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# BULLETIN

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

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

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Volume 96, Nos. 4-5

February 3, 2011

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### DIRECTORY

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### CONTENTS

DOCKET .....	40
<b>CALENDAR</b> of February 8, 2011	
Morning .....	41
Afternoon .....	41/42

# CONTENTS

**MINUTES of Regular Meetings,  
Tuesday, January 25, 2011**

Morning Calendar .....43

**Affecting Calendar Numbers:**

245-49-BZ	78-09 Spring Field Boulevard, Queens
66-90-BZ	43-03 Astoria Boulevard, Queens
315-90-BZ	82-06 Astoria Boulevard, Queens
175-05-BZ	18-24 Luquer Street, Brooklyn
827-55-BZ	245-20 139 <sup>th</sup> Avenue, Queens
758-84-BZ	1444 Clove Road, Staten Island
95-97-BZ	69-47 Austin Street, Queens
299-99-BZ	8-16 Malcom X Boulevard, Brooklyn
128-00-BZ	10/16 Wall Street, Manhattan
259-00-BZ	26 Court Street, Brooklyn
379-01-BZ	4 Irving Place, Manhattan
215-06-BZ	202-06 Hillside Avenue, Queens
125-10-A	346 Ovington Avenue, Brooklyn
155-80-A	75-72 185 <sup>th</sup> Street, Queens
264-08-A	29-23 40 <sup>th</sup> Road, aka 30-02 40 <sup>th</sup> Avenue, Queens
154-10-A	540 Bedford Avenue, Brooklyn
201-10-BZY	180 Orchard Street, Manhattan

Afternoon Calendar .....49

**Affecting Calendar Numbers:**

31-09-BZ	117-04 Sutphin Boulevard, Queens
43-10-BZ	23-70 Steinway Street, Queens
187-07-BZ	4677 Hylan Boulevard, Staten Island
277-07-BZ	165-35 North Conduit Avenue, Queens
194-09-BZ	2113 Utica Avenue, 2095-211 Utica Avenue, Brooklyn
6-10-BZ	2147 Mill Avenue, Brooklyn
29-10-BZ	22-32/36 31 <sup>st</sup> Street, Queens
140-10-BZ thru 147-10-A	160, 170, 181, 191 Edinboro Road, Staten Island
174-10-BZ	36-29 Bell Boulevard, Queen
178-10-BZ	943 East 24 <sup>th</sup> Street, Brooklyn
181-10-BZ	143/155 Roebling Street, aka 314/330 Metropolitan Avenue and 1/10 Hope Street, Brooklyn
182-10-BZ	1082 East 23 <sup>rd</sup> Street, Brooklyn
186-10-BZ	400-424 East 34 <sup>th</sup> Street, Manhattan
217-10-BZ	4009 Bedford Avenue, Brooklyn

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# DOCKET

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New Case Filed Up to January 25, 2010  
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**5-11-BZ**

9 Old Fulton Street, Northeasterly side of Old Fulton Street., Block 35, Lot(s) 10, Borough of **Brooklyn, Community Board: 2**. Variance (§72-21) to allow for a residential enlargement to an existing commercial building, contrary to open space regulations (ZR M2-1 district.  
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**6-11-BZ**

50-20 216th Street, Irregular corner lot of 7536.8 square feet on 216th Street and the corner of 51st Avenue., Block 7395, Lot(s) 13,16, Borough of **Queens, Community Board: 11**. Variance (§72-21) to allow a one family detached residence, contrary to use regulations. R2A 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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**FEBRUARY 8, 2011, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, February 8, 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**

**899-65-BZ**

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

SUBJECT – Application December 3, 2010 – Extension of Term permitting the use of no more than 75 unused and surplus tenant parking spaces, within an accessory garage, for transient parking granted by the Board 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 63rd Street, aka 1201-1222 2nd Avenue. Located along the entire west block front of Second Avenue between 63rd and 64th Streets. Block 1418, Lot 21. Borough of Manhattan.

**COMMUNITY BOARD #8M**

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**197-02-BZ**

APPLICANT – Gary Silver Architects, for Nostrand Kings Management, ower; 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 of Practice and Procedure. 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**

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**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 previously approved variance (§72-21) permitting the expansion of a non-conforming supermarket (UG 6).The application seeks to 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**

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**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**

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**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 (ZR §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**

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**FEBRUARY 8, 2011, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, February 8, 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**

**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 wathing. R4 zoning district.

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

**COMMUNITY BOARD #15BK**

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# CALENDAR

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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**

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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, ZR §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**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, JANUARY 25, 2011  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**245-49-BZ**

APPLICANT – Simons & Wright LLC, for Alley Pond Owners Corporation, owner.

SUBJECT – Application October 7, 2010 – Amendment of previous approval to legalize the conversion of one residential unit to be used as an accessory residential management office and elimination of the term; waiver of the rules. R3-2 zoning district.

PREMISES AFFECTED – 78-09 Springfield Boulevard, east side of Springfield between Kingsbury Avenue and Union Turnpike, Block 7842, Lot 33, Borough of Queens.

**COMMUNITY BOARD #11Q**

APPEARANCES –

For Applicant: Emily Simons.

**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 an amendment to a previously approved variance for the development of 275 two-story two-family residential buildings; 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 January 25, 2011; and

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

WHEREAS, Community Board 11, Queens, recommends approval of this application; and

WHEREAS, the site occupies the majority of Block 7842, with frontage on Kingsbury Avenue, 226<sup>th</sup> Street, Union Turnpike and Springfield Boulevard, within an R3-2 zoning district; and

WHEREAS, the site is occupied by a residential development consisting of 275 two-story garden apartments with a total of 549 one- and two-bedroom apartments and an accessory residential management office located in one of the residential units; and

WHEREAS, the Board has exercised jurisdiction over the subject site since June 1, 1949 when, under the subject calendar number, the Board granted a variance to permit the

construction of the subject residential development, contrary to regulations related to side and rear yards, the construction and maintenance of more than one building on a lot, and the parking and storage of motor vehicles; the grant included a term of ten years, which expired on June 1, 1959; and

WHEREAS, on June 1, 1949, the Board also granted a companion application under BSA Cal. No. 246-49-A, to permit the construction of buildings which are located in the bed of a mapped street and do not face on a legal street, pursuant to General City Law §§ 35 and 36; and

WHEREAS, the applicant now seeks an amendment to legalize the use of one of the residential units as an accessory residential management office; and

WHEREAS, the applicant represents that the residential management office has operated at the subject site since the time of the initial Board grant, and that the residential management office is necessary to carry out the customary tasks associated with a residential development of this size; and

WHEREAS, the applicant notes that it is not seeking to extend or enlarge any portion of the residential management office, but merely to legalize the current configuration which has existed at the site for more than 60 years; and

WHEREAS, the applicant also seeks to eliminate the term associated with the subject variance; and

WHEREAS, the applicant states that the subject site has operated in accordance with the terms of the variance for more than 60 years, with the exception of the use of one unit as a residential management office, and represents that imposing such a term on an occupied residential development built pursuant to a variance is an unnecessary encumbrance; and

WHEREAS, the applicant submitted photographs reflecting that the open green spaces, sidewalks, accessory garages, parking lots and the playground that comprise the site have been maintained in good condition; and

WHEREAS, based upon the above, the Board finds that the requested amendments to legalize the residential management office and to eliminate the term of the variance are appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens, and amends the resolution, as adopted on June 1, 1949, and as subsequently extended and amended, so that as amended this portion of the resolution shall read: “to eliminate the term and legalize the use of one residential unit as an accessory residential management office; *on condition* that the use shall substantially conform to drawings as filed with this application, marked “Received October 7, 2010”–(2) sheets; and *on further condition*:

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

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

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

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# MINUTES

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(DOB Application No. 410155594)

Adopted by the Board of Standards and Appeals, January 25, 2011.

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## 66-90-BZ

APPLICANT – Eric Palatnik, P.C., for A.H.G. Realty Corporation, owner.

SUBJECT – Application October 5, 2010 – Extension of Term for a UG16 Gasoline Service Station (*Mobil*) which expired on October 1, 2010. R5 zoning district.

PREMISES AFFECTED – 43-03 Astoria Boulevard, northeast corner of 43<sup>rd</sup> Street, Block 780, Lot 18, Borough of Queens.

### COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Trevis Savage.

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

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of term for an automotive service station, which expired on October 1, 2010; and

WHEREAS, a public hearing was held on this application on November 23, 2010, after due notice by publication in *The City Record*, with a continued hearing on December 14, 2010, and then to decision on January 25, 2011; and

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

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

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

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

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

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

WHEREAS, on November 14, 2000, under the subject calendar number, the Board granted an extension of the term of the variance, to expire on October 1, 2010, and permitted the renovation of the existing accessory building to include a convenience store and the construction of a new metal canopy; and

WHEREAS, most recently, on March 17, 2009, the

Board granted an extension of time to obtain a certificate of occupancy, to expire October 25, 2009; and

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

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

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

WHEREAS, the premises was subsequently padlocked by DOB; and

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

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

WHEREAS, the applicant submitted a copy of the final certificate of occupancy for the site, which was issued on September 16, 2009; and

WHEREAS, the applicant now seeks a ten-year extension of term; and

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

WHEREAS, at hearing, the Board questioned whether the signage at the site complied with C1 district regulations; and

WHEREAS, in response, the applicant submitted a letter from the project engineer and a signage analysis confirming that the signage on the site complies with C1 district regulations; and

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

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated October 1, 1991, so that as amended this portion of the resolution shall read: "to grant an extension of term from October 1, 2010 to expire October 1, 2020; *on condition* that the use shall substantially conform to drawings as filed with this application, marked 'Received October 5, 2010'-(5) sheets; and *on further condition*:

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

# MINUTES

THAT all signage shall comply with C1 zoning regulations;

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

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

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

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

(DOB Application No. 401114968)

Adopted by the Board of Standards and Appeals, January 25, 2011.

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## 315-90-BZ

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

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

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

## COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Josh Rinesmith.

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

**THE VOTE TO GRANT** –

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

Negative:.....0

**THE RESOLUTION** –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term for the continued operation of an automotive service station (Use Group 16), and an extension of time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on November 16, 2010, after due notice by publication in *The City Record*, with a continued hearing on December 14, 2010, and then to decision on January 25, 2011; and

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

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

WHEREAS, the site is located on the southeast corner of

the intersection at Astoria Boulevard and 82<sup>nd</sup> Street, within a C2-2 (R4) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since February 18, 1957 when, under BSA Cal. No. 725-56-BZ, the Board granted a variance to permit the construction of a gasoline service station with accessory uses, for a term of 15 years; and

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

WHEREAS, on April 28, 1992, under the subject calendar number, the Board granted a special permit under ZR §§ 11-411 and 11-412 to permit an extension of term and the reconstruction of the existing automotive service station, and the addition of an accessory food market, to expire April 28, 2002; and

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

WHEREAS, most recently, on March 13, 2001, the Board granted an extension of term, to expire on March 13, 2011; a condition of the grant was that a certificate of occupancy be obtained by March 13, 2003; and

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

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

WHEREAS, at hearing, the Board questioned whether the signage at the site was in compliance with the underlying zoning regulations; and

WHEREAS, in response, the applicant submitted a photograph showing the removal of a promotional sign at the site, and submitted revised plans and signage analyses reflecting that the signage at the site complies with the underlying C2-2 regulations; and

WHEREAS, based upon the above, the Board finds that the requested extension of term and extension of time to obtain a certificate of occupancy are appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated April 28, 1992, so that as amended this portion of the resolution shall read: “to extend the term for ten years from the date of this grant, to expire on January 25, 2021, and to grant an extension of time to obtain a certificate of occupancy to January 25, 2012; *on condition* that all use and operations shall substantially conform to drawings filed with this application marked ‘Received December 3, 2010’-(5) sheets; and *on further condition*:

THAT the term of the grant shall expire on January 25, 2021;

THAT a certificate of occupancy shall be obtained by January 25, 2012;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other



# MINUTES

relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 400089417)

Adopted by the Board of Standards and Appeals, January 25, 2011.

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## 175-05-BZ

APPLICANT – Eric Palatnik, P.C., for Athanasios Amaxus, owner.

SUBJECT – Application September 9, 2010 – Extension of Time to Complete Construction of a previously approved Variance (§72-21) to construct a four-story multiple dwelling with accessory parking which expires on January 9, 2011. M1-1 zoning district.

PREMISES AFFECTED – 18-24 Luquer Street, between Hicks Street and Columbia Street, Block 520, Lot 16, Borough of Brooklyn.

## COMMUNITY BOARD #16BK

APPEARANCES –

For Applicant: Trevis Savage.

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

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of time to complete construction of a previously granted variance to permit, within an M1-1 zoning district, the construction of a three-story and cellar residential building, which expired on January 9, 2011; and

WHEREAS, a public hearing was held on this application on October 19, 2010, after due notice by publication in *The City Record*, with continued hearings on November 23, 2010 and December 14, 2010, and then to decision on January 25, 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, the subject site is located on the south side of Luquer Street between Columbia Street and Hicks Street, within an M1-1 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the site since January 9, 2007 when, under the subject calendar number, the Board granted a variance to permit the proposed construction of a three-story and cellar 12-unit residential building; and

WHEREAS, substantial construction was to be completed by January 9, 2011, in accordance with ZR § 72-23; and

WHEREAS, the applicant states that due to funding delays, additional time is necessary to complete the project; thus, the applicant now requests an extension of time to complete construction; and

WHEREAS, at hearing, the Board questioned whether the site was being used as a parking lot, and directed the applicant to remove the graffiti from the construction fence; and

WHEREAS, in response, the applicant states that the site is not being used as a parking lot, and submitted photographs reflecting that the graffiti has been removed from the construction fence; and

WHEREAS, the Board also raised concerns about the condition of the fence located along the eastern lot line and whether it encroached onto the adjacent lot; and

WHEREAS, in response, the applicant submitted photographs reflecting that the portion of the fence that was in disrepair has been removed, and represents that the fence will be restored as soon as weather permits; and

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

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated January 9, 2007, so that as amended this portion of the resolution shall read: “to grant an extension of the time to complete construction for a term of four years, to expire on January 9, 2015; *on condition:*

THAT substantial construction shall be completed by January 9, 2015;

THAT the fence located along the eastern lot line shall be repaired by April 25, 2011;

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. 301973639)

Adopted by the Board of Standards and Appeals, January 25, 2011.

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## 827-55-BZ

APPLICANT – Eric Palatnik, P.C., for BP Products, Incorporated, owner.

SUBJECT – Application October 5, 2010 – Extension of Term (§11-411) for the continued operation of a Gasoline Service Station (*British Petroleum*) which expires on January 31, 2011. R3-2 zoning district.

PREMISES AFFECTED – 245-20 139<sup>th</sup> Avenue, southwest corner of Conduit Avenue, Block 13614, Lot 23, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Trevis Savage.

**ACTION OF THE BOARD** – Laid over to April 12,

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# MINUTES

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2011, at 10 A.M., for continued hearing.  
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## **758-84-BZ**

APPLICANT – David L. Businelli, R.A., for Richard Sgarato, owner.

SUBJECT – Application August 30, 2010 – Extension of Term of a variance (§72-21) to legalize a two-story and cellar commercial building contrary to use regulations. R3X zoning district.

PREMISES AFFECTED – 1444 Clove Road, 61' North of intersection Tioga Street and Clove Road, Block 658, Lot 20, Borough of Staten Island.

### **COMMUNITY BOARD #1SI**

APPEARANCES –

For Applicant: David L. Businelli.

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 February 15, 2011, at 10 A.M., for decision, hearing closed.  
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## **95-97-BZ**

APPLICANT – The Law Office of Fredrick A. Becker, for 700 West 178<sup>th</sup> Street Associates, LLC, owner; TSI Forest Hills LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application October 14, 2010 – Extension of Term of a Special Permit (§73-36) for the continued operation of a physical culture establishment (*New York Sports Club*) which expired on May 1, 2007; Waiver of the Rules. C4-5X zoning district.

PREMISES AFFECTED – 69-47 Austin Street, northwest corner of Austin Street and 70<sup>th</sup> Avenue, Block 3237, Lot 30, Borough of Queens.

### **COMMUNITY BOARD #6Q**

APPEARANCES –

For Applicant: Fredrick A. Becker.

**ACTION OF THE BOARD** – Laid over to February 15, 2011, at 10 A.M., for continued hearing.  
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## **299-99-BZ**

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

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

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

### **COMMUNITY BOARD #3BK**

APPEARANCES – None.

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

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## **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: Trevis Savage.

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 February 8, 2011, at 10 A.M., for decision, hearing closed.  
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## **259-00-BZ**

APPLICANT – The Law Office of Fredrick A. Becker, for 26 Court Associates, LLC, owner; TSI Court Street, LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application January 25, 2011 – Extension of Term of a Special Permit (§73-36) for the continued operation of a Physical Culture Establishment (*New York Sports Club*) which expires on February 6, 2011. C5-2A (DB) zoning district.

PREMISES AFFECTED – 26 Court Street, northwest corner of Court Street and Remsen Street, Block 250, Lot 1, Borough of Brooklyn.

### **COMMUNITY BOARD #2BK**

APPEARANCES –

For Applicant: Fredrick A. Becker.

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

### 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 February 8, 2011, at 10 A.M., for decision, hearing closed.

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## 215-06-BZ

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

SUBJECT – Application October 20, 2010 – Extension of Term of an existing Gasoline Service Station (*Gulf*) with accessory convenience store which expires on July 24, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on June 17, 2010; Waiver of the Rules. C1-2/R4 zoning district.

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

## COMMUNITY BOARD #12Q

### APPEARANCES –

For Applicant: Josh Rinesmith.

**ACTION OF THE BOARD** – Laid over to March 1, 2011, at 10 A.M., for continued hearing.

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## APPEALS CALENDAR

## 125-10-A

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

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

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

## COMMUNITY BOARD #10BK

APPEARANCES – None.

**ACTION OF THE BOARD** – 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, January 25, 2011.

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## 155-80-A

APPLICANT – Raymond J. Irrera, for Dr. Jerold Blatt, owner.

SUBJECT – Application August 11, 2010 – Extension of Term to allow the continued operation of a medical office (UG4) in an existing frame structure which expired on June 10, 2000; Extension of time to obtain a Certificate of Occupancy; Waiver of the Rules. R2A Zoning District.

PREMISES AFFECTED – 75-72 185<sup>th</sup> Street, aka 184-17 Union Turnpike, northwest corner of 185<sup>th</sup> Street and Union Turnpike, Block 7201, Lot 42, Borough of Queens.

## COMMUNITY BOARD #8Q

### APPEARANCES –

For Applicant: Raymond J. Irrera and Dr. Gerald Blott.

### 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 1, 2011, at 10 A.M., for decision, hearing closed.

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## 264-08-A

APPLICANT – Slater & Beckerman, LLP, for Wilshire Hospitality, LLC, owner.

SUBJECT – Application December 22, 2010 – Extension of Time to complete construction and obtain a Certificate of Occupancy for a previously-granted Common Law vesting application which expires on February 3, 2011. M1-3D previous zoning districts; M1-3/R7X current zoning district.

PREMISES AFFECTED – 29-23 40<sup>th</sup> Road, aka 30-02 40<sup>th</sup> Avenue, through lot, bounded by 40<sup>th</sup> Road to the south, 40<sup>th</sup> Avenue to the north, 29<sup>th</sup> Street to the west, Northern Boulevard to the east. Block 402, Lots 12 & 35. Borough of Queens.

## COMMUNITY BOARD #1Q

### APPEARANCES –

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 February 1, 2011, at 10 A.M., for decision, hearing closed.

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## 154-10-A

APPLICANT – Isaac Rosenberg, for Congregation Yetev Lev D'Satmar, owner.

SUBJECT – Application August 25, 2010 – Appeal challenging a determination by Department of Buildings to revoke permits and approvals based on failure to provide owner authorization in accordance with §28-104.8.2 of the Administrative Code. R7-1 Zoning District.

PREMISES AFFECTED – 540 Bedford Avenue, between Ross and Wilson Streets, Block 2181, Lot 35, Borough of

# MINUTES

Brooklyn.

## COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Donald Kravet, Leib Glanz and Chaim Goldberger.

For Opposition: Amanda Derr and Paul Rubin.

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 1, 2011, at 10 A.M., for decision, hearing closed.

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## 201-10-BZY

APPLICANT - Law Offices of Marvin B. Mitzner, for LES Realty Group LLC, owner.

SUBJECT – Application October 29, 2010 – Extension of Time (§11-332) to complete construction of a minor development commenced under the prior C6-1 zoning district. C4-4A zoning district.

PREMISES AFFECTED – 180 Orchard Street, through lot extending from Orchard Street to Ludlow Street. Block 412, Lot 5, Borough of Manhattan.

## COMMUNITY BOARD #3M

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to February 1, 2011, at 10 A.M., for postponed hearing.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

## REGULAR MEETING

TUESDAY AFTERNOON, JANUARY 25, 2011

1:30 P.M.

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

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## ZONING CALENDAR

### 31-09-BZ

APPLICANT – Eric Palatnik, PC, for R & R Auto Repair & Collision, owner.

SUBJECT – Application February 27, 2009 – Special Permit (§11-411, §11-412, §11-413) for re-instatement of previous variance, which expired on November 12, 1990; amendment for a change of use from a gasoline service station (UG16b) to automotive repair establishment and automotive sales (UG16b); enlargement of existing one story structure; and Waiver of the Rules. C2-2/R3-2 zoning district.

PREMISES AFFECTED – 117-04 Sutphin Boulevard, southwest corner of Foch Boulevard, Block 1203, Lot 13, Borough of Queens.

### COMMUNITY BOARD #12Q

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 January 26, 2009, acting on Department of Buildings Application No. 401991234, reads in pertinent part:

“Proposed reinstatement of previous variance and amendment to change the previously existing automotive service station to a use group 16 automotive repair facility and to enlarge same is contrary to ZR Sections 11-411 and 11-413 as well as BSA Calendar Number 15-55-BZ and therefore must be referred to the NYC BSA;” and

WHEREAS, this is an application for a reinstatement of a prior Board approval and an amendment to legalize the change in use from a gasoline service station to an automotive repair station with accessory auto sales on the site, pursuant to ZR §§ 11-411 and 11-413; and

WHEREAS, the applicant’s initial proposal also sought to enlarge the building on the site by approximately 850 sq. ft.; and

WHEREAS, at the direction of the Board, the applicant revised its proposal to eliminate the requested enlargement to the existing building; and

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# MINUTES

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WHEREAS, a public hearing was held on this application on April 13, 2010 after due notice by publication in *The City Record*, with continued hearings on June 22, 2010, August 24, 2010, October 5, 2010, November 9, 2010 and December 14, 2010, and then to decision on January 25, 2011; and

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

WHEREAS, Community Board 12, Queens, recommended disapproval of the original application; and

WHEREAS, the site is located at the southwest corner of Sutphin Boulevard and Foch Boulevard; and

WHEREAS, the site is located partially within a C2-2 (R3-2) zoning district and partially within an R3-2 zoning district, and is currently occupied by an automotive repair station; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 28, 1955 when, under BSA Cal. No. 15-55-BZ, the Board granted a variance to permit the construction and maintenance of a gasoline service station, lubricatorium, car wash, minor repairs with hand tools only, storage and sale of accessories, and office, for a term of 15 years; and

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

WHEREAS, most recently, on November 12, 1980, the Board granted a ten year extension of term, which expired on November 12, 1990; and

WHEREAS, the applicant now seeks to reinstate the variance granted under BSA Cal. No. 15-55-BZ and to amend the grant to reflect a change in use from a gasoline service station to an automotive repair station with accessory auto sales; and

WHEREAS, although the term expired in 1990, the applicant represents that the automotive-related (Use Group 16) use has been continuous from 1955 to the present; and

WHEREAS, pursuant to ZR § 11-411, the Board may extend the term of an expired variance; and

WHEREAS, pursuant to ZR § 11-413, the Board may approve a change from one non-conforming use to another non-conforming use, under certain conditions; and

WHEREAS, as to the change in use, the applicant represents that the gasoline service station use at the site has been discontinued and submitted an affidavit stating that the gasoline storage tanks were removed from the site in 2002, but no other changes were made to the site or the garage building; and

WHEREAS, the current applicant operates an automotive repair station at the site; and

WHEREAS, the applicant notes that the entire use is located within the C2-2 (R3-2) portion of the site and that the small portion at the rear of the site located within the R3-2 zoning district is vacant; and

WHEREAS, at hearing, the Board directed the applicant to: (1) provide a parking plan and vehicle circulation plan; (2) confirm that no body work or auto painting will take place on the site; (3) replace the existing corrugated metal fence abutting

the adjacent residential property with a 50 percent opaque chain link fence; (4) remove one of the curb cuts along Foch Boulevard; (5) relocate the garbage container from the front of the building; (6) plant additional street trees and provide additional landscaping at the site as a buffer to adjacent neighbors; and (7) install sliding gates rather than roll down gates at the entrances and exits to the site; and

WHEREAS, in response, the applicant submitted a vehicle circulation plan for the site and a parking plan reflecting that three parking spaces will be reserved for cars awaiting service and ten parking spaces will be available for accessory auto sales; and

WHEREAS, the applicant also submitted an affidavit from the property owner stating that no body work or auto painting takes place on the site, and provided photographs reflecting that the spray painting equipment has been removed from the site; and

WHEREAS, the applicant also submitted revised plans reflecting that (1) a 50 percent opaque chain link fence will be installed along the western portion of the site to buffer the adjacent residential building; (2) the westernmost curb cut along Foch Boulevard will be removed; (3) the garbage container will be relocated from the front of the site; (4) two new street trees will be planted along Foch Boulevard and landscaping will be provided along the western portion of the site and along the majority of Foch Boulevard; and (5) sliding gates will be installed at the entrances and exits to the site; and

WHEREAS, the Board determined that the applicant's modifications and analysis were responsive to its requests; and

WHEREAS, based upon its review of the record, the Board finds that the evidence in the record supports the findings required to be made under ZR §§ 11-411 and 11-413, and a reinstatement and change in use are appropriate with certain conditions as set forth below; and

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, as amended, and makes each and every one of the required findings under ZR §§ 11-411 and 11-413, for a reinstatement of a prior Board approval of a gasoline service station and the legalization of a change in use from gasoline service station to automotive repair station with accessory auto sales; *on condition* that any and all use shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received January 4, 2011"-(4) sheets; and *on further condition*:

THAT this grant shall be for a term of ten years to expire on January 25, 2021;

THAT the following measures shall be undertaken at the site in conformance with the BSA-approved plans: (1) the installation of fencing and landscaping; (2) the removal of the westernmost curb cut on Foch Boulevard; (3) the relocation of the garbage container from the front of the site; and (4) the installation of sliding gates at the entrances and exits to the site;

THAT no body work or auto painting shall take place on the site;

THAT the hours of operation shall be limited to: Monday

# MINUTES

through Friday, from 8:00 a.m. to 6:00 p.m.; Saturday, from 8:00 a.m. to 3:00 p.m.; and closed on Sunday;

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

THAT the site shall be maintained free of debris and graffiti;

THAT all signage shall comply with C2 district zoning regulations;

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

THAT a certificate of occupancy shall be obtained by January 25, 2012;

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

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

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

Adopted by the Board of Standards and Appeals, January 25, 2011.

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## 43-10-BZ

### CEQR #10-BSA-058Q

APPLICANT – Gerald J. Caliendo, R.A., AIA, for Cammastro Corp./Maria Pilato, owner; First Club One LLC/Spiro Tsadilas, lessee.

SUBJECT – Application March 30, 2010 – Special Permit (§73-244) to allow an eating and drinking establishment without restrictions and no limitation on entertainment and dancing. C2-2/R5 zoning district.

PREMISES AFFECTED – 23-70 Steinway Street, west side of Steinway Street, 17.65’ north of Astoria Boulevard North, Block 803, Lot 75, Borough of Queens.

### COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Sandy Anagnostou.

**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 Superintendent, dated March 29, 2010, acting on Department of Buildings Application No. 420088032, reads in pertinent part:

“ZR 32-21 – Proposal is contrary to Zoning Regulation. Use Group 12 ‘consists primarily of fairly large entertainment facilities’ not as of right in C2-2 districts.

Proposed Eating and Drinking Establishment with

no limitation on entertainment or dancing Use Group 12 should be referred to the Board of Standards and Appeals for Special Permit as per 73-244 ZR;” and

WHEREAS, this is an application under ZR §§ 73-244 and 73-03 to permit, within a C2-3 (R5D) zoning district, a Use Group 12 eating and drinking establishment with entertainment and dancing, contrary to ZR § 32-21; and

WHEREAS, a public hearing was held on this application on September 14, 2010, after due notice by publication in the *City Record*, with continued hearings on October 26, 2010 and December 14, 2010, and then to decision on January 25, 2011; and

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

WHEREAS, Community Board 6, Queens, recommends disapproval of this application, citing concerns that the proposed use of the site will have a negative impact on the character of the surrounding neighborhood; and

WHEREAS, a resident of the surrounding community provided oral testimony in opposition to this application; and

WHEREAS, the subject site is located on the west side of Steinway Street, between Astoria Boulevard and 23<sup>rd</sup> Avenue, within a C2-3 (R5D) zoning district; and

WHEREAS, the site has 25 feet of frontage on Steinway Street, a depth of 100 feet, and a lot area of 2,500 sq. ft.; and

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

WHEREAS, on February 24, 1976, under BSA Cal. No. 482-75-BZ, the Board granted a special permit under ZR § 73-241 to permit the change in use of the site from a Use Group 6 eating and drinking establishment to a Use Group 12 eating and drinking establishment, which expired on February 24, 1981; and

WHEREAS, on March 21, 1989, under BSA Cal. No. 942-87-BZ, the Board granted a new special permit under ZR § 73-241, to legalize the use of the first floor as a Use Group 12 eating and drinking establishment without restrictions on entertainment and dancing, which expired on March 21, 1994; and

WHEREAS, on February 7, 1995, under BSA Cal. No. 942-87-BZ, the Board, noting that the prior grant had expired and the special permit under ZR § 73-241 was no longer available for establishments with dancing, granted a new special permit under ZR § 73-244 to permit a Use Group 12 eating and drinking establishment with entertainment and dancing at the first and second floor, and an enlargement at the first floor level of the subject building, to expire on March 21, 1997; and

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

WHEREAS, most recently, on July 17, 2001, the Board granted an extension of term of the special permit, which expired on July 17, 2002; and

WHEREAS, the applicant proposes to again occupy the subject building as a Use Group 12 eating and drinking

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# MINUTES

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establishment with entertainment and dancing; and

WHEREAS, the applicant represents that the proposal meets all requirements of the special permit authorized by ZR § 73-244 for permitting a Use Group 12 eating and drinking establishment with entertainment and dancing in a C2-3 (R5D) zoning district; and

WHEREAS, as to the findings, ZR § 73-244(a) requires that: a minimum of four square feet of waiting area within the zoning lot shall be provided for each person permitted under the occupant capacity as determined by the Building Code; the required waiting area shall be in an enclosed lobby and shall not include space occupied by stairs, corridors or restrooms; and a plan shall be provided to the Board to ensure that the operation of the establishment will not result in the gathering of crowds or the formation of lines on the street; and

WHEREAS, the applicant states that the maximum occupancy for the proposed Use Group 12 use is 144 persons, and therefore the minimum required size of the waiting area is 576 sq. ft.; and

WHEREAS, the applicant proposes to provide a 770 sq. ft. waiting area in the cellar of the building; and

WHEREAS, at hearing, the Board raised concerns about the proposed waiting area, specifically as to the existence of partitions in the cellar area and the need to access the proposed cellar waiting area by walking through the proposed eating and drinking establishment on the first floor; and

WHEREAS, in response, the applicant submitted revised plans reflecting that the existing partitions in the cellar will be removed in order to provide one open area and that direct access from the street to the cellar waiting area will be provided; and

WHEREAS, ZR § 73-244(b) requires that the entrance to such use be a minimum of 100 feet from the nearest residence district boundary; and

WHEREAS, the applicant submitted a site plan reflecting that the entrance to the premises is located at the property line on Steinway Street, which is 100 feet from the nearest residence district boundary; and

WHEREAS, ZR § 73-244(c) requires that the use will not cause undue vehicular or pedestrian congestion in local streets; and

WHEREAS, the applicant represents that the availability of on-street parking, the site's proximity to off-street parking facilities, and the fact that the site will operate during a time when heavy vehicular traffic is at a minimum will prevent the creation of undue vehicular or pedestrian congestion on local streets; and

WHEREAS, the applicant notes that the proposed hours of operation for the subject site are Monday through Sunday, from 8:00 p.m. to 4:00 a.m., and represents that vehicular traffic in this area along Steinway Street is at a minimum during this time because the majority of commercial establishments in the vicinity are closed during the site's hours of operation; and

WHEREAS, the applicant represents that because the proposed waiting area in the cellar will have direct access to the street, undue pedestrian congestion on the street will be

prevented; and

WHEREAS, as to parking demand, the applicant states that there is ample on-street parking within the vicinity of the site and there are no parking restrictions during the proposed hours of operation; and

WHEREAS, the applicant also provided a letter from the operator of an off-street parking establishment located one block east of the site (at 40-25 Astoria Boulevard) authorizing the operator of the subject site to use the parking establishment for patrons of the proposed Use Group 12 eating and drinking establishment; and

WHEREAS, accordingly, the Board finds that the proposed use will not cause undue vehicular or pedestrian traffic in local streets; and

WHEREAS, ZR § 73-244(d) requires that the use will not impair the character or the future use or development of the surrounding residential or mixed-use neighborhoods; and

WHEREAS, the applicant states that the surrounding area is characterized by a mix of commercial and residential development, and that in particular, the ground floor uses along Steinway Street are predominantly commercial; and

WHEREAS, the applicant notes that the subject site has operated predominantly as a Use Group 12 eating and drinking establishment with entertainment and dancing since 1976, pursuant to special permits previously issued by the Board, and therefore the proposed re-establishment of such use at the site will not impair the character or future use and development of the surrounding neighborhoods; and

WHEREAS, the Board notes that the occupancy of the Use Group 12 use is limited to 144 people even though the subject special permit allows an increased occupancy; and

WHEREAS, as to bulk, the applicant states that there will be no changes to or enlargement of the building envelope; and

WHEREAS, accordingly, the Board finds that the proposed use will not impair the character or the future use or development of the surrounding residential or mixed-use neighborhoods; and

WHEREAS, ZR § 73-244(e) requires that the use will not cause the sound level in any affected conforming residential use, joint living-work quarters for artists or loft dwelling to exceed the limits set forth in any applicable provision of the New York City Noise Control Code (the "Noise Code"); and

WHEREAS, the applicant states that the following soundproofing acoustical treatments will be provided at the site to insure that the acceptable decibel level of the Noise Code will not be exceeded: (1) the first and second floors will be soundproofed with QuietRock certified sound damping wall; (2) stud beam isolators will be installed on the entire first and second floors to isolate vibration and structural noise transmission and reduce impact and low frequency noise; (3) noise barrier ceiling tiles will be installed in the ceilings of the first and second floor to lower sound transmission and reverberation; (4) isolation blocks (Vibra Pads) will be installed between all the speakers and floors and/or walls to reduce structure borne noise transmission; (5) no speakers will be installed on the walls located adjacent to the building which contains residential uses; and (6) no amplifiers or speakers will

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# MINUTES

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be located in the proposed DJ booth; and

WHEREAS, accordingly, the Board finds that the proposed use will not cause the sound level in any affected conforming residential use to exceed the limits set forth in any applicable provision of the Noise Code; and

WHEREAS, ZR § 73-244(f) requires that the application is made jointly by the owner of the building and the operators of such eating or drinking establishment; and

WHEREAS, the applicant represents that the instant application has been made jointly by the owner of the building, who has authorized the filing of this application, and the operator of the proposed establishment; and

WHEREAS, therefore, the Board finds that the subject application meets the findings set forth at ZR §73-244; and

WHEREAS, at hearing, the Board directed the applicant to remove the billboard sign located on the side of the subject building; and

WHEREAS, in response, the applicant submitted photographs reflecting that the billboard sign has been removed; 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, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-244 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. 10BSA058Q, dated September 1, 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 §§ 73-244 and 73-03, to

permit, within a C2-3 (R5D) zoning district, a Use Group 12 eating and drinking establishment with entertainment and dancing, contrary to ZR § 32-21; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked “Received March 30, 2010” – One (1) sheet, “Received September 1, 2010” – One (1) sheet, “Received October 12, 2010” – Two (2) sheets and “Received November 30, 2010” – One (1) sheet and *on further condition*:

THAT the term of this grant shall expire on January 25, 2014;

THAT there shall be no change in ownership of the site or the building without prior application to and approval from the Board;

THAT the maximum occupancy for the Use Group 12 eating and drinking establishment with entertainment and dancing shall be 144 persons;

THAT the following noise attenuation measures shall be installed in accordance with the BSA-approved plans: (1) the first and second floors shall be soundproofed with QuietRock certified sound damping wall; (2) stud beam isolators shall be installed on the entire first and second floors; (3) noise barrier ceiling tiles shall be installed in the ceilings of the first and second floor; (4) isolation blocks (Vibra Pads) shall be installed between all the speakers and floors and/or walls; (5) no speakers shall be installed on the walls located adjacent to the building which contains residential uses; and (6) no amplifiers or speakers shall be located in the proposed DJ booth;

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

THAT a certificate of occupancy shall be obtained by January 25, 2012;

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

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, January 25, 2011.

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**187-07-BZ**

APPLICANT – Dennis D. Dell’Angelo, for Michael Modatsos, owner.

SUBJECT – Application August 1, 2010 – Variance (§72-21) to permit accessory parking for an existing eating and drinking establishment, contrary to use regulations (§22-00). R3X zoning district.

PREMISES AFFECTED – 4677 Hylan Boulevard, North side of Hylan Boulevard 175.03 feet west of Arden Avenue.



# MINUTES

Block 5408, Lot 43, Borough of Staten Island.

## COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Dennis D. Dell'Angelo and Cathy Moudatsos.

For Opposition: Yury Gorokhovskiy.

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

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## 277-07-BZ

APPLICANT – Miele Associates, LLP, for Barnik Associates LLC & Lama Holdings, LLC, owner.

SUBJECT – Application December 3, 2007 – Variance (§72-21) for the development of a one-story automotive service station with accessory convenience store, contrary to §22-10. R3-1 zoning district.

PREMISES AFFECTED – 165-35 North Conduit Avenue, North west corner of North Conduit Avenue & Guy R. Brewer Boulevard. Block 12318, Lot 10, Borough of Queens.

## COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Hiram Rothkrug, Robert B. Pauls and Adam Degerolomo.

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

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## 194-09-BZ

APPLICANT – Sheldon Lobel, P.C., for Dabes Realty Company, Incorporated, owner.

SUBJECT – Application June 17, 2009 – Variance to allow the construction of a four story mixed use building contrary to floor area (§23-141), open space (§23-141), lot coverage (§23-141), front yard (§23-45), height (§23-631), open space used for parking (§25-64) and parking requirements (§25-23); and to allow for the enlargement of an existing commercial use contrary to §22-10. R3-2 zoning district.

PREMISES AFFECTED – 2113 Utica Avenue, 2095-211 Utica Avenue, East side of Utica Avenue between Avenue M and N, Block 7875, Lot 27, Borough of Brooklyn.

## COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Josh Rhinesmith.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

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## 6-10-BZ

APPLICANT – Sheldon Lobel, P.C. for 2147 Mill Avenue, LLC, owner.

SUBJECT – Application January 8, 2010 – Variance (§72-

21) to allow for legalization of an enlargement of a commercial building, contrary to §22-00. R2 zoning district.

PREMISES AFFECTED – 2147 Mill Avenue, Northeast side of Mill Avenue between Avenue U and Strickland Avenue. Block 8463, Lot 65, Borough of Brooklyn.

## COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Richard Lobel.

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

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## 29-10-BZ

APPLICANT – Sheldon Lobel, P.C., for R.A.S. Associates, owner; Mojave Restaurant, lessee.

SUBJECT – Application March 4, 2010 – Special Permit (§73-52) to allow for an outdoor eating and drinking establishment within a residential district. C1-2 and R5 zoning districts.

PREMISES AFFECTED – 22-32/36 31<sup>st</sup> Street, Ditmas Boulevard and 23<sup>rd</sup> Avenue, Block 844, Lot 49, Borough of Queens.

## COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Irving Minkin and Jim McCartin.

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 February 15, 2011, at 1:30 P.M., for decision, hearing closed.

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## 140-10-BZ thru 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: Hiram A. Rothkrug.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins,

# MINUTES

Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

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

## 174-10-BZ

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

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

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

### COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Eldad Gothelf.

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 February 8, 2011, at 1:30 P.M., for decision, hearing closed.

## 178-10-BZ

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

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

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

### COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

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 February 15, 2011, at 1:30 P.M., for decision, hearing closed.

## 181-10-BZ

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

SUBJECT – Application September 20, 2010 – Special Permit (§73-46) to waive parking for a proposed residential

conversion of an existing building. M1-2/R6A (MX-8) zoning district.

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

### COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Patrick W. Jones.

For Opposition: Mark Gibian, Lisa Steiner and Conroy Symister.

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 February 15, 2011, at 1:30 P.M., for decision, hearing closed.

## 182-10-BZ

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

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

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

### COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

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

## 186-10-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for NYU Hospital Center, owner; New York University, lessee.

SUBJECT – Application September 28, 2010 – Variance (§72-21) to allow for the construction of two community facility buildings (*NYU Langone Medical Center*), contrary to rear yard (§24-36), rear yard equivalent (§24-382), height and setback (§24-522), rear yard setback (§24-552), tower coverage (§24-54), maximum permitted parking (§13-132), minimum square footage per parking space (§25-62), and curb cut requirements (§13-142). R8 zoning district.

PREMISES AFFECTED – 400-424 East 34<sup>th</sup> Street, aka 522-566 & 596-600 First Avenue, East 34<sup>th</sup> Street, Franklin D. Roosevelt Drive, East 30<sup>th</sup> Street, and First Avenue, Block 962, Lot 80, 108 & 1001-1107, Borough of

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# MINUTES

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Manhattan.

**COMMUNITY BOARD #6M**

APPEARANCES –

For Applicant: Elise Wagner, Vicki Math Suna, Duncan Hazard and Erich Arcement.

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

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**217-10-BZ**

APPLICANT – Law Office of Fredrick A. Becker, for Elizabeth Kopolovich & Harry Kopolovich, owner.

SUBJECT – Application November 15, 2010 – Special Permit (§73-622) for the enlargement of an existing single home, contrary to floor area and lot coverage (§23-141); side yards (§23-461) and less than the required rear yard (§23-47). R3-2 zoning district.

PREMISES AFFECTED – 4009 Bedford Avenue, Bedford Avenue between Avenue S and Avenue T. Block 7304, Lot 82, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Lyra J. Altman.

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

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*