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# BULLETIN

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

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Volume 96, No. 7

February 16, 2011

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### DIRECTORY

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**Affecting Calendar Numbers:**

139-95-BZ	250 East 54 <sup>th</sup> Street, Manhattan
38-08-BZ	40 Broad Street, aka 30-40 New Street, Manhattan
112-10-BZ	915 Dean Street, Brooklyn

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# DOCKET

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New Case Filed Up to February 8, 2010  
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**10-11-BZ**

115 Finely Avenue, Northwest side of Finely Avenue 100' southwest of Marine Way., Block 4050, Lot(s) 53,56,59, Borough of **Staten Island, Community Board: 2**. Variance to allow two, two story single family homes. R3-1 district.  
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**11-11-BZ**

121 Finely Avenue, Northwest side of Finely Avenue 100' southwest of Marine Way., Block 4050, Lot(s) 53,56,59, Borough of **Staten Island, Community Board: 2**. R3-1 district.  
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**12-11-A**

44 Beach 221st Street, West side of Beach 221st Street 100 feet north of Breezy Point Boulevard., Block 16350, Lot(s) p/o 400, Borough of **Queens, Community Board: 14**. Reconstruction and enlargement of an existing single family dwelling not fronting a mapped street contrary to General City Section 36 . R4 Zoning district . R4 district.  
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**13-11-BZ**

1040 East 26th Street, West side of East 26th Street between Avenue J and Avenue K, Block 7607, Lot(s) 66, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) to permit the enlargement of a single family residence contrary to sections 23-141, 23-47, 23-461 and 23-48. R2 zoning district. R2 district.  
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**14-11-A**

1221 East 17th Street, East 22nd Street between Avenue K and Avenue L., Block 7622, Lot(s) 21, Borough of **Brooklyn, Community Board: 14**. Appeal challenging a determination by the Department of Building interpretation of the defination of accessory use. R2 district.  
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**DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.**

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# CALENDAR

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**MARCH 1, 2011, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, March 1, 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**

**881-59-BZ**

APPLICANT – Dorothy Ames, owner.  
SUBJECT – Application November 19, 2010 – Extension of Term (11-411) of a previously granted application for the continued use of theatre (*Soho Playhouse*) and dwelling which expires on April 11, 2011. R6 zoning district.

PREMISES AFFECTED – 15 Vandam Street, between Avenue of the Americas and Varick Street, Block 506, Lot 47, Borough of Manhattan.

**COMMUNITY BOARD #2M**

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**164-60-BZ**

APPLICANT – Carl A. Sulfaro, Esq., for Luciani Enrica Melchiorre, owner; Steven Scott, Inc., lessee.

SUBJECT – Application December 7, 2010 – Extension of Term (§11-411) of a previously approved Automotive Service Station (UG 16B) (*Sunoco*) with accessory uses which expired on April 10, 2010; Waiver of the Rules. C1-3/R3-2 zoning district.

PREMISES AFFECTED – 100-20 Metropolitan Avenue, southeast corner of Metropolitan Avenue and 70<sup>th</sup> Road, Block 3895, Lot 32, Borough of Queens.

**COMMUNITY BOARD #6Q**

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**197-00-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, for SLG Graybar Sublease, LLC, owner; Equinox 44<sup>th</sup> Street, Inc., lessee.

SUBJECT – Application January 4, 2011 – Extension of Term of a previously approved special permit (§73-36) permitting the operation of a physical culture establishment (*Equinox*) which expired on December 4, 2010. C5-3(Mid) zoning district.

PREMISES AFFECTED – 420 Lexington Avenue, west side of Lexington Avenue, 208’-4” north of East 42<sup>nd</sup> Street, Block 1290, Lot 60, Borough of Manhattan.

**COMMUNITY BOARD #5M**

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**236-07-BZ**

APPLICANT – Jay A. Segal, Esq./Greenberg Traurig, LLP, for Hope Lofts LLC c/o Stein, Simpston & Rosen, PA, owner; 53 Hope Street LLC c/o Gershon & Company, lessee.

SUBJECT – Application December 2, 2010 – Amendment to previously approved Special Permit (ZR 73-46) to allow additional dwelling units and waiver of parking spaces. M1-2/R6A (MX-8) zoning district.

PREMISES AFFECTED – 53-65 Hope Street, north side of Hope Street, between Havemeyer Street and Marcy Avenue, Block 2369, Lots 40 & 47, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

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**APPEALS CALENDAR**

**189-10-A**

APPLICANT – Bracewell & Giuliani, LLP on behalf of Chelsea Business & Property Owners, for 127 West 25<sup>th</sup> LLC, owner; Bowery Residents’ Committee, Incorporated, lessee.

SUBJECT – Application October 8, 2010 – Appeal challenging the issuance of permits by the Department of Buildings to allow the construction of a health care facility in an M1-6 zoning district.

PREMISES AFFECTED – 127-131 West 25<sup>th</sup> Street, between 6<sup>th</sup> and 7<sup>th</sup> Avenue, Block 801, Lot 21, Borough of Manhattan.

**COMMUNITY BOARD #4M**

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**MARCH 1, 2011, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, March 1, 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**

**90-10-BZ**

APPLICANT – James Chin & Associates, LLC, for Chan Ahn, owner.

SUBJECT – Application August 14, 2010 – Variance (§72-21) to permit a house of worship contrary to front yard (§24-34), side yard (§24-35), and rear yard (§24-36). R2A zoning district.

PREMISES AFFECTED – 58-06 Springfield Boulevard, corner of the west side of Springfield Boulevard, west north side of the Horace Harding Expressway, Block 7471, Lots 7 and 48, Borough of Queens.

**COMMUNITY BOARD #11Q**

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# CALENDAR

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**156-10-BZ thru 172-10-BZ**

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for City of New York c/o Housing Preservation Development (HPD), owner.

SUBJECT – Application August 26, 2010 – Variance (§72-21) to allow residential buildings, contrary to rear yard (ZR 23-47) and minimum distance between windows and lot lines (ZR 23-861) regulations. M1-2/R6A zoning district.

PREMISES AFFECTED – 1204, 1208, 1214, 1220, 1226, 1232, 1264, 1270, 1276, 1304, 1310, 1316, 1322, 1328, 1334, 1362, 1368 37th Street, South side of 37th Street between 12th Avenue and 14th Avenue, Block 5295, Lots 4,104, 105, 106, 107, 108, 111, 112, 113, Block 5300, Lots 9, 109, 110, 111, 112, 113, 115, 116, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

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**227-10-BZ**

APPLICANT – Eric Palatnik, P.C., for Power Test Realty Company Limited Partnership, owner.

SUBJECT – Application December 14, 2010 – Reinstatement (§11-411) of a previously approved variance permitting the operation of an automotive service station (UG 16B) (Getty) which expired on October 11, 2000; Amendment to legalize modifications to the fuel dispensing islands; Extension of Time to obtain a certificate of occupancy which expired on November 17, 1993; Waiver of the rules. C2-2/R3-2 zoning district.

PREMISES AFFECTED – 204-12 Northern Boulevard, Northern Boulevard and 204th Street. Block 7301, Lot 11, Borough of Queens.

**COMMUNITY BOARD #11Q**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, FEBRUARY 8, 2011  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**128-00-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for CRP/Capstone 14W Property Owner, LLC c/o CB Richard Ellis, owner; Equinox Wall Street Incorporated, lessee.

SUBJECT – Application September 30, 2010 – Extension of Term of a Special Permit (ZR §73-36) for the continued operation of a physical culture establishment (*Equinox*) which expired on September 12, 2010. C5-5(LM) zoning district.

PREMISES AFFECTED – 10/16 Wall Street, north west corner of Wall Street and Nassau Street, Block 46, Lot 9, Borough of Manhattan.

**COMMUNITY BOARD #1M**

APPEARANCES –

For Applicant: Todd Dale.

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

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of term of a previously granted special permit for a physical culture establishment (“PCE”), which expired on September 12, 2010; and

WHEREAS, a public hearing was held on this application on December 14, 2010, after due notice by publication in *The City Record*, and then to decision on February 8, 2011; and

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

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

WHEREAS, the PCE is located on a corner lot bounded by Pine Street to the north, Nassau Street to the east, and Wall Street to the south, in a C5-5 zoning district within the Special Lower Manhattan District; and

WHEREAS, the PCE occupies a total of 32,294 sq. ft. of floor area on portions of the first floor and second floor of a 32-story commercial building; and

WHEREAS, the Board has exercised jurisdiction over the subject site since September 12, 2000 when, under the

subject calendar number, the Board granted a special permit for a PCE in the subject building for a term of ten years, to expire on September 12, 2010; and

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

WHEREAS, at hearing, the Board raised concerns about the signage at the site, particularly regarding the flagpole and banner signage on the exterior of the building; and

WHEREAS, in response, the applicant submitted a Certificate of Appropriateness from the Landmarks Preservation Commission, reflecting that the flagpole and banner signage has been approved; and

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

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on September 12, 2000, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from September 12, 2010, to expire on September 12, 2020, *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked ‘Received September 30, 2010’-(5) sheets; and *on further condition*:

THAT the term of this grant shall expire on September 12, 2020;

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

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

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

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

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

(DOB Application No. 102658786)

Adopted by the Board of Standards and Appeals, February 8, 2011.

**379-01-BZ**

APPLICANT – The Law Office of Fredrick A. Becker, for Consolidated Edison of New York, owner; TSI Irving LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application October 22, 2010 – Extension of Term of a Special Permit (§73-36) for the continued operation of physical culture establishment (*New York Sports Club*), located in portions of the basement, first floor and second floor, in a 33 story office building, which expires on April 16, 2011. C6-3X/C1-9 zoning district.

PREMISES AFFECTED – 4 Irving Place, northeast corner of Irving Place and East 14<sup>th</sup> Street, Block 870, Lot 24, Borough of Manhattan.

# MINUTES

## COMMUNITY BOARD #6M

### APPEARANCES –

For Applicant: Fredrick A. Becker.

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

### THE VOTE TO GRANT –

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

Negative:.....0

### THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of term of a previously granted special permit for a physical culture establishment (“PCE”), which expires on April 16, 2011; and

WHEREAS, a public hearing was held on this application on January 25, 2011, after due notice by publication in *The City Record*, and then to decision on February 8, 2011; and

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

WHEREAS, the PCE is located on the southeast corner of Irving Place and East 15<sup>th</sup> Street, partially within a C6-3X zoning district and partially within a C1-9 zoning district; and

WHEREAS, the PCE occupies a total of 20,919 sq. ft. of floor area in portions of the basement, first floor and second floor of a 33-story commercial building; and

WHEREAS, the Board has exercised jurisdiction over the subject site since April 16, 2002 when, under the subject calendar number, the Board granted a special permit for a PCE in the subject building for a term of nine years, to expire on April 16, 2011; and

WHEREAS, most recently, on February 5, 2003, the Board issued a letter of substantial compliance permitting certain modifications to the interior layout of the site; and

WHEREAS, the applicant now seeks to extend the term of the special permit for 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 *reopens* and *amends* the resolution, as adopted on April 16, 2002, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from April 16, 2011, to expire on April 16, 2021, *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked ‘Received October 21, 2010’-(7) sheets; and *on further condition*:

THAT the term of this grant shall expire on April 16, 2021;

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

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

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

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

(DOB Application No. 102552514)

Adopted by the Board of Standards and Appeals, February 8, 2011.

## 132-58-BZ

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

SUBJECT – Application July 9, 2010 – Extension of Term (§11-411) of a previously approved automotive service station (UG 16B) (*Gulf*) with accessory uses which expired on June 18, 2010. C1-2/R3-2 zoning district.

PREMISES AFFECTED – 17-45 Francis Lewis Boulevard, aka 17-55 Francis Lewis Boulevard, east side of Francis Lewis Boulevard, between 17<sup>th</sup> Road and 18<sup>th</sup> Avenue, Block 4747, Lot 31, Borough of Queens.

## COMMUNITY BOARD #7Q

### APPEARANCES –

For Applicant: Josh Rinesmith.

### THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to March 8, 2011, at 10 A.M., for decision, hearing closed.

## 433-65-BZ

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

SUBJECT – Application July 22, 2010 – Extension of Term of an approval pursuant to the Multiple Dwelling Law for transient parking, which expired on June 22, 2010. R8B/R10A zoning district.

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

## COMMUNITY BOARD #7M

### APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to March 29, 2011, at 10 A.M., for continued hearing.

## 749-65-BZ

APPLICANT – Sheldon Lobel, P.C., for Henry Koch, owner.

SUBJECT – Application October 14, 2010 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a UG16 Gasoline Service Station (*Getty*) with accessory uses which expired on November 3, 2010; Extension of Time to obtain a Certificate of

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Occupancy which expired on December 19, 2002; Waiver of the Rules. R3X zoning district.

PREMISES AFFECTED – 1820 Richmond Road, southeast corner of Richmond Road and Stobe Avenue, Block 3552, Lot 39, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Josh Rinesmith.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to March 8, 2011, at 10 A.M., for decision, hearing closed.

## 899-65-BZ

APPLICANT – Sheldon Lobel, P.C., for Rengency Towers, LLC, owner.

SUBJECT – Application December 3, 2010 – Extension of Term permitting 75 surplus tenant parking spaces, within an accessory garage, for transient parking pursuant to §60 (3) of the Multiple Dwelling Law (MDL), which expired on November 16, 2010. C2-8/R8B zoning district.

PREMISES AFFECTED – 231-245 East 63<sup>rd</sup> Street, aka 1201-1222 2<sup>nd</sup> Avenue. Located along the entire west block front of Second Avenue between 63<sup>rd</sup> and 64<sup>th</sup> Streets. Block 1418, Lot 21. Borough of Manhattan.

## COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Josh Rinesmith.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to March 15, 2011, at 10 A.M., for decision, hearing closed.

## 197-02-BZ

APPLICANT – Gary Silver Architects, for Nostrand Kings Management, owner; No Limit LLC, lessee.

SUBJECT – Application November 9, 2010 – Extension of Term of a previously approved Special Permit (§73-36) permitting the operation of a Physical Culture Establishment which expired on November 26, 2007; Extension of Time to obtain a Certificate of Occupancy; Waiver of the Rules. C2-2/R3-2 zoning district.

PREMISES AFFECTED – 2825 Nostrand Avenue, East side of Nostrand Avenue 129.14 feet south of the corner of Kings Highway. Block 7692, Lot 38, Borough of Brooklyn.

## COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Albert Morengo and Gary Silver.

**ACTION OF THE BOARD** – Laid over to March 15, 2011, at 10 A.M., for continued hearing.

## 259-08-BZ

APPLICANT – Jeffrey A. Chester/Einbinder & Dunn, for AAC Douglaston Plaza, LLC, owner; Fairway Douglaston LLC, lessee.

SUBJECT – Application October 18, 2010 – Amendment of a variance (§72-21) permitting the expansion of a non-conforming supermarket (UG 6). The amendment would remove a condition limiting the signage to C1 regulations. R4 zoning district.

PREMISES AFFECTED – 242-02 61<sup>st</sup> Avenue, Douglaston Parkway and 61<sup>st</sup> Avenue, Block 8286, Lot 185, Borough of Queens.

## COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Jeffrey A. Chester and Edward Wienstein.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to March 15, 2011, at 10 A.M., for decision, hearing closed.

## APPEALS CALENDAR

### 96-10-A & 97-10-A

APPLICANT – Rothkrug Rothkrug & Spector, for Hub Development Corporation, owner.

SUBJECT – Application June 1, 2010 – Proposed construction of a single family home located within the bed of a mapped street (Jay Street), contrary to General City Law Section 35. R3-1 Zoning District.

PREMISES AFFECTED – 673 & 675 Hunter Avenue, north side of Hunter Avenue, bed of Jay Street, Block 3864, Lot 98 & 99, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Todd Dale.

**ACTION OF THE BOARD** – Laid over to March 29, 2011, at 10 A.M., for continued hearing.

### 214-10-A

APPLICANT – Carol E. Rosenthal, Esq./Fried Frank, for Boulevard Leasing Limited Partnership, owner.

SUBJECT – Application November 10, 2010 – Appeal challenging the Department of Buildings determination regarding maximum number of dwelling units (§23-22) allowed in a residential conversion of an existing building. C4-2 zoning district.

PREMISES AFFECTED – 97-45 Queens Boulevard, bounded by Queens Boulevard, 64<sup>th</sup> Road and 64<sup>th</sup> Avenue, Block 2091, Lot 1, Borough of Queens.

## COMMUNITY BOARD #6Q

# MINUTES

## APPEARANCES –

For Applicant: Carol E. Rosenthal.

For Opposition: John Egnatos-Berne.

## THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to March 15, 2011, at 10 A.M., for decision, hearing closed.

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*Jeff Mulligan, Executive Director*

Adjourned: P.M.

## REGULAR MEETING TUESDAY AFTERNOON, FEBRUARY 8, 2011 1:30 P.M.

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

## ZONING CALENDAR

### 192-09-BZ

#### CEQR #09-BSA-119K

APPLICANT – Richard Lobel, for Leon Mann, owner.  
SUBJECT – Application June 16, 2009 – Special Permit (§72-52) to allow for the construction of a commercial building with accessory parking. R6 and R6/C2-3 zoning districts.

PREMISES AFFECTED – 912 Broadway, northeast corner of the intersection of Broadway and Stockton Street, Block 1584, Lot 11, Borough of Brooklyn.

#### COMMUNITY BOARD #3BK

APPEARANCES – None.

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

## THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, February 8, 2011.

### 55-10-BZ

#### CEQR #10-BSA-063Q

APPLICANT – Eric Palatnik, P.C., for FAS Main Street Family Limited Partnership, owner.

SUBJECT – Application April 19, 2010 – Special Permit (§73-44) to permit a reduction in required parking for an

ambulatory or diagnostic treatment center. C4-2/C4-3 zoning districts.

PREMISES AFFECTED – 40-22 Main Street, northwest corner of Main Street, northwest corner of Main Street and 40<sup>th</sup> Street, Block 5036, Lot 42, Borough of Queens.

#### COMMUNITY BOARD #7Q

## APPEARANCES –

For Applicant: Eric Palatnik.

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

## THE VOTE TO GRANT –

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

Negative:.....0

## THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated July 1, 2010, acting on Department of Buildings Application No. 420111220, reads in pertinent part:

“Apply for reduction of parking spaces for Ambulatory Diagnostic or Treatment Facilities Listed in Use Group 4. Contrary to ZR 73-44;”  
and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit, on a site partially within a C4-2 zoning district and partially within a C4-3 zoning district, a reduction in the required number of accessory parking spaces for a mixed-use retail/office/community facility building from 32 to 24, contrary to ZR § 36-21; and

WHEREAS, a public hearing was held on this application on October 19, 2010, after due notice by publication in The City Record, with a continued hearing on December 14, 2010, and then to decision on February 8, 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 7, Queens, recommends disapproval of this application; and

WHEREAS, the subject site is located on the northwest corner of Main Street and 40<sup>th</sup> Avenue, and has a lot area of 2,933 sq. ft.; and

WHEREAS, the site is currently occupied by a four-story mixed-use retail/office/community facility building with no accessory parking spaces; and

WHEREAS, the applicant proposes to convert the third floor and third floor mezzanine of the subject building from its current use as a day care center to an ambulatory diagnostic or treatment facility space (Use Group 4); and

WHEREAS, specifically, the proposed uses at the site are as follows: (1) offices at the cellar level; (2) retail use on the first floor, first floor mezzanine, and second floor; (3) ambulatory diagnostic or treatment facility use (Use Group 4) on the third floor and third floor mezzanine; and (4) offices (Use Group 6) on the fourth floor; and

WHEREAS, the applicant states that the required

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parking for the existing uses at the site is 24 spaces, and that the parking requirement was waived pursuant to ZR § 36-231, which permits a waiver of all required parking if the total number of required parking spaces is less than 25; and

WHEREAS, the applicant further states that the proposed conversion of the third floor and third floor mezzanine from a day care center, which has no parking requirement, to an ambulatory diagnostic or treatment facility (Use Group 4), which requires one parking space per 400 sq. ft. of floor area, increases the total number of required parking spaces at the site from 24 to 32, thereby making the site ineligible for the parking waiver under ZR § 36-231; and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject C4-2 and C4-3 zoning districts, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable ZR provision, for ambulatory diagnostic or treatment facilities and the noted Use Group 6 uses in the parking category B1; in the subject zoning district, the Board may reduce the required parking from one space per 400 sq. ft. of floor area to one space per 800 sq. ft. of floor area; and

WHEREAS, pursuant to ZR § 36-21 the total number of required parking spaces for all uses at the site is 32; and

WHEREAS, the applicant represents that the proposed use of the site does not require 32 accessory parking spaces; and

WHEREAS, the applicant notes that 6,576 sq. ft. of floor area in the subject building is occupied by retail space, which is not in parking category B1 and therefore has been excluded from the calculations for the requested reduction in parking; and

WHEREAS, the applicant states that the remaining 6,413 sq. ft. of floor area at the site will be occupied either by ambulatory diagnostic or treatment facility space (Use Group 4) or professional offices (Use Group 6), which are eligible for the parking reduction under ZR § 73-44; at a rate of one required parking space per 400 sq. ft. of floor area, 16 parking spaces are required for these uses; and

WHEREAS, accordingly, the total number of parking spaces which are eligible under the special permit is 16; as noted, the special permit allows for a reduction from one space per 400 sq. ft. of floor area to one space per 800 sq. ft. of floor area, which would reduce the required parking for these uses to eight spaces; and

WHEREAS, the applicant represents that an additional 16 parking spaces are required for the 6,576 sq. ft. of floor area occupied by retail space, which is not eligible for the special permit; and

WHEREAS, thus, a total of 24 parking spaces is required for the subject site; and

WHEREAS, the applicant represents that, should the Board grant the subject special permit application to reduce the number of required parking spaces to 24, the site will qualify for a waiver of all required parking pursuant to ZR § 36-231, because the total number of required accessory off-street parking spaces for all uses on the site would be less

than 25; and

WHEREAS, the Board notes that ZR § 73-44 only authorizes a reduction in the required number of parking spaces for floor area occupied by an ambulatory diagnostic or treatment facility or uses in parking requirement category B1; as noted above, the special permit would allow a reduction of the required number of parking spaces at the subject site from 32 to 24; and

WHEREAS, the Board takes no position as to whether approval of the subject special permit application qualifies the site for a parking waiver pursuant to ZR § 36-231, which is a determination subject to review by the Department of Buildings (“DOB”); and

WHEREAS, the applicant states that if DOB determines that the site does not qualify for a waiver of the 24 required parking spaces pursuant to ZR § 36-231, the required number of parking spaces will be provided at an off-site location within a 600-ft. radius of the site, as per ZR § 36-421; and

WHEREAS, ZR § 73-44 requires that the Board must determine that the ambulatory diagnostic or treatment facility and Use Group 6 use in the B1 parking category are contemplated in good faith; and

WHEREAS, the applicant has submitted an affidavit from the owner of the premises stating that third floor and third floor mezzanine will be used for ambulatory diagnostic or treatment facility and the fourth floor will be used for Use Group 6 professional offices; and

WHEREAS, in addition, the applicant states that any Certificate of Occupancy for the building will state that no subsequent Certificate of Occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius; and

WHEREAS, accordingly, the applicant has submitted sufficient evidence of good faith in maintaining the noted uses at the site; and

WHEREAS, however, while ZR § 73-44 allows the Board to reduce the required accessory parking, the Board requested an analysis about the impact that such a reduction might have on the community in terms of available on-street parking; and

WHEREAS, in response, the applicant submitted a trip generation and parking accumulation analysis, which reflects that during peak periods, the maximum demand for parking at the site is 20 spaces; and

WHEREAS, the parking analysis provided by the applicant further reflects that there are 329 on-street parking spaces within a one-quarter mile radius of the site, and there is a minimum of 51 and a maximum of 152 available parking spaces throughout the course of the day; and

WHEREAS, the parking analysis also reveals that there are two off-street municipal parking facilities in close proximity to the site, with a total of 577, 56 and 382 available parking spaces during the morning, midday, and evening peak hours; and

WHEREAS, based upon this study, the Board agrees

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that the accessory parking space needs can be accommodated even with the parking reduction; and

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-44 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 10BSA063Q, dated March 24, 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 Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

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

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 §§ 73-44 and 73-03, to permit, partially within a C4-2 zoning district, and partially within a C4-3 zoning district, a reduction in the required number of accessory parking spaces for a mixed-use retail/office/community facility building from 32 to 24, contrary to ZR § 36-21; on condition that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received January 18, 2011" - one (1) sheet and "Received September 11, 2010"-4 (four) sheets; on further condition:

THAT there shall be no change in the operation of the site without prior review and approval by the Board;

THAT DOB shall review the proposal to determine whether the site qualifies for a waiver of the required number of parking spaces pursuant to ZR § 36-231;

THAT in the event DOB determines that the site does not qualify for a parking waiver under ZR § 36-231, the location and configuration of the 24 required parking spaces shall be subject to review and approval by DOB;

THAT no certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless

additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius;

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

THAT any building enlargement shall be as approved by DOB and must comply with all relevant zoning district regulations;

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

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

THAT the Department of Buildings must ensure compliance with all of 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, February 8, 2011.

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**140-10-BZ/142-10-BZ/144-10-BZ/146-10-BZ  
CEQR #11-BSA-010R**

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Edward Lauria, owner.

SUBJECT – Application August 9, 2010 – Variance (§72-21) to allow four single-family homes on a zoning lot that does not meet the minimum lot width requirements (§23-32), and waiver to the General City Law, Section 36, for development not fronting a mapped street. R1-2 (NA-1) zoning district.

PREMISES AFFECTED – 160, 170, 181, 191, Edinboro Road, south of Meisner Avenue, east of intersection Lighthouse Avenue and Edinboro Road, Block 2267, Lot 55(tent), 50, 197, 168, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

APPEARANCES –

For Applicant: Eric Palantik.

**ACTION OF THE BOARD** – Applications 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 decisions of the Staten Island Borough Commissioner, dated July 7, 2010, acting on Department of Buildings Application Nos. 520031581, 520027543, 520031590, and 520031607, read, in pertinent part:

- “1. GCL 36 – The street giving access to the building is not on the official map of the city of New York.
2. ZR 23-32 – The proposed zoning lot does not have a dimension of at least 60 feet along any street”; and

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WHEREAS, this is an application under ZR § 72-21, to permit, in an R1-2 zoning district mapped within a Special Natural Area District (NA-1) the construction of four three-story single-family homes on a zoning lot, which does not comply with minimum lot width requirements, contrary to ZR § 23-32; and

WHEREAS, the applicant concurrently filed companion applications under BSA Cal. Nos. 141-, 143-, 145-, and 147-10-A to allow for the construction of the homes which do not front on a mapped street; and

WHEREAS, the Board granted a waiver of General City Law (GCL) § 36 for all four homes on February 8, 2011; the approvals are discussed in a separate resolution; and

WHEREAS, a public hearing was held on this application on November 9, 2010, after due notice by publication in *The City Record*, with continued hearings on December 14, 2010 and January 25, 2010, and then to decision on February 8, 2011; and

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

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

WHEREAS, the applicant proposes to construct four single-family homes on a single zoning lot (four tax lots), with a total lot area of 95,566 sq. ft., but that does not provide 60 feet of frontage on a street and that does not front on a street on the official map of the City of New York; and

WHEREAS, the proposed homes, together will have the following complying parameters: a total floor area of 26,637 sq. ft. (including the lowest level, which may be deemed a cellar), a Floor Area Ratio (FAR) of 0.28, and individual floor area of 5,021 sq. ft. (191 Edinboro Road); 8,766 sq. ft. (170 Edinboro Road); 2,876 (160 Edinboro Road); and 5,021 sq. ft. (180 Edinboro Road); and

WHEREAS, the site is located on the north and south side of the unmapped Edinboro Road, south of Meisner Avenue, east of the intersection of Lighthouse Road and Edinboro Road; and

WHEREAS, the lot is irregularly-shaped with widths ranging from 12 feet for a sliver at the north of the site at Meisner Avenue to 473 feet at the southern boundary, with two connected square portions on either side of Edinboro Road, where the homes will be built; and

WHEREAS, the lot has a frontage of 12 feet on Meisner Avenue, a frontage of 25 feet on Edinboro Road, and a frontage of 45 feet on Lighthouse Road, none of which meet the requirement for 60 feet of frontage on a street; and

WHEREAS, the Lower Density Growth Management Area (LDGMA) regulations require that lot width requirements be met along at least one street line of the zoning lot; and

WHEREAS, the applicant notes that, despite the lot's large size, it does not meet the 60-ft. lot width requirement at any frontage; and

WHEREAS, in 1985, the property owner filed an application at the Board for six homes that did not front on a street mapped on the official City map, and for the proposed

use of drywells (BSA Cal. Nos. 324-85-A to 329-85-A); the owner withdrew the GCL portions of the applications, but obtained grants to permit drywells for storm water disposal; and

WHEREAS, further, the applicant represents that in 1999, prior to the enactment of the LDGMA regulations (including ZR § 23-32) it submitted an application to the City Planning Commission (N000190 ZAR) for approval under Natural Area District Regulations for modification to topography, alteration of botanic environment, and removal of trees and other natural features; the City Planning Commission approved the proposal in 2005; and

WHEREAS, however, in 2005, City Council adopted ZR § 23-32(b), which requires that the applicable lot width provisions of ZR § 23-32 be met along at least one street line of the zoning lot; and

WHEREAS, the applicant represents that it has provided the Department of City Planning with the proposed plans and is seeking a new authorization to correspond with the Board's approvals; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the irregular shape of the lot; and

WHEREAS, as to the site's shape, that applicant states that although the site has a lot area of more than 95,000 sq. ft. and a width as great as 473 feet, the zoning lot has widths of only 12 feet, 25 feet, and 45 feet at the street frontages; and

WHEREAS, the applicant represents that absent the requested waiver, it would be permitted to develop only a single home on the premises per ZR § 23-33 (*Special Provisions for Existing Small Lots*) since the site is located in the LDGMA and fails to comply with the lot width provisions of § 23-32(a), and as the zoning lot has been owned separately and individually from adjoining tracts of land per § 23-33(b); and

WHEREAS, the applicant notes that a regularly-shaped lot with an alternate configuration, and the subject lot's lot area, could accommodate 16 homes, as opposed to the four homes that are proposed; and

WHEREAS, the Board notes that the lot's shape is unique and that the applicant has submitted evidence in the record to establish that the lot has existed in its current configuration and was owned separately and apart from all adjacent lots on December 15, 1961, at the 2005 adoption of the lot width restriction, and at the time of the subject application; and

WHEREAS, accordingly, the Board finds that the aforementioned unique physical conditions create a practical difficulty in developing the site in compliance with the applicable zoning provisions; and

WHEREAS, the applicant provided a financial analysis for (1) the as-of-right one single-family home with a floor area of 8,300 sq. ft.; and (2) the proposed four single-family homes with a total floor area of 26,637 sq. ft. (including the lowest level/cellar floor area); and

WHEREAS, the study concluded that the as-of-right

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scenario would not result in a reasonable return, but that the proposal 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 homes 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 notes that the proposed homes comply with all R1-2 (NA-1) zoning district parameters aside from lot width and that each of the four tax lots will be significantly larger than the minimum lot size permitted within the zoning district; and

WHEREAS, specifically, the applicant represents that the four proposed tax lots are 10,564 sq. ft. (Lot 168), 9,268 sq. ft. (Lot 197), 31,667 sq. ft. (Lot 50), and 43,790 sq. ft. (Lot 55) while the minimum required lot size is only 5,700 sq. ft.; and

WHEREAS, the applicant provided an analysis which reflects the parameters of the surrounding homes and found that the height, floor area, lot area, and FAR are compatible with nearby homes; and

WHEREAS, finally, the applicant notes that the design and location of the proposed homes are subject to review by the Department of City Planning, and that a further review will be conducted by the City Planning Commission since the proposal must receive an authorization; and

WHEREAS, the applicant notes that Edinboro Road (with a width of 30 feet) will be extended to provide access to the site and that, per the Fire Department's direction related to the companion GCL cases, the homes will all be fully-sprinklered; 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 configuration, which existed on December 15, 1961 and at the time of the 2005 adoption of ZR § 23-32's lot width requirement along the street frontage; and

WHEREAS, the applicant notes that the four proposed homes reflect a total FAR of 0.28 and that the lot's area supports an FAR of 0.5 and up to 12 more homes; 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 pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the

Final Environmental Assessment Statement (EAS) CEQR No. 11BSA010R, dated November 8, 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 Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

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

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 the required findings under ZR § 72-21, to permit, in an R1-2 zoning district mapped within a Special Natural Area District, the construction of four three-story single-family homes, which do not comply with minimum lot width, contrary to ZR § 23-32; *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 December 23, 2010" – one (1) sheet and "Received December 3, 2010" – twenty (20) sheets; and *on further condition*:

THAT all bulk parameters shall be as reflected on the BSA-approved plans;

THAT substantial construction shall be completed pursuant to ZR § 72-23;

THAT no building permit shall be issued until the proposal has received an authorization from the City Planning Commission for its location within a Special Natural Area District;

THAT all interior layouts and exits 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 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, February 8, 2011.

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## 141-10-A/143-10-A/145-10-A/147-10-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Edward Lauria, owner.

SUBJECT – Application August 9, 2010 – Variance (§72-21) to allow four single-family homes on a zoning lot that does not meet the minimum lot width requirements (§23-32), and waiver to the General City Law, Section 36, for development not fronting a mapped street. R1-2 (NA-1) zoning district.

PREMISES AFFECTED – 160, 170, 181, 191, Edinboro Road, south of Meisner Avenue, east of intersection Lighthouse Avenue and Edinboro Road, Block 2267, Lot 55(tent), 50, 197, 168, Borough of Staten Island.

### COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Eric Palantik.

**ACTION OF THE BOARD** – Applications 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 decisions of the Staten Island Borough Commissioner, dated July 7, 2010, acting on Department of Buildings Application Nos. 520031581, 520027543, 520031590, and 520031607, read in pertinent part:

- “1. GCL 36 – The street giving access to the building is not on the official map of the city of New York.
2. ZR 23-32 – The proposed zoning lot does not have a dimension of at least 60 feet along any street.”; and

WHEREAS, this is an application to permit, in an R1-2 zoning district mapped within a Special Natural Area District (NA-1) the construction of four three-story single-family homes which do not front on a legally mapped street, contrary to Section 36 of the General City Law; and

WHEREAS, the applicant concurrently filed companion applications under BSA Cal. Nos.140-, 142-, 144-, and 146-10-A, for a variance to permit the construction of the proposed homes on a zoning lot that does not comply with minimum lot width requirements, contrary to ZR § 23-32; and

WHEREAS, the Board granted variances under ZR § 72-21 for all four homes on February 8, 2011; the approvals are discussed in a separate resolution; and

WHEREAS, a public hearing was held on this application on November 9, 2010, after due notice by publication in the *City Record*, with continued hearings on December 14, 2010 and January 25, 2010, and then to decision on February 8, 2011; and

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

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

WHEREAS, the applicant proposes to construct four single-family homes on a single zoning lot (four tax lots), with a total lot area of 95,566 sq. ft., but that does not provide 60 feet of frontage on a street and that does not front on a street on the official map of the City of New York; and

WHEREAS, the applicant states that Edinboro Road will be extended onto the subject zoning lot to provide access to each of the proposed homes; and

WHEREAS, specifically, the applicant states that Edinboro Road, as depicted on the official City map, terminates at the western lot line of Lot 168, and the extension of Edinboro Road will be paved to 30 feet wide and culminate in a cul-de-sac situated on Lot 55; and

WHEREAS, by letter dated August 26, 2009, the Fire Department states that it has reviewed the site plan and has no objections provided that: (1) all of the proposed homes are fully sprinklered in conformance with the sprinkler provisions of Local Law 10 of 1999 as well as Reference Standard 17-2B of the New York City Building Code; and (2) no parking shall be permitted on the street and street signs shall be provided throughout the development to read “NO PARKING – FIRE LANE;” and

WHEREAS, in response, the applicant submitted a revised site plan reflecting that all of the homes will be fully sprinklered and states that no parking will be permitted on the street; and

WHEREAS, by letter dated January 24, 2011, the Fire Department confirms that it has no objection to the proposal; and

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

*Therefore it is Resolved* that the decision of the Staten Island Borough Commissioner, dated July 7, 2010, acting on Department of Buildings Application Nos. 520031581, 520027543, 520031590, and 520031607 are modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawings filed with the application marked “Received December 23, 2010”-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

THAT all of the proposed homes shall be fully sprinklered in conformance with the sprinkler provisions of Local Law 10 of 1999 as well as Reference Standard 17-2B of the New York City Building Code;

THAT there shall be no parking permitted on the portion of Edinboro Road adjacent to the subject homes and street signs shall be installed to read “NO PARKING – FIRE LANE;”

THAT DOB shall approve the lot subdivision prior to the issuance of permits;

THAT the approved plans shall be considered approved

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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, February 8, 2011.

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## 173-10-BZ

### CEQR #11-BSA-020Q

APPLICANT – Nasir J. Khanzada, for Olympia Properties, LLC., owner.

SUBJECT – Application August 26, 2010 – Special Permit (§73-30) to legalize the operation of a physical culture establishment (*Olympia Spa*). C2-4/R6B zoning district.

PREMISES AFFECTED – 65-06 Fresh Pond Road, west side of Fresh Pond Road, 45.89’ south of corner of Linden Street and Fresh Pond Road, Block 3526, Lot 67, Borough of Queens.

### COMMUNITY BOARD #5Q

APPEARANCES – None.

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

### THE VOTE TO GRANT –

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

Negative:.....0

### THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated December 22, 2010, acting on Department of Buildings Application No. 420139273, reads in pertinent part:

“Proposed physical culture establishment is not permitted in R6B zoning district with overlay C2-4 unless permitted by the Board of Standards and Appeals as per ZR 73-36;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C2-4 (R6B) zoning district, the legalization of a physical culture establishment (PCE) on the first floor and second floor of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on January 11, 2011, after due notice by publication in the *City Record*, and then to decision on February 8, 2011; and

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

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

WHEREAS, the subject site is located on the west side of Fresh Pond Road between Gates Avenue and Linden Street, in an R6B (C2-4) zoning district; and

WHEREAS, the site is occupied by a two-story commercial building; and

WHEREAS, the PCE has a total floor area of 2,740 sq. ft. on the first floor and second floor of the building; and

WHEREAS, the PCE is operated as Olympia Spa; and

WHEREAS, the proposed hours of operation are: Monday through Friday, from 5:00 a.m. to 11:00 p.m.; and Saturday and Sunday, from 7:00 a.m. to 7:00 p.m.; and

WHEREAS, the applicant represents that the services at the PCE include facilities for classes, instruction and programs for physical improvement, body building, weight reduction and aerobics; and

WHEREAS, the applicant initially represented that the PCE use was not currently in operation at the subject site; and

WHEREAS, at hearing, the Board questioned whether the PCE is currently in operation, based on the Board’s observations during its site visit; and

WHEREAS, in response, the applicant acknowledged that they are seeking to legalize the operation of the PCE; and

WHEREAS, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the Board notes that the PCE has been in operation since March 1, 2010, without a special permit; and

WHEREAS, accordingly, the Board has determined that the term of the grant shall be reduced for the period of time between March 1, 2010 and the date of this grant; 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, CEQR No. 11BSA020Q, dated August 26, 2010; and

WHEREAS, the EAS documents that the operation of the PCE would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and

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

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an R6B (C2-4) zoning district, the legalization of a physical culture establishment on the first floor and second floor of an existing two-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received December 30, 2010”- Four (4) sheets and *on further condition*:

THAT the term of this grant shall expire on March 1, 2020;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT all massages shall be performed by New York State licensed massage therapists;

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

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, February 8, 2011.

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## 174-10-BZ

### CEQR #11-BSA-021Q

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

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

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

### COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Eldad Gothelf.

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

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated July 28, 2010, acting on Department of Buildings Application No. 420044133, reads in pertinent part:

“Get approval for insufficient parking spaces ZR 36-21”; and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit, within a C2-2 (R4) zoning district, a reduction in the required number of accessory parking spaces for a mixed-use office/community facility building from 114 to 60, contrary to ZR § 36-21; and

WHEREAS, a public hearing was held on this application on December 7, 2010, after due notice by publication in The City Record, with a continued hearing on January 25, 2011, and then to decision on February 8, 2011; and

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

WHEREAS, Community Board 11, Queens, recommends approval of this application, with the condition that the ADA-accessible parking spaces be moved closer to the entrance of the building; and

WHEREAS, certain members of the community provided oral testimony in opposition to this application, citing concerns with its effect on parking in the surrounding neighborhood; and

WHEREAS, the subject site is located on the east side of Bell Boulevard, between 36<sup>th</sup> Avenue and 38<sup>th</sup> Avenue, and has a lot area of 24,240 sq. ft.; and

WHEREAS, the site is currently occupied by a one-story residential building, which is proposed to be demolished, and two two-story office buildings which will remain on the site (the “Existing Buildings”); and

WHEREAS, the Existing Buildings have a total floor area of 16,273 sq. ft., with 42 accessory parking spaces located at the cellar and first floor, in the rear of the buildings; and

WHEREAS, the applicant proposes to construct a three-story mixed-use office/community facility building with 17,904 sq. ft. of floor area and 18 additional parking spaces at the cellar and first floor, which will be constructed adjacent to and as an enlargement of the Existing Buildings;

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and

WHEREAS, specifically, the proposed uses at the site are as follows: (1) offices (Use Group 6) and 29 accessory parking spaces at the cellar level; (2) offices (Use Group 6), ambulatory diagnostic or treatment facility space (Use Group 4), and 31 accessory parking spaces on the first floor; (3) offices (Use Group 6) and ambulatory diagnostic or treatment facility space (Use Group 4) on the second floor; and (4) offices (Use Group 6) on the third floor; and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject C2-2 zoning district, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable ZR provision, for ambulatory diagnostic or treatment facilities and the noted Use Group 6 uses in the parking category B1; in the subject zoning district, the Board may reduce the required parking from one space per 300 sq. ft. of floor area to one space per 600 sq. ft. of floor area; and

WHEREAS, pursuant to ZR § 36-21 the total number of required parking spaces for all uses at the site is 114; and

WHEREAS, the applicant represents that the proposed use of the site does not require 114 accessory parking spaces; and

WHEREAS, the applicant notes that 1,613 sq. ft. of floor area in the Existing Buildings is occupied by a dance studio (Use Group 9), which is not in parking category B1 and therefore has been excluded from the calculations for the requested reduction in parking; and

WHEREAS, the applicant states that the remaining 32,564 sq. ft. of floor area at the site will be occupied either by ambulatory diagnostic or treatment facility space or professional offices, which are eligible for the parking reduction under ZR § 73-44; at a rate of one required parking space per 300 sq. ft. of floor area, 109 parking spaces are required for these uses; and

WHEREAS, accordingly, the total number of parking spaces which are eligible under the special permit is 109; as noted, the special permit allows for a reduction from one space per 300 sq. ft. of floor area to one space per 600 sq. ft. of floor area, which would reduce the required parking for these uses to 55 spaces; and

WHEREAS, the applicant states that an additional five parking spaces are required for the 1,613 sq. ft. of floor area occupied by a dance studio (Use Group 9), which is not eligible for the special permit; these five spaces will remain; and

WHEREAS, thus, the applicant proposes to provide a total of 60 parking spaces; and

WHEREAS, ZR § 73-44 requires that the Board must determine that the ambulatory diagnostic or treatment facility and Use Group 6 use in the B1 parking category are contemplated in good faith; and

WHEREAS, the applicant has submitted sufficient evidence of good faith in maintaining the noted uses at the site; and

WHEREAS, in addition, the applicant states that any Certificate of Occupancy for the building will state that no subsequent Certificate of Occupancy may be issued if the

use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius; and

WHEREAS, however, while ZR § 73-44 allows the Board to reduce the required accessory parking, the Board requested an analysis about the impact that such a reduction might have on the community in terms of available on-street parking; and

WHEREAS, in response, the applicant submitted a parking analysis, which reflects that the parking structure is underutilized and that during peak periods there is a demand for only 27 parking spaces; and

WHEREAS, the parking analysis provided by the applicant further reflects that, throughout the course of the day, there is a minimum of 38 available metered parking spaces on the streets within the immediate vicinity of the site; and

WHEREAS, based upon this study, the Board agrees that the accessory parking space needs can be accommodated even with the parking reduction; and

WHEREAS, in response to the concerns raised by the community board, the applicant submitted revised plans reflecting that one of the ADA-accessible parking spaces has been relocated closer to the building entrances; and

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-44 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 11BSA021Q, dated June 30, 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 Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

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

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

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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 Z.R. §§ 73-44 and 73-03, to permit, within a C2-2 (R4) zoning district, a reduction in the required number of accessory parking spaces for a mixed-use office/community facility building from 114 to 60, contrary to ZR § 36-21; on condition that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received January 11, 2011"- eighteen (18) sheets and on further condition:

THAT there shall be no change in the operation of the site without prior review and approval by the Board;

THAT a minimum of 60 parking spaces shall be provided in the accessory parking lot for the existing and proposed uses;

THAT no certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius;

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

THAT any building enlargement shall be as approved by DOB and must comply with all relevant zoning district regulations;

THAT the layout and design of the accessory parking lot shall be as reviewed and approved by the Department of Buildings;

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

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

THAT the Department of Buildings must ensure compliance with all of 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, February 8, 2011.

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## 24-09-BZ

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

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

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

**COMMUNITY BOARD #8Q**

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to March 15, 2011, at 1:30 P.M., for adjourned hearing.

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## 118-10-BZ

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

SUBJECT – Application June 28, 2010 – Reinstatement (§11-411 & §11-413) of an approval permitting the operation of an automotive service station (UG 16B), with accessory uses, which expired on December 9, 2003; amendment to legalize a change in use from automotive service station to automotive repair, auto sales and hand car washing. R4 zoning district.

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

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Katherine D'Ambrosio and Margherita D'Anna.

**ACTION OF THE BOARD** – Laid over to March 15, 2011, at 1:30 P.M., for continued hearing.

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## 127-10-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Aleksandr Goldshmidt and Inna Goldshmidt, owners.

SUBJECT – Application July 12, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space, lot coverage (§23-141), exceeds the maximum perimeter wall height (§23-631) and less than the required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 45 Coleridge Street, east side of Coleridge Street, between Shore Boulevard and Hampton Avenue, Block 8729, Lot 65, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to March 8, 2011, at 1:30 P.M., for continued hearing.

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## 134-10-BZ

APPLICANT – Stuart Beckerman, for Passiv House Xperimental LLC, owner.

SUBJECT – Application July 30, 2010 – Variance (§72-21) to allow a residential building, contrary to floor area (§43-12), height (§43-43), and use (§42-10) regulations. M1-1 zoning district.

PREMISES AFFECTED – 107 Union Street, north side of Union Street, between Van Brunt and Columbia Streets, Block 335, Lot 42, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

APPEARANCES –

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For Applicant: Neil Weisbard.

**THE VOTE TO CLOSE HEARING –**

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to March 29,  
2011, at 1:30 P.M., for decision, hearing closed.

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**192-10-BZ**

APPLICANT – Vincent L. Petraro, PLLC, for The Leavitt  
Street LLC, owner.

SUBJECT – Application October 20, 2010 – Special Permit  
(§73-66) to allow for a waiver of height restrictions around  
airports. C4-2 zoning district.

PREMISES AFFECTED – 39-16 College Point Boulevard,  
west side of College Point Boulevard, at the cross section of  
Roosevelt Avenue and College Point Boulevard, Block 462,  
Lot 4, Borough of Queens.

**COMMUNITY BOARD #7Q**

APPEARANCES –

For Applicant: Steven Simicich.

**ACTION OF THE BOARD** – Laid over to March 8,  
2011, at 1:30 P.M., for continued hearing.

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**193-10-BZ**

APPLICANT – Vincent L. Petraro, PLLC, for Jia Ye  
Realty, LLC, owner.

SUBJECT – Application October 20, 2010 – Special Permit  
(§73-66) to allow for a waiver of height restrictions around  
airports. C4-3 zoning district.

PREMISES AFFECTED – 35-27 Prince Street, at the  
congruence of 36<sup>th</sup> Road and Prince Street, Block 4971, Lot  
8, Borough of Queens.

**COMMUNITY BOARD #7Q**

APPEARANCES –

For Applicant: Steven Simicich.

**ACTION OF THE BOARD** – Laid over to March 8,  
2011, at 1:30 P.M., for continued hearing.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

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## \*CORRECTION

This resolution adopted on December 12, 2006, under Calendar No. 139-95-BZ and printed in Volume 91, Bulletin Nos. 49-51, is hereby corrected to read as follows:

### 139-95-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for The Mondrian Condominium, owner; Equinox 54<sup>th</sup> Street, Inc., lessee.

SUBJECT – Application June 30, 2006 – Extension of Term for a Special Permit (§73-36) to allow a Physical Cultural Establishment in a C1-9(TA) zoning district.

PREMISES AFFECTED – 250 East 54<sup>th</sup> Street, southwest corner of East 54<sup>th</sup> Street and 2<sup>nd</sup> Avenue, Block 1327, Lot 7502, Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Eric Palatnik

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson:.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of the term for a previously granted special permit for a Physical Culture Establishment (PCE), which expired on October 8, 2006; and

WHEREAS, a public hearing was held on this application on November 21, 2006 after due notice by publication in *The City Record*, and then to decision on December 12, 2006; and

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

WHEREAS, the subject premises is located on the southwest corner of East 54<sup>th</sup> Street and Second Avenue; and

WHEREAS, the site is occupied by a forty-story mixed-use building, located within a C1-9 zoning district within the Special Transit Land Use District; and

WHEREAS, the PCE occupies portions of the sub-cellar, cellar, and first floor; and

WHEREAS, the PCE is operated as an Equinox Fitness; and

WHEREAS, on October 8, 1996, under the subject calendar number, the Board granted a special permit pursuant to ZR § 73-36, to permit the operation of a PCE in the subject building for a term of ten years; and

WHEREAS, on March 30, 1999, under the subject calendar number, the Board granted an application to permit a change in operator and certain site modifications; and

WHEREAS, the instant application seeks to extend the term of the variance for an additional ten years; and

WHEREAS, based on the above, the Board finds that a ten-year extension is appropriate, with the conditions set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated October 8, 1996, so that as amended this portion of the resolution shall read: “to grant an extension of the special permit for a term of ten years from the expiration of the last grant; *on condition* that the use and operation of the PCE shall substantially conform to BSA-approved plans; and *on condition* that all work and the site layout shall substantially conform to drawings as filed with this application, marked “October 4, 2006”-(5) sheets; and *on further condition*:

THAT there shall be no change in ownership or operating control of the PCE without prior approval from the Board;

THAT this grant shall be limited to a term of ten years from October 8, 2006, expiring October 8, 2016;

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

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

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. 104439555)

Adopted by the Board of Standards and Appeals, December 12, 2006.

**\*This resolution replaces the earlier version which was publish in error. Corrected in Bulletin No. 7, Vol. 96, dated February 16, 2011.**

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## \*CORRECTION

This resolution adopted on June 17, 2008, under Calendar No. 38-08-BZ and printed in Volume 93, Bulletin Nos. 24-25, is hereby corrected to read as follows:

### 38-08-BZ

#### CEQR #09-BSA-059M

APPLICANT – Jay A. Segal, Greenberg Traurig, LLP, for 40 Broad LLC, owner; 40 Broad Spa Owner LLC, lessee.

SUBJECT – Application February 22, 2008 – Special Permit (§73-36) to allow the operation of a Physical Culture Establishment on the second and third floors of an existing 25-story commercial building. The proposal is contrary to §32-10. C5-5 within the Historic & Commercial Core Area of the Special Lower Manhattan District.

PREMISES AFFECTED – 40 Broad Street (a/k/a 34-40 New Street) lot fronting Broad Street and New Street, south of Exchange Place, north of Beaver Street, Block 24, Lot 32, Borough of Manhattan.

#### COMMUNITY BOARD #1M

##### APPEARANCES –

For Applicant: Sidney N. Hockens.

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

##### THE VOTE TO GRANT –

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

Negative:.....0

##### THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated January 23, 2008, acting on Department of Buildings Application No. 110069372, reads in pertinent part:

“A Physical Culture Establishment is not a permitted as of right use in a C5-5 district;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-5 zoning district within the Historic and Commercial Core Area of the Special Lower Manhattan District, the establishment of a physical culture establishment (PCE) on portions of the second and third floors of a 25-story mixed use residential/commercial office building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on May 13, 2008, after due notice by publication in *The City Record*, and then to decision on June 17, 2008; and

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

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

WHEREAS, the subject site occupies a through lot located on the west side of Broad Street and the east side of New Street between Exchange Place and Beaver Street; and

WHEREAS, a 25-story mixed-use commercial/

residential building is currently under construction at the site; and

WHEREAS, the PCE will occupy a total of approximately 8,320 sq. ft. of floor area on portions of the second and third floors; and

WHEREAS, the PCE will be operated as Setai Club Spa; and

WHEREAS, the applicant represents that the services at the PCE will include cardiovascular exercise machines, weight-training equipment, and individual and group instruction; and

WHEREAS, the building plans reflect that the PCE will be located at least four stories below the residential portions of the building; and

WHEREAS, the Board finds that this action will neither: 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 08BSA059M, dated February 22, 2008; and

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

WHEREAS, 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 prepared in accordance

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with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-5 zoning district within the Historic and Commercial Core Area of the Special Lower Manhattan District, the establishment of a physical culture establishment on portions of the second and third floors of a 25-story mixed use residential/commercial office building, contrary to ZR § 32-10, *on condition* that all work shall substantially conform to drawings filed with this application marked “Received April 18, 2008”–(2) sheets and “Received February 22, 2008”–(1) sheet; and *on further condition*:

THAT the term of this grant shall expire on June 17, 2018;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT all massages shall be performed by New York State licensed massage therapists;

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

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT prior to the issuance of any permits, DOB shall review the floor area and location of the PCE for compliance with all relevant commercial use regulations;

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

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

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

Adopted by the Board of Standards and Appeals, June 17, 2008.

**\*The resolution has been corrected to reflect the change of name in the lessee which read. “40 Broad Commercial LLC,” now reads: “40 Broad Spa Owner LLC”. Corrected in Bulletin No. 7, Vol. 96, dated February 16, 2011.**

## \*CORRECTION

This resolution adopted on October 19, 2010, under Calendar No. 112-10-BZ and printed in Volume 95, Bulletin Nos. 42-43, is hereby corrected to read as follows:

### 112-10-BZ

#### CEQR #10-BSA-081K

APPLICANT – Sheldon Lobel, P.C., for John Grant, owner.  
SUBJECT – Application June 18, 2010 – Special Permit (§73-44) to permit reduction in required parking in connection with change of use from UG 16 to UG 6 in an existing building. 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: 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 19, 2010, acting on Department of Buildings Application No. 320155522, reads in pertinent part:

“Proposed number of accessory parking spaces for the building at the premises is less than required pursuant to ZR 44-21”; and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit, within an M1-1 zoning district, a reduction in the required number of accessory parking spaces for a proposed conversion of the second story of a two-story building from Use Group 16 warehouse to UG 6 professional office building parking category B1, from 38 to 28 attended spaces, contrary to ZR § 44-21; and

WHEREAS, a public hearing was held on this application on September 21, 2010, after due notice by publication in *The City Record*, and then to decision on October 19, 2010; and

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

WHEREAS, Community Board 8, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the north side of Dean Street, between Classon Avenue and Grand Avenue, and has a lot area of 11,440 sq. ft.; and

WHEREAS, the site is currently occupied by an 11,414 sq. ft. two-story building with professional offices on the first floor and warehouse/storage on the second floor with open parking for 21 vehicles; and

WHEREAS, the applicant proposes to convert the

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entire 5,707 sq. ft. second floor to UG 6 professional offices; and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject M1-1 zoning district, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable ZR provision, for Use Group 6 uses in the parking category B1; in the subject zoning district, the Board may reduce the required parking from one space per 300 sq. ft. of floor area to one space per 600 sq. ft. of floor area; and

WHEREAS, pursuant to ZR § 44-21 the total number of required parking spaces for the existing and proposed office use at the site is 38; and

WHEREAS, the applicant represents that the proposed use of the site does not require 38 accessory parking spaces; and

WHEREAS, the applicant states that the immediate vicinity is served by numerous bus lines and subway lines, as well as the Long Island Rail Road; and

WHEREAS, based on the facility's users (dialysis patients) it is anticipated that many users will arrive by mass transit or be dropped off via ambulette, car service or taxi, lessening the demand for on-site parking; and

WHEREAS, the proposed second floor of the office building (Use Group 6) on the premises will occupy 5,707 sq. ft., and under the special permit authorized by ZR § 73-44 the number of parking spaces could be reduced to 19 for the proposed use; and

WHEREAS, the applicant proposes to provide a total of 28 attended parking spaces; and

WHEREAS, ZR § 73-44 requires that the Board must determine that the Use Group 6 use in the B1 parking category is contemplated in good faith; and

WHEREAS, the applicant has submitted an affidavit from the owner of the premises stating that the second floor will be used for Use Group 6 professional offices; and

WHEREAS, in addition, the applicant states that any Certificate of Occupancy for the building will state that no subsequent Certificate of Occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius; and

WHEREAS, the applicant has submitted sufficient evidence of good faith in limiting the use of the premises to professional offices; and

WHEREAS, the Board agrees that the accessory parking space needs can be accommodated even with the parking reduction; and

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-44 and 73-03; and

WHEREAS, the project is classified as an Unlisted

action pursuant to pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No.10BSA081K, dated June 18, 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 Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

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

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 Z.R. §§ 73-44 and 73-03, to permit, within a M1-1 zoning district, a reduction in the required number of accessory parking spaces for conversion of the second story of a two-story building from Use Group 16 warehouse to UG 6 professional office building from 38 to 28 attended spaces, contrary to ZR § 44-21; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received October 12, 2010"- (2) sheets and *on further condition*:

THAT there shall be no change in the operator of the site without prior review and approval by the Board;

THAT a minimum of 28 attended parking spaces shall be provided in the accessory parking lot for the proposed use;

THAT no certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius;

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

THAT any building enlargement shall be as approved by DOB and must comply with all relevant zoning district regulations;

THAT the layout and design of the accessory parking lot shall be as reviewed and approved by the Department of Buildings;

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

THAT the approved plans shall be considered

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# MINUTES

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approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all of 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, October 19, 2010.

**\*The resolution has been corrected to replace the first condition which read. “THAT there shall be no change in ownership of the site or the building without prior application to and approval from the Board;” now reads: “THAT there shall be no change in the operator of the site without prior review and approval by the Board”. Corrected in Bulletin No. 7, Vol. 96, dated February 16, 2011.**