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# BULLETIN

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

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Volume 94, Nos. 11-12

March 27, 2009

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### DIRECTORY

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215-06-BZ 202-06 Hillside Avenue, Queens  
316-73-BZ 31-02 68<sup>th</sup> Street, Queens  
1038-80-BZ 31-07/09/11 Downing Street, Queens  
377-90-BZ 1415/17 East 92<sup>nd</sup> Street, Brooklyn  
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337-98-BZ 312/18 & 324/34 Flatbush Avenue, Brooklyn  
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**Affecting Calendar Numbers:**

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# DOCKETS

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New Case Filed Up to March 17, 2009  
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**38-09-A**

72-45 43rd Avenue, Corner of 43rd Avenue and 74th Street., Block 1353, Lot(s) 46, Borough of **Queens, Community Board: 4**. Proposed construction in the bed of mapped street contrary to General City Law Section 35 . R-5 district.  
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**39-09-A**

101-18 39th Avenue, Between 102nd and 103rd Streets., Block 1770, Lot(s) 22, Borough of **Queens, Community Board: 3**. Proposed construction of three family homes located within the bed of a mapped street contrary to General City Law section 35 R6b(C1-4) district.  
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**40-09-A**

101-20 39th Avenue, Between 102nd and 103rd Streets., Block 1770, Lot(s) 22, Borough of **Queens, Community Board: 3**. Construction within a bed of a mapped street, contrary to Section 35 of the General City Law. R6b(C1-4) district.  
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**41-09-A**

101-22 39th Avenue, Between 102nd and 103rd Streets., Block 1770, Lot(s) 22, Borough of **Queens, Community Board: 3**. Construction within a bed of a mapped street, contrary to Section 35 of the General City Law. R6b(C1-4) district.  
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**42-09-BZ**

441-477 Prospect Avenue,n/s, Between Eight Avenue and Prospect Park West., Block 1113, Lot(s) 73, Borough of **Brooklyn, Community Board: 7**. Special Permit filed pursuant to §§11-411 & 11-412 to permit a re-instatment of a variance which expired on July 12, 1992 which allowed the extension of a legal non conforming use within a residential zoning district. The application seeks an amendment to allow for the a one-story enlargement of approximately 770 sq. ft. in the rear of the lot for additional storage for the commercial laundry. The subject site is located in a R5B zoning district R5B district.  
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**43-09-BZ**

198 Varet Street, Southside 170'-6" west of White Street,between White Street and Bushwick Avenue., Block 3117, Lot(s) 24, Borough of **Brooklyn, Community Board: 1**. Special Permit (73-19) to allow a school. M1-2 district.  
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**44-09-BZ**

2175 Richmond Avenue, Eastside of Richmond Avenue 39.80' south of Saxon Avenue., Block 2361, Lot(s) 12(tent), 14, 17, 22, Borough of **Staten Island, Community Board: 2**. Variance to allow a two-story retail building and office building with parking, contrary to use regulations. R3-1 district.  
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**45-09-A**

142-19 Cherry Avenue, Northeast corner of Cherry Avenue and Bowne Street., Block 5186, Lot(s) 51, Borough of **Queens, Community Board: 7**. Appeal seeking a determination that owner has acquired a common law vested rights to continue construction commenced under the prior zoning district regulations . R7B R7b district.  
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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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**MARCH 31, 2009, 10:00 A.M.**

**APPEALS CALENDAR**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, March 31, 2009, 10:00 A.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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## **SPECIAL ORDER CALENDAR**

### **853-53-BZ**

APPLICANT – Walter T. Gorman, P.E., for Knapp LLC, owner; ExxonMobil Corporation, lessee.

SUBJECT – Application March 4, 2009 – Extension of Time/waiver to obtain a Certificate of Occupancy for a Gasoline Service Station (Mobil) in a C-2/R3-2 which expired on January 22, 2009.

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

**COMMUNITY BOARD #15BK**

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### **240-55-BZ**

APPLICANT – Joseph P. Morsellino, Esq., for DLC Properties LLC, owner; Helms Brother's, lessee.

SUBJECT – Application March 11, 2009 – Extension of Time to complete construction of a second story addition (5,000sf) to an existing commercial building in a C2-2(R6B) & R4 zoning district which expired on February 13, 2009.

PREMISES AFFECTED – 207-22 Northern Boulevard, Northern Boulevard and 208<sup>th</sup> Street, Block 7305, Lot 19, Borough of Queens.

**COMMUNITY BOARD #11Q**

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### **237-04-BZ**

APPLICANT – Sheldon Lobel, P.C., for Anthony Perez Cassino, owner.

SUBJECT – Application March 3, 2009 – Extension of Time to Complete Construction for a previously granted Variance (§72-21) to permit the proposed construction of a two family detached home on a vacant lot, which expired on February 8, 2009, in an R3-1 zoning district.

PREMISES AFFECTED – 5722 Faraday Avenue, southeast corner of Valles Avenue, Block 5853, Lot 2198, Borough of Bronx.

**COMMUNITY BOARD #8BX**

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### **277-08-BZY thru 287-08-BZY**

APPLICANT – Eric Palatnik, P.C., for Opal Builders, LLC, owner.

SUBJECT – Application November 19, 2008 – Extension of time to complete construction (11-332) and obtain a Certificate of Occupancy of a minor development commenced prior to the text amendment of the zoning district regulations. R3-X SSRRD (Area LL).

PREMISES AFFECTED – 23, 26, 27, 35, 39, 43, 47, 55, 59, and 63 Opal Lane, bounded Idaho Avenue, Bloomingdale Road and Amboy Road, Block 6993, Lot 20, 4,19,18,17,16,15,14,12,11,10, Borough of Staten Island.

**COMMUNITY BOARD #3SI**

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### **27-09-BZY**

APPLICANT – Bryan Cave, LLP, for 126 First Place, LLC, owner.

SUBJECT – Application February 17, 2009 – Extension of time to complete construction 11-332(b) and obtain a Certificate of Occupancy for a development commenced under the prior zoning district regulations. R6 Zoning district.

PREMISES AFFECTED – 126 First Place, south side of First Place, 300' east of intersection of First Place and Court Street, Block 459, Lot 17, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

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# CALENDAR

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**MARCH 31, 2009, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, March 31, 2009, 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**

**222-07-BZ**

APPLICANT – Stuart A. Klein, Esq., for Century Realty Corp./Randall Co. LLC., owner.

SUBJECT – Application September 27, 2007 – Variance pursuant to §72-21 to legalize residential uses on the second and third floor of an existing building. M1-6 District.

PREMISES AFFECTED – 110 West 26<sup>th</sup> Street, between Sixth Avenue and Seventh Avenue, Block 801, Lot 49, Borough of Manhattan.

**COMMUNITY BOARD #4M**

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**246-08-BZ**

APPLICANT – Slater & Beckerman, LLP, for St. Barnabas Hospital, owner.

SUBJECT – Application October 3, 2008 – Special Permits pursuant to §73-481 and 73-49 to allow for the construction of a five story parking garage and rooftop parking and Variance pursuant to 72-21to allow for an accessory sign contrary to §22-331 and 22-342. R7-1 District.

PREMISES AFFECTED – 4400 Third Avenue, block bounded by Third Avenue and East 184<sup>th</sup> Street, Quarry Road, and East 181<sup>st</sup> Street, Block 3064, Lot 1, 20 tent 100, Borough of The Bronx.

**COMMUNITY BOARD #6BX**

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**247-08-BZ**

APPLICANT – Howard S. Weiss, Esq., for Davidoff Malito, for 3454 Star Nostrand LLC, owner.

SUBJECT – Application October 6, 2008 – Special Permit filed pursuant to §73-243 to allow the operation of a accessory drive-through facility in connection with a planned as-of-right eating and drinking establishment (Starbucks Coffeehouse) (Use Group 6) located in a C1-2/R4 zoning district.

PREMISES AFFECTED – 3454 Nostrand Avenue and approx. 49’ along Gravesend Neck Road, Block 7362, Lot 10, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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**266-08-BZ**

APPLICANT – Lewis E. Garfinkel R.A., for Harold Willig, owner.

SUBJECT – Application October 28, 2008 – Special Permit (§73-621) for the enlargement of an existing single family home. This application seeks to vary 34-141(b) as the proposed floor area ratio (FAR) exceeds what is permitted in an R-4 zoning district.

PREMISES AFFECTED – 2007 New York Avenue, east side of New York Avenue between Avenue K and Avenue L, Block 7633, Lot 25, Borough of Brooklyn.

**COMMUNITY BOARD #18BK**

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**26-09-BZ**

APPLICANT – Sheldon Lobel, P.C., for CAMBA Housing Ventures, Inc., owner.

SUBJECT – Application February 17, 2009 – Variance (§72-21) to permit the construction of a nine-story community facility building. The proposal is contrary to ZR section 24-36. R7-1 district.

PREMISES AFFECTED – 97 Croke Avenue, north side of Croke Avenue, 164’ west of Ocean Avenue, Block 5059, Lot 51, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, MARCH 17, 2009  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**74-49-BZ**

**APPLICANT** – Sheldon Lobel, P.C., for 515 Seventh Associates, owner.

**SUBJECT** – Application – Pursuant to (§11-411) of the Zoning Resolution to request an extension of the term of a variance previously granted allowing a parking garage located in an M1-6 zoning district. The application seeks an amendment to increase the number of parking spaces and a waiver of the BSA's Rules of Practice and Procedure for an extension of time to obtain a Certificate of Occupancy.

**PREMISES AFFECTED** – 515 Seventh Avenue, Southeast corner of the intersection of Seventh Avenue and West 38th Street, Block 813, Lot 64, Borough of Manhattan.

**COMMUNITY BOARD #5M**

**APPEARANCES** –

For Applicant: Elizabeth Safian.

For Opposition:

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

**THE VOTE TO GRANT** –

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

Negative:.....0

**THE RESOLUTION:**

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term for the continued use of a parking garage, an extension of time to obtain a certificate of occupancy, and an amendment to the previously approved plans to legalize an increase in the number of parking spaces for the existing parking garage; and

WHEREAS, a public hearing was held on this application on February 3, 2009, after due notice by publication in *The City Record*, with a continued hearing on February 24, 2009, and then to decision on March 17, 2009; 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 5, Manhattan, recommends approval of this application, conditioned upon the installation of five bicycle spaces on the ground floor; and

WHEREAS, the site is located on the southeast corner of the intersection at Seventh Avenue and West 38<sup>th</sup> Street, in an

M1-6 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 29, 1949 when, under the subject calendar number, the Board granted a variance to permit the construction of a garage building for a term of 20 years; and

WHEREAS, subsequently, the grant has been amended and the term extended by the Board at various times; and

WHEREAS, on April 4, 2000, the grant was extended for a term of ten years from the expiration of the prior grant, to expire on June 28, 2009; a condition of the grant was that a certificate of occupancy be obtained by April 4, 2001; and

WHEREAS, on February 3, 2004, under the subject calendar number, the Board granted a two-year extension of time to obtain a certificate of occupancy, until February 3, 2006; and

WHEREAS, the applicant represents that a certificate of occupancy was not obtained by the stipulated date due to administrative oversight; and

WHEREAS, the applicant now seeks a ten-year extension of term and a six-month extension of time to obtain a certificate of occupancy for the public parking garage; and

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term; and

WHEREAS, the applicant also seeks to amend the grant to permit an increase in the number of parking spaces from 253 parking spaces to 360 parking spaces and 18 reservoir spaces; and

WHEREAS, the applicant states that the proposed increase can be achieved through the use of mechanical lifts (“stackers”) on the roof; and

WHEREAS, the applicant represents that the need for additional parking spaces is driven by excess demand at the site, stating that the parking garage utilizes 80 to 100 percent of its parking spaces on a daily basis; and

WHEREAS, at hearing, the Board raised concerns about the safety of the roof-top stackers; and

WHEREAS, in response, the applicant submitted a letter from the supplier of the stackers, dated February 13, 2009, indicating that each stacker includes a wheel chock on the stacker platform that locks in the car tires and prevents them from rolling forward, and a six-inch steel wheel barrier across the rear of the platform that prevents the cars from rolling backward; and

WHEREAS, in addition, the applicant submitted a letter from the Department of Buildings (“DOB”), dated January 16, 2002, indicating that the proposed stackers were found to be acceptable for use in New York City; and

WHEREAS, the applicant states that the proposed increase in the number of parking spaces will require no structural changes to the subject building; and

WHEREAS, at hearing, the Board requested that the applicant confirm the capacity of the roof to support the stackers and the weight of the proposed additional vehicles; and

WHEREAS, in response, the applicant submitted structural engineering reports confirming that the roof

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structure would adequately support the proposed stackers and additional vehicles; and

WHEREAS, at hearing, the Board also requested that the applicant minimize the visual impact of the stackers and direct all rooftop lighting downward; and

WHEREAS, in response, the applicant submitted a revised plan indicating that the stackers located along 38<sup>th</sup> Street would be five feet from the five-foot high parapet wall to minimize visibility from the street, and that all rooftop lighting is directed downward; and

WHEREAS, in addition, the revised plans showed the installation of five bicycle spaces on the ground floor; and

WHEREAS, the applicant also provided a traffic study which concluded that no significant adverse traffic impacts would result from the proposed increase in the number of parking spaces; and

WHEREAS, based upon the above, the Board finds that the requested extension of term, extension of time to obtain a certificate of occupancy, and amendment to increase the number of parking spaces for the existing parking garage are appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated March 29, 1949, so that as amended this portion of the resolution shall read: “to extend the term for ten years from June 28, 2009, to expire on June 28, 2019, to grant a six-month extension of time to obtain a certificate of occupancy, to expire on September 17, 2009, and to permit an increase in the number of parking spaces for the existing parking garage; *on condition* that all use and operations shall substantially conform to plans filed with this application marked “Received February 13, 2009”-(7) sheets and “March 13, 2009”-(2) sheets; and *on further condition*:

THAT the term of the grant shall expire on June 28, 2019;

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

THAT a certificate of occupancy shall be obtained by September 17, 2009;

THAT parking garage shall be limited to 360 parking spaces with 18 reservoir spaces;

THAT DOB shall review and confirm the structural capacity of the building to support roof-top parking with stackers;

THAT DOB shall review and confirm compliance of parking stackers with the Materials and Equipment Acceptance Division (“MEA”) requirements;

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

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

(DOB Application No. 1024600089)

Adopted by the Board of Standards and Appeals March

17, 2009.

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## 885-78-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for 120 West 25<sup>th</sup> Realty Company, LLC, owner.

SUBJECT – Application November 25, 2008 – Amendment to a previously granted Variance (§72-21) to allow the transfer of development rights from the subject site (Lot 53) to an adjoining site (Lot 49) in an M1-6 zoning district.

PREMISES AFFECTED – 120 West 25<sup>th</sup> Street, south side of West 25<sup>th</sup> Street, between Sixth and Seventh Avenues, Block 800, Lot 53, Borough of Manhattan.

## COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Paul Selver.

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

**THE VOTE TO GRANT** –

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

Negative:.....0

**THE RESOLUTION:**

WHEREAS, this is an application for a reopening and an amendment to an existing variance, to permit the transfer of development rights from the subject site to an adjoining property in an M1-6 zoning district; and

WHEREAS, a public hearing was held on this application on February 24, 2009, after due notice by publication in *The City Record*, and then to decision on March 17, 2009; 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 4, Manhattan, withheld support, while not recommending denial of this application; and

WHEREAS, the subject site (Lot 53) is located on the south side of West 25<sup>th</sup> Street, between Sixth Avenue and Seventh Avenue within an M1-6 zoning district; and

WHEREAS, the site has a lot area of approximately 4,077 sq. ft. and is occupied by a five-story and cellar building; and

WHEREAS, the ground floor of the building is occupied by retail use and the second through fifth floors are occupied by eight Class “A” apartments; and

WHEREAS, the building has a floor area of 16,906 sq. ft., and an FAR of 2.41; and

WHEREAS, the applicant states that the site has a maximum total FAR of 10.0 and a maximum floor area of 40,770 sq. ft., of which approximately 23,864 sq. ft. of allowable floor area is undeveloped; and

WHEREAS, on April 3, 1979, under the subject calendar number, the Board granted a variance to permit, in an M1-6 zoning district, the conversion of the second through fifth floors of the subject building to residential use; and

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WHEREAS, on October 21, 2008, by a conditional Letter of No Objection (“LNO”), the Board approved the merger of the site into a larger zoning lot comprised of other properties, including Block 800, Lot 49; and

WHEREAS, the LNO did not authorize the transfer or utilization of the available development rights of the subject site; and

WHEREAS, the applicant now proposes to transfer 23,864 sq. ft. of unused development rights from Lot 53 to adjacent Lot 49 to its east; and

WHEREAS, the applicant also proposes to modify its site plan to reflect the merger of Lots 55 and 56 within the subject Zoning Lot; and

WHEREAS, the applicant represents that the transfer of development rights from Lot 53 requires no modification of the Board’s grant because the waivers and conditions of the underlying grant are not implicated and the mixed-use residential/commercial building authorized by the variance will be unchanged; and

WHEREAS, the applicant further represents that the proposed transfer of development rights is consistent with the Court’s decision in Bella Vista v. Bennett, 89 N.Y. 2d 565 (1997), setting forth the parameters of Board review of requests for the transfer of development rights from sites for which a variance has been granted; and

WHEREAS, Bella Vista concerned a permit request for a new as-of-right residential building proposed to be built through the transfer of development rights-- from a site in which the Board granted a use variance to permit operation of a movie theater in a residential zoning district, to a separate adjacent site under common ownership-- for development of a complying residential building; and

WHEREAS, the Court held that review and approval of such transfers by the Board was required, inter alia, because the basis for the original grant, particularly with respect to the findings of financial hardship under ZR § 72-21(b) and minimum variance needed to provide relief under ZR § 72-21(e), may be implicated by the proposed transfer; and

WHEREAS, the applicant states that an approval of the requested development rights transfer from the subject site does not undermine the integrity of the Board’s 1979 findings concerning ZR §§ 72-21(b) or 72-21(e) because the facts of the instant application are readily distinguishable from those underlying the Court’s holding in Bella Vista; and

WHEREAS, the applicant represents that, unlike in Bella Vista, the subject site and the proposed development site have been under separate, unrelated ownership since at least the time of the Board’s 1979 grant and the owner of the variance site therefore lacked control over either the timing of new development on the adjacent property or the use of the development rights for such a development; and

WHEREAS, the applicant states that the brief period of time elapsing between the date of the Bella Vista variance grant and the date of the permit application in question also distinguishes that case from the proposed development rights transfer under review in the subject application; and

WHEREAS, in Bella Vista, the permit application proposing to use floor area transferred from the variance site

was filed only three years after the Board grant, while the variance for the subject site was granted in 1979, thirty years before the filing of the instant application; and

WHEREAS, the applicant represents that the owner of the subject site could not have anticipated that its appurtenant unused development rights had any value at the time of the Board’s grant because there was no demand for and therefore no value to the development rights appurtenant to any of the properties in the area; and

WHEREAS, in support, the applicant points to affidavits executed in 1979 by the owner and the former owner of the subject site included in the variance application attesting to the building’s lack of economic value, as well as a letter from a real estate broker dated March 2, 1979 discussing the lack of value of the subject building “in its current state” which listed 26 buildings with full floors for rent and discussed the lack of real estate demand in the area surrounding the subject site; and

WHEREAS, at the time of the 1991 Board grant in Bella Vista, the community surrounding the site in question was economically vibrant and the value of development rights was consequently far more likely to be contemplated by the Board; and

WHEREAS, as there would have been no basis to analyze the value of the development rights at the time of the grant in the instant case, the applicant posits that the grant of a simple use variance was construed to be sufficient to generate a reasonable return and provide the minimum variance necessary for relief, and that the subject site therefore retained full use of the excess development rights; and

WHEREAS, the Board agrees that the differences in timing and in the health of the respective real estate markets distinguish the Bella Vista case from the instant case and supports the conclusion that the use of the subject site’s excess development rights was not foreseeable by the owner or the Board; and

WHEREAS, the applicant represents that the variance was granted to “equalize” the economic status of the subject site with that of other properties within the zoning district that were not similarly burdened with a unique physical condition and which retained their full development rights; and

WHEREAS, the applicant states that, as the variance grant put the owner on substantially the same economic footing as other properties within the same zoning district, the (b) finding of the subject variance would not be affected by the transfer because the variance equalized the marketability of space at the subject site with that of space in neighboring buildings that were able to accommodate conforming uses, and which would be permitted to transfer development rights as-of-right; and

WHEREAS, the applicant concludes that allowing the zoning lot merger and transfer of unused development rights appurtenant to the subject site now is therefore no different from the transfer of unused development rights from other properties on the block and that equalizing the economic status of the two classes of properties would not have

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required that the subject site be stripped of its excess development rights; and

WHEREAS, the Board finds that the proposed transfer of development rights does not implicate or affect the basis for its findings in general, and specifically the (b) and (e) finding, at the time that they were made; and

WHEREAS, Community Board 4, Manhattan expressed concerns that the potential height and configuration of a building proposed on Lot 49 may be incompatible with the surrounding area; and

WHEREAS, in response, the applicant submitted photographs indicating that the context in the immediate area surrounding the subject site includes 19 to 40 story buildings and that at least seven buildings of that size are located on Sixth Avenue within two blocks north and south of the subject site; and

WHEREAS, the Board notes, however, that the scope of its review is limited to consideration of the proposed transfer of development rights from Lot 53 to Lot 49 and the implications of such a transfer on the findings it made when the variance was approved, particularly under ZR §§ 72-21(b) or 72-21(e); and

WHEREAS, further, the Board's grant recognizes that the use of such development rights would be subject to the bulk regulations of the underlying district; and

WHEREAS, based upon its review of the record, the Board finds that the proposed transfer of development rights is appropriate.

*Therefore it is Resolved* that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on April 3, 1979, so that as amended this portion of the resolution shall read: "to permit the transfer of 23,864 sq. ft. of development rights from Block 800, Tax Lot 53 to Block 800, Tax Lot 49, and to permit modifications to the BSA-approved site plan *on condition* that all site conditions shall comply with the drawing marked "Received March 17, 2009"- (1) sheet;" and *on further condition*:

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

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

(DOB Application No. 1103865555)

Adopted by the Board of Standards and Appeals, March 17, 2009.

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## 771-89-BZ

APPLICANT – Mark D. Lipton, AIA, for William R. Burns, owner.

SUBJECT – Application January 14, 2008 – Extension of Term/waiver of a previously granted Variance (§72-21) to allow the change of use from a single family dwelling to (UG6) office use with accessory parking in an R3-2 zoning district which expired on September 18, 2000.

PREMISES AFFECTED – 2078 Richmond Avenue, west

side of Richmond Avenue, 139.09' south of Rivington Avenue, Block 2102, Lot 98, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES – None.

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

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of term of a previously granted variance permitting a change in use from a single family dwelling within an R3-2 zoning district to an office (Use Group 6) with accessory parking, which expired on September 18, 2000; and

WHEREAS, a public hearing was held on this application on February 24, 2009 after due notice by publication in *The City Record*, and then to decision on March 17, 2009; and

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

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

WHEREAS, the site is located on the west side of Richmond Avenue, approximately 139 feet south of Rivington Avenue, within an R3-2 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since September 18, 1990 when, under the subject calendar number, the Board granted a variance to permit the construction of a two-story and attic office building (Use Group 6) with accessory parking, to expire on September 18, 2000; and

WHEREAS, the applicant represents that there have been no changes to the site; and

WHEREAS, the applicant now requests an additional ten-year term; and

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

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, as adopted on September 18, 1990, so that as amended this portion of the resolution shall read: "to extend the term for ten years from September 18, 2000, to expire on September 18, 2010, *on condition* that any and all work shall substantially conform to drawings filed with this application marked "Received January 28, 2009"- (1) sheet; and *on further condition*:

THAT the term of this grant shall expire on September 18, 2010;

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

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

# MINUTES

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB App. No. 510063958)

Adopted by the Board of Standards and Appeals, March 17, 2009.

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## 66-90-BZ

APPLICANT – Walter T. Gorman, P.E., P.C., for A.H.G. Realty Corporation, owner.

SUBJECT – Application February 9, 2009 – Extension of Time/waiver to obtain an Certificate of Occupancy for a UG16 Gasoline Service Station (Mobil), in an R-5 zoning district, which expired on December 31, 2008.

PREMISES AFFECTED – 43-07 Astoria Boulevard, north east corner of 43<sup>rd</sup> Street, Block 780, Lot 18, Borough of Queens.

## COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Cindy Bachan.

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

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of the time to obtain a certificate of occupancy for an automotive service station, which expired on December 31, 2008; and

WHEREAS, a public hearing was held on this application on March 3, 2009, after due notice by publication in *The City Record*, and then to decision on March 17, 2009; and

WHEREAS, the site is located on the northeast corner of Astoria Boulevard and 43<sup>rd</sup> Street, within an R5 zoning district; and

WHEREAS, in 1959, under BSA Cal. No. 525-58-BZ, the Board granted a variance to permit the construction of a gasoline service station at the site; and

WHEREAS, the grant was subsequently extended at various times under BSA Cal. No. 525-58-BZ, but ultimately expired; and

WHEREAS, on October 1, 1991, under the subject calendar number, the Board permitted the re-establishment of the variance for a term of ten years, to expire on October 1, 2001; and

WHEREAS, on November 14, 2000, under the subject calendar number, the Board granted an extension of the term of

the variance, to expire on October 1, 2010, and permitted the renovation of the existing accessory building to include a convenience store and the construction of a new metal canopy; and

WHEREAS, one of the conditions of the grant was that substantial construction be completed and a new certificate of occupancy obtained within two years from the date of the grant, by November 14, 2002; and

WHEREAS, the Board notes that the site was the subject of a padlock petition and closure action pursuant to Administrative Code § 26-127.2, and that a stipulation executed with DOB on January 14, 2008 allowed the applicant to operate the site while pursuing an application for an extension of time to secure a new certificate of occupancy; and

WHEREAS, on May 6, 2008, under the subject calendar number, the Board granted an extension of time to obtain a certificate of occupancy, to expire on December 31, 2008; and

WHEREAS, the applicant represents that construction is now complete, but that the owner was unable to obtain the new certificate of occupancy within the prescribed time frame; and

WHEREAS, on January 14, 2009, due to the applicant’s failure to secure a certificate of occupancy by the stipulated deadline, DOB issued an order of closure for the premises, declaring the use of the site as an automotive and gasoline service station to be illegal (the “padlock order”); and

WHEREAS, the premises was subsequently padlocked by DOB; and

WHEREAS, on February 25, 2009, pursuant to an action to vacate the padlock order (denominated AHG Realty Corp. and MNC Realty Corp. v. DOB, Supreme Court, County of Queens, Index No. 3935/20009) the applicant and DOB executed a stipulation whereby DOB agreed to vacate the padlock order of January 14, 2009 and allow the applicant to operate the site while pursuing an application for an extension of time to obtain a new certificate of occupancy; and

WHEREAS, the Board notes that the applicant has stipulated, inter alia, that it will obtain a final certificate of occupancy no later than October 25, 2009, unless delays are caused by DOB or the City of New York which prevent it from doing so; and

WHEREAS, the applicant now requests an extension of time to obtain a new certificate of occupancy; and

WHEREAS, at hearing, the Board directed the applicant to remove storage trailers located on site and establish that the site is otherwise in compliance with the latest BSA-approved plans; and

WHEREAS, in response, the applicant provided photographs reflecting the removal of the storage trailers and the site’s compliance with the BSA-approved plans; and

WHEREAS, based upon its review of the record, the Board finds that an extension of time to obtain a certificate of occupancy until October 25, 2009 is appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated October 1, 1991, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy to

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# MINUTES

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October 25, 2009; *on condition* that the use and operation of the site shall substantially conform to BSA-approved plans associated with the prior approval; and *on further condition:*

THAT a certificate of occupancy shall be obtained by October 25, 2009;

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

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

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

(DOB Application No. 401114968)

Adopted by the Board of Standards and Appeals, March 17, 2009.

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## 332-98-BZ

APPLICANT – Law Office of Howard Goldman, LLC, for Workmen's Circle Home & Infirmary, owners.

SUBJECT – Application January 30, 2009 – Extension of Time/waiver to Complete Construction of a previously approved Variance (72-21) for the enlargement of a (UG3) existing nursing home, in an R5 zoning district, which expired on April 13, 2003.

PREMISES AFFECTED – 3155 Grace Avenue, bounded by Grace, Hammersley, Ely and Burke Avenues, Block 4777, Lots 2 & 57, Borough of Bronx.

## COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Chris Wright.

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

**THE VOTE TO GRANT** –

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

Negative:.....0

**THE RESOLUTION:**

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time to complete construction of an existing nursing home building (Use Group 3); and

WHEREAS, a public hearing was held on this application on March 3, 2009 after due notice by publication in *The City Record*, and then to decision on March 17, 2009; and

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

WHEREAS, this application is submitted on behalf of the Workman's Circle Home and Infirmary (“Workman's”), a non-profit entity; and

WHEREAS, the subject site occupies the entire block bounded by Burke Avenue on the north, Grace Avenue on the

east, Hammersley Avenue on the south and Ely Avenue on the west; and

WHEREAS, on April 13, 1999, under the subject calendar number, the Board granted a variance to permit the proposed enlargement of an existing nursing home building (Use Group 3) located within an R5 zoning district; and

WHEREAS, substantial construction was to be completed by April 13, 2003 in accordance with ZR § 72-23; and

WHEREAS, the applicant represents that construction was delayed due to unforeseen site conditions and the need for additional funding; and

WHEREAS, specifically, after Workman's commenced construction in 1999, it learned that the existing building required major modifications, including the addition of two floors to the building's major wing along Grace Avenue, which could not be accomplished within the \$50 million construction budget; and

WHEREAS, the applicant represents that construction was delayed until 2003, to secure additional construction funding and that by 2007 the north and south wings of the building had been completed, but that budget shortfalls due to cost increases for the internal work on the building further delayed completion of the building; and

WHEREAS, the applicant further represents that the building will be completed by the end of 2009; and

WHEREAS, thus, the applicant now requests a one-year extension of time to complete construction; and

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

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated April 13, 1999, so that as amended this portion of the resolution shall read: “to grant a one-year extension of time to complete construction, to expire on March 17, 2010; *on condition* that the use and operation of the site shall substantially conform to BSA-approved plans associated with the prior approval; and *on condition:*

THAT construction shall be substantially complete by March 17, 2010;

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

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

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

(DOB Application No. 200536063)

Adopted by the Board of Standards and Appeals, March 17, 2009.

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## 200-01-BZ

APPLICANT – Davidoff Malito & Hutcher LLP by Ron J. Mandel, Esq., for Browne Associates, owner; Hillside Manor Rehabilitation and Extended Care Center, lessee.

SUBJECT – Application January 29, 2009 – Extension of Time to complete construction and to obtain a Certificate of Occupancy for a previously granted Variance (§72-21) for the enlargement of an existing 11-story and penthouse rehabilitation/long term care facility (Hillside Manor), in an R6A/C2-4 Special Downtown Jamaica District zoning district, which expired on January 11, 2009.

PREMISES AFFECTED – 182-15 Hillside Avenue, northeast corner of Hillside Avenue and Avon Street, Block 9950, Lot 1, Borough of Queens.

## COMMUNITY BOARD #8Q

### APPEARANCES –

For Applicant: Ron Mandel.

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

### THE VOTE TO GRANT –

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

Negative:.....0

### THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of the time to complete construction and obtain a certificate of occupancy for the enlargement of a community facility building, which expired on January 11, 2009; and

WHEREAS, a public hearing was held on this application on February 24, 2009 after due notice by publication in *The City Record*, and then to decision on March 17, 2009; and

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

WHEREAS, this application is submitted on behalf of the Hillside Manor Rehabilitation and Extended Care Center (“Hillside Manor”), a non-profit entity; and

WHEREAS, the subject premises is located on the northeast corner of Hillside Avenue and Avon Street, in an C2-4 (R6A) zoning district within the Special Downtown Jamaica District; and

WHEREAS, the site is occupied by an 11-story and penthouse nursing home building (Use Group 3); and

WHEREAS, on August 7, 2002, the City Planning Commission (“CPC”) granted a special permit pursuant to ZR § 74-90, to authorize the enlargement of the nursing home, which became effective on September 3, 2002; and

WHEREAS, on April 16, 2002, under the subject calendar number, the Board granted a variance to permit the enlargement of the existing penthouse and the addition of three elevators; and

WHEREAS, a condition of that grant was that a new certificate of occupancy be obtained by April 16, 2004; and

WHEREAS, the applicant represents that due to unforeseen delays related to obtaining program and funding

approvals for the enlargement from the New York State Department of Health (“DOH”), the construction was not completed and the certificate of occupancy was not obtained within the prescribed time; and

WHEREAS, on January 11, 2005, the Board granted an extension of time to complete construction and obtain a certificate of occupancy for an additional two-year term; and

WHEREAS, on March 13, 2007, the Board granted a further extension of time to complete construction and obtain a certificate of occupancy, to expire on January 11, 2009; and

WHEREAS, the applicant states that it has been unable to complete construction due to delays resulting from the September 10, 2007 rezoning of the site from a C2-2 (R5) district to a C2-4 (R6A) district within the Special Downtown Jamaica District, which imposed height limits that are exceeded by the subject building; and

WHEREAS, the applicant states that the CPC special permit authorizing the enlargement lapsed on September 3, 2006; and

WHEREAS, the applicant represents that, before it would issue work permits for the proposed enlargement, DOB required that Hillside Manor renew the CPC special permit to confirm its right to proceed with the proposed enlargement despite the rezoning; and

WHEREAS, the applicant represents that, as a special permit pursuant to ZR § 74-90 was approved by CPC prior to the September 10, 2007 rezoning, the project is grandfathered pursuant to ZR § 115-01 and may be built as proposed; and

WHEREAS, nonetheless, the applicant secured a renewal of the CPC special permit on September 8, 2008 for a term of three years; and

WHEREAS, additionally, on January 20, 2009, in response to a request by the applicant, the Board issued a letter of substantial compliance approving certain minor modifications to the approved plans, including: (i) the reduction of the sub-cellar by 1,065 sq. ft.; and (ii) the reduction of the cellar by 5,077 sq. ft.; and

WHEREAS, the applicant now requests an additional two years to complete construction and obtain a new certificate of occupancy; and

WHEREAS, based upon its review of the record, the Board finds that the requested two-year extension of time to complete construction and obtain a certificate of occupancy is appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated April 16, 2002, so that as amended this portion of the resolution shall read: “to grant an extension time to complete construction and obtain a certificate of occupancy for two years; *on condition* that the use and operation of the site shall substantially conform to BSA-approved plans associated with the prior approval; and *on condition*:

THAT a certificate of occupancy shall be obtained by March 17, 2011;

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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other

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jurisdiction objection(s) only; and

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

(DOB Application No. 401196031)

Adopted by the Board of Standards and Appeals, March 17, 2009.

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## 215-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Cumberland Farms, Incorporated, owner.

SUBJECT – Application January 28, 2009 – Extension of Time/waiver to obtain a Certificate of Occupancy for an existing gasoline service station (Exxon) with accessory convenience store, in a C1-2/R4 zoning district, which expired on January 24, 2008.

PREMISES AFFECTED – 202-06 Hillside Avenue, southeast corner of Hillside Avenue and 202<sup>nd</sup> Street, Block 10496, Lot 52, Borough of Queens.

### COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Josh Rinesmith.

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

**THE VOTE TO GRANT** –

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

Negative:.....0

### THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time to obtain a certificate of occupancy for a gasoline service station (Use Group 16) with accessory uses; and

WHEREAS, a public hearing was held on this application on March 3, 2009, after due notice by publication in *The City Record*, and then to decision on March 17, 2009; and

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

WHEREAS, the site is located on the southeast corner of Hillside Avenue and 202<sup>nd</sup> Street, within a C1-2 (R4) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 24, 1956 when, under BSA Cal. No. 327-55-BZ, the Board granted a variance to permit the construction of a gasoline service station, lubricatorium, non-automatic car wash, minor auto repair shop (with hand tools only), and the parking of motor vehicles awaiting service for a term of 15 years; and

WHEREAS, subsequently, the grant has been amended and the term extended by the Board at various times; and

WHEREAS, on November 15, 1983, under BSA Cal. No. 327-55-BZ, the Board reopened and amended the

resolution to legalize an existing storage trailer to be used for the storage of non-combustible items; and

WHEREAS, on June 4, 1985, under BSA Cal. No. 327-55-BZ, the Board reopened and amended the resolution to permit the addition of one pump to each existing pump island; and

WHEREAS, on February 6, 1990, under BSA Cal. No. 327-55-BZ, the Board reopened and amended the resolution to permit changes in the design and arrangement of the existing gasoline station; and

WHEREAS, on June 30, 1992, under BSA Cal. No. 327-55-BZ, the Board reopened and amended the resolution to extend the term of the variance for a period of ten years to July 24, 2001, to eliminate a metal storage container and chain link fence, and to restore a portion of the grass that had been covered with asphalt; and

WHEREAS, on December 10, 1996, under BSA Cal. No. 327-55-BZ, the Board reopened and amended the resolution to permit the replacement of the accessory building with a convenience store and attendants’ area and the erection of a canopy over four new pump islands; and

WHEREAS, the original variance, as extended, expired on July 24, 2001; and

WHEREAS, on July 17, 2007, under the subject calendar number, the Board reinstated the prior variance for an automotive service station for a term of ten years, to expire on July 24, 2011; and

WHEREAS, a condition of the grant was that a new certificate of occupancy be obtained by January 24, 2008; and

WHEREAS, the applicant now seeks an extension of time to obtain a new certificate of occupancy; and

WHEREAS, the applicant represents that the delay in obtaining a certificate of occupancy was due to the need to engage a new engineering firm; and

WHEREAS, the applicant states that it has engaged a new engineering firm and that a 15-month extension is necessary to secure a new certificate of occupancy; and

WHEREAS, based upon its review of the record, the Board finds that the requested 15-month extension of time to obtain a certificate of occupancy is appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated July 17, 2007, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy to June 17, 2010; *on condition* that the use and operation of the site shall substantially conform to BSA-approved plans associated with the prior approval; and *on further condition*:

THAT a certificate of occupancy shall be obtained by June 17, 2010;

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

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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other

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jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 400524072)

Adopted by the Board of Standards and Appeals March 17, 2009.

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### 316-73-BZ

APPLICANT – Vassalotti Associates Architects, for 31-02 68th Realty Corporation, owner.

SUBJECT – Application February 9, 2009 – Extension of Term for the continued operation of a (UG16) Gasoline Service Station (Husky) in an R4 zoning district which expired on January 8, 2009.

PREMISES AFFECTED – 31-02 68<sup>th</sup> Street, south west corner of 68<sup>th</sup> Street and 31<sup>st</sup> Avenue, Block 1138, Lot 27, Borough of Queens.

#### COMMUNITY BOARD #3BX

APPEARANCES –

For Applicant: Todd Dale.

**ACTION OF THE BOARD** – Laid over to March 31, 2009, at 10 A.M., for continued hearing.

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### 1038-80-BZ

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

SUBJECT – Application February 5, 2009 – Extension of Term of a Special Permit for the continued operation of a UG15 Amusement Arcade (Smile Arcade) in an M2-1 zoning district which expired on January 6, 2009.

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

#### COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Ron Mandel.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to March 31, 2009, at 10 A.M., for decision, hearing closed.

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### 337-90-BZ

APPLICANT – Sheldon Lobel, P.C., for Giuseppe LaSorsa, owner.

SUBJECT – Application November 10, 2008 – Extension of Term/waiver for the continued operation of a one story (UG16) Automotive Repair Shop and a two story (UG6) business and (UG2) dwelling unit on a portion of the site,

which expired on June 2, 2002, in a C1-2/R4 zoning district and an Extension of Time/waiver to obtain a Certificate of Occupancy which expired on March 29, 1987.

PREMISES AFFECTED – 1415/17 East 92<sup>nd</sup> Street, northeast corner of East 92<sup>nd</sup> Street and Avenue L, Block 8238, Lot 9, Borough of Brooklyn.

#### COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Elizabeth Safian.

**ACTION OF THE BOARD** – Laid over to March 31, 2009, at 10 A.M., for continued hearing.

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### 336-98-BZ & 337-98-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP for 312 Flatbush Avenue LLC, owner; AGT Crunch, lessee.

SUBJECT – Application December 31, 2008 – Application filed pursuant to §73-11to Extend the term of a special permit granted pursuant to §73-36 authorizing a physical culture establishment (PCE) (Crunch Fitness), extend the PCE to include additional area in the cellar and on the first floor, permit a change in operator and extend the time to obtain a certificate of occupancy. The subject site is located in a C2-4 zoning district.

PREMISES AFFECTED – 312/18 & 324/34 Flatbush Avenue, 157' west of the northwest corner of the intersection of Flatbush Avenue and Sterling Place, Block 1057, Lot 14, Borough of Brooklyn.

#### COMMUNITY BOARD # 6BK

APPEARANCES –

For Applicant: Todd Dale

**ACTION OF THE BOARD** – Laid over to April 7, 2009, at 10 A.M., for continued hearing.

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## APPEALS CALENDAR

### 142-08-A

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

SUBJECT – Application May 9, 2008 – Proposed construction of a three story residential building which does not front on an officially mapped street contrary to General City Law Section 36. R6-OP Zoning District.

PREMISES AFFECTED – 225 Brighton 2<sup>nd</sup> Lane, corner of Brighton 2<sup>nd</sup> Lane and Brighton 2<sup>nd</sup> Place, Block 8662, Lots 153, Borough of Brooklyn.

### COMMUNITY BOARD #13BK

APPEARANCES –

For Applicant: Eric Palatnik.

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

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 Commissioner, dated March 20, 2008, acting on Department of Buildings Application No. 302215582, which reads in pertinent part:

“Lot is a corner lot, however since the streets are not mapped streets, BSA approval is required for GCL 36;” and

WHEREAS, a public hearing was held on this application on March 3, 2009, after due notice by publication in the *City Record*, and then to decision for March 17, 2009; and

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

WHEREAS, this is an application to construct a three-story with mezzanine residential building which does not front on an officially mapped street, contrary to General City Law Section 36; and

WHEREAS, by letter dated July 28, 2008, the Fire Department states that it has reviewed the subject proposal and objects to the construction of a building at 225 Brighton 2<sup>nd</sup> Lane due to the following conditions: (1) the road is only 22'-10" wide, making Fire Department response in the area more challenging and dangerous; (2) the road was constructed many years ago for small one- and two-story single occupancy dwellings; (3) the street is a one-way street with limited parking on the right side; (4) an eight-story multiple dwelling would require the use of an aerial or tower ladder in order to respond in the case of a fire, however, because of the narrow width of this block the use of this type of equipment is not possible; and (5) the building does not have the required 30 feet of frontage space; and

WHEREAS, by letter dated August 28, 2008, the applicant clarified that the subject proposal is for a three-story with mezzanine multiple dwelling and not an eight-story multiple dwelling; and

WHEREAS, in accordance with Fire Code Section 503.2.1, in effect as of July 1, 2008, the applicant filed a New York City Fire Department Variance Application with the Fire Department on November 25, 2008; and

WHEREAS, by letter dated February 26, 2009 the Fire Department states that it has reviewed the subject proposal and objects to the proposed development unless the following conditions are met: (1) the building is protected throughout by a sprinkler system complying with the requirements of the New York City Building Code; (2) the height of the building does not exceed 35 feet above the grade plane; (3) the building is equipped with interconnected smoke alarms throughout the entire building, in compliance with the requirements of the 2008 New York City Building Code; and (4) the building is designed, constructed, operated and maintained in accordance with the Building Code, Fire Code and other applicable laws, rules, and regulations; and

WHEREAS, by letter dated March 5, 2009, the Fire Department states that the February 26, 2009 letter is also an approval of the Fire Code Variance, with conditions requested by the applicant on November 26, 2008; and

WHEREAS, on March 10, 2009, the applicant submitted revised plans in accordance with the conditions requested by the Fire Department in the February 26, 2009 letter; and

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

*Therefore it is Resolved* that the decision of the Brooklyn Borough Commissioner, dated March 20, 2008, acting on Department of Buildings Application No. 302215582, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawings filed with the application marked “Received March 12, 2009” – (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 DOB shall review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

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, March 17, 2009.

### 168-08-A

APPLICANT – Cozen O’Connor Attorneys, for South Brighton Development, LLC, owner.

# MINUTES

SUBJECT – Application June 24, 2008 – Legalization of an existing building not fronting on a legally mapped street contrary to General City Law Section 36. R6(OP) zoning district.

PREMISES AFFECTED – 63 Brighton 2<sup>nd</sup> Place, east side of Brighton 2<sup>nd</sup> Place, 110’ north of Brighton 2<sup>nd</sup> Lane, Block 8662, Lot 157, Borough of Brooklyn.

## COMMUNITY BOARD #13BK

### APPEARANCES –

For Applicant: Peter Geis.

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

### 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 Commissioner, dated June 20, 2008, acting on Department of Buildings Application No. 302043651, which reads in pertinent part:

“Building does not have required frontage on mapped street as required under General City Law Section 36; Building Code 27-291;” and

WHEREAS, a public hearing was held on this application on August 19, 2008, after due notice by publication in the *City Record*, with continued hearings on October 7, 2008, November 18, 2008, December 16, 2008, January 27, 2008, and March 3, 2009 and then to decision for March 17, 2009; 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, this is an application to construct a four-story, eight-unit multiple dwelling which does not front on an officially mapped street, contrary to General City Law Section 36 ; and

WHEREAS, by letter dated July 15, 2008, the Fire Department stated that it reviewed the subject proposal and objected to the construction of a building at 225 Brighton 2<sup>nd</sup> Place due to the following conditions: (1) the 22’-10” width of the roadway makes Fire Department response more challenging and dangerous; (2) the road was constructed many years ago for small one-family and two-family single-family homes; (3) Brighton 2<sup>nd</sup> Lane is a one-way street with limited parking on the right side; (4) an eight-story multiple dwelling would require the use of an aerial or tower ladder to respond to a fire and the narrow width of the roadway makes the use of this equipment not possible; and (5) the building does not have the required 30 feet of frontage space; and

WHEREAS, by letter dated September 30, 2008, the applicant clarified that the proposal is for a four-story multiple dwelling with mezzanines, and not an eight-story multiple dwelling; and

WHEREAS, subsequent to a meeting with the applicant, by letter dated February 24, 2009, the Fire Department states that it approves of the proposed development if the following

conditions are met: (1) the building is protected throughout by a sprinkler system complying with the requirements of the New York City Building Code; (2) that parking is prohibited by the Department of Transportation (“DOT”) for a distance of twenty feet on the northwest corner of Brighton 2<sup>nd</sup> Lane at its intersection with Brighton 2<sup>nd</sup> Place; (3) that parking is prohibited by DOT on both sides of Brighton 2<sup>nd</sup> Place from its intersection with Brighton 2<sup>nd</sup> Lane to the north curve of Brighton 2<sup>nd</sup> Place; (4) that the building is equipped with a standpipe system installed in compliance with Building Code requirements, including a riser accessible from all floors of the building (including below-grade floors); (5) the building is equipped with interconnected smoke alarms throughout the entire building in compliance with the requirements of the 2008 New York City Building Code; and (6) the building is designed, constructed, operated and maintained in accordance with the Building Code, Fire Code and other applicable laws, rules, and regulations; and

WHEREAS, on February 26, 2009, the Fire Department stated that approval from the DOT had been secured prohibiting parking on both sides of Brighton 2<sup>nd</sup> Place and that “No Parking” signs would be installed; and

WHEREAS, the applicant submitted revised plans in accordance with the conditions requested by the Fire Department in the February 24, 2009 letter; and

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

*Therefore it is Resolved* that the decision of the Brooklyn Borough Commissioner, dated June 20, 2008, acting on Department of Buildings Application No. 302043651, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawings filed with the application marked “Received March 6, 2009” – (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 DOB shall review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

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 Building Code, Fire 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, March 17, 2009.

## 252-08-A

APPLICANT – Gary D. Lenhart, for The Breezy Point

# MINUTES

Cooperative, Inc., owner; Mary Claire & James Ryan, owners.

**SUBJECT** – Application October 14, 2009 – Reconstruction and enlargement of an existing single family home located within the bed of a mapped street contrary to General City Law Section 35. R4 zoning District.

**PREMISES AFFECTED** – 11 Clinton Walk, west side Clinton Walk at intersection of 12<sup>th</sup> Avenue and Beach 214<sup>th</sup> Street, Block 16350, Lot p/o 300, Borough of Queens.

**COMMUNITY BOARD #14Q**

**APPEARANCES** –

For Applicant: Gary Lenhart.

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

**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 3, 2008, acting on Department of Buildings Application No. 410161364, reads in pertinent part:

“A1- The existing building to be reconstructed and altered lies within the bed of a mapped street, contrary to General City Law, Article 3, Section 35, and

A2- The proposed upgraded private disposal system is in the bed of a mapped street contrary to General City Law, Article 3, Section 35 and Department of Buildings policy;” and

WHEREAS, a public hearing was held on this application on March 17, 2009, after due notice by publication in the *City Record*, then to closure and decision on the same date; and

WHEREAS, by letter dated October 28, 2008, the Fire Department states that it has reviewed the subject proposal and has no objections; and

WHEREAS, by letter dated October 29, 2008 the Department of Environmental Protection (DEP) states that it has reviewed the subject proposal and has no objections; and

WHEREAS, by letter dated January 22, 2009, the Department of Transportation (DOT) states that it has reviewed the subject proposal and has no objections; and

WHEREAS, DOT states that the applicant’s property is not included in the agency’s ten-year capital plan; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated October 3, 2008, acting on Department of Buildings Application No. 410161364 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 October 14, 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 DOB shall review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

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, March 17, 2009.

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**2-09-A**

**APPLICANT** – Gary D. Lenhart, for The Breezy Point Cooperative, Inc., owner; Eileen Witschger, lessee.

**SUBJECT** – Application January 5, 2009 – Proposed reconstruction and enlargement of a single family dwelling not fronting on a legally mapped street contrary to General City Law Section 36. R4 Zoning District.

**PREMISES AFFECTED** – 936 Bayside, south side Bayside east side of the mapped Beach 210<sup>th</sup> Street, Block 16350, Lot 300, Borough of Queens.

**COMMUNITY BOARD #14Q**

**APPEARANCES** –

For Applicant: Gary Lenhart.

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

**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 December 12, 2008, acting on Department of Buildings Application No. 410175705, reads in pertinent part:

“A1- The street giving access to the existing building altered is not duly placed on the map of the City of New York.

A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.

Existing dwelling altered does not have at least 8 percent of the total perimeter of the building fronting space and is contrary to Section 27-291 of the Administrative Code;” and

WHEREAS, a public hearing was held on this application on March 17, 2009, after due notice by publication in the *City Record*, then to closure and decision on this same date; and

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# MINUTES

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WHEREAS, by letter dated February 3, 2009, the Fire Department states that it has reviewed the subject proposal and has no objections; and

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

*Therefore it is Resolved* that the decision of the Queens Borough Commissioner, dated December 12, 2008, acting on Department of Buildings Application No. 410175705, is modified by the power vested in the Board by Section 36 of the General City Law, and 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 January 5, 2009" – 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 DOB shall review the proposed plans to ensure that it complies with all relevant provisions of the Zoning Resolution;

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, March 17, 2009.

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**60-08-A &  
39-09-A thru 41-09-A**

APPLICANT – Eric Palatnik, P.C., for F & Z Properties, owners.

SUBJECT – Application March 21, 2008 – Proposed construction of a four Story Community Facility located within the bed of a mapped street (102<sup>nd</sup> Street) contrary to General City Law Section 35. R6B (C1-4) zoning district. PREMISES AFFECTED – 101-20 39<sup>th</sup> Avenue (formerly 101-20, 101-22 & 101-24 103<sup>rd</sup> Street, and 101-18 39<sup>th</sup> Avenue, between 102<sup>nd</sup> and 103<sup>rd</sup> Streets, Block 1770, Lot 22, Borough of Queens.

**COMMUNITY BOARD #3Q**

APPEARANCES –

For Applicant: Eric Palatnik.

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 March 24, 2009, at 10 A.M., for decision, hearing closed.

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**292-08-A**

APPLICANT – Robert Cunningham, for Robert Cunningham, lessee.

SUBJECT – Application March 17, 2009 – An Appeal Challenging Department of Buildings interpretation that Section 23-49-(a) Special Provisions for Party or Side Lot lines Walls is not applicable to this site. R3-1 zoning district.

PREMISES AFFECTED – 123 87<sup>th</sup> Street, north side of 87<sup>th</sup> Street, 480' west from northwest corner of 87<sup>th</sup> Street and Ridge Boulevard, Block 6042, Lot 67, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

APPEARANCES –

For Applicant: Robert Cuningham and Michael Mazzella.

For Opposition: Christopher Slowik, Matthew Gershon and Walter Maffei.

For Administration: Amandus Deer, Department of Buildings.

**ACTION OF THE BOARD** – Laid over to April 29, 2009, at 10 A.M., for continued hearing.

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*Jeffrey Mulligan, Executive Director*

Adjourned: 11:30 A.M.

# MINUTES

**REGULAR MEETING  
TUESDAY AFTERNOON, MARCH 17, 2009  
1:30 P.M.**

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

**ZONING CALENDAR**

**222-08-BZ**

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for Moshe Cohn, owner.

SUBJECT – Application August 29, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary lot coverage, open space and floor area (23-141); rear yard (23-47) and exceeds the perimeter wall height (23-631) in an R3-1 zoning district.

PREMISES AFFECTED – 71 Beumont Street, for east side of Beumont Street, 200’ north of Hampton Avenue, Block 8728, Lot 77, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Adam Rothkrug.

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

**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 August 19, 2008, acting on Department of Buildings Application No. 302169258, reads in pertinent part:

“Proposed enlargement of the one family residence in an R3-1 zoning district:

1. Extends the degree of non-compliance with respect to lot coverage and is contrary to Sections 23-141 and 54-31 of the Zoning Resolution.
2. Extends the degree of non-compliance with respect to floor area ratio and open space and is contrary to Sections 23-141 and 54-31 of the Zoning Resolution.
3. Extends the degree of non-compliance with respect to rear yard and is contrary to Sections 23-47 and 54-31 of the Zoning Resolution;”  
and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage, and rear yard, contrary to ZR §§ 23-141, 23-47 and 54-31; and

WHEREAS, a public hearing was held on this application on January 13, 2009, after due notice by publication in *The City Record*, with a continued hearing on February 24, 2009, and then to decision on March 17, 2009; and

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

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

WHEREAS, members of the Manhattan Beach community provided testimony in opposition to the proposal, citing concerns about the perimeter wall height of the home as initially proposed; and

WHEREAS, the subject site is located on the east side of Beumont Street, between Shore Boulevard and Hampton Avenue; and

WHEREAS, the subject site has a total lot area of 4,000 sq. ft., and is occupied by a single-family home with a floor area of 2,186 sq. ft. (0.55 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 floor area from 2,186 sq. ft. (0.55 FAR) to 3,944 sq. ft. (0.99 FAR); the maximum floor area permitted is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement provides approximately 60 percent of open space (a minimum of 65 percent is required) and 40 percent of lot coverage (a maximum of 35 percent is permitted); and

WHEREAS, the proposed enlargement maintains the existing non-complying rear yard with a depth of 20’-2¼” (a minimum rear yard of 30’-0” is required); and

WHEREAS, the applicant initially proposed to provide a perimeter wall height of 23 feet (a maximum of 21 feet is permitted); and

WHEREAS, the Board directed the applicant to establish that the perimeter wall height of the proposed home is legal; and

WHEREAS, the applicant represented that the 23-foot perimeter wall height was permitted pursuant to ZR § 73-622 because it would not exceed the perimeter wall height of the adjacent dwelling at 75 Beumont Street; and

WHEREAS, the Board notes that the applicant has submitted no evidence to establish the compliance of the perimeter wall height of the adjacent home with the Zoning Resolution; and

WHEREAS, in response, the applicant revised its proposal to reduce the requested perimeter wall height to 21 feet; and

WHEREAS, on April 10, 2007, under BSA Cal. No. 118-06-BZ, the Board granted a similar special permit application for the premises, permitting a total floor area of 4,048 sq. ft., approximately 58 percent of open space, approximately 42 percent of lot coverage, and a rear yard with a depth of 21’-6¼”; and

# MINUTES

WHEREAS, the Board notes that the instant application, superseding BSA Cal. No. 118-06-BZ, was filed due to subsequent modifications to the plans; 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 R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage and rear yard, contrary to ZR §§ 23-141, 23-47 and 54-31; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received November 21, 2008"-(4) sheets, "February 5, 2009"-(2) sheets and "March 3, 2009"-(3) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a total floor area of 3,944 sq. ft. (0.99 FAR); an open space of approximately 60 percent; lot coverage of approximately 40 percent; and a rear yard with a minimum depth of 20'-2 1/4", as illustrated on the BSA-approved plans;

THAT DOB shall review and approve compliance with the planting requirements under ZR § 23-451;

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;

THAT substantial construction be completed in accordance with ZR § 73-70; 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, March 17, 2009.

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## 269-08-BZ

### CEQR #09-BSA-041Q

APPLICANT – MetroPCS New York, LLC, for LGA Hotel LLC, owner; MetroPCS New York, LLC, lessee.

SUBJECT – Application November 5, 2008 – Special Permit (§73-30) to allow an extension to an existing non-accessory radio tower.

PREMISES AFFECTED – 90-10 Grand Central Parkway, north side of 23<sup>rd</sup> Avenue, between 90<sup>th</sup> Street and 93<sup>rd</sup> Street, Block 1068, Lot 1, Borough of Queens.

### COMMUNITY BOARD # 3Q

APPEARANCES – None.

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

**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 Deputy Borough Commissioner, dated October 16, 2008, acting on Department of Buildings Application No. 410097247, reads in pertinent part:

“Proposed telecommunication facility exceeds 400 square feet allowed under TPPN # 5/98 and therefore will require a special permit from the Board of Standards and Appeals 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 a C2-2 (R3-2) zoning district, the proposed construction of a telecommunications facility that consists of six antennas and related equipment for public utility wireless communications, which is contrary to ZR § 22-21; and

WHEREAS a public hearing was held on this application on February 24, 2009, after due notice by publication in *The City Record*, and then to decision on March 17, 2009; and

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

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

WHEREAS, at hearing, a resident of the adjacent building testified in opposition to the application, citing concerns about the proximity of the telecommunication facility to LaGuardia airport; and

WHEREAS, a number of local residents provided testimony in opposition to this application, citing concerns about aesthetics and health risks; and

WHEREAS, the proposed telecommunications facility will be located on the roof of a six-story hotel building (Use Group 5); and

WHEREAS, the applicant states that the proposed telecommunications facility consists of: (1) six antennas pipe mounted onto the building parapet and extending to a maximum height of six feet above the parapet, for a total

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# MINUTES

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height of 76 feet; (2) two new equipment cabinets, two new battery cabinets and one new Power Protection Cabinet, to be placed on a new 10-foot by 16-foot equipment platform located on the rooftop; (3) two GPS units mounted to the parapet; and (4) accessory equipment for public utility wireless communications; and

WHEREAS, the applicant represents that the telecommunications facility is necessary to remedy a significant gap in reliable service in the vicinity of the site caused by a lack of coverage and capacity; 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 facility, 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 facility has been designed and sited to minimize adverse visual effects on the environment and adjacent residents; that the construction and operation of the facility 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 further represents that the size and profile of the facility is the minimum necessary to provide the required wireless coverage, and that the facility will not interfere with radio, television, telephone or other uses; and

WHEREAS, the applicant represents that three existing telecommunication facilities, including antennas, are already situated on the roof of the subject building; and

WHEREAS, in response to the health and safety concerns raised by the community, the applicant represents that any structure would be subject to Federal Aviation Administration (“FAA”) regulations related to the airport, and transmissions from the facility will conform to standards promulgated by the Federal Communications Commission (“FCC”) in accordance with federal law; and

WHEREAS, in addition, the Board notes that it may not consider arguments about health risks related to such installations, as such consideration is pre-empted by federal law; and

WHEREAS, based upon its review of evidence in the record, the Board finds that the proposed facility 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. 09-BSA-041Q, dated November 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 a C2-2 (R3-2) zoning district, the proposed construction of a telecommunications facility (non-accessory radio facility) 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 November 6, 2008”- (6) 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;

THAT substantial construction be completed in accordance with ZR § 73-70; 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, March 17, 2009.

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**319-08-BZ**

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for

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# MINUTES

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Lawrence and Melvin Friedland, owners; IFC Center, lessee.

**SUBJECT** – Application December 31, 2008 – Special Permit (§73-201) for an expansion of an existing motion picture theater (IFC Center). C1-5 District.

**PREMISES AFFECTED** – 323/25 and 327 6th Avenue; 14 Cornelia Street, 75’ front of 6<sup>th</sup> Avenue and 54 frontage on Cornelia Street, Block 589, Lots 19, 30, 31, Borough of Manhattan.

**COMMUNITY BOARD #2M**

**APPEARANCES** –

For Applicant: Paul Selver.

**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 December 29, 2008, acting on Department of Buildings (“DOB”) Application No. 110414999 reads, in pertinent part:

“Pursuant to Zoning Resolution Section 32-31, proposed motion picture theater with a maximum capacity of 500 persons in a C1-5/R7-2 zoning district requires a special permit from the Board of Standards and Appeals under Zoning Resolution Section 73-201;” and

WHEREAS, this is an application made pursuant to ZR §§ 73-201 and 73-03, to permit, on a site partially within a C1-5/R7-2 zoning district and partially within an R6 zoning district, the proposed 95-seat expansion of an existing motion picture theater (Use Group 8), which does not comply with ZR § 32-17; and

WHEREAS, a public hearing was held on this application on February 24, 2009 after due notice by publication in The City Record, and then to decision on March 17, 2009; and

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

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

WHEREAS, Congressman Jerrold L. Nadler, recommends approval of this application; and

WHEREAS, the subject Zoning Lot, consisting of Tax Lots 30, 31 and 19, is an irregular through-block site bounded on the east by Sixth Avenue and on the west by Cornelia Street, between West 4th Street and Bleecker Street; and

WHEREAS, the Zoning Lot has approximately 75’-2” of frontage on Sixth Avenue, and approximately 52’-8” of frontage on Cornelia Street, and a total lot area 9,146 sq. ft.; and

WHEREAS, Tax Lot 30 and Tax Lot 31 are located entirely within a C1-5/R7-2 zoning district; Tax Lot 19 is

divided by a zoning district boundary with the eastern portion lying within the C1-5/R7-2 zoning district and the western portion located within the adjacent R6 zoning district; and

WHEREAS, Tax Lot 30 and Tax Lot 31 are occupied by a three-story 385-seat motion picture theater (Use Group 8) with three separate cinemas and a total floor area of 10,140 sq. ft. (1.32 FAR); Tax Lot 19 is vacant; and

WHEREAS, the existing theater is currently operating as the “IFC Center;” and

WHEREAS, the applicant states that the existing theater operated as the “Waverly” from 1938 until approximately 2001, during which time it had 586 seats; and

WHEREAS, the applicant further states that after a renovation, the theater reopened in 2005 as the IFC Center with three theaters with a total of 385 seats and a Use Group 6 eating and drinking establishment in an adjoining building on Lot 30; and

WHEREAS, the applicant represents that the use as the site as a theater predated the adoption of the 1961 Zoning Resolution and the existing building was therefore reoccupied as a legal nonconforming theater use; and

WHEREAS, the applicant proposes to convert the area occupied by the Use Group 6 eating and drinking establishment into two additional theaters with 95 new seats, for a total of 480 seats; and

WHEREAS, in the subject C1-5 zoning district, a special permit pursuant to ZR § 73-201 is required to permit an increase in the number of seats from 385 to 480 seats and the creation of two new theaters; thus, the instant application was filed; and

WHEREAS, the grant of a special permit pursuant to ZR § 73-201 requires a finding that a proposed additional theater has a minimum of four square feet of waiting area either within an enclosed lobby or in an open area that is protected during inclement weather; and

WHEREAS, the applicant states that 380 sq. ft. of waiting area is required by the expansion of 95 seats, and that 480 sq. ft. of waiting area is proposed in the lobby area of the ground floor; and

WHEREAS, the applicant further states that there is currently no waiting area requirement for the seats in the three existing theaters because the provision of a patron waiting area based on the number of seats was not required by the Zoning Resolution in effect in 1937 when the theater was built; the seats for those theaters are therefore grandfathered by the prior Zoning Resolution; and

WHEREAS, the applicant supported this statement by providing the zoning calculations approved by DOB and the current Certificate of Occupancy; and

WHEREAS, ZR § 73-201 states that the waiting area shall not include space occupied by stairs, or located within ten feet of a refreshment stand or an entrance to a public toilet; and

WHEREAS, the plans provided by the applicant indicate that the proposed waiting area is located in an enclosed interior space that includes no space occupied by stairs or within ten feet of a refreshment stand or an entrance

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to a public toilet; and

WHEREAS, as to the general impact on the essential character of the neighborhood and nearby conforming uses, the applicant states that the Sixth Avenue location of the existing theater building is predominately developed with commercial uses; and

WHEREAS, the applicant further states that the proposed expansion will not increase the bulk or height of the existing building and that changes to the building envelope are limited to the sealing of windows in the façade where the restaurant use is being replaced by theater use; and

WHEREAS, the two proposed theaters will seat 35 and 60 patrons, respectively, the applicant represents that the expansion will result in no appreciable increase in pedestrian or vehicular traffic and further notes that before 2001, the subject building accommodated 586 theater patrons, more than would be permitted by the proposed grant; and

WHEREAS, the applicant states that the proposed theaters will be built with sound attenuation to ensure that they are compatible with adjacent residential uses; and

WHEREAS, the applicant further states that the operation of the theaters rely on staggered screening times, thereby decreasing the number of patrons waiting to purchase tickets or enter a cinema; and

WHEREAS, the Board notes that the applicant provided a current screening schedule indicating that starting times for evening performances were generally spaced at least 15 minutes apart; and

WHEREAS, the Board further notes that drawings provided by the applicant also include residual patron space at the cellar level; and

WHEREAS, at hearing, the Board asked the applicant to confirm that egress complies with all Building Code requirements; and

WHEREAS, in response, the building architect explained the egress from the theaters and represented that the proposed plans comply with all Building Code requirements; and

WHEREAS, accordingly, the Board finds that the proposed expansion 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 Board notes that the grant of the special permit will facilitate the expansion of a venue for the showing of independently-produced films, thereby enhancing the cultural life of the city on a site where such use is appropriate; and

WHEREAS, based upon the above, 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 are outweighed by the advantages to be derived by the community; and

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

WHEREAS, therefore, the Board determines that the evidence in the record supports the findings required to be

made under ZR §§ 73-201 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 each and every one of the required findings under ZR §§ 73-201 and 73-03, to permit, on a site partially within a C1-5/R7-2 zoning district and partially within an R6 zoning district, the proposed 95-seat expansion of an existing motion picture theater (Use Group 8), which does not comply with ZR § 32-17, *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application marked "Received December 31, 2008"-(2) sheets and "February 19, 2009"-(1) sheet; and *on further condition*;

THAT 480 sq. ft. of waiting area shall be provided in the lobby area of the ground floor, as shown on the BSA-approved plans;

THAT residual patron space shall be maintained at the cellar level, as shown on the BSA-approved plans;

THAT all applicable fire safety measures will be complied with;

THAT all egress shall be as approved by DOB;

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

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

THAT construction shall be completed pursuant to ZR § 73-70;

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 March 17, 2009.

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**287-06-BZ**

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

SUBJECT – Application October 27, 2006 – Variance (§ 72-21) to allow a residential/community facility building contrary to yard regulations. R5 zoning district.

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

**COMMUNITY BOARD #1Q**

APPEARANCES –

For Applicant:

**ACTION OF THE BOARD** – Laid over to April 21, 2009, at 1:30 P.M., for continued hearing.

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**203-07-BZ**

APPLICANT – Sheldon Lobel, P.C., for Gastar, Inc.,

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owner.

**SUBJECT** – Application August 17, 2007 – Variance (§72-21) to allow a new thirteen (13) story mixed-use building containing twenty (20) dwelling units, ground floor retail and third and fourth floor community facility (medical) uses; contrary to bulk and parking regulations (§35-311 & §36-21). R6/C2-2 district.

**PREMISES AFFECTED** – 137-35 Elder Avenue (a/k/a 43-49 Main Street) located at the northwest corner of Main Street and Elder Avenue, Block 5140, Lot 40, Borough of Queens.

## **COMMUNITY BOARD #7Q**

**APPEARANCES** –

For Applicant: Richard Lobel and Barbara Cohen.

**ACTION OF THE BOARD** – Laid over to April 28, 2009, at 1:30 P.M., for continued hearing.

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## **133-08-BZ**

**APPLICANT** – Sheldon Lobel, P.C., for Pilot Realty Co., owner.

**SUBJECT** – Application April 25, 2008 – Special Permit (§§73-48 & 73-49) to allow rooftop parking above the first floor of an existing one and two-story commercial building and waive limitation on number of vehicles in a group parking facility, located in an M1-1 zoning district.

**PREMISES AFFECTED** – 1601 Bronxdale Avenue, northeast side of Bronxdale Avenue between Pierce and Van Nest Avenues, Block 4042, Lot 200, Borough of Bronx.

## **COMMUNITY BOARD #11BX**

**APPEARANCES** –

For Applicant: Josh Rhinesmith.

**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 March 31, 2009, at 1:30 P.M., for decision, hearing closed.

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## **173-08-BZ**

**APPLICANT** – Rothkrug Rothkrug & Spector, LLP, for Royal One Real Estate, LLC, owner.

**SUBJECT** – Application July 1, 2008 – Variance (§ 72-21) to allow a new twelve (12) story hotel building containing ninety nine (99) hotel rooms; contrary to bulk regulations (§ 117-522). M1-5/R7-3 Special Long Island City Mixed Use District, Queens Plaza Subdistrict Area C.

**PREMISES AFFECTED** – 42-59 Crescent Street, northeast corner of the intersection of Crescent Street and 43<sup>rd</sup> Avenue, Block 430, Lots 37, 38, Borough of Queens.

## **COMMUNITY BOARD #2Q**

**APPEARANCES** –

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** – Laid over to April 21, 2009, at 1:30 P.M., for continued hearing.

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## **201-08-BZ**

**APPLICANT** – Rothkrug, Rothkrug & Spector, LLP, for For Our Children, Inc., owner.

**SUBJECT** – Application August 1, 2008 – Variance (§72-21) to allow a one story warehouse/ commercial vehicle storage building (UG 16); contrary to use regulations (§22-00). R3X district.

**PREMISES AFFECTED** – 40-38 216<sup>th</sup> Street, between 215<sup>th</sup> Place and 216<sup>th</sup> Street, 200' south of 40<sup>th</sup> Avenue, Block 6290, Lot 70, Borough of Queens.

## **COMMUNITY BOARD #11Q**

**APPEARANCES** –

For Applicant: Adam W. Rothkrug and Richard Alexander.

For Opposition: Council Member Tony Avella, Kathleen Cronin, Thomas Buscher, James R.. Grayshaw and Gerda Soria.

**ACTION OF THE BOARD** – Laid over to April 21, 2009, at 1:30 P.M., for continued hearing.

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## **216-08-BZ**

**APPLICANT** – Eric Palatnik, P.C., for Valeri Gerval, owner.

**SUBJECT** – Application August 22, 2008 – Special Permit (§73-622) In-Part Legalization for the enlargement and modification of a single family home. This application seeks to vary floor area, open space and lot coverage (§23-141) and side yard (§23-461) in an R3-1 zoning district.

**PREMISES AFFECTED** – 1624 Shore Boulevard, Shore Boulevard and Oxford Street, Block 8757, Lot 88, Borough of Brooklyn.

## **COMMUNITY BOARD #15BK**

**APPEARANCES** –

For Applicant: Eric Palatnik.

**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 April 7, 2009, at 1:30 P.M., for decision, hearing closed.

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## **228-08-BZ**

**APPLICANT** – Law Office of Fredrick A. Becker, for Sephardic Mikvah Israel by Isaac Hidary, owner.

**SUBJECT** – Application September 3, 2008 – Variance (§72-21) to permit the construction of a one-story mikvah (ritual bath). The proposal is contrary to ZR §§ 24-34 (front yards) and 24-35 (side yards). R3-2 district.

**PREMISES AFFECTED** – 2802 Avenue R, a/k/a 1801-1811 East 28<sup>th</sup> Street, southeast corner of Avenue R and East 28<sup>th</sup> Street, Block 6834, Lot 1, Borough of Brooklyn.

## **COMMUNITY BOARD #15BK**

**APPEARANCES** –

For Applicant: Lyra Altman and Rabbi Maslaton.

For Opposition: Eric Palatnik and Stuart Klein.

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**ACTION OF THE BOARD** – Laid over to April 28, 2009, at 1:30 P.M., for continued hearing.

**230-08-BZ**

APPLICANT – Law Office of Fredrick A. Becker, for A and B Bistricher, LLC, by Elsa Bistricher, owner.  
SUBJECT – Application September 5, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area and open space (§23-141); and less than minimum rear yard requirement (§23-47) in an R-2 zoning district.  
PREMISES AFFECTED – 1019 East 23<sup>rd</sup> Street, East side of 23<sup>rd</sup> Street between Avenue J and Avenue K, Block 7605, Lot 36, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Lyra J. Altman.

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 March 31, 2009, at 1:30 P.M., for decision, hearing closed.

**234-08-BZ**

APPLICANT – Eric Palatnik, P.C., for 1702 Avenue Z, Inc., owner.  
SUBJECT – Application September 9, 2008 – Special Permit (§73-36) to allow the proposed Physical Culture Establishment at the cellar and a portion of the first and second floors in a seven-story mixed-use building. The proposal is contrary to ZR §32-10. C4-2 district.  
PREMISES AFFECTED – 1702 Avenue Z, southeast of the corner formed by Avenue Z and East 17<sup>th</sup> Street, Block 7462, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to April 7, 2009, at 1:30 P.M., for continued hearing.

**265-08-BZ**

APPLICANT – Mark A. Levine for 70 Wyckoff Avenue LLC, owner.  
SUBJECT – Application October 28, 2008 – Variance pursuant to §72-21 to allow for the legalization of residential units located in a manufacturing building, contrary to §42-00; M1-1 District.  
PREMISES AFFECTED – 70 Wyckoff Avenue, South east corner of Wyckoff Avenue and Suydam Street, Block 3221, Lot 31, Borough of Brooklyn.

**COMMUNITY BOARD # 4BK**

APPEARANCES –

For Applicant: Richard Bass, Jack Freedman and Sandy

Santra.

**ACTION OF THE BOARD** – Laid over to April 21, 2009, at 1:30 P.M., for continued hearing.

**275-08-BZ**

APPLICANT – Eric Palatnik, P.C., for South Side House LLC, owner.  
SUBJECT – Application November 20, 2008 – Special Permit (§73-36) to allow a physical culture establishment on the ground floor of an existing building. The proposal is contrary to ZR §42-10. M1-2/R6 (MX8) district.  
PREMISES AFFECTED – 98 South 4<sup>th</sup> Street, south side of South 4<sup>th</sup> Street, between Bedford Avenue and Berry Street, Block 2443, Lot 13, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES –

For Applicant: Eric Palatnik and Vadim Noskov.

**ACTION OF THE BOARD** – Laid over to April 7, 2009, at 1:30 P.M., for continued hearing.

**276-08-BZ**

APPLICANT – Alfonso Duarte, for Kesey LLC, owner; Beljanski Wellness Center Inc., lessee.  
SUBJECT – Application November 12, 2008 – Special Permit (§73-36) to allow a physical culture establishment on the sixth floor in a seven-story office building. The proposal is contrary to ZR §32-10. C5-2 district.  
PREMISES AFFECTED – 150 East 55<sup>th</sup> Street, south side, 155' east of Lexington Avenue, Block 1309, Lot 7501, Borough of Manhattan.

**COMMUNITY BOARD #6M**

APPEARANCES –

For Applicant: Alfonso Duarte and Kevin McCarthy.

**ACTION OF THE BOARD** – Laid over to April 7, 2009, at 1:30 P.M., for continued hearing.

**312-08-BZ**

APPLICANT – Law Office of Fredrick A. Becker, for Leah Friedman and Michael Friedman, owners.  
SUBJECT – Application December 18, 2008 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary floor area and open space (23-141), side yard (23-461) and less than the minimum required rear yard (23-47) in an R2 zoning district.  
PREMISES AFFECTED – 1134 East 23<sup>rd</sup> Street, west side of East 23<sup>rd</sup> between Avenue K and Avenue L, Block 7622, Lot 60, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to April 21, 2009, at 1:30 P.M., for continued hearing.

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## 316-08-BZ

APPLICANT – Bryan Cave LLP/Robert S. Davis, for The Simons Foundation, Inc., owner.

SUBJECT – Application December 23, 2008 – Variance (§72-21) to permit the development of a three- and eight-story school building. The proposal is contrary to ZR Section 35-24c (minimum base height). R9A with a C1-5 district overlay.

PREMISES AFFECTED – 345-349 Second Avenue, a/k/a 247-249 East 20<sup>th</sup> Street, northwest corner of East 20<sup>th</sup> Street and Second Avenue, Block 901, Lots 26, 27 & 28, Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Robert Davis.

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 April 7, 2009, at 1:30 P.M., for decision, hearing closed.

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## 3-09-BZ

APPLICANT – Duane Morris LLP, by Jon Popin, for Lutheran Social Services of Metropolitan New York, Inc., owner.

SUBJECT – Application January 8, 2009 – Special Permit (§73-19) to allow the conversion of an existing two-story warehouse into a high school with sleeping accommodations. The proposal is contrary to the use requirements of the underlying M1-1 district.

PREMISES AFFECTED – 831 Eagle Avenue, East Avenue, Eagle 159<sup>th</sup> Street, St. Anns Avenue, East 161<sup>st</sup> Street, Block 2619, Lot 27, Borough of Bronx.

### COMMUNITY BOARD #1BX

APPEARANCES –

For Applicant: John Poppin, James Hinamen and Christine Connel.

For Opposition: Irma L. Hernandez.

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 March 31, 2009, at 1:30 P.M., for decision, hearing closed.

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*Jeff Mulligan, Executive Director*

*Adjourned: 4:00P.M.*