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# BULLETIN

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

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June 20, 2002

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### DIRECTORY

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**OFFICE -** 40 Rector Street, 9th Floor, New York, N.Y. 10006  
**HEARINGS HELD -** 40 Rector Street, 6th Floor, New York, N.Y. 10006  
**BSA WEBPAGE @** <http://www.nyc.gov/html/bsa/home.html>  
**TELEPHONE -** (212) 513-4670  
**FAX -** (212) 513-4690

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820-67-BZ            41 Barker Street, Staten Island  
16-99-BZ            1116 East 26<sup>th</sup> Street, Brooklyn  
1045-64-BZ          300-330 East 33<sup>rd</sup> Street (aka 575 First Avenue) Manhattan  
93-97-BZ            136-21 Roosevelt Avenue, Queens  
123-01-A            540/2 West 50<sup>th</sup> Street, Manhattan  
299-01-A            270 West 43<sup>rd</sup> Street, Manhattan  
300-01-A            3903/3911 Amboy Road, Staten Island  
90-02-A            392 11<sup>th</sup> Street, Brooklyn  
113-02-A            777 Third Avenue, Manhattan  
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118-02-A            Manhattan

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**Affecting Calendar Numbers:**

136-01-BZ            11-11 44<sup>th</sup> Drive, Queens  
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281-01-BZ            35 West Tremont Avenue, a/k/a 31/43 West Tremont Avenue, Bronx  
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**Affecting Calendar Numbers:**

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203-01-BZ  
385-01-BZ

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# DOCKET

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New Case Filed Up to June 11, 2002

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**185-02-BZ** B.BK. 93/101 North Ninth Street, north side, between Wythe Avenue and Berry Street, Block 2303, Lot 36, Borough of Brooklyn. Alt. Type I.#301038464. Proposed construction of three floors, to be used for residential purposes, above an existing one story building, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #1BK**

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**186-02-BZ** B.BK. 143 Classon Avenue, east side, between Park and Myrtle Avenues, Block 1896, Lot 29, Borough of Brooklyn. Proposed five story, five family residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #2BK**

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**187-02-A** B.BK. 143 Classon Avenue, east side, between Park and Myrtle Avenues, Block 1896, Lot 29, Borough of Brooklyn. Proposed five story, five family residential building, which does not provide the required light and ventilation, is contrary to §27-733 of the NYC Building Code.

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**188-02-BZ** B.BK. 145 Classon Avenue, east side, between Park and Myrtle Avenues, Block 1896, Lot 28, Borough of Brooklyn. Proposed five story, five family residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #2BK**

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**189-02-A** B.BK. 145 Classon Avenue, east side, between Park and Myrtle Avenues, Block 1896, Lot 28, Borough of Brooklyn. Proposed five story, five family residential building which does not provide the required light and ventilation, is contrary to §27-733 of the NYC Building Code.

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**190-02-BZ** B.BK. 149 Classon Avenue, east side, between Park and Myrtle Avenues, Block 1896, Lot 26, Borough of Brooklyn. Proposed five story, five family residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #2BK**

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**191-02-A** B.BK. 149 Classon Avenue, east side, between Park and Myrtle Avenues, Block 1896, Lot 26, Borough of Brooklyn. Proposed five story, five family residential building which does not provide the required light and ventilation, is contrary to §27-733 of the NYC Building Code.

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**192-02-BZ** B.Q. 108-36/50 Queens Boulevard, southeast corner of Windsor Place (71st Road), Block 3257, Lots 1 and 42, Borough of Queens. 401428317. Proposed reduction in the number of required parking spaces, for a proposed commercial/community facility, Use Groups 6 and 4, located in a C4-2 zoning district, requires a special permit from the Board as per Z.R. §73-44.

**COMMUNITY BOARD #6Q**

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**193-02-BZ** B.BK. 488 Morgan Avenue, east side, between Richardson Street and Division Place, Block 2851, Lots 1 and 70, Borough of Brooklyn. Applic.#301356271. Proposed conversion of a five story building, located in an area zoned for manufacturing use, into a not-for-profit institution with sleeping accommodations, Use Group 3, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #1BK**

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**194-02-BZ** B.S.I. 1775 South Avenue, south side of Meredith Avenue, Block 2800, Lot 37, Borough of Staten Island. Applic.#500522534. The legalization of an existing physical culture establishment, located in a C4-3 zoning district, requires a special permit from as per Z.R. §73-36.

**COMMUNITY BOARD #2SI**

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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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**JULY 23, 2002, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday morning*, July 23, 2002, at 10 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**

**607-51-BZ**

APPLICANT - Vassalotti Associates, Architects, for Phillips Petroleum

SUBJECT - Application May 14, 2002 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of time to obtain a Certificate of Occupancy which expired July 14, 1999.

PREMISES AFFECTED - 161-01 Union Turnpike, northwest corner of 162nd Street and Union Turnpike, Block 6831, Lot 118, Borough of Queens.

**COMMUNITY BOARD #8Q**

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**833-52-BZ, Vol. III**

APPLICANT - Walter T. Gorman, P.E., for Zohar, LLC, owner; Benchai Ventures, Inc., lessee.

SUBJECT - Application April 19, 2002 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired January 15, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 5916/30 Foster Avenue, southwest corner of Ralph Avenue, Block 7955, Lot 6, Borough of Brooklyn.

**COMMUNITY BOARD #18BK**

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**542-69-BZ**

APPLICANT - Thomas Schneider, for Schneider Family Living Trust, owner.

SUBJECT - Application May 8, 2002 - reopening for an extension of term of variance.

PREMISES AFFECTED - 3326-32 Decatur Avenue, East Gun Hull Road, Block 3355, Lot 92, Borough of The Bronx.

**COMMUNITY BOARD #7BX**

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**116-81-BZ**

APPLICANT - Catapano Engineering, P.C., for 1579 Atlantic Avenue, owner.

SUBJECT - Application March 27, 2002 and updated May 29, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired July 14, 2001.

PREMISES AFFECTED - 1581 Atlantic Avenue aka 48/56

Troy Avenue, northwest corner of Troy Avenue, Block 1705, Lots 58 and 62, Borough of Brooklyn.

**COMMUNITY BOARD #3BK**

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**87-94-BZ**

APPLICANT - Martyn & Don Weston Architects, for Czech Republic, owner.

SUBJECT - Application April 9, 2002 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired November 12, 2001 and for an amendment to the resolution.

PREMISES AFFECTED - 321-325 East 73rd Street, north side 250' west of 1st Avenue, Block 1448, Lot 16, Borough of Manhattan.

**COMMUNITY BOARD #8M**

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**137-96-BZ**

APPLICANT - Fredrick A. Becker, Esq., for 6159 Broadway, LLC, owner; Kookoo's, lessee.

SUBJECT - Application March 26, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired September 9, 2000.

PREMISES AFFECTED - 6159 Broadway, west side of Broadway 175' south of 251st Street,, Block 5814, Lot 1189, Borough of The Bronx.

**COMMUNITY BOARD #8BX**

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**JULY 23, 2002, 2:00 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, July 23, 2002, at 2 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**

**193-01-BZ**

APPLICANT - Harold Weinberg, P.E., for 3044 Coney Island Avenue Associates, Samuel Shpelfogel Agent, owner.

SUBJECT - Application April 25, 2002 - under Z.R. §72-21, to permit the proposed use of the second and third floors of an existing three story building, as business offices, Use Group 6, located in an R6 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 3034 Coney Island Avenue, between Brighton 8th Street and Neptune Avenue, Block 7264, Lot 72, Borough of Brooklyn.

**COMMUNITY BOARD #13BK**

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**257-01-BZ**

APPLICANT - Harold Weinberg, P.E., for Kol Israel Cong

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# CALENDAR

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by Albert Dweck, V. Pres, owner.

SUBJECT - Application August 24, 2001 - under Z.R. §72-21, to permit the proposed construction of a three story synagogue, Use Group 4, which does not comply with the zoning requirements for floor area ratio, lot coverage, side and front yards, setback and sky exposure is contrary to Z.R. §24-111, §24-11, §24-35, §24-34 and §24-521.

PREMISES AFFECTED - 2504 Avenue "K", southeast corner of Bedford Avenue, Block 7625, Lot 41, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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## **288-01-BZ**

APPLICANT - Peter J. Mugavero, R.A., A.I.A., for Frank Casamento, owner; DBA CG & C Prime Meat, lessee.

SUBJECT - Application April 25, 2002 - under Z.R. §72-21, to permit the proposed second story vertical addition, to an existing one-story masonry retail establishment, Use Group 6, located in an R5 zoning district, which is contrary to Z.R. §54-31.

PREMISES AFFECTED - 8008/10 18th Avenue, west side, 51'-9" south of 80th Street, Block 6284, Lot 48, Borough of Brooklyn.

**COMMUNITY BOARD #11BK**

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## **363-01-BZ thru 365-01-BZ**

APPLICANT - Freda Design Assoc. Ltd., for Harold Lane, owner.

SUBJECT - Application November 20, 2001 - under Z.R. §72-21, to permit the proposed construction of a three family dwelling, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 3304 Rombouts Avenue, eastside, 50' south of Givan Avenue, Block 5245, Tentative Lot 39, Borough of The Bronx.

3306 Rombouts Avenue, eastside, 50' south of Givan Avenue, Block 5245, Tentative Lot 40, Borough of The Bronx.

3308 Rombouts Avenue, eastside, 50' south of Givan Avenue, Block 5245, Tentative Lot 41, Borough of The Bronx.

**COMMUNITY BOARD #2BX**

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## **13-02-BZ thru 16-02-BZ**

APPLICANT - Sheldon Lobel, P.C., for Walworth Holding Inc., owner.

SUBJECT - Application January 4, 2002 - under Z.R. §72-21, to permit the proposed residential units, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 112 Walworth Street, between Park and Myrtle Avenues, Block 1735, Lot 26, Borough of

Brooklyn.

114 Walworth Street, between Park and Myrtle Avenues, Block 1735, Lot 27, Borough of Brooklyn

116 Walworth Street, between Park and Myrtle Avenues, Block 1735, Lot 28, Borough of Brooklyn.

118 Walworth Street, between Park and Myrtle Avenues, Block 1735, Lot 29, Borough of Brooklyn.

**COMMUNITY BOARD #3BK**

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## **62-02-BZ thru 64-02-BZ**

APPLICANT - Sheldon Lobel, P.C., for Walworth Holding Inc., owner.

SUBJECT - Application January 4, 2002 - under Z.R. §72-21, to permit the proposed residential units, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 108 Walworth Street, between Park and Myrtle Avenues, Block 1735, Lot 24, Borough of Brooklyn.

110 Walworth Street, between Park and Myrtle Avenues, Block 1735, Lot 25, Borough of Brooklyn.

120 Walworth Street, between Park and Myrtle Avenues, Block 1735, Lot 30, Borough of Brooklyn.

**COMMUNITY BOARD #3BK**

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## **78-02-BZ**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Allstyne Development, LLC, owner.

SUBJECT - Application March 14, 2002 - under Z.R. §72-21, to permit the proposed construction of a three family dwelling, Use Group 2, located in an R6B and R5 zoning district, which does not comply with the zoning requirements for side yard, is contrary to Z.R. §23-51.

PREMISES AFFECTED - 104-72 48th Avenue, south side, 90' west of 108th Street, Block 1992, Lot 39, Borough of Queens.

**COMMUNITY BOARD #4Q**

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## **125-02-BZ**

APPLICANT - Joseph P. Morsellino, Esq., for Marmon Enterprises, Inc., owner; Walbaums, lessee.

SUBJECT - Application April 19, 2002 - under Z.R. §11-41, to permit the reestablishment of an expired variance previously granted by the Board under Cal. No. 550-71-BZ, which permitted a supermarket, located in an R2 zoning district.

PREMISES AFFECTED - 46-40 Francis Lewis Boulevard, northwest corner of 47th Avenue, Block 5555, Lot 1, Borough of Queens.

**COMMUNITY BOARD #11Q**

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*Pasquale Pacifico, Executive Director*

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# MINUTES

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**REGULAR MEETING  
TUESDAY MORNING, JUNE 11, 2002  
10:00 A.M.**

Present: Chairman Chin, Vice-Chair Babbar,  
Commissioner Korbey and Commissioner Caliendo.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, May 14, 2002, were approved as printed in the Bulletin of May 23, 2002, Volume 87, No. 21.

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**SPECIAL ORDER CALENDAR**

**1069-27-BZ, Vol. III**

APPLICANT - Sheldon Lobel, P.C., for Frank Mormando, owner.

SUBJECT - Application July 12, 2001 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired March 6, 2001 and for an amendment to the resolution.

PREMISES AFFECTED - 6702/6724 New Utrecht Avenue, irregular-shaped triangular block bounded by New Utrecht Avenue, 15<sup>th</sup> Avenue and 68<sup>th</sup> Street, Block 5565, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #11BK**

For Applicant: Lyra Altman.

In favor: Frank Mormando

**ACTION OF THE BOARD** - Laid over to July 9, 2002, at 10 A.M., for continued hearing.

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**603-49-BZ**

APPLICANT - Alfonso Duarte, P.E., for JAJ Realty LLC, owner.

SUBJECT - Application December 18, 2001 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 34-14 31st Street, west side 90.11' south of 34th Street, Block 607, Lot 34, Borough of Queens.

**COMMUNITY BOARD #1Q**

APPEARANCES -

For Applicant: Alfonse Duarte.

For Administration: John Scrofani, Fire Department.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

**ACTION OF THE BOARD** - Laid over to July 9, 2002, at 10 A.M., for decision, hearing closed.

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**820-67-BZ**

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

SUBJECT - Application March 15, 2002 - reopening for an extension of term of variance which expired November 8, 2001.

PREMISES AFFECTED - 41 Barker Street, east side 414.19' south of Woodruff Lane, Block 197, Lot 34, Borough of Staten Island.

**COMMUNITY BOARD #1S.I.**

APPEARANCES -

For Applicant: Willy Yuin.

For Administration: John Scrofani, Fire Department.

**ACTION OF THE BOARD** - Laid over to August 6, 2002, at 10 A.M., for continued hearing.

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**16-99-BZ**

APPLICANT - Sheldon Lobel, P.C., for Milton Elbogen, owner

SUBJECT - Application September 10, 2001 - reopening for an extension of time to complete construction which expired August 10, 2001.

PREMISES AFFECTED - 1116 East 26th Street, between Avenue K and Avenue L, Block 7625, Lot 52, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Lyra Altman.

**ACTION OF THE BOARD** - Laid over to July 9, 2002, at 10 A.M., for continued hearing.

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**1045-64-BZ**

APPLICANT - Seymour W. Gage, P.E., for Kips Bay Tower Associates, owner; Rapid Park Industries, lessee.

SUBJECT - Application December 5, 2001 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired June 21, 2001.

PREMISES AFFECTED - 300-330 East 33rd Street (aka 575 First Avenue) northwest corner of East 33rd Street and First Avenue, Block 936, Lots 7501 and 4280, Borough of Manhattan.

**COMMUNITY BOARD #6M**

For Applicant: Peter Hirshman.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

**ACTION OF THE BOARD** - Laid over to July 23,

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# MINUTES

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2002, 10 A.M., for decision, hearing closed.

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**93-97-BZ**

APPLICANT - Sheldon Lobel, P.C., for PI Associates, LLC, owner.

SUBJECT - Application May 10, 2002 - reopening for an amendment to the resolution.

PREMISES AFFECTED- 136-21 Roosevelt Avenue, Main Street and 39th Avenue, Block 4980, Lot 11, Borough of Queens.

**COMMUNITY BOARD #7Q**

For Applicant: Eric Palatnik and Raymond Chan

For Administration: John Scrofani, Fire Department.

**ACTION OF THE BOARD** - Laid over to July 23, 2002, at 10 A.M., for continued hearing.

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**123-01-A**

APPLICANT - The Agusta Group, for Russell S. Fridman, 540 West 50th Street, LLC, owner; Charalamavos Ballis, lessee.

SUBJECT - Application March 21, 2001 - an appeal for an interpretation of Z.R. §52-332 as it relates to a change of use from an electrical contractor's establishment (Use Group 16) to an automobile repair (Use Groups 16 and 17) public garage (Use Group 8) with accessory offices and the parking of vehicles awaiting repairs.

PREMISES AFFECTED - 540/2 West 50th Street, south side, between 10<sup>th</sup> and 11<sup>th</sup> Avenues, Borough of Manhattan.

APPEARANCES -

For Applicant: Philip P. Agusta.

**ACTION OF BOARD** -Appeal granted on condition.

**THE VOTE TO GRANT** -

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

Negative:.....0

**THE RESOLUTION-**

WHEREAS, the decision of the Borough Commissioner, dated February 22, 2001, acting on Application No. 102429301, reads:

“1. The change of use of the 1st floor into an Auto Repair Shop (U.G. 16 & 17) in an R8 zoning district from Office (U.G. 6) is contrary to section 52-332 of the Zoning Resolution.”; and

WHEREAS, this appeal is for an interpretation of Z.R. Section 52-332 and how it relates to a change of use from an electrical contractor's establishment (Use Group 16) to an automobile repair shop (Use Groups 16 and 17) and public garage (Use Group 8), with accessory offices and the parking of vehicles awaiting repairs; and

WHEREAS, the appellant's application at the Department of Buildings was for a new Certificate of

Occupancy for the premises located at the subject premises in an R8 district within the Special Clinton Hill District; and

WHEREAS, On May 31, 2000, based on an approval of a reconsideration for the second floor of the above premises, involving a change of use from an “Electrical Contractor's Establishment (Use Groups. 16 & 17)” to a “Public Parking Garage” of twelve (12) motor vehicles (Use Group 8), and an Auto Repair Shop and Body and Fender Work (Use Group 16), responding to a Department of Consumer Affairs inquiry, the Department of Buildings issued a “Letter of No Objection”; and

WHEREAS, however, the appellant notes that the reconsideration for the use of the first floor for an “Auto Repair Shop and Body & Fender work (Use Groups 16 & 17)” with accessory parking was not approved; and

WHEREAS, the appellant also contends that basis for the above denial was that the use of the first floor in Certificate of Occupancy #81363, dated May 26, 1981 was erroneously listed both the “Electrical Contractor's establishment” on the second floor, as well as “offices” on the first floor as “Offices Use Group 6”; and

WHEREAS, the appellant contends and the Board agrees that the offices on the first floor were not the “primary” use, but were in fact accessory to the primary use, the “Electrical Contractor's Establishment” (Use Group 16); and

WHEREAS, the appellant represents that since the record indicates that the primary use is a Use Group 16, the first floor should be permitted to change, as-of-right, from an Electrical Contractor's Establishment (Use Group 16) to an Auto Repair Shop (Use Group 16 & 17) with accessory parking; and

WHEREAS, the record indicates that when Certificate of Occupancy #81363 was issued, the site was zoned M1-5 but is now designated as R8; and

WHEREAS, the applicant represents that his proposed change in use is allowed under Section 96-10 which states that “Except as otherwise provided in this Chapter, any existing commercial and manufacturing uses may be changed, subject to underlying district regulations, pursuant to the change of non-conforming use provisions of sections 52-31, 52-33, 52-34, 52-35 and 52-36”; and

WHEREAS, the record indicates that the proposed changes are in conformance with the above sections; and

WHEREAS, the applicant submitted adequate evidence supporting his contention that the office use on the first floor was accessory to the Electrical Contractor's Establishment from the time the building was zoned M1-5 to its present R8 designation; and

WHEREAS, it is not disputed that the 2nd floor use designation was Use Group 16 and that the issuance of Certificate of Occupancy #87363 was based on erroneously stated use in the Alt. Application filed; and

WHEREAS, therefore, the Board finds that the

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applicant has submitted adequate evidence to warrant this approval under certain conditions.

Resolved, that the decision of the Manhattan Borough Commissioner, dated February 22, 2001, acting on Application No. 102429301, is reversed the appeal is granted, limited to the decision noted, on 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 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.

Adopted by the Board of Standards and Appeals, June 11, 2002.

## 299-01-A

APPLICANT - Pillsbury Winthrop, LLP, for 42nd Street Development Project, Inc., owner; Dream Team Hotel Associates, LLC, lessee.

SUBJECT - Application October 26, 2001 - Proposed atrium located between the 9th floor to 16th Floor, is contrary to §27-521.05(c) of the Admin. Code, in that one of the required exits shall be only through an enclosed passageway or corridor conforming to the requirements of exits as per Subchapter 6 of the Admin. Building Code.

PREMISES AFFECTED - 270 West 43rd Street, bounded by 43rd Street, Eighth Avenue and 42nd Street, Block 1014, Lot 58, Borough of Manhattan.

### COMMUNITY BOARD #5M

#### APPEARANCES -

For Applicant: A. Bernard

For Administration: John Scrofani, Fire Department

**ACTION OF BOARD:** - Appeal granted on condition.

#### THE VOTE TO GRANT -

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

Negative:.....0

#### THE RESOLUTION-

WHEREAS, the decision of the Manhattan Borough Commissioner dated October 25, 2001, acting on New Building Application # 102677550 reads:

“Objection for amendment dated December 18, 2000. The proposed atrium located between the 9<sup>th</sup> floor to 16<sup>th</sup> Floor is contrary to Section 27-521.05(c) of the Administrative Code in that one of the required Exits shall be only through an enclosed passageway or corridor conforming to the requirements of Exits as per Subchapter 6 of

the Administrative Building Code.”; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice Chair Satish Babbar R.A., Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, the subject zoning lot is located within a C6-7 (special Mid-town zoning district, having a total lot area of approximately 17,573 square feet, to be improved with a 46-story building which will be utilized as a hotel (Use Group 5); and

WHEREAS, this application seeks an appeal from a decision of the Department of Buildings (“D.O.B.”) denying a request for permission to allow hotel guestrooms to open directly onto the subject atrium with the atrium providing the only means of egress for these rooms; and

WHEREAS, §27-521.05 (c) of the Building Code requires access to one of the required vertical exits only through an enclosed passageway or corridor; and

WHEREAS, the Board agrees with the applicant that the intent of the above code provision is to ensure that a safe egress path is available in the event that a fire occurs in the atrium; and

WHEREAS, the applicant represents that the atrium is required to provide a smoke control system providing 6 air changes per hour and that the allowable travel distance to an exit is 200 feet; and

WHEREAS, the applicant notes that the instant proposal will provide a smoke control system with exhaust fans capable of 36 air changes per hour over the entire volume of the bustle atrium; and

WHEREAS, evidence in the record indicates that the applicant will provide the following fire protection and life safety measures for the proposed use: a) the atrium will be fully protected by quick response sprinklers, providing greater safety than standard sprinklers; b) the atrium will be separated from the remainder of the building by 2-hour fire resistance related construction, including a 2-hour fire resistance rated separation from the guestrooms; c) a smoke control system with an exhaust rate of 180,000 cfm ensuring a tenable environment is maintained for egress through the atrium; d) make-up air will be provided consisting of outside air at approximately 75% of the exhaust rate, ensuring that the atrium will be negative with respect to adjoining spaces and further limit the potential for smoke migration from the atrium; e) smoke control system components with an emergency standby power provided by an emergency generator; and

WHEREAS, the smoke control system will be activated by: a) projected beam smoke detectors; b) ceiling mounted smoke detectors in the low ceiling spaces in the atrium, including at the ceiling of each of the walkways; c) atrium corridors are provided with sprinklers not to exceed fifteen (15') feet on center and smoke detectors not to exceed

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thirty (30') feet on center; d) sprinkler waterflow in the atrium sprinkler zone and Fire Department manual controls; and

WHEREAS, by a submission dated May 6, 2002 the Department of Buildings. has indicated that it takes no position with regard to the relief sought by the appellant in the form of a variance from the relevant Administrative Building Code requirements; and

WHEREAS, there is sufficient evidence in the record to warrant this approval under certain conditions.

Therefore, it is resolved that the decision of the Manhattan Borough Commissioner dated October 25, 2001, acting on New Building Application # 102677550, is modified and the appeal is granted *on condition*; that the building substantially conform to drawings filed with the application marked "Received May 28, 2002"-(9) sheets and that all other applicable laws, rules, and regulations be complied with and *on further condition*; that the fire prevention and detection systems that shall be provided within the subject building have received either Board of Standards and Appeals approval or MEA approval and that the applicant provide the following such prevention and detection systems:

a) the atrium shall be fully protected by quick response sprinklers, providing greater safety than standard sprinklers;

b) the atrium shall be separated from the remainder of the building by 2-hour fire resistance related construction, including a 2-hour fire resistance rated separation from the guestrooms;

c) a smoke control system with an exhaust rate of 180,000 cfm ensuring a tenable environment shall be maintained for egress through the atrium;

d) make- up air shall be provided consisting of outside air at approximately 75% of the exhaust rate, ensuring that the atrium shall be negative with respect to adjoining spaces and further limit the potential for smoke migration from the atrium;

e) smoke control system components with an emergency standby power shall be provided by an emergency generator, and on further condition;

THAT the smoke control system shall be activated by: a) projected beam smoke detectors; b) ceiling mounted smoke detectors in the low ceiling spaces in the atrium, including at the ceiling of each of the walkways; c) atrium corridors are provided with sprinklers not to exceed fifteen (15') feet on center and smoke detectors not to exceed thirty (30') feet on center; d) sprinkler waterflow in the atrium sprinkler zone and Fire Department manual controls;

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;

**THAT** the above conditions shall appear on the Certificate of Occupancy.

Adopted by the Board of Standards and Appeals, June 11, 2002.

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## **300-01-A**

APPLICANT - Rothkrug, Rothkrug, Weinberg & Spector, for Henry Lieberman, owner.

SUBJECT - Application October 30, 2001 - Proposed construction of a paved parking area and related facilities, for a proposed one story retail building, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 3903/3911 Amboy Road, north side, 407' east of Giffords Lane, Borough of Staten Island.

### **COMMUNITY BOARD #3SI**

APPEARANCES -

For Administration: John Scrofani, Fire Department.

**ACTION OF THE BOARD** - Laid over to July 16, 2002, at 11 A.M., for continued hearing.

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## **90-02-A**

APPLICANT - Moshe M. Friedman, P.E., for Abraham Sandberg, owner.

SUBJECT - Application March 27, 2002 - proposed seven story apartment building, with the layout of the living rooms on the 1st, 2nd, 3rd, 4th and 6th floors, lacking in the required natural ventilation, is contrary to NYC Building Code, Subchapter 12, Article 6, Section 27-746.

PREMISES AFFECTED - 392 11th Street, southside, 47'-3" west of Sixth Avenue, Block 1023, Lot 37, Borough of Brooklyn.

### **COMMUNITY BOARD #6BK**

APPEARANCES -

For Applicant: Moshe M. Friedman

**ACTION OF THE BOARD** - Laid over to July 16, 2002, at 11 A.M., for continued hearing.

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## **113-02-A**

APPLICANT - Francis R. Angelino, Esq., for Sage Realty Corporation, owner.

SUBJECT - Application April 11, 2002 - An application for an interpretative appeal of Local Law 5 regarding various regulations pertaining to the Fire Safety Plan for subject premises.

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PREMISES AFFECTED - 777 Third Avenue, east side, between East 48th and East 49th Streets, Block 1322, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #6M**

APPEARANCES -

For Applicant: Francis R. Angelino and Melissa Moparassi  
In Opposition: John Scrofani, Fire Department and Scatt Mason, Department of Buildings

**ACTION OF THE BOARD** - Laid over to July 23, 2002, at 11 A.M., for continued hearing.

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**115-02-A thru 118-02-A**

APPLICANT - Francis R. Angelino, Esq., for Sage Realty Corporation, owner.

SUBJECT- Application April 16, 2002 - An application for an interpretative appeal of Local Law 5 regarding various regulations pertaining to the Fire Safety Plan for subject premises.

PREMISES AFFECTED - 767 Third Avenue, southeast corner of East 48th Street, Block 1321, Lots 41-47, Borough of Manhattan.

747 Third Avenue, east side, between East 46th and East 47th Streets, Block 1320, Lots 1-5 and 46-49, Borough of Manhattan.

437 Madison Avenue, east side, between East 49th and East 50th Streets, Block 1285, Lot 21, Borough of Manhattan.

320 West 13th Street, northwest corner of Horatio Street, Block 627, Lot 43, Borough of Manhattan.

**COMMUNITY BOARD #6M**

APPEARANCES -

For Applicant: Francis R. Angelino, Melissa Moparassi  
In Opposition: John Scrofani, Fire Department, Scatt Mason, Department of Buildings

**ACTION OF THE BOARD** - Laid over to July 23, 2002, at 11 A.M., for continued hearing.

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*Pasquale Pacifico, Executive Director.*

Adjourned: 11:10 A.M.

**REGULAR MEETING  
TUESDAY AFTERNOON, JUNE 11, 2002  
2:00 P.M.**

**Present:** Chairman Chin, Vice-Chair Babbar, Commissioner Korbey and Commissioner Caliendo.

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**ZONING CALENDAR**

**136-01-BZ**

APPLICANT - Sheldon Lobel, P.C., for Cel-Net Holding, Inc., owner.

SUBJECT- Application April 10, 2001 - under Z.R. §72-21 to permit, in an M1-4 zoning district, the proposed increase in floor area for a wholesale office with accessory storage (Use Group 10) and the legalization of the existing encroachment into the rear yard, which is contrary to Z.R. §§ 43-26 (rear yard) and 43-12 (floor area), and is contrary to Z.R. §33-26 & 33-27.

PREMISES AFFECTED - 11-11 44th Drive, north side, between 11th and 21st Streets, Block 447, Lot 13, Borough of Queens.

**COMMUNITY BOARD #1Q**

APPEARANCES -

For Applicant: Eric Palatnik

**ACTION OF BOARD** - Application granted on condition.

**THE VOTE TO GRANT -**

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey and Commissioner Caliendo.....4  
Negative:.....0

**THE RESOLUTION-**

WHEREAS, the decision of the Borough Commissioner, dated March 12, 2001 acting on Application No. 400838894 reads:

OBJECTION: REAR YARD IS CONTRARY TO Z.R. 43-26

OBJECTION: FLOOR AREA IS CONTRARY TO Z.R. 43-12"; and

WHEREAS, a public hearing was held on this application on January 8, 2002 after due notice by publication in the City Record, and laid over to February 12, 2002, March 26, 2002, May 7, 2002, June 4, 2002, and then to June 11, 2002 for decision; and

WHEREAS, Community Board #2, Queens, recommends approval of this application; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board

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consisting of Chairman James Chin, Vice-Chair Satish Babbar and Commissioner Mitchell Korbey; and

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M1-4 zoning district, the proposed increase in floor area for a wholesale office with accessory storage (Use Group 10) and to legalize the existing encroachment into the rear yard, which is contrary to Z.R. §§ 43-26 (rear yard) and 43-12 (floor area); and

WHEREAS, the subject site is located approximately 90 feet from 11th Street and fronts on 44th Drive; and

WHEREAS, the applicant proposes that the storage space at the first floor level will be occupied with a business that sells wireless communication products, internal parking accommodating 8 vehicles, and loading berths; and

WHEREAS, the proposal contains office space for approximately 200 employees on the second and third floors; and

WHEREAS, the applicant represents that the site is burdened by numerous structural problems, including grating over subway vents in the pavement in front of the building requiring strengthening to sustain commercial vehicles, the use of two different foundations which increases the likelihood of differential settlement, an unbraced single pile, ground floor slab supported on ground classified by the Building Code as being "Nominally Unstable Bearing Material," web joists supporting the second floor are inadequate to support office loads, the existence of shrinkage cracks at the second floor, wall panels requiring substantial tying to the floor and roof construction, and the need for a soft joint for the interior walls; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, the site's history with a Use Group 16 use and the existence of the structural problems, present a practical difficulty in developing the site with a complying development; and

WHEREAS, the applicant has submitted a revised feasibility study demonstrating that developing the premises with a complying bulk would not yield a reasonable return; and

WHEREAS, the applicant asserts that the proposed (Use Group 10) use wholesale office with accessory storage is less offensive than the existing (Use Group 16), warehouse use; and

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

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

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

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under §Z.R.72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

Resolved that the Board of Standards and Appeals issues a Negative Determination under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, to permit, in an M1-4 zoning district, the proposed increase in floor area for a wholesale office with accessory storage (Use Group 10) and the legalization of the existing encroachment into the rear yard, which is contrary to Z.R. §§ 43-26 (rear yard) and 43-12 (floor area), and is contrary to Z.R. §33-26 & 33-27, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 5, 2002" - (8) sheets; and on further condition;

THAT the Certificate of Occupancy for the accessory parking facility shall note that the parking provided is reserved for employees and customers of the subject facility;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

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

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

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

Adopted by the Board of Standards and Appeals, June 11, 2002.

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## 246-01-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Q.P. Development Corp., owner; Pure Power gym, lessee.

SUBJECT - Application August 2, 2001 - under Z.R. §73-36, to permit the legalization of an existing physical culture establishment situated partially within an M1-1 and partially within a C2-2 zoning district.

PREMISES AFFECTED - 35-11 Prince Street, east side 105.57' south of 35th Street, Block 4958, Lot 1, Borough

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of Queens.

## COMMUNITY BOARD #7Q

### APPEARANCES-

For Applicant: Carl A. Sulfaro.

For Administration: John Scrofani, Fire Department

**ACTION OF BOARD** - Application granted on condition.

### THE VOTE TO GRANT -

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

Negative:.....0

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 13, 2001, acting on Alt. 1. Application No. 401213156 reads:

“ Proposed Physical Culture Establishment (Use Group 9) to be located within an M1-1 and C2-2 zoning district indicated on zoning map 10-A is permitted only by special permit issued by the Board of Standards and Appeals pursuant to Section 32-31 ZR and 42-31 ZR and is hereby denied”; and

WHEREAS, a public hearing was held on this application on April 16, 2002 after due notice by publication in The City Record and laid over to May 21, 2002 and then to June 11, 2002 for decision; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-Chair Satish Babbar, Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, the Community Board #7 unanimously approved this application on September 10, 2001; and

WHEREAS, this is an application under Z.R. § 73-36 to permit the legalization of an existing physical culture establishment situated partially within an M1-1 and partially within a C2-2 zoning district; and

WHEREAS, the applicant also seeks to reconfigure the locker areas at the rear of the premises in order to provide additional locker spaces, toilets and shower facilities while relocating the manager’s office and tanning rooms; and

WHEREAS, the applicant represents that the premises is located in a one story masonry building with 55’7” of frontage on Prince Street, and a depth of 162’1”; and

WHEREAS, the applicant states that the total floor area of the physical culture establishment will be 8,962 square feet; and

WHEREAS, the applicant represents that the interior space is specifically arranged to allow for the location of athletic equipment and that it contains facilities for classes, instruction and programs for physical improvement, body building, weight reduction, and aerobics; and

WHEREAS, the applicant states that the first floor level is occupied with approximately 5,800 square feet designated for exercise machines and a weight training area, a reception area, a small refreshment station, a

manager’s office, a tanning room, mens and women’s locker rooms, and approximately 722 square feet devoted to aerobic classes and instruction; and

WHEREAS, the applicant represents that accessory parking in the cellar is provided for 16 cars with an entrance from and exit to 35th Avenue; and

WHEREAS, the record indicates that the facility has been operating since June 1, 1998; and

WHEREAS, the applicant has agreed to post a sign within the PCE stating that no children under the age of eighteen (18) shall be permitted; and

WHEREAS, by letter dated October 31, 2001, The Queens Borough President recommended approval of this application; and

WHEREAS, the applicant has agreed to comply with the Fire Department’s requirements; and

WHEREAS, the record indicates that the proposed use will not contain any potential hazards that impact on the privacy, quiet, light, and air to residential uses; and

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

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-36, 42-31 and 32-10; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

WHEREAS, therefore, the Board has determined that the proposed action will not result in any significant environmental effects.

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental quality Review and makes the required findings under Z.R. §73-36 to permit the legalization of an existing physical culture establishment situated partially within an M1-1 and partially within a C2-2 zoning district, on condition that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application marked “Received March 4, 2002”-(11) sheets; and on further condition;

THAT a sign shall be posted within the PCE stating that no children under the age of eighteen (18) shall be permitted; and

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

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THAT accessory parking in the cellar shall be provided and maintained for 16 cars with an entrance from 35th Avenue with clearly visible signs to be posted, identifying spaces designated for PCE members only; and

THAT fire protection measures, including a wet sprinkler and smoke detection system connected to a Fire Department-approved central station, shall be maintained in accordance with the BSA-approved plans;

THAT this special permit shall be limited to a term of ten years from June 1, 1998;

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

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

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

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.

Adopted by the Board of Standards and Appeals, June 11, 2002

## 377-01-BZ

APPLICANT - Gerald J. Caliendo, R.A., for The City of New York D.D.C., owner; New York Public Library, lessee.  
SUBJECT - Application December 3, 2001 - under Z.R. §72-21, to permit, within the South Richmond Special District (SRD) in an R3-1 zoning district, the proposed enlargement of an existing community facility use (Library)(Use Group 3A), which is contrary to the permitted Floor Area Ratio and Front Yard requirements, all of which are contrary to Z.R. §54-31.

PREMISES AFFECTED - 56 Giffords Lane, southwest corner of Margaret Street, Block 5436, Lot 19, Borough of Staten Island.

### COMMUNITY BOARD #3 S.I.

#### APPEARANCES -

For the Applicant: Gerald J. Caliendo, R.A., for The City of New York D.D.C.

For Administration: John Scrofani, Fire Department.

**ACTION OF BOARD** - Application granted on condition.

#### THE VOTE TO GRANT -

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

Negative:.....0

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 13, 2002 and updated

November 2, 2001, acting on ALT II Application No. 500490300 reads:

“1. Bulk: Existing building is non-complying. Proposed floor area will increase the degree of non-compliance for Floor Area Ratio (FAR) and is therefore not permitted as per section 54-31 of the New York City zoning resolution.

2. Zoning: Existing building is non-complying. Proposed front yards will increase the degree of non-compliance for yard requirements as per section 54-31 of the New York City zoning resolution.

3. Proposed entry platform/terrace is projecting into the bed of a mapped street and is not permitted as per section 35 of the general city law.”; and

WHEREAS, a public hearing was held on this application on May 14, 2002 after due notice by publication in The City Record and laid over to June 11, 2002 for decision; and

WHEREAS, Community Board #3 in Staten Island recommends approval of the application; and

WHEREAS, the Board notes that this application was heard with a companion Administrative Appeal, filed under Calendar No. 378-01-A; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within the South Richmond Special District (SRD) in an R3-1 zoning district, the proposed enlargement of an existing community facility use (Library)(Use Group 3A), which is contrary to the permitted Floor Area Ratio and Front Yard requirements, all of which are contrary to Z.R. §54-31; and

WHEREAS, the existing building is non-complying and the instant application seeks an enlargement in floor area, from the existing 3,557 square feet to 3,615 square feet, that will exceed the permitted floor area by 105 square feet; and

WHEREAS, the subject proposal will consist of a two-story glass enclosed vestibule that will also require relief from front yard requirements because the existing front yards are 5 feet on Margaret Street and 7 feet on Giffords Lane and the proposed obstruction, new glass enclosed element in the front yard is not permitted; and

WHEREAS, the proposal also received an objection for its entry platform, objection #3; and

WHEREAS, the applicant represents that the existing non-complying building, constructed in 1947, is burdened with a configuration that by today’s standards and code is inefficient for providing access to the building for people with disabilities; and

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WHEREAS, the record indicates that the entry vestibule along with the entry platform and proposed ramp will provide access to people with disabilities; and

WHEREAS, the Board finds that the combination of the building's non-complying history and its obligation to comply with federal mandates create a practical difficulty and undue hardship in meeting the programmatic needs of the New York Public Library; and

WHEREAS, the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its not-for-profit status; and

WHEREAS, the Board notes that a public library is an as-of-right use in the subject R3-1 zoning district and the proposed entry platform will add a public amenity and improve access to the existing public building; and

WHEREAS, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties nor be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that the variance is the minimum variance necessary to afford relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

Therefore, it is Resolved that the Board of Standards and Appeals issues a Type II Negative Declaration, under 6 NYCRR Part 617.13 and makes each and every one of the required findings under Z.R. 72-21, and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within the South Richmond Special District (SRD) in an R3-1 zoning district, the proposed enlargement of an existing community facility use (Library)(Use Group 3A), which is contrary to the permitted Floor Area Ratio and Front Yard requirements, all of which are contrary to Z.R. §54-31, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 3, 2001"-(9) sheets; and on further condition;

THAT the premises shall remain graffiti free at all times;

THAT an automatic wet sprinkler system, fire alarm system and smoke detection system shall be maintained

throughout the entire building with all three systems connected to a Fire Department central station;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

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

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

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

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.

Adopted by the Board of Standards and Appeals, June 11, 2002.

## **378-01-A**

APPLICANT - Gerald J. Caliendo, R.A., for The City of New York - D.D.C., owner; New York Public Library, lessee.

SUBJECT - Application December 3, 2001 - Proposed entry platform/terrace, which projects into the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 56 Giffords Lane, southwest corner of Margaret Street, Block 5436, Lot 19, Borough of Staten Island.

## **COMMUNITY BOARD #3S.I.**

### **APPEARANCES -**

For Applicant: Gerald J. Caliendo, R.A., for The City of New York D.D.C., owner; New York Public Library, lessee.

For Administration: John Scrofani, Fire Department.

**ACTION OF BOARD -** Application granted on condition.  
**THE RESOLUTION-**

WHEREAS, The decision of the Borough Commissioner, dated August 13, 2001 and updated November 2, 2001, acting on Alt II. Applic. No. 500490300, reads in pertinent part:

"3. Proposed entry platform/terrace is projecting into The bed of a mapped street and is not permitted as per section 35 of the general city law."; and

WHEREAS, the applicant proposes an enlargement to an existing community facility use (library), located partially within the bed of a mapped street; and

WHEREAS, Community Board #3, Staten Island, recommends approval of this application; and

WHEREAS, the Board notes that this application was heard with a companion Variance case, filed under 377-01-BZ; and

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WHEREAS, by the letter dated January 9, 2002, the Department of Transportation has reviewed the above project and has no objections; and

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

Resolved, that the decision of the Staten Island Borough Commissioner, dated August 13, 2001 and updated November 2, 2001, acting on Alt II. Applic. No. 500490300, is modified under the power vested in the Board by §35 of the General City Law, and that this appeal is granted, limited to the decision noted above, on 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 the approved plans shall be considered approved only for the portions related to the specific relief granted;

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."

Adopted by the Board of Standards and Appeals, June 11, 2002.

## 37-02-BZ

APPLICANT - Harold Weinberg, P.E., for Estate of Herbert Weinberg, Harold Weinberg, owner; Miriam Weinberg Eberman, contract vendee.

SUBJECT - Application April 11, 2002 - under Z.R. §73-622, to permit, in an R3-1 zoning district, the enlargement to an existing two-family dwelling which creates non-compliance with regard to Floor Area Ratio and the Rear Yard, and is contrary to Z.R. §§ 23-141, 23-47 and 54-31.

PREMISES AFFECTED - 181 Falmouth Street, east side, 100'-0" north of Oriental Boulevard, Block 8749, Lot 292, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

### APPEARANCES -

For Applicant: Harold Weinberg.

For Administration: John Scrofani, Fire Department.

**ACTION OF BOARD** - Application granted on condition.

### THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey and Commissioner Caliendo.....4  
Negative:.....0

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 22, 2002, acting on Application No. 301279097 reads, in pertinent part:

"THE PROPOSED ENLARGEMENT OF THE TWO FAMILY RESIDENCE IN AN R3-1 ZONING DISTRICT:

(1) INCREASES THE DEGREE OF NON-

COMPLIANCE WITH RESPECT TO FLOOR AREA RATIO AND IS CONTRARY TO SECTIONS 23-141 AND 54-31 OF THE ZONING RESOLUTION.

(2) INCREASES THE DEGREE OF NON-COMPLIANCE WITH THE REAR YARD WHICH IS BELOW 30' AND IS CONTRARY TO SECTIONS 23-47 AND 54-31 OF THE ZONING RESOLUTION.";

WHEREAS, a public hearing was held on this application on May 21, 2002 after due notice by publication in The City Record, and laid over to June 11, 2002 for decision; and

WHEREAS, the premises and surrounding area had site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, a special permit is sought under Z.R. §73-622 to allow, in an R3-1 zoning district, the enlargement to an existing two-family dwelling which creates non-compliance with regard to Floor Area Ratio and the Rear Yard, and is contrary to Z.R. §§ 23-141, 23-47 and 54-31; and

WHEREAS, the proposed enlargement will increase the FAR from .62 to .87, and decrease the Rear Yard from the required 30' to 28'1"; and

WHEREAS, the perimeter wall height will comply with the applicable zoning regulation and the proposed enlargement will not further encroach on any legally required side yard; and

WHEREAS, the applicant represents that a sprinkler system off the domestic water supply will be installed in the basement; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

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

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

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-03 and 73-622 and grants a special to allow, in an R3-1 zoning district, the enlargement to an existing two-family dwelling which creates non-compliance with regard to Floor Area Ratio and the Rear Yard, and is contrary to Z.R. §§ 23-141, 23-47 and 54-31, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received April 16, 2002" -(11) sheets, "April 17, 2002"- (1) sheet and "May 22, 2002" -(1) sheet; and on further condition;

# MINUTES

THAT a sprinkler system off the domestic water supply shall be installed in the basement;

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

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

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

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;

THAT substantial construction be completed and a new Certificate of Occupancy be obtained within four (4) years of this grant.

Adopted by the Board of Standards and Appeals, June 11, 2002.

## 84-02-BZ

APPLICANT - Howard A. Zipser/Stadtmauer Bailkin, for East End Temple Congregation El Emet, owner.

SUBJECT - Application March 25, 2002 - under Z.R. §72-21, to permit the proposed expansion at the first and second floor levels, of an existing synagogue (Use Group 4), located in both R7B and R9A zoning districts, which does not comply with zoning requirements for rear yard and lot coverage, and is contrary to Z.R. §§24-12 and 24-33.

PREMISES AFFECTED - 245 East 17th Street, north side, 83' west of Second Avenue, Block 898, Lot 25, Borough of Manhattan.

### COMMUNITY BOARD #6M

#### APPEARANCES -

For Applicant: Harold Zipser, Steve Sinacori and George Schefferlecher.

For Administration: John Scrofani, Fire Department.

**ACTION OF BOARD** - Application granted on condition.

#### THE VOTE TO REOPEN HEARING -

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

Negative: .....0

#### THE VOTE TO CLOSE HEARING -

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

Negative:.....0

#### THE VOTE TO GRANT -

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

Negative:.....0

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 25, 2002 acting on Application No. 103093171 reads:

“The new proposed infill and extension to the building are contrary to rear yard requirements as per zoning section ZR 24-33 ‘Permitted obstruction in required rear yard or rear yard equivalents’ above a height of 23'-0" to the proposed height of 31'-6" and are contrary to the lot coverage requirements as per zoning resolution ZR 24-12 “Height and application of lot coverage” above a height of 23'-0" to the proposed height of 31'-6".”; and

WHEREAS, a public hearing was held on this application on May 21, 2002 after due notice by publication in The City Record and laid over to June 11, 2002 for decision; and

WHEREAS, Community Board No. 6 in Manhattan recommended approval of the application; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed expansion at the first and second floor levels, of an existing synagogue (Use Group 4), located in both R7B and R9A zoning districts, which does not comply with zoning requirements for rear yard and lot coverage, and is contrary to Z.R. §§24-12 and 24-33; and

WHEREAS, the applicant seeks a waiver of rear yard and lot coverage requirements to allow a 785.65 square foot addition to the existing building, of which 330.02 square feet is non-complying; and

WHEREAS, the applicant indicates that there will also be an as-of-right basement expansion; and

WHEREAS, the record indicates that the Zoning Lot is located on the north side of East 17th Street between 2nd and 3rd Avenues, and is split lengthwise between R7B and R9A zoning districts; and

WHEREAS, the applicant states that approximately 48% (1536 square feet) of the Zoning Lot is zoned R7B while the remaining 52% (1632 square feet) of the Zoning Lot is located within 100 feet of the corner and is zoned R9A; and

WHEREAS, the applicant represents that the Zoning Lot is improved with an 11,185.4 square foot, four-story building to be occupied as a temple and house of worship; and

WHEREAS, the applicant further represents that the existing building is located in the Stuyvesant Square Historic District and is an individually designated landmark; and

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# MINUTES

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WHEREAS, therefore, all proposed work shall proceed as per the Landmarks Preservation Commission's Certificate of Appropriateness # 02-4252; and

WHEREAS, the applicant states that the Congregation is composed of approximately 200 families; and

WHEREAS, the applicant further states that without the variance, the proposed synagogue could only seat 133 members, thereby failing to meet the Congregation's programmatic needs;

WHEREAS, the applicant represents that the variance will permit a first and second floor expansion allowing the creation of a 22 foot 10 inch floor to ceiling sanctuary with a second story mezzanine providing an additional 48 seats; thereby meeting the Congregation's minimum seating requirements; and

WHEREAS, the applicant indicates that the obstruction into the rear yard and additional lot coverage is necessary to achieve a building with a height of just over 31 feet, which would create the rear yard obstruction but would be just high enough to enable worshipers seated on the second floor mezzanine to allow for a line of sight and to participate in the services taking place in the sanctuary; and

WHEREAS, the applicant states that the variance will provide for the restoration of the existing Landmark building's facade and the maintenance of the building's stoop and primary entrance in the original configuration; and

WHEREAS, the applicant represents that as a result of maintaining the existing facade, the entrance leading to the sanctuary will be approximately 6 feet 1 inch above curb level; and

WHEREAS, therefore, the proposed double height of the sanctuary with its mezzanine must be elevated to a height which violates the zoning envelope; and

WHEREAS, the applicant asserts that if the first floor entrance were lowered, and the landmark facade was altered, the variance would not be necessary; and

WHEREAS, the applicant states that the requirements of the Landmarks Preservation Commission creates a practical difficulty and unnecessary hardship for the Congregation in creating an adequate sanctuary space meeting its programmatic needs; and

WHEREAS, in addition, where a non-profit community facility's programmatic needs create practical difficulties and unnecessary hardship in complying strictly with the Zoning Resolution, a variance should be granted unless it unarguably contravenes public health, safety or welfare or creates a severe detriment to the character of the neighborhood ; and

WHEREAS, the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its not-for-profit status; and

WHEREAS, the applicant represents that the proposed synagogue will be compatible in size, bulk and use with its surrounding community, which is composed primarily of community facilities and residential structures of similar or greater height; and

WHEREAS, the applicant states that the impact of the expansion will be minimal as the proposed rear yard obstruction will be between two permitted, legal portions of the Building which are at least equal in height to the proposed obstruction; and

WHEREAS, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties nor be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that the variance is the minimum variance necessary to afford relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

Therefore, it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration, under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. 72-21, and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit the proposed expansion at the first and second floor levels, of an existing synagogue (Use Group 4), located in both R7B and R9A zoning districts, which does not comply with zoning requirements for rear yard and lot coverage, and is contrary to Z.R. §§24-12 and 24-33, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received April 29, 2002"-(11) sheets and "Received June 5, 2002"-(1) sheet; and on further condition;

THAT an automatic wet sprinkler system connected to a Fire Department approved Central Station shall be installed throughout the entire building;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the

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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.

Adopted by the Board of Standards and Appeals, June 11, 2002.

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## 198-01-BZ

APPLICANT - Sheldon Lobel, P.C., for Sputnik Restaurant Corp., owner; Ftelia Associates, Inc., lessee.

SUBJECT - Application May 25, 2001 - under Z.R. §72-21, to permit the enlargement of an existing eating and drinking establishment, Use Group 6, located in an R4 zoning district, which is contrary to Z.R. §§22-00 and 52-00.

PREMISES AFFECTED - 105-45 Cross Bay Boulevard, near 108th Avenue, bounded by Cross Bay Boulevard and 95th Street, Block 9163, Lot 71, Borough of Queens.

### COMMUNITY BOARD #10Q

#### APPEARANCES -

For Applicant: Eric Palatnik

For Administration: John Scrofani, Fire Department.

#### THE VOTE TO CLOSE HEARING -

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

Negative:.....0

**ACTION OF THE BOARD** - Laid over to July 9, 2002, at 2 P.M., for decision, hearing closed.

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## 235-01-BZ

APPLICANT - Rothkrug & Rothkrug for Mermaid Commons, LLC, owner; Coney Island Memorial Chapel, Inc., lessee.

SUBJECT - Application July 10, 2001 - under Z.R. §73-27 to permit the proposed funeral establishment, Use Group 7, located in a C1-2/R5 zoning district.

PREMISES AFFECTED - 2009 Mermaid Avenue a/k/a 2879 West 21<sup>st</sup> Street, a/k/a 2882 West 20<sup>th</sup> Street, northwest corner of West 20<sup>th</sup> Street and Mermaid Avenue, Block 7018, Lot 42 (Tentatively), Borough of Brooklyn.

### COMMUNITY BOARD #13BK

#### APPEARANCES -

For Applicant: Adam Rothkrug.

For Opposition: Victoria Gooden

For Administration: John Scrofani, Fire Department.

#### THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Commissioner Korbey and Commissioner Caliendo.....4

Negative:.....0

**ACTION OF THE BOARD** - Laid over to July 16, 2002, at 2 P.M., for decision, hearing closed.

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## 281-01-BZ

APPLICANT - Mothiur Rahman, for Surrinder Sing, owner; G & R Parking, lessee.

SUBJECT - Application September 26, 2001 - under Z.R. §72-21, to permit the legalization of an existing parking lot (Use Group 8) located in an R7-1 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 35 West Tremont Avenue, aka 31/43 West Tremont Avenue, northwest corner of Kingsland Place, Block 2869, Lot 171, Borough of The Bronx.

### COMMUNITY BOARD #5BX

#### APPEARANCES -

For Applicant: Mothiur Rahman.

For Administration: John Scrofani, Fire Department.

#### THE VOTE TO CLOSE HEARING -

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

Negative:.....0

**ACTION OF THE BOARD** - Laid over to July 16, 2002, at 2 P.M., for decision

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## 285-01-BZ

APPLICANT - Harold Weinberg, P.E., Consulting Engineer, P.C., for Yeshiva Yalde Torah by Sinai Halberstam, owner.

SUBJECT - Application October 5, 2001 - under Z.R. §73-19, to permit the legalization of the first floor of the subject premises as a day care center, Use Group 3, and the enlargement of the second floor for said use, located in an M1-2 zoning district, is contrary to Z.R. §42-00, §52-22 and §52-41.

PREMISES AFFECTED - 1045 38th Street, north side, 294'-2½," west of 10th Avenue, Block 5289, Lot 61, Borough of Brooklyn.

### COMMUNITY BOARD #2BK

#### APPEARANCES -

For Applicant: Harold Weinberg.

For Administration: John Scrofani, Fire Department.

#### THE VOTE TO CLOSE HEARING -

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

Negative:.....0

**ACTION OF THE BOARD** - Laid over to July 9, 2002, at 2 P.M., for decision., hearing closed

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## 396-01-BZ

APPLICANT - Fredrick A. Becker, Esq., for Glass House Cooperative, Inc., owner; Le Spa D' Soleil, LLC dba Lounge Spa, lessee.

SUBJECT - Application December 19, 2001 - under Z.R. §73-36, to permit the proposed physical culture establishment, located in the cellar level with an entrance on the first floor in an existing cellar and nine story mixed use building, which requires a special permit as per Z.R. §32-10.

PREMISES AFFECTED - 43A West 13<sup>th</sup> Street, northside, 275' east of Sixth Avenue, Block 577, Lot 66, Borough of Manhattan.

### COMMUNITY BOARD #2M

#### APPEARANCES -

For Administration: John Scrofani, Fire Department.

**ACTION OF THE BOARD** - Laid over to July 23, 2002, at 2 P.M., for continued hearing.

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## 397-01-BZ

APPLICANT - Sullivan, Chester & Gardner, LLP, for Newton Avenue Realty, LLC, owner; Gotham Nightclub Assoc., Inc., lessee.

SUBJECT - Application December 19, 2001 - under Z.R. §72-21, to permit the legalization of the conversion of an accessory auto supply storage facility, into an eating and drinking establishment, Use Group 6, located in an R-6 zoning district, is contrary to Z.R. §22-10.

PREMISES AFFECTED - 30-07 Newtown Avenue, between 30th and 31st Streets, Block 598, Lot 73, Borough of Queens.

### COMMUNITY BOARD #1Q

#### APPEARANCES -

For Applicant: Jeffery Chester.

For Administration: John Scrofani, Fire Department.

#### THE VOTE TO CLOSE HEARING -

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

Negative:.....0

**ACTION OF THE BOARD** - Laid over to June 18, 2002, at 2 P.M., for decision, hearing closed.

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## 2-02-BZ

APPLICANT - Sheldon Lobel, P.C., for City of New York Economic Development, owner; Bronx Preparatory Charter School, lessee.

SUBJECT - Application January 3, 2002 - under Z.R. §§72-21 and 73-19 to permit the proposed construction of a five story school, Use Group 3, located in an M1-4 zoning district, which requires a special permit as per §73-19 and

a variance to waive certain rear yard requirements, which is contrary to §42-13, §43-232 and §43-302.

PREMISES AFFECTED - 3872 Third Avenue, aka 532 East 172nd Street, southeast corner, Block 2929, Lots 8-18, 20 and 22, Borough of The Bronx.

### COMMUNITY BOARD #3BX

#### APPEARANCES -

For Applicant: Irving E. Minkin, Peter Gluck, Elissa Levy.

#### THE VOTE TO CLOSE HEARING -

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

Negative.....0

**ACTION OF THE BOARD** - Laid over to June 18, 2002, at 2 P.M., for decision, hearing closed.

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## 263-01-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Lee & Wythe Realty Corp., owner; 85-101 North Third Street Associates, Inc., lessee.

SUBJECT - Application January 8, 2002 - under Z.R. §72-21, to permit the proposed 58 residential units on floors 2-6 of an existing six story building, which number includes legalization of 22 residential units and 10 loft lawtenancies, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 85/101 North Third Street, northeast corner of Wythe Avenue, Block 2350, Lot 1, Borough of Brooklyn.

### COMMUNITY BOARD #1M

#### APPEARANCES-

For Applicant: Howard Hornstein, Barbara hair

For Administration: John Scrofani, Fire Department

**ACTION OF THE BOARD** - Laid over to July 23, 2002, at 2 P.M., for continued hearing.

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## 282-01-BZ

APPLICANT - Sheldon Lobel, P.C., for Leewall Realty, LLC, owner.

SUBJECT - Application September 28, 2001 - under Z.R. §72-21, to permit the proposed construction of a six story and basement Class "A" multiple dwelling, Use Group 2, in an M1-2 zoning district is contrary to Z.R. §42-00.

PREMISES AFFECTED - 222 Wallabout Street, between Lee and Bedford Avenues, Block 2263, Lot 44, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

#### APPEARANCES-

For the Applicant: Irvine Minkin, Rabbi David Niederman

For Administration: John Scrofani, Fire Department

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# MINUTES

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**ACTION OF THE BOARD** - Laid over to October 1, 2002, at 2 P.M., for continued hearing.

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## **283-01-BZ**

APPLICANT - Sheldon Lobel, P.C., for Leewall Realty, LLC, owner.

SUBJECT - Application September 28, 2001 - under Z.R. §72-21, to permit the proposed construction of a six(6) story and basement Class "A" multiple dwelling, Use Group 2, in an M1-2 zoning district is contrary to Z.R. §42-00.  
PREMISES AFFECTED - 266 Lee Avenue, between Wallabout Street and Flushing Avenue, Block 2263, Lot 48, Borough of Brooklyn.

### **COMMUNITY BOARD #1BK**

APPEARANCES-

For Applicant: Irvine Minkin, Rabbi David Niederman  
For Administration: John Scrofani, Fire Department

**ACTION OF THE BOARD** - Laid over to October 1, 2002, at 2 P.M., for continued hearing.

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## **384-01-BZ**

APPLICANT - Sheldon Lobel, P.C., for Leewall Realty, LLC, owner.

SUBJECT - Application September 28, 2001 - under Z.R. §72-21, to permit the proposed construction of a six (6) story and cellar Class "A" multiple dwelling, Use Group 2, located in an M1-2 zoning district, is contrary to §42-00.  
PREMISES AFFECTED - 218 Wallabout Street, between Lee and Bedford Avenues, Block 2263, Lot 43, Borough of Brooklyn.

### **COMMUNITY BOARD #1BK**

APPEARANCES-

For the Applicant: Irvine Minkin, Rabbi David Niederman  
For Administration: John Scrofani, Fire Department

**ACTION OF THE BOARD** - Laid over to October 1, 2002, at 2 P.M., for continued hearing.

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## **297-01-BZ**

APPLICANT - Sheldon Lobel, P.C., for Snake River Development LLC, owner; Synergy Fitness 23rd Street Inc., lessee.

SUBJECT - Application April 15, 2002 - under Z.R. §73-36, to permit the legalization of an existing physical culture establishment, Use Group 9, located on the second floor of an existing two story building, which requires a special permit as per Z.R. §32-31.  
PREMISES AFFECTED - 201 East 23rd Street, northeast corner of Third Avenue, Block 904, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #6M**

APPEARANCES-

For the Applicant: Eric Palatnik

For Administration: John Scrofani, Fire Department

**ACTION OF THE BOARD** - Laid over to July 23, 2002, at 2 P.M., for continued hearing.

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## **324-01-BZ**

APPLICANT - Sheldon Lobel, P.C., for Jill Moir, owner.  
SUBJECT - Application November 8, 2001 and updated April 29, 2002 - under Z.R. §72-21, to permit the proposed construction of a mixed-use development (commercial and residential), located in an M1-2 zoning district, in which the commercial use is as of right, is contrary to §42-00.  
PREMISES AFFECTED - 1077 Bay Street, between Bay and Edgewater Streets, Block 2825, Lot 1, Borough of Staten Island.

### **COMMUNITY BOARD #1S.I.**

APPEARANCES-

For Applicant: Eric Palatnik, Anthony Seaglione, Daniel Lane

For Administration: John Scrofani, Fire Department

**ACTION OF THE BOARD** - Laid over to August 6, 2002, at 2 P.M., for continued hearing.

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## **395-01-BZ**

APPLICANT - Sheldon Lobel, P.C., for Mutual Realty, LLC, owner.

SUBJECT - Application December 17, 2001 - under Z.R. §72-21, to permit the proposed addition of a mezzanine in an existing manufacturing building, Use Group 17B, which exceeds the maximum permitted floor area ratio, and to waive the additional parking requirement due to the increase in floor area ratio, which is contrary to Z.R. §43-12 and §44-21.  
PREMISES AFFECTED - 36-27 Vernon Boulevard, south side, between 36th and 37th Avenues, Block 355, Lot 7, Borough of Queens.

**COMMUNITY BOARD #2Q**

APPEARANCES-

For the Applicant: Lyra J. Altman

For Administration: John Scrofani, Fire Department

**ACTION OF THE BOARD** - Laid over to July 9, 2002, at 2 P.M., for continued hearing.

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## **29-02-BZ**

APPLICANT - Salans Hertzfeld Heilbronn, Christy & Viener, for Long Island Jewish Medical, owner.

SUBJECT- Application January 16, 2002 - under Z.R. §72-21, to permit the proposed two-level addition, to an existing main parking garage, which encroaches into the required front yard, side yard and setback, and increases the total number of parking spaces beyond the maximum permitted by the Zoning Resolution, is contrary to Z.R. §24-34, §24-35, §24-521, §25-11, §25-12, §25-13 and §54-31.

PREMISES AFFECTED - 271-17 76th Avenue, block bounded by 76th Avenue, 74th Avenue, 263rd Street and the Queens/Nassau County Border, Block 8520, Lot 2, and Block 8489, Lots 50, 95, 100 and 120, Borough of Queens.

**COMMUNITY BOARD #13Q**

APPEARANCES -

For Administration: John Scrofani, Fire Department.

**ACTION OF THE BOARD** - Laid over to July 23, 2002, for postponed hearing.

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*Pasquale Pacifico, Executive Director.*

Adjourned: 5:00 P.M.

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# CORRECTIONS

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**CORRECTION**

This resolution adopted on October 16, 2001, under Calendar No. 259-98-BZ and printed in Volume 86, Bulletin Nos. 35-44, is hereby corrected to read as follows:

**259-98-BZ**

**CEQR # 99-BSA-021K**

APPLICANT - Agusta & Ross, for Kent Plaza Realty Corporation, owner.

SUBJECT- Application August 21, 1998 - under Z.R. §72-21, to permit the proposed erection of two multiple dwelling (Use Group 2) located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 761/773 Kent Avenue, a/k/a 763 Kent Avenue, south side, between Little Nassau Street and Flushing Avenue, Block 1884, Lots 33 and 36 (Tentative Lot 36), Borough of Brooklyn.

**COMMUNITY BOARD #3BK**

APPEARANCES -

For Applicant: Mitchell Ross.

For Administration: Battalion Chief Phil Parr and John Scrofani, Fire Department.

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

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Commissioner Korbey and Commissioner Caliendo.....3

Negative:.....0

**THE RESOLUTION -**

WHEREAS, the decision of the Borough Commissioner, dated August 19, 1998 acting on N.B. Application No. 300766883, reads:

- “1. Proposed use not permitted in M1-1 zone as per section ZR 42-00.
- 2. Proposed Residential Development contrary to Z.R. section 42-10. There are no applicable bulk yard or parking regulations”; and

WHEREAS, a public hearing was held on this application on June 5, 2001, after due notice by publication in *The City Record*, laid over to July 17, 2001, August 7, 2001, and then to September 11, 2001 for decision. On September 11, 2001, all hearings were postponed and this application was laid over to October 16, 2001 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Commissioner Mitchell Korbey, and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21, to permit within an M1-1 zoning district, the proposed erection of two multiple dwellings (Use Group 2) which is contrary to Z.R. §42-00; and

WHEREAS, the record indicates that the subject zoning lot is a sloped, through corner zoning lot that fronts upon and is bounded by three City Streets, approximately 172.4

feet upon Kent Avenue, approximately 50 feet upon Little Nassau Street, and approximately 50.75 feet upon Flushing Avenue; and

WHEREAS, the applicant represents that the subject zoning lot is burdened with a structurally defective and functionally obsolete one story brick industrial structure saddled with rubble filled cellars and remaining rubble foundations from several turn of the (19<sup>th</sup>) Century rowhouses that had occupied the site; and

WHEREAS, record indicates that the site is burdened with bulges in the walls from roof to floor, shifting foundation and courses, water damaged roofs and walls, cracked columns, and inoperable windows; and

WHEREAS, the applicant's experts represent that it would be more costly to repair the subject premises than it would be to demolish and replace the building; and

WHEREAS, the applicant further represents that the premises is vacant except for the month-to-month caretaker, who does not reside in, nor regularly use the premises; and

WHEREAS, the Board finds that the existing building presents unique physical conditions which create practical difficulties and unnecessary hardships in building a conforming use; and

WHEREAS, as indicated above, the applicant has detailed a continual difficulty in leasing the building for conforming users; and

WHEREAS, the Board finds that the aforementioned unique conditions create an unnecessary hardship in developing the site with a conforming development; and

WHEREAS, the record indicates that the investment required to convert the building into a more modern and viable commercial or industrial space would exceed any expected return from rental incomes; and

WHEREAS, the Board finds that the evidence in the record, including a feasibility study demonstrate that a strictly as-of-right-development would not yield a reasonable return; and

WHEREAS, the record indicates that the instant proposal is similar to other residential developments within the vicinity of the subject premises, and that the erection of the subject developments would add to the growing residential character block front; and

WHEREAS, while the surrounding area once contained a heavy concentration of industrial uses, the area is now better classified as mixed-use, with much of the industrial space under utilized; and

WHEREAS, in response to Board concerns over parking in the area, the applicant has completed a survey and has shown that there is ample on-street available on both Kent Avenue and Little Nassau Street; and

WHEREAS, by providing indoor recreation space, the proposal is consistent with a key goal of the Quality Housing program; and

WHEREAS, therefore, the Board finds, that the proposal as modified, will not alter the essential character of the

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## CORRECTIONS

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surrounding neighborhood, nor impair the use or development of adjacent properties nor be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

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

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

*Therefore, it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, to permit within an M1-1 zoning district, the proposed erection of two multiple dwellings (Use Group 2) which is contrary to Z.R. §42-00; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received, August 1, 2001" - (16) sheets and on further condition;

THAT all floors are to have an automatic wet sprinkler system as required under LL 10/99 connected to a Fire Department approved Central Station;

THAT the above referenced conditions appear on the new Certificate of Occupancy;

THAT the development, as approved, is subject to verification by the Department of Buildings for compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department;

THAT substantial construction be completed in accordance with Z.R. §72-23.

Adopted by the Board of Standards and Appeals, October 16, 2001.

**\*The resolution has been corrected in that the portion of the plans which read: "August 1, 2001"-(18) sheets now reads: "August 1, 2001"-(16)sheets". Corrected in Bulletin No. 25, Vol. 87, dated June 30, 2002.**

### CORRECTION

This resolution adopted on December 11, 2001, under Calendar No. 203-01-BZ and printed in Volume 86, Bulletin No. 50, is hereby corrected to read as follows:

#### 203-01-BZ

APPLICANT - Sheldon Lobel, P.C., for BP Amoco Corp., owner.

SUBJECT - Application June 5, 2001 - under Z.R. §73-211, to permit the proposed construction of a new automotive service station, Use Group 16, with an accessory convenience store, installation of underground gasoline storage tanks, a new overhead canopy with five pump islands and installation of associated signage, in a C2-3 within an R6 zoning district, which is permitted by special permit as per Z.R. §32-31.

PREMISES AFFECTED - 5701 Broadway, northwest corner of 234th Street, Block 5760, Lot 175, Borough of The Bronx.

#### COMMUNITY BOARD #8BX

APPEARANCES -

For Applicant: Eric Palatnik.

For Administration: John Yacovone, Fire Department.

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

**THE VOTE TO GRANT** -

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

Negative: .....0

**THE RESOLUTION**

WHEREAS, the decision of the Borough Commissioner, dated May 22, 2001 acting on Applic. No. 200651482 reads:

"Proposed construction of a new automotive service station with accessory retail convenience store within

a C2-3 zoning district requires a special permit from the NYC Board of Standards and Appeals.”; and

WHEREAS, a public hearing was held on this application on November 20, 2001 after due notice by publication in The City Record, and laid over to December 11,2001 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application for a special permit under Z.R. §73-211, to permit the proposed construction of an automotive service station, Use Group 16, with an accessory convenience store, installation of underground gasoline storage tanks, a new overhead canopy with five pump islands and installation of associated signage, in a C2-3 within an R6 zoning district, which is permitted by special permit as per Z.R. §32-31; and

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## CORRECTIONS

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WHEREAS, in 1950, under Calendar Number 189-50-BZ, the Board permitted the use of an automotive service station with gasoline sales (Use Group 16) in a commercial district for a term of ten years; and

WHEREAS, in 1958, under Calendar Number 702-57-BZ, the premises was granted a variance to permit in a business use district the extension of an existing gasoline station for the reconstruction and maintenance of the accessory building for the station, car wash and sale of cars ; and

WHEREAS, variance was granted to also include motor vehicle repair and for parking and storage for more than five vehicles and no term was included; and

WHEREAS, the Board granted extensions of time to complete work and obtain permits on April 30, 1963, May 28, 1963, and May 28, 1964; and

WHEREAS, the site is improved with an existing 1889 square foot masonry building with three repair bays with one pump island and four 4,000 gallon underground storage tanks; and

WHEREAS, the applicant seeks to authorize the construction of an automotive service station with an accessory convenience store, installation of underground gasoline storage tank, construction of a new overhead canopy with 5 pumps and installation of associated signage in a C2-3 within an R6 zoning district; and

WHEREAS, the applicant seeks to demolish the existing building and to replace the existing 1,889 square foot service station with a new 2,900 square foot automotive service station with an accessory convenience store, install one 10,000 gallon underground tank and new overhead canopy with five pump islands; and

WHEREAS, the proposed convenience store will contain 1,461 square feet of sales area; and

WHEREAS, the proposed total illuminated signage is 100 square feet and the proposed total non-illuminated signage is 93 square feet; and

WHEREAS, this application does not conflict with the requirements of Z.R. §73-211; and

WHEREAS, Z.R. §73-211(a) requires that the site has a minimum area of 7,500 square feet; and

WHEREAS, the premises meets this requirement because it is 14,500 square feet; and

WHEREAS, Z.R. §73-211(b) requires that the site not be located on an arterial highway or a major street have a maximum area of 15,000 square feet; and

WHEREAS, since the premises is located on the corner of two major streets, Broadway and West 234th Street, this condition does not apply; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under §73-211 of the Zoning Resolution; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

WHEREAS, therefore, the Board has determined that the proposed action will not result in any significant environmental effects.

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §73-211, and grants a variation in the application of the Zoning Resolution, limited to the objection cited, for a special permit under Z.R. §73-211 to permit the proposed construction of a new automotive service station, Use Group 16, with an

accessory convenience store, installation of underground gasoline storage tanks, a new overhead canopy with five pump islands and installation of associated signage, in a C2-3 within an R6 zoning district, which is permitted by special permit as per Z.R. §32-31 on condition that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received August 21, 2001"-(7) sheets; and on further condition;

THAT the term of the special permit shall be limited to ten years expiring on December 11, 2011;

THAT there will be a five foot high chain link fence that screens the perimeter of the site;

THAT the fences and gates shall be of legal and uniform height;

THAT there will be no lubrication, repair or washing of cars at the Premises;

THAT lighting shall be directed down and away from residential uses, and in accordance with BSA approved plans;

THAT in accordance with BSA approved plans, a landscaped buffer shall be provided and maintained along the side and rear property lines which is to be a strip at least four feet wide, densely planted with shrubs or trees at least four feet high at the time of planting and which are of a type which may be expected to form a year round dense screen at least six feet high within three years;

THAT street trees shall be provided and maintained along the sidewalk, and in accordance with BSA approved plans;

THAT the site is so designed to provide reservoir space for five waiting automobiles within the zoning lot in addition to spaces available at the pumps;

THAT entrances and exits are so planned that, at maximum expected operation, vehicular movement into or from the automotive service station will cause a minimum of obstruction on streets or sidewalks;

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

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## CORRECTIONS

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THAT the development, as approved, is subject to verification by the Department of Buildings for compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department; and

THAT a new certificate of occupancy be obtained within one year of the date of this resolution.

Adopted by the Board of Standards and Appeals, December 11, 2001.

**\*The resolution has been corrected in that the portion of the plans which read: "...new proposed structure 2,833 square feet" now reads: "...new proposed structure 2,900 square feet". Corrected in Bulletin No. 25, Vol. 87, dated June 30, 2002.**

**CORRECTION**

This resolution adopted on May 14, 2002, under Calendar No. 385-01-BZ and printed in Volume 87, Bulletin No. 21, is hereby corrected to read as follows:

**385-01-BZ**

**CEQR # 02-BSA-090K**

APPLICANT- Moshe M. Friedman, P.E., for Bais Tziporah, Inc., owner.

SUBJECT - Application December 12, 2001 - under Z.R. §72-21, to permit the legalization of an existing Yeshiva (Religious School), at the first and second floor levels and to extend the building one and a half stories, to include a third floor and a partial fourth floor, with a play area at the roof level, which creates non-compliance with regard to use regulations, and side and rear yards, and which is contrary to §42-00, §43-24 and §43-26.

PREMISES AFFECTED - 1449 39th Street, a/k/a 1443/49 39th Street, north side, 290' west of the intersection of 39th Street and 15th Avenue, Block 5347, Lot 58, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

**APPEARANCES -**

For Applicant: Moshe M. Friedman.

For Administration: John Scrofani, Fire Department.

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

**THE VOTE TO GRANT -**

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

Negative: .....0

**THE RESOLUTION -**

WHEREAS, the decision of the Borough Commissioner, dated November 27, 2001 acting on Applic. No. 301190397, reads;

“Proposed Yeshiva (school) and Extension in an M1-2 Zone is Contrary to:  
ZR § 42-00 Use Regulations  
ZR § 43-24 Side Yards  
ZR § 43-26 Rear Yard

and requires a Variance from the New York City Board of Standards and Appeals as per ZR § 72-21”; and

WHEREAS, a public hearing was held on this application on April 16, 2002 after due notice by publication in *The City Record*, and laid over to May 14, 2002 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Commissioner Mitchell Korbey, and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21 to permit the legalization of an existing Yeshiva (Religious School), at the first and second floor levels and to extend the building one and a half stories, to include a third floor and a partial fourth floor, with a play area at the roof level, which creates non-compliance with regard to use regulations, and side and rear yards, and which is contrary to §42-00, §43-24 and §43-26; and

WHEREAS, Community Board # 12 has approved this application; and

WHEREAS, the applicant represents that the subject premises is occupied by a two-story plus cellar brick school building on a lot of approximately 9,120 square feet, with 95.79 feet of frontage on 39<sup>th</sup> Street and a depth of 92.21 feet; and

WHEREAS, the record indicates that the applicant currently operates a Yeshiva (Religious School) that provides both religious and secular education to hundreds of girls of the Orthodox Jewish Chasidic community; and

WHEREAS, the applicant proposes to legalize the existing school at the first and second floor levels, and to extend the building one and a half stories to include a third floor and a partial fourth floor, with a play area on the roof level; and

WHEREAS, the school will have approximately 650 students, grades Nursery through 12<sup>th</sup> grade; and

WHEREAS, the applicant contends that the burgeoning population of in the Borough Park area has led to an increased need for classroom space in the school; and

WHEREAS, the applicant represents that the school is needed in order to provide Religious Education, along with secular studies, for Orthodox Jewish children, and without this variance, the school would not be able to have the classroom space it needs; and

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## CORRECTIONS

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WHEREAS, evidence in the record indicates that the existing structure was built in 1925 for use as a two-story factory building, and in 1993 the building was converted into a Business School; and

WHEREAS, the applicant represents that the original building was built almost on the entire lot, without a rear yard, and that this configuration causes a practical difficulty in extending the building, as the current structure necessitates the use of the existing walls as much as possible; and

WHEREAS, the applicant further represents that it is necessary for the school to be located in close proximity to the community which it serves; and

WHEREAS, the applicant claims the combination of the configuration of the existing structure, and the need for the school to meet the growing need for girls education creates practical difficulties and unnecessary hardships in constructing a building in compliance with the underlying district regulations and in developing the site that meets the programmatic needs of the school; and

WHEREAS, the Board finds that evidence in the record shows that the requirements of the school's programmatic needs cannot be met in a complying building; and

WHEREAS, the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development on this site will be in furtherance of its not-for-profit purposes; and

WHEREAS, the applicant notes that the building exists and falls within the floor area requirements for a community facility and thus would have little impact upon adjacent properties of the surrounding community; and

WHEREAS, the applicant represents that the proposed play area on the roof will be enclosed by a fence, and utilized from 10 a.m. to 2 p.m. weekdays and shall be closed on the weekends; and

WHEREAS, the applicant further represents that the fence at the rear lot line shall be filed in with noise abatement material;

WHEREAS, the applicant states that almost all the teachers and staff members live in the immediate area and walk to work, and as none of them drive to school, no parking is needed for the staff; and

WHEREAS, the New York City Department of Transportation ("DOT") recommends that one crossing guard be posted at each of the intersections of 14<sup>th</sup> Avenue with 38<sup>th</sup> Street and 39<sup>th</sup> Street;

WHEREAS, in its recommendation dated February 21, 2002, Community Board #12 stated that "this is a much

needed facility in this district and will only enhance the neighborhood."; and

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

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, evidence in the record demonstrates that this proposal is the minimum necessary to meet the programmatic needs of the school; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern including potential parking and traffic impacts; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

*Therefore, it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration under 6 N.Y.C.R.R. Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 to permit the legalization of an existing Yeshiva (Religious School), at the first and second floor levels and to extend the building one and a half stories, to include a third floor and a partial fourth floor, with a play area at the roof level, which creates non-compliance with regard to use regulations, and side and rear yards, and which is contrary to §42-00, §43-24 and §43-26, on condition that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received December 12, 2001"- (3) sheets; "March 4, 2002"- (3) sheets; "April 29, 2002"- (1) sheet; and *on further condition*;

THAT the applicant shall obtain the New York City Department of Transportation's ("DOT") written approval of accident mitigation measures developed by the applicant's environmental consultant;

THAT a "No Standing 7am-7pm School Days - except School Buses" sign shall be erected in front of the school as indicated on BSA approved plans;

THAT there shall be no parking of buses on the sidewalk;

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THAT one crossing guard be posted at the intersection of 14<sup>th</sup> Avenue and 39<sup>th</sup> Street;

THAT the rooftop play area shall only be used from 10 a.m. to 2 p.m. weekdays and shall be closed on the weekends;

THAT the fence at the rear lot line shall be filed in with noise abatement material;

THAT fire protection measures shall be provided and maintained in accordance with the BSA-approved plans;

THAT the above conditions be noted in the Certificate of Occupancy;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

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

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

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

Adopted by the Board of Standards and Appeals, May 14, 2002.

**\*The resolution has been corrected in that the portion of the plans which read: “THAT one crossing guard be posted at each of the intersections of 14th Avenue with 38th Street and 39th Street;” now reads: “THAT one crossing guard be posted at the intersection of 14th Avenue and 39th Street;”. Corrected in Bulletin No. 25, Vol. 87, dated June 30, 2002.**

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