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# BULLETIN

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

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Volume 97, No. 6

February 8, 2012

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### DIRECTORY

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*Commissioners*

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|------------------------|--|
| <b>OFFICE -</b>        | <b>40 Rector Street, 9th Floor, New York, N.Y. 10006</b>   |
| <b>HEARINGS HELD -</b> | <b>40 Rector Street, 6th Floor, New York, N.Y. 10006</b>   |
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# DOCKET

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New Case Filed Up to January 31, 2012  
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**14-12-A**

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**19-12-A**

38-30 28th Street, between 38th and 39th Avenues, Block 386, Lot(s) 27, Borough of **Queens, Community Board: 1**. Request for a determination that the Applicant has obtained a vested right under the common law to continue construction and obtain a Certificate of Occupancy. M1-2/R5B/LIC district.

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**20-12-BZ**

203 Berry Street, northeast corner of Berry and N. 3rd Streets., Block 2351, Lot(s) 1087, Borough of **Brooklyn, Community Board: 1**. The application is for a special permit to allow the installation of a physical culture establishment - occupying 3,690 square feet on the ground floor and 20,640 square feet on the sub-cellar in an under construction mixed residential/commercial building. M1-2/R6B district.

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**21-12-A**

55 Louise Lane, 362.52' west of intersection of north side of Louise Lane and west side of Tiber Place, Block 687, Lot(s) 281, Borough of **Staten Island, Community Board: 2**. Appeal from decision of Borough Commissioner denying permission for proposed construction of a one family dwelling partially within the bed of a mapped street. R1-2(NA-1) 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 14, 2012, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, February 14, 2012, 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**

**764-56-BZ**

APPLICANT – Alfonso Duarte, P.E., for Anthony Panvini, owner.

SUBJECT – Application December 2, 2011 – Extension of Term (§11-411) of a variance permitting the operation of an automotive service station (UG 16B) with accessory uses and the Sale of Use Cars (UG 16B) which expires on October 22, 2012. C1-2/R3-2 zoning district.

PREMISES AFFECTED – 200-05 Horace Harding Expressway, north side between Hollis Ct., Boulevard and 201<sup>st</sup> Street, Block 741, Lot 325,000.00, Borough of Queens.

**COMMUNITY BOARD #11Q**  
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**548-79-BZ**

APPLICANT – Bryan Cave LLP, for 249 West 29 Owners Corp.

SUBJECT – Application December 2, 2011 – Amendment of a previously approved Variance (§72-21) which permitted residential use (UG2) on floors 3 through 15. Application seeks to legalize residential use on the 2nd floor contrary to §42-481. M1-6D zoning district.

PREMISES AFFECTED – 247-251 West 29<sup>th</sup> Street, north side of West 29<sup>th</sup> Street, 170' east of 8<sup>th</sup> Avenue, Block 779, Lot 10, 12, Borough of Manhattan.

**COMMUNITY BOARD #5M**  
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**8-10-BZ**

APPLICANT – NYC Board of Standards and Appeals  
Owner – Adel Kassim

SUBJECT – Application January 21, 2010 – Dismissal for Lack of Prosecution - Variance (§72-§21) to allow the legalization of an existing supermarket, contrary to use regulations, ZR §22-00. R4 zoning district.

PREMISES AFFECTED – 58-14 Beach Channel Drive, northeast corner of the intersection of Beach 59<sup>th</sup> Street and Beach Channel Drive, Block 16004, Lot 96, Borough of Queens.

**COMMUNITY BOARD #14Q**  
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**187-10-BZ**

APPLICANT – NYC Board of Standards and Appeals

OWNER – Ranjit S. Atwal

SUBJECT – Application October 5, 2010 – Dismissal for lack of Prosecution - Variance (§72-21) to permit the legalization of a three family building which does not comply with the side yard zoning requirements (ZR §23-462(c)). R6B zoning district.

PREMISES AFFECTED – 40-29 72<sup>nd</sup> Street, between Roosevelt Avenue and 41<sup>st</sup> Avenue, Block 1304, Lot 16, Borough of Queens.

**COMMUNITY BOARD #2Q**  
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**APPEALS CALENDAR**

**75-11-A & 119-11-A**

APPLICANT – Bryan Cave LLP, for Kimball Group, LLC, owner.

SUBJECT – Application August 17, 2011 – Appeal challenging Department of Building's determination that the permit for the subject premises expired and became invalid because the permitted work was not commenced within 12 months from the date of issuance, per Title 28, §28-105.9 of the Administrative Code. R4 Zoning District

PREMISES AFFECTED – 2230-2234 Kimball Street, between Avenue U and Avenue V, Block 8556, Lot 55, Borough of Brooklyn.

**COMMUNITY BOARD #18BK**  
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**FEBRUARY 14, 2012, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, February 14, 2012, 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**

**176-11-BZ**

APPLICANT – Eric Palatnik, P.C., for Alla Lubimor, owner.

SUBJECT – Application November 14, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to lot coverage and floor area (§23-141(b)); side yards (§23-461(a)) and less than the required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 150 Norfolk Street, between Oriental and Shore Boulevard, Block 8756, Lot 19, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**  
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# CALENDAR

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**184-11-BZ**

APPLICANT – Law Office of Fredrick A. Becker, for Esther Snyder and Robert Snyder, owner.

SUBJECT – Application December 5, 2011 – Special Permit §73-622 for the enlargement of an existing single family home contrary to floor area and open space (ZR §23-141) and less than the required rear yard (ZR §23-47). R2 zoning district.

PREMISES AFFECTED – 945 East 23<sup>rd</sup> Street, east side of East 23<sup>rd</sup> Street between Avenue T and J, Block 7587, Lot 26, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, JANUARY 31, 2012  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**529-52-BZ**

APPLICANT – Alfonso Duarte, P.E., for Alacorn-Mordini Enterprises Inc., owner.

SUBJECT – Application June 7, 2011 – Extension of Term (§11-411) of a variance permitting automotive repair (UG 16B) with accessory uses which expired on May 9, 2011. C2-3/R6 zoning district.

PREMISES AFFECTED – 77-11 Roosevelt Avenue, north west corner Roosevelt Avenue & 78<sup>th</sup> Street. Block 1288, Lot 39. Borough of Queens.

**COMMUNITY BOARD #3Q**

APPEARANCES –

For Applicant: Alfonso Duarte.

**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 the term of a previously granted variance to permit the use of the lot for auto repair with accessory uses and the parking and storage of motor vehicles, which expired on May 9, 2011; and

WHEREAS, a public hearing was held on this application on October 18, 2011, after due notice by publication in *The City Record*, with continued hearings on November 22, 2011 and January 10, 2012, and then to decision on January 31, 2012; and

WHEREAS, Community Board 3, Queens, recommends approval of this application, with the following conditions: (1) that the application reflect the operation’s primary use as a parking lot; (2) the lighting on the 78<sup>th</sup> Street side of the site is upgraded; (3) the 78<sup>th</sup> Street and Roosevelt Avenue frontages are maintained free of debris and graffiti; (4) all perimeter sidewalk snow accumulation be removed in an expeditious manner; (5) the sidewalk fronting Roosevelt Avenue be repaired and the tar covered area be replaced with cement; (6) all outstanding Department of Buildings (“DOB”) violations be addressed; and (7) the grant be limited to a term of five years; 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 northwest corner of Roosevelt Avenue and 78<sup>th</sup> Street, within a C2-3 (R6) zoning district; and

WHEREAS, the site is occupied by an automobile repair building with accessory uses and a parking lot for the parking and storage of motor vehicles; and

WHEREAS, on May 9, 1961, under the subject calendar number, the Board granted a variance to permit the construction of a gasoline service station, lubritorium, non-automatic auto wash, office, sale of accessories, minor repairs with hand tools only, safety inspection station, parking, ground sign and parking and storage of motor vehicles, for a term of ten years; and

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

WHEREAS, most recently, on June 17, 2003, the Board granted a ten-year extension of term, and an amendment to permit a change in use to auto repair with lubritorium, non-automatic car wash, office, sale of accessories, minor repairs with hand tools only, safety inspection station, parking, ground sign and parking and storage of motor vehicles, which expired on May 9, 2011; and

WHEREAS, the applicant now requests an additional ten-year term; and

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

WHEREAS, at hearing, the Board directed the applicant to provide landscaping and remove the debris from the rear of the building; and

WHEREAS, in response, the applicant submitted revised plans and photographs reflecting that shrubs have been planted along the northern lot line and the debris has been removed from the rear of the building; and

WHEREAS, in response to the concerns raised by the Community Board, the applicant submitted an affidavit from the owner stating that the sidewalk fronting Roosevelt Avenue will be repaired and the tar covered area will be replaced with cement, any debris and graffiti that accumulates will be removed from the site, and any snow that accumulates will be removed from the sidewalks; and

WHEREAS, the applicant states that the DOB violations will be resolved prior to obtaining a new certificate of occupancy; and

WHEREAS, the applicant further states that the 78<sup>th</sup> Street side of the site has sufficient lighting directed to the interior of the lot, and submitted photographs reflecting the lighting provided on the site; and

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

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution having been adopted on May 9, 1961, so that, as amended, this portion of the resolution shall read: “to permit the extension of the term of the grant for an additional ten years from May 9, 2011, to expire on May 9, 2021; *on condition* that all use and operations shall substantially conform to plans filed with this application

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marked 'Received June 7, 2011'-(2) sheets and 'December 13, 2011'-(1) sheet; and *on further condition:*

THAT this term shall expire on May 9, 2021;

THAT the sidewalk fronting Roosevelt Avenue shall be repaired and the tar covered area shall be replaced with cement prior to the issuance of a certificate of occupancy;

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

THAT any graffiti located on the site shall be removed within 48 hours;

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

THAT a new certificate of occupancy shall be obtained by January 31, 2013;

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. 401457286)

Adopted by the Board of Standards and Appeals, January 31, 2012.

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## 321-63-BZ

APPLICANT – Greenberg Traurig, LLP by Jay A. Segal, Esq., for Verizon New York, Inc., owner; 1775 Grand Concourse LLC, lessee.

SUBJECT – Application October 13, 2011 – Amendment of a special permit (§73-65) which permitted the construction of an 8-story enlargement of a telephone exchange building.

The Amendment seeks to permit Use Groups 6A, 6B and 6C, pursuant to §122-10. R8/Special Grand Concourse Preservation District.

PREMISES AFFECTED – 1775 Grand Concourse, west side of the Grand Concourse at the southeast intersection of Walton Avenue and East 175<sup>th</sup> Street, Block 282, Lot 1001-1004, Borough of Bronx.

## COMMUNITY BOARD #5BX

APPEARANCES –

For Applicant: Jay Segal.

**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 amendment to a previously granted special permit for the construction of a Use Group 6D telephone exchange building; and

WHEREAS, a public hearing was held on this application on December 6, 2011 after due notice by

publication in *The City Record*, with a continued hearing on January 10, 2012, and then to decision on January 31, 2012; and

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

WHEREAS, Community Board 5, Bronx, recommends approval of this application with the certain conditions, including: (1) all signage comply with ZR § 122-20; (2) the main entrance, lobby, elevators and revolving doors respect the historical design of the building; (3) retail establishments not operate on a 24 hour basis; and (4) all Grand Concourse retail store deliveries be in compliance with Department of Transportation regulations to avoid traffic congestion and unnecessary double parking on the Grand Concourse; and

WHEREAS, the site is bounded by the Grand Concourse to the east, East 175<sup>th</sup> Street to the north, and Walton Avenue to the west, in an R8 zoning district within the Special Grand Concourse Preservation District; and

WHEREAS, the site has approximately 201 feet of frontage on the Grand Concourse, 265 feet of frontage on East 175<sup>th</sup> Street, 190 feet of frontage on Walton Avenue, and a total lot area of 44,288 sq. ft.; and

WHEREAS, the applicant notes that the building is situated such that it contains street level frontage on portions of its first story (on Walton Avenue and East 175<sup>th</sup> Street) and on a portion of its fourth story (on the Grand Concourse); thus, the building has five stories at or above the level of the Grand Concourse and three stories below the level of the Grand Concourse; and

WHEREAS, the subject site is occupied by an eight-story building with the following uses listed on the certificate of occupancy: Use Group 6D telephone exchange at the first, second, third, fifth and sixth floors, Use Group 4 hospital-related office facilities for the Bronx Lebanon Hospital Center (“Bronx Lebanon”) at the fourth floor, and Use Group 6 offices for the New York City Human Resources Administration (“HRA”) at the seventh and eighth floors; and

WHEREAS, the applicant states that the building is currently vacant except for the continued use of the Use Group 6D telephone exchange use on the second and third floors, and portions of the cellar and first floor; and

WHEREAS, the Board has exercised jurisdiction over the subject site since 1926 when, under BSA Cal. No. 358-26-BZ, the Board granted a variance to permit the construction of a telephone exchange building on the subject site, which at the time was split-zoned between a business district and a residence district; and

WHEREAS, on June 11, 1963, under the subject calendar number, the Board granted a special permit under ZR § 73-65, to permit the construction of an eight-story enlargement to the existing building, which extended the footprint of the building from approximately 50 percent of the zoning lot to approximately 85 percent of the zoning lot; and

WHEREAS, on March 17, 1987, the Board granted an amendment to permit the fourth story of the building to be

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used as Use Group 4 hospital related office facilities only for Bronx Lebanon; and

WHEREAS, most recently, on January 6, 1988, the Board granted an amendment to permit the seventh and eighth stories of the building to be used for Use Group 6 offices only for HRA; and

WHEREAS, the applicant now seeks an amendment to permit the following uses: (1) boiler room, storage and telephone exchange equipment at the cellar; (2) an attended accessory group parking facility for 100 cars and open accessory parking for up to ten vehicles, a loading berth and ten to 18 bicycle spaces at the first floor; (3) telephone exchange use at the second and third floors; (4) retail, office and/or limited community facility use at the fourth floor; and (5) office and/or limited community facility use at the fifth through eighth floors; and

WHEREAS, the applicant represents that, if not for the existence of the subject special permit, all of the proposed use changes would be allowed as-of-right under the Zoning Resolution; and

WHEREAS, specifically, the applicant states that ZR § 52-34 would allow the conversion of any portion of the building to the proposed limited community facility use as a conforming use in the R8 district, and ZR § 122-10(c) would allow the portions of the building used for Use Group 6D telephone exchange uses on or before July 1, 1981, which constituted the entire building, to be converted to offices; and

WHEREAS, the applicant further states that the fourth story could be converted to retail use as-of-right because its location at street level on the Grand Concourse qualifies it as a "ground floor" pursuant to ZR § 122-10(c); and

WHEREAS, by letter dated December 5, 2011, the Department of City Planning confirms that the term "ground floor" in ZR § 122-10(c) is interpreted in the subject case to include the frontage along the Grand Concourse; and

WHEREAS, subject to a private agreement with the landlord, the applicant states that the community facility uses within the building will be limited to the following uses without sleeping accommodations: (1) colleges or universities, including professional schools but excluding business college or trade schools; (2) museums or non-commercial art galleries but not libraries; (3) schools; (4) ambulatory diagnostic or treatment health care facilities, limited to public, private, for-profit or not-for-profit medical, health and mental health care facilities licensed by the State of New York, or a facility in which patients are diagnosed or treated by health care professionals, licensed by the State of New York or by persons under the supervision of such licensee for medical, health or mental health conditions, and where such patients are ambulatory rather than admitted (such facilities shall not include the practice of veterinary medicine, physical culture or health establishments, ophthalmic dispensing, abortion clinics or drug treatment facilities); (5) non-profit or voluntary hospitals and related facilities without overnight admission, but not animal hospitals; (6) philanthropic or non-profit

institutions without sleeping accommodations; and (7) welfare centers; and

WHEREAS, the applicant represents that allowing the vacant portions of the building to be occupied by general offices or limited community facility uses would facilitate the re-tenanting of these spaces; and

WHEREAS, the applicant notes that the fourth, seventh, and eighth floors were previously permitted to be occupied by office use pursuant to amendments granted by the Board, but that the restriction of the space to particular tenants (Bronx Lebanon and HRA, respectively) resulted in the current vacancy of these spaces; and

WHEREAS, the applicant states that, even though no requirement for accessory off-street parking is triggered by the proposed use changes, the number of new parking spaces proposed (100 in addition to up to ten existing spaces within the open area south of the building) is consistent with general parking principles in the Zoning Resolution; and

WHEREAS, the applicant agreed to comply with the above-mentioned conditions stipulated by the Community Board; and

WHEREAS, at hearing, the Board raised concerns about whether the proposal reflected a sufficient number of loading berths, whether the anticipated number of truck deliveries to the retail space on the site would be compatible with traffic patterns, the operation of the proposed garage, and whether the signage complies with the underlying district regulations; and

WHEREAS, in response, the applicant states that if the subject site were located in a commercial district, two loading berths would be required for the building, but one loading berth is sufficient for the subject building because: (1) the ground floor will not generate a need for loading, as it will be used as a parking garage; (2) the second and third floors will continue to be used as a telephone exchange, which will have a dedicated entrance on Walton Avenue (adjacent to the remaining loading berth) through which most loading requirements will be handled; (3) the fourth floor retail loading will be from the Grand Concourse level (during non-business hours only) instead of from the loading berth, as it will be easier to perform loading activities for the retail spaces directly from the Grand Concourse level rather than from the loading berth at the rear of the building several floors below the retail spaces; and (4) floors five through eight, which are proposed for office use and collectively contain approximately 145,000 sq. ft., will only generate a requirement for one loading berth; and

WHEREAS, the Board raised questions about the effect loading would have on the operation of the bike lane on Grand Concourse; and

WHEREAS, in response, the applicant states that it will put a provision in the lease requiring loading for the retail space to occur only at night, when there is minimal bicycle traffic; and

WHEREAS, as to the anticipated number of truck deliveries to the retail space, the applicant submitted a letter from the owner stating that similar size stores in comparable



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locations estimate six deliveries a day by parcel size trucks to restock the space; and

WHEREAS, as to the operation of the garage, the applicant states that it is proposing an accessory garage with spaces available to tenants and their invitees; and

WHEREAS, as to signage, the applicant states that all signs will comply with the Special Grand Concourse Preservation District regulations, pursuant to ZR § 122-20; and

WHEREAS, based upon its review of the record, the Board finds the requested amendment to the approved plans 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 June 11, 1963, so that as amended this portion of the resolution shall read: “to permit the proposed modifications to the previously-approved plans; *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 13, 2011’–(13) sheets and ‘November 22, 2011’-(3) sheets; and *on further condition*:

THAT all signage shall comply with the Special Grand Concourse Preservation District regulations, pursuant to ZR § 122-20;

THAT any retail uses on the site shall not operate on a 24-hour basis;

THAT vehicle loading will be limited to the hours of 7:00 p.m. through 7:00 a.m. and such condition will be reflected on all retail leases;

THAT the community facility uses within the building shall not include sleeping accommodations and shall be limited to the uses indicated on the BSA-approved plans;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 220143146)

Adopted by the Board of Standards and Appeals January 31, 2012.

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## 188-96-BZ

APPLICANT – Mitchell S. Ross, Esq., for 444 Soundview Services Stations, Incorporated c/o William McCombs, owner; Scott Greco, lessee.

SUBJECT – Application June 22, 2010 – Extension of Term (§11-411) of a variance for the continued operation of a Gasoline Service Station (*Gulf*) with accessory convenience store which expired January 6, 2008; Waiver of the rules. R5 zoning district.

PREMISES AFFECTED – 444 Soundview Avenue, north

side of Soundview Avenue and west of Underhill Avenue, Block 3498, Lot 51, Borough of Bronx.

## COMMUNITY BOARD #9BX

APPEARANCES –

For Applicant: Mitchell Ross.

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

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term for a gasoline service station (Use Group 16) with accessory convenience store, which expired on January 6, 2008; and

WHEREAS, a public hearing was held on this application on July 12, 2011, after due notice by publication in *The City Record*, with continued hearings on September 27, 2011, November 15, 2011, December 13, 2011 and January 10, 2012, and then to decision on January 31, 2012; and

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

WHEREAS, Community Board 9, Bronx, recommends approval of this application; and

WHEREAS, the site occupies the entirety of Block 5743, bounded by 169<sup>th</sup> Street to the west, 18<sup>th</sup> Avenue to the north, Utopia Parkway to the east, and 20<sup>th</sup> Avenue to the south, within a C1-2 (R3-2) zoning district; and

WHEREAS, the site is a triangular-shaped lot located on the corner of Underhill Avenue and Soundview Avenue, within an R5 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 3, 1955 when, under BSA Cal. No. 38-42-BZ, the Board granted a variance to permit the construction of a gasoline service station, lubritorium, non-automatic auto wash, storage and sales of accessories, and office, for a term of 15 years; and

WHEREAS, subsequently, the grant was amended and the term extended at various times, until its expiration in October 1990; and

WHEREAS, on January 6, 1998, under the subject calendar number, the Board granted an application under ZR § 11-411 to re-establish the expired variance for a gasoline service station and to convert the accessory repair bays and auto washing area to an accessory convenience store, for a term of ten years, which expired on January 6, 2008; and

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

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

WHEREAS, at hearing, the Board directed the applicant to restore the concrete ramp at the entrance to the convenience store, remove excess signage from the site, and clarify the number of vacuum stations on the site; and

# MINUTES

WHEREAS, in response, the applicant submitted photographs reflecting that the concrete ramp has been refurbished at the entrance to the convenience store and excess signage has been removed, submitted a signage analysis reflecting that the site complies with C1 district signage regulations, and submitted revised plans reflecting that there are two vacuum stations on the site, one located at the southwest corner of the accessory convenience store and one located on the south side of the Underhill Avenue frontage; and

WHEREAS, based upon its review of the record, 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 waives the Rules of Practice and Procedure, reopens, and amends the resolution, dated January 6, 1998, so that as amended this portion of the resolution shall read: "to extend the term for a period of ten years from January 6, 2008, to expire on January 6, 2018; 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 January 10, 2011'-(1) sheet and 'January 18, 2012'-(1) sheet; and on further condition:

THAT the term of this grant shall expire on January 6, 2018;

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

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB Application No. 220056392 )

Adopted by the Board of Standards and Appeals, January 31, 2012.

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## 332-98-BZ

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

SUBJECT – Application September 20, 2011 – Amendment to a previously granted Variance (§72-21) for an enlargement to an existing nursing home (*Workmen’s Circle MultiCare*). R5 zoning district.

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

## COMMUNITY BOARD #12BX

### 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, this is an application for a reopening and an amendment to a previously granted variance for a seven-story nursing home building (Use Group 3); and

WHEREAS, a public hearing was held on this application on November 22, 2011 after due notice by publication in *The City Record*, with a continued hearing on January 10, 2012, and then to decision on January 31, 2012; and

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

WHEREAS, this application is submitted on behalf of the Workman’s Circle Home and Infirmary (“Workman’s”), a non-profit entity; and

WHEREAS, the subject site occupies the entire block bounded by Burke Avenue on the north, Grace Avenue on the east, Hammersley Avenue on the south and Ely Avenue on the west, within an R5 zoning district; and

WHEREAS the site has a total lot area of 108,956 sq. ft. and is currently occupied by a seven-story, 524-bed nursing home building (Use Group 3) with a floor area of 232,657 sq. ft. (2.14 FAR); and

WHEREAS, on July 24, 1959, under BSA Cal. No. 270-59-BZ, the Board granted a variance to permit the construction of a six-story nursing home which exceeded the maximum permitted height; and

WHEREAS, on April 13, 1999, under the subject calendar number, the Board granted a variance to permit the proposed enlargement of the existing nursing home building (Use Group 3), which did not comply with zoning regulations related to front yard, height and setback, and floor area; and

WHEREAS, most recently, on March 17, 2009, the Board granted a one-year extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, the applicant states that construction was completed within the extended time period and a final certificate of occupancy has been obtained; and

WHEREAS, the applicant now requests an amendment to enlarge a small portion of the building to develop an accessory dialysis facility available to the patients of the existing nursing home building as well as to outside patients with dialysis needs; and

WHEREAS, specifically, the applicant proposes to create the accessory dialysis facility by: (1) reallocating underutilized floor area in the existing building that is currently designated for administrative services use; and (2) in-filling the building’s 1,825 sq. ft. southernmost court, which is adjacent to the aforementioned administrative services space; and

WHEREAS, the applicant notes that, in addition to the Board’s grant, the Workman’s building is also subject to a special permit granted by the City Planning Commission (“CPC”); and

# MINUTES

WHEREAS, the applicant states that, along with the subject application, it is concurrently seeking approval to modify the prior special permit granted by the CPC to reflect the requested bulk modification to the building; and

WHEREAS, the applicant states that the minor enlargement represents an increase in floor area from 232,657 sq. ft. (2.14 FAR) to 234,482 sq. ft. (2.15 FAR), or a 0.68 percent increase in floor area; and

WHEREAS, the applicant further states that no other bulk non-compliances are created or increased by the proposed enlargement; and

WHEREAS, the applicant states that the proposed in-fill of the court will not be visible from the street; and

WHEREAS, the applicant states that the proposed dialysis facility will have approximately 18 treatment rooms and is expected to operate on a dual shift basis, treating patients from 6:00 a.m. to 2:00 p.m., and then from 2:00 p.m. to 7:00 p.m.; and

WHEREAS, at hearing, the Board questioned whether there was sufficient parking to accommodate the proposed dialysis facility; and

WHEREAS, in response, the applicant submitted a parking survey which reflects that, of the 120 parking spaces located on the perimeter of the subject block, 35 spaces were available at the time of the survey; and

WHEREAS, the applicant states that there are also 32 on-site parking spaces at the site, located in two parking areas; the parking area located at the intersection of Ely and Burke Avenues can accommodate 24 vehicles and is generally used by employees, and the parking area located mid-block adjacent to the main entrance toward the southern end of Ely Avenue can accommodate eight vehicles and is generally available for visitor parking; and

WHEREAS, the applicant represents that the proposed dialysis facility is expected to generate very little parking demand, as nearly all patients are expected to arrive by ambulette or companion; therefore, the on-site parking combined with the approximately 30 percent of on-street parking spaces available on a typical weekday will be sufficient to accommodate the patients who require parking; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment 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 April 13, 1999, so that as amended this portion of the resolution shall read: “to permit the noted modifications to the plans; *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 20, 2012”–(4) sheets; and *on further condition*:

THAT prior to the issuance of a building permit, the applicant shall obtain approval for the proposed modification from the City Planning Commission;

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. 220137377)

Adopted by the Board of Standards and Appeals, January 31, 2012.

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## 156-03-BZ

APPLICANT – Goldman Harris LLC, for Northern RKO LLC, owner.

SUBJECT – Application November 30, 2011 – Extension of Time to Complete Construction of a Variance (§72-21) for the construction of a 17-story mixed-use commercial/community facility/residential building which expires on January 12, 2012. R6/C2-2 zoning district.

PREMISES AFFECTED – 135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard. Block 4958, Lots 48, 38. Borough of Queens.

## COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Vivien R. Krieger.

**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 a C2-2 (R6) zoning district, the construction of a 16-story mixed-use commercial/community facility/residential building, which expired on January 12, 2012; and

WHEREAS, a public hearing was held on this application on January 10, 2012 after due notice by publication in *The City Record*, and then to decision on January 31, 2012; 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, certain members of the community provided testimony raising concerns about the application, including the security and protection of the landmarked property, and whether the appropriate approvals were secured from the Federal Aviation Administration (“FAA”); and

WHEREAS, the subject site is located on the north side of Northern Boulevard, between Prince Street and Farrington Street, within a C2-2 (R6) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the site since December 13, 2005 when, under the subject calendar number, the Board granted a variance to permit the

# MINUTES

proposed development of a 200-unit, 17-story mixed-use commercial/community facility/residential building, with ground level retail, second floor community facility space, and 229 accessory parking spaces in a three-level below-grade parking garage; and

WHEREAS, on May 29, 2007, the Board issued a letter of substantial compliance permitting the following changes to the proposal: (1) the elimination of one floor, reducing the building to 16 stories with an average floor to ceiling height of 10'-2" instead of 9'-4"; (2) the expansion of the footprint of floors seven through 16 to redistribute the floor area from the floor that has been eliminated; (3) the modification of the size of certain units; and (4) the redesign of the inner courts; and

WHEREAS, on January 12, 2010, the Board granted an extension of time to complete construction for a term of two years, to expire on January 12, 2012; and

WHEREAS, most recently, on July 12, 2011, the Board granted an amendment to permit the following modifications to the previously-approved plans: (1) an increase in the number of dwelling units from 200 to 357; (2) a reduction in the average unit size from 1,437 sq. ft. to 787 sq. ft.; (3) an increase in the number of accessory parking spaces from 229 to 385; (4) a 6,503 sq. ft. reduction in the residential floor area (from 287,313 sq. ft. to 280,810 sq. ft.) and a corresponding 6,503 sq. ft. increase in the commercial floor area (from 10,957 sq. ft. to 17,460 sq. ft.) through the addition of a retail mezzanine between the first and second floors; (5) the relocation of the community facility space from the second floor to the third floor; (6) a reduction in the depth of the rear yard from 31'-5" to 30'-0"; and (7) a reduction in the initial setback distance from 20'-0" to 15'-0"; and

WHEREAS, substantial construction was to be completed by January 12, 2012, 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 a four year extension of time to enable the owner to secure financing and complete construction; and

WHEREAS, the applicant submitted a letter from the Landmarks Preservation Commission dated June 24, 2011, stating that the Certificate of Appropriateness issued for the building has been extended to June 12, 2014, and that the amended Certificate of Appropriateness reflects the changes requested and subsequently approved by the Board on July 12, 2011; and

WHEREAS, the applicant notes that the prior FAA Determination of No Hazard to Air Navigation expired in 2008, and submitted an updated FAA Determination of No Hazard to Air Navigation, approving the proposed building on December 13, 2011; and

WHEREAS, in response to the concerns raised at hearing about the security of the site, the applicant submitted photographs reflecting that a fence has been installed around the perimeter of the building; 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 December 13, 2005, 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 31, 2016; *on condition:*

THAT substantial construction shall be completed by January 31, 2016;

THAT FAA approval must be in effect at the time DOB issues a building permit;

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. 401622669)

Adopted by the Board of Standards and Appeals, January 31, 2012.

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## **295-57-BZ**

APPLICANT – Vassalotti Associates Architects, LLP, for Aranoff Family Limited Partnership, owners.

SUBJECT – Application September 7, 2011 – Extension of Term (§11-411) for the continued operation of a Gasoline Service Station (*British Petroleum*) which expired on August 7, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on February 7, 2002. C1-2/R4 zoning district.

PREMISES AFFECTED – 146-15 Union Turnpike, northwest corner of Union Turnpike and 147<sup>th</sup> Street, Block 6672, Lot 80, Borough of Queens.

## **COMMUNITY BOARD #8Q**

APPEARANCES –

For Applicant: Hiram Rothkrug.

THE VOTE TO CLOSE HEARING –

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

**ACTION OF THE BOARD** – Laid over to February 28, 2012, at 10 A.M., for decision, hearing closed.

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## **611-76-BZ**

APPLICANT – Vassalotti Associates Architects, LLP, for Capitol One Bank, owner.

SUBJECT – Application November 15, 2011 – Extension of Term of a Variance (§72-21) for the continued operation of an off-site accessory parking facility for a bank (*Capital*

# MINUTES

One) which expires on February 15, 2012. R4 zoning district.

PREMISES AFFECTED – 43-17/21 214<sup>th</sup> Place, east side 161.24' north of Northern Boulevard, Block 6301, Lot 9, 10, 11, Borough of Queens.

## COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to February 28, 2012, at 10 A.M., for decision, hearing closed.

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## 540-86-BZ

APPLICANT – Slater & Beckerman, LLP, for 148 Jamaica Avenue Co., LLC, owner.

SUBJECT – Application November 4, 2011 – Extension of Term of a Special Permit (§73-42) for the continued operation of a one story UG6 commercial building (*Key Food*); an Amendment to eliminate the restriction on hours of operation. C4-2A/R6B zoning district.

PREMISES AFFECTED – 32-11/32-21 Newton Avenue, northwest corner of Newton Avenue and 33<sup>rd</sup> Street, Block 619, Lot 1, Borough of Queens.

## COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Stefanic Marczzi and Thomas Anderson.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to February 28, 2012, at 10 A.M., for decision, hearing closed.

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## 162-95-BZ & 163-95-BZ

APPLICANT – Sheldon Lobel, P.C., for Salvatore Bonavita, owner; Pelham Bay Fitness Group, LLC, lessee.

SUBJECT – Application April 3, 2011 – Extension of Term to permit the continued operation of a Physical Cultural Establishment (*Planet Fitness*) which expired on July 30, 2006; Amendment to increase the floor area of the establishment. Waiver of the rules. C2-4/R6 and R7-1 zoning district.

PREMISES AFFECTED – 3060 & 3074 Westchester Avenue, Southern side of Westchester Avenue between Mahan Avenue and Hobart Avenue. Block 4196, Lots 9, 11 & 13, Borough of Bronx.

## COMMUNITY BOARD #10BX

APPEARANCES –

For Applicant: Jordan Most.

For Opposition: Kenneth Kearns, CB #10.

**ACTION OF THE BOARD** – Laid over to March 6,

2012, at 10 A.M., for continued hearing.

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## 290-03-BZ

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

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

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

## COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Ivan Khoury.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to February 28, 2012, at 10 A.M., for decision, hearing closed.

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## 40-05-BZ

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

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

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

## COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Ivan Khoury.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to February 28, 2012, at 10 A.M., for decision, hearing closed.

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## 327-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Beth Gavriel Bukharian Congregation, owner.

SUBJECT – Application June 5, 2009 – Amendment to a Variance (§72-21) to increase the size of an existing

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# MINUTES

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Synagogue and School (*Beth Gavriel*) and alter the facade. R1-2 zoning district.

PREMISES AFFECTED – 66-35 108<sup>th</sup> Street, east side of 108<sup>th</sup> Street, east side of 108<sup>th</sup> Street, between 66<sup>th</sup> Road and 67<sup>th</sup> Avenue, Block 2175, Lot 1, Borough of Queens.

**COMMUNITY BOARD #6Q**

APPEARANCES –

For Applicant: Jordan Most.

**ACTION OF THE BOARD** – Laid over to February 28, 2012, at 10 A.M., for continued hearing.

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## APPEALS CALENDAR

### 233-10-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Alco Builders Incorporated, owners.

SUBJECT – Application December 23, 2010 – Appeal seeking a common law vested right to continue development commenced under the prior R6 Zoning District. R4-1 zoning district.

PREMISES AFFECTED – 90-22 176<sup>th</sup> Street, between Jamaica and 90<sup>th</sup> Avenues, Block 9811, Lot 61(tent), Borough of Queens.

**COMMUNITY BOARD #12Q**

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to February 28, 2012, at 10 A.M., for adjourned hearing.

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### 29-11-A & 30-11-A

APPLICANT – Randy M. Mastro-Gibson, Dunn & Crutcher LLP, for Win Restaurant Equipment & Supply Corporation, owner; Fuel Outdoor, lessee.

SUBJECT – Application March 24, 2011 – An appeal challenging the Department of Building's revocation of sign permits. M1-5B Zoning District.

PREMISES AFFECTED – 318 Lafayette Street, Northwest corner of Houston and Lafayette Streets. Block 522, Lot 24, Borough of Manhattan.

**COMMUNITY BOARD #2M**

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to February 28, 2012, at 10 A.M., for deferred decision.

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### 186-11-A

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for 170 Broadway NYC LP c/o Highgate Holdings, Inc., owner.

SUBJECT – Application December 8, 2011 – Application pursuant to Multiple Dwelling Law ("MDL") Section 310(2)(a) to waive the court and yard requirements of MDL Section 26 to facilitate the conversion of an existing office building to a transient hotel. C5-5/LM zoning district.

PREMISES AFFECTED – 170 Broadway, southeast corner of Broadway and Maiden Lane. Block 64, Lot 16, Borough of Manhattan.

### COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Gary Tarnoff and Christina Zimmer.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to February 28, 2012, at 10 A.M., for decision, hearing closed.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

# MINUTES

## REGULAR MEETING TUESDAY AFTERNOON, JANUARY 31, 2012 1:30 P.M.

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

### ZONING CALENDAR

#### 231-10-BZ

APPLICANT – Eric Palatnik, PC, for WIEDC (Williamsburg Infant & Early Childhood Development Center), owners.

SUBJECT – Application December 17, 2010 – Variance (§72-21) to permit the development of a six-story school (*Williamsburg Infant and Early Childhood Development center*), contrary to use regulations (§42-11); floor area (§43-122), rear yard (§43-26), and wall height, total height, number of stories, setback, and sky exposure plane (§43-43). M1-1 zoning district.

PREMISES AFFECTED – 430-440 Park Avenue, Between Kent Avenue and Franklin Avenue. Block 1898, Tent. Lot 29, Borough of Brooklyn.

#### COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to February 14, 2012, at 1:30 P.M., for deferred decision.

#### 108-11-BZ thru 111-11-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Belett Holdings LLC, owner.

SUBJECT – Application August 8, 2011 – Variance (§72-21) to permit the construction of four semi-detached one-family dwellings that do not provide ground floor commercial use, contrary to §32-433. C1-1/R3-1 zoning district.

PREMISES AFFECTED – 10, 12, 14 & 16 Hett Avenue, East side of Hett Avenue, 99.52 feet south of the intersection of Hett Avenue and New Dorp Lane. Block 4065, Lots 27, 25, 24 & 21, Borough of Staten Island.

#### COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** – Laid over to February 28, 2012, at 1:30 P.M., for continued hearing.

#### 112-11-BZ

APPLICANT – Eric Palatnik, P.C., for Louis N. Petrosino, owner.

SUBJECT – Application August 9, 2011 – Variance (§72-21) to legalize the extension of the use and enlargement of

the zoning lot of a previously approved scrap metal yard (UG 18), contrary to §32-10. C8-1 zoning district.

PREMISES AFFECTED – 2994/3018 Cropsey Avenue, southwest corner of Bay 54<sup>th</sup> Street. Block 6947, Lot 260. Borough of Brooklyn.

#### COMMUNITY BOARD #13BK

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to March 6, 2012, at 1:30 P.M., for continued hearing.

#### 130-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Leah Gutman and Arthur Gutman, owners.

SUBJECT – Application September 2, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 3600 Bedford Avenue, between Avenue N and Avenue O, Block 7678, Lot 90, Borough of Brooklyn.

#### COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to February 14, 2012, at 1:30 P.M., for continued hearing.

#### 175-11-BZ

APPLICANT – Raymond H. Levin, for Clinton Park Holdings, LLC, owners.

SUBJECT – Application November 10, 2011 – Special Permit (§73-36) to permit a physical culture establishment (*Mercedes House*). C6-3X (Clinton Special District).

PREMISES AFFECTED – 550 West 54<sup>th</sup> Street, aka 770 11<sup>th</sup> Avenue, bounded by 11<sup>th</sup> Avenue, West 54<sup>th</sup> Street, 10<sup>th</sup> Avenue and West 53<sup>rd</sup> Street, Block 1082, Lot 1, Borough of Manhattan.

#### COMMUNITY BOARD #9M

APPEARANCES –

For Applicant: Raymond Levin.

THE VOTE TO CLOSE HEARING –

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

**ACTION OF THE BOARD** – Laid over to February 28, 2012, at 1:30 P.M., for decision, hearing closed.

# MINUTES

## 179-11-BZ

APPLICANT – Herrick, Feinstein LLP, for Ridgedale Realty Company, LLC, owner; Kings of Queens Retro/Retro Fitness of Glendale, lessee.

SUBJECT – Application November 30, 2011 – Special Permit (§73-36) to permit a physical culture establishment (*New Retro Fitness*). M1-1 zoning district.

PREMISES AFFECTED – 65-45 Otto Road, between 66<sup>th</sup> Street and 66<sup>th</sup> Place. Block 3667, Lot 625. Borough of Queens.

### COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Jennifer Dickson.

**ACTION OF THE BOARD** – Laid over to February 14, 2012, at 1:30 P.M., for continued hearing.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

## \*CORRECTION

This resolution adopted on January 10, 2012, under Calendar No. 255-00-BZ and printed in Volume 97, Bulletin Nos. 1-3, is hereby corrected to read as follows:

## 255-00-BZ

APPLICANT – Sheldon Lobel, P.C., for Full Gospel New York Church, owner.

SUBJECT – Application August 12, 2011 – Amendment to a variance (§72-21) to permit a change of use on the 2nd and 3rd floors of the existing building at the premises from UG4 house of worship to UG3 school. M1-1/M2-1 zoning district.

PREMISES AFFECTED – 130-30 31<sup>st</sup> Avenue, north side of 31<sup>st</sup> Avenue, between College Point Boulevard and Whitestone Expressway, block 4360, Lot 1, Borough of Queens.

### COMMUNITY BOARD #7Q

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, this is an application for a reopening and an amendment to a previously granted variance for a house of worship (Use Group 4); and

WHEREAS, a public hearing was held on this application on December 6, 2011 after due notice by publication in *The City Record*, and then to decision on January 10, 2012; 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 7, Queens, recommends approval of this application; and

WHEREAS, this application was brought on behalf of Full Gospel New York Church (“Full Gospel Church”), a not-for-profit religious entity; and

WHEREAS, the site is located on the north side of 31<sup>st</sup> Avenue, between the Whitestone Expressway service road and College Point Boulevard, partially within an M1-1 zoning district and partially within an M2-1 zoning district; and

WHEREAS, the site has 348 feet of frontage on 31<sup>st</sup> Avenue, a depth of 600 feet, and a total lot area of 208,803 sq. ft.; and

WHEREAS, the subject site is occupied by a nine-story (including penthouse) mixed-use building with a house of worship (Use Group 4) at the cellar level, first floor, fourth floor and penthouse; a school (Use Group 3) at the second and third floors; and commercial offices (Use Group 6) at the fifth through eighth floors; and



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WHEREAS, the Board has exercised jurisdiction over the subject site since August 4, 1998 when, under BSA Cal. No. 181-97-BZ, the Board granted a variance to permit the use of the cellar through fourth floor and penthouse of the existing building as a church, community center, and accessory offices; and

WHEREAS, on June 27, 2001, under the subject calendar number, the Board permitted the enlargement of the sanctuary, the construction of an accessory gymnasium, and modifications to the interior partitions; and

WHEREAS, subsequently, on May 23, 2002 and July 18, 2007, respectively, the Board issued letters of substantial compliance approving interior modifications at the site; and

WHEREAS, the applicant now seeks an amendment to legalize the conversion of the second and third floors of the subject building from a house of worship (Use Group 4) to a school (Use Group 3); and

WHEREAS, the applicant states that the school is operated as Promise Christian Academy, which was originally affiliated with Full Gospel Church; and

WHEREAS, the applicant states that the subject building is located on an extremely large zoning lot with the tower portion (where the school is located) being at least 70 feet from the nearest lot line; as a result, the surrounding commercial and storage uses do not have any adverse impacts on the proposed school use; and

WHEREAS, the applicant states that the school has a total of 154 students in pre-kindergarten through eighth grades, with 25 faculty and staff members; and

WHEREAS, the applicant further states that 80 percent of students arrive to the school by car and 20 percent arrive by shuttle vans; no students walk to the school; and

WHEREAS, as to faculty, the applicant states that 75 percent of the school's faculty arrive by car and 25 percent arrive by public bus; and

WHEREAS, the applicant represents that the zoning lot, with an area of 208,803 sq. ft., has sufficient on-site space to accommodate all traffic generated by staff and students being dropped off/picked up from the school; and

WHEREAS, the applicant states that the subject site has 330 on-site parking spaces, with 131 reserved for the business office uses on the fifth through eighth floors, and 40 spaces along the front portion of the site dedicated exclusively for school use during the week; and

WHEREAS, accordingly, the applicant states that the school will not have any adverse traffic impacts on the surrounding street network; and

WHEREAS, based upon its review of the record, the Board finds the requested amendment to the approved plans 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 June 27, 2001, so that as amended this portion of the resolution shall read: "to permit the conversion of the second and third floors from a house of worship (Use Group 4) to a school (Use Group 3); *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 November 22, 2011"-(10) sheets; and *on further condition*:

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB Application No. 400227642)

Adopted by the Board of Standards and Appeals January 10, 2012.

**\*The resolution has been revised to correct the Plans Dates which read: "Received November 22, 2011"-(9) sheets" now reads: "Received November 22, 2011"-(10) sheets. Corrected in Bulletin No. 6, Vol. 97, dated February 8, 2012.**

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## \*CORRECTION

This resolution adopted on December 13, 2011, under Calendar No. 89-11-BZ and printed in Volume 96, Bulletin No. 51, is hereby corrected to read as follows:

### 89-11-BZ

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

SUBJECT – Application June 23, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (§23-141); side yards (§23-461) and perimeter wall height (§23-631). R3-2 zoning district.

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

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – 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 25, 2011, acting on Department of Buildings Application No. 320269669, reads:

1. Contrary to ZR 23-141 in that the proposed floor area exceeds the maximum permitted.
2. Contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required.
3. Contrary to ZR 23-141 in that the proposed lot coverage exceeds the maximum permitted.
4. Contrary to ZR 23-631 in that the perimeter wall height exceeds the maximum permitted.
5. Contrary to ZR 23-461 in that the proposed side yards are less than the minimum required; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, lot coverage, open space ratio, perimeter wall height, and side yards contrary to ZR §§ 23-141, 23-631, and 23-461; and

WHEREAS, a public hearing was held on this application on November 1, 2011, after due notice by publication in *The City Record*, with continued hearings on November 22, 2011 and December 6, 2011, and then to decision on December 13, 2011 and

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

Ottley-Brown; and

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

WHEREAS, the subject site is located on the southwest corner of Avenue S and East 23<sup>rd</sup> Street within an R3-2 zoning district; and

WHEREAS, the subject site has a total lot area of 3,000 sq. ft. and is occupied by a single-family home with 1,946 sq. ft. of floor area (0.65 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 1,946 sq. ft. (0.65 FAR) to 3,027 sq. ft. (1.01 FAR); the maximum permitted floor area is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide a lot coverage of 43 percent (35 percent is the maximum permitted); and

WHEREAS, the applicant proposes to provide an open space ratio of 57 percent (65 percent is the minimum required); and

WHEREAS, the applicant proposes to maintain a perimeter wall with a height of 22'-0", which is a pre-existing non-compliance; and

WHEREAS, the applicant proposes to provide one side yard with a width of 20'-0" and to maintain the pre-existing non-complying side yard with a width of 1'-6"; and

WHEREAS, the Board raised concerns about whether the proposed height and setback comply with zoning district regulations and are confined to the permitted building envelope; and

WHEREAS, in response, the applicant provided axonometric drawings to confirm that the proposal (other than the pre-existing non-complying perimeter wall height) did not exceed the permitted building envelope; and

WHEREAS, the Board determined that the axonometric drawings were not conclusive and stated that DOB should confirm full compliance; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that the proposed project will not interfere with any pending public improvement project; and

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 73-622 and 73-03.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of

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the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622 and 73-03, to permit, within an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, lot coverage, open space ratio, perimeter wall height, and side yards contrary to ZR §§ 23-141, 23-631, and 23-461; *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 November 9, 2011”-(8) sheets and “November 30, 2011”-(2) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,027 sq. ft. (1.01 FAR); a lot coverage of 43 percent; an open space ratio of 57 percent; a maximum perimeter wall height of 22 feet; and side yards with widths of 20’-0” and 1’-6”, as illustrated on the BSA-approved plans;

THAT DOB shall review that the height and setback comply with all regulations related to the permitted building envelope;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, December 13, 2011.

**\*The resolution has been revised to correct the lot coverage from 42 percent to 43 percent and the open space ratio from 58 percent to 57 percent.. Corrected in Bulletin No. 6, Vol. 97, dated February 8, 2012.**