subsequently amended and extended until March 2, 1971, when a special permit was granted by the Board, under BSA Cal. No. 636-70-BZ, permitting the reconstruction of the gasoline service station; and

WHEREAS, on March 23, 1999, the Board granted an amendment to permit certain site modifications including the conversion of an accessory building to a convenience store, the replacement of pump islands, the installation of a new canopy, and the discontinuance of auto repair uses; and

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WHEREAS, the applicant did not pursue construction in accordance with the 1999 special permit; and

WHEREAS, the site is currently occupied by an automotive service station containing eight fuel pumps, five 4,000 gallon underground fuel storage tanks, and an accessory building for automobile repair and maintenance and the sale of automotive supplies; and

WHEREAS, the instant proposal seeks to demolish the existing structure and remove all five existing underground storage tanks, as well as the pump islands and to replace them with a 2,100 sq. ft. convenience store, 12 new pumps, a new canopy, four 10,000 gallon underground storage tanks, together with a new piping system, and on-site parking for nine automobiles; and

WHEREAS, the required findings for the special permit for gasoline service stations in certain districts, pursuant to ZR § 73-211, include the following: (1) that the site is located within certain commercial zoning districts in which the longer dimension is at least 375 feet; (2) the site has a minimum lot area of 7,500 sq. ft., (3) that five reservoir parking spaces be provided, (4) that means of ingress and egress are designed so as to cause minimum obstruction, (5) that screening be provided along lot lines adjoining residential districts, and (6) that signage comply with applicable district regulations; and

WHEREAS, the applicant represents that the C2-2 zoning district that encompasses this site extends to the east for a distance exceeding the 375 ft. minimum required by ZR § 73-211; and

WHEREAS, the site's total lot area of 13,941 sq. ft. meets the minimum lot area requirement of ZR § 73-211; and

WHEREAS, the applicant represents that five reservoir parking spaces will be provided; and

WHEREAS, at hearing, the Board questioned whether sufficient circulation space existed to provide the required number of reservoir spaces on-site; and

WHEREAS, the applicant provided a site plan showing that five reservoir spaces could be accommodated on-site; and

WHEREAS, with respect to circulation within the site, the applicant submitted a traffic circulation plan indicating that 32 feet of space is provided between the gasoline dispensers closest to the Horace Harding Expressway, allowing traffic to flow between the dispensers even while fueling positions are used on both sides; and

WHEREAS, with respect to ingress to and egress from the site, the applicant represents that entrances and exits are designed to ensure that vehicular movement in and from the site can circulate with a minimum of obstruction of streets and sidewalks; and

WHEREAS, at hearing, the Board questioned the need to maintain two curb cuts on both the frontage on 108<sup>th</sup> Street and the frontage on the Horace Harding Expressway; and

WHEREAS, a traffic engineering study submitted by the applicant reported that dual curb cuts were required on each frontage to prevent site congestion when egress was blocked by buses or individuals waiting for buses on 108<sup>th</sup> Street or the Horace Harding Expressway; and

WHEREAS, at hearing the Board questioned whether the curb cuts could be reconfigured to alleviate congestion

concerns and to improve pedestrian safety; and

WHEREAS, the applicant submitted a revised site plan and letter from New York City Transit confirming that the location of the bus stop at 108<sup>th</sup> Street was being relocated to the parcel immediately to the north of the site and that bus shelters would be installed at both the new bus stop position on 108<sup>th</sup> Street, as well as along the Horace Harding Expressway; and

WHEREAS, regarding site screening, the applicant states that both the northerly lot line, adjoining a residential district, and the westerly lot line will be screened with a continuous six-foot high chain link fence with aluminum slat enclosures to create a 50 percent opaque effect; and

WHEREAS, the applicant proposes approximately 254 sq. ft. of signage, of which 107 sq. ft. would be non-illuminated and approximately 147 sq. ft. would be illuminated; and

WHEREAS, the applicant represents that the surface area of the proposed signage is below the limit of 450 sq. ft. permitted for a site with three frontages in a C2-2 zoning district under ZR § 73-211; and

WHEREAS, accordingly, the applicant has submitted sufficient evidence that the findings set forth at ZR § 73-211 have been met; and

WHEREAS, the applicant states that the proposed accessory convenience store is permitted as of right in a C2-2 zoning district; and

WHEREAS, the applicant represents that lighting will be designed so as to be directed at the site and away from adjacent uses; and

WHEREAS, the applicant further represents that refuse will be stored in sealed metal containers within an enclosure and that trash collection will be scheduled for daytime hours to be more compatible with nearby uses; and

WHEREAS, the Board notes that the reconstruction of the gasoline service station 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 §§ 73-211 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. 08-BSA-034Q, dated November 7, 2008; and

HEREAS, the EAS documents show that the continued operation of the gasoline service station 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

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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 gasoline service station 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 §§ 73-211 and 73-03, to permit in a C2-2 (R6) zoning district the permit the proposed demolition of the existing structure and the proposed construction of a new automotive service station (Use Group 16); on condition that all work shall substantially conform to drawings filed with this application marked "Received April 22, 2008"-(2) sheets and "June 17, 2008"-(1) sheet; and on further condition:

THAT signage shall comply with C2-2 zoning district regulations and be limited to that indicated on the BSA-approved plans;

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

THAT the site shall be maintained clean and free of debris and graffiti;

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

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

THAT the Department of Buildings must ensure compliance with all of 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, July 1, 2008.

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## 50-08-BZ

APPLICANT – Slater & Beckerman, LLP, for St. Sylvester's R.C. Church, owner; Northrop Grumman Info. Tech. Inc., lessee.

SUBJECT – Application March 6, 2008 – Special Permit (§73-30) to permit, a 90-foot non-accessory radio tower as part of the New York City Department of Information Technology and Telecommunications/Wireless Network.

PREMISES AFFECTED – 265McKinley Avenue, between Grant Avenue and Eldert Lane, Block 4175, Lot 1, Borough of Brooklyn.

## COMMUNITY BOARD #5BK

### APPEARANCES –

For Applicant: Robert Gardioso.

For Opposition: Ricardo A. Sánchez.

**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 Brooklyn Borough Superintendent, dated March 4, 2008, acting on Department of Buildings Application No. 310018398, reads in pertinent part:

“Proposed monopole is not allowable within R5 district. Refer to the Board of Standards and Appeals for review pursuant to Section 73-30 of the NYC Zoning Resolution;” and

WHEREAS, this is an application under ZR §§ 73-30 and 73-03, to permit, within an R5 zoning district, the proposed construction of a telecommunications pole (non-accessory radio tower) for public utility wireless communications, which is contrary to ZR § 22-21; and

WHEREAS a public hearing was held on this application on June 3, 2008 after due notice by publication in *The City Record*, and then to decision on July 1, 2008; and

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

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

WHEREAS, the proposed telecommunications pole will be located at a site which is occupied by a one-story church building; and

WHEREAS, the proposed telecommunications pole is part of the New York City Department of Information Technology and Telecommunications (DoITT) New York City Wireless Network (NYCWIn) and the application is brought on behalf of the City of New York; and

WHEREAS, the applicant represents that the NYCWiN system will provide a citywide data network designed to provide rich graphical information and real-time video from and to mobile workforces of the City's public safety and public service agencies, thereby allowing faster decision-making and better coordinated emergency responses; and

WHEREAS, the applicant states that the proposed telecommunications pole will consist of a pole with a height of 90 feet designed as a flagpole with internally-mounted antennas and related equipment, located within a fenced area immediately adjacent to the pole; and

WHEREAS, pursuant to ZR § 73-30, the Board may grant a special permit for a non-accessory radio tower such as the proposed telecommunications pole, provided it finds “that the proposed location, design, and method of operation of such tower will not have a detrimental effect on the privacy, quiet, light and air of the neighborhood;” and

WHEREAS, the applicant represents that the pole has been designed and sited to minimize adverse visual effects on the environment and adjacent residents; that the

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construction and operation of the pole will comply with all applicable laws, that no noise or smoke, odor or dust will be emitted; and that no adverse traffic impacts are anticipated; and

WHEREAS, the applicant states that the telecommunications pole and related equipment cabinets will be installed within an opaque fence enclosure; and

WHEREAS, the applicant further represents that the height of the pole is the minimum necessary to provide the required wireless coverage, and that the pole will not interfere with radio, television, telephone or other uses; and

WHEREAS, based upon its review of evidence in the record, the Board finds that the proposed pole and related equipment will be located, designed, and operated so that there will be no detrimental effect on the privacy, quiet, light, and air of the neighborhood; and

WHEREAS, therefore, the Board finds that the subject application meets the findings set forth at ZR § 73-30; and

WHEREAS, the Board further finds that the subject use will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

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

WHEREAS, the NYCWiN system is designed to streamline and enhance public safety and public service operations; 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 finds that the application meets the general findings required for special permits set forth at ZR § 73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 08-BSA-064K, dated March 6, 2008; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration prepared in accordance with Article 8 of the New York State

Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings and grants a special permit under ZR § 73-03 and § 73-30, to permit, within an R5 zoning district, the proposed construction of a telecommunications pole (non-accessory radio tower) for public utility wireless communications, which is contrary to ZR § 22-21, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received March 6, 2008"-(5) sheets; and on further condition;

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

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

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

Adopted by the Board of Standards and Appeals, July 1, 2008.

## 52-08-BZ

APPLICANT – Dennis D. Dell' Angelo, for Yossi Amar, owner.

SUBJECT – Application March 7, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area and lot coverage (§23-141); side yards (§23-461) and rear yard requirement (§23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 3935 Bedford Avenue, east side of Bedford Avenue, Block 6811, Lot 72, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Marc Dell' Angelo.

**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 Brooklyn Borough Superintendent, dated February 12, 2008, acting on Department of Buildings Application No. 310074870, reads in pertinent part:

- 1) Proposed FAR and lot coverage constitutes an increase in the degree of existing non-compliance contrary to ZR § 23-141.
- 2) Proposed horizontal enlargement provides less than the required side yards contrary to ZR § 23-46 and less than the required rear yard

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contrary to ZR § 23-47 Z.R.”; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, side yards and rear yard, contrary to ZR §§ 23-141(a), 23-46 and 23-47; and

WHEREAS, a public hearing was held on this application on May 6, 2008, after due notice by publication in *The City Record*, with a continued hearing on June 3, 2008, and then to decision on July 1, 2008; and

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

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

WHEREAS, the subject site is located on the east side of Bedford Avenue, between Avenue S and Avenue R; and

WHEREAS, the subject site has a total lot area of 3,000 sq. ft., and is occupied by a single-family home with floor area of 1,544 sq. ft. (0.514 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 1,544 sq. ft. (0.514 FAR), to 2978.5 sq. ft. (0.99 FAR); the maximum floor area permitted is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 20’-0” (a minimum rear yard of 30’-0” is required); and

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

WHEREAS, the proposed enlargement will maintain the existing non-complying side yards with minimum widths of 2’-8 ¾” and 7’-0 ½” (side yards with a total width of 13’-0” and a minimum width of 5’-0” each are required); and

WHEREAS, at hearing, the Board directed the applicant to note that the existing porch at the front of the building is subject to DOB approval; and

WHEREAS, in response, the applicant provided revised plans, which reflect this condition; and

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

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to

be made under ZR §§ 73-622 and 73-03.

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, side yards and rear yard, contrary to ZR §§ 23-141(a), 23-461(a) and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received April 21, 2008”-(3) sheets, “June 16, 2008”-(3) sheets and “June 30, 2008”-(8) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the floor area of the attic shall be limited to 418 sq. ft.;

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

THAT the following shall be the bulk parameters of the building: a total floor area of 2,978.5 sq. ft. (0.99 FAR), one side yard with a minimum width of 2’-8 ¾”, one side yard with a minimum width of 7’-0 ½”, and a rear yard with a minimum depth of 20’-0”, as illustrated on the BSA-approved plans;

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

THAT the front open porch shall be reviewed and approved by DOB;

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

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

Adopted by the Board of Standards and Appeals, July 1, 2008.

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## **53-08-BZ**

APPLICANT – Slater & Beckerman, LLP, for Lucy Lanese, Lorraine Di Nirdi, Joseph Lanese, Lawrence Lanese, owner; Northrop Grumman Info. Tech. Inc., lessee.

SUBJECT – Application March 11, 2000 – Special Permit (§73-30), to permit a 90 foot non-accessory radio tower as part of the New York City Department of Information Technology and Telecommunications/Wireless Network. R3-2 zoning district.

PREMISES AFFECTED – 300 Soundview Avenue, intersection of Soundview Avenue, White Plains Road and O’Brien Avenue, Block 3474, Lot 1, Borough of Bronx.

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## COMMUNITY BOARD #9BX

### APPEARANCES –

For Applicant: Robert Gardioso.

**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 Bronx Borough Commissioner, dated March 5, 2008, acting on Department of Buildings Application No. 210019567, reads in pertinent part:

“Proposed monopole requires a Special Permit from the New York City Board of Standards and Appeals. Referred to the BSA for the issuance of a special permit under 73-30;” and

WHEREAS, this is an application under ZR §§ 73-30 and 73-03, to permit, within an R3-2 zoning district, the proposed construction of a telecommunications pole (non-accessory radio tower) for public utility wireless communications, which is contrary to ZR § 22-21; and

WHEREAS, the site is the subject of a variance to permit the construction of a one-story automotive service station within a residential zoning district, under BSA Cal. No. 731-68-BZ; and

WHEREAS, the applicant concurrently requested an amendment to the variance; there are separate resolutions for the subject special permit and the amendment, but the cases were heard together and the record is the same for both; and

WHEREAS a public hearing was held on this application on June 3, 2008 after due notice by publication in *The City Record*, and then to decision on July 1, 2008; and

WHEREAS, Community Board 9, the Bronx, recommends approval of this application; and

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

WHEREAS, the proposed telecommunications pole will be located at a site which is occupied by a one-story automotive service station (Use Group 16); and

WHEREAS, the proposed telecommunications pole is part of the New York City Department of Information Technology and Telecommunications (DoITT) New York City Wireless Network (NYCWIn) and the application is brought on behalf of the City of New York; and

WHEREAS, the applicant represents that the NYCWiN system will provide a citywide data network designed to provide rich graphical information and real-time video from and to mobile workforces of the City’s public safety and public service agencies, thereby allowing faster decision-making and better coordinated emergency responses; and

WHEREAS, the applicant states that the proposed telecommunications pole will consist of a pole with a height of 90 feet, with internally-mounted antennas and related

equipment, located within a fenced area; and

WHEREAS, pursuant to ZR § 73-30, the Board may grant a special permit for a non-accessory radio tower such as the proposed telecommunications pole, provided it finds “that the proposed location, design, and method of operation of such tower will not have a detrimental effect on the privacy, quiet, light and air of the neighborhood;” and

WHEREAS, the applicant represents that the pole has been designed and sited to minimize adverse visual effects on the environment and adjacent residents; that the construction and operation of the pole will comply with all applicable laws, that no noise or smoke, odor or dust will be emitted; and that no adverse traffic impacts are anticipated; and

WHEREAS, the applicant states that the telecommunications pole and related equipment cabinets will be installed within an opaque fence enclosure; and

WHEREAS, the applicant further represents that the height of the pole is the minimum necessary to provide the required wireless coverage, and that the pole will not interfere with radio, television, telephone or other uses; and

WHEREAS, based upon its review of evidence in the record, the Board finds that the proposed pole and related equipment will be located, designed, and operated so that there will be no detrimental effect on the privacy, quiet, light, and air of the neighborhood; and

WHEREAS, therefore, the Board finds that the subject application meets the findings set forth at ZR § 73-30; and

WHEREAS, the Board further finds that the subject use will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

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

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

WHEREAS, therefore, the Board finds that the application meets the general findings required for special permits set forth at ZR § 73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 08-BSA-066, dated March 11, 2008; and

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

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Public Health; and

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings and grants a special permit under ZR § 73-03 and § 73-30 to permit, within an R3-2 zoning district, the proposed construction of a telecommunications pole (non-accessory radio tower) for public utility wireless communications, which is contrary to ZR § 22-21, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received March 11, 2008"-(4) sheets and "May 22, 2008"-(1) sheet ; and on further condition;

THAT any fencing will be maintained in accordance with 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) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 1, 2008.

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## 731-68-BZ

APPLICANT – Slater & Beckerman, LLP, for Lucy Lanese, Lorraine Di Nirdi, Joseph Lanese, Lawrence Lanese, owners; Northop Grumman Info. Tech. Inc., lessee.

SUBJECT – Application March 11, 2008 – Amendment (§73-30) to allow the site showing removal of gas tanks and proposed change for a non-accessory radio tower.

PREMISES AFFECTED – 300 Soundview Avenue, intersection of Soundview Avenue, White Plains Road and O'Brien Avenue, Block 3474, Lot 1, Borough of Bronx.

### COMMUNITY BOARD #9BX

APPEARANCES –

For Applicant: Robert Gardioso.

**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 an amendment to

a previously granted variance which permitted the construction of a one-story automotive service station within an R3-2 zoning district; and

WHEREAS, concurrent with this application, under BSA Cal. No. 53-08-BZ, the applicant seeks a special permit, pursuant to ZR § 73-30, to permit the construction of a telecommunications pole; the cases were heard together and the record is the same for both; and

WHEREAS a public hearing was held on this application on June 3, 2008 after due notice by publication in *The City Record*, and then to decision on July 1, 2008; and

WHEREAS, Community Board 9, the Bronx, recommends approval of this application; and

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

WHEREAS, the site is bounded by Soundview Avenue, White Plains Road and O'Brien Avenue; and

WHEREAS, the Board has exercised jurisdiction over the site since September 20, 1968, when, under the subject calendar number, the Board granted a variance to permit the construction of a one-story automotive service station in an R3-2 zoning district; and

WHEREAS, the applicant now proposes to construct a telecommunications pole, with a height of 90 feet with internally-mounted antennas and related equipment, located within a fenced area at the site; and

WHEREAS, the proposed telecommunications pole is part of the New York City Department of Information Technology and Telecommunications (DoITT) New York City Wireless Network (NYCWIn) and the application is brought on behalf of the City of New York; and

WHEREAS, the applicant represents that the NYCWiN system will provide a citywide data network designed to provide rich graphical information and real-time video from and to mobile workforces of the City's public safety and public service agencies, thereby allowing faster decision-making and better coordinated emergency responses; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may permit an amendment to an existing variance; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment to the site plan, in conjunction with the separate request for the special permit, pursuant to ZR § 73-30, at the site are appropriate with certain conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, as adopted on September 20, 1968, so that as amended this portion of the resolution shall read: "to permit the noted modification to the plans to reflect the proposed telecommunications pole at the site" on condition that any and all work shall substantially conform to drawings filed with this application marked "Received March 11, 2008"-(4) sheets and "May 22, 2008"-(1) sheet ; and on further condition:

THAT any fencing will be maintained in accordance with BSA-approved plans;

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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, July 1, 2008.

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## 55-08-BZ

APPLICANT – Walter T. Gorman, P.E., for Eileen & Benjamin Seiden, owner; Exxon Mobil Corporation, lessee. SUBJECT – Application March 13, 2008 – Special Permit filed pursuant to §§11-411 & 73-01(d) to reinstate a variance previously granted under BSA calendar number 381-60-BZ, which expired on November 1, 1995, allowing the operation of an Automotive Service Station with accessory uses in a R7-2 zoning district.

PREMISES AFFECTED – 350/58 East Houston Street, North west corner of Avenue C, Block 384, Lot 33, Borough of Manhattan.

### COMMUNITY BOARD #3M

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 Manhattan Borough Commissioner, dated March 11, 2008, acting on Department of Buildings Application No. 110100774, reads:

“Denied. Need the BSA approval prior to approval”;  
and

WHEREAS, this is an application for a reinstatement of a prior Board approval special permit pursuant to ZR § 11-411, which allowed the operation of a gasoline service station with accessory automotive repairs and car washing (UG 16) in an R7-2 zoning district, and to permit pursuant to ZR § 11-412 the legalization of modifications to the site; and

WHEREAS, a public hearing was held on this application on June 3, 2008 after due notice by publication in the *City Record*, and then to decision on July 1, 2008; and

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

WHEREAS, Community Board 3, Manhattan, recommends approval of this application, on condition that the site be well-maintained; and

WHEREAS, the premises is located on a through-block

site on the west side of Avenue C which is bounded on the south by East Houston Street and on the north by East Second Street, within an R7-2 zoning district; and

WHEREAS, the subject site has a total lot area of 5,970 sq. ft.; and

WHEREAS, the site is currently occupied by an automotive service station with a 1,344 sq. ft. building; and

WHEREAS, the Board originally granted a variance to permit the construction of a gasoline service station with accessory automotive uses at the site, including the storage of motor v

WHEREAS, the variance was subsequently amended, and extended by the Board, most recently on December 11, 1990, under BSA Cal. No. 381-60-BZ, to permit an extension of term for a gasoline service station with accessory uses for a term of five years, expiring on November 1, 1995; and

WHEREAS, the applicant represents that there has been no enlargement to the zoning lot or the building, and the only change to the site from the time of the last grant is the addition of a car vacuum and air tower, and a planter; a UG 16 use has been continuous since the expiration noted above; and

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

WHEREAS, the applicant now proposes to reinstate the prior grant and obtain a new ten-year term; and

WHEREAS, pursuant to ZR § 11-411, the Board may extend the term of an expired variance; and

WHEREAS, the New York State Department of Environmental Conservation (“DEC”) recorded an active spill at this site, identified as Spill No. 90-01894; and

WHEREAS, to address this spill, DEC entered into an order of consent pursuant to which a Remedial Action Plan (“RAP”) with proposed remediation measures was prepared by the owner and approved by DEC on July 1, 2005; a revised RAP was approved by DEC in October 2007; and

WHEREAS, the Board has determined that evidence in the record supports the findings required to be made under ZR §§ 11-411 and 11-412.

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR §§ 11-411 and 11-412, for a reinstatement of a prior Board approval, an extension of term, and a legalization of changes in the site of a gasoline service station with accessory automotive uses (UG 16) in an R7-2 zoning district; *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked “Received March 13, 2008”-(4) sheets; and *on further condition*:

THAT this permit shall be for a term of ten years, to expire on July 1, 2018;

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

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

THAT a new certificate of occupancy be obtained by January 1, 2009;

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THAT the applicant report to DEC quarterly on the status of spill remediation until notified that no further measures or reports are necessary;

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

THAT all signage shall comply with C1 zoning regulations;

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

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

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

Adopted by the Board of Standards and Appeals, July 1, 2008.

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## 109-07-BZ

APPLICANT – Jeffrey A. Chester, Esq., for Sano Construction Corporation, owner.

SUBJECT – Application May 3, 2007 – Variance (§72-21) to construct on an undersized, triangular lot a two story single family residence. This application seeks to vary lot coverage (§23-141); less than the required front yard (§23-45) and less than the required side yards (§23-461) in an R-5 zoning district.

PREMISES AFFECTED – 33-57 59<sup>th</sup> Street, triangle formed by 59<sup>th</sup> Street, 34<sup>th</sup> Avenue and 60<sup>th</sup> Street, Block 1183, Lot 70, Borough of Queens.

## COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Jeffrey Chester and Vincenzo D’Angelo.

For Opposition: Mary Walsh, Howard Nathan, Fernando Fernandez, Ananda Reza, Marion C. Molno and Tom Ryan.

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 July 29, 2008, at 1:30 P.M., for decision, hearing closed.

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## 143-07-BZ

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

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

PREMISES AFFECTED – 6404 Strickland Avenue, south

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

## COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Moshe Friedman.

For Opposition: Arnold Sadownick, M. L. , Robert Wisniewski, Brian Khnovich, Anatoliy Shukhman, Francis J. McCade and Herbert Asherman.

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 July 22, 2008, at 1:30 P.M., for decision, hearing closed.

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## 238-07-BZ

APPLICANT – Law Offices of Howard Goldman, for OCA Long Island City, LLC, c/o O’Connor Capital Partners, owners; OCA Long Island City, LLC, lessees.

SUBJECT – Application October 23, 2007 – Variance (§72-21) to allow a 13-story residential building (UG 2) contrary to regulations for FAR (§117-21 & §23-145), lot coverage (§117-21 & §23-145), minimum distance between windows (§117-21 & §23-711(b)) and height and setback (§117-21, §23-633 & §23-663). Student dormitory (UG 3) and faculty housing (UG 2) for CUNY Graduate Center is also proposed contrary to use regulations (§ 42-00). M1-4/R6A (LIC) and M1-4 districts.

PREMISES AFFECTED – 5-11 47<sup>th</sup> Avenue, easterly half of Block 28 on the east side of Fifth Street between 46<sup>th</sup> Road and 47<sup>th</sup> Avenue, 135-180’ west of Vernon Boulevard, Block 28, Lots 13, 15, 17, 18, 21 and 38, Borough of Queens.

## COMMUNITY BOARD # 2Q

APPEARANCES –

For Applicant: Howard Goldman, Helen Marshall, Queens Borough President; William CUY Graduate School; Brent Carner, O’Connor Corp; Jay Valgora, Martin Bitterman, Michelle Jaffi, Karen Fitzgerald, Rob Faunce, Richard Mazau, Nancy Verma, Noreen O’Reilly, Matt Quigley and Francisco Jones.

For Opposition: Douglas Otto, Tom Paine, Dennis D’Amelio, Kenneth Greenberg, Tony Vaccaro and Nigel Rollings.

**ACTION OF THE BOARD** – Laid over to August 19, 2008, at 1:30 P.M., for continued hearing.

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## 257-07-BZ

APPLICANT – Gordon J. Davis c/o Dewey & LeBoeuf, for The Mount Sinai Hospital and Mount Sinai, owners; One Gustave L. Levy Place, lessees.

SUBJECT – Application November 17, 2007 – Variance (§72-21) to permit the construction of an eleven-story, approximately 269,000 square foot Center for Science and Medicine Building at the Mount Sinai Medical Center. The

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proposal is contrary to sections 24-522 (height, setbacks, and sky exposure plane for community facility), 24-11 (community facility lot coverage), and 24-54 (community facility tower coverage).

PREMISES AFFECTED – 3 East 101<sup>st</sup> Street, 11 East 101<sup>st</sup> Street, 65 and 4-20 East 102<sup>nd</sup> Street, Block 1607, Lots 3, 5, 59, Borough of Manhattan.

**COMMUNITY BOARD #11M**

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to July 15, 2008, at 1:30 P.M., for continued hearing.  
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**32-08-BZ**

APPLICANT – Slater & Beckerman, LLP, for Baron Hirsch Cemetery Assn. Inc., owner; Northrop Grumman Info. Tech. Inc., lessee.

SUBJECT – Application February 19, 2008 – Special Permit (§73-30) to permit, a 90-foot non-accessory radio tower as part of the New York City Department of Information Technology and Telecommunications/Wireless Network. R3-2 zoning district.

PREMISES AFFECTED – 1126 Richmond Avenue, intersection of entrance to the Baron De Hirsch Cemetery adjacent to Mark Street, Block 1668, Lot 1, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES –

For Applicant: Robert Gardioso.

For Opposition: Theresa Smith.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

THE VOTE TO REOPEN 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 July 15, 2008, at 1:30 P.M., for continued hearing.  
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**44-08-BZ**

APPLICANT – Law Office of Fredrick A. Becker, for Peggy Hoffman and Abraham Joseph Hoffman, owners.

SUBJECT – Application February 28, 2008 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary open space and floor area (§23-141(a)), and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1015 East 23<sup>rd</sup> Street, East 23<sup>rd</sup> Street between Avenues J and K, Block 7605, Lot 38, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to July 22, 2008, at 1:30 P.M., for continued hearing.  
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**66-08-BZ**

APPLICANT – Sheldon Lobel, P.C., for Manic Friendland, owner.

SUBJECT – Application March 28, 2008 – 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)) and less than the required rear yard (23-47) in an R2 zoning district.

PREMISES AFFECTED – 1497 East 21<sup>st</sup> Street, east side of East 21<sup>st</sup> Street, between Avenue N and Avenue M, Block 7657, Lot 12, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** – Laid over to July 22, 2008, at 10 A.M., for continued hearing.  
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## 35-08-BZ

APPLICANT – Lewis E. Garfinkel, R.A., for Isaac Ades, owner.

SUBJECT – Application February 21, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area, open space and lot coverage (§34-141(b)); side yards (§23-461) and rear yard (§23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 1856 East 24<sup>th</sup> Street, west side of 24<sup>th</sup> Street between Avenue R & Avenue S, Block 6829, Lot 29, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lewis Garfinkel, R.A.

**ACTION OF THE BOARD** – Laid over to July 29, 2008, at 10 A.M., for continued hearing.

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Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to July 22, 2008, at 1:30 P.M., for decision, hearing closed.

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*Jeff Mulligan, Executive Director*

*Adjourned: 4:00 P.M.*

## 78-08-BZ

APPLICANT – Flora Edwards, Esq., for SBCSICA, owner.

SUBJECT – Application April 3, 2008 – Variance (§72-21) to permit a new community facility building (South Bronx Charter School). The proposal is contrary to §§123-62 (Maximum floor area ratio for community facilities), 24-11 (Maximum floor area ratio and percentage of lot coverage) and 123-662 (b)(4) (As it relates to street wall height for all buildings in Special Mixed-Use Districts with R6, R7, R8 and R10 district designations). MX-1 (M1-2/R6A).

PREMISES AFFECTED – 611-617 East 133<sup>rd</sup> Street, Block 2546, Lot 27, Borough of Bronx.

### COMMUNITY BOARD #1BX

APPEARANCES –

For Applicant: Flora Edwards, Steve Grasso, Gerald Wall, Yolanda F, Councilmember DelCarmen A.

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 August 19, 2008, at 1:30 P.M., for decision, hearing closed.

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## 144-08-BZ

APPLICANT – Rizzo Group, for William Nelville & Sons USA LLC, owners; 24 Hour Fitness USA, Inc., lessee.

SUBJECT – Application May 14, 2008 – Special Permit (§73-36) to permit the proposed Physical Culture Establishment on portions of the first and cellar floors. The proposal is contrary to ZR §32-10. C5-2 district.

PREMISES AFFECTED – 225 5<sup>th</sup> Avenue, easterly side of 5<sup>th</sup> Avenue between 26<sup>th</sup> Street and 27<sup>th</sup> Street, Block 856, Lot 7502, Borough of Manhattan.

### COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Kenneth Barbina, Esq.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins,