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# BULLETIN

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

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Volume 95, No. 47

November 24, 2010

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### DIRECTORY

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Tuesday, November 16, 2010**

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**Affecting Calendar Numbers:**

294-49-BZ	521 5 <sup>th</sup> Avenue, Manhattan
214-00-BZ	2777 Plumb 2 <sup>nd</sup> Street, Brooklyn
433-65-BZ	15 West 72 <sup>nd</sup> Street, Manhattan
315-90-BZ	82-06 Astoria Boulevard, Queens
344-03-BZ	2777 Flatbush Avenue, Brooklyn
111-10-A	211-08 Northern Boulevard, Queens
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**Affecting Calendar Numbers:**

219-09-BZ thru 223-09-BZ	802, 804, 806, 808 and 810 East 147 <sup>th</sup> Street, Bronx
117-10-BZ	1954 East 14 <sup>th</sup> Street, Brooklyn
98-08-BZ	583 Franklin Avenue, Brooklyn
24-09-BZ	78-10 164 <sup>th</sup> Street, Queens
309-09-BZ	2173 65 <sup>th</sup> Street, Brooklyn
103-10-BZ	1036 East 24 <sup>th</sup> Street, Brooklyn
104-10-BZ	5002 19 <sup>th</sup> Avenue, aka 1880-1890 50 <sup>th</sup> Street, Brooklyn
107-10-BZ	12-24 149 <sup>th</sup> Street, Queens
178-10-BZ	943 East 24 <sup>th</sup> Street, Brooklyn
179-10-BZ	249 Duffield Street, Brooklyn
182-10-BZ	1082 East 23 <sup>rd</sup> Street, Brooklyn

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# DOCKET

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New Case Filed Up to November 16, 2010

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**214-10-A**

97-45 Queens Boulevard, Bounded by Queens Boulevard, 64th Road, and 64th Avenue., Block 2091, Lot(s) 1, Borough of **Queens, Community Board: 6**. Appeal challenging the Department of Buildings determination. C4-2 district.

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**215-10-A**

29-01 216th Street, 216th Street (west), Cross Island Expressway (east), intersection of 29th Avenue and 216th Street., Block 6059, Lot(s) 1, Borough of **Queens, Community Board: 11**. An appeal challenging the issuance of permits and approvals for the expansion of a hospital that allows violations of the Zoning Resolution sections related to use , floor area and setbacks . R2A Zoning District . R2A district.

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**216-10-A**

1466 Broadway, Southeast corner of Broadway and West 42nd Street., Block 994, Lot(s) 54, Borough of **Manhattan, Community Board: 5**. C6-7 (MiD) district.

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**217-10-BZ**

4009 Bedford Avenue, Bedford Avenue between Avenue S and Avenue T., Block 7304, Lot(s) 82, Borough of **Brooklyn, Community Board: 15**. Special Permit (73-622) for the enlargement of a single family home. R3-2 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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**DECEMBER 7, 2010, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, December 7, 2010, 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**

**200-24-BZ**

APPLICANT – Stephen Ely, for Ebed Realty c/o Shelia Greco, owner.

SUBJECT – Application October 22, 2010 – Extension of Term (§11-411) for the continued operation of a UG6 bookstore and distribution center which expired on September 23, 2010. R8/C8-2 zoning district.

PREMISES AFFECTED – 3030 Jerome Avenue, 161.81' south of East 204<sup>th</sup> Street, Block 3321, Lot 25, Borough of Bronx.

**COMMUNITY BOARD #7BX**

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**230-98-BZ**

APPLICANT – Mitchell S. Ross, Esq., for JC's Auto Enterprises, Limited, owners.

SUBJECT – Application July 22, 2010 – Extension of Term of a previously granted Variance (§72-21) for an existing automotive repair shop and car sales which expired on June 22, 2010. R-5 zoning district.

PREMISES AFFECTED – 5820 Bay Parkway, northwest corner of 59<sup>th</sup> Street, Block 55508, Lot 44, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

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**299-99-BZ**

APPLICANT – Carl A. Sulfaro, Esq., for M & V, LLC, owner.

SUBJECT – Application August 4, 2010 – Extension of Term for the continued operation of a gasoline service station (*Getty*) which expired on July 25, 2010. C2-3/R6 zoning district.

PREMISES AFFECTED – 8-16 Malcom X Boulevard, northwest corner of DeKalb Avenue, Block 599, Lot 40, Borough of Brooklyn.

**COMMUNITY BOARD #3BK**

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**276-02-BZ**

APPLICANT – Eric Palatnik, P.C., for Elad Ryba, owner.

SUBJECT – Application September 13, 2010 – Extension of Time to Complete Construction and an Amendment to a previously approved Special Permit (§73-622) contrary to lot coverage and floor area (ZR §23-141) and side yard (ZR §23-461) to an existing one family dwelling. R3-1 zoning district.

PREMISES AFFECTED – 160 Norfolk Street, west side, 300' north of Oriental Boulevard and south of Shore Boulevard, Block 8756, Lot 22, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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**118-10-BZ**

APPLICANT – NYC Board of Standards and Appeals

OWNER – Arkady Nabatov

SUBJECT – Application June 28, 2010 – Dismissal for lack of Prosecution - Special Permit (§11-411) to permit the reinstatement of a previously approved application permitting the operation of an automotive service station (UG 16B), with accessory uses, located within an R4 zoning district.

PREMISES AFFECTED – 2102/24 Avenue Z aka 2609/15 East 21<sup>st</sup> Street, Block 7441, Lot 371, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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**APPEALS CALENDAR**

**136-10-A**

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative Incorporated, owner; Richard Duenia, lessee.

SUBJECT – Application August 3, 2010 – Proposed reconstruction and enlargement of an existing single family dwelling in the bed of a mapped street contrary to General City Law Section 35 and the proposed upgrade of the existing private disposal system within the bed of a private service road is contrary to Department of Buildings policy. R4 zoning district.

PREMISES AFFECTED – 26 Park End Terrace, east side of Rockaway Point, 20.21 south of mapped Bayside Drive, Block 16340, Lot 50, Borough of Queens.

**COMMUNITY BOARD #14Q**

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**153-10-A**

APPLICANT – Eric Palatnik, P.C., for 101 01 One Group LLC, owner.

SUBJECT – Application August 19, 2010 – Proposed construction of a three story, five family residential building located within the bed of a mapped street (101street) contrary to General City Law Section 35. R5 Zoning District.

PREMISES AFFECTED – 101-01 39<sup>th</sup> Avenue, between 101<sup>st</sup> Street and 102<sup>nd</sup> Street, Block 1767, Lot 59, Borough of Queens.

**COMMUNITY BOARD #3Q**

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# CALENDAR

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**DECEMBER 7, 2010, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, December 7, 2010, 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**

**130-10-BZ**

APPLICANT – Sheldon Lobel, P.C., for John Ingravallo, owner.

SUBJECT – Application July 16, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area (§23-141) and perimeter wall height (§23-631). R3X zoning district.

PREMISES AFFECTED – 1153 85<sup>th</sup> Street, north side of 85<sup>th</sup> Street, between 11<sup>th</sup> and 12<sup>th</sup> Avenue, Block 6320, Lot 56, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

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**174-10-BZ**

APPLICANT – The Briarwood Organization, LLC, for English Evangelical Church of Redeemer, owner.

SUBJECT – Application August 27, 2010 – Special Permit (§73-44) to allow for a reduction in parking for a mixed office and community facility building. R4/C2-2 zoning district.

PREMISES AFFECTED – 36-29 Bell Boulevard, between 36<sup>th</sup> Avenue and 38<sup>th</sup> Avenue, Block 6176, Lot 61 p/o 2, Borough of Queens.

**COMMUNITY BOARD #11Q**

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**181-10-BZ**

APPLICANT – Patrick W. Jones, P.C., for Metroeb Realty Corporation, owner.

SUBJECT – Application September 20, 2010 – Special Permit (§73-46) to waive parking for a proposed residential conversion of an existing building. M1-2/R6A (MX-8) zoning district.

PREMISES AFFECTED – 143/155 Roebling Street, aka 314/330 Metropolitan Avenue and 1/10 Hope Street, corner of Roebling Street, Metropolitan Avenue and Hope Street, Block 2368, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

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*Jeff Mulligan, Executive Director*

# MINUTES

## REGULAR MEETING TUESDAY MORNING, NOVEMBER 16, 2010 10:00 A.M.

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

### SPECIAL ORDER CALENDAR

#### 294-99-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, for 521 5<sup>th</sup> Avenue Partners, LLC, owner; Equinox – 43<sup>rd</sup> Street, Incorporated, lessee.

SUBJECT – Application June 1, 2010 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a Physical Culture Establishment (*Equinox*) which expired on May 9, 2010. C5-3(MID) & C5-2.5(MID) zoning district.

PREMISES AFFECTED – 521 5<sup>th</sup> Avenue, north east corner of 5<sup>th</sup> Avenue and East 43<sup>rd</sup> Street, Block 1278, Lot 1, Borough of Manhattan.

#### COMMUNITY BOARD #5M

#### APPEARANCES –

For Applicant: Harold Weinberg and Frank Sellitto.

**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 term of a previously granted special permit for a physical culture establishment (“PCE”), which expired on May 9, 2010; and

WHEREAS, a public hearing was held on this application on September 14, 2010, after due notice by publication in *The City Record*, with a continued hearing on October 19, 2010, and then to decision on November 16, 2010; and

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

WHEREAS, Community Board 5, Manhattan, states that it has no objection to this application; and

WHEREAS, the PCE is located on the northeast corner of Fifth Avenue and East 43<sup>rd</sup> Street, partially in a C5-3 zoning district in the Special Midtown District and partially in a C5-2.5 zoning district within the Special Midtown District; and

WHEREAS, the PCE occupies 1,576 sq. ft. of floor area on the first floor of a 37-story commercial building, with an additional 22,869 sq. ft. of floor space located at the cellar and sub-cellar level; and

WHEREAS, the Board has exercised jurisdiction over the

subject site since May 9, 2000 when, under the subject calendar number, the Board granted a special permit for a PCE in the subject building for a term of ten years, to expire on May 9, 2010; and

WHEREAS, the applicant now seeks to extend the term of the special permit for ten years; and

WHEREAS, at hearing, the Board raised concerns about the signage at the site, particularly regarding the flagpole and banner signage which was not shown on the previously approved plans; and

WHEREAS, in response, the applicant states that the signage at the site, including the flagpole and banner signage, was in existence at the time of the Board’s prior approval and is in compliance with C5 district signage regulations; and

WHEREAS, the Board notes that the signage at the site will be subject to Department of Buildings’ (“DOB”) approval; and

WHEREAS, based upon its review of the record, the Board finds 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 *reopens* and *amends* the resolution, as adopted on May 9, 2000, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from May 9, 2010, to expire on May 9, 2020, *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked ‘Received June 1, 2010’-(4) sheets and ‘October 22, 2010’-(1) sheet; and *on further condition*:

THAT the term of this grant shall expire on May 9, 2020;

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

THAT signage at the site shall comply with C5 district regulations;

THAT the flagpole and banner signage shall be subject to DOB review and approval;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 120334012)

Adopted by the Board of Standards and Appeals, November 16, 2010.

# MINUTES

## 214-00-BZ

APPLICANT – Harold Weinberg, for Caliv LLC, owner.  
SUBJECT – Application October 10, 2008 – Extension of Time to obtain a Certificate of Occupancy for a Special Permit (§73-242) for an eating and drinking establishment; Extension of Term; Amendment to the site plan; and Waiver of the Rules. C3 zoning district.

PREMISES AFFECTED – 2777 Plumb 2<sup>nd</sup> Street, northeast corner of Harkness Avenue, Block 8841, Lot 500, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

#### APPEARANCES –

For Applicant: Harold Weinberg and Frank Sellitto.

**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 re-opening, an extension of term of a previously granted special permit for an eating and drinking establishment (UG 6), which expired on March 26, 2010, an extension of time to obtain a certificate of occupancy, which expired on April 10, 2008, and an amendment to the previously approved plans; and

WHEREAS, a public hearing was held on this application on August 24, 2010, after due notice by publication in *The City Record*, with a continued hearing on October 26, 2010, and then to decision on November 16, 2010; and

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

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

WHEREAS, the subject site is located on the northeast corner of Plumb Second Street and Harkness Avenue, within a C3 zoning district; and

WHEREAS, the site has frontage on the Shell Bank Creek; and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 27, 1980 when, under BSA Cal. No. 1233-79-BZ, the Board granted a variance, pursuant to ZR § 72-21, to permit the construction of a two-story enlargement to an existing wholesale and retail fish-packing establishment; and

WHEREAS, on December 1, 1987, under BSA Cal. No. 233-86-BZ, the Board granted a special permit pursuant to ZR § 73-242 to permit a one-story enlargement of the existing building and for a partial conversion of that portion of the building into an eating and drinking establishment, for a term of five years; the fish-packing establishment has been maintained in the portion of the building without frontage on Shell Bank Creek and is not subject to the special permit; and

WHEREAS, the special permit was subsequently extended for a term of five years; and

WHEREAS, on March 26, 2002, under the subject calendar number, the Board permitted the re-establishment of the special permit, for a term of five years; and

WHEREAS, most recently, on July 10, 2007 the Board extended the term for an additional five years, which expires on March 26, 2012, an extension of time to obtain a certificate of occupancy, which expired on April 10, 2008, and an amendment to legalize certain modifications to the site; and

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

WHEREAS, the applicant also seeks to extend the time to obtain a certificate of occupancy; and

WHEREAS, additionally, the applicant proposes to amend the site plan to reflect a proposed one-story enlargement of the subject building, which the applicant represents will be constructed as-of-right and will operate independently from the eating and drinking establishment on the site, which is the subject of the special permit; and

WHEREAS, at hearing, the Board directed the applicant to remove a garbage truck, storage container and a trailer located on the site; and

WHEREAS, in response, the applicant submitted photographs reflecting the removal of these items from the site; and

WHEREAS, based upon the above, the Board finds the requested extension and amendment 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 March 26, 2002, and as subsequently extended and amended, so that as amended this portion of the resolution shall read: “to extend the term for a period of five years from the date of this grant, to expire on November 16, 2015; to extend the time to obtain a certificate of occupancy for a period of one year, to expire on November 16, 2011; and to amend the plans to permit the noted site modifications; *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received August 11, 2010’–(2) sheets; and *on further condition*:

THAT the term of this grant shall expire on November 16, 2015;

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

THAT a certificate of occupancy shall be obtained by November 16, 2011;

THAT DOB shall review the proposed enlargement for compliance with all relevant provisions of the Building Code and Zoning Resolution;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect and shall be listed on the certificate of occupancy;

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

# MINUTES

laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.”  
(DOB Application No. 302221619)

Adopted by the Board of Standards and Appeals,  
November 16, 2010.

## 433-65-BZ

APPLICANT – Andrea Claire/Peter Hirshman, for 15 West 72 Owner Corporation, owner; Mafair Garage Corporation, lessee.

SUBJECT – Application July 22, 2010 – Extension of Term for transient parking in a parking garage accessory to a multiple dwelling building which expired on June 22, 2010. R8B/R10A zoning district.

PREMISES AFFECTED – 15 West 72<sup>nd</sup> Street, 200’-2½ west of Central Park West 72<sup>nd</sup> Street, Block 1125, Lot 24, Borough of Manhattan.

### COMMUNITY BOARD #7M

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to January 11, 2011, at 10 A.M., for postponed hearing.

## 315-90-BZ

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

SUBJECT – Application July 30, 2010 – Extension of Term (§11-411) for the continued operation of a Gasoline Service Station (*Gulf*) with accessory convenience store which expires on March 13, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on March 13, 2003; waiver of the rules. C2-2/R4 zoning district.

PREMISES AFFECTED – 82-06 Astoria Boulevard, southeast corner of Astoria Boulevard and 82<sup>nd</sup> Street, block 1094, Lot 1, Borough of Queens.

### COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Josh Rinesmith.

**ACTION OF THE BOARD** – Laid over to December 14, 2010, at 10 A.M., for continued hearing.

## 344-03-BZ

APPLICANT – Goldman, Harris LLC, for City of New York, owner; Nick's Lobster House, lessee.

SUBJECT – Application August 11, 2010 – Extension of Term of a Special Permit (§73-242) permitting an eating and drinking establishment which expired on July 12, 2010. C3 zoning district.

PREMISES AFFECTED – 2777 Flatbush Avenue, between Flatbush and Mill Basin, Block 8591, Lot p/o 980, p/o 175, Borough of Brooklyn.

### COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Vivien Krieger.

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 December 7, 2010, at 10 A.M., for decision, hearing closed.

## APPEALS CALENDAR

### 111-10-A

APPLICANT – Victor K. Han, R.A., AIA, for Seungho Kim, owner.

SUBJECT – Application June 18, 2010 – Appeal challenging Department of Building's determination that a proposed hotel does not meet the requirements of §32-14 and is therefore not permitted. C2-2 zoning district.

PREMISES AFFECTED – 211-08 Northern Boulevard, southeast side of Northern Boulevard, southeast of 211<sup>th</sup> Street, Block 7313, Lot 5, Borough of Queens.

### COMMUNITY BOARD #11Q

APPEARANCES – None.

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

THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeals,  
November 16, 2010.

### 188-10-A

APPLICANT – Gary Lenhart, for The Breezy Point Cooperative, Inc., owner; Catherine & Kevin Kelly, lessee.

SUBJECT – Application October 5, 2010 – Proposed construction not fronting on a mapped street, contrary to General City Law Section 36 within an R4 zoning district.

PREMISES AFFECTED – 9 Olive Walk, east side of Olive Walk, 121.6’ south of West End Avenue, Block 16350, Lot p/o 400, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

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

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner dated September 30, 2010, acting on Department of Buildings Application No. 42037103, reads in pertinent part:

“A1 – The street giving access to the existing building to be altered and enlarged is not duly placed

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on the official map of the City of New York, therefore:

- A) A Certificate of Occupancy may not be issued as per Art. 3, Sect. 36 of the General City Law;
- B) The existing building to be reconstructed and enlarged does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street frontage space contrary to Section 27-291 of the Administrative Code of the City of New York;” and

A-2 The proposed upgraded private disposal system is in the bed of the service lane contrary to Department of Buildings Policy;” and

WHEREAS, a public hearing was held on this application on November 16, 2010 after due notice by publication in the *City Record*, and then to closure and decision on the same date; and

WHEREAS, by letter dated November 3, 2010, the Fire Department states that it has no objection to the subject proposal; 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 September 30, 2010, acting on Department of Buildings Application No. 42037103, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received October 6, 2010” - 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, November 16, 2010.

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## 125-10-A

APPLICANT – Simons & Wright, for Sofia Gazgalis & Spyridon Gazgalis, owner.

SUBJECT – Application July 8, 2010 – Appeal challenging the interpretation of ZR §23-22 as it applies to the required density factor for existing buildings in an R5B zoning district.

PREMISES AFFECTED – 346 Ovington Avenue, between 4<sup>th</sup> and 3<sup>rd</sup> Avenues, Block 5891, Lot 35, Borough of Brooklyn.

## COMMUNITY BOARD #10BK

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to December 14, 2010, at 10 A.M., for adjourned hearing.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

## REGULAR MEETING

**TUESDAY AFTERNOON, NOVEMBER 16, 2010**

**1:30 P.M.**

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

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## ZONING CALENDAR

### 219-09-BZ thru 223-09-BZ

APPLICANT – Gerald J. Caliendo, RA, for Daniel, Incorporated / East 147<sup>th</sup> Street LLC, owner.

SUBJECT – Application July 10, 2009 – Variance (§72-21) to allow for five, two family residential buildings, contrary to §42-00. M1-2 district.

PREMISES AFFECTED – 802, 804, 806, 808 and 810 East 147<sup>th</sup> Street, South side of East 147<sup>th</sup> Street, east of the intersection of East 147<sup>th</sup> Street and Tinton Avenue. Block 2582, Lots 10, 11, 110, 111 and 112, Borough of Bronx.

## COMMUNITY BOARD # 1BX

APPEARANCES –

For Applicant: Sandy Anagnostou.

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

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, November 16, 2010.

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## 117-10-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Rhond Mizrahi and Garv Mizrahi, owners.

SUBJECT – Application June 28, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to side yards (§23-461) and less than the required rear yard (§23-47). R5 zoning district.

PREMISES AFFECTED – 1954 East 14<sup>th</sup> Street, west side of East 14<sup>th</sup> Street, between Avenue S and Avenue T, Block 7292, Lot 28, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

### APPEARANCES –

For Applicant: Lyra J. Altman.

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

### THE VOTE TO GRANT –

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

Negative:.....0

### THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated May 28, 2010, acting on Department of Buildings Application No. 320166725, reads in pertinent part:

“The proposed enlargement of the existing one family residence in an R5 zoning district:

Creates non-compliance with respect to the rear yard by not meeting the minimum requirements of Section 23-47 of the Zoning Resolution;” and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R5 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements rear yard, contrary to ZR § 23-47; and

WHEREAS, a public hearing was held on this application on October 26, 2010 after due notice by publication in *The City Record*, and then to decision on November 16, 2010; and

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

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

WHEREAS, the subject site is located on the west side of East 14<sup>th</sup> Street, between Avenue S and Avenue T, within an R5 zoning district; 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 1,980 sq. ft. (0.50 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 1,980 sq. ft. (0.50 FAR) to 4,113 sq. ft. (1.03 FAR); the maximum permitted floor area is 5,000 sq. ft. (1.25 FAR); and

WHEREAS, the proposed enlargement will provide a

rear yard with a depth of 20’-0” (a minimum rear yard depth of 30’-0” is required); and

WHEREAS, the applicant’s initial proposal also required a side yard waiver because it provided a side yard with a minimum width of 7’-11” along the northern lot line, a side yard with a minimum width of 5’-0” along the southern lot line, and a total side yard width of only 12’-11”; pursuant to ZR § 23-461 the required total side yard width is 13’-0”; and

WHEREAS, at the Board’s direction, the applicant revised the plans to reflect a side yard with a minimum width of 5’-1” along the southern lot line and a total side yard width of 13’-0”; thereby removing the side yard objection; 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 R5 zoning district, the enlargement of a single-family home, which does not comply with the zoning requirements for rear yard, contrary to ZR § 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received October 20, 2010”-(9) sheets and “November 4, 2010”-(5) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a floor area of 4,113 sq. ft. (1.03 FAR); a front yard with a depth of 12’-6”; a side yard with a minimum width of 7’-11” along the northern lot line; a side yard with a minimum width of 5’-1” along the southern lot line; and a rear yard with a minimum depth of 20’-0”, as illustrated on the BSA-approved plans;

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

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

# MINUTES

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, November 16, 2010.

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## 98-08-BZ

APPLICANT – Gerald J. Caliendo, RA, for Property Holdings LLC/Moshik Regev, owner.

SUBJECT – Application April 18, 2008 – Variance (§72-21) to allow a four-story residential building containing four (4) dwelling units, contrary to use regulations (§42-00). M1-1 district.

PREMISES AFFECTED – 583 Franklin Avenue, 160' of the corner of Atlantic Avenue and Franklin Avenue, Block 1199, Lot 3, Borough of Brooklyn.

### COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Sandy Anagnostou.

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 December 14, 2010, at 1:30 P.M., for decision, hearing closed.

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## 24-09-BZ

APPLICANT – Sheldon Lobel, PC, for Meadows Park Rehabilitation and Health Care Center, LLC, owners.

SUBJECT – Application February 12, 2009 – Variance to allow the enlargement of a community facility (*Meadow Park Rehabilitation and Health Care Center*), contrary to floor area, lot coverage (§24-11), front yard (§24-34), height (§24-521) and rear yard (§24-382) regulations. R3-2 district.

PREMISES AFFECTED – 78-10 164<sup>th</sup> Street, Located on the western side of 164<sup>th</sup> Street between 78<sup>th</sup> Avenue and 78<sup>th</sup> Road, Block 6851, Lot 9, 11, 12, 23, 24, Borough of Queens.

### COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Jordan Most, Saul Greenberger.

For Opposition: Kenneth D. Cohen and Dewin Davis.

**ACTION OF THE BOARD** – Laid over to January 11, 2011, at 1:30 P.M., for continued hearing.

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## 309-09-BZ

APPLICANT – Harold Weinberg, P.E., for Ralph Stroffolino, owner.

SUBJECT – Application November 20, 2009 – Variance (§72-21) to allow a mixed use building, contrary to lot coverage (§23-145), side yard (§35-541) and height (§35-542) regulations. R6A/C2-3 zoning district.

PREMISES AFFECTED – 2173 65<sup>th</sup> Street, between Bay Parkway and 21<sup>st</sup> Avenue, Block 5550, Lot 40, Borough of Brooklyn.

### COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Harold Weinberg, Frank Sellitto.

For Opposition: Domenico Calcagno, Vincenza Calcagno and Angela Calcagno.

**ACTION OF THE BOARD** – Laid over to January 11, 2011, at 1:30 P.M., for continued hearing.

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## 103-10-BZ

APPLICANT – Law Office of Frederick A. Becker, for Zehava Kraitenberg and Larry Kraitenberg, owners.

SUBJECT – Application June 7, 2010 – Special Permit (§73-622) for the enlargement and in-part legalization of an existing single family home contrary to floor area, open space (§23-141), side yard requirement (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1036 East 24<sup>th</sup> Street, west side of East 24<sup>th</sup> Street, between Avenue J and Avenue K, Block 7605, Lot 60, 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 December 14, 2010, at 1:30 P.M., for decision, hearing closed.

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## 104-10-BZ

APPLICANT – Moshe M. Friedman, P.E., for Congregation Ohr Yisroel Inc., owner.

SUBJECT – Application June 8, 2010 – Variance (§72-21) to permit the extension and conversion of an existing residential building to a synagogue and rectory, contrary to lot coverage and floor area (§24-11) front yard (§24-34), side yard (§24-35) and wall height and sky exposure plane (§24-521). R5 zoning district.

PREMISES AFFECTED – 5002 19<sup>th</sup> Avenue, aka 1880-1890 50<sup>th</sup> Street, south side of 50<sup>th</sup> Street, west of 19<sup>th</sup> Avenue, Block 5461, Lot 39, Borough of Brooklyn.

### COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Moshe M. Friedman.

THE VOTE TO CLOSE HEARING –

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

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# MINUTES

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Negative:.....0

**ACTION OF THE BOARD** – Laid over to December 14, 2010, at 1:30 P.M., for decision, hearing closed.  
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## 107-10-BZ

APPLICANT – Akerman Senterfitt, for Associazione Sacchese D’America, owner.

SUBJECT – Application September 10, 2010 – Variance (§72-21) to allow for a community facility use (*Associazione Sacchese D’America*), contrary to side yard regulations (§24-35). R2 zoning district.

PREMISES AFFECTED – 12-24 149<sup>th</sup> Street, between 12<sup>th</sup> Avenue and Cross Island Parkway, Block 4466, Lot 21, Borough of Queens.

### COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Calvin Wong.

**ACTION OF THE BOARD** – Laid over to December 14, 2010, at 1:30 P.M., for continued hearing.  
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## 178-10-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Rebecca Leshkowitz and Naftuli Leshkowitz, owners.

SUBJECT – Application September 13, 2010 – Special Permit (§73-622) for the legalization and enlargement of a single family home, contrary to floor area and open space (§23-141); side yards (§23-461) and rear yard (§23-47) regulations. R2 zoning district.

PREMISES AFFECTED – 943 East 24<sup>th</sup> Street, east side of East 24<sup>th</sup> Street, between Avenue I and Avenue J, Block 7588, Lot 27, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to December 14, 2010, at 1:30 P.M., for continued hearing.  
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## 179-10-BZ

APPLICANT – Sheldon Lobel, P.C., for E & R Duffield Holding Associates, owner; Duffield Fitness Group, LLC d/b/a Planet Fitness, lessee.

SUBJECT – Application September 16, 2010 – Special Permit (§73-36) to legalize the operation of a Physical Culture Establishment (*Planet Fitness*). C6-4 zoning district.

PREMISES AFFECTED – 249 Duffield Street, east side of Duffield Street, approx. 69’ north of the corner of Duffield Street and Fulton Street, Block 146, Lot 2, Borough of Brooklyn.

### COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Elizabeth Safien.

**ACTION OF THE BOARD** – Laid over to December 14, 2010, at 1:30 P.M., for continued hearing.  
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## 182-10-BZ

APPLICANT – Law Office of Fredrick A. Becker, Miriam Kirzner and Martin Kirzner, owners.

SUBJECT – Application September 20, 2010 – Special Permit (§73-622) for the enlargement of a single family home, contrary to floor area and open space (§23-141); side yard (§23-461) and rear yard (§23-47) regulations. R2 zoning district.

PREMISES AFFECTED – 1082 East 23<sup>rd</sup> Street, west side of East 23<sup>rd</sup> Street, between Avenue J and Avenue K, Block 7604, Lot 79, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to December 14, 2010, at 1:30 P.M., for continued hearing.  
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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*