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# BULLETIN

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

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Volume 97, No. 7

February 15, 2012

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### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

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**SUSAN M. HINKSON**

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*Commissioners*

**Jeffrey Mulligan, *Executive Director***

**Becca Kelly, *Counsel***

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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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<b>TELEPHONE - (212) 788-8500</b>
<b>FAX - (212) 788-8769</b>

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624-68-BZ	188-07 Northern Boulevard, Queens
742-70-BZ	830 Bay Street, Staten Island
352-69-BZ	411 Vanderbilt Avenue, Brooklyn
348-75-BZ	1050 Forest Avenue, Staten Island
135-01-BZ	1815/17 86 <sup>th</sup> Street, Brooklyn
148-10-BZ	1559 East 29 <sup>th</sup> Street, Brooklyn
118-11-A	811 Liberty Lane, Queens
232-10-A	59 Fourth Avenue, Manhattan
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86-11-A	663-673 2 <sup>nd</sup> Avenue, Manhattan
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54-11-BZ	6010 Bay Parkway, Brooklyn
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177-11-BZ	601 East 156 <sup>th</sup> Street, aka 800 St. Ann's Avenue, Bronx
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**Affecting Calendar Numbers:**

128-11-BZ	1860 East 23 <sup>rd</sup> Street, Brooklyn
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# DOCKET

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New Case Filed Up to February 7, 2012  
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**22-12-BZ**

1470 Third Avenue, northwest corner of East 83rd Street and Third Avenue, Block 1512, Lot(s) 33, Borough of **Manhattan, Community Board: 8**. Enlargement of an existing PCE (20-10-BZ) requires BSA special permit approval. C1-9 district.  
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**23-12-BZ**

951 Grand Street, between Morgan and Catherine, Block 2924, Lot(s) 48, Borough of **Brooklyn, Community Board: 1**. Use variance to allow the new construction of a story residential building with ground floor retail on a vacant lot in an M1-1 zoning district. M1-1 district.  
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**24-12-A**

2368 12th Avenue, bounded by Henry Hudson Parkway, West 134th Street, 12th Avenue, 135th Street, Block 2005, Lot(s) 32, Borough of **Manhattan, Community Board: 9**. Appeal challenging the Department of Buildings determination that an outdoor accessory sign and structure is not a legal non-conforming use pursuant to ZR §52-00. M1-2 Zoning district. M1-2 district.  
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**25-12-A**

110 East 70th Street, south side of East 70th Street between Park Avenue and Lexington Avenue, Block 1404, Lot(s) 67, Borough of **Manhattan, Community Board: 8**. Appeal challenging a Department of Buildings determination that an illegal non-complying residential portion of a building in the required rear yard may be reconstructed pursuant to ZR §54-41. R8B Zoning District. R8B district.  
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**26-12-BZ**

73-49 Grand Avenue, located on the northwest corner of the intersection formed by Grand Avenue and 74th Street., Block 2491, Lot(s) 40, Borough of **Queens, Community Board: 5**. Special Permit ZR §73-52 to allow for a commercial district boundary to be extended into a residential zone to allow for accessory commercial parking. C1-2/R6B & R4-1 zoning districts. C1-2/R6B & R4-1 district.  
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**27-12-A**

110 East 70th Street, North side of East 70th Street, 125' east of Park Avenue and 260' west of Lexington Avenue, Block 1404, Lot(s) 67, Borough of **Manhattan, Community Board: 8M**. Appeal challenging Department of Buildings determination that the reconstruction of a building that did not solely contain a one family residence and had more than 75% of the floor area demolished is contrary to ZR §54-41. R8B(LH-1A) Zoning District. R8B(LH-1A) district.  
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**28-12-BZ**

13-15 37th Avenue, 13th Street and 14th Street, bound by 37th Avenue to the southwest., Block 350, Lot(s) 36, Borough of **Queens, Community Board: 1**. Special Permit Z.R. §73-49 to legalize the required accessory off street rooftop parking on the roof of an existing two-story office building contrary to ZR §44-11. M1-1 zoning district. M1-1 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 28, 2012, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, February 28, 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**

### **820-67-BZ**

APPLICANT – Willy C. Yuin, R.A., for Rick Corio, Pres. Absolute Car, owner.

SUBJECT – Application October 28, 2011 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a UG16 Automotive Repair shop which expired on November 8, 2011. R-3A zoning district. PREMISES AFFECTED – 41Barker Street, east side of 414.19' south Woodruff Lane, Block 197, Lot 34, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

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### **636-70-BZ**

APPLICANT – Walter T. Gorman, P.E., for East River Petroleum Realty LLC, owner; Kings 108 Car Care, Inc. (Mobile S/S), lessee.

SUBJECT – Application January 24, 2012 – Amendment to a previously approved Special Permit (§73-211) which permitted the operation of an Automotive Service Station (UG 16B) with accessory uses. C2-2/R6 zoning district.

PREMISES AFFECTED – 105-45 to105-55 Horace Harding Expressway, northwest corner 108<sup>th</sup> Street, Block 1694, Lot 23. Borough of Queens.

**COMMUNITY BOARD #4Q**

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### **172-86-BZ**

APPLICANT – Sheldon Lobel, P.C., for Clearview Mortgage Bank Corporation, owner.

SUBJECT – Application November 4, 2011 – Extension of Term of a previously granted Variance (ZR §72-21) which permitted the construction of a two-story UG6 professional office building which expires on March 31, 2012. R2 zoning district.

PREMISES AFFECTED – 256-10 Union Turnpike, south side of Union Turnpike between 256<sup>th</sup> and 257<sup>th</sup> Streets, Block 8693, Lot 14, Borough of Queens.

**COMMUNITY BOARD #13Q**

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### **248-08-BZ**

APPLICANT – New York City Board of Standards  
OWNER – Joseph Alexander/New Covenant Christian Church, Inc.

SUBJECT – Application October 6, 2008 – Dismissal for Lack of Prosecution –Variance (§72-21) to permit the development of a religious-based school and church, contrary to floor area and floor area ratio (§24-11), rear yard (§24-36), and parking (§25-31). R5 zoning district.

PREMISES AFFECTED – 3550 Eastchester Road, eastern side of Eastchester Road between Hicks Street and Needham Avenue, Block 4726, Lot 7, 36, 38, Borough of Bronx.

**COMMUNITY BOARD #12BX**

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## **APPEALS CALENDAR**

### **659-76-A**

APPLICANT –Walter T. Gorman, P.E., for Daniel and Lauren Mirkin, owners.

SUBJECT – Application November 15, 2011 – Amendment to continue (UG 4) second floor occupancy in a wood frame structure which expired on November 9, 2011. C1-3 /R5B Zoning District.

PREMISES AFFECTED – 253 Beach 116<sup>th</sup> Street, west side, 240' south of Newport Avenue, Block 16212, Lot 19, Borough of Queens.

**COMMUNITY BOARD #14Q**

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### **243-09-BZY**

APPLICANT – Mirza M. Rahman, for South Jamaica Property, LLC, owner.

SUBJECT – Application December 2, 2011 – Extension of time (§11-332) to complete construction for a minor development and obtain a Certificate of Occupancy commenced under the prior R6 Zoning district. R4-1 Zoning district.

PREMISES AFFECTED – 87-12 175<sup>th</sup> Street, corner of 175<sup>th</sup> Street and Warwick, Block 9830, Lot 32, Borough of Queens.

**COMMUNITY BOARD #12Q**

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# CALENDAR

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**FEBRUARY 28, 2012, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, February 28, 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**

**167-11-BZ**

APPLICANT – Eric Palatnik, P.C., for White Castle System, Inc., owner.

SUBJECT – Application October 20, 2011 – Special Permit (§73-243) to allow for an eating and drinking establishment (use group 6) with an accessory drive-through facility. C1-2/R5 zoning district.

PREMISES AFFECTED – 1677 Bruckner Boulevard, Fiely Avenue through to Metcalf Avenue, Block 3721, Lot 1, Borough of Bronx.

**COMMUNITY BOARD #9BX**

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**169-11-BZ**

APPLICANT – Eric Palatnik, P.C., for Shlomo Vizgan, owner.

SUBJECT – Application October 27, 2011 – Special Permit (§73-622) to permit the enlargement of an existing single family home contrary to floor area, lot coverage and open space (§23-141(b)); side yards (§23-461(a)) and less than the required rear yard (23-47). R-4 zoning district.

PREMISES AFFECTED – 2257 East 14<sup>th</sup> Street, between Avenue V and Gravesend Neck Road, Block 7375, Lot 48, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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**197-11-BZ**

APPLICANT – Sheldon Lobel, P.C., for 329 Wyckoff Realty, LLC, owner; Wyckoff Fitness Group, LLC, lessee.

SUBJECT – Application December 30, 2011 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Planet Fitness*) on a portion of the first and second floors of an existing two-story building. C4-3 zoning districts.

PREMISES AFFECTED – 329 Wyckoff Avenue, northeast corner of the intersection formed by Wyckoff and Myrtle Avenues and Palmetto Street, Block 3444, Lot 33, Borough of Queens.

**COMMUNITY BOARD #5Q**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, FEBRUARY 7, 2012  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**737-65-BZ**

APPLICANT – Sheldon Lobel, P.C., for Yorkshire Towers  
Company Successor II, L.P., owner.

SUBJECT – Application November 3, 2011 – Extension of  
Term permitting the use of 50 surplus tenant parking spaces,  
within an accessory garage, for transient parking, pursuant  
to §60 (3) of the Multiple Dwelling Law, which expired on  
November 3, 2010; Waiver of the Rules. C2-8 (TA), C2-8  
and R8B zoning district.

PREMISES AFFECTED – 301-329 East 86<sup>th</sup> Street, corner  
through lot fronting on East 86<sup>th</sup> Street, East 87<sup>th</sup> Street and  
Second Avenue. Block 1549, Lot 1. Borough of Manhattan.

**COMMUNITY BOARD #8M**

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 waiver of the  
Rules of Practice and Procedure, a reopening, and an  
extension of term for a previously granted variance for a  
transient parking garage, which expired on November 3,  
2010; 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  
February 7, 2012; and

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

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

WHEREAS, the subject premises is bounded by East 86<sup>th</sup>  
Street to the south, Second Avenue to the west, and East 87<sup>th</sup>  
Street to the north, partially within a C2-8 zoning district,  
partially within a C2-8A zoning district within the Special  
Transit Land Use District, and partially within an R8B zoning  
district; and

WHEREAS, the site has approximately 320 feet of  
frontage on East 86<sup>th</sup> Street, 200 feet of frontage on Second

Avenue, 300 feet of frontage on East 87<sup>th</sup> Street, and a total lot  
area of approximately 62,965 sq. ft.; and

WHEREAS, the site is occupied by a 21-story (including  
penthouse) residential building with ground floor office and  
retail use; and

WHEREAS, the cellar and sub-cellar are occupied as a  
168-space accessory parking garage; and

WHEREAS, on November 3, 1965, under the subject  
calendar number, the Board granted a variance pursuant to  
Section 60(3) of the Multiple Dwelling Law to permit a  
maximum of 50 surplus parking spaces to be used for transient  
parking, for a term of 15 years; and

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

WHEREAS, most recently, on June 19, 2001, the Board  
granted a ten-year extension of term, which expired on  
November 3, 2010; and

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

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

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

*Therefore it is Resolved* that the Board of Standards and  
Appeals *waives* the Rules of Practice and Procedure, *reopens*,  
and *amends* the resolution having been adopted on November  
3, 1965, 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 November 3, 2010, to expire on  
November 3, 2020; *on condition* that all use and operations  
shall substantially conform to plans filed with this  
application marked Received 'November 3, 2011'-(3)  
sheets; and *on further condition*:

THAT this term will expire on November 3, 2020;

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

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

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

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

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

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

(DOB Application No. 11068)

Adopted by the Board of Standards and Appeals,  
February 7, 2012.

# MINUTES

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**624-68-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for MMT Realty Associates LLC, owner.

SUBJECT – Application June 7, 2011 – Extension of Term of a Variance (§72-21) to permit wholesale plumbing supply (UG16), stores and office (UG6) which expired on January 13, 2011; Extension of Time to obtain a Certificate of Occupancy and waiver of the rules. R3-2 zoning district.

PREMISES AFFECTED – 188-07 Northern Boulevard, north side of Northern Boulevard between Utopia Parkway and 189<sup>th</sup> Street, Block 5364, Lots 1, 5, 7, Borough of Queens.

**COMMUNITY BOARD #11Q**

APPEARANCES –

For Applicant: Todd Dale.

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

**THE VOTE TO GRANT** –

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

**THE RESOLUTION** –

WHEREAS, this is an application for a reopening, a waiver, an extension of term for the continued use of the site as a wholesale plumbing supply business (Use Group 16) and commercial uses (Use Group 6), which expired on January 13, 2011, and an extension of time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on September 13, 2011, after due notice by publication in *The City Record*, with continued hearings on October 18, 2011 and November 22, 2011, and then to decision on February 7, 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, Community Board 11, Queens, recommends disapproval of this application; and

WHEREAS, the Auburndale Improvement Association provided testimony noting concerns about the operation of the site and noted that it concurs with the Community Board’s zoning committee that if the application is granted, the conditions of prior Board approvals should remain as well as additional conditions, which include that (1) trucks must pull into the yard fully and not block the sidewalk; (2) trucks must not double park on Northern Boulevard; (3) the sign for North Shore Plumbing Supply should be repaired; (4) the fence should be repaired; (5) the storage of pipes should be cleaned up and removed from view on Northern Boulevard; (6) the signs advertising the florist must be scaled back; and (7) planters must be maintained on 189<sup>th</sup> Street; and

WHEREAS, the site is located on the north side of Northern Boulevard between 189<sup>th</sup> Street and Utopia Parkway, within an R3-2 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since November 13, 1968 when, under the subject calendar number, the Board granted a variance to permit the construction of a two-story enlargement to an existing building occupied as a wholesale plumbing supply business, stores, and office space; and

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

WHEREAS, most recently, on November 26, 2002, the Board granted an extension of term for ten years from the expiration of the prior grant, to expire on January 13, 2011; and

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

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

WHEREAS, at hearing, the Board questioned whether the site was in compliance with the previously-approved signage and directed the applicant to respond to Auburndale Improvement Association’s concerns including traffic safety, landscaping, and debris at the rear of the site; and

WHEREAS, in response, the applicant stated that it will comply with all of Auburndale Improvement Association’s conditions and, more specifically: (1) removed non-compliant signage and stated that it will comply with C1 district regulations; (2) provided photographs of the replanted planters on 189<sup>th</sup> Street; (3) removed debris and graffiti; (4) repaired the lock and chain that secure the refuse area; and (5) will provide a traffic monitor to direct trucks entering and leaving the site and making deliveries; and

WHEREAS, the applicant states that it will maintain the site in compliance with all requested conditions; and

WHEREAS, based upon the above, the Board finds that a reduced extension of term for five years and a one-year 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 November 13, 1968, so that as amended this portion of the resolution shall read: “to extend the term for five years from the date of the grant, to expire on February 7, 2017 and to allow a one-year extension of time to obtain a certificate of occupancy; *on condition* that all use and operations shall substantially conform to plans filed with this application marked Received ‘June 7, 2011’-(1) sheet and ‘December 2, 2011’-(2) sheets; and *on further condition*:

THAT the term of the grant will expire on February 7, 2017;

THAT the site will be maintained clean of debris and graffiti;

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

THAT all landscaping will be maintained as reflected on the Board-approved plans;

THAT there will be no parking on the sidewalks;

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THAT all signage will be maintained in accordance with the BSA-approved plans;

THAT trucks must pull into the yard fully, must not block the sidewalk, and must not double park on Northern Boulevard;

THAT a sign will be maintained directing customers of North Shore Plumbing Supply not to block the sidewalk;

THAT the businesses will provide a parking monitor to guide trucks making deliveries and entering and exiting the site in a manner to secure the safety of the sidewalk;

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

THAT a new certificate of occupancy will be obtained by February 7, 2013;

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.” (N.B. 836/68)

Adopted by the Board of Standards and Appeals February 7, 2012.

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## 742-70-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 830 Bay Street, LLC, owner.

SUBJECT – Application May 27, 2011 – Extension of Term of a Variance (§72-21) for the continued operation of an automotive service station which expired on May 18, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on February 26, 2009 and waiver of the rules. C1-1/R3-2 zoning district.

PREMISES AFFECTED – 830 Bay Street, southwest corner of Bay Street and Vanderbilt Avenue. Block 2836, Lot 15, Borough of Staten Island.

### COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Todd Dale.

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

**THE VOTE TO GRANT** –

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

**THE RESOLUTION** –

WHEREAS, this is an application for a reopening, an extension of term, and an extension of time to obtain a certificate of occupancy for an automotive repair and gasoline service station; and

WHEREAS, a public hearing was held on this application on July 26, 2011, after due notice by publication in

*The City Record*, with continued hearings on September 13, 2011, October 18, 2011 and November 22, 2011, and then to decision on February 7, 2012; and

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

WHEREAS, Community Board 1, Staten Island, recommends disapproval of this application, citing concerns that the certificate of occupancy has not been obtained and the operator has not complied with the conditions from previous grants; and

WHEREAS, the site is located on the southwest corner of Bay Street and Vanderbilt Avenue, within a C1-1 (R3-2) zoning district; and

WHEREAS, the site is occupied by an automotive service station with accessory uses; and

WHEREAS, the applicant states that only the automotive repair use is currently operating at the site, but that it intends to reinstitute the gasoline station operations at the site as soon as possible; and

WHEREAS, the Board has exercised jurisdiction over the site since May 18, 1971 when, under the subject calendar number, the Board granted a variance to permit the construction of an automotive service station with accessory uses at the site, for a term of ten years; and

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

WHEREAS, most recently, on February 26, 2008, the Board granted an extension of term and an amendment to permit the use of a storage trailer adjacent to the repair building, which expired on May 18, 2011; a condition of the grant was that a certificate of occupancy be obtained by February 26, 2009; and

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

WHEREAS, at hearing, the Board directed the applicant to revise the site plan to reflect that one of the curb cuts along Bay Street has been removed, plant landscaping in accordance with the previously approved plans, and repave the site; and

WHEREAS, in response, the applicant submitted a revised site plan reflecting that the northernmost curb cut on Bay Street has been removed, and submitted photographs reflecting that evergreen trees and bushes have been planted adjacent to the neighboring residence along the western border of the site and in the planter at the northeast corner of the site, in accordance with the previously-approved plans; and

WHEREAS, as to the repaving of the site, the applicant submitted a fuel tank installation plan which reflects that new fuel tanks will be installed in April 2012 in anticipation of the reinstatement of the gasoline station operations, and that the site will be repaved immediately following the installation of the new fuel tanks; and

WHEREAS, the applicant states that installation of the fuel tanks is expected to take approximately 60 days; and

WHEREAS, the applicant submitted an affidavit from the owner stating that the site will be repaved upon completion



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of the fuel tank installation, and in any event the site will be repaved prior to June 30, 2012; and

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

Therefore it is Resolved that the Board of Standards and Appeals reopens, and amends the resolution, as adopted May 18, 1971, so that as amended this portion of the resolution shall read: "to extend the term for ten years from the expiration of the prior grant, to expire on May 18, 2021, and to grant an extension of time to obtain a certificate of occupancy for one year from the date of this grant, to expire on February 7, 2013; on condition:

THAT the term will expire on May 18, 2021;

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

THAT all landscaping will be planted and maintained per the BSA-approved plans;

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

THAT a new certificate of occupancy will be obtained by February 7, 2013;

THAT the asphalt on the site must be repaved by June 30, 2012;

THAT all conditions from prior resolutions 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; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 500901688)

Adopted by the Board of Standards and Appeals, February 7, 2012.

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## 352-69-BZ

APPLICANT – Sheldon Lobel, P.C., for Dr. Alan Burns, owner.

SUBJECT – Application September 29, 2011 – Extension of Term (§72-21) of a Variance for the continued operation of a UG16 animal hospital (*Brooklyn Veterinary Hospital*) which expired on September 30, 1999; Waiver of the Rules. R6B zoning district.

PREMISES AFFECTED – 411 Vanderbilt Avenue, east side of Vanderbilt Avenue between Greene and Gates Avenue, Block 1960, Lot 28, Borough of Brooklyn.

### COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to March 6, 2012, at 10 A.M., for decision, hearing closed.

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## 348-75-BZ

APPLICANT – Eric Palatnik, P.C., for Moises A. Villa Delgado, owner.

SUBJECT – Application October 31, 2011 – Extension of the term of an approved variance that expired on March 9, 1996 to allow for a UG 16 animal hospital, contrary to use regulations. Waiver of the Rules. R3-2 zoning district  
PREMISES AFFECTED – 1050 Forest Avenue, between Manor Road and Raymond Place, Block 315, Lot 39, Borough of Staten Island.

### COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to March 20, 2012, at 10 A.M., for continued hearing.

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## 135-01-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Go Go Leasing Corp., owner.

SUBJECT – Application November 29, 2011 – Extension of Term (§11-411) of an approved variance which permitted a high speed auto laundry (UG 16B) which expired on October 30, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on October 30, 2002; Waiver of the Rules. C1-2(R5) zoning district.

PREMISES AFFECTED – 1815/17 86<sup>th</sup> Street, 78'-8.3" northwest 86<sup>th</sup> Street and New Utrecht Avenue, Block 6344, Lot 69, Borough of Brooklyn.

### COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Todd Dale.

**ACTION OF THE BOARD** – Laid over to March 20, 2012, at 10 A.M., for continued hearing.

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## 148-10-BZ

APPLICANT – Eric Palatnik, P.C., for Giselle E. Salamon, owner.

SUBJECT – Application June 23, 2011 – Amendment to an approved special permit (§73-622) for the enlargement of an existing single family home, contrary to open space and floor area (§23-141) and less than the required rear yard (§23-47) and side yard (§23-461). The amendment seeks to correct open space and floor area calculations and adds a waiver to the perimeter wall height. R3-2 zoning district.  
PREMISES AFFECTED – 1559 East 29<sup>th</sup> Street, between Avenue P and Kings Highway, Block 7690, Lot 20, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to March 20,

# MINUTES

2012, at 10 A.M., for continued hearing.  
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## APPEALS CALENDAR

### 118-11-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Jean Scanlon, lessee.

SUBJECT – Application August 18, 2011 – Proposed building not fronting a mapped street, contrary General City Law 36, and in the bed of a mapped street, contrary to General City Law 35, with a private disposal system in the bed of a mapped street contrary to Department of Buildings’ policy.

PREMISES AFFECTED – 811 Liberty Lane, Block 16350, Lot 300, Borough of Queens.

### COMMUNITY BOARD #14Q

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 July 26, 2012, acting on Department of Buildings Application No. 420326686, reads in pertinent part:

- A1- The site is located partially in the bed of a mapped street therefore no permit or Certificate of Occupancy can be issued as per Art. 3 Sect. 35 of the General City Law
- A2- The site and building is not fronting on an official mapped street therefore, no permit or Certificate of Occupancy can be issued as per Art. 3, Sect. 36 of the General City Law; also no permit can be issued since proposed construction does not have at least 8% of total perimeter of building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section C27-291 (C26-401.1) of the Administrative Code of the City of New York .
- A3- The private disposal system is in the bed of a mapped street contrary to Department of Buildings policy; and

WHEREAS, a public hearing was held on this application on January 24, 2012, after due notice by publication in the *City Record*, and then to decision on February 7, 2012; and

WHEREAS, by letter dated February 2, 2012 the Fire Department states that it has no objection to the subject proposal, with the condition that the entire building be fully sprinklered in conformance with the sprinkler provisions of Fire Code § 503.8.2, Local Law 10/99, and Reference Standard 17-2B of the Building Code; and

WHEREAS, the applicant submitted plans reflecting that the building will be fully sprinklered in accordance with the Fire Department’s request; and

WHEREAS, by letter dated August 30, 2011, the Department of Environmental Protection states that it has no objection to the subject proposal; and

WHEREAS, by letter dated November 2, 2011, the Department of Transportation (“DOT”) states that it has no objection to the subject proposal; and

WHEREAS, DOT states that the subject lot is not currently included in the agency’s Capital Improvement Program; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

*Therefore it is Resolved* that the decision of the Queens Borough Commissioner, dated July 26, 2011, acting on Department of Buildings Application No. 420326686, is modified by the power vested in the Board by Section 35 and Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received January 24, 2012”-one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

THAT DOB shall review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

THAT the building will be fully sprinklered in accordance with the BSA-approved plans;

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

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

Adopted by the Board of Standards and Appeals, February 7, 2012.  
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### 232-10-A

APPLICANT – OTR Media Group, Incorporated, for 4<sup>th</sup> Avenue Loft Corporation, owner.

SUBJECT – Application December 23, 2010 – An appeal challenging Department of Buildings’ denial of a sign permit on the basis that the advertising sign had not been legally established and not discontinued as per ZR §52-83. C1-6 Zoning District.

PREMISES AFFECTED – 59 Fourth Avenue, 9<sup>th</sup> Street & Fourth Avenue. Block 555, Lot 11. Borough of Manhattan.

### COMMUNITY BOARD #3M

APPEARANCES – None.

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# MINUTES

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## **ACTION OF THE BOARD** – Off Calendar.

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### **15-11-A**

APPLICANT – Slater & Beckerman, LLP., for 1239 Operating Corporation, owner.

SUBJECT – Application February 10, 2011 – Appeal challenging the Department of Building's determination that a non-illuminated advertising sign and structure is not a legal non-conforming advertising sign pursuant to ZR §52-00. C6 zoning district.

PREMISES AFFECTED – 860 Sixth Avenue, through lot on the north side of West 30<sup>th</sup> Street, between Broadway and Avenue of the Americas, Block 832, Lot 1. Borough of Manhattan.

### **COMMUNITY BOARD #5M**

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to February 14, 2012, at 10 A.M., for adjourned hearing.

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### **86-11-A**

APPLICANT – Cozen O'Connor, for Perl binder Holdings, LLC, owner.

SUBJECT – Application June 10, 2011 – Appeal of the Department of Buildings' revocation of an approval to permit a non-conforming sign. C1-9 zoning district.

PREMISES AFFECTED – 663-673 2<sup>nd</sup> Avenue, northwest corner of East 36<sup>th</sup> Street and 2<sup>nd</sup> Avenue, Block 917, Lot 21, 24-31, Borough of Manhattan.

### **COMMUNITY BOARD #6M**

APPEARANCES – None.

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

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### **149-11-A thru 151-11-A**

APPLICANT – Sheldon Lobel, P.C., for Eastern 7 Inc., owner.

SUBJECT – Application September 16, 2011 – Appeal pursuant to NYC Charter §666.7 to permit construction of three, two-family homes within 30'-0" of the street line of Eastern Parkway, contrary to Administrative Code §18-112 and New York City Building Code §3201.3.1. R6 zoning district.

PREMISES AFFECTED – 1789, 1793 & 1797 St. John's Place, northeast corner of intersection formed by St. John's Place and Eastern Parkway, Block 1471, Lot 65, 67, 68, Borough of Brooklyn.

### **COMMUNITY BOARD #16BK**

APPEARANCES –

For Applicant: Jordan Most.

**ACTION OF THE BOARD** – Laid over to March 6, 2012, at 10 A.M., for continued hearing.

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### **161-11-A**

APPLICANT – Quinn McCabe, LLP, for Britton Property, Inc., owner.

SUBJECT – Application October 14, 2011 – Appeal seeking to vacate a Stop Work Order and rescind revocation of building permits issued for failure to obtain authorization from the adjacent property owner. R7B Zoning District.

PREMISES AFFECTED – 82-20 Britton Avenue, east side of Britton Avenue between Broadway and Layton Street, Block 1517, Lot 3, Borough of Queens.

### **COMMUNITY BOARD #4Q**

APPEARANCES –

For Applicant: Christopher PP. McCabe and Yung Cheng Chou.

For Opposition: Lisa Orrantia of Department of Buildings and Amelia Arcamone-Makinano.

**ACTION OF THE BOARD** – Laid over to March 20, 2012, at 10 A.M., for continued hearing.

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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**

**54-11-BZ**

**CEQR #11-BSA-087K**

APPLICANT – Law Office of Fredrick A. Becker, for Bay Parkway Group LLC, owner.

SUBJECT – Application April 21, 2011 – Special Permit (§73-44) to permit the reduction in required parking for an ambulatory diagnostic or treatment facility building. R6/C1-3 zoning district.

PREMISES AFFECTED – 6010 Bay Parkway, west side of Bay Parkway between 60<sup>th</sup> Street and 61<sup>st</sup> Street, Block 5522, Lot 36 & 32, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

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 March 25, 2011, acting on Department of Buildings Application No. 310101047, reads in pertinent part:

Proposed number of accessory parking spaces for the building at the premises is less than the number of parking spaces required by ZR Section 36-21; and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit, within a C1-3 (R6) zoning district, a reduction in the required number of accessory parking spaces for a mixed-use community facility/commercial building from 231 to 177, contrary to ZR § 36-21; and

WHEREAS, a public hearing was held on this application on August 16, 2011, after due notice by publication in The City Record, with continued hearings on September 13, 2011, October 18, 2011, November 22, 2011 and January 10, 2012, and then to decision on February 7, 2012; and

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

WHEREAS, City Council Member David G.

Greenfield and New York State Assemblymember William Colton provided testimony in opposition to the application; and

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

WHEREAS, the Neighbors for the Preservation and Development of Brooklyn Southwest, represented by counsel, provided testimony in opposition to the proposal stating concerns that (1) the applicant does not meet the requirements of the special permit including that it act in good faith, (2) there is a discrepancy between the required number of parking spaces set forth in the as-of-right approval and the proposal for a reduction before the Board, (3) there are flaws in the parking studies and the calculation of parking demand, and (4) any reduction in parking will negatively impact the surrounding area; and

WHEREAS, certain members of the community provided oral testimony in opposition to this application, citing concerns with its effect on parking in the surrounding neighborhood due to high parking demand associated with three area schools and existing parking demands; and

WHEREAS, the subject site is located on a through lot with frontage on Bay Parkway, 61<sup>st</sup> Street, and 60<sup>th</sup> Street, within a C1-3 (R6) zoning district; and

WHEREAS, the site is under construction with an as-of-right mixed-use community facility/commercial building, pursuant to DOB approval; and

WHEREAS, the applicant initially proposed a nine-story mixed-use community facility/commercial building with 93,920 sq. ft. of floor area and 120 accessory parking spaces, which required a reduction from the required 231 parking spaces (four for commercial use and 227 for community facility use); and

WHEREAS, at the Board's direction and after several iterations, the applicant now proposes a nine-story mixed-use community facility/commercial building with 92,304 sq. ft. of floor area (90,837 sq. ft. for community facility use and 1,467 sq. ft. for commercial use) and 177 accessory parking spaces with a program as follows: (1) 57 parking spaces in the cellar (including 18 stackers); (2) UG 6 commercial use and UG 4 community facility use on the first floor; (3) 48 parking spaces on the second floor; (4) 72 parking spaces on the third floor; and (5) community facility use on the fourth through ninth floors; and

WHEREAS, the initial proposal reflected an attended parking lot without stackers and the current proposal reflects an attended parking lot with stackers; and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject C1-3 (R6) zoning district, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable ZR provision, for ambulatory diagnostic or treatment facilities in the parking category B1; in the subject zoning district, the Board may reduce the required parking from one space per 400 sq. ft. of floor area to one space per 800 sq. ft. of floor area; and

WHEREAS, pursuant to ZR § 36-21 the total number of required parking spaces for all uses at the site is 231; and

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# MINUTES

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WHEREAS, the applicant represents that the proposed 177 parking spaces are sufficient to accommodate the parking demand generated by the use of the site; and

WHEREAS, the applicant notes that 1,467 sq. ft. of floor area in the building is occupied by commercial space, which is not in parking category B1 and therefore the associated four required spaces have been excluded from the calculations for the requested reduction in parking; and

WHEREAS, the applicant states that the remaining 90,837 sq. ft. of floor area at the site will be occupied by ambulatory diagnostic or treatment facility space, which is eligible for the parking reduction under ZR § 73-44; at a rate of one required parking space per 400 sq. ft. of floor area, 227 parking spaces are required for this use; and

WHEREAS, accordingly, the total number of parking spaces which are eligible under the special permit is 227; as noted, the special permit allows for a reduction from one space per 400 sq. ft. of floor area to one space per 800 sq. ft. of floor area, which would reduce the required parking for these uses to 114 spaces; and

WHEREAS, as noted, an additional four parking spaces are required for the 1,467 sq. ft. of floor area occupied by commercial space, which is not eligible for the special permit; and

WHEREAS, thus, the special permit allows for a reduction to a total of 118 parking spaces on the site; and

WHEREAS, the applicant notes that the proposed total of 177 accessory parking spaces would provide 59 more spaces than the minimum of 118 required under the special permit; and

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

WHEREAS, the applicant states that the facility will be occupied by existing ambulatory diagnostic facilities currently operating in the area, including those associated with Maimonides Hospital, who are waiting to move to the site and who have committed to lease 52,650 sq. ft. of the building; the remaining floor area is anticipated to be used and restricted to similar ambulatory diagnostic uses; and

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

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

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

WHEREAS, in response to the community's concerns about parking demand, the applicant asserts that its studies

reflect a peak parking demand of 131 cars, and the proposed 173 spaces for community facility use provide an excess of 42 parking spaces, or 32 percent more than is required to satisfy the peak parking demand; and

WHEREAS, the applicant asserts that the onsite parking will be able to accommodate the facility's parking demand and will not create a demand for curbside or other off-site parking; and

WHEREAS, in support of this assertion, the applicant submitted a parking demand analysis into the record; and

WHEREAS, the applicant notes that its parking demand analysis was based on Institute of Transportation Engineers (ITE) traffic standards to establish the number of person trips to the site, which reflects 317 person trips during peak periods; and

WHEREAS, however, the applicant notes that to establish the number of people who would drive to the site, it performed a parking demand survey from the existing facilities to be relocated to the site, which reflected that 38 percent of patients and employees would drive to the site daily; and

WHEREAS, the applicant then applied the 38 percent to the ITE data and found that the peak parking demand would be 121 spaces, which is a revision of a prior determination of 131 spaces due to a failure to account for the overlap of 75 percent of patients of one of the building's programs (RadNet) to other programs in the building; and

WHEREAS, the applicant notes that if it were to use its survey data, rather than the adjusted ITE data and apply it to the entire building, the peak parking demand would be 143 spaces; and

WHEREAS, the applicant derives the more conservative 143 spaces by noting that, based on surveys of the existing offsite facilities, 151 people (93 patients and 58 staff) will drive to the site to visit the practices occupying 52,650 sq. ft. of the already leased space; the applicant extrapolated that the remaining portions of the building not already leased will be occupied by tenants with similar travel characteristics and thus, for the additional 38,187 sq. ft. of community facility space, the result would be 139 additional daily driving trips (91 patients and 48 staff); and

WHEREAS, the applicant's analysis resulted in a conclusion that 151 trips (based on the survey) and 139 trips (based on extrapolation) amount to 290 daily vehicle trips, consisting of 184 patient and 106 staff trips; and

WHEREAS, the applicant asserts that patient visits will have an anticipated duration of two hours and will be spread across the course of a ten-hour day from 8:00 a.m. to 6:00 p.m.; and

WHEREAS, the applicant concludes that the proposed 173 spaces would accommodate the peak parking demand under either the ITE or parking survey of existing facilities methodologies as the adjusted ITE analysis reflects a peak parking demand of 121 parking spaces for community facility use, or 52 fewer spaces than the proposed, and the parking survey analysis reflects a demand of 143 parking spaces, or 30 fewer than the proposed; and

WHEREAS, during the hearing process, the Board

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# MINUTES

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directed the applicant to explore redesign of the parking facilities to maximize utility and to eliminate any non-essential space (such as the cafeteria) in the cellar to allow for additional parking; and

WHEREAS, in response, the applicant stated that the first floor cannot be re-designed since it will be occupied by MRI equipment which, due to its sensitivity and size must be located on the first floor so that it can be serviced and moved through a portion of removable façade; and

WHEREAS, the applicant has met with DOB to review the maneuverability and other parking calculations and has maximized the number of stackers, which it will reserve for employee use; and

WHEREAS, in response to questions about maximum parking space occupancy, the applicant confirmed DOB's requirement for 200 sq. ft. per car and 153 sq. ft. per car for the second car in a stacker; and

WHEREAS, accordingly, after the redesign of the cellar space and removal of all nonessential spaces, the applicant states that DOB would not approve any more spaces and/or stackers than the 57 proposed for the cellar and the corresponding numbers on the second and third floor; and

WHEREAS, based upon the applicant's revised analysis and current parking layout, the Board agrees that the accessory parking space needs can be accommodated even with the parking reduction; and

WHEREAS, in response to the opposition's concerns that the surveys which analyze the number of people coming to the site by car versus public transportation may not be comparable to the proposed location, the applicant noted that public transportation access to the subject site, including two buses (B6 and B9) within one block of the site, two subways (F and N) approximately one-third of a mile from the site, and four buses (B4, B11, B8, and B82) within .6 to .91 miles from the site, is better than that of the existing sites studied in the transportation surveys; and

WHEREAS, accordingly, the applicant asserts that the car versus public transportation assumptions it applied to the proposed site are conservative since based on areas with less access to public transportation; and

WHEREAS, the applicant also notes that it will be providing a bicycle storage room and states that it will encourage bicycle use and carpooling; and

WHEREAS, the applicant also states that it approached several potential off site locations for parking, and was unable to find any willing to provide parking spaces to the facility; and

WHEREAS, in response to the opposition's questions about different DOB approvals, the Board notes that DOB has approved as-of-right plans, which allow the applicant to continue construction, in contrast to the proposed plans before the Board which will allow for the as-of-right plans to be amended; and

WHEREAS, the Board notes that 231 spaces are required for the proposed building and that a smaller building was approved at DOB, which requires only 206 parking spaces; the waiver request is from 231 spaces (less

the four spaces for commercial use); and

WHEREAS, the Board notes that the special permit allows for a reduction in parking by 50 percent and that the current proposal for 173 spaces for community facility use reflects a reduction of 54 spaces or approximately 24 percent; and

WHEREAS, the Board notes that the proposed use is as-of-right and the reduction is less than half the maximum reduction contemplated by the special permit; and

WHEREAS, accordingly, the Board finds that the proposed use will not have an adverse impact on the community, will not interfere with any public improvement project, and will not interfere with the existing street system; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 11BSA087K, dated July 11, 2011; and

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

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

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

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR §§ 73-44 and 73-03 to permit, within an C1-3 (R6) zoning district, a reduction in the required number of accessory parking spaces for a mixed-use community facility/commercial building from 231 to 177, contrary to ZR § 36-21; on condition that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received February 1, 2012"- twenty-two ( 22 ) sheets, and on further condition:

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

THAT a minimum of 177 parking spaces will be provided in the accessory parking garage in the subject building;

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, February 7, 2012.

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## 166-11-BZ

### CEQR #12-BSA-035M

APPLICANT – Ellen Hay/Wachtel & Masyr LLP, for Roc Le Triomphe Associates LLC, owners; Crunch LLC, lessee. SUBJECT – Application October 24, 2011 – Special Permit (§73-36) to continue the operation of the Physical Culture Establishment (*Crunch Fitness*). C2-8 (TA) zoning district. PREMISES AFFECTED – 1109 Second Avenue, aka 245 East 58<sup>th</sup> Street, west side of Second Avenue between East 58<sup>th</sup> and East 59<sup>th</sup> Streets, Block 1332, Lot 29, Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Ellen Hay.

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

**THE VOTE TO GRANT** –

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

**THE RESOLUTION** –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated October 12, 2011, acting on Department of Buildings Application No. 120857260, reads in pertinent part:

Proposed Physical Culture establishment is not permitted as per ZR 73-36 unless granted special

permits by the Board of Standards and Appeals as per ZR 32-31; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in an C2-8 zoning district within the Special Transit Land Use District (TA), the operation of a physical culture establishment (“PCE”) in a portion of the first floor, cellar, and sub-cellar of a 29-story mixed-use residential/commercial building, contrary to ZR § 32-31; 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 February 7, 2012; and

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

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

WHEREAS, the subject site located on the west side of Second Avenue between East 58<sup>th</sup> Street and East 59<sup>th</sup> Street in a C2-8 zoning district within the Special Transit Land Use District (TA); and

WHEREAS, the subject site is occupied by a 29-story mixed-use residential/commercial building with residential use on the fourth through 29<sup>th</sup> floors and commercial use on the sub-cellar, cellar, first, and second levels; and

WHEREAS, the Board first approved the PCE on July 22, 1997, pursuant to BSA Cal. No. 195-96-BZ, for a term of ten years which expired on October 1, 2006; and

WHEREAS, the site is also the subject of a City Planning special permit for the building pursuant to ZR § 74-95, which was modified to allow for the PCE and associated signage; and

WHEREAS, the PCE occupies 36,119 sq. ft. of floor space on portions of the sub-cellar, cellar, and first floor levels; and

WHEREAS, the PCE is operated as Crunch Fitness; and

WHEREAS, the PCE operates Monday through Thursday 5:00 a.m. to 11:00 p.m.; Friday 5:00 a.m. to 10:00 p.m.; and Saturday and Sunday from 7:00 a.m. to 9:00 p.m.; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; and

WHEREAS, the applicant states that commercial and accessory residential uses on the second and third floor separate and, thus serve as a buffer between, the PCE on the first floor from the residential use on the fourth floor and above; and

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

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

# MINUTES

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 12BSA035M, dated October 19, 2011; and

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

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site located in an C2-8 zoning district within the Special Transit Land Use District (TA), the operation of a physical culture establishment in a portion of the first floor, cellar, and sub-cellar of a 29-story mixed-use residential/commercial building, contrary to ZR § 32-31; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received October 20, 2011"- (5) sheets, and *on further condition*:

THAT the term of this grant will expire on February 7, 2012;

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

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

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

THAT Local Law 58/87 compliance will be as

reviewed and approved by DOB;

THAT sound attenuation measures must be installed in the PCE as shown on the Board-approved plans;

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

THAT substantial construction will 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);

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

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

Adopted by the Board of Standards and Appeals, February 7, 2012.

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### 3-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Chaya Schron and Eli Shron, owners.

SUBJECT – Application January 10, 2011 – Special Permit (§73-622) for the enlargement of a single family home, contrary to floor area and open space (§23-141) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1221 East 22<sup>nd</sup> Street, between Avenue K and Avenue L, Block 7622, Lot 21, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to April 3, 2012, at 1:30 P.M., for adjourned hearing.

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### 76-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Mr. Eli Braha, owner.

SUBJECT – Application May 26, 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); rear yard (§23-47) and side yard (§23-461). R4/Ocean Parkway zoning district.

PREMISES AFFECTED – 2263 East 2<sup>nd</sup> Street, approximately 235' south of Gravesend Neck Road, Block 7154, Lot 68, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Nora Martins.

THE VOTE TO CLOSE HEARING –

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



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**ACTION OF THE BOARD** – Laid over to March 6, 2012, at 1:30 P.M., for decision, hearing closed.  
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2012, at 1:30 P.M., for decision, hearing closed.  
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*Jeff Mulligan, Executive Director*

**104-11-BZ**

APPLICANT – Eric Palatnik, P.C., for Leonard Gamss, owner.

SUBJECT – Application July 25, 2011 – Special Permit (§73-622) for the legalization of an enlargement to an existing single family home, contrary to floor area, lot coverage and open space (§23-141(b)) and less than the required rear yard (§23-47). R3-2 zoning district.

PREMISES AFFECTED – 1936 East 26<sup>th</sup> Street, between Avenues S and T, Block 7304, Lot 21, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to April 3, 2012, at 1:30 P.M., for continued hearing.  
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*Adjourned: P.M.*

**177-11-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for St Anns ABH Owner LLC, owners.

SUBJECT – Application November 16, 2011 – Special Permit (§73-36) to permit a physical culture establishment (*Blink Fitness*) within portions of an existing building. C2-3(R7X) zoning district.

PREMISES AFFECTED – 601 East 156<sup>th</sup> Street, aka 800 St. Ann’s Avenue, north east corner of East 156<sup>th</sup> Street and St. Ann’s Avenue, Block 2618, Lot 7501, Borough of Bronx.

**COMMUNITY BOARD #1BX**

APPEARANCES –

For Applicant: Todd Dale.

**ACTION OF THE BOARD** – Laid over to March 6, 2012, at 1:30 P.M., for continued hearing.  
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**188-11-BZ**

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

SUBJECT – Application December 9, 2011 – Variance (§72-21) to allow for the conversion of floors two through six from commercial use to residential use, contrary to use regulations (§42-10). M1-6 zoning district.

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

**COMMUNITY BOARD #2M**

APPEARANCES –

For Applicant: Frank E. Chaney and Jack Freeman.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

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## \*CORRECTION

This resolution adopted on January 24, 2012, under Calendar No. 128-11-BZ and printed in Volume 97, Bulletin Nos. 4-5, is hereby corrected to read as follows:

### 128-11-BZ

#### CEQR #12-BSA-010K

APPLICANT – Law Office of Fredrick A. Becker, for Levana Pinhas and David Pinhas, owners.

SUBJECT – Application August 31, 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 yard (§23-461) and less than the required rear yard (§23-47). R3-2 zoning district.

PREMISES AFFECTED – 1860 East 23<sup>rd</sup> Street, west side of East 23<sup>rd</sup> Street, between Avenue R and Avenue S, Block 6828, Lot 31, 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 August 8, 2011, acting on Department of Buildings Application No. 320325028, reads in pertinent part:

Proposed plans are contrary to ZR 23-141 in that the proposed floor area exceeds the maximum permitted.

Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required.

Proposed plans are contrary to ZR 23-141 in that the proposed lot coverage exceeds the maximum permitted.

Proposed plans are contrary to ZR 23-461 in that the proposed side yard is less than the minimum required.

Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, open space ratio, lot coverage, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on December 13, 2011, after due notice by publication in *The City Record*, and then to decision on January 24, 2012; and

WHEREAS, the premises and surrounding area had

site and neighborhood examinations by Chair Srinivasan and Commissioner Montanez; and

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

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

WHEREAS, the subject site has a total lot area of 4,000 sq. ft., and is occupied by a single-family home with a floor area of 2,127 sq. ft. (0.53 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 2,127 sq. ft. (0.53 FAR) to 3,964 sq. ft. (0.99 FAR); the maximum permitted floor area is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of 61 percent (65 percent is the minimum required); and

WHEREAS, the applicant proposes to provide a lot coverage of 42 percent (35 percent is the maximum permitted); and

WHEREAS, the applicant proposes to maintain the existing side yard along the northern lot line with a width of 4'-3 5/16", and to maintain the existing side yard along the southern lot line with a width of 8'-10 1/2" (two side yards with minimum widths of 5'-0" each are required); and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 20'-0" (a minimum rear yard depth of 30'-0" is required); and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, and will not impair the future use or development of the surrounding area; and

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

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

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

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

*Therefore it is resolved*, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R3-2 zoning district, the enlargement of a single-family home, which

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does not comply with the zoning requirements for floor area, open space ratio, lot coverage, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received November 16, 2011”-(7) sheets and “January 11, 2012”-(2) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,964 sq. ft. (0.99 FAR); a minimum open space ratio of 61 percent; a maximum lot coverage of 42 percent; a side yard with a minimum width of 4’-3 5/16” along the northern lot line; a side yard with a minimum width of 8’-10 ½” along the southern lot line; and a rear yard with a minimum depth of 20’-0””, as illustrated on the BSA-approved plans;

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

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, January 24, 2012.

**\*The resolution has been revised to correct the 10<sup>th</sup> WHEREAS, which read in part: “...open space ratio of 61 percent (150 percent is the minimum required)...” now reads: “...open space ratio of 61 percent (65 percent is the minimum required)...”. Corrected in Bulletin No. 7, Vol. 97, dated February 15, 2012.**