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# BULLETIN

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

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November 10, 2011

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### DIRECTORY

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224-66-BZ	325-335 East 49 <sup>th</sup> Street, aka 328-334 East 50 <sup>th</sup> Street, Manhattan
172-96-BZ	597/599 Marcy Avenue, Brooklyn
269-98-BZ	70 East 184 <sup>th</sup> Street, Bronx
13-09-BZ	5611 21 <sup>st</sup> Street, Brooklyn
281-39-BZ	1605 Lexington Avenue, Manhattan
502-60-BZ	4452 Broadway, Manhattan
88-81-BZ	3309 Richmond Avenue, Staten Island
250-00-BZ	521-541 & 553-563 LaGuardia Place, Manhattan
187-08-BZ	1247 38 <sup>th</sup> Street, Brooklyn
112-10-BZ	915 Dean Street, Brooklyn
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**Affecting Calendar Numbers:**

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17-11-BZ	2255 East 2 <sup>nd</sup> Street, Brooklyn
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21-11-BZ	1810 Voorhies Avenue, Brooklyn
67-11-BZ	1430 East 29 <sup>th</sup> Street, Brooklyn
73-11-BZ	70 Tennyson Drive, Staten Island
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115-11-BZ	1110 East 22 <sup>nd</sup> Street, Brooklyn

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**Affecting Calendar Numbers:**

191-03-A	87-48 215 <sup>th</sup> Place, Queens
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# DOCKET

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New Case Filed Up to November 1, 2011  
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**168-11-BZ**

2085 Ocean Parkway, L-shaped lot on the corner of Ocean Parkway and Avenue U., Block 7109, Lot(s) 50 (tentative), Borough of **Brooklyn, Community Board: 15**. This application is filed pursuant to Section 72-21 of the Zoning Resolution, as amended, to request a variance of floor area, open space ratio, lot coverage, side yards, rear yard, height, setback, planting, landscaping and parking regulations in order to permit the construction of a Use Group 4A house of worship. R5,R6A(OP) district.  
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**169-11-BZ**

2257 East 14th Street, between Avenue V and Gravesend Neck Road., Block 7375, Lot(s) 48, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to permit the enlargement of an existing single family home contrary to floor area, lot coverage and open space (23-141(b)); side yards (23-461(a)) and less than the required rear yard (23-47). R-4 zoning district. R4 district.  
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**170-11-A**

318 Lafayette Street, northwest corner of Houston and Lafayette Streets., Block 522, Lot(s) 24, Borough of **Manhattan, Community Board: 2**. Appellant seeks confirmation that its rights vested on February 27, 2001 and its permit did not "lapse". M1-5B district.  
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**171-11-A**

318 Lafayette Street, north west corner of Houston and Lafayette Streets., Block 522, Lot(s) 24, Borough of **Manhattan, Community Board: 2**. Appellant seeks confirmation that its rights vested on February 27, 2001 and its permit did not "lapse". M1-5B 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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**NOVEMBER 22, 2011, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, November 22, 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**

**332-98-BZ**

APPLICANT – Sheldon Lobel, P.C., for Workmen’s Circle MultiCare Center, owner.

SUBJECT – Application September 20, 2011 – Amendment to a previously granted Variance (§72-21) for an increase of 1,825 square feet enlargement to an existing nursing home (*Workmen's Circle MultiCare Center "WCMC"*). R-5 zoning district.

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

**COMMUNITY BOARD #12BX**

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**290-03-BZ**

APPLICANT – Patrick W. Jones, P.C., for Joseph Rosenblatt, owner; Graceful Services, Inc., lessee.

SUBJECT – Application September 15, 2011 – Extension of Term for a previously granted Special Permit (§73-36) for the continued operation of a Physical Culture Establishment (*Graceful Services*) which expired on September 26, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on April 20, 2005; Waiver of the Rules. C2-8 (TA) zoning district.

PREMISES AFFECTED – 1097 Second Avenue, west side of Second Avenue, 40’ south of East 58<sup>th</sup> Street, Block 1331, Lot 126, Borough of Manhattan.

**COMMUNITY BOARD #6M**

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**40-05-BZ**

APPLICANT – Patrick W. Jones, P.C., for 2<sup>nd</sup> Avenue, Property LLC, owner; Graceful Services, Inc., lessees.

SUBJECT – Application September 15, 2011 – Extension of Term for a previously granted Special Permit (§73-36) for the continued operation of a Physical Culture Establishment (*Graceful Services*) which expired on September 26, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on April 20, 2005; an Amendment to legalize an increase of 285 square feet of floor area on the second floor to be used in conjunction with the existing PCE; Waiver of the Rules. C2-8 (TA) zoning district.

PREMISES AFFECTED – 1095 Second Avenue, west side of Second Avenue 60.5’ south of East 58<sup>th</sup> Street, Block 1331, Lot 25, Borough of Manhattan.

**COMMUNITY BOARD #6M**

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**170-08-BZ**

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Cornell University, owner.

SUBJECT – Application September 28, 2011 – Amendment to previous Board approval.

PREMISES AFFECTED – 411-431 East 69<sup>th</sup> Street, midblock bounded by East 69<sup>th</sup> and 70<sup>th</sup> Streets, York and First Avenues, Block 1464, Lot 8, 14, 15, 16 p/21, Borough of Manhattan.

**COMMUNITY BOARD #8M**

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**APPEALS CALENDAR**

**61-11-A**

APPLICANT – Fire Department of New York, for Mark Scharfman, owner; Multiple Dwelling, lessee.

SUBJECT – Application May 6, 2011 – 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.

PREMISES AFFECTED – 134 9<sup>th</sup> Avenue, West 18<sup>th</sup> and West 19<sup>th</sup> Street, Block 742, Lot 4, Borough of Manhattan.

**COMMUNITY BOARD #4M**

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**NOVEMBER 22, 2011, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, November 22, 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**

**92-11-BZ**

APPLICANT – Sheldon Lobel, P.C., for Eugene and Margaret Loevinger, owners.

SUBJECT – Application June 24, 2011– Special Permit (§73-622) for the enlargement of an existing single-family home contrary to floor area and open space (§23-141(a)); side yard (§23-461) and less than the required rear yard (§23-47). R-2 zoning district.

PREMISES AFFECTED – 1349 East 26<sup>th</sup> Street, east side of East 26<sup>th</sup> Street, 390’ south of Avenue M, block 7662, Lot 28, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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# CALENDAR

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## **134-11-BZ**

APPLICANT – Eric Palatnik, P.C., for 335 Madison Avenue LLC, owner, Madison Spa Castle, Inc., lessee.

SUBJECT – Application September 7, 2011 – Special Permit (ZR §73-36) to allow the operation of a physical culture establishment (Spa Castle). C5-3 zoning district.

PREMISES AFFECTED – 335 Madison Avenue, corner of Madison Avenue and East 43rd Street. Block 1278, Lot 20, Borough of Manhattan.

**COMMUNITY BOARD #5M**

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## **137-11-BZ**

APPLICANT – Slater & Beckerman, LLP, for 455 Carroll Street LLC, owner.

SUBJECT – Application September 7, 2011 – Variance (§72-21) to allow for the conversion of the second floor and second floor mezzanine of the building from manufacturing and commercial uses to residential use, contrary to ZR §42-10. M1-2 zoning district.

PREMISES AFFECTED – 455 Carroll Street, mid-block on the north side of Carroll Street between Nevins Street and Third Avenue, Block 447, Lot 47, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

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## **152-11-BZ**

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for 240 East 38<sup>th</sup> Street Condominium on behalf of New York University, owner.

SUBJECT – Application September 19, 2011 – Variance (§72-21) to allow certain modifications to the existing plazas and arcades associated with the use of existing building for NYU Langone Medical Center, contrary to ZR §37-625. C1-9 zoning district.

PREMISES AFFECTED – 240 East 38<sup>th</sup> Street, East 37<sup>th</sup> Street, Second Avenue, East 38<sup>th</sup> Street and Tunnel Exit Street, Block 918, Lot 1001-1026, Borough of Manhattan.

**COMMUNITY BOARD #6M**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, NOVEMBER 1, 2011  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**502-60-BZ**

APPLICANT – Patrick O' Connell P.E. for Raymond Edwards, owner; Angel R. Hernandez, lessee.

SUBJECT – Application February 23, 2011 – Extension of Term (§11-411) of a variance permitting the use of a parking lot (UG 8) for parking and storage of more than five (5) motor vehicles which expired on January 20, 2011. C2-4/R7-2 zoning district.

PREMISES AFFECTED – 4452 Broadway, Broadway & Fairview Avenue. Block 2170, Lot 62 & 400. Borough of Manhattan.

**COMMUNITY BOARD #12M**

APPEARANCES – None.

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

**THE VOTE TO WITHDRAW** –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, November 1, 2011.

**672-65-BZ**

APPLICANT – Joseph Pell Lombardi, for Earth Pledge Fund, owner.

SUBJECT – Application July 20, 2011 – Extension of Term for the continued use of UG6 offices on three floors of a five-story residential building which expired on November 13, 2004; Waiver of the Rules. R8B zoning district.

PREMISES AFFECTED – 122 East 38<sup>th</sup> Street, south side of East 38<sup>th</sup> Street, 139'5" west of the corner, Block 893, Lot 78, Borough of Manhattan.

**COMMUNITY BOARD #6M**

APPEARANCES –

For Applicant: Joseph Pell Lombardi.

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

**THE VOTE TO GRANT** –

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

Negative:.....0

**THE RESOLUTION** –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension

of the term of a previously granted variance permitting a change in use of the first three stories of a five-story building from residential to office use; and

WHEREAS, a public hearing was held on this application on September 27, 2011, after due notice by publication in *The City Record*, and then to decision on November 1, 2011; and

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

WHEREAS, Community Board 6, Manhattan, states that it has no objection to this application; and

WHEREAS, the site is located on the south side of East 38<sup>th</sup> Street, between Lexington Avenue and Park Avenue, within an R8B zoning district; and

WHEREAS, the subject site is occupied by a five-story building with office use on the first three floors and residential use above; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 22, 1966 when, under the subject calendar number, the Board granted a variance to permit the conversion of an existing five-story building from one-family dwelling and offices to offices throughout, for a term of five years; and

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

WHEREAS, on September 16, 1986, the Board granted a ten-year extension of the term and an amendment to revert to residential use on the fourth and fifth floors of the building; and

WHEREAS, most recently, on November 21, 1995, the Board extended the term of the variance for an additional ten years, to expire on November 13, 2004; and

WHEREAS, the applicant now seeks to extend the term of the variance for an additional ten years; 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 *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, as adopted on March 22, 1966, so that as amended this portion of the resolution shall read: "to extend the term for a period of ten years from the date of this grant, to expire on November 1, 2021; *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; and *on further condition*:

THAT the term of this grant shall expire on November 1, 2021;

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

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plan(s)/configuration(s) not related to the relief granted.”  
(DOB Application No. 100948245)

Adopted by the Board of Standards and Appeals,  
November 1, 2011.

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## 224-66-BZ

APPLICANT – Peter Hirshman, for Building Management Co., Inc., owner; Champion Parkind Corp., lessee.

SUBJECT – Application July 8, 2011 – Extension of Term for the continued use of transient parking in a multiple dwelling building which expired on June 14, 2011. R8B zoning district.

PREMISES AFFECTED – 325-335 East 49<sup>th</sup> Street, aka 328-334 East 50<sup>th</sup> Street, northside of East 49<sup>th</sup> Street, 262.33’ west of First Avenue, Block 1342, Lot 12, Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Peter Hirshman.

**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 for a previously granted variance for a transient parking garage, which expired on June 14, 2011; and

WHEREAS, a public hearing was held on this application on September 27, 2011, after due notice by publication in *The City Record*, and then to decision on November 1, 2011; and

WHEREAS, Community Board 6, Manhattan, recommends approval of this application; and

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

WHEREAS, the subject premises is an irregularly shaped through lot with 80.6 feet of frontage on East 50<sup>th</sup> Street and 118.4 feet of frontage on East 49<sup>th</sup> Street, within an R8B zoning district; and

WHEREAS, the site is occupied by a 12-story (including penthouse) mixed-use community facility/residential building; and

WHEREAS, the cellar is occupied by a 51-space accessory garage; and

WHEREAS, on June 14, 1966, under the subject calendar number, the Board granted a variance pursuant to Section 60(3) of the Multiple Dwelling Law (“MDL”) to permit a maximum of 25 surplus parking spaces to be used for transient parking, for a term of 15 years; and

WHEREAS, subsequently, the grant was amended and the term extended at various times; and

WHEREAS, most recently, on July 11, 2006, the Board

granted an extension of term, which expired on June 14, 2011; and

WHEREAS, the applicant now requests an additional extension of the term; and

WHEREAS, the applicant submitted a photograph of the sign posted onsite, which states building residents’ right to recapture the surplus parking spaces; and

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

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution having been adopted on June 14, 1966, so that, as amended, this portion of the resolution shall read: “to permit the extension of the term of the grant for an additional ten years from June 14, 2011, to expire on June 14, 2021; *on condition* that all work shall substantially conform to drawings filed with this application and marked ‘Received July 8, 2011’–(1) sheet and ‘September 12, 2011’–(1) sheet; and *on further condition*:

THAT this term shall expire on June 14, 2021;

THAT all residential leases shall indicate that the spaces devoted to transient parking can be recaptured by residential tenants on 30 days notice to the owner;

THAT a sign providing the same information about tenant recapture rights be located in a conspicuous place within the garage, permanently affixed to the wall;

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

THAT the layout of the parking lot shall be as approved by the Department of Buildings;

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

THAT the 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.”  
(NB 266/1961)

Adopted by the Board of Standards and Appeals,  
November 1, 2011.

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## 172-96-BZ

APPLICANT – Law Office of Mitchell Ross, for Don Mitchell, owner; D/B/A Mitchell Iron Works, lessee.

SUBJECT – Application June 29, 2011 – Extension of Time to obtain a Certificate of Occupancy for an existing (UG 16) welding shop which expired on May 17, 2010; Waiver of the Rules. C1-3/R6 zoning district.

PREMISES AFFECTED – 597/599 Marcy Avenue, southeast corner of March and Vernon Avenue, Block 1759, Lot 7, Borough of Brooklyn.

### COMMUNITY BOARD #3BK

APPEARANCES – None.

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

# MINUTES

## THE VOTE TO GRANT –

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

## THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time to obtain a certificate of occupancy for a welding shop (Use Group 16A), which expired on May 17, 2010; and

WHEREAS, a public hearing was held on this application on July 19, 2011, after due notice by publication in *The City Record*, with continued hearings on July 25, 2011 and August 16, 2011, and then to decision on November 1, 2011; and

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

WHEREAS, the subject site is located on the southeast corner of the intersection of Marcy Avenue and Vernon Avenue, within a C1-3 (R6) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 11, 1999 when, under the subject calendar number, the Board permitted the legalization of the rear portion of the site for use as a welding shop for the fabrication and assembly of decorative window and door gates, including drilling, bolting, cutting, bending, and spot welding of iron bars and plates, to expire on May 11, 2009; and

WHEREAS, most recently, on November 17, 2009, the Board granted an extension of the term for an additional ten years; a condition of the grant was that a certificate of occupancy be obtained by May 17, 2010; and

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, as adopted on May 11, 1999, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy for one year, to expire on November 1, 2012, *on condition* that the use and operation of the site shall comply with the BSA-approved plans associated with the prior grant; and *on further condition*:

THAT a certificate of occupancy shall be obtained by November 1, 2012;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (N.B. 100664372)

Adopted by the Board of Standards and Appeals, November 1, 2011.

## 269-98-BZ

APPLICANT – Mothiur Rahman, for Fordham Zone Realty LLC, owner.

SUBJECT – Application August 24, 2011 – Extension of Time to obtain a Certificate of Occupancy for a Variance (§72-21) for the construction of a two-story building with UG6 commercial use which expired on August 25, 2011. R8 zoning district.

PREMISES AFFECTED – 70 East 184<sup>th</sup> Street, Southwest corner of East 184<sup>th</sup> Street and Morris Avenue, Block 3183, Lot 42, Borough of Bronx.

## COMMUNITY BOARD #5BX

### APPEARANCES –

For Applicant: Mothiur Rahman.

**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 obtain a certificate of occupancy for a two-story commercial building; and

WHEREAS, a public hearing was held on this application on September 27, 2011, after due notice by publication in the *City Record*, and then to decision on November 1, 2011; and

WHEREAS, the site is located on the southwest corner of the intersection at East 184<sup>th</sup> Street and Morris Avenue, within an R8 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 11, 2000 when, under the subject calendar number, the Board granted a variance application to permit the construction of a two-story commercial building (Use Group 6) in an R8 zoning district; and

WHEREAS, subsequently, the Board has granted several extensions of time to complete construction; and

WHEREAS, most recently, on August 25, 2009, the Board granted an extension of time to complete construction, which expired on February 25, 2011; a condition of the grant was that a certificate of occupancy be obtained by August 25, 2011; and

WHEREAS, the applicant states that the construction was completed on the subject building in February 2010; and

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

WHEREAS, the Board has determined that the evidence in the record supports the grant of the requested extension.

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated January 11, 2000, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of

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occupancy for two years from the date of this resolution, to expire on November 1, 2013, *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; and *on further condition*:

THAT a Certificate of Occupancy shall be obtained by November 1, 2013;

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

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

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

(DOB Application No. 200483422)

Adopted by the Board of Standards and Appeals, November 1, 2011.

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## 13-09-BZ

APPLICANT – Moshe M. Friedman, P.E. for Congregations Tehilos Yotzchok, owner.

SUBJECT – Application May 27, 2011 – Amendment to a previously approved variance (§72-21) to allow a synagogue contrary to Floor & Lot Coverage (§24-11), Front Yard (§24-34) and Side Yard (§24-35). R5 zoning district.

PREMISES AFFECTED – 5611 21<sup>st</sup> Street, East side 95’-8” North of intersection of 21<sup>st</sup> Avenue and 57<sup>th</sup> Street. Block 5495, Lot 430, Borough of Brooklyn.

### COMMUNITY BOARD #12BK

APPEARANCES – None.

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

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for an amendment to a previously approved variance for the construction of a synagogue within an R5 zoning district; and

WHEREAS, a public hearing was held on this application on September 27, 2011, after due notice by publication in *The City Record*, and then to decision on November 1, 2011; and

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

WHEREAS, Community Board 12, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the south side of 21<sup>st</sup> Avenue, 95’-8” east of 57<sup>th</sup> Street, within an R5 zoning district and has a lot area of 2,325 sq. ft.; and

WHEREAS, on August 18, 2009, under the subject calendar number, the Board granted a variance to permit the

construction of a synagogue contrary to front yard, side yard, and lot coverage regulations set forth at ZR §§ 24-34, 24-35, and 24-11; and

WHEREAS, the application is filed on behalf of Congregation Tehilos Yitzhok, a nonprofit religious institution; and

WHEREAS, the applicant now requests an amendment, which would allow (1) non-compliance for floor area with a proposed 5,140sq. ft. (the original proposal reflected 4,224 sq. ft. and 4,651 is the maximum permitted) and FAR of 2.21 (the original proposal reflected 1.82 and 2.0 is the maximum permitted); (2) encroachment into the sky exposure plane; (3) a lot coverage of 82 percent (the original proposal reflected 66 percent and 55 percent is the maximum permitted); (4) one side yard with a width of 3’-0” (the original proposal reflected two side yards with widths of 4’-0” and three side yards with depths of 8’-0” are required); and

WHEREAS, the applicant represents that the perimeter wall height of 35’-0” is reduced to 33’-0”, the front yard of 5’-0” remains, and that there is no parking requirement associated with the current proposal; and

WHEREAS, the applicant states that the requested amendment is driven by an increased size of the congregation which resides at and now worships within the adjacent residential development; and

WHEREAS, the applicant states that the anticipated congregation size is 125 members, which includes the projected increase in family size as well as anticipated new members; and

WHEREAS, the applicant states that the congregation’s members live within the neighborhood and must have a synagogue within walking distance of their homes; and

WHEREAS, based upon the above, the Board finds that the requested amendments to the variance are 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 August 18, 2009, so that as amended this portion of the resolution shall read: “to permit the noted modifications to the approved plans; *on condition* that the use shall substantially conform to drawings as filed with this application, marked “Received October 27, 2011”– fourteen (14) sheets; and *on further condition*:

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

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

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

(DOB Application No. 302065011)

Adopted by the Board of Standards and Appeals, November 1, 2011.

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# MINUTES

## 281-39-BZ

APPLICANT – Eric Palatnik, P.C., for 1599 Lexington Avenue Corporation, owner.

SUBJECT – Application May 3, 2011 – Extension of Term (§11-411) of a variance permitting the operation of an automotive service station (UG 16B) with accessory uses which expired on May 18, 2009; Waiver of the Rules. C1/R7-2 zoning district.

PREMISES AFFECTED – 1605 Lexington Avenue, southeast corner of 102<sup>nd</sup> Street, Block 1629, Lot 150, Borough of Manhattan.

### COMMUNITY BOARD #11M

APPEARANCES –

For Applicant: Trevis Savage

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to November 22, 2011, at 10 A.M., for decision, hearing closed.

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## 88-81-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for JFAM Realty, owner.

SUBJECT – Application August 1, 2011 – Extension of Term of a variance (§72-21) which permitted the conversion of an existing two-story building from a dwelling and day care center to an office building which expired on July 21, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on June 18, 2003. R3-1 zoning district.

PREMISES AFFECTED – 3309 Richmond Avenue, 365' south of the intersection of Richmond Avenue and Gurley Avenue, Block 5533, Lot 20, Borough of Staten Island.

### COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Todd Dale.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to November 22, 2011, at 10 A.M., for decision, hearing closed.

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## 250-00-BZ

APPLICANT – Bryan Cave LLP, for New York University, owner.

SUBJECT – Application August 10, 2011 – Extension of term a variance (§11-411) to allow transient parking for 149 cars in an existing multiple dwelling accessory garage, and a minor amendment to permit parking on the access ramp. R7-2/C1-5 zoning district.

PREMISES AFFECTED – 521-541&553-563 LaGuardia

Place, block bounded by LaGuardia Place, West 3rd Street, Mercer Street and Bleecker Street. Block 533, Lot 1. Borough of Manhattan.

### COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Judith Gallant.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to November 22, 2011, at 10 A.M., for decision, hearing closed.

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## 187-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Congregation & Yeshiva Machzikei Hadas Inc., owner.

SUBJECT – Application July 18, 2011 – Amendment to a variance (§72-21) to allow a five-story school (*Congregation & Yeshiva Maschzikei Hadas*) to add a sub-cellar level, add additional floor area, increase in lot coverage and building heights, and additional interior changes. M1-2/R6B zoning district.

PREMISES AFFECTED – 1247 38<sup>th</sup> Street, north side of 38<sup>th</sup> Street, 240' west of 13<sup>th</sup> Avenue, lock 5295, Lots 52 & 56, Borough of Brooklyn.

### COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Richard Lobel, Council Member Brad Lander and Efrain Goldstein.

**ACTION OF THE BOARD** – Laid over to November 22, 2011, at 10 A.M., for continued hearing.

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## 112-10-BZ

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

SUBJECT – Application July 6, 2011 – Amendment to a Special Permit (§73-44) to permit the reduction in required parking with change of use from UG16 to UG6. M1-1 zoning district.

PREMISES AFFECTED – 915 Dean Street, north side of Dean Street between Classon and Grand Avenues, Block 1133, Lot 64, Borough of Brooklyn.

### COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Richard Lobel and Jordan Most.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to November 22, 2011, at 10 A.M., for decision, hearing closed.

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## APPEALS CALENDAR

### 50-11-A

APPLICANT – Steven Bennett, Esq., for Premchand Parag and Vadewattie Parag, owners.

SUBJECT – Application April 15, 2011 – Appeal seeking a common law vested right to continue development under prior zoning (§23-541). R4-1 zoning district.

PREMISES AFFECTED – 134-07 87<sup>th</sup> Avenue, north side of 87<sup>th</sup> Avenue, 50’ east of the corner formed by the intersection of 87<sup>th</sup> Avenue and 134<sup>th</sup> Street, Block 9630, Lot 11, Borough of Queens.

### COMMUNITY BOARD #9Q

APPEARANCES – None.

**ACTION OF THE BOARD** – Application 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 is an application for a Board determination that the owner of the premises has obtained the right to complete construction of a two-family home under the common law doctrine of vested rights; and

WHEREAS a public hearing was held on this application on September 27, 2011 after due notice by publication in *The City Record*, and then to decision on November 1, 2011; and

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

WHEREAS, the site is located on the north side of 87<sup>th</sup> Avenue, 50 feet east of the corner formed by 87<sup>th</sup> Avenue and 134<sup>th</sup> Street, with a lot area of 5,000 sq. ft.; and

WHEREAS, the applicant proposes to develop the site with a two-story two-family home with a floor area of approximately 4,200 sq. ft. (0.84 FAR) and a rear yard with a depth of 23.67 feet (the “Home”), which is currently approximately 90 percent complete; and

WHEREAS, the subject site is located within an R4-1 zoning district; and

WHEREAS, on April 30, 2008 (the “Enactment Date”), the City Council voted to adopt the Yards Text Amendment, which modified certain yard regulations for residential developments; and

WHEREAS, specifically, the Yards Text Amendment changed the required rear yard depth for interior lots located within 100 feet of a corner in R4-1 zoning districts from zero feet to 30 feet; and

WHEREAS, the applicant states that the Home complied with the R4-1 zoning district parameters prior to the Enactment Date, specifically with regard to the rear yard depth of 23.67 feet; and

WHEREAS, however, the Home does not comply with the current R4-1 zoning district parameters, which require a rear yard with a minimum depth of 30 feet; and

WHEREAS, the Board observes that numerous cases establish that the requirement of a validly issued permit is a

fundamental requirement for a finding of common law vested rights, and no vesting may occur pursuant to an invalid permit (see e.g. Natchev v. Klein, 41 N.Y.2d 833 (1977); Jayne Estates v. Raynor, 22 N.Y.2d 417 (1968); Westbury Laundromat, Inc. v. Mammina, 879 N.Y.S.2d 188 (2d Dept. 2009); Vil. of Asharokan v. Pitassy, 119 A.D.2d 404 (2d Dept. 1986); Perrotta v. City of New York, Dept. of Bldgs., 486 N.Y.S.2d 941 (1<sup>st</sup> Dept. 1985); Reichenbach v. Windward at Southampton, 364 N.Y.S.2d 283 (Sup. Ct. 1975)); and

WHEREAS, thus, as a threshold matter in determining this appeal, the Board must find that the alleged work and expenditure claimed by the applicant as counting towards a vested rights determination was authorized by a valid permit; and

WHEREAS, the applicant states that prior to the Enactment Date the Department of Buildings (“DOB”) approved Job Number 410073520 for the construction of the Home on April 16, 2008, and issued a Building Pavement Plan Permit (Permit No. 410097023) on April 22, 2008; and

WHEREAS, however, New Building Permit No. 410073520 (the “NB Permit”), authorizing construction of the Home, was erroneously issued on June 10, 2008, subsequent to the Enactment Date; and

WHEREAS, the Permit was invalid because it authorized work under the pre-Enactment Date zoning parameters; and

WHEREAS, on October 10, 2008, DOB filed a Notice of Audit Objections for the Permit, which included an objection regarding the non-complying rear yard depth; and

WHEREAS, on June 7, 2011, DOB issued a Notice of Intent to Revoke Approval and Permit based on the October 10, 2008 Objection Sheet; and

WHEREAS, on June 28, 2011, DOB revoked the approval and permit; and

WHEREAS, by letter dated July 28, 2011, DOB states that the NB Permit was issued in error after the adoption of the Yards Text Amendment on April 30, 2008, which modified regulations pertaining to yards and open space, and therefore the NB Permit was properly revoked; and

WHEREAS, the applicant states that construction of the Home commenced after the NB Permit was issued and is approximately 90 percent complete; and

WHEREAS, the applicant now requests that the Board find that the applicant has obtained a vested right to finish construction on the Home and obtain a certificate of occupancy under the pre-Enactment Date zoning parameters; and

WHEREAS, the applicant concedes that the NB Permit was issued subsequent to the Enactment Date and therefore all work on the Home was performed in the absence of valid permits; and

WHEREAS, however, the applicant makes the following arguments in support of its common law vested rights application: (1) the unique set of circumstances in this case require a “special facts” exception to the requirement that work be performed under a valid permit; (2) denying the vested rights application would constitute a denial of substantive due process and an unconstitutional taking of

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property; and (3) DOB had assumed a duty to notify the filing representative of the specific implications of the Yards Text Amendment on the subject site; and

WHEREAS, in support of the use of a “special facts” exception, the applicant cites Westbury Laundromat, Inc. v. Mammina, 879 N.Y.S.2d 188 (2d Dept. 2009), for the proposition that “[a] court will apply the zoning ordinance currently in existence at the time a decision is rendered unless ‘special facts’ are present to demonstrate that the municipality acted in bad faith and unduly delayed acting upon an application while the zoning law is being changed” (citing Matter of Greene v. Zoning Bd. of Appeals of Town of Islip, 25 A.D.3d 612); and

WHEREAS, the applicant acknowledges that DOB did not act in bad faith in the subject case, but requests that the Board employ the “special facts” exception because, due to the unique circumstances of the subject case, the general rule that vested rights cannot be acquired in reliance on an invalid permit would lead to an unfair result; and

WHEREAS, specifically, the applicant contends that the following constitute “special facts” in the subject case: (1) the plans were approved by a DOB plan examiner on April 16, 2008; (2) a sidewalk building pavement plan permit was issued on April 22, 2008; (3) there was a lack of notice regarding the passing of the Yards Text Amendment, as evidenced by the fact that neither the subject owner, engineer, nor the DOB plan examiners were aware of the text amendment when the permit was issued on June 10, 2008; (4) the owner constructed approximately 90 percent of the Home and expended approximately \$400,000 in furtherance of said construction following the issuance of the permit; and (5) the Home provides a rear yard with a depth of 23.67 feet, and the shortfall of 6.33 feet of the required depth of 30 feet is *de minimis*; and

WHEREAS, the Board notes that, regardless of whether the circumstances of the subject case are unique, the “special facts” exception propounded by the court in Mammina is limited to those facts which “demonstrate that the municipality acted in bad faith;” and

WHEREAS, as noted above, the applicant concedes that DOB did not act in bad faith; accordingly, the Board finds that the “special facts” exception is not applicable to the subject case; and

WHEREAS, the applicant further contends that the Board should make an exception to the requirement that work be performed pursuant to a valid permit because, pursuant to Kadin v. Bennett, 163 A.D.2d 308 (2d Dept. 1990), ZR § 11-331 did not “codify or abolish the common-law doctrine of vested rights. The common-law doctrine is a broader consideration than that posited in that section of the resolution...unlike New York City Zoning Resolution § 11-331, [t]here is no fixed formula which measures the content of all the circumstances whereby a party is said to possess a vested right;” and

WHEREAS, the Board agrees that the common law doctrine provides a broader framework for the vested rights determination than the Zoning Resolution, however, as noted above, the relevant case law establishes that

construction pursuant to a valid permit remains a threshold requirement for the common law vested rights determination; and

WHEREAS, the Board notes that it is bound by the holdings of New York State courts, which have consistently found that vested rights cannot be acquired in reliance on an invalid permit (see e.g. Natchev v. Klein, 41 N.Y.2d 833 (1977); Jayne Estates v. Raynor, 22 N.Y.2d 417 (1968); Westbury Laundromat, Inc. v. Mammina, 879 N.Y.S.2d 188 (2d Dept. 2009); Vil. of Asharokan v. Pitassy, 119 A.D.2d 404 (2d Dept. 1986); Perrotta v. City of New York, Dept. of Bldgs., 486 N.Y.S.2d 941 (1<sup>st</sup> Dept. 1985); Reichenbach v. Windward at Southampton, 364 N.Y.S.2d 283 (Sup. Ct. 1975)); and

WHEREAS, specifically, in Natchev v. Klein, 41 N.Y.2d 833 (1977), the Court of Appeals upheld a Board determination affirming DOB’s revocation of a permit issued in error, stating that “[b]ecause the permit was invalidly issued there is no predicate for appellant’s assertion that vested rights have accrued to him in consequence of his construction;” and

WHEREAS, as to DOB’s revocation of the invalid permit, the Board notes the principle that government agencies, like DOB, maintain the ability to correct mistakes, such as the issuance of building permits (see Charles Field Delivery v. Roberts, 66 N.Y.2d 516 (1985) in which the court states that agencies are permitted to correct mistakes as long as such changes are rational and are explained), and that DOB may not be estopped from correcting an erroneous approval of a building permit (see Parkview Assoc. v. City of New York, 71 N.Y.2d 274, 282, cert. den., 488 U.S. 801 (1988)); and

WHEREAS, the applicant also argues that rejecting its vested rights claim would constitute a denial of substantive due process because the owner and its filing representatives lacked notice of the zoning change because they could not have been aware of it without an extraordinary level of effort to monitor numerous rules, regulations and Zoning Resolution changes in the City of New York; and

WHEREAS, specifically, the applicant claims that aside from the publication of a notice of hearing in the City Record, the only notice a landowner or its representative would have of a recent adverse zoning change in Queens is through monthly meetings convened by DOB to inform design professionals and builders about recent updates and zoning changes that may affect them; and

WHEREAS, the applicant submitted an affidavit from the engineer stating that he depended on the monthly meetings with DOB’s Queens Borough Office for notice about zoning changes, but that he was not notified of the subject Yards Text Amendment; and

WHEREAS, the Board observes that it is the burden of the owner and his or her filing representative to properly ascertain the applicable zoning regulations when applying to DOB for a permit; and

WHEREAS, the Board notes that a filing representative should be charged with constructive notice of the applicable zoning regulations, especially since a change

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in the zoning would likely have a substantive effect on a proposed development; and

WHEREAS, moreover, the Board finds that information regarding the zoning change for the subject site was readily available to the filing representative prior to issuance of the plan approval and the NB Permit; and

WHEREAS, specifically, the Board notes that an application to amend the Zoning Resolution was filed by the Department of City Planning (“DCP”) on September 14, 2007, and that in compliance with the notice provision in City Charter § 200(a)(1), on September 17, 2007 the proposed Yards Text Amendment was referred to all community boards, borough boards, and borough presidents for a 60 day review period; and

WHEREAS, subsequently, on March 24, 2008, CPC adopted the text amendment, published a report which explained the purpose and details of the text amendment, and filed the adopted resolution with the Office of the Speaker, City Council, and the Borough President; and

WHEREAS, the Board observes that DCP also maintains a website which provides information on all upcoming and recently passed text amendments and zoning changes; and

WHEREAS, accordingly, the Board finds that the owner and filing representative had constructive notice of the text amendment well before it was adopted on April 30, 2008, and that the failure to complete its own due diligence in preparing its application before DOB does not cure the invalidity of the permit nor allow the applicant to forego the requirement for a valid permit; and

WHEREAS, the applicant also contends that DOB’s voluntary undertaking of providing notice of recent zoning changes to landowners and design professionals at monthly meetings created in DOB a duty to inform the building community more explicitly of the subject zoning change, so that the engineer could have exercised more care in ascertaining the effect of the text amendment on the subject site; and

WHEREAS, as noted above, the City Charter sets forth a notification requirement for CPC regarding amendments to the Zoning Resolution, and the applicant has not provided any evidence indicating that CPC did not comply with these notification requirements in the context of the subject text amendment; and

WHEREAS, accordingly, the Board observes that CPC, and not DOB, is charged with providing notice of a text amendment, and the fact that DOB convened monthly meetings as a convenience to and for the benefit of the building community, neither indicates that DOB assumed the duty to notify nor relieves landowners and filing representatives of their duty to perform due diligence in preparing their application before DOB; and

WHEREAS, in addition to the above, the applicant also made arguments that the equities weigh in favor of the owner; and

WHEREAS, in sum and substance, the applicant points to the plan approval, the economic loss that the owner might suffer if vesting is denied, the *de minimis* nature of the

rear yard non-compliance, and the lack of harm that would result from vesting the project; and

WHEREAS, even presuming that each contention is accurate, the Board does not conclude that it must grant the instant application; and

WHEREAS, without a valid permit in place for the Home, the applicant was unauthorized to commence construction; and

WHEREAS, as noted above, the landowner and their filing representatives are charged with constructive knowledge of all changes in law that could affect his development, including zoning changes; and

WHEREAS, that the applicant made an error in not obtaining permits and commencing construction before the Enactment Date because of this due diligence failure is not a situation that must be remedied by the Board; and

WHEREAS, the Board notes that most, if not all vesting applications, if denied, result in a detriment to the owner, and the purported *de minimis* nature of the rear yard non-compliance has no bearing on the fundamental requirement that vesting must be predicated on a validly issued permit; and

WHEREAS, the Board acknowledges that the applicant has submitted evidence in support of its claim that construction of the Home is approximately 90 percent complete and that the owner has incurred approximately \$400,000 in expenditures made toward construction; and

WHEREAS, however, because the applicant did not have a valid permit authorizing construction of the Home, none of the work performed nor expenditures incurred can be counted towards the vested rights determination; and

WHEREAS, based upon its review of the record and the considerations set forth above, the Board concludes as follows: (1) binding case law holds that vested rights cannot accrue when the work was performed under an invalid permit; (2) DOB correctly determined that the NB Permit was invalid because it was issued after the Enactment Date and authorized work under the pre-Enactment Date zoning parameters; and (3) since none of the purported expenditures were incurred or work performed pursuant to a valid permit, the applicant has no vested right to continue construction on the Home; and

WHEREAS, since the Board disagrees with the applicant’s additional arguments, the instant application must be denied.

*Therefore it is Resolved* that this appeal made pursuant to the common law doctrine of vested rights, seeking to continue construction under New Building Application No. 410073520 is hereby denied.

Adopted by the Board of Standards and Appeals, November 1, 2011.

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## 114-11-A

APPLICANT – Greenberg Traurig, LLP by Deirdre A. Carson, Esq., for Salanter Akiba Riverdale Academy, owner.

SUBJECT – Application August 10, 2011 – Proposed construction of stone wall, pier, curbs and related footings

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for an accessory parking area to SAR Academy to be located within the bed of the mapped street (West 245<sup>th</sup>), contrary to General City Law Section 35. R1-1/Riverdale SNAD zoning district.

PREMISES AFFECTED – 655 West 254<sup>th</sup> Street, north side of West 254<sup>th</sup> Street, between Palisade and Independence Avenues. Block 5947, Lot 1, Borough of Bronx.

## COMMUNITY BOARD #8BX

### APPEARANCES –

For Applicant: Randall Miner.

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

### THE VOTE TO GRANT –

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

Negative:.....0

### THE RESOLUTION –

WHEREAS, the decision of the Bronx Borough Commissioner, dated August 8, 2011, acting on Department of Buildings Application No. 220123694, reads:

“Construction in the bed of mapped street requires BSA approval;” and

WHEREAS, this is an application under General City Law § 35, to permit the construction of a stone wall, stone pier, and curbing within the bed of a mapped street; and

WHEREAS, a public hearing was held on this application on October 18, 2011, after due notice by publication in the *City Record*, and then to decision on November 1, 2011; and

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

WHEREAS, the subject site is located on the north side of West 254<sup>th</sup> Street between Palisades Avenue and Independence Avenue, in an R1-1 zoning district within the Riverdale Special Natural Area District; and

WHEREAS, the site has a total lot area of 202,392 sq. ft., and is occupied by the Salanter Akiba Riverdale Academy (the “School”); and

WHEREAS, the applicant states that the subject application will enable the School to reduce the opening into an existing parking area from 50 feet to 24 feet through the extension of an existing stone wall and the relocation of an existing stone pier, and to install curbing on the site for aesthetic and landscaping purposes; and

WHEREAS, by letter dated September 27, 2011, the Fire Department states that it has no objections to the subject proposal; and

WHEREAS, by letter dated September 9, 2011, the Department of Environmental Protection (“DEP”) requests that the applicant submit a survey/plan which provides (1) the width of the mapped portion of West 254<sup>th</sup> Street, and the width of the widening portion of the street between Independence Avenue and Palisades Avenue; (2) the distances between the southerly lot line of Lot 1 and the 36-inch/48-inch diameter combined sewer, the 12-inch diameter existing City water main and the eight-inch diameter existing City water main; and (3) a

33-ft. wide sewer easement for the ten-inch diameter existing force main and for a future 30-inch diameter combined sewer crossing the property; and

WHEREAS, in response, the applicant submitted a site plan as requested by DEP, however, the applicant requests that the Board not require that the School provide the 33-ft. wide easement requested by DEP; and

WHEREAS, the applicant states that the requested DEP easement has no nexus to the proposed construction, as the construction would not interfere with any existing or proposed sewer or water lines; and

WHEREAS, specifically, the applicant states that the proposed construction would be 40 feet from the centerline of the existing 36-inch/48-inch diameter combined sewer, 26 feet from the centerline of the existing 12-inch diameter water main and 28 feet from the centerline of the existing eight-inch diameter water main, and that the distance between the proposed construction and the easement requested by DEP is even greater; and

WHEREAS, the Board agrees with the applicant that the proposed construction would not interfere with any existing or proposed sewer or water lines, and therefore the easement requested by DEP has no nexus to the proposed construction; and

WHEREAS, by letter dated October 4, 2011, the Department of Transportation (“DOT”) states that it requires the applicant to install a sidewalk on the north side of West 254<sup>th</sup> Street between Palisades Avenue and Independence Avenue with a minimum width of five feet, to provide safe and adequate accessibility to and from the School; and

WHEREAS, in response, the applicant states that the proposed construction does not generate a need for a sidewalk, and therefore requests that the Board not require the installation of the sidewalk requested by DOT; and

WHEREAS, the applicant states that DOT’s request would necessitate the installation of a sidewalk along the entire West 254<sup>th</sup> Street frontage (approximately 650 feet), that the proposed construction is part of a project to increase the amount of on-campus parking at the School, and that there is no proposed increase in the number of students enrolled in or the number of faculty and staff employed by the School; and

WHEREAS, accordingly, the applicant states that the proposed construction will have the effect of reducing the number of people who walk to the School’s campus, and therefore the requested sidewalk has no nexus to the proposed construction, which actually contributes to reducing the need for such a sidewalk; and

WHEREAS, the applicant also submitted drawings which show the existing internal sidewalk system within the School’s campus; and

WHEREAS, the Board agrees with the applicant that there is no nexus between the proposed construction and DOT’s request that a sidewalk be installed along the entire West 254<sup>th</sup> Street frontage; 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 Bronx

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Borough Commissioner, dated August 8, 2011, acting on Department of Buildings Application No. 220123694, is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received August 10, 2011"– (3) sheets; 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 1, 2011.

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## 98-11-A

APPLICANT – Goldman Harris, LLC, for Bay People Inc., for Alloway Ahmed, owner.

SUBJECT – Application July 7, 2011 – Appeal Challenging Department of Buildings’ determination that accessory off-street parking under ZR §25-31 is not required. R4 Zoning District.

PREMISES AFFECTED – 2812-2814 Voorhies Avenue, south side of Voorhies Avenue between East 28<sup>th</sup> and East 29<sup>th</sup> Streets, Block 8791, Lots 5, 6 (tent 106), Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Howard Goldman.

For Opposition: Lisa M. Orrantia, Department of Buildings and Lamis Deek.

THE VOTE TO CLOSE HEARING –

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

**ACTION OF THE BOARD** – Laid over to November 22, 2011, at 10 A.M., for decision, hearing closed.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

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

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

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## ZONING CALENDAR

### 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 Boulevard and 35<sup>th</sup> Avenue, Block 4945, Lot 34, Borough of Queens.

### COMMUNITY BOARD #7Q

APPEARANCES – None.

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

THE VOTE TO WITHDRAW –

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

Adopted by the Board of Standards and Appeal, November 1, 2011.

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### 235-10-BZ

#### CEQR #11-BSA-047K

APPLICANT – Paul J. Proulux, Esq., c/o Cozen O’Connor, for Avenue K Corporation, owner; TD Bank c/o Facilities Department, lessees.

SUBJECT – Application December 30, 2010 – Variance (§72-21) to allow a commercial use in a residential zone, contrary to use regulations (§22-00). R3-2 zoning district.

PREMISES AFFECTED – 2363 Ralph Avenue, corner of Ralph Avenue and Avenue K, Block 8339, Lot 1, Borough of Brooklyn.

### COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Howard Hornstein.

**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 December 3, 2010, acting on Department of Buildings Application No. 320238694, reads in pertinent part:

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“Proposed bank, Use Group 6, not permitted in R3-2 district. Refer to Board of Standards and Appeals;” and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R3-2 zoning district, the construction of a one-story bank (Use Group 6) with 20 accessory parking spaces, which does not conform to district use regulations, contrary to ZR § 22-10; and

WHEREAS, a public hearing was held on this application on August 23, 2011 after due notice by publication in *The City Record*, with a continued hearing on September 27, 2011, and then to decision on November 1, 2011; and

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

WHEREAS, Community Board 18, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on a triangular-shaped lot bounded by Ralph Avenue to the west and Avenue K to the east, within an R3-2 zoning district; and

WHEREAS, the site has approximately 190'-6" of frontage on Ralph Avenue and 223'-5" of frontage on Avenue K, with a total lot area of 18,899 sq. ft.; and

WHEREAS, the site is currently occupied by a gasoline service station; and

WHEREAS, the Board has exercised jurisdiction over the subject site since 1960 when, under BSA Cal. No. 546-59-BZ, the Board granted a variance to permit the construction of a gasoline service station with accessory uses on the site; and

WHEREAS, on July 11, 1967, under BSA Cal. No. 135-67-BZ, the Board granted an enlargement in the lot area of the site and the rearrangement of the gasoline service station, for a term of ten years; and

WHEREAS, subsequently, the grant was amended and the term extended on various occasions; and

WHEREAS, on December 22, 1998, the Board granted an extension of term, which expired on October 11, 2007; and

WHEREAS, the applicant now proposes to construct a one-story commercial building on the site, to be occupied by a bank (Use Group 6), with a total floor area of 2,560 sq. ft. (0.14 FAR), and with 20 accessory parking spaces; and

WHEREAS, because the prior variance has expired and commercial use is not permitted in the subject R3-2 zoning district, the applicant seeks a use variance to permit the proposed Use Group 6 use; and

WHEREAS, the applicant states that the following are unique physical conditions which create unnecessary hardship and practical difficulties in developing the site with a complying development: (1) the irregular shape of the subject lot; (2) the impact of a sewer easement on the site; and (3) the contamination of the soil on the site; and

WHEREAS, as to the site's irregular shape, the applicant states that due to the irregularity of the street grid, the subject site is an irregular, triangularly-shaped lot which is unsuitable for complying residential use; and

WHEREAS, the applicant states that the site is further constrained by the presence of a permanent sewer easement for

the benefit of the Department of Environmental Protection (“DEP” and the “DEP Easement”) on a portion of the site; and

WHEREAS, the applicant further states that, to protect DEP infrastructure that sits below grade, DEP has instituted an absolute prohibition on new building structures within the easement area; and

WHEREAS, the applicant submitted a survey reflecting that the DEP Easement is adjacent to Ralph Avenue between Avenue K and Bergen Avenue, and that it comprises the first 60 feet of the site's Ralph Avenue frontage; and

WHEREAS, the applicant notes that the DEP Easement occupies approximately 9,965 sq. ft. of the site's total lot area of 18,899 sq. ft., such that more than half (53 percent) of the total lot area on the site is prohibited from being developed; and

WHEREAS, the applicant represents that, together with the yards required under the R3-2 zoning district regulations, the DEP Easement reduces the developable area for a complying development on the subject site to 6,370 sq. ft.; and

WHEREAS, the applicant further represents that, although the next two easterly block fronts north of the site also have irregular angles along the Ralph Avenue frontage and are burdened by the DEP Easement, the subject site is uniquely burdened by the combination of its irregular shape and the DEP Easement on the site; and

WHEREAS, specifically, the applicant states that both of the blocks to the north of the site are comprised of single zoning lots that encompass the balance of the block, and are therefore much larger than the subject site, and both of the zoning lots have already been improved with large residential developments fronting the side streets, such that the easement area provides yards and open space for the residential developments; and

WHEREAS, the applicant further states that unlike the nearby zoning lots, the unique shape of the subject site and the DEP Easement combine to artificially limit the amount of developable square footage that the lot can be used for, such that it is impossible to fit all of the permitted floor area into a zoning compliant building; and

WHEREAS, specifically, the applicant states that although the subject R3-2 zoning district allows for a community facility FAR of 1.0 to be combined with a residential FAR of 0.6 to create an as-of-right mixed-use building with an FAR of 1.6, the maximum FAR that can be utilized on the subject site is 0.75 because the awkward shape of the zoning lot restricts the number of required parking spaces that can be provided; and

WHEREAS, the applicant also states that the site is subject to unique clean up obligations to address the type of soil remediation necessary for redevelopment; and

WHEREAS, specifically, the applicant states that the site has been occupied by a gasoline service station since 1960, and that a Phase II Site Investigation identified gasoline-related VOC contamination and select SVOC constituents at concentrations exceeding Department of Environmental Conservation standards; and

WHEREAS, the applicant submitted a report from an environmental consultant which estimates that the costs related

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to the management of the impacted soil and remedial oversight is approximately \$253,000; and

WHEREAS, the applicant notes that aside from the specific non-hazardous petroleum contamination on the site, the cost estimate also addresses the cost of dealing with the other municipal solid waste landfill, which may be contaminated; and

WHEREAS, the applicant represents that before 1960 the site was undeveloped and was used to deposit municipal solid waste landfill; and

WHEREAS, as evidence of the site's former landfill use, the applicant submitted a landfill report which notes that sites in close proximity to large surface-water bodies, such as the subject site, are prone to lateral transport of leachate; and

WHEREAS, the applicant states that, since it is impossible to select out the fill that is contaminated from the fill that is not, the whole site must be out-loaded, characterized, transported, disposed of, and then replaced with clean fill; and

WHEREAS, based upon the above, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study which analyzed: (1) a conforming scenario consisting of a three-story mixed-use residential/community facility building with a 4,700 sq. ft. medical facility use on the first floor and two 4,700 sq. ft. stories of residential above; (2) an alternative conforming scenario consisting of a three-story 11,200 sq. ft. residential building; and (3) the proposed one-story commercial building occupied by a bank (Use Group 6); and

WHEREAS, the study concluded that the conforming scenarios would not result in a reasonable return, but that the proposed building would realize a reasonable return; and

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

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

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

WHEREAS, the applicant states that the subject site shares the block with a 25,000 sq. ft. medical facility which fronts three sides of the triangular-shaped block; and

WHEREAS, the applicant submitted a 400-ft. radius diagram and photographs of surrounding uses, reflecting that the area immediately surrounding the site consists of a significant commercial presence; and

WHEREAS, the applicant states that the subject site is located on the northeast corner of the intersection of Ralph Avenue and Avenue K, and both southerly corners of the intersection are occupied by commercial uses, including a bank

on the southwest corner; and

WHEREAS, the applicant notes that there are commercial overlays to the south and southwest of the site, which permit a range of retail options, including a plaza on the west side of Ralph Avenue and the Georgetown mall directly south of the site on the east side of Ralph Avenue; and

WHEREAS, the applicant notes a commercial overlay and manufacturing and commercial uses are also located a block north of the site, which permit a range of commercial uses as well; and

WHEREAS, the applicant further notes that the proposed variance would allow a bank (Use Group 6) to replace an existing gasoline service station (Use Group 16), and would therefore serve to bring the site closer to conformity with the subject R3-2 zoning district; and

WHEREAS, the applicant represents that a bank is a relatively benign use, as its hours would be during the day with shortened hours on the weekend, the site would be landscaped and well maintained, and it would aesthetically be a significant improvement over the uses which have existed at the site for more than 50 years; and

WHEREAS, as to bulk, the applicant states that he proposed one-story building has a floor area of 2,560 sq. ft. (0.14 FAR), which is considerably below the maximum density for the subject zoning lot, and will comply with all commercial bulk regulations; and

WHEREAS, the applicant further states that the proposed bank will comply with C1 district signage regulations and will provide 20 parking spaces, which is significantly more than the required ten spaces; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is the result of the site's unique physical conditions; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 11-BSA-047K dated September 2010; 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

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Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, DEP's Bureau of Environmental Planning and Analysis has reviewed the project for potential hazardous materials; and

WHEREAS, DEP accepts the June 2011 Remedial Action Plan and the May 2011 Construction Health and Safety Plan; 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 Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R3-2 zoning district, the construction of a one-story bank (Use Group 6) with 20 accessory parking spaces, which does not conform to district use regulations, contrary to ZR § 22-10; *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 September 13, 2011" – seven (7) sheets; and *on further condition*:

THAT the following are the bulk parameters of the proposed building: a total floor area of 2,560 sq. ft. (0.14 FAR); and 20 accessory parking spaces, as indicated on the BSA-approved plans;

THAT signage on the site shall comply with C1 district regulations;

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 construction shall proceed in accordance with ZR § 72-23;

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,

November 1, 2011.

## 17-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Mr. David Mizrachi, owners.

SUBJECT – Application February 23, 2011 – Special Permit (§73-622) for the enlargement of an existing two family residence, to be converted to a single family residence, contrary to floor area, lot coverage and open space (§23-141(b)) and rear yard (§23-47) regulations. R4/OP zoning district.

PREMISES AFFECTED – 2255 East 2<sup>nd</sup> Street, East side of East 2nd Street, approximately 145 feet south of Gravesend Neck Road. Block 7154, Lots 71 & 72, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Jordan Most.

**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 5, 2011, acting on Department of Buildings Application No. 320256156, reads:

ZR 23-141(b) – Proposed floor area exceeds permitted one.

ZR 23-141(b) – Proposed lot coverage exceeds permitted one.

ZR 23-141 – Proposed open space is less than required one.

ZR 23-47 – Proposed rear yard is less than required one; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R4 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, lot coverage, open space, and rear yard contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on August 23, 2011, after due notice by publication in *The City Record*, with a continued hearing on September 27, 2011, and then to decision on November 1, 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 15, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of East 2<sup>nd</sup> Street, south of Gravesend Neck Road, within an R4 zoning district; and

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WHEREAS, the subject site has a total lot area of 6,000 sq. ft., Lot 72 is occupied by a two-family home with a floor area of 2,725 sq. ft. (0.45 FAR), and the adjacent Lot 71 is vacant; 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 2,725 sq. ft. (0.45 FAR) to 7,340 sq. ft. (1.22 FAR) for a three-story single-family home; the maximum permitted floor area is 4,500 sq. ft. (0.75 FAR); and

WHEREAS, the applicant proposes to provide a lot coverage of 49 percent (45 percent is the maximum permitted); and

WHEREAS, the applicant proposes to provide an open space of 51 percent (55 percent is the minimum required); and

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

WHEREAS, the applicant performed a survey which reflected that there are 190 homes out of 657 homes within a 1,000-ft. radius of the site that have an FAR in excess of the proposed 1.22; and

WHEREAS, the applicant notes that a block like the subject block entirely within an R4 zoning district may be eligible for the predominantly built-up regulations, which include an increased floor area of 1.35 FAR as-of-right, but because the existing front yard of 15'-4" does not satisfy the minimum depth of 18'-0", the predominantly built-up area regulations cannot be applied to the subject site, thus the floor area request is required; and

WHEREAS, at the Board's direction, the applicant provided a plan sheet which clearly notes which portions of the home will remain; 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 R4 zoning district, the proposed enlargement of a single-family home, which

does not comply with the zoning requirements for floor area, lot coverage, open space, and rear yard contrary to ZR §§ 23-141 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received July 21, 2011"-(10) sheets, "September 14, 2011"-(2) sheets and "October 19, 2011"-(1) sheet; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 7,340 sq. ft. (1.22 FAR); a lot coverage of 49 percent; an open space of 51 percent; and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

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

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

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

THAT substantial construction be completed in accordance with ZR §73-70; and

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

Adopted by the Board of Standards and Appeals, November 1, 2011.

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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: Howard Hornstein and Jack Freeman.

THE VOTE TO CLOSE HEARING –

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

**ACTION OF THE BOARD** – Laid over to November 22, 2011, at 1:30 P.M., for decision, hearing closed.  
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## 21-11-BZ

APPLICANT – Eric Palatnik, P.C., for 1810-12 Voorhies Avenue, LLC, owner.

SUBJECT – Application February 28, 2011 – Special Permit (§73-44) to permit the reduction in required parking for an ambulatory or diagnostic treatment facility. C1-2/R4 zoning district.

PREMISES AFFECTED – 1810 Voorhies Avenue, south side of Voorhies Avenue, between East 19<sup>th</sup> Street and Sheepshead Bay Road, Block 8772, Lot 3, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to January 24, 2012, at 1:30 P.M., for adjourned hearing.

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## 67-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Joseph Kleinman, owner.

SUBJECT – Application May 13, 2011 – Special Permit (§73-622) for the enlargement of existing single family home, contrary to floor area and open space (§23-141) side yard and (§23-47) rear yard. R-2 zoning district.

PREMISES AFFECTED – 1430 East 29<sup>th</sup> Street, West side of 29th Street between Avenue N and Kings Highway. Block 7682, Lot 60, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Jordan Most and Tom Winter.

**ACTION OF THE BOARD** – Laid over to November 22, 2011, at 1:30 P.M., for continued hearing.

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## 73-11-BZ

APPLICANT – Rampulla Associates Architects, for Tora Development, LLC, owners.

SUBJECT – Application May 26, 2011 – Variance (§72-21) to allow a three-story, 87-unit residential building, contrary to use regulations of (§32-11), height (§23-631) and parking (§25-23) regulations. C3A/SRD zoning district.

PREMISES AFFECTED – 70 Tennyson Drive, north side Tennyson Drive, between Nelson Avenue and Cleveland Avenue, Block 5212, Lot 70, Borough of Staten Island.

### COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Phillip L. Rampulla and Rebecca Pythosh.

For Opposition: Christine Colella and Andrew Poznarski.

**ACTION OF THE BOARD** – Laid over to December 6, 2011, at 1:30 P.M., for continued hearing.

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## 74-11-BZ

APPLICANT – James Chin & Associates, LLC, for 1058 Forest Avenue Associates, owners.

SUBJECT – Application May 25, 2011 – Variance (§72-21) to allow the conversion of a community facility building for

office use, contrary to use regulations. R3-2 & R-2 zoning district.

PREMISES AFFECTED – 1058 Forest Avenue, southeast intersection of Forest Avenue and Manor Road in West Brighton, Block 315, Lot 29, Borough of Staten Island.

### COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Mindy Chin, James Chin and Rebecca Pytosh.

**ACTION OF THE BOARD** – Laid over to December 6, 2011, at 1:30 P.M., for continued hearing.

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## 89-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Annie and Kfir Ribak, owners.

SUBJECT – Application June 23, 2011 – 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 yards (§23-461) and perimeter wall height (§23-631). R3-2 zoning district.

PREMISES AFFECTED – 2224 Avenue S, south west corner of Avenue S and East 23<sup>rd</sup> Street, Block 7301, Lot 9, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to November 22, 2011, at 1:30 P.M., for continued hearing.

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## 115-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Thomas Schick, owner.

SUBJECT – Application August 15, 2011 – Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area and open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R-2 zoning district.

PREMISES AFFECTED – 1110 East 22<sup>nd</sup> Street, between Avenue J and Avenue K, Block 7603, Lot 62, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to December 6, 2011, at 1:30 P.M., for decision, hearing closed.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

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**\*CORRECTION**

This resolution adopted on January 13, 2004, under Calendar No. 191-03-A and printed in Volume 89, Bulletin No. 4, is hereby corrected to read as follows:

**191-03-A**

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

SUBJECT – Application June 9, 2003 – The legalization to permit the conversion of a portion of a two-story building to a temple and to permit an enlargement to the building of Class 2D construction, located within the Fire District, is contrary to §27-301 and §27-305 of the New City Administrative Code.

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

**COMMUNITY BOARD #13Q**

APPEARANCES –

For Applicant: Jordan Most.

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

THE VOTE TO WITHDRAWN –

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Adopted by the Board of Standards and Appeals, January 13, 2004.

**\*The resolution has been revised to correct the ACTION OF THE BOARD which read:** “Application granted on condition.” **now reads:** “*Application withdrawn.*” **Corrected in Bulletin No. 45, Vol. 96, dated November 10, 2011.**