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# BULLETIN

OF THE  
NEW YORK CITY BOARD OF STANDARDS  
AND APPEALS

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Volume 96, No. 20

May 18, 2011

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## DIRECTORY

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## CONTENTS

DOCKET .....	327
<b>CALENDAR</b> of May 24, 2011	
Morning .....	328
Afternoon .....	329

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# CONTENTS

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**MINUTES of Regular Meetings,  
Tuesday, May 10, 2011**

Morning Calendar .....330

**Affecting Calendar Numbers:**

964-87-BZ	780-798 Burke Avenue, Bronx
427-05-BZ	133-47 39 <sup>th</sup> Avenue, Queens
1069-27-BZ	6702-6724 New Utrecht Avenue, Brooklyn
677-53-BZ	61-26/30 Fresh Meadow Lane, Queens
307-81-BZ	50 East 69 <sup>th</sup> Street, Manhattan
65-90-BZ	61-19 190 <sup>th</sup> Street, Queens
145-99-BZ	286 Spring Street, Manhattan
111-01-BZ	9001 Ditmas Avenue, Brooklyn
290-06-BZ	372 Lafayette Street, aka 11 Great Jones Street, Manhattan
222-10-A	97 Saint Marks Avenue, Brooklyn
137-10-A	103 Beach 217 <sup>th</sup> Street, Queens
185-10-A	115 Beach 216 <sup>th</sup> Street, Queens
200-10A, 203-10-A thru 205-10-A	1359, 1361, 1365 & 1367 Davis Road, Queens
202-10-BZY	29-11 39 <sup>th</sup> Avenue, Queens
228-10-BZY	180 Ludlow Street, Manhattan
229-10-BZY	163 Orchard Street, Manhattan

Afternoon Calendar .....338

**Affecting Calendar Numbers:**

189-09-BZ	3067 Richmond Terrace, Staten Island
190-09-A	3067 Richmond Terrace, Staten Island
304-09-BZ	75-121 Junius Street, Brooklyn
95-10-BZ	2216 Quentin Road, Brooklyn
118-10-BZ	2102/24 Avenue Z, aka 2609/15 East 21 <sup>st</sup> Street, Brooklyn
128-10-BZ	147-58 77 <sup>th</sup> Road, Queens
177-10-BZ	8 Orange Avenue, Staten Island
2-11-BZ	117 Seventh Avenue South, Manhattan
9-11-BZ	2129A-39A White Plains Road, Bronx
25-11-BZ	760 Parkside Avenue, Brooklyn

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# DOCKET

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New Case Filed Up to May 10, 2011  
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**59-11-BZ**

439 Port Richmond Avenue, Southwest corner of Port Richmond Avenue and Homestead Avenue., Block 1048, Lot(s) 9, Borough of **Staten Island, Community Board: 01**. Special Permit (§73-44) to permit the reduction in required parking for an ambulatory diagnostic facility building. C8-1 zoning district. C8-1 district.  
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**60-11-BZ**

1214 East 29th Street, West side of East 29th Street, approximately 100 ft. south of Avenue L, Block 7646, Lot(s) 52, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) for the enlargement of existing single family home, contrary to floor area and open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district. R2 district.  
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**61-11-A**

134 9th Avenue, West 18th and West 19th Street., Block 742, Lot(s) 4, Borough of **Manhattan, Community Board: 04**. Application seeking to modify Certificate of Occupancy, to permit the issuance of an order by the Fire Department to require additional fire protection for residents on upper floors of building in the form of an automatic sprinkler system. C2-5, R-8 district.  
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**62-11-A**

103 Beach 217th Street, East side of Beach 217th Street 40' south of Breezy Point Boulevard., Block 16350, Lot(s) 400, Borough of **Queens, Community Board: 14**. An appeal challenging a New York City Fire Department determination that requires a sprinkler system be provided for a building which is located on a 38' wide street per Section FC 503.8.2. R4 Zoning District . R4 district.  
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**63-11-A**

115 Beach 216th Street, East side of Beach 216th Street 280' south of Breezy Point Boulevard., Block 16350, Lot(s) 400, Borough of **Queens, Community Board: 14**. An appeal challenging a New York City Fire Department determination that requires a sprinkler system be provided for a building which is located on a 38' wide street per FC Section 503.8.2. R4 Zoning District . R4 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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**MAY 24, 2011, 10:00 A.M.**

**APPEALS CALENDAR**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, May 24, 2011, 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**

### **161-06-BZ**

APPLICANT – Eric Palatnik, P.C., for Webster Affordable Solutions, owner.

SUBJECT – Application April 25, 2011 – Extension of Time to complete construction of a previously granted Variance (§72-21) for the construction of two eight-story mixed-use residential/commercial/community facility buildings which expires on September 11, 2011. C8-2 zoning district.

PREMISES AFFECTED – 3349 Webster Avenue, Webster Avenue, south of Gun Hill Road, Block 3355, Lot 121, Borough of Bronx.

**COMMUNITY BOARD #7BX**

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### **316-06-BZ**

APPLICANT – Jesse Masyr, Esq., Watchel & Masyr, LLP, for New York Botanical Garden, owner.

SUBJECT – Application April 29, 2011 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the construction of a six story accessory garage (UG4) with 825 parking spaces on six stories, on one cellar level and the roof level which expired on April 10, 2011. R7D/C2-1 zoning district.

PREMISES AFFECTED – 2960 Webster Avenue, between Bedford Park Boulevard and Botanical Square South, Block 3274, Lot 1 & 4, Borough of Bronx.

**COMMUNITY BOARD #7BX**

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### **221-08-BZ**

APPLICANT – Sheldon Lobel, P.C., for Chris Xu, owner.

SUBJECT – Application August 28, 2008 – Variance (§72-21) to permit the development of a transient hotel, contrary to district use regulations. M2-1 zoning district.

PREMISES AFFECTED – 34-08 Collins Place, north side of Collins Place, 34<sup>th</sup> Avenue, College Point and 35<sup>th</sup> Avenue, Block 4945, Lot 34, Borough of Queens.

**COMMUNITY BOARD #7Q**

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### **44-11-A**

APPLICANT – Gary Lenhart, for The Breezy Point Cooperative, Incorporated, owner; Paul Atanasio, lessee.

SUBJECT – Application April 13, 2011 – Proposed reconstruction and enlargement of an existing single family dwelling, contrary to General City Law Section 35, Article 3. R4 Zoning District.

PREMISES AFFECTED – 74 Tioga Walk, west side of Tioga Walk 332.6' north of Breezy Point Boulevard. Block 16350, Lot p/o 400. Borough of Queens.

**COMMUNITY BOARD #14Q**

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### **45-11-A**

APPLICANT – Gary Lenhart, for The Breezy Point Cooperative, Incorporated, owner; Kathleen & Joseph Buckley, lessee.

SUBJECT – Application April 13, 2011 – Proposed reconstruction and enlargement of an existing single family home, contrary to General City Law Section 36, Article 3 and the proposed upgrade of the private disposal system located partially within the bed of the Service Road is contrary to Department of Buildings Policy. R4 Zoning district.

PREMISES AFFECTED – 29 Kildare Walk, east side of Kildare Walk 223" south of Oceanside Avenue. Block 16350, Lot p/o 400. Borough of Queens.

**COMMUNITY BOARD #14Q**

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### **46-11-A**

APPLICANT – Gary Lenhart, for The Breezy Point Cooperative, Incorporated, owner; Joanne & Louis Isidora, lessee.

SUBJECT – Application April 13, 2011 – Proposed reconstruction of an existing single family home, contrary to General City Law Section 36, Article 3 and the proposed upgrade on the existing non-complying private disposal system in the bed of the service road contrary to Department of Buildings Policy. R4 Zoning District.

PREMISES AFFECTED – 57 Bedford Avenue, east side of Bedford Avenue 174 feet north of 12th Avenue. Block 16350, Lot p/o 300. Borough of Queens.

**COMMUNITY BOARD #14Q**

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# CALENDAR

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**MAY 24, 2011, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, May 24, 2011, 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**

### **230-10-BZ**

APPLICANT – Eric Palatnik, P.C., for Leonid Fishman, owner.

SUBJECT – Application December 17, 2010 – Special Permit (§73-622) for the enlargement of a single family home contrary to open space, lot coverage and floor area §ZR 23-141(b) and perimeter wall height §23-631(b). R3-1 zoning district.

PREMISES AFFECTED – 177 Kensington Street, Oriental Boulevard and Kensington Street, Block 8754, Lot 78, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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### **23-11-BZ**

APPLICANT – Sheldon Lobel, P.C., for 484 Fulton Owner, LLC, owner; 490 Fulton Street Fitness Group, LLC, lessee.

SUBJECT – Application March 3, 2011 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*). C5-4 (DB) zoning district.

PREMISES AFFECTED – 490 Fulton Street, west side of Bond Street, between Fulton Street and Livingston Street, Block 159, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

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### **26-11-BZ**

APPLICANT – Francis R. Angelino, Esq., for West Gramercy Associates, LLC, owner; SoulCycle East 18<sup>th</sup> Street, LLC, owner.

SUBJECT – Application March 11, 2011 – Special Permit (§73-36) to legalize the operation of a physical culture establishment (*SoulCycle*). M1-5 zoning district.

PREMISES AFFECTED – 12 East 18<sup>th</sup> Street, south side of Fifth Avenue and Broadway, Block 846, Lot 67, Borough of Manhattan.

**COMMUNITY BOARD #5M**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, MAY 10, 2011  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**964-87-BZ**

APPLICANT – Sheldon Lobel, P.C., for Leemilt’s Petroleum Incorporated, owner.

SUBJECT – Application October 18, 2010 – Extension of Term for the continued operation of (UG16) Gasoline Service Station (*Getty*) which expired on February 6, 2010; Extension of Time to obtain a Certificate of Occupancy which expired on January 15, 2003; Amendment to the hours of operation and Waiver of the Rules. C1-3/R6 zoning district.

PREMISES AFFECTED – 780-798 Burke Avenue, southwest corner of Burke and Barnes Avenue, Block 4571, Lot 28, Borough of Bronx.

**COMMUNITY BOARD #12BX**

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, an extension of term for the continued operation of a gasoline service station (Use Group 16), which expired on February 6, 2010, an extension of time to obtain a certificate of occupancy, which expired on January 15, 2003, an amendment to permit a change in the hours of operation for the gasoline service station, and an amendment to legalize the use of excess spaces at the site for monthly parking; and

WHEREAS, a public hearing was held on this application on February 1, 2011 after due notice by publication in *The City Record*, with continued hearings on March 15, 2011 and April 12, 2011, and then to decision on May 10, 2011; 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 12, Bronx, recommends approval of this application; and

WHEREAS, the site is located on the southwest corner of Burke Avenue and Barnes Avenue, partially within a C1-3 (R6) zoning district and partially within an R6 zoning district;

and

WHEREAS, the Board has exercised jurisdiction over the subject site since October 22, 1957 when, under BSA Cal. No. 52-57-BZ, the Board granted a variance to permit the construction of a gasoline service station with accessory uses for a term of 15 years; and

WHEREAS, subsequently, the grant was amended and the term extended by the Board at various times, until its expiration on October 22, 1982; and

WHEREAS, on February 6, 1990, under the subject calendar number, the Board re-established the variance pursuant to ZR § 11-411 to legalize the existing gasoline service station with accessory uses and parking for more than five automobiles, for a term of ten years; and

WHEREAS, most recently, on January 15, 2002, the Board granted a ten-year extension of the term of the variance, which expired on February 6, 2010; a condition of the grant was that a new certificate of occupancy be obtained by January 15, 2003; and

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

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

WHEREAS, the applicant also seeks an amendment to change the hours of operation for the gasoline service station; and

WHEREAS, the applicant notes that the previously-approved hours of operation for the site are: Monday through Saturday, from 6:00 a.m. to 12:00 a.m.; and Sunday, from 7:00 a.m. to 7:00 p.m.; and

WHEREAS, the applicant proposes to increase the hours of operation for the gasoline sales on the site to 24 hours per day, seven days per week, and to decrease the hours of operation for the repair use on the site to Monday through Friday, from 8:00 a.m. to 6:00 p.m., Saturday, from 8:00 a.m. to 3:00 p.m., and closed on Sunday; and

WHEREAS, the applicant also requests an amendment to legalize the change in use of the rear portion of the gasoline service station (Use Group 16) to monthly parking (Use Group 8); and

WHEREAS, the applicant states that the subject gasoline service station has 20 on-site parking spaces available; 12 spaces are available behind the service station building at the rear of the site, and eight spaces are available along the site’s western lot line; and

WHEREAS, the applicant states that the operator currently uses ten spaces (the eight spaces along the west side of the site and two of the spaces at the rear of the site) for cars awaiting service, and rents the other ten spaces at the rear portion of the lot on a monthly basis; and

WHEREAS, the applicant represents that the site does not require more than ten spaces for cars awaiting service, given the number of vehicles the gasoline service station services on a typical day; and

WHEREAS, the applicant represents that the proposed change in use for the rear portion of the zoning lot will not adversely affect the surrounding community because the

# MINUTES

proposed use is similar to the parking of motor vehicles awaiting service that is currently permitted under the subject variance; and

WHEREAS, the applicant further represents that renting the ten excess spaces for monthly parking will not adversely affect the surrounding community because the spaces are rented to members of the neighborhood, they are not offered on a transient basis, and there are no signs on the site advertising the monthly parking spaces; and

WHEREAS, additionally, the applicant states that privacy slats will be installed in the site's perimeter fence and landscaping will be provided in order to screen the adjacent residential uses; and

WHEREAS, pursuant to ZR § 11-413, the Board may grant a request for a change in use from one non-conforming use to another non-conforming use which would be permitted under ZR § 52-35; and

WHEREAS, at hearing, the Board questioned whether the site was in compliance with the conditions from the previous grant; and

WHEREAS, in response, the applicant submitted a chart reflecting the site's compliance with relevant conditions from previous Board grants; and

WHEREAS, at hearing, the Board questioned whether the signage at the site was in compliance with underlying district regulations, and directed the applicant to provide lighting for the parking spaces located at the rear portion of the zoning lot; and

WHEREAS, in response, the applicant submitted photographs showing the removal of one of the hanging signs above the overhead repair bay doors and submitted revised plans reflecting that the site complies with C1 district signage regulations; and

WHEREAS, the revised plans submitted by the applicant also reflect the installation of three floodlights on the exterior of the service station building to light the rear portion of the site for the users of the monthly parking spaces; and

WHEREAS, based upon the above, the Board finds that the evidence in the record supports the findings required to be made under ZR §§ 11-411 and 11-413, and the requested extension of term, extension of time, and amendments 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 February 6, 1990, so that as amended this portion of the resolution shall read: "to extend the term for ten years from February 6, 2010, to expire on February 6, 2020; to grant an extension of time to obtain a certificate of occupancy to May 10, 2012, and to permit the noted use change and amendment to the hours of operation; *on condition* that the use and operation of the site shall substantially conform to the approved drawings, filed with this application and marked 'Received March 30, 2011- (5) sheets; and *on further condition*:

THAT the term of the grant shall expire on February 6, 2020;

THAT a maximum of ten parking spaces on the site shall be made available for rent, and such parking spaces shall be rented on a monthly basis only;

THAT the hours of operation for gasoline sales on the site shall be 24 hours per day, seven days per week, and the hours of operation for the repair use on the site shall be Monday through Friday, from 8:00 a.m. to 6:00 p.m., Saturday, from 8:00 a.m. to 3:00 p.m., and closed on Sundays;

THAT all signage shall comply with C1 zoning district sign regulations;

THAT all lighting shall be directed downward and away from adjacent residential uses;

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

THAT a certificate of occupancy shall be obtained by May 10, 2012;

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. 220077976)

Adopted by the Board of Standards and Appeals, May 10, 2011.

## 427-05-BZ

APPLICANT – Eric Palatnik, P.C., for Linwood Holdings, LLC, owner.

SUBJECT – Application February 28, 2011 – Extension of Time to complete construction for a Special Permit (§73-44) to permit a retail, community facility and office development with less than the required parking which expired on March 20, 2011. C4-2 zoning district.

PREMISES AFFECTED – 133-47 39<sup>th</sup> Avenue, between Price Street and College Point Boulevard, Block 4972, Lot 59, Borough of Queens.

## COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik.

**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 time to complete construction for a prior Board grant that permitted a decrease in required off-street accessory parking spaces for an nine-story (including penthouse) mixed-use building; and

WHEREAS, a public hearing was held on this application on April 5, 2011, after due notice by publication

# MINUTES

in *The City Record*, and then to decision on May 10, 2011; and

WHEREAS, the site is located on the north side of 39<sup>th</sup> Avenue between Prince Street and College Point Boulevard, within a C4-2 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 20, 2007 when, under the subject calendar number, the Board granted a special permit under ZR § 73-44 to permit a decrease in the required off-street accessory parking spaces for a nine-story (including penthouse) mixed-use retail/community facility/office building from 112 spaces to 76 spaces; and

WHEREAS, substantial construction was to be completed by March 20, 2011, in accordance with ZR § 73-70; and

WHEREAS, the applicant represents that construction has been delayed due to financing issues; and

WHEREAS, thus, the applicant requests an 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 *reopens* and *amends* the resolution, dated March 20, 2007, so that as amended this portion of the resolution shall read: “to grant an extension of time to complete construction for a term of four years, to expire on May 10, 2015; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT substantial construction shall be completed by May 10, 2015;

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 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. 402032885)

Adopted by the Board of Standards and Appeals May 10, 2011.

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## 1069-27-BZ

APPLICANT – Law Office of Fredrick A. Becker, for 6702 New Utrecht Avenue LLC by Frank Momando, owner.

SUBJECT – Application February 23, 2011– Extension of Term (§11-411) of for the continued operation of an automatic automobile laundry, simonizing room and offices which expired on March 6, 201; Extension of Time to obtain a Certificate of Occupancy. C1-2/R5 zoning district.

PREMISES AFFECTED – 6702-6724 New Utrecht Avenue, bounded by New Utrecht Avenue, 15<sup>th</sup> Avenue and Ovington Avenue/68<sup>th</sup> Street, Block 5565, Lot 1, Borough of Brooklyn.

## COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Lyra Altman.

**ACTION OF THE BOARD** – Laid over to June 7, 2011, at 10 A.M., for continued hearing.

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## 677-53-BZ

APPLICANT – Rothkrug Rothkrug & Spector, for James Marchetti, owner.

SUBJECT – Application April 22, 2010 – Extension of Term (§11-411) of a Variance for the operation of a UG16 Auto Body Repair Shop (*Carriage House*) with incidental painting and spraying which expired on March 24, 2007; Extension of Time to Obtain a Certificate of Occupancy which expired on January 13, 1999; Amendment (§11-412) to enlarge the building; Waiver of the Rules. R4/C2-2 zoning district.

PREMISES AFFECTED – 61-26/30 Fresh Meadow Lane, west side of Fresh Meadow Lane, 289’ northerly of the intersection with 65<sup>th</sup> Avenue, Block 6901, Lot 48, Borough of Queens.

## COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to June 14, 2011, at 10 A.M., for adjourned hearing.

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## 307-81-BZ

APPLICANT – Francis R. Angelino, Esquire, for 50 East 69th Street Corporation, owner.

SUBJECT – Application March 14, 2011 – Extension of Term of a variance (§72-21) which permitted a five-story medical office (UG 6) and owner occupied penthouse apartment (UG 2), scheduled to expire on September 15, 2011. R8B (LH-1A) zoning district.

PREMISES AFFECTED – 50 East 69<sup>th</sup> Street, South side between Madison and Park Avenues. Block 1383, Lot 40, Borough of Manhattan.

## COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Francis R. Angelino and Marcia E. Gowen.

**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 June 7, 2011, at 10 A.M., for decision, hearing closed.

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# MINUTES

## 65-90-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for Street Retail Incorporated, owner; Meadows Spa, lessee.

SUBJECT – Application March 1, 2011 – Extension of Term of a Special Permit (§73-36) for the continued operation of a Physical Culture Establishment (*Meadows Spa*) which expired on January 29, 2011; Amendment to relocate establishment from first floor to the cellar. C4-1/PC zoning district.

PREMISES AFFECTED – 61-19 190<sup>th</sup> Street, Northeast corner formed by the intersection of 190<sup>th</sup> Street and 64<sup>th</sup> Avenue. Block 7117, Lot 4, Borough of Queens.

### COMMUNITY BOARD #8Q

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 June 7, 2011, at 10 A.M., for decision, hearing closed.

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## 145-99-BZ

APPLICANT – Bryan Cave LLP/Frank E. Chaney, Esq., for Hudson Spring Partners, LLP, owners.

SUBJECT – Application March 24, 2011 – Application to request a re-hearing, pursuant to Board Rules Section 1-10(e), of a variance application for residential conversion of a six-story commercial building, previously denied on March 14, 2000. M1-6 zoning district.

PREMISES AFFECTED – 286 Spring Street, southeast corner of Spring Street and Hudson Street, Block 579, Lot 5, Borough of Manhattan.

### COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Frank Chaney.

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 May 24, 2011, at 10 A.M., for decision, hearing closed.

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## 111-01-BZ

APPLICANT – Eric Palatnik, P.C. for Barge Realty, Incorporated, owner; Wendy's International, lessee.

SUBJECT – Application February 23, 2011 – Extension of term of a previously granted Special Permit (§73-243) for an accessory drive-thru facility at an eating and drinking establishment (*Wendy's*) which expired February 1, 2011; Amendment for minor modification to previous conditions on the site. C1-2 (R5) zoning district.

PREMISES AFFECTED – 9001 Ditmas Avenue, Corner of Ditmas Avenue and Remsen Avenue. Block 8108, Lot 6.

Borough of Brooklyn.

### COMMUNITY BOARD #17BK

APPEARANCES –

For Applicant: Eric Palatnik and Ike Natabago.

**ACTION OF THE BOARD** – Laid over to June 14, 2011, at 10 A.M., for continued hearing.

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## 290-06-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for Rusabo 368 LLC, owner; Great Jones Lafayette LLC, lessee.

SUBJECT – Application April 20, 2011 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the construction of a six-story, eight-unit residential building with ground floor retail which expired on April 17, 2011. M1-5B zoning district.

PREMISES AFFECTED – 372 Lafayette Street aka 11 Great Jones Street, block bounded by Lafayette, Great Jones and Bond Streets and Shinbone Alley, Block 530, Lot 13, Borough of Manhattan.

### COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Jim Power.

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 May 24, 2011, at 10 A.M., for decision, hearing closed.

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## APPEALS CALENDAR

### 222-10-A

APPLICANT – Laleh Hawa, for Yaelle Yoran – Wastin, owner.

SUBJECT – Application December 6, 2010 – Appeal challenging the Department of Buildings' revocation of a permit for a parking space and curb cut. R6B zoning district

PREMISES AFFECTED – 97 Saint Marks Avenue, 392' west of Saint Marks Avenue and Carlton Avenue, Block 1143, Lot 80, Borough of Brooklyn.

### COMMUNITY BOARD #8BK

APPEARANCES – None.

**ACTION OF THE BOARD** – Appeal Denied.

THE VOTE TO GRANT –

Affirmative: .....0

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

THE RESOLUTION –

WHEREAS, this appeal comes before the Board in response to a determination, dated November 8, 2010, signed by the First Deputy Commissioner and the Assistant Commissioner to Technical Affairs and Code Development

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# MINUTES

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with respect to DOB Application No. 310214292 (the “Final Determination”); and

WHEREAS, the Final Determination states, in pertinent part:

The request to uphold the approval of one off street parking space as part of an alteration type 1 application is hereby denied

The Alt-1 application refers to an enlargement and the conversion of a portion of the building into a garage. The application was filed 10-16-2008, approved on 1-6-2009 and first permitted 2-26-2009.

This building and its sidewalk are located in a historic district designated on 6-23-2009.

However, the permit for the curb cut (application number 320055765) was issued by the Department on 9-21-2009, which is after the date of landmark designation, on 6-23-2009. Such permit was issued in error by the Department because of the lack of Landmarks Commission approval, as required by AC 25-321, and was therefore revoked on 11-6-2009.

The alteration type 1 application proposes a garage, but as a result of the revocation of the curb cut permit, there cannot be vehicular access to such garage. Therefore the alteration type 1 must be amended to remove the garage.

Further, on 4/14/10, the provision of ZR 25-633, which prior to that date permitted the subject building to be provided with a curb cut, was replaced with ZR 25-631(e)(4), which in this R6B district prohibits any curb cut on this zoning lot. Therefore, regardless of the above stated issues relating to the curb cut permit and Landmarks approvals, pursuant to ZR 11-31(c)(3) and ZR 11-332, a curb cut at the subject premises is prohibited. Project failed to vest as “other construction” per ZR 11-31(c)(3); and

WHEREAS, subsequently, on April 4, 2011, DOB issued a letter stating it revoked the permit associated with the enlargement of the home and conversion of the basement to a garage (the “Garage Permit”); and

WHEREAS, the letter states that the permit associated with Application No. 310214292 (the Garage Permit) is revoked and all work must be stopped at the site; and

WHEREAS, throughout the hearing process at the Board, the Appellant cited to other DOB actions and communications and sought to enter the following into the appeal: (1) the November 6, 2009 curb cut permit (the “Curb Cut Permit”) revocation, (2) the November 11, 2010 denial of a request to rescind the September 24, 2009 letter of intent to revoke the Garage Permit, and (3) the order to stop work contained in the September 24, 2009 letter of intent to revoke the Garage Permit; and

WHEREAS, DOB asserted that the September 24, 2009 letter of intent to revoke the Garage Permit was superseded by a new letter of intent to revoke the Garage Permit dated March 14, 2011, with the exception that the stop work order remained in effect; thus, the question of whether DOB properly denied the request to rescind the September 24, 2009 letter is no longer relevant; and

WHEREAS, DOB also states that the November 11, 2010 decision to deny a request to rescind a letter of intent to revoke a permit is not a final determination; and

WHEREAS, DOB also states that the September 24, 2009 letter and the March 14, 2011 letter, which superseded it, were rendered moot by the April 4, 2011 revocation of the permit; and

WHEREAS, the Board has determined that the Appellant’s initial concerns: the revocation of the Curb Cut Permit and the stop work order associated with the Garage Permit are addressed through the November 8, 2010 Final Determination and, ultimately, the April 4, 2011 revocation of the Garage Permit and accepts both as final determinations from DOB appropriately before the Board within the context of the subject appeal; and

WHEREAS, accordingly, the matters that are before the Board within the appeal are (1) whether DOB appropriately revoked the Curb Cut Permit and (2) whether DOB appropriately revoked the Garage Permit; and

WHEREAS, the Board notes that the Appellant filed a companion common law vested rights application under BSA Cal. No. 225-10-A, which the Appellant has not pursued; and

WHEREAS, a public hearing was held on this appeal on March 15, 2011, after due notice by publication in *The City Record*, with a continued hearing on April 12, 2011, and then to decision on May 10, 2011; 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, City Council Member Letitia James and City Council Member Brad Lander provided written testimony in opposition to the appeal; and

WHEREAS, the Landmarks Preservation Commission provided written testimony in opposition to the appeal; and

WHEREAS, the Historic Districts Council, the Prospect Heights Neighborhood Development Council, the Prospect Place of Brooklyn Block Association, the Prospect Heights Action Commission, and individual community members provided written and oral testimony in opposition to the appeal and

WHEREAS, DOB and the Appellant have been represented by counsel throughout this appeal; and

WHEREAS, the site is located on the west side of Saint Marks Avenue, 392 feet west of Carlton Avenue within an R6B zoning district within the Prospect Heights Historic District; and

WHEREAS, the site is occupied by a four-story attached townhouse, built to both side lot lines; and

WHEREAS, the Appellant’s proposal reflects the enlargement of the home at the rear, the conversion of a portion of the basement into a garage, and a curb cut and car ramp at the front of the home; and

WHEREAS, the two permits at issue are an Alteration Type 1 permit (the Garage Permit) for the construction and conversion of the home and an Alteration Type 3 permit (the Curb Cut Permit) for the installation of the curb cut; and  
Procedural History

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# MINUTES

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WHEREAS, on October 17, 2008, the Appellant obtained a Pre-Consideration from DOB, which states that a curb cut would be permitted at the site, pursuant to ZR § 25-633 because the proposal does not reflect a residential development (which, at that time, was understood to mean a new building); and

WHEREAS, on February 26, 2009, DOB issued the Garage Permit to allow *inter alia* for the enlargement and conversion of a portion of the home to a garage; and

WHEREAS, on June 23, 2009, the Landmarks Preservation Commission (LPC) designated the site to be within the Prospect Heights Historic District under LPC jurisdiction; and

WHEREAS, on September 21, 2009, DOB issued the Curb Cut Permit; and

WHEREAS, on September 24, 2009, DOB issued an Intent to Revoke (the Garage Permit) Letter and a Stop Work Order with a Notice of Objections; the notice of objections which formed the basis for the letter stated that the permit was issued without LPC approval after landmark designation; and

WHEREAS, on September 29, 2009, DOB issued an Intent to Revoke (the Curb Cut Permit) Letter and a Stop Work Order with a Notice of Objections; the objections which formed the basis for the letter include: (1) approval from LPC is required for the curb cut prior to DOB approval (citing to DOB memos and procedure notices), (2) submit the mark-up plan that accompanied the reconsideration of October 17, 2008 to view the parking arrangements, since the PW-1 and the drawings are showing one parking space, and (3) per ZR § 25-621(a)(3) – access to such parking space located only within a building shall be provided only through the side lot ribbon or through the rear yard and that the curb cut location should be amended accordingly; and

WHEREAS, on November 6, 2009, DOB revoked the Curb Cut Permit and issued a stop work order on the site; and

WHEREAS, on April 14, 2010, the City amended ZR § 25-633 (Prohibition of curb cuts in certain districts) which restricts curb cuts and replaced it with ZR § 25-631(e)(4) (Location and width of curb cuts in certain districts) states that a curb cut is not permitted on a site with a building streetwall of less than 40 feet; and

WHEREAS, on November 8, 2010, DOB issued the Final Determination; and

WHEREAS, on March 14, 2011, DOB issued a new letter of intent to revoke (the Garage Permit) with a Notice of Objections which states that pursuant to ZR § 25-621(a)(3)1 (Location of parking spaces in certain districts) access to accessory off-street parking space in the garage is not demonstrated due to lack of a lawful curb cut permit; and

WHEREAS, on April 4, 2011, DOB issued a letter of revocation, which revoked the Garage Permit; and

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1 DOB notes that ZR § 25-621(a)(3) (Location of parking spaces in certain districts), effective April 30, 2008, was in effect on September 25, 2009 at the time the Garage Permit was issued. The section was amended and the parking restriction was recodified elsewhere in the ZR on February 2, 2011, but only the cited pre-amendment text is relevant.

## Relevant Statutory Provisions

AC § 25-305(b)(1) Landmarks Preservation and Historic Districts - Regulation of construction, reconstruction, alterations and demolition

Except in the case of any improvement mentioned in subdivision a of section 25-318 of this chapter and except in the case of a city-aided project, no application shall be approved and no permit or amended permit for the construction, reconstruction, alteration or demolition of any improvement located or to be located on a landmark site or in an historic district or containing an interior landmark shall be issued by the department of buildings . . . until the commission shall have issued either a certificate of no effect on protected architectural features, a certificate of appropriateness or a notice to proceed pursuant to the provisions of this chapter as an authorization for such work.

\* \* \*

ZR § 25-621(a)(3) Location of parking spaces in certain districts

R4B R5B R6B R7B R8B

In the districts indicated, *accessory* off-street parking spaces shall be located only within a *building*, or in any open area on the *zoning lot* which is not between the *street line* and the *street wall* of the *building* or its prolongation. Access to such parking spaces shall be provided only through the *side lot ribbon* or through the *rear yard*; and

## The Appellant's Position

WHEREAS, the Appellant asserts that the Curb Cut Permit and the Garage Permit were improperly revoked because LPC approval is not required for the Curb Cut Permit and the proposal associated with the Garage Permit complies with all relevant ZR provisions; and

WHEREAS, the Appellant asserts that DOB improperly revoked the Curb Cut Permit on November 6, 2009 for lack of authorization by LPC in accordance with AC § 25-305(b)(1) because the Curb Cut Permit is ancillary to the Garage Permit, which was issued on February 26, 2009, prior to the LPC designation; and

WHEREAS, the Appellant asserts that the Curb Cut Permit is not subject to LPC approval since it is necessary in order to provide access to the proposed garage and thus was necessarily contemplated at the time of the Garage Permit's issuance; and

WHEREAS, the Appellant asserts that the date of the issuance of the Garage Permit, prior to LPC designation, is controlling and the date of the Curb Cut Permit's issuance is irrelevant; and

WHEREAS, the Appellant asserts that DOB and DOT permits needed to be secured for the curb cut were only needed to be able to complete the construction pursuant to the permit that was already secured (the Garage Permit); and

WHEREAS, the Appellant asserts that DOB and DOT issued the Curb Cut Permit in September 2009 with knowledge of the LPC designation; and

WHEREAS, the Appellant asserts that DOB cannot

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# MINUTES

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revoke the Garage Permit which was subject to DOB review and issued prior to the LPC designation on the basis that the Curb Cut Permit was not obtained prior to LPC designation; and

WHEREAS, additionally, the Appellant asserts that the Curb Cut Permit is lawful because it does not contravene ZR § 25-633 (Prohibition of curb cuts in certain districts); and

WHEREAS, as to the Garage Permit, the Appellant asserts that neither ZR § 25-631(e)(4) (Location and width of curb cuts in certain districts) (adopted April 14, 2010) nor the prior relevant section: ZR § 25-633 (Prohibition of curb cuts in certain districts) applies to the proposal since, it argues, both of those sections apply only to new construction and not to alterations, pursuant to the general purpose clause of ZR § 25-01; and

WHEREAS, the Appellant also asserts that the general purpose clause of ZR § 25-01 has not been modified and concludes that because the general purpose clause states that the parking regulations “are adopted in order to provide needed space off the streets for parking in connection with new residences,” none of the Article 2 Chapter 5 provisions of the ZR in effect at the time of the permit’s issuance or as amended apply to the subject proposal to alter an existing home; and

WHEREAS, in the alternate, the Appellant asserts that since DOB states that non-compliance with ZR § 25-633 is not the basis for the revocation of the Curb Cut Permit, that there is a concession that the Appellant is not subject to ZR § 25-633 (or ZR § 25-631(e)(4), as amended); and

WHEREAS, the Appellant also cites to an October 17, 2008 Reconsideration from DOB which accepts that the curb cut complies with ZR § 25-633 because the proposal does not reflect a *residential development*, as defined at that time; the application of the curb cut restriction has since been redefined; and

## The Department of Buildings’ Position

WHEREAS, as to the LPC approval, DOB asserts that AC § 25-305(b)(1) states that DOB shall not approve an application or issue a permit in a historic district until LPC issues an authorization of such work; and

WHEREAS, DOB states that LPC approval is required prior to the issuance of any permit after the June 23, 2009 historic designation of the area surrounding the site and that since the Curb Cut Permit was issued on September 21, 2009, its issuance was erroneous and DOB properly revoked it on November 6, 2009; and

WHEREAS, DOB asserts that the Appellant fails to cite any authority in AC § 25-321 or elsewhere that provides that an approval and permit are exempt from LPC review if the work is deemed to be ancillary to a permit issued prior to the historic designation; and

WHEREAS, DOB asserts that AC § 25-321 states that Chapter 3 of Title 25 is inapplicable to the construction, reconstruction, alteration or demolition of any improvement in a historic district where the permit for the performance of such work was issued by DOB prior to the effective date of the historic district designation; and

WHEREAS, DOB states that it could not approve or issue a permit in connection with the application for the Curb

Cut Permit without LPC authorization, regardless of whether the Garage Permit was issued prior to the historic designation; and

WHEREAS, DOB states that it agrees with the Appellant that the Garage Permit was issued prior to the historic designation and that it does not need to be authorized by LPC, but that the lawfulness of the Garage Permit became defective when the Curb Cut Permit was revoked; and

WHEREAS, DOB asserts that the notice of objections attached to the September 29, 2009 letter of intent to revoke the Curb Cut Permit did not cite ZR § 25-633 as the basis for revocation; and

WHEREAS, as to the Garage Permit, DOB cites to ZR § 25-621(a)(3), which states that access to all accessory off-street parking spaces on zoning lots with residential buildings located in the R6B zoning district where no more than two accessory parking spaces are required shall be provided through the side lot ribbon or through the rear yard; and

WHEREAS, DOB asserts that in order to establish compliance with this provision, the Appellant must demonstrate access to off-street parking spaces over a side lot ribbon or rear yard from the street by means of a lawful curb cut; and

WHEREAS, DOB concludes that in the absence of a lawful curb cut permit, ZR § 25-621(a)(3) is not satisfied and it was proper for DOB to state in the CCD1 denial “as a result of the revocation of the curb cut permit, there cannot be vehicular access to the garage . . . [t]herefore, the [Garage Permit] must be amended to remove the garage”; and

WHEREAS, DOB notes that the intent to revoke must remain pending for the statutory period of 15 days, pursuant to AC § 28-105.10.1 to allow the owner an opportunity to demonstrate that the permit should not be revoked; and

WHEREAS, DOB asserts that there was not a final determination regarding the order to stop work since the owner did not request rescission of the order to stop work in the CCD1 request nor did the DOB’s CCD1 denial make a reference to the order to stop work; and

WHEREAS, further, DOB states that even if the Board were to consider the order to stop work under the Garage Permit an appealable final determination, DOB states that the order was properly issued pursuant to AC § 28-207.2 to prevent work in violation of laws enforced by DOB; and

WHEREAS, additionally, DOB states that no certificate of occupancy can be issued for the garage use without lawful vehicular access to the garage from the street; and

WHEREAS, DOB states that when a certificate of occupancy cannot be issued in connection with a permit and revocation of the permit is pending, it is prudent to prevent the commencement of work to avoid the creation of an unlawful condition or irreparable harm; and

## Conclusion

WHEREAS, as to the question of whether DOB appropriately revoked the Curb Cut Permit in the absence of LPC approval, the Board determines that DOB was correct; and

WHEREAS, the Board finds that the language of AC § 25-305(b)(1), which states that LPC approval is required for a

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# MINUTES

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proposal on a site within LPC jurisdiction prior to DOB's issuance of a permit, is clear and unambiguous; and

WHEREAS, the Board notes that the AC does not identify a distinction between primary and ancillary permits and does not provide a provision that states that if two permits are associated and one is issued prior to LPC designation, then the second one is also deemed to be issued prior to LPC designation, by association; and

WHEREAS, as to the revocation of the Garage Permit, the Board disagrees with the Appellant's assertion that ZR § 25-01 (Accessory Off-Street Parking and Loading Regulations: General Purposes) only applies to new residences; and

WHEREAS, specifically, the Board notes that, the General Purpose clause states that the provisions were adopted not just "to provide needed space off the streets for parking in connection with new residences" (as the Appellant notes) but also "to reduce traffic congestion resulting from the use of streets as places for storage of automobiles, to protect the residential character of neighborhoods, to provide a higher standard of residential development with the City, and thus to promote and protect public health, safety and general welfare;" and

WHEREAS, the Board acknowledges that the ZR has been amended since the issuance of the Garage Permit and the term "residential development," as found in the earlier version of the provisions, has been determined to mean new construction, however, the Board finds that the General Purpose clause at ZR § 25-01 is (and was) quite broad, and, as noted, includes a list of goals for the parking regulations that do not limit it to new construction under any interpretation; and

WHEREAS, the Board recognizes that individual provisions, including ZR § 25-633, have been clarified since the time of the issuance of the Garage Permit to reflect distinctions between new construction and alterations, but that the relevant language of ZR § 25-01 was not also changed; and

WHEREAS, the Board notes that the interpretation and the application of ZR § 25-633 (as adopted August 12, 2004) and as amended at ZR § 25-631(e)(4) (as adopted April 14, 2010) is not the subject of this appeal because DOB states that ZR § 25-621(a)(3), which was in effect at the time of the issuance of the Garage Permit, is the basis for its revocation of the Garage Permit; and

WHEREAS, the Board has determined that DOB's revocation of the Garage Permit was proper once it determined that it would be impossible for the proposed plans to comply with ZR § 25-621(a)(3)'s requirement for access to the proposed parking space within the garage and the Appellant failed to provide revised plans reflecting complying conditions; and

WHEREAS, the Board agrees with DOB that it should not be required to keep a permit active when there is an impossibility that the proposed plans will lead to the issuance of a CO and the property owner rejects DOB's request that the plans be modified to reflect a condition that is compliant with zoning; and

WHEREAS, the Board does not agree with the Appellant's statement that DOB concedes that the site is not subject to ZR § 25-631(e)(4); the Board finds that DOB states

that ZR § 25-633 was not the basis for its revocation of the Curb Cut Permit, but DOB does identify non-compliance with ZR § 25-631(e)(4) and a failure to vest under the prior ZR § 25-633 in the Final Determination; and

WHEREAS, based on the above, the Board disagrees with the Appellant's assertion that the Curb Cut Permit should be reinstated because it complies with AC § 25-305(b)(1) and that the Garage Permit complies with all relevant ZR provisions, including ZR § 25-621(a)(3); and

WHEREAS, accordingly, the Board finds that DOB appropriately revoked the Curb Cut Permit and the Garage Permit; and

*Therefore it is Resolved* that the instant appeal, seeking a reversal of Final Determinations, dated November 8, 2010 and April 4, 2011, determining that *inter alia* LPC approval must be obtained prior to the issuance of the Curb Cut Permit and that the Garage Permit does not comply with zoning, is hereby denied.

Adopted by the Board of Standards and Appeals, May 10, 2011.

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## 137-10-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative Incorporated, owner; Richard & Jane O'Brien, lessees.

SUBJECT – Application August 3, 2010 – Reconstruction and enlargement of an existing single-family home not fronting on a mapped street, contrary to General City Law Section 36. R4 zoning district.

PREMISES AFFECTED – 103 Beach 217<sup>th</sup> Street, 40' south of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Joseph A. Sherry.

**ACTION OF THE BOARD** – Laid over to June 21, 2011, at 10 A.M., for adjourned hearing.

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## 185-10-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative Incorporated, owner; Raymond & Regina Walsh, lessees.

SUBJECT – Application September 24, 2010 – Proposed construction not fronting on a mapped street, contrary to General City Law Section 36 within an R4 zoning district.

PREMISES AFFECTED – 115 Beach 216<sup>th</sup> Street, east side Beach 216<sup>th</sup> south of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Joseph A. Sherry.

**ACTION OF THE BOARD** – Laid over to June 21, 2011, at 10 A.M., for adjourned hearing.

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# MINUTES

## 200-10-A, 203-10-A thru 205-10-A

APPLICANT – Sheldon Lobel, P.C., for Williams Davies, LLC, owner.

SUBJECT – Application October 29, 2010 – Appeal seeking a common law vested right to continue construction commenced under the prior R5 zoning district. R4-1 zoning district

PREMISES AFFECTED – 1359, 1361, 1365 & 1367 Davies Road, southeast corner of Davies Road and Caffrey Avenue, Block 15622, Lots 15, 14, 13, 12, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Josh Rinesmith.

**ACTION OF THE BOARD** – Laid over to June 7, 2011, at 10 A.M., for adjourned hearing.

## 202-10-BZY

APPLICANT – Law Offices of Marvin B. Mitzner, for Long Island City Partners, LLC, owner.

SUBJECT – Application October 29, 2010 – Extension of time (§11-332) to complete construction of a minor development commenced under the prior M1-3D zoning district. M1-2/R5D zoning district.

PREMISES AFFECTED – 29-11 39<sup>th</sup> Avenue, north side of 39<sup>th</sup> Avenue between 29<sup>th</sup> and 30<sup>th</sup> Street, Block 384, Lots 31 and 32, Borough of Queens.

### COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Ian Rasmussen.

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 June 7, 2011, at 10 A.M., for decision, hearing closed.

## 228-10-BZY

APPLICANT – Akerman Senterfitt, for 180 Lidlow Development, LLC, owner.

SUBJECT – Application December 15, 2010 – Extension of time (§11-332) to complete construction under the prior C6-1 zoning district regulations. C4-4A zoning district.

PREMISES AFFECTED – 180 Ludlow Street, east side of Ludlow Street, 125' south of Houston Street, Block 412, Lots 48-50, Borough of Manhattan.

### COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Calvin Wong.

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 May 24, 2011, at 10 A.M., for decision, hearing closed.

## 229-10-BZY

APPLICANT – Akerman Senterfitt, for 163 Orchard Street, LLC, owner.

SUBJECT – Application December 17, 2010 – Extension of time (§11-332) to complete construction of a minor development commenced under the prior C6-1 zoning district. C4-4A zoning district.

PREMISES AFFECTED – 163 Orchard Street, Orchard and Houston Streets, between Sytanton and Rivington Street, Block 416, Lot 58, Borough of Manhattan.

### COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Calvin Wong.

For Opposition: Aaron Sosrick.

**ACTION OF THE BOARD** – Laid over to June 21, 2011, at 10 A.M., for adjourned hearing.

*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

## REGULAR MEETING TUESDAY AFTERNOON, MAY 10, 2011 1:30 P.M.

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

## ZONING CALENDAR

### 189-09-BZ

#### CEQR #09-BSA-118R

APPLICANT – Eric Palatnik, P.C., for Mohamed Adam, owner; Noor Al-Islam Society, lessee.

SUBJECT – Application June 10, 2009 – Variance (§72-21) and waiver to the General City Law Section 35 to permit the legalization of an existing mosque and Sunday school (*Nor Al-Islam Society*), contrary to use and maximum floor area ratio (§§42-00 and 43-12) and construction with the bed of a mapped street. M3-1 zoning district.

PREMISES AFFECTED – 3067 Richmond Terrace, north side of Richmond Terrace, west of Harbor Road, Block 1208, Lot 5, Borough of Staten Island.

### COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

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

THE VOTE TO GRANT –

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

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# MINUTES

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Commissioner Montanez .....5  
Negative:.....0

## THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated March 31, 2011, acting on Department of Buildings Application No. 510035301 reads, in pertinent part:

“Existing conforming building use is not permitted to change to a non-conforming building use since it will create new non-conformance with respect to the building use. ZR 42-00, 41-13, 11-112;” and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21 to permit, on a site within an M3-1 zoning district, the legalization and enlargement of a four-story and basement mosque (Use Group 4), contrary to ZR §§ 42-00, 41-13 and 11-112; and

WHEREAS, a companion application to permit the legalization of the subject building in the bed of a mapped street pursuant to Section 35 of the General City Law, filed under BSA Cal. No. 190-09-A, was heard concurrently and decided on the same date; and

WHEREAS, a public hearing was held on this application on May 11, 2010, after due notice by publication in *The City Record*, with continued hearings on July 13, 2010, August 24, 2010, December 7, 2010, February 15, 2001, and April 5, 2011 and then to decision on May 10, 2011; and

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

WHEREAS, Community Board 1, Staten Island, recommends approval of this application; and

WHEREAS, this application is being brought on behalf of the Noor Al-Islam Society, a non-profit religious entity (the “Mosque”); and

WHEREAS, the subject site is located on the north side of Richmond Terrace, west of Harbor Road, within an M3-1 zoning district; and

WHEREAS, the site has approximately 116 feet of frontage on Richmond Terrace, a depth ranging between 75 feet and 80 feet, and a lot area of 12,555 sq. ft.; and

WHEREAS, the Board notes that the Department of Buildings (“DOB”) originally issued an additional objection for non-compliance with the floor area ratio (“FAR”) under ZR § 43-12, and raised concerns regarding the validity of the subject zoning lot, which had a lot area of 9,197sq. ft. at the time the application was initially filed; and

WHEREAS, in response, the applicant submitted a subdivision plan approved on January 28, 2011, which reflects that Lot 5 was increased in size from its previous lot area of 9,197 sq. ft. to the current lot area of 12,555 sq. ft. by incorporating a portion of adjacent Lot 20 into the subject zoning lot; as a result of the addition of approximately 3,358 sq. ft. of lot area to the site, the FAR of the subject building is now in compliance with the underlying zoning regulations; and

WHEREAS, accordingly, DOB amended its objection sheet by removing the objection related to FAR non-compliance under ZR § 43-12; and

WHEREAS, the subject site is currently occupied by a four-story and basement mosque with a floor area of 23,616.5 sq. ft., which the applicant proposes to legalize; and

WHEREAS, the applicant also proposes to enlarge the rear of the building by approximately 322 sq. ft., to accommodate a new vestibule, elevator, machine room and loading platform; and

WHEREAS, the proposed building provides for a four-story and basement mosque with the following parameters: a floor area of 23,938.6 sq. ft. (1.91 FAR); a total height of 56’-6”; a side yard with a width of 17’-10” along the western lot line; a side yard with a width of 13’-7” along the eastern lot line; a rear yard with a depth of 34’-4”; and seven on-site parking spaces; and

WHEREAS, the applicant submitted an easement executed between the Mosque and the owner of adjacent Lot 20, which reflects that the Mosque also has permission to use the 43 parking spaces located on Lot 20; and

WHEREAS, the applicant states that the subject building was formerly used as an administrative building serving the surrounding ship building complex, but that the Mosque has occupied the site for approximately ten years; and

WHEREAS, the proposal provides for the following uses: (1) a kitchen, open area and storage room in the basement; (2) a women’s prayer area and accessory study on the first floor; (3) a men’s prayer area on the second floor; (4) eight classrooms on the third floor; and (5) four classrooms and two accessory dwelling units on the fourth floor for the Mosque’s imam and caretaker; and

WHEREAS, community facility use is not permitted in the subject M3-1 zoning district, thus a use variance is required; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Mosque which necessitate the requested variance: (1) to be located in close proximity to the Mosque’s congregants; (2) to accommodate its growing congregation; and (3) to provide adequate space for classrooms; and

WHEREAS, the applicant represents that it is necessary to locate the Mosque at this site because the subject building is located in the center of the Muslim community on Staten Island, and because the subject building is large enough to accommodate the programmatic needs of the Mosque without having to undergo extensive renovations; and

WHEREAS, the applicant submitted a member list as evidence that the Mosque’s congregants live close to the subject site; and

WHEREAS, the applicant represents that the size of the building is also necessary to provide prayer areas large enough to accommodate the 400-500 worshippers who attend prayers on Fridays; and

WHEREAS, the applicant further represents that, in addition to Friday prayer service, the Mosque requires sufficient classroom space to accommodate the approximately 200 students that attend Sunday religious and cultural services, as well as Tuesday and Thursday Quran readings for approximately 15 students; and

WHEREAS, the Board acknowledges that the Mosque,

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# MINUTES

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as a religious institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Westchester Reform Temple v. Brown, 22 NY2d 488 (1968), a religious institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the Mosque create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant need not address ZR § 72-21(b) since the Mosque is a not-for-profit organization and the proposed development will be in furtherance of its not-for-profit mission; and

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

WHEREAS, the applicant states that the surrounding area is characterized by a mix of commercial, residential, and community facility uses; and

WHEREAS, the applicant notes that although the subject site is located within an M3-1 zoning district, residential use is permitted directly across the street from the site along Richmond Terrace; and

WHEREAS, the applicant submitted a 400-ft. radius diagram reflecting that, while the site is surrounded by a commercial ship building complex on the north side of Richmond Terrace, directly across Richmond Terrace to the south are two churches, as well as a number of residential buildings; and

WHEREAS, the applicant represents that the existence of the nearby churches, located at 3036 and 3058 Richmond Terrace, respectively, demonstrates that the use of the subject building as a mosque fits within the character of the surrounding community; and

WHEREAS, the applicant notes that the Mosque has operated at the site for approximately ten years; and

WHEREAS, as to the traffic impact of the Mosque, the applicant states that many congregants arrive to the Mosque on foot, and therefore legalization of the Mosque will not have a significant impact on traffic; and

WHEREAS, the applicant represents that, because many congregants walk to the Mosque, the seven on-site parking spaces, in addition to the 43 parking spaces on adjacent Lot 20 which are available for use by the Mosque, are sufficient to accommodate the parking needs of the Mosque; and

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

and

WHEREAS, the applicant states that the hardship was not self-created but is the result of the site's unique physical conditions; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds the requested waivers to be the minimum necessary to afford the Mosque the relief needed both to meet its programmatic needs and to construct a building that is compatible with the character of the neighborhood; and

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

WHEREAS, the project is classified as a Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement ("EAS") 09BSA118R, dated May 3, 2011; and

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

WHEREAS, the New York City Department of Environmental Protection's (DEP) Bureau of Environmental Planning and Analysis reviewed the project for potential hazardous materials impacts; and

WHEREAS, DEP reviewed the August 2010 Phase II Investigation Report and requested that a Construction Health and Safety Plan (CHASP) be submitted to DEP for review and approval upon completion of the proposed project; and

WHEREAS, DEP reviewed and accepted the January 2011 CHASP; and

WHEREAS, DEP requested that a Remedial Closure Report be submitted to DEP for review and approval upon completion of the proposed project; and

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an M3-1 zoning

# MINUTES

district, the legalization and enlargement of a four-story and basement mosque, which is contrary to ZR §§ 42-00, 41-13 and 11-112, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 22, 2011" – (13) sheets; and *on further condition*:

THAT the building parameters shall be: a floor area of 23,938.6 sq. ft. (1.91 FAR); a total height of 56'-6"; a side yard with a width of 17'-10" along the western lot line; a side yard with a width of 13'-7" along the eastern lot line; a rear yard with a depth of 34'-4"; and seven on-site parking spaces, as indicated on the BSA-approved plans;

THAT any change in control or ownership of the building shall require the prior approval of the Board;

THAT the use shall be limited to a house of worship (Use Group 4);

THAT no commercial catering shall take place onsite;

THAT prior to the issuance of any building permit that would result in grading, excavation, foundation, alteration, building or other permit respecting the subject site which permits soil disturbance for the proposed project, the applicant or successor shall obtain from DEP a Notice to Proceed;

THAT prior to the issuance by DOB of a temporary or permanent Certificate of Occupancy, the applicant or successor shall obtain from DEP a Notice of Satisfaction;

THAT substantial construction be completed in accordance with ZR § 72-21;

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

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

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

Adopted by the Board of Standards and Appeals, May 10, 2011.

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## 190-09-A

APPLICANT – Eric Palatnik, P.C., for Mohamed Adam, owner; Noor Al-Islam Society, lessee.

SUBJECT – Application June 10, 2009 – Variance (§72-21) and waiver to the General City Law Section 35 to permit the legalization of an existing mosque and Sunday school (*Nor Al-Islam Society*), contrary to use and maximum floor area ratio (§§42-00 and 43-12) and construction with the bed of a mapped street. M3-1 zoning district.

PREMISES AFFECTED – 3067 Richmond Terrace, north side of Richmond Terrace west of Harbor Road, Block 1208, Lot 5, Borough of Staten Island.

## COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

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

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated March 31, 2011, acting on Department of Buildings Application No. 510035301, reads in pertinent part:

"About more than 90% of the building footprint lies within the bed of a mapped street. Alteration to the building is made to change entire building use and bulk, to establish new use is contrary to BC 26-225 and GCL 35, not acceptable;" and

WHEREAS, this is an application for the legalization of an existing four-story and basement building constructed partially within the bed of a mapped street, contrary to General City Law § 35; and

WHEREAS, a companion application for a variance to permit the legalization and enlargement of the subject building, which is occupied by a mosque, filed under BSA Cal. No. 189-09-A, was heard concurrently and decided on the same date; and

WHEREAS, a public hearing was held on this application on May 11, 2010, after due notice by publication in *The City Record*, with continued hearings on July 13, 2010, August 24, 2010, December 7, 2010, February 15, 2001, and April 5, 2011 and then to decision on May 10, 2011; and

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

WHEREAS, Community Board 1, Staten Island, recommends approval of this application; and

WHEREAS, by letter dated February 25, 2010, the Fire Department states that it has reviewed the subject proposal and has no objections; and

WHEREAS, by letter dated July 7, 2009, the Department of Environmental Protection ("DEP") states that there is an existing 24-inch diameter interceptor sewer, an existing 5'-7" by 3'-0" and 4'-3½" by 4'-1" diameter combined sewer and an existing 20-inch diameter city water main in Richmond Terrace between Mersereau Avenue and Lockman Avenue, and that the latest drainage plan, No. PRD-1C, sheet 3 of 4, calls for a future 11'-6" by 5'-0" diameter storm sewer and a 15-inch diameter sanitary sewer in Richmond Terrace between Mersereau Avenue and Lockman Avenue; and

WHEREAS, DEP requested that the applicant submit a survey/plan showing the following: (1) the total width of the mapped street, Richmond Terrace and the width of the widening (both sides) between Mersereau Avenue and Lockman Avenue; (2) the distances between the lot line and the existing 24-inch diameter interceptor, 5'-7" by 3'-0" and 4'-3½" by 4'-1" combined sewer and the existing 20-inch diameter city water main; and (3) the site plan with dimensions

# MINUTES

and lot numbers as per the latest tax map and submit a tentative lot sheet, if applicable; and

WHEREAS, in response, the applicant submitted a revised site plan to DEP which shows 100 feet of total width of Richmond Terrace and 50 feet of the widening portion of the street, with the remaining 50 feet of the street available for the installation, maintenance and/or reconstruction of the existing 24-inch interceptor sewer, 5'-7" by 3'0" and 4'-3½" by 4'-1" combined sewer, and the 20-inch diameter City water main and for the future 11'-6" by 5'-0" storm sewer, the ten-inch diameter and the 15-inch diameter sanitary sewers in Richmond Terrace between Andros Avenue and Lockman Avenue; and

WHEREAS, by letter dated September 9, 2010, DEP states that it has reviewed the revised site plan and has no objections; and

WHEREAS, by letter dated September 21, 2010, 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 Capital Improvement Program; 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 Staten Island Borough Commissioner, dated March 31, 2011, acting on Department of Buildings Application No. 510035301 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 any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 22, 2011" – (13) 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 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, May 10, 2011.

## 304-09-BZ

APPLICANT – Stuart A. Klein, Esq. for Junius-Glenmore Development, LLC, owner; Women in Need, Inc., lessee.  
SUBJECT – Application November 4, 2009 – Variance (§72-21) to allow the erection of a ten-story, mixed-use community facility (*Women In Need*) and commercial

building, contrary to floor area (§42-00, 43-12 and 43-122), height and sky exposure plane (§43-43), and parking (§44-21). M1-4 zoning district.

PREMISES AFFECTED – 75-121 Junius Street, Junius Street, bounded by Glenmore Avenue and Liberty Avenue, Block 3696, Lot 1, 10, Borough of Brooklyn.

## COMMUNITY BOARD #16BK

APPEARANCES –

For Applicant: Jay Goldstein.

**ACTION OF THE BOARD** – Laid over to June 7, 2011, at 1:30 P.M., for deferred decision.

## 95-10-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Raymond Kohanbash, owner.

SUBJECT – Application May 27, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area, open space and lot coverage (§23-141); side yard (§23-461 and less than the required rear yard (§23-47). R3-2 zoning district.

PREMISES AFFECTED – 2216 Quentin Road, south side of Quentin Road between East 22<sup>nd</sup> Street and East 23<sup>rd</sup> Street, Block 6805, Lot 6, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to June 7, 2011, at 1:30 P.M., for adjourned hearing.

## 118-10-BZ

APPLICANT – Eric Palatnik, P.C., for Arkady Nabatov, owner.

SUBJECT – Application June 28, 2010 – Reinstatement (§11-411 & §11-413) of an approval permitting the operation of an automotive service station (UG 16B), with accessory uses, which expired on December 9, 2003; amendment to legalize a change in use from automotive service station to automotive repair, auto sales and hand car washing. 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

APPEARANCES –

For Applicant: Eric Palatnik and Serge Mozer.

For Opposition: Katherine D'Ambrosi.

**ACTION OF THE BOARD** – Laid over to June 7, 2011, at 1:30 P.M., for continued hearing.

## 128-10-BZ

APPLICANT – Eric Palatnik, P.C., for Merhay Yagaduyev, owner; Jewish Center of Kew Gardens Hill Inc., lessee.

SUBJECT – Application July 13, 2010 – Variance (§72-21) to permit proposed synagogue, religious school and Rabbi's residence (*Jewish Center of Kew Gardens*) contrary to floor area and lot coverage (§24-11), height, setback and sky

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# MINUTES

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exposure plane (§24-521), front yard (§24-34), side yards (§24-35), side setback (§24-551), and minimum distance between windows (§24-672 and §23-863). R4 zoning district.

PREMISES AFFECTED – 147-58 77<sup>th</sup> Road, 150<sup>th</sup> Street and 77<sup>th</sup> Road, Block 6688, Lot 31, Borough of Queens.

**COMMUNITY BOARD #8Q**

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to June 14, 2011, at 1:30 P.M., for adjourned continued.

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**177-10-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, LLC, for Cee Jay Real Estate Development, owner.

SUBJECT – Application September 9, 2010 – Variance (§72-21) for the construction of a detached three-story single family home, contrary to open space (§23-141); front yard (§23-45) and side yard (§23-461). R3A zoning district.

PREMISES AFFECTED – 8 Orange Avenue, south west corner of Decker Avenue and Orange Avenue, Block 1061, Lot 1, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES –

For Applicant: Todd Dale.

For Opposition: Jeannine Borkowski, John Donnaruma and Elaine Walters.

**ACTION OF THE BOARD** – Laid over to June 7, 2011, at 1:30 P.M., for continued hearing.

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**2-11-BZ**

APPLICANT – Cozen O’Connor, for 117 Seventh Avenue South Property Company, LP, owner.

SUBJECT – Application January 4, 2011 – Variance (§72-21) to allow for a residential and community facility enlargement to an existing commercial building, contrary to setback (§33-432) and open space regulations (§23-14). C4-5 zoning district.

PREMISES AFFECTED – 117 Seventh Avenue South, southeast corner of Seventh Avenue South and West 10<sup>th</sup> Street, Block 610, Lot 16, Borough of Manhattan.

**COMMUNITY BOARD #2M**

APPEARANCES –

For Applicant: Paul J. Proulx, Jack Freeman, Howard Hornstein.

**ACTION OF THE BOARD** – Laid over to July 12, 2011, at 1:30 P.M., for continued hearing.

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**9-11-BZ**

APPLICANT – Sheldon Lobel, P.C., for Riverdale Equities, LTD, owner; White Plains Road Fitness Group, LLC, lessee.

SUBJECT – Application January 31, 2011 – Special Permit (§73-36) to permit the operation of the proposed physical culture establishment (*Planet Fitness*). C4-4 zoning district.

PREMISES AFFECTED – 2129A-39A White Plains Road, a/k/a 2129-39 White Plains Road, a/k/a 626-636 Lydig Avenue, southeast corner of the intersection of White Plains Road and Lydig Avenue, Block 4286, Lot 35, Borough of Bronx.

**COMMUNITY BOARD #11BX**

APPEARANCES –

For Applicant: Josh Rinesmith and Marilyn Sopher.

For Opposition: Bronx Community Board 11, Joe Bobace, Edith Blitzer and Elaine Feder.

**ACTION OF THE BOARD** – Laid over to May 24, 2011, at 1:30 P.M., for continued hearing.

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**25-11-BZ**

APPLICANT – Sheldon Lobel, P.C., for Health Science Center at Brooklyn Foundation, Incorporated, owner; Downstate Technology Center, Incorporated, lessee.

SUBJECT – Application March 9, 2011 – Variance (§72-21) to permit the enlargement of an existing medical research facility (*Downstate Advanced Biotechnology Incubator*), contrary to floor area (§43-10), height and setback (§43-20), required parking (§43-21), parking space dimensions (§44-42) and off street loading bay (§44-52) regulations. M1-1 zoning district.

PREMISES AFFECTED – 760 Parkside Avenue, South side of Parkside Avenue, mid-block between New York Avenue and Nostrand Avenue. Block 4828, Lot 22, Borough of Brooklyn.

**COMMUNITY BOARD #9BK**

APPEARANCES –

For Applicant: Richard Lobel and Dr. Eva Cramer.

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 June 14, 2011, at 1:30 P.M., for decision, hearing closed.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*