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# BULLETIN

OF THE  
NEW YORK CITY BOARD OF STANDARDS  
AND APPEALS

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Volume 88, Nos. 24-25

June 12, 2003

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## DIRECTORY

**JAMES CHIN**, *Chairman*

**SATISH BABBAR**, *Vice-Chair*

**PETER CALIENDO**

**JOEL A. MIELE, SR.**

*Commissioners*

**Pasquale Pacifico**, *Executive Director*

**Roy Starrin**, *Deputy Director*

**Vacant - Counsel**

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**OFFICE** - 40 Rector Street, 9th Floor, New York, N.Y. 10006

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# DOCKET

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New Case Filed Up to June 3, 2003

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**155-03-BZ** B.Q. 37-44 103rd Street, east side, 410.75' south of 37th Avenue, Block 1768, Lot 32, Borough of Queens. Applic.#401574603. The legalization of a retail store, Use Group 6, on the first floor of an existing frame two story, two family dwelling with a one story masonry enlargement at the front and rear, located in an R6 zoning district, is contrary to Z.R. §22-00 and §23-47.

**COMMUNITY BOARD #3Q**

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**156-03-BZ** B.Q. 135-35 Northern Boulevard, northside of Main Street, Block 4958, Lots 48 and 38, Borough of Queens. Alt.1#401622669. Proposed construction of a fourteen story mixed use building, Use Groups 2 and 6, containing retail, office, 150 dwelling units and 250 parking spaces, located in an R6 within a C2-2 overlay zoning district, is contrary to Z.R. §§35-00 and 36-00.

**COMMUNITY BOARD #7Q**

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**157-03-A** B.S.I. 41 Mackay Avenue, north side, between Wild and Dean Avenues, Block 2647, Lot 23, Borough of Staten Island. Applic.#500567237. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**158-03-A** B.S.I. 37 Mackay Avenue, north side, between Wild and Dean Avenues, Block 2647, Lot 25, Borough of Staten Island. Applic.#500567246. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**159-03-A** B.S.I. 33 Mackay Avenue, north side, between Wild and Dean Avenues, Block 2647, Lot 27, Borough of Staten Island. Applic.#500567255. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**160-03-A** B.S.I. 29 Mackay Avenue, north side, between Wild and Dean Avenues, Block 2647, Lot 29, Borough of Staten Island. Applic.#500567264. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**161-03-A** B.S.I. 25 Mackay Avenue, north side, between Wild and Dean Avenues, Block 2647, Lot 31, Borough of Staten Island. Applic.#500567273. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**162-03-A** B.S.I. 21 Mackay Avenue, north side, between Wild and Dean Avenues, Block 2647, Lot 33, Borough of Staten Island. Applic.#500567282. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**163-03-A** B.S.I. 17 Mackay Avenue, north side, between Wild and Dean Avenues, Block 2647, Lot 35, Borough of Staten Island. Applic.#500567291. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**164-03-A** B.S.I. 11 Mackay Avenue, north side, between Wild and Dean Avenues, Block 2647, Lot 37, Borough of Staten Island. Applic.#500567308. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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# DOCKET

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New Case Filed Up to June 3, 2003

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**165-03-A** B.S.I. 288 Wild Avenue, south side, between Mackay and Walton Avenues, Block 2647, Lot 01, Borough of Staten Island. Applic.#500567317. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**166-03-A** B.S.I. 284 Wild Avenue, south side, between Mackay and Walton Avenues, Block 2647, Lot 03, Borough of Staten Island. Applic.#500567326. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**167-03-A** B.S.I. 280 Wild Avenue, south side, between Mackay and Walton Avenues, Block 2647, Lot 05, Borough of Staten Island. Applic.#500567335. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**168-03-A** B.S.I. 12 Walton Avenue, west side, between Mackay and Walton Avenues, Block 2647, Lot 07, Borough of Staten Island. Applic.#500567344. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**169-03-A** B.S.I. 16 Walton Avenue, west side, between Mackay and Walton Avenues, Block 2647, Lot 09, Borough of Staten Island. Applic.#500567353. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**170-03-A** B.S.I. 20 Walton Avenue, west side, between Mackay and Walton Avenues, Block 2647, Lot 11, Borough of Staten Island. Applic.#500567362. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**171-03-A** B.S.I. 24 Walton Avenue, west side, between Mackay and Walton Avenues, Block 2647, Lot 13, Borough of Staten Island. Applic.#500567371. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**172-03-A** B.S.I. 28 Walton Avenue, west side, between Mackay and Walton Avenues, Block 2647, Lot 15, Borough of Staten Island. Applic.#500567380. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**173-03-A** B.S.I. 32 Walton Avenue, west side, between Mackay and Walton Avenues, Block 2647, Lot 17, Borough of Staten Island. Applic.#500567399. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**174-03-A** B.S.I. 36 Walton Avenue, west side, between Mackay and Walton Avenues, Block 2647, Lot 19, Borough of Staten Island. Applic.#500567406. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**175-03-A** B.S.I. 40 Walton Avenue, west side, between Mackay and Walton Avenues, Block 2647, Lot 21, Borough of Staten Island. Applic.#500567415. Proposed contractor's establishment and warehouse, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

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**176-03-BZ** B.Q. 220-02 Jamaica Avenue, aka 219-42/54 Jamaica Avenue, south side, between Springfield Boulevard and 222nd Street, Block 10789, Lots 256 (formerly known as Lot 27), and 264, Borough of Queens. Applic.#401587369. Proposed change of use from automobile repair shop and sales, Use Group 16, to a self-storage facility, with non-illuminated and illuminated signages, located in C1-2 within an R3-2 zoning district, is contrary to Z.R. §32-25, §32-642 and §32-643.

**COMMUNITY BOARD #13Q**

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# DOCKET

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**177-03-A** B.BX. 626 West 254th Street, between Arlington and Independence Avenues, Block 5942, Lot 192, Borough of The Bronx. Applic.#200780360. Proposed residential structure, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

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Avenues "L and M", Block 7641, Lot 62, Borough of Brooklyn. Applic.#301539360. Proposed enlargement of an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space, and rear yard, is contrary to Z.R. §§23-141 and 23-47.

**COMMUNITY BOARD #14BK**

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**178-03-BZ** B.Q. 114-02 Van Wyck Expressway, southwest corner of Linden Boulevard, Block 11661, Lot 7, Borough of Queens. Applic.#401638885. The continued use of the premises as an automotive service station, Use Group 16, also a modification to the existing signage, located in a C2-2 within an R3-2 zoning district, is contrary to Z.R. §32-35.

**COMMUNITY BOARD #10BK**

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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.

**179-03-BZ** B.BK. 402 Avenue "U", aka 2133 East Second Street, southeast corner, Block 7129, Lot 1, Borough of Brooklyn. Applic.#301271567. Proposed construction of a synagogue and twenty-one apartments, Use Groups 2 and 4, with a twenty-three car garage, accessory to the residential use, located in an R6-A zoning district, which does not comply with the zoning requirements for floor area, base and building height, is contrary to Z.R. §24-11 and §23-633.

**COMMUNITY BOARD #15BK**

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**180-03-A** B.S.I. 86 Sweetbrook Road, southwest corner of Getz Avenue, Block 5523, Lot 83, Borough of Staten Island. Applic.#500605197. Proposed two-family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

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**181-03-BZ** B.BK. 2615 Avenue "N", north side, 40' west of East 27th Street, Block 7662, Lot 3, Borough of Brooklyn. Applic.#301534711. Proposed enlargement of an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio and open space ratio, is contrary to Z.R. §23-141.

**COMMUNITY BOARD #14BK**

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**182-03-BZ** B.BK. 1238 East 24th Street, between

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# CALENDAR

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## JULY 15, 2003, 10:00 A.M.

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday morning*, July 15, 2003, 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

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#### **361-49-BZ**

APPLICANT - Eric Palatnik, P.C., for Aaronoff FLP and Leonard Lazarus, owner; BP Products North America, lessee.  
SUBJECT - Application May 2, 2003 - 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 April 18, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 74-01 Eliot Avenue, Eliot Avenue and 74th Street, Block 2844, Lot 46, Borough of Queens.

**COMMUNITY BOARD #5Q**

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#### **921-57-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Aeomt Realty, Inc., owner.  
SUBJECT - Applications April 28, 2003 and May 29, 2003 - reopening for an extension of term of variance which expired May 29, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 6602 New Utrecht Avenue aka 6602-6610 New Utrecht Avenue, aka 1472-1478 66th Street, northeast corner of New Utrecht Avenue and 66th Street, Block 5762, Lot 36, Borough of Brooklyn.

**COMMUNITY BOARD #11BK**

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#### **292-58-BZ**

APPLICANT - Eric Palatnik, P.C., for 830 East 233rd Street Corp., owner; BP Products North America, lessee.  
SUBJECT - Application March 18, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expires October 22, 2004 and for an amendment to the resolution.

PREMISES AFFECTED - 836 East 233rd Street, northwest corner of Bussing Avenue and East 233rd Street, Block 4857, Lot 44, Borough of The Bronx.

**COMMUNITY BOARD #12BX**

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#### **118-71-BZ**

APPLICANT - Edward Lauria, P.E., for Dominick Suppo, owner.

#### **40-03-BZ**

APPLICANT - Law Offices of Howard Goldman, PLLC, for Ben Gardner, owner.

SUBJECT - Application January 30, 2003 - under Z.R. § 72-21 to permit the proposed construction of a twenty-seven unit residential

SUBJECT - Application February 27, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 299 Guyon Avenue, northwest corner of Hylan Boulevard and Guyon Avenue, Block 4301, Lot 1, Borough of Staten Island.

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

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#### **192-92-BZ**

APPLICANT - Anthony M. Salvati, for Mr. Paul Rose, owner.  
SUBJECT - Application May 30, 2003 - reopening for an extension of time to obtain a Certificate of Occupancy.

PREMISES AFFECTED - 900 Southern Boulevard, northeast corner of Southern Boulevard and Barretto Street, Block 2735, Lot 1, Borough of The Bronx.

**COMMUNITY BOARD #2BX**

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## JULY 15, 2003, 1:30 P.M.

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, July 15, 2003, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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### ZONING CALENDAR

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#### **324-02-BZ**

APPLICANT - Law Office of Howard Goldman, PLLC, for Henry Weinstein, owner; 752 Pacific LLC, lessee.

SUBJECT - Application October 31, 2002 - under Z.R. §72-21 to permit the proposed conversion of a vacant industrial building into a forty-nine unit residential building, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 752 Pacific Street, between Carlton and Underhill Avenues, Block 1129, Lot 13, Borough of Brooklyn.

**COMMUNITY BOARD #8BK**

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complex, in a three story building, with retail use on the ground floor, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 124-20 Jamaica Avenue, corner of 125th Street, Block 9333, Lot 7, Borough of Queens.

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# CALENDAR

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## COMMUNITY BOARD #9Q

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### 44-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Josephine Valletta, owner; Nissan Lift of New York, lessee.  
SUBJECT - Application February 7, 2003 - under Z.R. §72-21 to permit the proposed enlargement, both vertically and horizontally of an existing non-conforming one story commercial use, Use Group 16, located in an R5 zoning district, which is contrary to Z.R. §54-30.

PREMISES AFFECTED - 97-20 99th Street, 100' south of 97th Avenue, between 97th and 101st Avenues, Block 9075, Lot 32, Borough of Queens.

## COMMUNITY BOARD #9Q

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### 100-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Gabe and Roberta Levy, owners.  
SUBJECT - Application March 28, 2003 - under Z.R. §73-622 to permit the legalization of an enlargement of an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space ratio, balconies, and side and rear yards, is contrary to Z.R. §23-141, §23-461 (a), §23-47 and §23-131.  
PREMISES AFFECTED - 3448 Bedford Avenue, between Avenues "M" and "N", Borough of Brooklyn.

## COMMUNITY BOARD #14BK

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### 118-03-BZ

APPLICANT - Slater & Beckerman, LLP, for 1101 Prospect LLC, owner.  
SUBJECT - Application April 11, 2003 - under Z.R. § 72-21 to permit the proposed construction of a six-story residential and community facility building, Use Groups 2 and 4, located in an R5B zoning district, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage, number of dwelling units, community facility bulk regulations, front and yards, height and setback , is contrary to Z.R. §23-141(b), §23-22, §24-01, §24-162, §23-45, §24-34, §24-35 and §24-521.

PREMISES AFFECTED - 1101 Prospect Avenue, a/k/a 1677 11th Avenue, northeast corner, Block 5256, Lot 1, Borough of Brooklyn.

### 279-02-BZ

APPLICANT - Harold Weinberg, P.E., for Michael Pellegrino, owner.  
SUBJECT - Application May 2, 2003 - under Z.R. §73-622 to permit the legalization of a second story to an existing one story, one family dwelling, Use Group 1, located in an R4 zoning district, which does not comply with the zoning requirements for lot coverage, floor area ratio and side yard, is contrary to Z.R. §23-141, §23-47 and §54-31.

## COMMUNITY BOARD #7BK

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### 143-03-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Raymond and Vivian Dayan, owners.  
SUBJECT - Application May 5, 2003 - under Z.R. §73-622 to permit the proposed enlargement to an existing one family dwelling, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, side and rear yards, is contrary to Z.R. §23-141, §23-461A and §23-47.

PREMISES AFFECTED - 1734 East 24th Street, between Quentin Road and Avenue "R", 240' south of Quentin Road, Block 6806, Lot 19, Borough of Brooklyn. **COMMUNITY BOARD #15BK**

### 154-03-BZ

APPLICANT - Steven Sinacori for Stadtmauer Bailkin, LLP, for 100-05 92nd Avenue Realty, Corporation, owner.  
SUBJECT - Application May 15, 2003 - under Z.R. §72-21 to permit the proposed change of use of a vacant industrial building, to a multiple dwelling, Use Group 2, located within an R3-1 zoning district, which is contrary to Z.R. §22-00.  
PREMISES AFFECTED - 100-05 92nd Avenue, corner of 102nd Street, Block 9306, Lot 30, Borough of Queens.  
**COMMUNITY BOARD #9Q**

### 176-03-BZ

APPLICANT - Stadtmauer Bailkin, LLP, for 219-44 Jamaica Avenue, 220-02 Jamaica Avenue, LLC, owner; Public Storage, Inc, lessee.  
SUBJECT - Application May 22, 2003 - under Z.R. §72-21, to permit within a C1-2 and R3-2 zoning district a change of use from automobile repair shop and automobile sales to storage warehouse (Use Group 16), which is contrary to Z.R. §32-00.  
PREMISES AFFECTED - 220-02 Jamaica Avenue a.k.a 219-42/54 Jamaica Avenue, southern side of Jamaica Avenue between Springfield Boulevard and 222nd Street, Block 10789, Lots 256 and 264, Borough of Queens.  
**COMMUNITY BOARD #13Q**

PREMISES AFFECTED - 76 Astor Court, east side, 34'-0" north of Channel Avenue, south of Bijou Avenue, Block 8946, Lot 844, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

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*Pasquale Pacifico, Executive Director*

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# MINUTES

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# MINUTES

## REGULAR MEETING TUESDAY MORNING JUNE 3, 2003 10:00 A.M.

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, March 25, 2003, were approved as printed in the Bulletin of April 3, 2003, Volume 88, No. 14.

## SPECIAL ORDER CALENDAR

### 660-77-BZ

APPLICANT - Joseph P. Morsellino, for 41st Realty LLC, owner; Fogarty Funeral Home, lessee.

SUBJECT - Application March 7, 2003 - reopening for an extension of term of variance which expired March 7, 2003.

PREMISES AFFECTED - 136-50 41st Avenue, 41<sup>st</sup> Avenue, east of Kissena Boulevard, Block 5044, Lot 32, Borough of Queens.

### COMMUNITY BOARD #7Q

APPEARANCES - None.

**ACTION OF THE BOARD** - Application reopened and term of variance extended.

### THE VOTE TO GRANT -

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

Negative: .....0

### THE RESOLUTION-

WHEREAS, the applicant requested a reopening for an extension of the term of the variance which expires on March 7, 2003; and

WHEREAS, a public hearing was held on this application on April 29, 2003, after due notice by publication in The City Record, and laid over to June 3, 2003 for decision; and

WHEREAS, on March 7, 1978, the Board granted an application under Z.R. §72-21 to amend the variance to permit the construction and maintenance of an accessory parking lot to a funeral parlor establishment.

Resolved, that the Board of Standards and Appeals, reopens and amends the resolution to extend the term of the variance which expired on March 7, 2003, so that as amended this portion of the resolution shall read:

"to permit the extension of the term of the variance for an additional fifteen (15) years from March 7, 2003 to expire on March 7, 2018, 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 7, 2003- (1) sheet; and on further condition;

THAT the premises shall be maintained free of debris and

THAT all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 4, 2003- (4) sheets; and on further condition;

graffiti;

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

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

(DOB Application #401604732)

Adopted by the Board of Standards and Appeals, June 3, 2003.

### 193-92-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Rhee Enterprises, Ltd., owner; White Castle System, Inc., lessee.

SUBJECT - Application February 4, 2003 - reopening for an extension of term of variance which expired July 13, 2003.

PREMISES AFFECTED - 1303 Beach Channel Drive, northwest corner of Mott Avenue, Block 15661, Lot 1, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES - None.

**ACTION OF THE BOARD** - Application reopened and term of variance extended.

### THE VOTE TO GRANT -

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

Negative: .....0

### THE RESOLUTION-

WHEREAS, the applicant requested a reopening for an extension of the term of the variance which expires on July 13, 2003; and

WHEREAS, a public hearing was held on this application on April 29, 2003, after due notice by publication in The City Record, and laid over to June 3, 2003 for decision; and

WHEREAS, on July 13, 1993, the Board granted an application under Z.R. §73-243 to amend the variance to permit an accessory drive through facility to an eating and drinking establishment.

Resolved, that the Board of Standards and Appeals, reopens and amends the resolution to extend the term of the Variance which expires on July 13, 2003, so that as amended this portion of the resolution shall read:

"to permit the extension of the term of the Variance for an additional ten (10) years from July 13, 2003 to expire on July 13, 2013, on condition;

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

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

# MINUTES

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

(DOB Application # 400336695)

Adopted by the Board of Standards and Appeals, June 3, 2003.

## 37-00-BZ

APPLICANT - Leo Weinberger, Esq., for Pappco Holding Co., Ltd., owner; Sai Gas, Inc., lessee.

SUBJECT - Application March 7, 2003 - reopening for an extension of time to obtain a new certificate of occupancy.

PREMISES AFFECTED - 111-05 to 111-18 Van Wyck Expressway and 111-05 Lincoln Street, Block 11639, Lot 12, Borough of Queens.

### COMMUNITY BOARD #10Q

APPEARANCES - None.

**ACTION OF THE BOARD** - Application reopened and time to obtain a Certificate of Occupancy extended.

THE VOTE TO GRANT -

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

Negative: .....0

THE RESOLUTION -

WHEREAS, the applicant requested a reopening for an extension of the time to obtain a Certificate of Occupancy which expired on February 5, 2003; and

WHEREAS, a public hearing was held on this application on May 6, 2003, after due notice by publication in The City Record, and laid over to June 3, 2003 for decision; and

WHEREAS, on February 5, 2002, the Board granted an application permitting the re-establishment of an expired variance for an automotive service station with accessory uses in a C2-2 district.

Resolved, that the Board of Standards and Appeals reopens and amends the resolution to extend the time to obtain a Certificate of Occupancy which expired on February 5, 2003, so that as amended this portion of the resolution shall read:

WHEREAS, on February 5, 2002, the Board granted a variance application permitting residential dwellings in an M1-6 District.

Resolved, that the Board of Standards and Appeals waives the rules of practice and procedure and reopens and amends the resolution to extend the time to obtain a Certificate of Occupancy which expired on February 5, 2003, so that as amended this portion of the resolution shall read:

"to permit the extension of the time to obtain a Certificate of

"to permit the extension of the time to obtain a Certificate of Occupancy for an additional two (2) years from the date of this resolution to expire on June 3, 2005, on condition;

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

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

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

(DOB Alt. Application #2989/56)

Adopted by the Board of Standards and Appeals, June 3, 2003.

## 139-01-BZ

APPLICANT - Sheldon Lobel, P.C., for Mitchell Kaufman, owner.

SUBJECT - Application March 14, 2003 - 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 February 5, 2003.

PREMISES AFFECTED - 27 West 38th Street, between Fifth and Sixth Avenues, Block 840, Lot 26, Borough of Manhattan.

### COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Jordan Most.

**ACTION OF THE BOARD** -Rules of Practice and Procedure waived, application reopened and time to obtain a Certificate of Occupancy extended.

THE VOTE TO GRANT -

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

Negative: .....0

THE RESOLUTION -

WHEREAS, the applicant requested a waiver of the rules of practice and procedure, a reopening for an extension of the time to obtain a Certificate of Occupancy which expired on February 5, 2003; and

WHEREAS, a public hearing was held on this application on May 6, 2003, after due notice by publication in The City Record, and laid over to June 3, 2003 for decision; and

Occupancy for an additional two (2) years from the date of this resolution to expire on June 3, 2005, on condition;

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

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

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

THAT this approval is limited to the relief granted by the Board

# MINUTES

in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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

(DOB Alt. Application #102959185)

Adopted by the Board of Standards and Appeals, June 3, 2003.

## 228-01-BZ

APPLICANT - Sheldon Lobel, P.C., for Helbor Realty Corp., owner.

SUBJECT - Application Remanded back to BSA as per Supreme Court Decision

PREMISES AFFECTED - 1153 Grand Concourse, northwest corner of the Grand Concourse and McClellan Street, Block 2463, Lot 21, Borough of The Bronx.

## COMMUNITY BOARD #4BX

### APPEARANCES -

For Applicant: Jordan Most.

**ACTION OF THE BOARD** - Prior Decision Reaffirmed and Application Denied.

### THE VOTE TO GRANT -

Affirmative:.....0

Negative: Chairman Chin, Vice-Chair Babbar, Commissioner Caliendo, and Commissioner Miele.....4

### THE RESOLUTION -

WHEREAS, on January 8, 2002 the Board denied a variance application under Z.R. §72-21, seeking the legalization of a Use Group 6 Food Store and a Use Group 6 Record and Music store at the subject premises; and

WHEREAS, pursuant to a March 12, 2002 decision by Justice Bertram Katz, J.S.C of the Supreme Court of the State of New York, this case has been remanded to the Board for further variance consideration with specific reference to the Board's prior finding under Calendar Number 161-00-BZ, issued on December 12, 2000, which the applicant claims is analogous to the subject application; and

WHEREAS, a new hearing for this application was held on February 11, 2003, laid over March 25, 2003, and then to June 3,

WHEREAS, the Board's site visit revealed that in the blocks surrounding the subject premises there are numerous multiple dwellings units without ground floor commercial occupancy; and

WHEREAS, furthermore, the Board finds that the occupied ground floor residential apartments in the area indicate the viability of ground floor residential use; and

WHEREAS, within the R8 zoning district, community facilities are an as-of-right use; and

WHEREAS, the Board finds no compelling evidence that a conforming residential or community facility use is not viable at the site; and

WHEREAS, the applicant contends that development of this property without the food and record stores will preclude the

2003 for decision; and

WHEREAS, the site and surrounding area have had site and neighborhood examinations by committees of the Board consisting of Chairman James Chin, former Commissioner Mitchell Korbey, Commissioner Peter Caliendo, Vice Chairman Satish Babbar and Commissioner Joel Miele; and

WHEREAS, on December 12, 2000, a variance was granted by the Board under Calendar Number 161-00-BZ permitting the legalization of an existing physical culture establishment (skin care clinic) located in the cellar level of a twelve story residential apartment building with penthouse, within an R8B zoning district; and

WHEREAS, the subject premises under Calendar Number 161-00-BZ was located at 314-322 East 52nd Street in Manhattan; and

WHEREAS, under Calendar Number 161-00-BZ, the Board found unique physical conditions at the premises which created practical difficulties in developing the site in strict conformity with the applicable zoning regulations; and

WHEREAS, although both cases cite the requirements of the Americans with Disabilities Act and local law 58/87 as part of their required findings for Z.R. §72-21(a), the Board notes that there are substantial differences between the two cases; and

WHEREAS, the premises under Calendar Number 161-00-BZ was more than 50% below grade and therefore could not be converted or used for residential or community facility purposes; and

WHEREAS, in contrast to the site at 314-322 East 52nd Street, this site is more than 50% above grade and thus can legally be used for residential purposes; and

WHEREAS, the applicant cites low rent in the area, the proximity to a newly constructed courthouse lacking retail services, and "checkerboard" commercial usage in the area while addressing Z.R. §72-21(a); and

WHEREAS, the Board has thoroughly reviewed the record and finds that applicant has failed to adequately demonstrate unique physical conditions leading to practical difficulty and unnecessary hardship which merit approval of this application as required under Z.R. §72-21(a); and

WHEREAS, the Board notes that although there are commercial uses within the area, there also exist many ground floor residential apartments in the immediate area; and

WHEREAS, the record indicates that the two stores that are the subject of this action were formerly residential units; and earning of a reasonable return; and

WHEREAS, the subject premises are currently improved with a multiple dwelling that is much larger than a structure that could be built under currently bulk regulations; and

WHEREAS, the subject building contains 58 dwelling units; and

WHEREAS, based on the evidence in the record, the Board finds that the applicant has failed to demonstrate that without the conversion of two residential units to a food store and a record store, the residential building can not make a reasonable return; and

WHEREAS, the Board finds that the application, as presented, fails to show the inability to obtain a reasonable return without this variance and thus fails to meet the requirements of Z.R. §72-21 (b);

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and

WHEREAS, the subject premises is a six-story multiple dwelling (new law tenement), constructed in 1922 located within an R8 Zoning District within the Special Grand Concourse Preservation District in the Bronx; and

WHEREAS, as outlined in §122-00, one of the General Purposes of the Special Grand Concourse Preservation District is "to preserve and enhance the residential character of the Grand Concourse by limiting ground floor retail and commercial uses to certain specified locations"; and

WHEREAS, the Board notes that the subject premises is not located in such "specified location" and therefore contradicts the intent of the Special Grand Concourse Preservation District designation; and

WHEREAS, the record indicates that the area immediately surrounding the subject premises is marked by medium and low-density residential buildings; and

WHEREAS, although there exist many buildings in the city with ground floor commercial usage mixed with upper-level residential usage, such mixed use buildings are generally located in appropriately zoned commercial areas, often along streets developed for local retail uses; and

WHEREAS, the Board notes that extended illegal existence is not indicative of the store's appropriateness for the surrounding area; and

WHEREAS, the area surrounding the subject site under Calendar Number 161-00-BZ, is characterized by numerous commercial uses; and

WHEREAS, the Board notes that a physical culture establishment use, such as the skin care clinic approved under Calendar Number 161-00-BZ, generates less foot traffic generally and therefore is a less intensive use compared to the two commercial retail uses proposed under this application; and

WHEREAS, the Board finds that the stores in question do alter the residential character of the area and thus fail to meet the requirements of Z.R. §72-21(c); and

WHEREAS, furthermore, the Board notes that variance applications are evaluated and adjudicated by the Board on a site-specific basis relying on evidence in the record and its SUBJECT - Application February 15, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired March 14, 2001.

PREMISES AFFECTED - 2765/2773 Cropsey Avenue, southeast corner of 28th Avenue and Cropsey Avenue, Block 6915, Lot 44, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Adam W. Rothkrug.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to July 15, 2003, at 10 A.M., for decision, hearing closed.

assessment of the site and proposal in context with the character of the surrounding area; and

WHEREAS, the instant application fails to meet the requirements of Z.R. §72-21 (a), (b) and (c), and therefore must be denied.

Therefore, it is Resolved that the decision of the Borough Commissioner must be sustained and the prior denial reaffirmed.

Adopted by the Board of Standards and Appeals, June 3, 2003.

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## 86-03-A

APPLICANT - Richard Bowers, Stadtmauer Bailkin LLP, owner. SUBJECT - Application March 19, 2003 - Proposed erection of a contractor's establishment with offices, located partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 11-19 132<sup>nd</sup> Street, south of eleventh Avenue, Block 4012, Tentative Lot 144, Borough of Queens.

## COMMUNITY BOARD #7Q

APPEARANCES - None.

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

THE VOTE TO WITHDRAW -

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

Negative: .....0

Adopted by the Board of Standards and Appeals, June 3, 2003.

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## 472-37-BZ, Vol. IV

APPLICANT - Vassalotti Associates, Architects, for 246 Sears Rd Realty Corp., owner.

## 352-64-BZ

APPLICANT - Sheldon Lobel, P.C., for Garage Management Company, owner.

SUBJECT - Application April 1, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired June 16, 1979.

PREMISES AFFECTED - 408-424 East 51st Street, East 51st Street between First Avenue and Beekman Place, Block 1362, Lot 41, Borough of Manhattan.

## COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to June 24, 2003, at 10 A.M., for decision, hearing closed.

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## 669-80-BZ

APPLICANT - Robert A. Caneco, R.A., for Stephen Ardizzone, owner.

SUBJECT - Application December 20, 2002 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 7 Buttonwood Road, east side, 200' North of Willow Pond Road, Block 879, Lot 12, Borough of Staten Island.

### COMMUNITY BOARD #2SI

#### APPEARANCES -

For Applicant: Robert Caneco.

#### THE VOTE TO CLOSE HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to June 24, 2003, at 10 A.M., for decision, hearing closed.

## 89-65-BZ

APPLICANT - Walter Marin c/o The Marin Group, for Eleanor Gatto, owner; Genovese Drugs/Eckerd Corp.

SUBJECT - Application April 3, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 26-01, 26-15 86<sup>th</sup> Street, 2045 Stillwell Avenue, 2036-2042 West 13<sup>th</sup> Street, corner lot bounded by 86<sup>th</sup> Street, and West 13<sup>th</sup> Street, Block 7092, Lot 22, Borough of Brooklyn.

### COMMUNITY BOARD #11BK

#### APPEARANCES - None.

#### THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar,

PREMISES AFFECTED - 1601 Bronxdale Avenue, southwest corner of East Tremont Avenue, Block 4042, Lot 200, Borough of The Bronx.

### COMMUNITY BOARD #11BX

#### APPEARANCES -

For Applicant: Jordon Most.

**ACTION OF THE BOARD** - Laid over to September 9, 2003, at 10 A.M., for continued hearing.

## 87-03-A

APPLICANT - Richard Bowers, Stadtmauer Bailkin LLP, owner.

SUBJECT - Application March 19, 2003 - Proposed erection of a contractor's establishment with offices, located partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 132-01 14<sup>th</sup> Avenue, north side, 418.57' west of 133rd Place, Block 4012, Tentative Lot 1, Borough of Queens.

### COMMUNITY BOARD #7Q

#### APPEARANCES - None.

Commissioner Caliendo and Commissioner Miele .....4  
Negative: .....0

**ACTION OF THE BOARD** - Laid over to June 24, 2003, at 10 A.M., for decision, hearing closed.

## 41-91-BZ

APPLICANT - Rothkrug, Rothkrug, Weinberg & Spector, for Reo Realty & Construction, owner; Her Body Inc., d/b/a For Your Body Only, lessee.

SUBJECT - Application March 25, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired May 12, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 5012/24 Avenue N, a/k/a 1700 East 51<sup>st</sup> Street, southwest corner of Avenue N and East 51<sup>st</sup> Street, Block 7895, Lot 48, Borough of Brooklyn.

### COMMUNITY BOARD #18BK

#### APPEARANCES -

For Applicant: Adam W. Rothkrug and Judy Gargano.

#### THE VOTE TO CLOSE HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to June 24, 2003, at 10 A.M., for decision, hearing closed.

## 37-96-BZ

APPLICANT - Sheldon Lobel, P.C., for Pilot Realty Corp., owner.

SUBJECT - Application June 1, 2001 - reopening for an amendment to the resolution and for an extension of time to complete construction.

**ACTION OF THE BOARD** - Appeal granted.

#### THE VOTE TO GRANT -

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

Negative: .....0

#### THE RESOLUTION-

WHEREAS, the decision of the Queens Borough Commissioner, dated April 1, 2003 N.B. Application No. 401621205 reads in pertinent part:

"Construction of a dwelling in the bed of a mapped street is contrary to General City Law Number 35. Refer to the Board of Standards and Appeals for their determination."; and

WHEREAS, this case was filed with a companion application under BSA Calendar No. 86-03-A which is being withdrawn at the request of the applicant; and

WHEREAS, this appeal is filed to allow retail and office space to be built in the bed of a mapped street known as 132nd Street between 14th and 11th Avenues; and

WHEREAS, by letter dated May 20, 2003, the Fire Department has reviewed the above project and has no objections; and

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WHEREAS, by the letter dated May 14, 2003, the Department of Environmental Protection has reviewed the above project and has no objections provided that no structures of a permanent nature be built on the 25 foot "Sewer Corridor located partially within the applicant's property and partially within the adjacent lot"; and

WHEREAS, by letter dated April 30, 2003, 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 Queens Borough Commissioner, dated April 1, 2003 acting on N.B. Application No. 401621205, 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 construction shall substantially conform to the drawing filed with the application marked, "Received May 22, 2003" - (1) sheet; and that the proposal comply with all applicable M1-1zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; on further condition

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

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

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

## 259-02-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP for Michael Giordano, owner.

SUBJECT - Application September 23, 2003 - Proposed construction of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 819 Rossville Avenue, a/k/a 504 Correll Avenue, Block 6146, Lot 35, Borough of Staten Island.

## COMMUNITY BOARD #3S.I.

### APPEARANCES -

For Applicant: Adam W. Rothkrug.

### THE VOTE TO CLOSE HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to June 24, 2003, at 10 A.M., for decision, hearing closed.

## 287-02-A thru 289-02-A

to the relief granted.

Adopted by the Board of Standards and Appeals, June 3, 2003.

## 21-02-A thru 25-02-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for MSIM Development, Inc., owner.

SUBJECT - Application January 8, 2002 - Proposed two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 258-31 Francis Lewis Boulevard, east side, 310.3' south of 145th Avenue, Block 13682, Lot 26, Borough of Queens.

258-33 Francis Lewis Boulevard, east side, 310.3' south of 145th Avenue, Block 13682, Lot 27, Borough of Queens.

258-35 Francis Lewis Boulevard, east side, 310.3' south of 145th Avenue, Block 13682, Lot 28, Borough of Queens.

258-37 Francis Lewis Boulevard, east side, 310.3' south of 145th Avenue, Block 13682, Lot 128, Borough of Queens.

258-39 Francis Lewis Boulevard, east side, 310.3' south of 145th Avenue, Block 13682, Lot 29, Borough of Queens.

## COMMUNITY BOARD #13Q

### APPEARANCES -

For Applicant: Adam W. Rothkrug.

### THE VOTE TO CLOSE HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to July 15, 2003, at 10 A.M., for decision, hearing closed.

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Ocean Park Estates, owner.

SUBJECT - Application October 23, 2002 - Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

### PREMISES AFFECTED -

3 Reynolds Court, north side, 363.9' east of Reynolds Street, Block 2981, Lot 93, Borough of Staten Island.

5 Reynolds Court, north side, 363.1' east of Reynolds Street, Block 2981, Lot 95, Borough of Staten Island.

7 Reynolds Court, north side, 300' east of Reynolds Street, Block 2981, Lot 97, Borough of Staten Island.

## COMMUNITY BOARD #1SI

### APPEARANCES -

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** - Laid over to July 15, 2003, at 10 A.M., for continued hearing.

## 101-03-A

APPLICANT - BTU Design Corporation.

OWNER OF RECORD: Trump World Tower Condominium, owner.

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SUBJECT - Application April 1, 2003 - An appeal challenging a final determination by the Department of Buildings, dated March 19, 2003, regarding manual fire pump and motor at said premises.  
PREMISES AFFECTED - 845 United Nations Plaza, between 47<sup>th</sup> and 48<sup>th</sup> Streets, Block 1340, Lot 23, Borough of Manhattan.

## COMMUNITY BOARD #6M

### APPEARANCES -

For Applicant: Davie M. Fiet, Robbins, Irving

For Administration: Anthony Scaduto, Fire Department; Felicia Miller, Ron A. Livian, Department of Buildings.

### THE VOTE TO CLOSE HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to August 5, 2003, at 10 A.M., for decision, hearing closed.

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## 116-03-A

APPLICANT - Harvey Epstein, Esq., for 340 Owners Corp. et.al.

OWNER OF RECORD: 55th Street and 9th Avenue Partners.

SUBJECT - Application April 9, 2003 - An appeal challenging the Department of Buildings' determination dated March 11, 2003, in which the Department has determined that the construction permits for the new building at said premises was granted appropriately.

PREMISES AFFECTED - 400 West 55th Street, southwest

### REGULAR MEETING TUESDAY AFTERNOON, JUNE 3, 2003 1:30 P.M.

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

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## ZONING CALENDAR

## 120-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Abraham Lokshin, owner; Dolphin Fitness, 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 in the cellar of a six story building, which requires a special permit as per Z.R. §32-10.

PREMISES AFFECTED - 42 Avenue "A", northeast corner of East Third Street, Block 399, Lot 1, Borough of Manhattan.

## COMMUNITY BOARD #3M

### APPEARANCES -

For Applicant: Janice Cahalane.

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

### THE VOTE TO CLOSE HEARING -

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

Negative: .....0

### THE RESOLUTION -

corner of Ninth Avenue, Block 1064, Lot 36, Borough of Manhattan.

## COMMUNITY BOARD #4M

### APPEARANCES -

For Applicant: Brian Sogol of State Senator Tom Duane, Jason Haber of Assemblymember Scott Stringer, Daryl Cochrane of U.S. Congressman Jerry Nadler, Dan Golub of Assemblymember Richard Gottfried, Jeremy Hoffman of Councilmember Christine Quinn, Anne Hayes Levin of Manhattan Community Board #4, JD Noland of Midtown North Community Council, J. R of Clinton Housing Development Co., Jennifer Berman, Jonathan Walker of Friends of Special Clinton District, Paul Loeb of W.55th Street Block Association, Mary Brendle, Linda Lindsay, Adam Harrigan, Maureen Wycisk, Lee Cameron, Marie Schultz, Kathy Kalahut, Ethel Elkin and John Kelly.

For Administration: Lisa Orantia, Department of Buildings.

### THE VOTE TO CLOSE HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to June 24, 2003, at 10 A.M., for decision, hearing closed.

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*Pasquale Pacifico, Executive Director.*

Adjourned: 1:05 P.M.

WHEREAS, the decision of the Manhattan Borough Commissioner, dated March 14, 2002 acting on ALT I. Application No. 102493730 reads:

"Physical Culture Establishment is not a use permitted as-of-right in a C2-5 District. It is contrary to 32-10 ZR"; and

WHEREAS, a public hearing was held on this application on February 11, 2003, laid over to after due notice by publication in The City Record and laid over to March 18, 2003, April 8, 2003, May 6, 2003 and then to June 3, 2003 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 Peter Caliendo and Commissioner Joel Miele; and

WHEREAS, this is an application under Z.R. §73-36 to permit, within a C2-5 zoning district, the legalization of an existing physical culture establishment, located in the cellar level of a six-story mixed-use building; and

WHEREAS, the subject PCE is located on the corner of Avenue A and 3rd Street and consists of approximately 3,300 square feet; and

WHEREAS, the applicant represents that the hours of operation are Monday-Friday 5:30 A.M. to 1:30 A.M. and Saturday and Sunday 9:00 A.M. to 9:00 P.M.; and

WHEREAS, the applicant has sufficiently demonstrated that the proposed hours of operation would not be out of character with the operating hours of other businesses in the immediate area; and

WHEREAS, the applicant represents that the remainder of the building is occupied by commercial and residential tenants, and that

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there are no residential units directly above or adjacent to the subject facility; and

WHEREAS, the record indicates that the subject facility commenced operation on February 1, 2002; 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 Board finds that the proposed use 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 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. §73-03 and §73-36; and

THAT a minimum 4 foot wide path of travel to all exits shall be maintained on the floors and kept free of any equipment or obstructions at all times;

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

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

THAT the hours of operation shall be limited to Monday-Friday 5:30 A.M. to 1:30 A.M. and Saturday and Sunday 9:00 A.M. to 9:00 P.M.;

THAT the aforementioned hours of operation of the facility shall only be permitted as long as there are no residential units directly above or adjacent to the subject facility;

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

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

THAT the applicant shall comply with all provisions of Local Law 58/87;

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 3, 2003.

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, within a C2-5 zoning district, the legalization of an existing physical culture establishment, located in the cellar level of a six-story mixed-use building, on condition that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application marked "Received October 18, 2002," (4) sheets and "March 4, 2003"-(2) sheets; and on further condition;

THAT the term of this special permit shall be limited to ten (10) years from February 1, 2002 to expire on February 1, 2012;

## 214-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Berry Complex LLC, owner.

SUBJECT - Application July 16, 2002 - under Z.R. §72-21 to permit the proposed conversion of a light manufacturing building, to residential use, Use Group 2, located in an M1-2 zoning district, which is contrary to §42-00.

PREMISES AFFECTED - 55 Berry Street, site fronts both North 11th and Berry Streets, Block 2297, Lot 5, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application granted on condition.

## THE VOTE TO GRANT -

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

Negative: .....0

## THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 2, 2002 acting on Application No. 301293570 reads:

"1. PROPOSED RESIDENTIAL USE GROUP 2 NOT PERMITTED IN M1-2 ZONING DISTRICT AS PER Z.R. 42-00; and

WHEREAS, a public hearing was held on this application on February 25, 2003 after due notice by publication in The City Record and laid over to April 15, 2003, May 6, 2003 and then to June 3, 2003 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, former Commissioner Mitchell Korvey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21 to permit

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in an M1-2 district, the proposed construction of a new six-story and cellar mixed-use building containing conforming uses at the first floor and cellar level with residential uses on the floors above which is contrary to Z.R. §42-00; and

WHEREAS, although the subject block falls within the M1-2 district which does not permit residential uses, the premises is located adjacent to the Special Northside Mixed-Use District, which allows a mixture of manufacturing and residential uses; and

WHEREAS, the record indicates that the manufacturing districts adjacent to the Special Northside District have historically contained mixed-use areas irrespective of a manufacturing designation housing many non-complying and non-conforming residential uses; and

WHEREAS, the applicant has demonstrated that when the

WHEREAS, the applicant has demonstrated that the building is burdened with ceiling heights that are too low to accommodate manufacturing needs and that the streets surrounding the building are too narrow to accommodate large trucks and tractor-trailers; and

WHEREAS, the aforementioned unique physical conditions, narrow streets, low ceiling heights and inadequate loading docks, yields a building that despite documented efforts to obtain a conforming tenant is obsolete for conforming manufacturing uses; and

WHEREAS, therefore the Board finds the above conditions create an undue burden in conforming to applicable zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the site with a conforming use would not yield a reasonable return; and

WHEREAS, the record indicates that the introduction of residential uses at the subject site would not adversely affect the character of the surrounding neighborhood; and

WHEREAS, therefore, the Board finds that the instant applications 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 §72-21 of the Zoning Resolution; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement 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 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, to permit in an M1-2 district, the proposed construction of a new six-story and cellar mixed-use building containing conforming uses at the first floor and cellar level with residential uses on the floors above which is contrary to Z.R. §42-00, on condition that all

current owner purchased the building it was partially occupied with illegal residential uses with conversions completed without permits and haphazardly; and

WHEREAS, the instant proposal will provide many Quality Housing Program elements, including landscaping, laundry facilities, double glazed windows, parking, and a 12 square foot refuse-disposal room; and

WHEREAS, the record indicates that the existing building's one freight elevator is inadequate to service tenants in a six-story, 62,996 square foot building resulting in the owner not being able to retain former tenants or attracting new ones; and

WHEREAS, Z.R. §44-52 requires that a building containing 62,996 square feet of floor area have provide a minimum of four loading berths; and

work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 15, 2003"-(13) sheets; and on further condition;

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

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

THAT the applicant shall comply with all applicable fire safety measures;

THAT 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; 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 3, 2003.

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## 338-02-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Collpoint Enterprises, Inc., owner; Walgreen's lessee.

SUBJECT - Application November 14, 2002 - under Z.R. §72-21 to permit the proposed erection and maintenance of a permitted drugstore, Use Group 6, which does not have the required parking, and provides a 5' sideway on one side instead of the required 8' sideway, and is contrary to Z.R. §§33-291 and 36-21.

PREMISES AFFECTED - 14-01 College Point Boulevard, southeast corner, Block 4085, Lots 65 and 68, Borough of Queens.

## COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

ACTION OF THE BOARD - Application granted on condition.

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## THE VOTE TO CLOSE HEARING -

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

Negative: .....0

## THE RESOLUTION-

WHEREAS, the decision of the Borough Commissioner, dated-November 7, 2002 acting on Application No. 401268301 reads:

### "1) ZONING DISTRICT BOUNDARY COINCIDES WITH SIDE LOT LINE OF ZONING LOT IN R4

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 and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21, to permit, in a C1-2 & R4 zoning district, the erection and maintenance of a permitted drugstore (Use Group 6) which does not provide the required parking and only provides a 5' side yard contrary to §§33-291 and 36-21; and

WHEREAS, the subject property is located in a C1-2 (R4) district where the proposed drugstore is permitted as to use and bulk; and

WHEREAS, the applicant represents that in order to build a one-story drug store of the size required today, a variance from parking regulations is needed; and

WHEREAS, the record indicates that there is a municipal parking lot directly across from the site; and

WHEREAS, the Board notes that most of the retail stores along College Point Boulevard do not have parking; and

WHEREAS, lot 65 of the instant application is developed with two stores, a stationery store and a novelty store with no parking provided and the record indicates that lot 68 is vacant and can be divided and developed with a retail use that would qualify for a parking waiver; and

WHEREAS, the applicant has demonstrated that an as-of-right development encompassing lots 65 and 68, would yield a total square footage of approximately 9,955 square feet which is greater than the instant proposal and would create four new retail stores; and

WHEREAS, the upper floors are presently developed with two apartments, one occupied, the other vacant and the evidence suggests that the dwellings are old and obsolete; and

WHEREAS, the applicant represents that dwelling units are no longer appropriate or desirable resulting in the conversion of many dwellings to office uses or uses more compatible with first floor commercial uses; and

WHEREAS, although Z.R. §33-25 does not require a sideyard, if an open area is provided along a side lot line, it must be at least 8'; and

WHEREAS, the applicant notes that although no side yard is required, the proposal contains a 5' side yard to provide an additional means of egress; and

WHEREAS, the Board finds that the site's history of development commercial uses and its location on a major thoroughfare surrounded by retail uses that do not contain parking constitutes a unique physical conditions leading to an undue hardship in developing the site with a conforming or complying

DISTRICT 8'-0" MIN SIDE YARD REQUIRED (AN OPEN AREA NOT HIGHER THAN CURB LEVEL SHALL BE PROVIDED) 33-291 ZR

2) NO PARKING SPACES PROVIDED CONTRARY TO 36-21 ZR.."; and

WHEREAS, a public hearing was held on this application on March 4, 2003 after due notice by publication in the City Record, and laid over to, April 15, 2003 and then to June 3, 2003 for decision; and

development; and

WHEREAS, the evidence demonstrates that a complying development would not yield a reasonable return; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the site with a conforming use would not yield a reasonable return; and

WHEREAS, the record indicates that both the use and the bulk are permitted under current zoning and that other properties on this commercial strips cannot provide parking; and

WHEREAS, therefore, the Board finds that the instant applications 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 §72-21 of the Zoning Resolution; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement 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 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, to permit, in a C1-2 & R4 zoning district, the erection and maintenance of a permitted drugstore (Use Group 6) which does not provide the required parking and only provides a 5' sideyard contrary to Z.R. §§33-291 and 36-21, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 14, 2002"- (4) sheets; and on further condition;

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

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

THAT the applicant shall comply with all applicable fire safety measures;

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

THAT the above conditions shall appear on the Certificate of

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Occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other

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 3, 2003.

## 358-02-BZ

APPLICANT - Fredrick A. Becker, Esq., for Metropolitan Insurance and Annuity Co., owner.

SUBJECT - Application December 12, 2002 - under Z.R. §73-36 to permit the proposed physical culture establishment, on portions of the first and second floors, in a multi-story commercial, retail and office building, located in a C5-3 (MiD) zoning district, which requires a special permit as per §32-10.

PREMISES AFFECTED - 200 Park Avenue, southern blockfront of East 45th Street, between Vanderbilt Avenue and Depew Place, Block 1280, Lot 10, Borough of Manhattan.

## COMMUNITY BOARD #5M

### APPEARANCES -

For Applicant: Fredrick A. Becker.

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

### THE VOTE TO CLOSE HEARING -

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

Negative: .....0

### THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough Commissioner, dated December 10, 2002 acting on ALT. Application No. 103320522 reads:

"PHYSICAL CULTURE ESTABLISHMENT IS A USE NOT PERMITTED AS IF RIGHT IN C5-3 AND IT IS CONTRARY TO SECTION 32-10 ZR"; and

WHEREAS, a public hearing was held on this application on April 15, 2003 after due notice by publication in The City Record and laid over to May 6, 2003 and then to June 3, 2003 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 Peter Caliendo and Commissioner Joel Miele; and

WHEREAS, this is an application under Z.R. §73-36 to permit, within a C2-5 zoning district, the operation of a physical culture establishment, located in portions of the first and second floor level of a 59-story building containing commercial, restaurant, retail and office uses; and

WHEREAS, the subject PCE will have a total floor area of approximately 20,835 square feet; and

WHEREAS, the applicant represents that the remainder of the

jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; building is occupied by as-of-right uses that are not part of this application; 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 Board finds that the proposed use 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 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. §73-03 and §73-36; 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, within a C2-5 zoning district, the operation of a physical culture establishment, located in portions of the first and second floor level of a 59-story building containing commercial, restaurant, retail and office uses, 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, 2003"- (3) sheets; and on further condition;

THAT the term of this special permit shall be limited to ten (10) years from June 3, 2003 to expire on June 3, 2013;

THAT a minimum 4 foot wide path of travel to all exits shall be maintained on the floors and kept free of any equipment or obstructions at all times;

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

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

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

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

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

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THAT the 24 hour operation of the facility shall only be permitted as long as there are no residential units directly above or adjacent to the subject facility;

THAT the applicant shall comply with all provisions of Local Law 58/87;

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 3, 2003.

## 43-03-BZ

**APPLICANT** - Howard A. Zipser/Stadtmauer Bailkin, for Center For Jewish History, owner.

**SUBJECT** - Application February 6, 2003 - under Z.R. § 72-21 & 43-43 to permit the proposed six-story addition on top of an existing six story community facility building, which will result in a street wall above the permitted 85 foot height, and will penetrate the sky exposure plane, which is contrary to Z.R. §43-43, located in a M1-6M and C6-2M zoning district.

**PREMISES AFFECTED** - 18 West 17th Street, south side, appox. 300' west of the intersection of Fifth Avenue and West 17th Street, Block 818, Lots 27, 31, 61, 63 and 64, Borough of Manhattan.

## COMMUNITY BOARD #5M

**APPEARANCES** - None.

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

### THE VOTE TO GRANT -

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

Negative: .....0

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 4, 2003 acting on Application No. 103307440 reads:

"Proposed front wall of building located on a wide street in an M1-6M zoning district in excess of 85 feet in height and is contrary to Section 43-43 of the Zoning Resolution"; and

WHEREAS, a public hearing was held on this application on April 15, 2003 after due notice by publication in The City Record

WHEREAS, the applicant represents that Penetration of the sky exposure plane, as a result of the proposed variance will create a uniform street wall in conformity with the adjacent two twelve story buildings; and

WHEREAS, the Board finds that there are unique conditions to the lot, namely, the narrow width of the existing building causing the development to be in conflict with set back requirements creates an undue hardship and a practical difficulty in conforming

and laid over to and then to June 3, 2003, 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 Chairman Satish Babbar, Commissioner Peter Caliendo and Commissioner Joel Miele; and

WHEREAS, this is an application under Z.R. §72-21 to permit, in an M1-6M and C6-2M zoning district, the erection on top of an existing community facility building, resulting in a street wall above the permitted 85 foot height, and will penetrate the sky exposure plane, which is contrary to Z.R. §43-43; and

WHEREAS, the existing community facility building is located on the south side of West 17th Street approximately 300 feet west of Fifth Avenue with the proposed addition located within an M1-6M zoning district and within the Ladies Mile Historic District

WHEREAS, the applicant notes that although the proposed addition would penetrate the sky exposure plane, it would match the street wall heights of the two twelve story historic loft buildings sandwiching the subject site on West 17th Street; and

WHEREAS, the record indicates that the subject building houses a cultural Center created to further Jewish scholarship devoted to document preservation, research, teaching, exhibitions and public programs; and

WHEREAS, the applicant represents that the Center's success has resulted in a need to expand its space to house its vast and ever increasing holdings in a location accessible to those pursuing scholarly research; and

WHEREAS, presently, many of the Center's documents must be stored in inaccessible warehouses that the applicant notes are practically useless for everyday research and the variance requested from the setback requirements will enable the applicant to six additional full floors onto an existing six-story building enhancing access to documents; and

WHEREAS, the proposed addition has been approved by the New York City Landmarks Preservation Commission; and

WHEREAS, the record indicates that compliance with the set back requirements would cause the loss of more than one story worth of floor area, create significant areas of unusable and inefficient space, and add a prohibitive cost to the project; and

WHEREAS, the proposal cannot achieve a sufficient expansion without penetrating the sky exposure plane because its physical and site limitations would reduce in size the type of addition that could be built to one that cannot functionally serve and provide for its research needs; and

WHEREAS, the record indicates that an as-of-right expansion would provide little useful additional stack space because set back requirements would cause the loss of approximately 20% of the 10,800 square feet of additional library stack space proposed in the addition; and

with the current zoning; 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 record indicates that the majority of the buildings on the subject block have street walls of over ten stories and the proposed addition would complete the street wall between

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the adjacent twelve story structures at 16 and 20 West 17th Street; and

WHEREAS, the Board finds that the proposed development will neither alter the essential character of the neighborhood, nor impair the appropriate use or development of adjacent property 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 application is the minimum variance 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 §72-21 of the Zoning Resolution; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement 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 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 to permit, to permit, in an M1-6M and C6-2M zoning district, the erection on top of an existing community facility building, resulting in a street wall above the permitted 85 foot height, and will penetrate the sky exposure plane, which is contrary to Z.R. §43-43, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked Received "February 6, 2003"- (2) sheets, and "April 30, 2003"- (6) sheets; and on further condition;

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

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

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

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;

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

WHEREAS, this is an application under Z.R. §72-21, to permit, in a R7-1 and LH-1 (Limited Height District), the proposed conversion of an existing garage space and minor expansion of an existing mezzanine within a two-story functionally obsolete carriage house, into living space to be used as single family residence which does not comply with the zoning requirements for floor area ratio and open space ratio, and is contrary to Z.R. §23-142; and

WHEREAS, the zoning lot is improved with a vacant two-story building containing a 1,466.02 square foot garage

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 3, 2003.

## 74-03-BZ

APPLICANT - Steven Sinacori/Stadtmauer Baikin, LLP, for F/B/O Laing P Foster, c/o Steven C. Curley, owner.

SUBJECT - Application February 25, 2003 - under Z.R. §72-21 to permit the proposed conversion of garage space, and the minor expansion of an existing mezzanine within an existing two story functionally obsolete carriage house, into living space to be used primary by the building's owner, in an existing single family residential building, located in an R7-1 and LH-1 zoning district, which does not comply with the zoning requirements for floor area ratio and open space ratio, and is contrary to Z.R. §23-142.

PREMISES AFFECTED - 32 College Place, east side, 294.11' north of Love Lane, Block 236, Lot 53, Borough of Brooklyn.

### COMMUNITY BOARD #2BK

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition. THE VOTE TO GRANT -

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

Negative: .....0

### THE RESOLUTION -

WHEREAS, the decisions of the Borough Commissioner, dated December 31, 2002 and updated February 5, 2003, acting on Application No. 301383018, reads:

"1) The actual open space ratio is contrary to zoning resolution section 23-142.

2) The actual floor area ratio is contrary to zoning resolution section 23-142."; and

WHEREAS, a public hearing was held on this application on April 29, 2003 after due notice by publication in The City Record, laid over to June 3, 2003 for decision; and

occupying the building's entire first floor, and 1,595.1 square feet of living space on the second floor, which includes a 129.09 square foot mezzanine; and

WHEREAS, the record indicates that the subject building was erected in 1857 as a carriage house on its 1,658.88 square foot, 81.92 foot deep zoning lot fronting 20.25 feet on College Place; and

WHEREAS, this application seeks to convert 1,129.67 square feet of existing ground floor garage space into living area and to expand the mezzanine by 100.2 square feet; and

WHEREAS, evidence in the record indicates represents that the garage space was originally designed and created to accommodate horses, carriages and related equipment; and

WHEREAS, the applicant represents that the garage space has

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outlived its purpose as there is no need for a four to six car garage within a single family residence in downtown Brooklyn; and

WHEREAS, therefore the owner seeks to divide the existing garage space into living quarters and a single vehicle garage; and

WHEREAS, the additional floor area created from the conversion and expansion would exceed the permitted floor area by 299 square feet and would necessitate an additional 202.93 square feet of open space; and

WHEREAS, the record indicates that the existing building currently has a legal but non-complying open space ratio with 69.73 square feet less than the 262.53 currently required; and

WHEREAS, the applicant states that in order to comply with the open space requirement, the building's original rear wall, a portion of the roof and the rear floor would need to be demolished; and

WHEREAS, the record indicates that the building's rear wall was erected in 1857, and is contiguous with the rear walls of three adjacent and similar landmark quality structures; and

WHEREAS, the Board finds that the aforementioned unique physical condition, namely the functional obsolescence of the building, makes its occupancy for a conforming use impractical and creates an unnecessary hardship in developing the site in conformity with the current zoning; and

WHEREAS, the instant application is for a variance for a single-family house and the Board has determined that no showing of financial hardship is required pursuant to Z.R. §72-21(b); and

WHEREAS, the applicant represents that the building's footprint and envelope will not change as a result of the proposed variance; and

WHEREAS, the record indicates that the proposed use and bulk of the subject proposal are consistent with the surrounding residential uses; 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

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 Certificate of Occupancy be obtained in accordance with §72-23.

Adopted by the Board of Standards and Appeals, June 3, 2003.

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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.

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

WHEREAS, 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 §72-21 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

Resolved that the Board of Standards and Appeals issues a Type II 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 the proposed construction of a two-family dwelling (Use Group 2) located in both an R6 permit, in a R7-1 and LH-1 (Limited Height District), the proposed conversion of an existing garage space and minor expansion of an existing mezzanine within a two-story functionally obsolete carriage house, into living space to be used as single family residence which does not comply with the zoning requirements for floor area ratio and open space ratio, and is contrary to Z.R. §23-142, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 25, 2003"-(3) sheets and "May 14, 2003"-(1) sheet; and on further condition;

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

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

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;

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

## COMMUNITY BOARD #1BK

### APPEARANCES-

For Applicant: Sheldon Lobel.

**ACTION OF THE BOARD** - Laid over to September 9, 2003, at 1:30 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-

# MINUTES

For Applicant: Sheldon Lobel.

**ACTION OF THE BOARD** - Laid over to September 9, 2003, at 1:30 P.M., for continued hearing.

## **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 Applicant: Sheldon Lobel.

**ACTION OF THE BOARD** - Laid over to September 9, 2003, at 1:30 P.M., for continued hearing.

## **237-02-BZ**

**APPLICANT** - The Agusta Group, for Jose Lazo, D.D.S., Gerson F. Mendoza, D.C., owners.

**SUBJECT** - Application August 26, 2002 - under Z.R. §72-21 to permit the legalization of the conversion from residential use, to an existing dental office, located on the second floor of a two story and cellar building, in an R6 zoning district, is contrary to Z.R. §22-14.

**PREMISES AFFECTED** - 37-49 91<sup>st</sup> Street, east side, between SUBJECT - Application May 23, 2002 - under Z.R. §72-21 to permit the legalization of two contiguous building on one zoning lot, from a laundry facility to residential use, Use Group 2. Located in an M1-1 zoning district, is contrary to Z.R. §42-00.

**PREMISES AFFECTED** - 57 Eagle Street aka 233 Franklin Street, northwest corner, Block 2494, Lot 26, Borough of Brooklyn.

## **COMMUNITY BOARD #1BK**

**APPEARANCES** -

For Applicant: Peter Hirshman.

**ACTION OF THE BOARD** - Laid over to July 22, 2003, at 1:30 P.M., for continued hearing.

## **181-02-BZ**

**APPLICANT** - Joseph P. Morsellino, Esq., for ISHJ Corp., owner.

**SUBJECT** - Application May 28, 2002 - under Z.R. §72-21 to permit the proposed erection and maintenance of a one story car wash facility, Use Group 16, located in an R4 zoning district, which is contrary to Z.R. §22-00.

**PREMISES AFFECTED** - 1875 Bartow Avenue, northwest corner of Ely Avenue, Block 4795, Lot 21, Borough of The Bronx.

## **COMMUNITY BOARD #12BX**

**APPEARANCES** -

For Applicant: Joseph P. Morsellino.

For Opposition: Joseph Williams.

**ACTION OF THE BOARD** - Laid over to July 22, 2003, at

Roosevelt and Elmhurst Avenues, Block 1479, Lot 53, Borough of Queens.

## **COMMUNITY BOARD #3Q**

**APPEARANCES** - None.

**ACTION OF THE BOARD** - Laid over to June 17, 2003, at 1:30 P.M., for defer decision.

## **66-02-BZ**

**APPLICANT** - Sheldon Lobel, P.C., for Harry Einhorn, owner.

**SUBJECT** - Application February 20, 2002 - under Z.R. §72-21, to permit the proposed construction of a six story residential building, Use Group 2, in an M3-1 residential building, is contrary to Z.R. §42-00.

**PREMISES AFFECTED** - 439 Marcy Avenue, Lot fronting on Marcy Avenue and Union and Wallabout Streets, Block 2249, Lot 1, Borough of Brooklyn.

## **COMMUNITY BOARD #1BK**

**APPEARANCES** -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to July 22, 2003, at 1:30 P.M., for continued hearing.

## **178-02-BZ**

**APPLICANT** - Dominick Salvati & Son Architects, for Diego Salazar, owner.

1:30 P.M., for continued hearing.

## **258-02-BZ**

**APPLICANT** - Jesse Masyr, Esq., Wachtel & Masyr, LLP, for Inex Fulton, owner.

**SUBJECT** - Application September 24, 2002 - under Z.R. §72-21 to permit the proposed conversion of a one and four story manufacturing building to residential use, Use Group 2, located in an M3-1 zoning district, which is contrary to Z.R. §42-00.

**PREMISES AFFECTED** - 7/13 Ash Street, a/k/a 1164/66 Manhattan Avenue, northeast corner, Block 2477, Lot 1, Borough of Brooklyn.

## **COMMUNITY BOARD #1BK**

**APPEARANCES** -

For Applicant: Jerry Johnson and Jesse Masyr.

For Opposition: Kenneth K. Fisher, David Sweeney and Paul Parkhill.

**ACTION OF THE BOARD** - Laid over to July 22, 2003, at 1:30 P.M., for continued hearing.

## **277-02-BZ**

**APPLICANT** - Harold Weinberg, P.E., for Maya Puzaitzer, owner.

# MINUTES

**SUBJECT** - Application October 15, 2002 - under Z.R. §73-622 to permit the legalization of a one story rear enlargement, and the use of attic for living space, in an existing one family dwelling, Use Group 1, located in R3-1 zoning district, which does not comply with the zoning requirements for floor area ratio and the required yard is contrary to Z.R. §23-141, §54-31 and §23-47.

**PREMISES AFFECTED** - 60 Coleridge Street, west side, 280.0' north of Hampton Avenue, and south of Shore Boulevard, Block 8728, Lot 49, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

### APPEARANCES -

For Applicant: Harold Weinberg.

### THE VOTE TO CLOSE HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to June 24, 2003, at 1:30 P.M., for decision, hearing closed.

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## 283-02-BZ

**APPLICANT** - Harold Weinberg, P.E., for Yves Levenson, owner.

**SUBJECT** - Application October 18, 2003 - under Z.R. §73-622 to permit the proposed two story enlargement, to an existing one family dwelling, Use Group 1, located in an R2 zoning district,

**PREMISES AFFECTED** -

1281 Atlantic Avenue, between New York and Nostrand Avenues, Block 1867, Lots 72, 75 and 76, Borough of Brooklyn.

1283 Atlantic Avenue, between New York and Nostrand Avenues, Block 1867, Lots 72, 75 and 76, Borough of Brooklyn.

1287 Atlantic Avenue, between New York and Nostrand Avenues, Block 1867, Lots 72, 75 and 76, Borough of Brooklyn.

## COMMUNITY BOARD #3BK

### APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to July 15, 2003, at 1:30 P.M., for continued hearing.

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## 343-02-BZ

**APPLICANT** - Harry A. Meltzer, R.A., for Richard Winer of RAW Corporation, owner; Peak Performance Sports Center, Inc., lessee.

**SUBJECT** - Application November 18, 2002 - under Z.R. §73-36 to permit the proposed physical culture establishment, to be located on the eighth floor of an existing twelve story commercial building, requires a special permit as per Z.R. §73-36.

**PREMISES AFFECTED** - 54 West 21<sup>st</sup> Street, south side, 104.2' east of Avenue of the Americas, Block 822, Lot 70, Borough of Manhattan.

## COMMUNITY BOARD #5M

### APPEARANCES -

which does not comply with the zoning requirements for floor area ratio, open space ratio, rear and side yards, is contrary to Z.R. §23-141, §54-31, §23-47 and §23-461.

**PREMISES AFFECTED** - 1246 East 24th Street, west side, 396'-0" north of Avenue "M", Block 7641, Lot 66, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

### APPEARANCES -

For Applicant: Harold Weinberg.

### THE VOTE TO CLOSE HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to June 24, 2003, at 1:30 P.M., for decision, hearing closed.

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## 334-02-BZ thru 336-02-BZ

**APPLICANT** - Sheldon Lobel, P.C., for 1287 Atlantic Realty LLC, owner.

**SUBJECT** - Application November 13, 2002 - under Z.R. §72-21 to permit the legalization of residential occupancy in a one story, four unit building, which is located within an M1-1 zoning district, which is contrary to Z.R. §42-00.

For Applicant: Harry A. Meltzer and Joe Dowdell.

For Opposition: Alice Dalton Brown and Howard S. Koh.

### THE VOTE TO CLOSE HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to June 24, 2003, at 1:30 P.M., for decision, hearing closed.

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## 364-02-BZ

**APPLICANT** - Agusta & Ross, for Hamilton Enterprises, LLC, owner.

**SUBJECT** - Application December 16, 2002 - under Z.R. §72-21 to permit the proposed five story mixed use building, with retail/or office use on the ground floor, which does not comply with the zoning requirements for floor area ratio, open space and commercial use in an R-6 zoning district, which is contrary to Z.R. §22-10 and §23-142.

**PREMISES AFFECTED** - 142 West Ninth Street, southeast corner of Hamilton Avenue, Block 382, Lot 16, Borough of Brooklyn.

## COMMUNITY BOARD #6BK

### APPEARANCES -

For Applicant: Mitchell Ross.

### THE VOTE TO CLOSE HEARING -

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

Negative: .....0

# MINUTES

**ACTION OF THE BOARD** - Laid over to June 24, 2003, at 1:30 P.M., for decision, hearing closed.

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## 365-02-BZ

APPLICANT - Agusta & Ross, for 4306 3rd Avenue, LLC, owner.

SUBJECT - Application December 16, 2002 - under Z.R. §72-21 to permit the proposed vertical enlargement of a vacant former mixed use multiple dwelling, for proposed office and showroom, located in an M1-2 zoning district, which does not comply with the zoning requirements for floor area and rear yard, and is contrary to Z.R. §43-12 and §43-26.

PREMISES AFFECTED - 4306 Third Avenue, north side, 22' west of 43rd Street, Block 727, Lot 41, Borough of Brooklyn.

## COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Mitchell Ross.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to July 15, 2003, at 1:30 P.M., for continued hearing.

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## 29-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Seymour Benenfeld, as Trustee, owner.

SUBJECT - Application January 16, 2003 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family dwelling, Use Group 1, located within an R2 zoning district, which does not comply with the zoning requirements for floor area ration, open space ratio and rear side yards, is contrary to Z.R. §§§23-141(a), 23-47 and 23-461.

PREMISES AFFECTED - 1179 East 28th Street, 126'-8" north of Avenue "L", Block 7628, Lot 13, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES - None.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to June 24, 2003, at 1:30 P.M., for decision, hearing closed.

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## 34-03-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Thaneshwar Sukhdeo, owner.

SUBJECT - Application January 28, 2003 - under Z.R. §72-21 to permit the proposed erection of a two family dwelling, located in an R3-2 zoning district, on an undersized lot, which does not comply

**ACTION OF THE BOARD** - Laid over to July 15, 2003, at 1:30 P.M., for decision, hearing closed.

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## 374-02-BZ

APPLICANT - Salans, for Long Island Jewish Medical Center, owner.

SUBJECT - Application December 30, 2002 - under Z.R. §§73-481 & 73-49 to permit the proposed 1,660 space parking garage, located within the medical center campus, in an R3-2 zoning district, which exceeds the number of spaces permitted by Z.R. §§25-12 and 25-13, and also will have rooftop parking that is only permitted pursuant to Z.R. §25-11, which requires a special permit as per Z.R. §73-481 and §73-49.

PREMISES AFFECTED - 267-20 74th Avenue, block bounded by 74th and 76th Avenues, also 263rd Street and the Queens/Nassau Border, Block 8520, Lot 2, and Block 8489, Lots 50, 95, 100 and 120, Borough of 4 Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Martin Baker, Richard Hellerbrecht, Andrew B. Roth, Kenneth F Noretka and Bernard Brandt.

For Opposition: O. ?

with the zoning requirements for front and side yards, lot width or lot area, and the required sky exposure plane, which is contrary to Z.R. §23-45, §23-32 and §23-461.

PREMISES AFFECTED - 89-57 207<sup>th</sup> Street, a/k/a 207-01 90<sup>th</sup> Avenue, northeast corner, Block 10572, Lot 35, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES - None.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to June 17, 2003, at 1:30 P.M., for defer decision.

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## 36-03-BZ

APPLICANT - Salans, for Long Island Jewish Medical Center, owner.

SUBJECT - Application January 29, 2003 - under Z.R. §73-481 to permit the proposed increase in the total number of parking spaces, through the use of attended parking, at an accessory parking garage, for an existing medical center, which requires a special permit as per Z.R. §73-481.

PREMISES AFFECTED - 271-17 76th Avenue, located on a block bounded by 76th Avenue, 74th Avenue, and the Queens/Nassau county border, Block 8520, Lot 2, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Richard C. Hellenbrecht.

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# MINUTES

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**ACTION OF THE BOARD** - Laid over to July 15, 2003, at 1:30 P.M., for postponed hearing.

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## **73-03-BZ**

APPLICANT - Mark A. Levine, Esq., for Uptown Partners, contract vendee.

SUBJECT - Application February 20, 2003 - under Z.R. §72-21 to permit the proposed construction of a 24-story mixed use building (residential and commercial), in an R7-2 zoning district, which does not comply with the zoning requirements for lot coverage, floor area, setbacks and exposure planes, and also has commercial use on the same floor as residential use, is contrary to Z.R. §23-142, §23-632, §23-64 and §32-421.

PREMISES AFFECTED - 400 Lenox Avenue, situated between West 129th and 130th Streets, Block 1727, Lot 1, Borough of Manhattan.

## **94-03-BZ**

APPLICANT - Marvin B. Mitzner, Esq., Fischbein Badillo Wagner Harding, for Moklam Enterprises, Inc., owner.

SUBJECT - Application March 26, 2003 - under Z.R. §72-21 to permit the legalization of retail use, Use Group 6, in the cellar of an existing six story building, located in an M1-5B zoning district, is contrary to Z.R. §42-14(2)(b).

PREMISES AFFECTED - 622/26 Broadway, aka 156/60 Crosby Street, east side of Broadway, 118' north of East Houston Street, Block 522, Lot 5, Borough of Manhattan.

## **COMMUNITY BOARD #2M**

APPEARANCES -

For Applicant: Martin Mitzner, Peter Geis and Harriet Fields.

**ACTION OF THE BOARD** - Laid over to July 15, 2003, at 1:30 P.M., for continued hearing.

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*Pasquale Pacifico, Executive Director.*

Adjourned: 6:12 P.M.

## **COMMUNITY BOARD #10M**

APPEARANCES -

For Applicant: Mark A. Levine, Trevor Salmon, Jack Freeman, Richard Bass, Janice, Cecil Chisolm and Ethan Eldon.

For Opposition: Carlos Vargas, Daniel P., Juanita Washington, Clark-Smith, Councilmember Bill Perkins, Richard Harley, Beverly Smith, Regina Smith, Georgina Bailey, Sandra Petway, Rosetta Williams.

**ACTION OF THE BOARD** - Laid over to July 15, 2003, at 1:30 P.M., for continued hearing.

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# CORRECTIONS

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## \*CORRECTION

This resolution adopted on March 25, 2003, under Calendar No. 193-01-BZ and printed in Volume 88, Bulletin No. 14, is hereby corrected to read as follows:

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### **193-01-BZ**

#### **CEQR# 01-BSA-139K**

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 floor of an existing five-story building, as medical offices (Use Group 4), and the third floor, fourth floor and penthouse level as business offices (Use Group 6), located in an R6 (Ocean Parkway) zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 3044 Coney Island Avenue, between Brighton 8th Street and Neptune Avenue, Block 7264, Lot 72, Borough of Brooklyn.

#### **COMMUNITY BOARD #13BK**

##### **APPEARANCES -**

For Applicant: Janice Cahalane.

##### **ACTION OF THE BOARD - Application denied.**

##### **THE VOTE TO GRANT -**

Affirmative: .....0

Negative: Chairman Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

##### **THE RESOLUTION -**

WHEREAS, the decision of the Borough Commissioner, dated July 5, 2002, acting on Application No. 300985272, reads:

A1. THE PROPOSED USE OF THE SECOND, THIRD, FOURTH AND FIFTH FLOORS ON A BUILDING LOCATED IN AN R6 ZONE IN THE OCEAN PARKWAY SPECIAL ZONING DISTRICT IS CONTRARY TO SECT. 22-00 OF THE ZONING RESOLUTION.”; and

WHEREAS, a public hearing was held on this application on July 23, 2002 after due notice by publication in The City Record, laid over to September 10, 2002, October 22, 2002, December 10, 2002, January 28, 2003 and then to March 18, 2003 for decision and deferred until March 25, 2003; and

WHEREAS, the premises and surrounding area had several site and neighborhood examinations by a committee of the Board consisting of Chairman James Chin, Vice Chair Satish Babbar, former Commissioner Mitchell Korbey, Commissioner Peter Caliendo and Commissioner Joel Miele; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed use of the second floor of an existing five-story building, as medical offices (Use Group 4), and the third floor, fourth floor and penthouse level as business offices (Use Group 6), located in an R6 (Ocean Parkway) zoning district, which is contrary to Z.R. §22-00; and

WHEREAS, the Board notes that medical offices are an

as-of-right use on the first floor in the subject zoning district, and pursuant to §22-14, medical offices may be located on the second floor of a multiple dwelling provided that access to the outside is provided separately from residential uses; and

WHEREAS, the applicant now seeks to abandon residential uses on the upper levels, thereby necessitating a variance for the second floor medical use; and

WHEREAS, the subject premises located on the northwest corner of the intersection of Coney Island Avenue and Neptune Avenue on a lot of approximately 10,294.8 square feet; and

WHEREAS, the record indicates that the property is improved with a vacant five-story building, whose Temporary Certificate of Occupancy currently allows medical offices on the cellar, first and second floors, residential uses on the third and fourth floor, and a study room to be used in conjunction with the fourth floor on the penthouse level; and

WHEREAS, the applicant represents that substandard soil conditions were discovered during the construction process at the site which incurred additional construction costs; and

WHEREAS, the applicant has submitted boring reports from the site to document the substandard soil conditions; and

WHEREAS, the applicant also contends that the site's uniqueness can be attributed to its proximity to a high water table; and

WHEREAS, the Board notes that the subject premises is situated within the Ocean Parkway Special Zoning District which was created to enforce a more stringent set of zoning laws designed to preserve the unique character of this neighborhood; and

WHEREAS, through a series of site and neighborhood visits, and a meticulous review of land usage in the surrounding area, the Board notes that the neighborhood is residential in character with commercial use limited to the first floor level; and

WHEREAS, the Board concurs that the subject site has unique conditions stemming from subsurface soil conditions resulting in additional construction costs and has offered the applicant a scenario which would be more contextual with the character of the neighborhood;

WHEREAS, during the hearing process, the Board suggested to the applicant that ground floor commercial uses would be more contextual with the surrounding area but that commercial uses above the first floor would be out of the character of the neighborhood; and

WHEREAS, the Board has determined that the proposed use variance would undermine the intent of the residential zoning of the area and thus alter the essential character of the neighborhood and district; and

WHEREAS, therefore, the subject application fails to meet the requirements of Z.R. §72-21(c); and

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# CORRECTIONS

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WHEREAS, the applicant has sited a previous BSA variance granted under Calendar Number 549-84-BZ which it claims is analogous to the subject variance application; and

WHEREAS, the Board notes that although the unique conditions of the two cases are comparable, specifics concerning the (c) finding are dissimilar; and

WHEREAS, the previous case was not located in a Special Zoning District, and it involved only cellar and first floor non-conforming uses while the subject application entails non-conforming uses on the second, third, fourth and penthouse levels; and

WHEREAS, the Zoning Resolution mandates that each and every finding of Z.R. §72-21 shall be met in order to grant a variance; and

WHEREAS, the Board finds that the subject application does not meet the (c) finding and must be denied.

Therefore, it is resolved that the decision of the Borough Commissioner dated July 5, 2002, acting on Application No. 300985272 is upheld and this application is denied.

Adopted by the Board of Standards and Appeals, March 25, 2003.

**\*The resolution has been corrected to reflect the changes in the SUBJECT and the part in the premises which read: "3034 Coney Island Avenue" now reads "3044 Coney Island Avenue". Corrected in Bulletin Nos. 24-25, Vol. 88, dated June 12, 2003.**

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## **\*CORRECTION**

This resolution adopted on April 8, 2003, under Calendar No. 341-02-BZ and printed in Volume 88, Bulletin Nos. 15-16, is hereby corrected to read as follows:

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### **341-02-BZ**

### **CEQR #03-BSA-083M**

APPLICANT - Martyn & Don Weston, for 231 East 58<sup>th</sup> Street Associates, owner.

SUBJECT - Application November 15, 2002 - under Z.R. §72-21 to permit the reestablishment of a variance granted under Calendar Number 633-66-BZ which allowed a retail store, Use Group 6, on the first floor of a five-story building.

PREMISES AFFECTED - 231/33 East 58th Street, north side, 129'-8" west of Second Avenue, Block 1332, Lot 16, Borough of

Manhattan.

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

#### **APPEARANCES -**

For Applicant: Don Weston.

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

#### **THE VOTE TO GRANT -**

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

Negative:.....0

#### **THE RESOLUTION -**

WHEREAS, the decision of the Borough Commissioner, dated October 21, 2002 acting on Application No. 103244954 reads:

"Z-3 A use group 6 retail store, proposed at first floor is not permitted in an R8B zoning district as per section 22-10 Z.R.;" and

WHEREAS, a public hearing was held on this application on March 18, 2003 after due notice by publication in *The City Record* and laid over to April 8, 2003 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 Chairman Satish Babbar and former Commissioner Mitchell Korbey; and

WHEREAS, this is an application under Z.R. §72-21, on a site previously before the Board, to permit, in an R8B zoning district to permit the reestablishment of a variance granted under Calendar Number 633-66-BZ which allowed a retail store, Use Group 6, on the first floor of a five-story building; and

WHEREAS, the subject building was erected in 1889 as a five story and cellar Old Law Class "A" Multiple Dwelling and the record indicates that in 1955, the zoning was changed to a "Retail Use District" because much of the ground floor uses were developed for retail; and

WHEREAS, in 1961, the zone was changed to an R8 and then changed to an R8B; and

WHEREAS, in 1967, under Calendar Number 633-66-BZ, the Board permitted the conversion of the four apartments on the first floor to a retail store; and

WHEREAS, applicant represents that, at the time of the above conversion, since the building had a central hall exiting to the street from the interior stair, it was proposed to rebuild the last run of the double-run stair so that the stair exit to the street could be relocated to the east wall of the building, thus allowing a single store; and

WHEREAS, however, the above work was never done, the ground floor remained divided in two sections and was converted to retail stores on either side of the center hall entrance; and

WHEREAS, the 1967 variance was granted for 15 years until 1982, however in 1980, the building was sold to the present owner who was unaware that use of the ground floor was subject to Board approval; and



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# CORRECTIONS

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WHEREAS, the applicant has documented that the same hardships that existed in 1967, namely, the narrowness of the lot, the existence of the old tenement that lacks an elevator still exist; and

WHEREAS, the applicant notes that if the instant application were denied, the owner would have to rebuild the entire ground floor for residential use on a block that has many ground floor commercial uses in almost every building on both sides of East 58<sup>th</sup> Street from 2<sup>nd</sup> to 3<sup>rd</sup> Avenues; and

WHEREAS, site's history of development with non-conforming Board approved uses and evidence in the record indicating that the subject site cannot house or be converted to a viable conforming use creates an unnecessary hardship in complying strictly with the Zoning Resolution; and

WHEREAS, evidence in the record, including a feasibility study and financial analysis sufficiently demonstrates that a conforming use in the entire building would not yield a reasonable return; and

WHEREAS, the record indicates that the subject property is located in an area characterized by commercial uses that have intensified since 1967; and

WHEREAS, therefore, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, nor impair the use of 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 application is the minimum variance 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 §72-21 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.

*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 on a site previously before the Board, in an R8B zoning district to permit the reestablishment of a variance granted under Calendar Number 633-66-BZ which allowed a retail store, Use Group 6, on the first floor of a five-story building, *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 15,

2002"-3 sheets; and on further condition;

THAT the term of the variance shall be limited to ten (10) years from the date of this grant, to expire on April 8, 2013;

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

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

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

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, April 8, 2003.

**\*The resolution has been corrected to reflect the approved plans which read: "Received November 15, 2002"-9 sheets" now reads: "Received November 15, 2002"-3 sheets". Corrected in Bulletin Nos. 24-25, Vol. 88, dated June 12, 2003.**