
BULLETIN

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NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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DOCKETS

New Case Filed Up to August 10, 2004

257-04-BZ B.BK. 252/60 Atlantic Avenue (a/k/a 83/87 Boerum Place; 239/47 Pacific Street), east side of Boerum Place, between Atlantic Avenue and Pacific Street, Block 181, Lot 1, Borough of Brooklyn. N.B. #301763143. Proposed construction of an eight story mixed-use, retail-residential building, located in R6A, R6, C2-4 and C2-3 zoning districts which does not comply with the zoning requirements for floor area ratio, lot coverage, building height and loading berth, is contrary to Z.R. §23-145, §33-121, §23-633, §35-25 and §36-22.

COMMUNITY BOARD #2BK

258-04-BZ B.BK. 1837 and 1839 East 24th Street, south of Avenue "R", Block 6830, Lots 70 and 71 (tentative Lot 71), Borough of Brooklyn. Alt.1 #301786119. Proposed enlargement of a single family residence, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage and rear yard, is contrary to Z.R. §23-141(b) and §23-47.

COMMUNITY BOARD #15BK

259-04-BZ B.BK. 1181 East 22nd Street, between Avenues "K" and "L", Block 7622, Lot 40, Borough of Brooklyn. Applic. #301743754. Proposed enlargement of a single family residence in an R-2 zoning district, which does not comply with the zoning requirements for floor area, open space, side and rear yards, is contrary to Z.R. §23-461 and §23-47.

COMMUNITY BOARD #14BK

260-04-BZ B.BK. 222 Wallabout Street, 64' west of Lee Avenue, Block 2263, Lot 44, Borough of Brooklyn. N.B. #301759390. Proposed construction of a four story, penthouse and cellar three-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

COMMUNITY BOARD #1BK

261-04-BZ B.BK. 2824 Avenue "R", southwest corner of East 29th Street, Block 6834, Lot 7, Borough of Brooklyn. Applic. #301778752. Proposed enlargement of an existing one family dwelling, Use Group 1, located in R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space and lot coverage, is contrary to Z.R. §23-141(b).

COMMUNITY BOARD #15BK

262-04-BZ B.BK. 218 Wallabout Street, 94' west of Lee Avenue, Block 2263, Lot 43, Borough of Brooklyn. Applic. #301247880. Proposed construction of a four story, penthouse and cellar four-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

COMMUNITY BOARD #1BK

263-04-BZ B.BK. 150 Girard Street, between Hampton Avenue and Oriental Boulevard, 360' south of Hampton Avenue, Block 8749, Lot 262, Borough of Brooklyn. Alt.1 #301759194. Proposed enlargement of a single family residence in an R3-1 zoning district, which exceeds the allowable floor area, causes an increase in lot coverage, has a non-complying rear yard, and a perimeter wall that exceeds the maximum permitted, is contrary to §23-141, §23-631, and §23-47.

COMMUNITY BOARD #15BK

264-04-BZ B.S.I. 977 Victory Boulevard, northeast corner of Cheshire Place, Block 240, 26, Borough of Staten Island. Aplic. #500709245. The legalization of the change in use from motor vehicle repair shop and gasoline service station, Use Group 16, to retail use, Use Group 6, also proposed alterations to the site to effectuate the desired change in use, requires a special permit from the Board as per Z.R. §§11-412 and 11-413.

COMMUNITY BOARD #1SI

265-04-BZ B.M. 19 East 57th Street, north side, 49' west of the intersection of 57th Street and Madison Avenue, Block 1293, Lot 14, Borough of Manhattan. Applic. #103775149. The legalization of an existing physical culture establishment, located on the third floor of a twenty-two story building, situated in a C5-3 Special Midtown District, requires a special permit from the Board as per Z.R. §73-36.

COMMUNITY BOARD #5M

266-04-BZ B.BK. 96 Boerum Place, southwest corner of Pacific Street, Block 279, Lot 37, Borough of Brooklyn. Applic. #301539761. Proposed physical culture establishment, to be located on the first and second floors, of a two story commercial building, situated in C2-3 zoning district, requires a special permit as per Z.R. §73-36.

COMMUNITY BOARD #2BK

DOCKETS

267-04-BZ B.BK. 362/64 Coney Island Avenue, northwest corner of Kermit Place, Block 5322, Lot 73, Borough of Brooklyn. N.B. #301675211. Proposed thirty-two unit multiple dwelling, Use Group 2, located in a C8-2 zoning district, is contrary to Z.R. §32-00.

COMMUNITY BOARD #7BK

268-04-BZ B.BK. 1246 East 22nd Street,
between Avenues "K" and "L", Block 7621, Lot 78, Borough of Brooklyn. Alt.1 #301784790. Proposed enlargement of a single family residence in an R-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio and side and rear yards, is contrary to Z.R. §23-461, §23-141 and §23-47.

COMMUNITY BOARD #14BK

269-04-BZ B.BK. 37 Bridge Street, between Water and Plymouth Streets, Block 32, Lot 4, Borough of Brooklyn. Alt.#301783176. Proposed conversion of a partially vacant, functionally obsolete seven story plus basement building, located in an M1-2/M3-1 district, into a residential dwelling, which will contain sixty loft style units, is contrary to Z.R. §42-00.

COMMUNITY BOARD #2BK

270-04-BZ B.BK. 1239 East 22nd Street, east side, between Avenues "K" and "L", Block 7622, Lot 15, Borough of Brooklyn. Alt.1#301785085. Proposed enlargement of an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does comply with the zoning requirements for floor area ratio, open space ratio, also side and rear yards, is contrary to Z.R. §23-141, §23-461 and §23-47.

COMMUNITY BOARD #14BK

271-04-A B.M. One Pier 63, at 23rd Street and The Hudson River, (The Barge), Block 662, Lot 2, Borough of Manhattan. An appeal challenging the Department of Buildings jurisdiction to issue summons to subject property, on the grounds that the NYC Department of Business Services has exclusive jurisdiction over The "Barge".

272-04-BZ B.Q. 14-38/40 31st Drive, East side, between 14th and 21st Streets, Block 531, Lots 50 and 51, Borough of Queens. Applic.#401688214. Proposed five story, twenty- unit multiple dwelling, Use Group 2, located in an R-5 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, density, side and front yards, height and/or setback and parking spaces, is contrary to Z.R. §23-141, §23-22, §23-45a, §23-461(a and b), §23-462, §23-631d and §25-23.

COMMUNITY BOARD #1Q

273-04-A B.M. 128/32 East 78th Street and 121/23 East 77th Street, between (but not abutting) Park and Lexington Avenues, Block 1412, Lot 58, Borough of Manhattan. Applic.#103256183. An appeal challenging the Department of Buildings' decision dated August 3, 2004, in which the Department refused to revoke approvals and permits for subjects premises.

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.

CALENDAR

SEPTEMBER 14 , 2004, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, September 14, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

67-79-BZ

APPLICANT - Sheldon Lobel, P.C., for 80 Varick Street Group L.P., owner.

SUBJECT - Application February 9, 2004 - reopening for an amendment to the resolution to permit residential use on the second and third floors of the premises.

PREMISES AFFECTED - 80 Varick Street, 4 Grand Street, northeast corner, Block 477, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

68-04-A

APPLICANT - Steven Barshov/Sive, Paget & Riesel, for Lawrence M. Garten, owner.

SUBJECT - Application March 2, 2004 - Proposed erection 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 - 96 Driggs Street, Block 5275, Tentative Lot 10, Borough of Staten Island.

COMMUNITY BOARD #3

69-04-A

APPLICANT - Steven Barshov/Sive, Paget & Riesel, for Lawrence M. Garten, owner.

SUBJECT - Application March 2, 2004 - Proposed erection 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 - 23 Lillian Place, Block 5275, Tentative Lot 11, Borough of Staten Island.

COMMUNITY BOARD #3

149-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; John & Mary Mathis, owners.

248-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Michael & Jessica Ball, owners.

SUBJECT - Application July 13, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legal mapped street,

SUBJECT - Application April 6, 2004 - Proposed alteration and enlargement of an existing one family dwelling and upgrade private disposal system not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 14 Gotham Walk, west side, 167.23' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14

171-04-A

APPLICANT - Zygmunt Staszewski, for Breezy Point Cooperative, Inc, owner; William Schlageter, lessee.

SUBJECT - Application April 26, 2004 - Proposed alteration upgrade of private disposal system of an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 42 Olive Walk, west side, 99.25' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14

243-04-A

APPLICANT - Sion Misrahi, for Sion Misrahi, President, owner.

SUBJECT - Application June 30, 2004 - An appeal challenging the Department of Buildings' decision dated June 7, 2004, in which the department refused to issue a vacate order regarding subject premises, to facilitate needed repairs without endangering the occupants thereof.

PREMISES AFFECTED - 11 Essex Street, between Canal and Hester Streets, Block 297, Lot 24, Borough of Manhattan.

COMMUNITY BOARD #3

244-04-A

APPLICANT - Sheldon Lobel, P.C., for Mr. Alfonso Angelisi, owner.

SUBJECT - Application June 30, 2004 - Proposed two family dwelling, located partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 44 Pennyfield Avenue, northwest corner of Alan Place, Block 5529, Lots 417 and 418, Borough of The Bronx.

COMMUNITY BOARD #10BX

is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 13 Courtney Lane, north side, 107.43' east of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14

CALENDAR

251-04-A

APPLICANT - Zygmunt Staszewski for Breezy Point Cooperative, Inc., owner; Gary Wilson, lessee.

SUBJECT - Application July 15, 2004 - Proposed alteration and extension to an existing one family dwelling, not fronting on a legally mapped street is contrary to Section 36, Article 3 of the General City Law, also the upgrading of the existing septic system that is in the bed of the service road which is contrary to the Department of Buildings' Policy.

PREMISES AFFECTED - 14 Thetford Lane, southeast corner of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14

162-04-BZ

APPLICANT - Agusta & Ross, for Ronald Nizza, owner.

SUBJECT - Application April 21, 2004 - under Z.R. §11-411 to permit the proposed reestablishment of an expired variance, previously granted under Cal.#147-52-BZ, which permitted a factory (specialty woodworking for custom forms and molds), in an R-4 zoning district.

PREMISES AFFECTED - 90-06 Pitkin Avenue, southwest corner of Linden Boulevard, Block 11401, Lot 1, Borough of Queens.

COMMUNITY BOARD #10

Pasquale Pacifico, Executive Director

136-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Exxon Mobil Oil Corporation, owner.

SUBJECT - Application March 22, 2004 - under Z.R. §73-21 to permit the proposed redevelopment of gasoline service station, with an accessory convenience store, located in an C2-3 within an R-5 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 3132 Fort Hamilton Parkway, between McDonald Avenue and East Second Street, Block 5315, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #12

139-04-BZ

APPLICANT - Eric Palatnik, P.C., for Miriam Brecher, owner.

SUBJECT - Application March 24, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, located within an R2 zoning district, which does not comply with the zoning requirement for allowable floor area, open space and rear yard, is contrary to Z.R. §23-141 and §23-47.

PREMISES AFFECTED - 1259 East 28th Street, between Avenues "M" and "L", Block 7646, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #14

REGULAR MEETING

TUESDAY MORNING, AUGUST 10, 2004

10:00 A.M.

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, May 25, 2004, were approved as printed in the Bulletin of June 3, 2004, Volume 89, No. 23.

SPECIAL ORDER CALENDAR

173-92-BZ

APPLICANT - Law Offices of Howard Goldman LLC, for Bremen House, Inc., owner.

SUBJECT - Application February 20, 2004 - reopening for an extension of term of special permit granted pursuant to Z.R. §73-36 that permitted a physical culture establishment on the second floor of a building, located in a C2-8 zoning district.

MINUTES

PREMISES AFFECTED - 220 East 86th Street, between 2nd and 3rd Avenues, Block 1531, Lot 38, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES - None.

ACTION OF THE BOARD - Application reopened, and term of special permit extended.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on July 13, 2004 after due notice by publication in *The City Record*, and laid over to August 10, 2004 for decision; and

WHEREAS, the applicant requests a reopening and an extension of the term of the special permit, which expired on January 25, 2004; and

WHEREAS, on July 12, 1977, under Calendar Nos. 88-77-BZ, 89-77-BZ and 90-77-BZ the Board granted three (3) separate applications under Z.R. §2-21 to permit the enlargement in area of the first floor of one building on a site comprising two (2) zoning lots; and

WHEREAS, all of the above-referenced lots were subsequently declared to be one zoning lot; and

WHEREAS, the resolutions were superceded on December 8, 1992 under Calendar No. 88-77-BZ to legalize, among other things, the removal of two (2) small partitions and erection of several non-bearing partitions on condition that the owner obtain a special permit to legalize the use of the second floor as a physical culture establishment; and

WHEREAS, on January 25 1994, under Calendar No. 173-92-BZ the Board granted a special permit pursuant to Z.R. §73-36 to establish in a C2-8A and R8B district, the legalization of a physical culture establishment for martial arts (Use Group 9) on the second floor of a four (4) story and cellar mixed-use building located within the C2-8A zoned portion of the site.

Resolved, that the Board of Standards and Appeals, *reopens and amends* the resolution, said resolution having been adopted on January 25, 1994, so that, as amended, this portion of the resolution shall read: "to permit the

114-07 Taipei Court, west side, 576' west of 115th Street, Block 4019, Lot 128, Borough of Queens.

114-09 Taipei Court, west side, 576' west of 115th Street, Block 4019, Lot 129, Borough of Queens.

114-11 Taipei Court, west side, 576' west of 115th Street, Block 4019, Lot 130, Borough of Queens.

114-13 Taipei Court, west side, 576' west of 115th Street, Block 4019, Lot 131, Borough of Queens.

114-15 Taipei Court, west side, 576' west of 115th Street, Block 4019, Lot 132, Borough of Queens.

114-21 Taipei Court, north side, 501' west of 115th Street, Block 4019, Lot 133, Borough of Queens.

114-23 Taipei Court, north side, 491' west of 115th Street, Block 4019, Lot 134, Borough of Queens.

extension of the term of the special permit for an additional ten (10) years from January 25, 2004, expiring on January 25, 2014; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received July 27, 2004"- (2) sheets; and *on further condition*;

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 and days of operation of the facility are Monday through Friday from 10:00 a.m. until 9:00 p.m.; and Saturday and Sunday from 9:00 a.m. until 5:00 p.m.;

THAT all signage shall comply with the underlying zoning district regulations;

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

THAT all signs shall comply with the underlying district regulations;

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 # 100488116)

Adopted by the Board of Standards and Appeals, August 10, 2004.

290-02-BZ thru 314-02-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Edgewater Development, Inc.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED -

114-01 Taipei Court, west side, 576' west of 115th Street, Block 4019, Lot 125, Borough of Queens.

114-03 Taipei Court, west side, 576' west of 115th Street, Block 4019, Lot 126, Borough of Queens.

114-05 Taipei Court, west side, 576' west of 115th Street, Block 4019, Lot 127, Borough of Queens.

114-25 Taipei Court, north side, 471' west of 115th Street, Block 4019, Lot 135, Borough of Queens.

114-27 Taipei Court, north side, 451' west of 115th Street, Block 4019, Lot 136, Borough of Queens.

114-29 Taipei Court, north side, 421' west of 115th Street, Block 4019, Lot 137, Borough of Queens.

114-31 Taipei Court, north side, 411' west of 115th Street, Block 4019, Lot 138, Borough of Queens.

114-33 Taipei Court, northwest corner of 115th Street, Block 4019, Lot 139, Borough of Queens.

114-35 Taipei Court, north side, 371' west of 115th Street, Block 4019, Lot 141, Borough of Queens.

114-20 Taipei Court, south side, 501' west of 115th Street, Block 4019, Lot 124, Borough of Queens.

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114-22 Taipei Court, south side, 491' west of 115th Street, Block 4019, Lot 123, Borough of Queens.

114-24 Taipei Court, south side, 471' west of 115th Street, Block 4019, Lot 122, Borough of Queens.

114-26 Taipei Court, south side, 451' west of 115th Street, Block 4019, Lot 121, Borough of Queens.

114-28 Taipei Court, south side, 431' west of 115th Street, Block 4019, Lot 119, Borough of Queens.

114-30 Taipei Court, south side, 411' west of 115th Street, Block 4019, Lot 117, Borough of Queens.

114-32 Taipei Court, south side, 391' west of 115th Street, Block 4019, Lot 116, Borough of Queens.

114-34 Taipei Court, south side, 371' west of 115th Street, Block 4019, Lot 115, Borough of Queens.

114-36 Taipei Court, south side, 391' west of 115th Street, Block 4019, Lot 114, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

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

Negative:.....0

Absent: Commissioner Miele.....1

Adopted by the Board of Standards and Appeals, August 10, 2004.

95-97-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Lavin Brothers Austin, LLC, owner; TSI Forest Hills, Inc., lessee.

SUBJECT - Application January 20, 2004 - reopening for an amendment to the resolution to permit the legalization of an expansion in floor area of a previously granted special permit to allow the operation of a physical culture establishment on the first floor.

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

COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Fredrick A. Becker.

Resolved, that the Board of Standards and Appeals *reopens and amends* the resolution, pursuant to Z.R. §72-01 and 72-22, said resolution having been adopted on December 16, 1997, so that as amended this portion of the resolution shall read: "To permit the legalization of an expansion in floor area of a previously granted special permit to allow the operation of a physical culture establishment at the subject premises, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 20, 2004"-(5) sheets, "May 10, 2004"-(2) sheets, and "July 22, 2004"-(2) sheets; and *on further condition*;

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;

ACTION OF THE BOARD - Application reopened and amended.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the applicant requests a waiver of the rules of practice and procedure and a re-opening to amend the resolution, to permit the legalization of an expansion in floor area of a previously granted special permit to allow the operation of a physical culture establishment ("PCE") at the subject premises; and

WHEREAS, a public hearing was held on this application on July 20th, 2004 after due notice by publication in *The City Record*, with continued hearings and laid over to August 10, 2004 for decision; and

WHEREAS, the PCE, as approved, is located in the cellar, a portion of the first floor, mezzanine, and second, third and fourth floors, operated as a branch location of the New York Sports Club; and

WHEREAS, the subject application to legalize the expansion of first floor of the existing PCE from 1,070 sq. ft. to 5,445 square feet, and the reduction in the floor area of the mezzanine level from 1,070 sq. ft. to 536 sq. ft.; and

WHEREAS, the applicant represents that the expansion is necessary because the subject premises has grown in popularity since the original grant of the special permit, and while membership has not increased significantly, there is a need to better serve the existing members and to offer more machines and equipment; and

WHEREAS, on December 16, 1997, the Board approved the legalization of an existing physical culture establishment at the subject premises; and

WHEREAS, the applicant represents that since the prior BSA approval, the premises has been continuously providing facilities for classes, instruction and programs for physical improvement, body building, weight reduction and aerobics.

THAT the hours and days of operation of the facility are Monday through Thursday from 5:30 a.m. to 11:00 p.m.; Friday from 5:30 a.m. to 10:00 p.m.; and Saturday and Sunday from 8:00 a.m. to 9:00 p.m.;

THAT all signage shall comply with the underlying district regulations;

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

THAT Local Law 58/87 and ADA compliance will be as determined and approved by DOB;

THAT fire prevention measures shall be installed and maintained in accordance with BSA-approved plans;

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

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

MINUTES

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 # 401714061)

Adopted by the Board of Standards and Appeals,
August 10, 2004.

176-99-BZ

APPLICANT - The Agusta Group, for Marathon Parkway Assoc., LLC, owner.

SUBJECT - Application May 11, 2004 - reopening for an extension of time to complete construction.

PREMISES AFFECTED - 45-17 Marathon Parkway, east side 110.48' south of Northern Boulevard, Block 8226, Lot 10, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: Philip Agusta.

ACTION OF THE BOARD - Rules of Practice and Procedure waived, application reopened and time to obtain certificate of occupancy extended.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the applicant requested a waiver of the Rules of Practice and Procedure and an extension of time to complete construction of an office and retail building; and

WHEREAS, a public hearing was held on this application on July 13, 2004, after due notice by publication in *The City Record*, then laid over to August 10, 2004 for decision; and

WHEREAS, on May 2, 2000, under the referenced calendar number, the Board granted an application permitting the erection of a two-story and cellar professional office and retail building (Use Group 6); and

APPLICANT - Friedman & Gotbaum LLP., by Shelly S. Friedman, Esq., for Trustees of the New York City Rescue Mission, owner.

SUBJECT - Application March 31, 2004 - reopening for an extension of time to complete construction for a non-profit homeless shelter for men (Use Group 4), located in an M1-5 zoning district.

PREMISES AFFECTED - 90 Lafayette Street, a/k/a “The New York City Rescue Mission”, northwest corner of Lafayette and White Streets, Block 195, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: Lori Cuisinier.

ACTION OF THE BOARD - Rules of Practice and Procedure waived, application reopened and time to obtain certificate of occupancy extended.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Miele.....1

WHEREAS, on March 13, 2003, the Board granted an amendment to the prior resolution to permit the elimination of the first floor in order to provide additional parking, the addition of floor area on the second and third floors, an increase in the height of the building and a change in the location on the building on the subject lot; and

WHEREAS, at the request of the Board, the applicant has submitted financial statements related to the proposed development and represents that there are sufficient funds to complete the construction of the office building, and that construction should be completed by September 30, 2005.

Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and *reopens and amends* the resolution pursuant to Section 1-05(g) of the Board’s Rules of Practice and Procedure and Section 11-411 of the Zoning Resolution, said resolution having been originally adopted on May 2, 2000 expiring May 2, 2004, so that as amended this portion of the resolution shall read: “to permit an extension of the time to complete construction of an office and retail building for an additional eighteen (18) months from the date of this resolution, to expire on February 10, 2005, *on condition*:

THAT 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; and

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

(DOB Application No. 400048676)

Adopted by the Board of Standards and Appeals,
August 10, 2004.

7-00-BZ

THE RESOLUTION -

WHEREAS, the applicant requested a waiver of the Rules of Practice and Procedure and an extension of time to complete construction of an office and retail building; and

WHEREAS, a public hearing was held on this application on July 13, 2004, after due notice by publication in *The City Record*, then laid over to August 10, 2004 for decision; and

WHEREAS, on May 2, 2000, under the referenced calendar number, the Board granted an application permitting the erection of a two-story and cellar professional office and retail building (Use Group 6); and

WHEREAS, on March 13, 2003, the Board granted an amendment to the prior resolution to permit the elimination of the first floor in order to provide additional parking, the addition of floor area on the second and third floors, an increase in the height of the building and a change in the location on the building on the subject lot; and

WHEREAS, at the request of the Board, the applicant has submitted financial statements related to the proposed

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development and represents that there are sufficient funds to complete the construction of the office building, and that construction should be completed by September 30, 2005.

Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and *reopens and amends* the resolution pursuant to Section 1-05(g) of the Board's Rules of Practice and Procedure and Section 11-411 of the Zoning Resolution, said resolution having been originally adopted on May 2, 2000 expiring May 2, 2004, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete construction of an office and retail building for an additional eighteen (18) months from the date of this resolution, to expire on February 10, 2005, *on condition*:

THAT 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; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB Application No. 400048676)

Adopted by the Board of Standards and Appeals, August 10, 2004.

371-29-BZ

APPLICANT - Maduakolam Mish. Nnabuihe, for Getty Petroleum Corp., owner; Besan Trading Inc., lessee.

SUBJECT - Application January 9, 2004 - reopening for an amendment to the resolution for tire shop as an accessory use to the existing automotive service station.

PREMISES AFFECTED - 1210-1230 East 233rd Street, northwest APPEARANCES -

For Applicant: Mary Noonan.

For Opposition: Mitchell Ross.

ACTION OF THE BOARD - Laid over to September 28, 2004, at 10 A.M. for continued hearing.

20-83-BZ

APPLICANT - Sheldon Lobel, P.C., for Pierina Alongi, owner.

SUBJECT - Application January 15, 2004 - reopening for a waiver of Rules of Procedures and an extension of term for a commercial use in a residential district.

PREMISES AFFECTED - 265-07 Hillside Avenue, Hillside Avenue between 265th and 266th Streets, Block 8777, Lot 31, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

corner of Grenada Place and Edson Avenue, Block 4934, Lot 66, Borough of The Bronx.

COMMUNITY BOARD #13BX

APPEARANCES -

For Applicant: Mish Maduakolam.

ACTION OF THE BOARD - Laid over to September 14, 2004, at 10 A.M., for continued hearing.

40-80-BZ

APPLICANT - Sheldon Lobel, P.C., for 35 West 23rd Street Corp., owner; Patrick Montgomery, lessee.

SUBJECT - Application February 9, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 35-37 West 23rd Street, between Fifth Avenue and Avenue of the Americas, Block 825, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Richard Lobel.

ACTION OF THE BOARD - Laid over to December 14, 2004, at 10 A.M., for continued hearing.

705-81-BZ

APPLICANT - The New York City Board of Standards and Appeals

OWNER OF PREMISES: Fraydun Enterprises.

LESSEE: New York Health and Racquet Club.

SUBJECT - Application - reopening for compliance.

PREMISES AFFECTED - 1433/37 York Avenue, northeast corner of East 76th Street, Block 1471, Lots 21, 22 and 23, Borough of Manhattan.

COMMUNITY BOARD #8M

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

283-90-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for OPM Holdings, LLC, owner.

SUBJECT - Application January 7, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1400 Clove Road, a/k/a Oswego Street, southwest corner of Clove Road and Oswego Street, Block 658, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD - Laid over to September 28, 2004, at 10:00 A.M., for continued hearing.

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125-92-BZ

APPLICANT - Rampulla Associates Architects, for Nicholas Criscitelli, owner.

SUBJECT - Application April 7, 2004 - reopening for an amendment to the resolution - to eliminate the retail sales portion of the building and modify the number of persons to occupy the eating and drinking establishment.

PREMISES AFFECTED - 3333 Hylan Boulevard, north side Hylan Boulevard between Spratt Avenue and Hopkins Avenue, Block 4987, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

62-99-BZ

APPLICANT - Jay A. Segal, Esq., for Starlex LLC, owner; Blissworld LLC, lessee.

SUBJECT - Application April 16, 2004 - reopening for an amendment to allow the expansion of existing physical culture establishment.

PREMISES AFFECTED - 541 Lexington Avenue, east side of Lexington Avenue between East 49th Street and East 50th Streets, Block 1350, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES -

114-02-BZ

APPLICANT - Land Planning and Engineering Consultants, P.C., for Gerardo Campitiello, owner.

SUBJECT - Application June 2, 2004 - reopening for an amendment to the resolution to amend the existing resolution to permit the maintenance of the existing building during the construction of the new cellar and one story professional building, which is to replace the existing building.

PREMISES AFFECTED - 2493 Richmond Road, northwest side of Richmond Road, southwest of Odin Street, Block 947, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Victor Han, Harold Weinberg and Grace Scire.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

178-03-BZ

For Applicant: Meloney McMorny.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

4-00-BZ

APPLICANT - Augusta & Ross, for 243 West 30th Realty, LLC, c/o New York Equity, LLC, owner; Anie Yang, Yhung Kang & Cong Yan d/b/a West Garden, Inc., lessees.

SUBJECT - Application October 21, 2003 - Reopening for an amendment for a previously approved physical culture establishment to extend into the cellar.

PREMISES AFFECTED - 243 West 30th Street, north side of West 30th Street, 325' east of 8th Avenue, block 780, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Mitchell Ross.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

APPLICANT - Eric Palatnik, P.C., for King Carmichael, owner; BP Products North America, lessee.

SUBJECT - Application December 19, 2003 - reopening for an extension of term of variance which expires April 28, 2004.

PREMISES AFFECTED - 114-02 Van Wyck Expressway, for southwest corner of Linden Boulevard and Van Wyck Expressway, Block 11661, Lot 7, Borough of Queens.

COMMUNITY BOARD #10Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to November 16, 2004, at 10 A.M., for continued hearing.

380-03-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Marilyn & Sebastian Danese, lessees.

SUBJECT - Application December 4, 2003 - Proposed reconstruction and enlargement of an existing one family dwelling, situated within the bed of a mapped street, and does not front on a legally mapped street is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED - 3 Essex Walk, east side, 205.36' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

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COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Appeal granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated December 2, 2003, and revised on June 1, 2004 acting on Department of Buildings ALT 1. Application No. 401721446, reads in pertinent part:

“A-1 The existing building to be altered lies within the bed of a mapped street contrary to General City Law Article 3, Section 35

A-2 The street giving access to the existing building to be altered is not duly placed on the official map of the City of New York, Therefore:

a) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the

Resolved, that the decision of the Queens Borough Commissioner, dated February 18, 2004 acting on Department of Buildings ALT 1. Application No. 401721446 is modified under the power vested in the Board by Sections 35 and Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, “Received July 20, 2004”- (1) sheet; and that the proposal comply with all applicable R4 zoning 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 to the relief granted.

Adopted by the Board of Standards and Appeals, August 10, 2004.

13-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Howard & Phyllis Taphouse, owners.

General City Law:

b) existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code of the City of New York.

A3- The proposed upgraded private disposal system is in the bed of the service lane contrary to Department of Buildings Policy;” and

WHEREAS, by letter dated June 28, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated February 27, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 21, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

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

SUBJECT - Application January 13, 2004 - Proposed reconstruction and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 520 Browns Boulevard, west side of Beach 181st Street, and 396.29' south of Bayside Drive, Block 16340, Part of Lot 50, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Appeal granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated May 21, 2004 acting on Department of Buildings ALT 1. Application No. 401752689, reads in pertinent part:

“A-1 The existing building to be altered lies within the bed of a mapped street contrary to General City Law Article 3, Section 35

A2- The proposed upgraded private disposal system is in the bed of a mapped street contrary to Department of Buildings Policy;” and

WHEREAS, by letter dated January 22, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated March 29, 2004, the

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Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 21, 2004, the Department of Transportation states that it 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 February 18, 2004 acting on Department of Buildings ALT 1. Application No. 401752689 is modified under the power vested in the Board by Sections 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 July 20, 2004"-(1) sheet; and that the proposal comply with all applicable R4 zoning 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 PREMISES AFFECTED - 22 Hudson Walk, west side, 132.76' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

ACTION OF THE BOARD - Appeal granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated February 18, 2004, acting on Department of Buildings ALT 1. Application No. 401748882, reads in pertinent part:

"A1- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law: also no permit can be issued since proposed construction does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code of the City of New York.

A2- The upgraded private disposal system is in the bed of a private service road which serves as a street which is contrary to

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, August 10, 2004.

64-04-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Joseph Sammon, lessee.

SUBJECT - Application March 2, 2004 - Proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a private service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings' policy.

Department of Buildings Policy;" and

WHEREAS, by letter dated April 1, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 28, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 18, 2004, the Department of Transportation states that it 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 February 18, 2004 acting on Department of Buildings ALT 1. Application No. 401748882 is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, "Received March 2, 2004"-(1) sheet; and that the proposal comply with all applicable R4 zoning 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

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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, August 10, 2004.

66-04-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative, Inc., owner; John & Patricia Brennan, lessee.

SUBJECT - Application March 2, 2004 - proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a mapped street, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' policy.

PREMISES AFFECTED - 976 Bayside, southeast corner of Bayside Connection, Block 16350, Lot 300, Borough of Queens.

- A2- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law: also no permit can be issued since proposed construction does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code of the City of New York.

- A3- The upgraded private disposal system is in the bed of a mapped street is contrary to Department of Buildings Policy;" and

WHEREAS, by letter dated April 1, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 28, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 23, 2004, the Department of Transportation states that it 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 February 18, 2004 acting on Department of Buildings ALT 1. Application No. 401752386 is modified under the power vested in the Board by Sections 35 and 36 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, "Received June 24, 2004"- (1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *on further condition*

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

ACTION OF THE BOARD - Appeal granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated February 18, 2004, acting on Department of Buildings ALT 1. Application No. 401752386, reads in pertinent part:

"A1- The site is located partially in the bed of a mapped street therefore no permit of Certificate of Occupancy can be issued as per Art. 3. Sect 35 of the General City Law.

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 to the relief granted.

Adopted by the Board of Standards and Appeals, August 10, 2004.

67-04-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; 20 Queens Walk, lessee.

SUBJECT - Application March 2, 2004 - Proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a private service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings' policy.

PREMISES AFFECTED - 20 Queens Walk, west side, 368.85' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

ACTION OF THE BOARD - Appeal granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

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Commissioner Caliendo and Commissioner Chin.....4
Negative:.....0
Absent: Commissioner Miele.....1
THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated February 18, 2004, acting on Department of Buildings ALT 1. Application No. 401748873, reads in pertinent part:

“A1- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law: also no permit can be issued since proposed construction does not have at least 8% of total perimeter of the building

WHEREAS, by letter dated June 16, 2004, the Department of Transportation states that it 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 February 18, 2004 acting on Department of Buildings ALT 1. Application No. 401748873 is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, “Received March 2, 2004”-(1) sheet; and that the proposal comply with all applicable R4 zoning 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 to the relief granted.

Adopted by the Board of Standards and Appeals, August 10, 2004.

130-04-A

APPLICANT - Gary Lenhart, for The Breezy Point Cooperative, owner; Joanne Butler, lessee.

SUBJECT - Application March 12, 2004 - Proposed alteration and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the

fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code of the City of New York.

A2- The upgraded private disposal system is in the bed of a private service road which serves as a street which contrary to Department of Buildings Policy;” and

WHEREAS, by letter dated April 1, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 22, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

General City Law.

PREMISES AFFECTED - 181 Reid Avenue, west side, of Beach 201st Street, 129.55' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Appeal granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated May 21, 2004 acting on Department of Buildings ALT 1. Application No. 401804357, reads in pertinent part:

“A1- The existing building to be altered lies within the bed of a mapped street contrary to General City Law Article 3, Section 35

A2- The proposed upgraded private disposal system is in the bed of a mapped street contrary to Department of Buildings Policy;” and

WHEREAS, by letter dated March 22, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 28, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 22, 2004, the Department of Transportation states that it 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 May 21, 2004 acting on Department of Buildings ALT 1. Application No. 401804357 is modified under the power vested in the Board by Sections 35 of the

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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 July 20, 2004"-(1) sheet; and that the proposal comply with all applicable R4 zoning 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

186-04-A

APPLICANT -Eric Palatnik, Esq., for Aryeh Realty, LLC, owner.
SUBJECT - Application May 4, 2004 - Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 252-18 Rockaway Boulevard, corner of Dock Street, Block 13921, Lot 73, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Appeal granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated April 26, 2004 acting on Department of Buildings N.B. Application No. 401843500 in pertinent part:

"The site and new proposed building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law and is contrary to Section 27-291 of the Administrative Code of the City of New York."; and

WHEREAS, by letter dated June 10, 2004, the Fire Department states that it 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 26, 2004 acting on Department of Buildings N.B. Application No. 401843500 is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, "Received July 27, 2004" - (1) sheet; and that the proposal comply with all applicable M1-1 zoning district

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, August 10, 2004.

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 to the relief granted.

Adopted by the Board of Standards and Appeals, August 10, 2004.

18-04-A

APPLICANT - Robert Miller, for Breezy Point Co-op, Inc., owner; Mr. Ronald Kirsche, lessee.

SUBJECT - Application February 4, 2004 - Proposed addition of a second floor, to an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 5 of the General City Law.

PREMISES AFFECTED - 10 Irving Walk, west side, 105.69' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Michael Harley.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

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21-04-A

APPLICANT - Zygmunt Staszewski, P.E., for Breezy Point Co-op, Inc., owner; James O'Brien, lessee.

SUBJECT - Application February 9, 2004 - Proposed enlargement of an existing one family dwelling, located partially within the bed of a mapped street, and not fronting on a legally mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.
Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4
Negative:.....0
Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

50-04-A thru 52-04-A

APPLICANT - Joseph P. Morsellino, for Zankera, LLC, contract vendee.

SUBJECT - Application February 25, 2004 - Proposed three family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -

101-20 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 22, Borough of Queens.
Applic.#401770570.

101-22 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 23, Borough of Queens.
Applic.#401770589.

101-24 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 24, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4
Negative:.....0
Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

131-04-A

APPLICANT - New York City Department of Buildings.

OWNER OF RECORD - Douglas Ballinger.

SUBJECT - Application March 12, 2004 - Application pursuant to NYC Charter §§645(3)(e) and 666.6(a), to revoke Certificate of Occupancy No. 116501 on the basis that a lawfully non-conforming eating and drinking establishment (Use Group 6) in an R8 zoning district was discontinued for a period greater than two years and must therefore be occupied as a conforming residential use as per Z.R. §52-61.

PREMISES AFFECTED - 217 West 20th Street, between Seventh and Eighth Avenues, Block 770, Lot 30, Borough of Manhattan.

COMMUNITY BOARD #4M

PREMISES AFFECTED - 634 Bayside Avenue, eastside, 267.40' south of Bayside Drive, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Michael Harley.

THE VOTE TO CLOSE HEARING -

APPEARANCES -

For Applicant: Jeff Long, Madelon Rosenfeld, Esq.; and Scott Mason.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4
Negative:.....0
Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

148-04-A

APPLICANT - Jenkins & Gilchrist Parker Chaplin, LLP and Fischbein Badillo Wagner Harding

OWNER OF RECORD: Sterling & Seventh LLC.

SUBJECT - Application April 5, 2004 - Under Z.R. §12-10 to reverse the NYC Department of Buildings' revocation of the above referenced permits. The permits had allowed for the subdivision of Lot 52 from Lots 55, 58, and 61 and the construction of new building on Lot 52.

PREMISES AFFECTED - 133 Sterling Place, a/k/a 22 Seventh Avenue, northwest corner, Block 942, lots 48 and 52, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Howard Hornstein, Norman Marcus, James Pedowitz, Howard Goldman and Caroline Harris.

ACTION OF THE BOARD - Laid over to October 5, 2004, at 10 A.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 12:45 P.M.

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**REGULAR MEETING
TUESDAY AFTERNOON, AUGUST 10, 2004
2:00 P.M.**

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

ZONING CALENDAR

68-03-BZ

CEQR #03-BSA-134K

APPLICANT - Sheldon Lobel, P.C., for Torah M. Sinai, Inc.,
owner.

SUBJECT - Application February 11, 2003 - under Z.R. §72-21 to
permit the proposed conversion of an existing building, which is
located in an area designated as a manufacturing district, to be used
for a day care center, Use Group 3, and office use, Use Group 6,
without the required parking, and is contrary to Z.R. §42-00 and
§44-21.

PREMISES AFFECTED - 649 39th Street, northwest corner of
Seventh Avenue, Block 903, Lots 79, 80 and 83, Borough of
Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application granted on
condition.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough
Commissioner, dated March 12, 2003, acting on
Department of Buildings Application No. 301031197, reads,
in pertinent part:

“Proposed partial use of the premises as a
community facility, use group 3A is contrary to ZR
sections 42-00. Proposed partial use of the
premises as use group 6B offices without parking
is contrary to section 44-21. Therefore the matter
must be referred to the Board of Standards and
Appeals.”; and

WHEREAS, a public hearing was held on this
WHEREAS, the applicant represents that the following

application on August 5, 2003 after due notice by
publication in the City Record, with continued hearings on
September 9, 2004, October 21, 2003, January 6, 2004,
January 27, 2004, April 13, 2004, June 8, 2004, July 20,
2004, and then to August 10, 2004 for decision; and

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

WHEREAS, this is: (1) a variance application under
Z.R. §72-21, to permit, in an M1-2 zoning district, the
proposed enlargement of an existing building and a
conversion of a portion of the building for a day care center
(Use Group 3A) contrary to §42-00; and (2) a special permit
application under Z.R. §73-44 to permit a reduction in the
amount of parking required by §44-21 for the portion of the
proposed building to be occupied with office use; and

WHEREAS, this application was originally filed solely
under Z.R. §72-21, but at the request of the Board, a special
permit application was filed conjunctively to reduce the
scope of the minimum variance required; and

WHEREAS, the subject premises is located on the
northeasterly side of 39th Street, between 5th and 8th
Avenues, and is comprised of three tax lots - Lots 79, 80
and 83 - with a total lot area of approximately 35,664.60 sq.
ft.; and

WHEREAS, the applicant represents that Lots 79 & 80
are undeveloped; Lot 83 is currently improved with a vacant
building with a total floor area of 35,192.53 sq. ft.; and

WHEREAS, evidence in the record indicates that the
first floor of the existing building covers most of the lot, 290
feet long by 100 feet wide, while the second floor is 61 feet
long by 100 feet wide, located over the east side of the first
floor; and

WHEREAS, the proposal seeks to enlarge the existing
building by building out the second floor and constructing a
partial third floor, approximately 139 feet long by 100 feet
wide over the westerly side of the building; and

WHEREAS, the record indicates that the proposed
building will comply with the underlying bulk regulations and
have 63,330 sq. ft. of floor area, 34,377.47 square feet of
which will be occupied by the community facility use and
28,953.13 square feet of which will be occupied by
commercial office use; and

WHEREAS, the applicant states that the community
facility portion of the building will be used as a day care
center/school for children with special needs, and will
contain classrooms, therapy and rehabilitative equipment
rooms, an aquatic therapy pool, an auditorium, and offices;
and

are unique physical conditions, which create practical

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difficulties and unnecessary hardships in developing the property in conformity with underlying district regulations: (1) the interrupted street grid from the development of railroad tracks and a train yard adjacent to the site, (2) the development restrictions of Lots 79 and 80, and (3) the functional obsolescence of the existing building for manufacturing purposes; and

WHEREAS, the record indicates that the subject site extends 380 feet along 39th Street in the front, and 340 feet parallel with the railroad tracks and BMT train yard at the rear; and

WHEREAS, the record further indicates that Lots 79 and 80 were formerly part of Seventh Avenue, and when the railroad tracks and BMT train yard were developed, Seventh Avenue terminated at 39th Street and the City of New York ("the City") sold the portion of land fronting 39th Street that was formerly 7th Avenue; and

WHEREAS, the applicant states that the interrupted street grid created by the railroad tracks and BMT yard reduces the accessibility and traffic exposure of the site, thereby decreasing the marketability of a conforming building; and

WHEREAS, the applicant further asserts that Lots 79 and 80 were sold by the City on condition that the City could repurchase the lots together with any improvement for a total of one dollar, which makes it unreasonable to make any investment for development on the two lots; and

WHEREAS, furthermore, because Lots 79 and 80 are in the bed of a mapped street development on these lots would not be as-of-right; and

WHEREAS, the applicant represents that the existing building, which has been vacant for four years, is obsolete for manufacturing purposes due to the lumber floors which provide inferior support for modern day industrial equipment, and the rows of supporting beams running through the length of the building obstructing the floor space; and

WHEREAS, the applicant has provided evidence of the programmatic needs of the community facility, such as the current shortage of classroom space, lack of adequate space for therapy equipment and lack of auditorium space for training seminars and workshops; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate and in conjunction with the programmatic needs of the facility, create practical difficulties and unnecessary hardship in developing the site in conformity with the current zoning regulations; 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 related programmatic needs; and

WHEREAS, evidence in the record, including a land use map, indicate that the surrounding area consists predominantly of residential uses with some commercial and light manufacturing uses; and

WHEREAS, the Board finds that the proposed

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

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

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

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

WHEREAS, Z.R. §73-44 allows the Board to issue a Special Permit for a reduction of parking spaces for uses in parking requirement B1 in Use Group 6, to one (1) required parking space per 600 sq. ft. of floor area in an M1-2 zoning district provided that the Board find the occupancy in parking category B1 is contemplated in good faith on the basis of evidence submitted by the applicant, and on condition that the certificate of occupancy issued for the building where such use is located shall state that no certificate shall thereafter be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided; and

WHEREAS, the applicant has provided adequate evidence that the occupancy in parking category B1 is contemplated in good faith, and has agreed to the restriction of only office use, and the appearance of the aforementioned condition on the certificate of occupancy issued for the building; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §73-44; and

WHEREAS, the applicant has provided an analysis of the anticipated parking demand which demonstrates that the proposed offices will generate a demand for only a fraction of the required parking spaces and that there is ample available on-street parking available in the area during business hours; and

WHEREAS, the applicant represents that due to the abundance of nearby public bus and train access, most employees would travel by mass transit rather than by car; and

WHEREAS, the Board further finds that under the conditions and safeguards imposed, the hazards or disadvantages to the community at large of such special permit use at the particular site are outweighed by the advantages to be derived by the community by the grant of such special permit; and

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

WHEREAS, therefore, the Board finds that the application meets the general findings required for special permits set forth at Z.R. §73-03; and

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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.

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 to permit the proposed enlargement of an existing building located in an M1-2 zoning district, a conversion of a portion of the building for a day care center (Use Group 3A) contrary to Z.R. §42-00; and under Z.R. §73-44 to permit a reduction in the amount of parking required by Z.R. §44-21 for the portion of the proposed building to be occupied with office use, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 9, 2004"-(3) sheets, and *on further condition*;

THAT any change in use, ownership or lessee shall require approval by the Board;

THAT the certificate of occupancy issued for the building shall state that no certificate shall thereafter be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided; and

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

THAT the above conditions shall be noted in 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, August 10, 2004.

WHEREAS, the decision of the Borough Commissioner, dated April 14, 2003 acting on NB Application No. 401535950 reads in pertinent part:

"1. Rear yard contrary to Section 23-47 Z.R.

81-03-BZ

CEQR #03-BSA-144X

APPLICANT - Timothy M. Rice, for Vinicio Ramirez, owner;
SUBJECT - Application March 24, 2003 and updated December 15, 2003 - under Z.R. §32-30 to reestablish and amend an expired variance, for an auto repair (auto-body) shop, parking for more than five(5) vehicles, storage, and the legalization of a new one story structure on the same lot, which is contrary to a previous variance granted under Cal. No.843-46-BZ, Vol. II, and Z.R. §§22-00 and 32-00.

PREMISES AFFECTED - 857 East 169th Street, and 1351 Lyman Place, northwest corner, Block 2970, Lot 1, Borough of The Bronx.

COMMUNITY BOARD #3BX

APPEARANCES - None.

ACTION OF THE BOARD- Application dismissed for lack of prosecution.

THE VOTE TO DISMISS -

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

Negative:.....0

Absent: Commissioner Miele.....1

Adopted by the Board of Standards and Appeals, August 10, 2004.

139-03-BZ

CEQR #03-BSA-177Q

APPLICANT - Alfonso Duarte, for Sanjoy Augustine, owner.

SUBJECT - Application April 29, 2003 - under Z.R. §72-21 to permit the proposed erection of a two family dwelling, Use Group 2A, located in an R3-A zoning district, which does not comply with the zoning requirements, for rear yard and floor area ratio, is contrary to Z.R. §23-47 and §23-141(b).

PREMISES AFFECTED - 247-54 90th Avenue, south side, 225.51' west of Commonwealth Boulevard, Block 8662, Lot 28, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Alfonso Duarte.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

2. F.A.R. contrary to Section 23-141(b) Z.R."; and

WHEREAS, a public hearing was held on this application on October 27, 2003, after due notice by publication in *The City Record*, with continued hearings on

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December 16, 2003, March 2, 2004, March 30, 2004, April 27, 2004, June 8, 2004, July 20, 2004, and then laid over to August 10, 2004 for decision; and

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

WHEREAS, Queens Community Board #13 recommends disapproval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a one-family dwelling (Use Group 1) located in an R3-A zoning district, which does not comply with the zoning requirements for floor area ratio and rear yard, and is contrary to Z.R. §23-47 and 23-141; and

WHEREAS, this application was originally filed for the construction of a larger two-family dwelling which, in addition to the non-compliances cited above, did not comply with the zoning requirements for front yard; and

WHEREAS, at the request of the Board, and in response to community based concerns the applicant reduced the size of the proposed development from a two-family dwelling to a one-family dwelling to be more contextual with the surrounding area and provided the minimum ten foot front yard; and

WHEREAS, the record indicates that the subject site is located on the south side of 90th Avenue and is 255'-6" west of Commonwealth Boulevard; and

WHEREAS, the subject premises is a irregularly shaped trapezoidal zoning lot with a frontage of 41.18 feet along 90th Avenue, a depth that varies from 50.43 feet to 71.91 feet and a total lot area of 2431.5 square feet; and

WHEREAS, the subject application seeks to reduce the minimum required rear yard from thirty (30) feet to an average of 20.21 feet (the yard would range from 16.43 to 23.99 feet); and

WHEREAS, the applicant represents that compliance with the required yard regulations would result in an infeasible development due to the size and shape of the zoning lot; and

WHEREAS, therefore, the Board finds that strict compliance with the provisions of the Zoning Resolution would be impractical; and

WHEREAS, the aforementioned unique physical condition, namely the trapezoidal shape of the subject lot, creates unnecessary hardship and practical difficulties in

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 one-family dwelling (Use Group 1) located in an R3-A zoning district, which does not comply with the zoning requirements for floor area ratio and rear yard, and is contrary to Z.R. §23-47 and 23-141, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application

developing the site in compliance with the applicable zoning provision concerning front yards; and

WHEREAS, the Board requested that the applicant provide additional evidence that the requested floor area was necessary in terms of the feasibility of the proposal; and

WHEREAS, the applicant responded with statements from real estate brokers explaining that current market conditions require that new construction be of a certain size to be saleable; and

WHEREAS, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the Board notes that the proposed F.A.R. was significantly reduced from 0.75 to 0.69 and a complying front yard was provided to accommodate community based concerns and the concerns of the Board; and

WHEREAS, to demonstrate that the proposed bulk is consistent with the surrounding residential uses, the applicant has provided F.A.R. computations for which demonstrate that the majority of the neighboring homes along 90th Avenue on Block 8662 and 8663 have an F.A.R. above 0.60; and

WHEREAS, the F.A.R. computations also indicate that the only two such homes built after 1959 have F.A.R.'s of 0.74 and 0.80; and

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

WHEREAS, the Board finds that 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 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

marked "Received April 12, 2004"-(1) sheet, "May 25, 2004"-(3) sheets and "July 27, 2004"-(1) sheet; and on further condition;

THAT there shall be no habitable room in the cellar;

THAT cellar layout and occupancy shall be as approved by the Department of Buildings;

THAT substantial construction be completed and a Certificate of Occupancy be obtained in accordance with §72-23;

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

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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, August 10, 2004.

240-03-BZ

CEQR #04-BSA-010Q

APPLICANT - Sheldon Lobel, P.C., for Young Israel of Jamaica Estates, Inc., owner.

SUBJECT - Application July 10, 2003- under Z.R. §72-21 to permit the proposed enlargement of an existing two story synagogue, Use Group 4, located in an R1-2 zoning district, which does not comply with the zoning requirements for floor area ratio, building height, side yards, rear yard, also the proposed addition of lot 39 to the existing building, is contrary to Z.R. §24-10, §24-111, §24-521, §24-35 and §24-36, and a previous variance granted under Cal. No. 815-85-BZ.

PREMISES AFFECTED - 83-10 and 83-16 188th Street, south side, between Midland Parkway and Radnor Road, Block 7263, Lots 35 and 39, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decisions of the Borough Commissioner, dated June 20, 2003 and July 8, 2003, acting on Applications No. 401646527 (Lot 39) and 401591808 (Lot 35) respectively reads:

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed enlargement of an existing two story synagogue (Use Group 4), located in an R1-2 zoning district, which does not comply with the zoning requirements for floor area, building height, side yards, rear yard, and previously approved Board of Standards and Appeals plans, contrary to Z.R. §§24-10, 24-111, 23-521, 24-35, 24-36 and a previous variance granted under Cal. No. 815-85-BZ; and

WHEREAS, the subject lots (35 and 39), both owned by the Synagogue, are located on the southern side of 188th Street, between Midland Parkway and Radnor Road; and

WHEREAS, Lot 35 is 70' by 107' and is improved with a

“1. (Lot 39) Reconsideration is respectfully requested of the following zoning objections in an R1-2 zoning district: (1) Proposed floor area exceeds the allowable, contrary to Z.R. §§24-10 and 24-111, (2) Proposed building height exceeds the allowable, contrary to Z.R. §23-521, (3) Proposed side yards are less than required, contrary to Z.R. §24-35, (4) Proposed rear yard is less than required, contrary to Z.R. §24-36, and (5) Proposed addition (Lot 39) to the existing building (Lot 35) is not in compliance with previously approved Board of Standards and Appeals plans, contrary to a variance granted under Cal. No. 815-85-BZ; and

2. (Lot 35) Reconsideration is respectfully requested of the following zoning objections in an R1-2 zoning district: (1) Proposed floor area exceeds the allowable, contrary to Z.R. §§24-10 and 24-111, (2) Proposed building height exceeds the allowable, contrary to Z.R. §23-521, (3) Proposed side yards are less than required, contrary to Z.R. §24-35, (4) Proposed rear yard is less than required, contrary to Z.R. §24-36, and (5) Proposed addition (Lot 39) to the existing building (Lot 35) is not in compliance with previously approved Board of Standards and Appeals plans, contrary to a variance granted under Cal. No. 815-85-BZ”; and

WHEREAS, a public hearing was held on this application on November 18, 2003 after due notice by publication in *The City Record*, with continued hearings on January 13, 2004, March 2, 2004, May 11, 2004, June 15, 2004, and then to August 10, 2004 for decision; and

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

WHEREAS, Community Board 8, Queens recommends approval of the subject application; and

two-story Synagogue, and Lot 39 is 70' by 102' and is improved with a one-story single-family dwelling; and

WHEREAS, the applicant proposes merging the two tax lots (Lots 35 and 39) by developing a modern addition on Lot 39 (after demolition of the existing dwelling) and on the undeveloped side yard of Lot 35 thereby creating a new integrated facility; and

WHEREAS, the applicant represents that the Synagogue currently provides youth group services, religious services, and classes and programs for their congregants; and

WHEREAS, the applicant also occasionally rents space

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in the present synagogue building for religious events; and
WHEREAS, the applicant contends that the proposed enlargement is essential to the Synagogue's growing congregation and its programmatic needs; and

WHEREAS, the applicant represents that the Synagogue occasionally holds simultaneous activities and that the newly integrated facility will also accommodate simultaneous uses such as classes and programs, as well as Bar/Bat Mitzvah receptions and Sheva Brachos (post-wedding meals) during the Sabbath and some on weekdays; and

WHEREAS, the proposed building will have two above-grade stories (with a roof-top play area on the second floor) and one below-grade level (cellar); and

WHEREAS, the applicants maintains that the proposed expansion will include the following alterations and enlargements: (1) Cellar - expanded cellar, a warming kitchen, kitchen storage, small lobby space, expanded bathroom facilities, a Mikvah (ritual bath), a Bais Medrash (study space/prayer area) and a multi-purpose Kiddush room (function/gathering space), (2) First Floor - an enlarged lobby space and coat check room, a large meeting/function room, a warming kitchen and expanded bathroom facilities, (3) Second Floor - a youth center, three separate classroom/daycare spaces, two women's balconies above the sanctuary, the Rabbi's office, bathroom facilities and a small storage space, and (4) Roof - total of six (6) air-conditioning units (3 new units); and

WHEREAS, the proposal would result in the following non-compliances: a floor area of 7,920 sq. ft (3,494 sq. ft. maximum is permitted); an FAR of 1.13 (0.5 maximum permitted); a building height of 30'-7" (25'-0" is permitted); side yards of 8'-0" (12'-5" minimum required); a rear yard average of 8'-9" (30'-0" minimum required); and the proposed addition of Lot 39 to the existing synagogue facility on Lot 35, which is contrary to the variance granted under Cal. No. 815-85-BZ; and

WHEREAS, the Board notes that the applicant has made various modifications to the proposal since the filing of the case, said modifications being set forth in a Table of Changes submitted to the Board on July 13, 2004; and

WHEREAS, the applicant represents that the following

WHEREAS, a group formed in opposition to the proposed variance (The Committee for the Preservation of Jamaica Estates and Fresh Meadows, hereinafter the "Committee"), which includes neighbors to the Synagogue, testified that there have been traffic and parking problems related to the use of the Synagogue, and that garbage has been left out so that it is visible from the street; and

WHEREAS, the applicant was instructed by the Board to address these issues with the opposition; and

WHEREAS, the applicant has submitted an executed agreement between the Synagogue and the Committee, dated July 28, 2004, and agreed to the following, among other items: a reduction in bulk, an increase of the rear yard, reduction and movement of the play area to the second floor,

are unique physical conditions, which create practical difficulties and unnecessary hardships in constructing the proposed building in conformity with underlying district regulations: (1) one of the subject lots (Lot 39) is an unusually shaped parcel that is 70 feet wide, with a rear lot line that angles inward on the property forming a gently sloping "V" shape; (2) the other lot (Lot 35) is slightly irregularly shaped; and (3) Lot 39 is the only property owned by the applicant that is adjacent to the Synagogue which can feasibly be used to meet the needs of a growing congregation; and

WHEREAS, in response to the request of the Board, the applicant has submitted a detailed analysis of the programmatic needs of the Synagogue, as they relate to the proposed expansion, dated June 28, 2004; and

WHEREAS, the Board has reviewed this analysis and finds that it provides a sufficient explanation of the space needs of the Synagogue and why the proposed enlargement is necessary to meet those needs;

WHEREAS, at the request of the Board, the applicant has submitted a revised cost estimate of \$126,500.00 relating to the offsetting of the rear walls on the First and Second floors by ten (10) feet from the cellar; and

WHEREAS, the Board finds that this cost estimate supports applicant's position that the offset would be cost prohibitive; and

WHEREAS, therefore, the Board finds that the unique physical conditions mentioned above, when considered in the aggregate and in conjunction with the stated programmatic needs of the Synagogue, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with current applicable zoning regulations; and

WHEREAS, the applicant need not address Z.R. §72-21(b) since the Synagogue is a not-for-profit organization and the proposed variance will be in furtherance of its programmatic needs; and

WHEREAS, the applicant states that the proposed variance, if granted, will not negatively effect the essential character of the neighborhood nor impact the appropriate use of adjoining properties; and

reduction in size of the Mikvah, inclusion of two (2) trash enclosures, an internal trash compactor, perimeter fencing, façade changes, air conditioning sound attenuation, and a landscape plan; and

WHEREAS, the Board is not a party to this agreement, but has incorporated appropriate conditions in the agreement in the instant resolution; and

WHEREAS, at the request of the Board, the applicant has submitted a landscape plan depicting various plantings to be planted between the rear lot line and the newly integrated facility at four (4) foot intervals; and

WHEREAS, the applicant has submitted a supplemental traffic and parking analysis, which evaluates simultaneous events, and which addresses potential worst

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case scenarios that could arise from the proposed expansion; said analysis does not indicate that the enlarged facility would create problematic traffic or parking impacts; and

WHEREAS, the Board has reviewed this analysis and finds it credible and sufficient; and

WHEREAS, the applicant notes that a Synagogue is a permitted use in an R1-2 zoning district; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map, and concludes that the proposed building is appropriate given the context of the neighborhood; 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, assuming that the conditions imposed herein are complied with fully by the Synagogue; and

WHEREAS, the Board finds that the hardship alleged by applicant herein was not created by the owner or a predecessor in title; and

WHEREAS, as noted above, the applicant has reduced in part the scope of the proposed enlargement and has reduced the floor area by 13.3% or 1,211 sq. ft., reduced FAR by 13.7% or 0.18, increased the minimum rear yard on the First floor (Lot 39) by 153.9% or 5', increased the average rear yard on the First floor (Lot 39) by 51% or 3'-10", increased the minimum rear yard on the Second floor (Lot 39) by 100% or 3' (at the corner of the stair core), increased the average rear yard of the Second floor (Lot 39) by 206% of 15'-6", and reduced the size of the Mikvah; and

WHEREAS, therefore, the Board finds that this proposal is the minimum necessary to afford the owner relief and to meet their programmatic needs; and

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

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

WHEREAS, the evidence demonstrates no foreseeable THAT all landscaping as shown on the approved landscaping plans will be planted and maintained;

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 appear on the certificate of occupancy;

THAT all Local Law 58/87 requirements shall be reviewed and determined by the Department of Buildings;

THAT all exit requirements shall be reviewed and determined by the Department of Buildings;

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

THAT substantial construction be completed in

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 the required findings under Z.R. §72-21 and grants a variance, to permit the proposed enlargement of an existing two story synagogue (Use Group 4), located in an R1-2 zoning district, which does not comply with the zoning requirements for floor area, building height, side yards, rear yard, and Board of Standards and Appeals plans, contrary to Z.R. §§24-10, 24-111, 23-521, 24-35, 24-36 and a previous variance granted under Cal. No. 815-85-BZ; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 10, 2004"-(11) sheets; and *on further condition*:

THAT sound baffling surrounding the existing air conditioning units shall be repaired and maintained in good condition;

THAT no trash shall be left outside the synagogue building such that it shall be visible from the street, except for trash placed in the appropriate designated area for immediate pick-up;

THAT there shall be no commercial catering on the premises;

THAT the kitchens will only be used as warming kitchens;

THAT the roof-top play area will be open for use during the following hours only: between 8 am and 4 pm on weekdays, 9 am to 6 pm on Saturdays and Jewish Holidays, except that during the Jewish holiday of Sukkot, the play area may be used from 9 am to 8 pm;

THAT the play area will be equipped with an automatic closing door;

THAT there shall be no simultaneous uses allowed on the premises except as in accordance with the provisions set forth in the above-mentioned agreement between the Synagogue and the Committee;

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;

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, August 10, 2004.

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267-03-BZ

CEQR #04-BSA-032K

APPLICANT - Stuart A. Klein, Esq., for North 14th Street Realty Associates, LLC, owner.

SUBJECT - Application August 21, 2003 - under Z.R. §72-21 to permit the proposed construction of three attached six and seven story buildings, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 2/6 Berry Street, 194/96 North 14th Street, south side, between Wythe Avenue to the west and Berry Street to the east, Block 2279, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Stuart A. Klein.

ACTION OF THE BOARD - Application denied.

THE VOTE TO GRANT -

Affirmative: Commissioner Chin.....1

Negative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, July 21, 2003, acting on Department of Buildings Application No. 301572395, reads:

- “1) Proposed residential use group 2 not permitted in M-1 zoning district as per Z.R. 42-00.
- 2) Propose setback is contrary to Z.R. 23-633/43-43.
- 3) Proposed parking spaces insufficient as per Z.R. 25-241/44-21”; and

WHEREAS, a public hearing was held on this application on February 24, 2004 after due notice by publication in the City Record, with continued hearings on March 23 and June 8, 2004, and then to decision on August 10, 2004; and

WHEREAS, the application proposes the demolition of the existing buildings and the construction of three attached buildings (two six-story and one seven-story, hereinafter the “Proposed Buildings”) that will front on North 14th Street, with a building height of 77.5 feet, a total of 81 residential units and a Floor Area Ratio (“FAR”) of 4.0, commercial space on the first floor and in the cellar, and an on-site parking garage with space for 45 cars; and

WHEREAS, an earlier version of the application proposed three six-and-seven-story buildings, with a total of 86 residential units and a FAR of 4.77, and 27 parking spaces; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the site in conformity with underlying district regulations: (1) the existing two-story warehouse is functionally obsolete in that it is missing part of the second floor flooring, was designed for

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele, and Commissioner Chin; and

WHEREAS, this is an application under Z.R. §72-21 to permit the proposed construction of three attached six and seven story buildings (Use Group 2), located in an M1-1 (1.0 FAR) zoning district, contrary to Z.R. §42-00; and

WHEREAS, the site is located on the south side of North 14th Street and is bordered by Wythe Avenue to the west, and the corner of Nassau Avenue and Berry Street to the east, with frontage along both North 14 and Berry Streets; and

WHEREAS, the lot is approximately 24,000 sq. ft., and is occupied by four one-story buildings and a two-story building, all built as manufacturing/warehouse buildings, which, in the aggregate, possess a total floor area of 27,424 sq. ft.; and

WHEREAS, the lot in question has been the subject of a prior variance application, brought under BSA Calendar No. 57-02-BZ, which the applicant represents sought to convert a minor portion of the subject site; this case was withdrawn prior to decision; and

WHEREAS, Community Board 1, Brooklyn, recommends disapproval of the subject application; and

WHEREAS, the City Planning Commission (“CPC”), in a letter dated February 19, 2004, urged that the subject application be denied because the essential industrial character of the neighborhood would be negatively impacted; and

WHEREAS, the Department of City Planning (“DCP”) submitted written testimony and appeared at hearing, providing an explanation of manufacturing employment data in the area surrounding the site, as well as highlighting the degree of conforming use in the area; and

minimal floor loads and has small floor plates, needs renovations, and is only 40 feet wide, all of which lead to the site being less competitive for permitted uses when compared to certain other buildings in the area; (2) the other existing buildings are functionally obsolete in that they are in poor condition; and (3) the site suffers from unique sub-surface soil conditions that would require the installation of an expensive foundation system; and

WHEREAS, the applicant submitted a September 15, 2003 letter from an engineer in support of the claim that the existing buildings are obsolete, which states that the condition of the buildings is not due to any failure to maintain, but rather due to outdated construction practices and alleged poor soil conditions; and

WHEREAS, the applicant states that a further problem with the existing buildings is that they are not integrated, and that to rehabilitate the buildings so that they could house a conforming use would require expensive re-spanning; and

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WHEREAS, the Board observes that the proposal calls for the demolition of the existing buildings, which would result in a vacant lot without any inherent unique physical conditions (absent evidence of another condition); and

WHEREAS, accordingly, the Board rejects the claim that the alleged obsolescence of the buildings, in of itself, can be the unique physical condition for purposes of a variance when the buildings are subsequently demolished; and

WHEREAS, the applicant also claims that sub-surface soil conditions exist at the site; and

WHEREAS, in support of this claim, a boring was eventually taken at the site, and a boring test report was submitted that purports to show the existence of poor soil conditions; and

WHEREAS, the Board subsequently asked the applicant to take additional borings, and to conduct the tests inside the existing buildings, in compliance with Building Code provisions that govern boring tests; and

WHEREAS, some subsequent boring tests were done, but took place outside the buildings, and apparently outside the property lines, contrary to the instruction of the Board and also contrary to the methodology established in the Building Code; and

WHEREAS, the Board notes that the boring tests are inconclusive due to the locations from which they were taken; and

WHEREAS, the Board also instructed the applicant to provide evidence that any alleged soil conditions at the site were not a prevalent condition in the subject area; and

WHEREAS, the Board requested that the applicant make this showing by reviewing the records of the Department of Buildings as to the foundation design/type of other buildings in the area, in order to see if the records would reveal that the soil on the other lots was also poor; and

WHEREAS, because the applicant has failed to provide substantial evidence in support of the finding set forth at Z.R. §72-21(a), the application also fails to meet the finding set forth at Z.R. §72-21(b); and

WHEREAS, additionally, the applicant has submitted a feasibility study purporting to demonstrate that developing the entire premises with a conforming use would not yield the owner a reasonable return; and

WHEREAS, however, the applicant failed to submit any evidence of the precise dollar and cents premium cost associated with the alleged soil conditions that would support the claim of economic hardship; and

WHEREAS, moreover, the applicant did not submit credible evidence of premium demolition costs related to any structural feature of the existing buildings; and

WHEREAS, a senior developer with the Greenpoint Manufacturing and Design Center, a non-profit industrial real estate development center, testified that the per square foot rental assumptions made in the submitted feasibility study were unrealistically low and that with a higher rental assumption, a reasonable return could potentially be realized

WHEREAS, the applicant agreed that the Board's instruction was appropriate, but instead of reviewing DOB records, the applicant submitted another letter from the engineer, dated April 29, 2004, claiming that based upon a visual inspection of three other nearby buildings, his conclusion was that only the subject lot suffered from the poor soil conditions, as they did not show the same cracking and state of dilapidation as the existing buildings on the subject lot; and

WHEREAS, the Board disagrees that visual observation of nearby buildings alone, even by an engineer, is an acceptable methodology to evaluate the predominant soil conditions in a neighborhood for purposes of a Board case; and

WHEREAS, therefore, the Board does not find the engineer's conclusion to be sufficient evidence that the alleged soil condition is unique to the site, as it relies solely on visual observations of other buildings; and

WHEREAS, the Board maintains that a review of DOB records of neighboring buildings showing actual boring tests, the type of foundation systems utilized, or other evidence of soil conditions, would be a reasonably reliable means of ascertaining soil conditions in the area, and notes again that the applicant failed to provide this information as directed; and

WHEREAS, the Board concludes that the applicant has not submitted substantial evidence in support of the claim that the alleged soil conditions are not a prevalent condition in the area, and therefore unique to the degree necessary under Z.R. 72-21(a); and

WHEREAS, accordingly, the Board finds that the applicant has failed to submit substantial evidence in support of the finding set forth at Z.R. §72-21(a); and

from a conforming development; and

WHEREAS, this individual testified that a higher rental assumption was warranted based upon his experience in leasing out manufacturing space in the area; and

WHEREAS, this individual also testified that the assumed construction costs for a building suitable for conforming use appeared to be high, and that a building built for a conforming use could therefore be feasible, especially in light of ongoing rezoning efforts in the area that will likely lead to a diminishment of available manufacturing sites; and

WHEREAS, the applicant submitted marketing evidence in support of its claim that the existing buildings are obsolete and not rentable to a conforming user; and

WHEREAS, the Board has reviewed the evidence of these marketing attempts and notes that they appear to only address one of the five existing buildings; and

WHEREAS, testimony of a community member at hearing suggested that many of the companies that applicant alleges responded to the marketing attempts had no reason to lease space in Brooklyn, or were otherwise not

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realistic prospective lessees of the site, regardless of the condition of the existing buildings; and

WHEREAS, therefore, even if the applicant could substantiate that the site is uniquely afflicted with a physical condition, the Board finds that the claim of economic hardship has not been supported by substantial evidence, due to: (1) a lack of evidence showing the precise cost related to the alleged soil conditions; (2) credible testimony that a conforming use could be feasible and; (3) evidence of poor marketing attempts; and

WHEREAS, the applicant claims that the Proposed Buildings would not alter the essential character of the neighborhood or adversely impact nearby conforming uses; and

WHEREAS, in support of this claim, the applicant cited non-manufacturing uses allegedly near the site; specifically, the applicant directed the Board's attention to a church with a rectory and daycare, a loft building, and a school; and

WHEREAS, the applicant argues that these other uses contribute to an alleged mixed-use character of the neighborhood; and

WHEREAS, the Board disagrees that a such a small amount of non-manufacturing uses near the site gives the neighborhood a mixed-use character; and

WHEREAS, the above-mentioned DCP letter cites significant conforming activity near the site on North 13th Street between Berry Street and Wythe Avenue, and on North 14th Street between Wythe and Kent Avenues, and attached pictures of nearby conforming uses, as well as a map showing where conforming uses were located in relation to the site; and

WHEREAS, the Board observed on its site visit that

WHEREAS, due to the level and degree of conforming manufacturing uses surrounding the site, the Board finds that the introduction of 81 residential units into this neighborhood would impact the conforming uses and alter the essential character of the neighborhood; and

WHEREAS, DCP also submitted employment data showing that the level of manufacturing employment in the area was substantial, and at hearing, testified as to this data; and

WHEREAS, DCP also testified that there appeared to be some expansions of businesses in the area; and

WHEREAS, the applicant disagreed that the DCP data was accurate and submitted its own data on manufacturing employment; and

WHEREAS, the applicant argued that its data showed that there was a decline in manufacturing employment in the area over the last two years; and

WHEREAS, the Board notes that the study area used by DCP for its data differed from that used by the applicant; the applicant initially focused on a 400' radius from the site; and

WHEREAS, the applicant later obtained and submitted zip code based employment data, which showed a decrease in manufacturing and wholesale jobs for the subject zip code; and

there appears to be many active conforming manufacturing uses in the immediate vicinity of the subject site; and

WHEREAS, the land use map submitted by the applicant also shows that the predominant land use in the area is manufacturing; and

WHEREAS, this same land use map shows almost no residentially occupied sites

WHEREAS, based upon the above, the Board finds that the essential character of the neighborhood is manufacturing, not mixed-use; and

WHEREAS, the applicant argued that approximately 20 of the lots within a 600 feet radius of the site shown as conforming uses on the submitted land use map were actually vacant, residentially occupied, warehouses, or for rent; and

WHEREAS, the applicant stated that a revised, wider radius land use map, showing these 20 lots would be submitted, with information as to how long the lot had been vacant, for rent, or occupied by a non-manufacturing use; and

WHEREAS, however, no such revised land use map was submitted; and

WHEREAS, the applicant submitted written statements from nearby manufacturing property owners stating that they had no objection to proposed residential use; and

WHEREAS, the Board notes that the submitted statements do not speak for every conforming user in the neighborhood, and that in any event, a lack of objection from a conforming user is not dispositive of whether a particular variance will impact the essential character of the neighborhood or impact nearby conforming uses; and

WHEREAS, the Board declines to favor DCP's data over the applicant's, or vice versa, but instead finds that even if applicant's contentions that manufacturing employment had decreased in the 400' radius area in the last two years are accepted as accurate, the decrease was not so substantial that the essential character of the neighborhood would not be affected by the proposed residential buildings; and

WHEREAS, in fact, the Board notes that the predominant land use in the area remains overwhelmingly manufacturing despite any alleged diminishment in manufacturing employment, and that active conforming uses remain across the street from, and on the same block as, the site; and

WHEREAS, the Board notes that even assuming that applicant is correct regarding a decrease in manufacturing employment, at least some of the decrease in the last two years could be attributable to a weaker economy in the past two years, compounded by the effect of the September 11 tragedy, and that the area's manufacturing employment could remain stable or potentially increase as the economy strengthens; and

WHEREAS, in support of the claim that the Proposed Buildings would not affect the character of the

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neighborhood, the applicant also made two supplementary arguments, namely that that the south frontage of the Proposed Buildings would be across from a park, and that a designated bike path runs along Berry Street; and

WHEREAS, applicant argues that these two features are characteristic of a neighborhood that is appropriate for residential use; and

WHEREAS, the applicant states that manufacturing uses should not be placed adjacent to a park, according to modern planning principles; and

WHEREAS, the Board notes that while a park is arguably a neighborhood amenity that is compatible with residential use, the subject site is nevertheless surrounded on its block on two sides by conforming manufacturing sites, and is directly across the street from another manufacturing site; and

WHEREAS, the Board also notes that there are instances in the City of manufacturing uses abutting park boundaries, and that the two uses are not necessarily incompatible; parks can act as buffers between manufacturing zones and residential uses; and

WHEREAS, the Board does not agree that the existence of the bike path is important; and

WHEREAS, a bike lane does not create or contribute to any alleged residential character of the subject neighborhood; rather, a bike lane, given that it is actually laid out on the street, is more analogous to a transportation lane for auto vehicles; and

WHEREAS, on July 20, the applicant attempted to amend the subject application to a conforming hotel proposal, which would require a bulk waiver but not a use waiver; and

WHEREAS, on July 27, the applicant requested another adjournment from the Board in order to discuss the hotel proposal with the Brooklyn office of DCP, and also to analyze a residential scenario with lesser bulk; and

WHEREAS, the Board properly denied this request because regardless of the proposed use of the property (hotel or residential) or the proposed bulk, the Board, as described above, concludes that the applicant has failed to provide substantial evidence in support of the findings set forth at Z.R. 72-21(a) and (b), thus rendering any determination on the hotel scenario or lesser bulk scenario and their potential impact on the character of the neighborhood meaningless; and

WHEREAS, additionally, the Board notes that it conducted three hearings on the subject application, and at no time did the applicant indicate that a conforming use was viable; and

WHEREAS, to the contrary, at all times during the public hearing process, the applicant maintained that the requested relief was the minimum necessary and that no conforming use would bring a reasonable return on the site; and

WHEREAS, the applicant went so far as to state at the second hearing that they had done all the necessary "homework" and that they could not submit anything further to

WHEREAS, the Board notes that this treatment of bike lanes is consistent with its decision in BSA Calendar Number 241-02-BZ, which involved a similar claim regarding a bike path in a manufacturing district; and

WHEREAS, a member of the public testified that traffic in manufacturing zones is typically less than in commercial or residential districts, so riding a bike through them is generally safer; and

WHEREAS, in sum, the Board finds that: (1) the prevailing character of the neighborhood is manufacturing, not mixed-use; (2) that a substantial amount of conforming uses exist in the neighborhood that could be impacted by the Proposed Buildings, regardless of alleged manufacturing job losses in the area; and (3) the site's proximity to a bike path and park do not sufficiently support the claim that the site is appropriate for residential use; and

WHEREAS, based upon the above, the Board finds that the applicant has failed to submit substantial evidence in support of the finding set forth at Z.R. §72-21(c); and

WHEREAS, after the hearing was closed and a decision date set, the applicant requested an adjournment of the decision, and stated that they were investigating a conforming use scenario; and

WHEREAS, the Board granted the adjournment request through a letter sent by its Executive Director, which stated that submissions concerning the proposed conforming use scenario were expected by July 20, 2004; and

the Board; and

WHEREAS, at the third hearing, the applicant's financial analyst stated that it would be impossible to obtain financing for any as-of-right use; and

WHEREAS, in addition, on July 20, the applicant submitted only preliminary plans in support of the proposed change in the application, and has not explained why a feasibility study, statement of facts and findings, and environmental assessment could not be prepared; and

WHEREAS, in sum, the Board concludes that it need not reopen the instant matter for consideration of a conforming use proposal that would still require a substantial bulk waiver where, as here, the applicant has: (1) failed to provide the Board substantial evidence in support of the findings set forth at Z.R. §72-21(a) and (b); (2) throughout the entire hearing process until the date of closing, prosecuted a case before the Board based on the residential proposal; and (3) submitted an incomplete application amendment after a decision date has been set; and

WHEREAS, because the subject application fails to provide substantial evidence in support of the findings set forth at Z.R. §72-21 (a), (b), and (c), the application must be denied.

Resolved, the decision of the Borough Commissioner, July 21, 2003, acting on Department of Buildings Application No. 301572395, must be sustained, and the subject application is hereby denied.

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Adopted by the Board of Standards and Appeals,
August 10, 2004.

August 10, 2004.

305-03-BZ

CEQR #04-BSA-055K

APPLICANT - Sheldon Lobel, P.C., for 10 Grand Avenue, LLC,
owner.

SUBJECT - Application September 25, 2003 - under Z.R. §72-21
to permit the legalization of residential occupancy, Use Group 2,
located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 2, 8, 10 Grand Avenue, southwest
corner of Flushing Avenue, Block 1877, Lots 27 and 30, Borough of
Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

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

Negative:.....0

Absent: Commissioner Miele.....1

Adopted by the Board of Standards and Appeals,
Absent: Commissioner Miele.....1

Adopted by the Board of Standards and Appeals,
August 17, 2004.

360-03-BZ

CEQR #04-BSA-086K

APPLICANT - Friedman & Gotbaum, LLP, by Lori G. Cuisinier,
Esq., for Linden & Utica Realty Corp., owner; KFC U.S.
Properties, Inc., lessee.

SUBJECT - Application November 20, 2003 - under Z.R. §§73-03
and 73-243 to permit the reestablishment of an expired special
permit, previously granted under Calendar No. 257-87-BZ, which
permitted a drive-through facility for an eating and drinking
establishment in a C1-2(R5) zoning district.

PREMISES AFFECTED - 736-46 Linden Boulevard, southwest
corner of Linden Boulevard, Block 4675, Lot 6, Borough of
Brooklyn.

COMMUNITY BOARD #17BK

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on
condition.

THE VOTE TO GRANT -

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

Negative:.....0

308-03-BZ

CEQR #04-BSA-058X

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

SUBJECT - Application October 6, 2003 - under Z.R. §73-211 to
permit the proposed extension to an existing gasoline service station,
to include an accessory convenience store, also the addition of
another lot that, will be used for accessory parking, which is contrary
to a previous variance granted under Cal. No.193-50-BZ and
Z.R. §32-25.

PREMISES AFFECTED - 557/71 Grand Concourse, west side,
31.6' north of East 149th Street, Block 2347, Lots 24 and 19,
Borough of The Bronx.

COMMUNITY BOARD #4BX

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

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

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough
Superintendent, dated October 20, 2003 acting on
Department of Buildings Application No. 301647617 reads,
in pertinent part:

“Obtain BSA approval for extension [sic] of special
permit for the existing eating and drinking
establishment in C1-2/R district approved by BSA
before;” and

WHEREAS, a public hearing was held on this
application on July 20, 2004, and then laid over to August
10, 2004 for decision; and

WHEREAS, the premises and surrounding area had a
site and neighborhood examination by a committee of the
Board, consisting of Chair Srinivasan and Vice-Chair
Babbar; and

WHEREAS, this application is for the renewal of a
special permit for an existing eating and drinking
establishment and the legalization of an accessory drive-
through facility which, in a C1-2 Zoning District, requires a
Special Permit pursuant to Z.R. §§73-03 and 73-243; and

WHEREAS, the subject site is located on Linden
Boulevard at the southwest corner of the intersection of
Linden Boulevard and Utica Avenue, on a lot containing
12,000 square feet, with approximately 100 feet of frontage
on Linden Boulevard and 120 feet of frontage on Utica
Avenue; and

WHEREAS, on March 14, 1989, the Board granted a
special permit allowing the addition of a drive-through facility

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at a one (1) story eating and drinking establishment for a term of five (5) years; and

WHEREAS, the special permit expired on March 14, 1994, and therefore has lapsed; and

WHEREAS, the applicant represents that the Site: (1) provides reservoir space for a ten-car queue, (2) will cause minimal interference with traffic flow in the immediate vicinity because of the location of entrances, exits and curb cuts in relation to the street frontages, (3) is in compliance with off-street parking requirements, (4) conforms to the character of the commercially zoned street frontage within 500 feet of the subject premises which reflects substantial orientation toward the motor vehicle, (5) will not have an undue adverse impact on residences within the immediate vicinity of the subject premises because of precautions taken to provide for the use of the loudspeaker system, lighting and parking, and (6) provides adequate buffering between the drive-through facility and adjacent residential uses; and

WHEREAS, the Board finds that the applicant submitted sufficient evidence to support a conclusion that the Site meets the six findings necessary to warrant the grant of a special permit under Section 72-243 of the Zoning Resolution.

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 # 301647617)

Adopted by the Board of Standards and Appeals, August 10, 2004.

39-04-BZ

CEQR #04-BSA-132K

APPLICANT - Eric Palatnik, P.C., for Mordechai Bistrizky, owner.
SUBJECT - Application February 13, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, 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, §23-461 and §23-47.

PREMISES AFFECTED - 1418 East 29th Street, between Avenue "N" and Kings Highway, Block 7682, Lot 57, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

Resolved, that the Board of Standards and Appeals, *reopens and amends* the resolution to extend the term of the special permit which expired on March 14, 1994, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the special permit for an additional five (5) years from March 14, 2004 to expire on March 14, 2009, *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 26, 2004"- (4) sheets and "May 19, 2004"- (2) 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 and all conditions from prior resolutions shall appear on the certificate of occupancy;

THAT all signage shall conform with the underlying district regulations and prior Board grants;

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 decision of the Department of Buildings, dated February 6, 2004, acting on Application No. 301685745, reads in pertinent part:

"PROPOSED ENLARGEMENT TO EXISTING RESIDENCE IS CONTRARY TO ZR SECTION 23-141 (FLOOR AREA AND OPEN SPACE) AS WELL AS ZR SECTION 23-47 (REAR YARD) + 23-461 AND THEREFORE REQUIRES A SPECIAL PERMIT FROM THE BSA"

WHEREAS, a public hearing was held on this application on June 8, 2004 after due notice by publication in the *City Record*, with a continued hearing on July 13, 2004, and then to August 10, 2004 for a decision; and

WHEREAS, this is an application pursuant to Z.R. §73-622 to permit the proposed enlargement to an existing single-family dwelling located in an R2 Zoning District, which does not comply with the zoning requirements for floor area ratio, open space, and side and rear yard, and is therefore contrary to Z.R. §§23-141, 23-47, and 23-461; and

WHEREAS, a site and neighborhood examination has been conducted at the premises and surrounding area by a committee of the Board; and

WHEREAS, Brooklyn Community Board 14, has recommended approval of this application; and

WHEREAS, the premises consists of a 3,250 sq. ft. lot, located on East 29th Street between Avenue N and Kings Highway, currently improved with a two-story residential structure containing 1,392.7 sq. ft. of floor area; and

WHEREAS, the applicant states that the proposed enlargement will increase the total floor area of the building to 3,416.5 sq. ft.; and

WHEREAS, the applicant represents that the subject zoning lot is defined pursuant to ZR §23-48 as an "Existing

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Narrow Zoning Lot"; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the perimeter wall height will comply with all applicable zoning regulations; and

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

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

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

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

THAT all parking facilities shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; no waiver is granted as to the cellar;

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, August 10, 2004.

147-02-BZ

APPLICANT - Gerald J. Caliando, R.A., for Joseph Pizzonia, owner.

SUBJECT - Application May 8, 2002 - under Z.R. §72-21 to permit the legalization of the change of use of covered parking area, to automobile repair service bays, and the addition of a mezzanine with an accessory office and storage area, located in a C1-2 within an R-4 zoning district, is contrary to a previous variance granted under Cal. No. 148-87-BZ and Z.R. §32-00.

PREMISES AFFECTED - 201-06 Hillside Avenue, southeast corner of 201st Street, Block 10495, Lot 52, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Gerald J. Caliando and Sandy Anagnostou.

ACTION OF THE BOARD - Laid over to September 21, 2004, at 1:30 P.M., for continued hearing.

361-02-BZ

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 N.Y.C.R.R. Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings and *grants* a special permit under Z.R. §73-622 and §73-03, to permit the proposed enlargement to an existing single-family dwelling located in an R2 Zoning District, which does not comply with the zoning requirements for floor area ratio, open space, and side and rear yard, and is therefore contrary to Z.R. §§23-141, 23-47, and 23-461, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received February 13, 2004"- (9) sheets and "June 29, 2004"-(1) sheet; and *on further condition*;

THAT there shall be no habitable room in the cellar;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

APPLICANT - Marianne Russo, for 214 25th Street Corporation, owner.

SUBJECT - Application December 13, 2002 and updated January 5, 2004 - under Z.R. §72-21 to permit the proposed renovation and conversion of an existing factory building, to create 15 unit loft type apartments, with five parking spaces in the mews, a garden courtyard, and the addition of floor area to the center of the front structure, located in an M1-1D district, which does not meet the zoning requirements for rear lot line, parking, height and setback, is contrary to Z.R. §42-00, §43-61(d), §43-61(c) and §44-27.

PREMISES AFFECTED - 214 25th Street, between Fourth and Fifth Avenues, Block 655, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to October 5, 2004, at 1:30 P.M., for continued hearing.

102-03-BZ

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

SUBJECT - Application April 3, 2003 - under Z.R. §72-21 to permit the proposed development of two residential buildings with underground accessory parking and an open recreation space between the two buildings, Use Group 2, located in an M3-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 291 Kent Avenue, 35/37 South Second Street and 29/33 South Third Street, east side of Kent Avenue, between South Second and Third Streets, Block 2415, Lots 10, 14, 15, 41-43, 114 and 116, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jordan Most, Jack Freeman and Bruce Cutler.

For Opposition: Brando Cole, Steven Frankel, Peter Bassett, Philipp Mohr and Monroe Denton.

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ACTION OF THE BOARD - Laid over to October 5, 2004, at 1:30 P.M., for continued hearing.

186-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Mount Carmel Plaza, LLC, owner.

SUBJECT - Application June 4, 2003 - under Z.R. §72-21 to permit the proposed seven story multiple dwelling, Use Group 2, with a total of sixty residential units and twenty-four parking spaces, located in an M1-2 zoning district, which is contrary to Z.R. §42-00. PREMISES AFFECTED - 525 Union Avenue, west side, 48' south SUBJECT - Application June 10, 2003 - under Z.R. §72-21 to permit the proposed construction of a five (5) story, 27 unit residential building, in an M1-1 zoning district.

PREMISES AFFECTED - 824/34 Kent Avenue, south side of Park Avenue, and east of Taaffe Place, Block 1897, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Steven Epstein and Ari Steinman.

ACTION OF THE BOARD - Laid over to October 19, 2004, at 1:30 P.M., for continued hearing.

194-03-BZ

APPLICANT - Sheldon Lobel, P.C., for B'nos Menachem Inc., owner.

SUBJECT - Application June 13, 2003 - under Z.R. §72-21 to permit the proposed catering establishment, Use Group 9, in the cellar of an existing one story, basement and cellar building (school for girls), located in an R6 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 739 East New York Avenue, between Troy and Albany Avenues, Block 1428, Lot 47, Borough of Brooklyn.

COMMUNITY BOARD #9BK

APPEARANCES -

For Applicant: Sheldon Lobel and Richard Lobel.

ACTION OF THE BOARD - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

260-03-BZ

APPLICANT - Law Offices of Howard Goldman, PLLC, for 376 East 94th Street, Realty LLC, owner.

SUBJECT - Application August 14, 2003 - under Z.R. §72-21 to permit the legalization of sixty (60) residential units, in an existing seven story building, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 20 Grand Avenue, between Flushing and Park Avenues, Block 1877, Lot 35, Borough of Brooklyn.

COMMUNITY BOARD #2BK

of Withers Street, Block 2315, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Laid over to August 17, 2004, at 1:30 P.M., for continued hearing.

193-03-BZ

APPLICANT - James M. Plotkin, Esq., for Park and Kent Associates, Inc., owner.

APPEARANCES -

For Applicant: Emily Simons.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to October 19, 2004, at 1:30 P.M., for decision, hearing closed.

343-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Pasquale Pescatore, owner.

SUBJECT - Application November 12, 2003 - under Z.R. §72-21 to permit the proposed construction of seven story, nineteen unit, residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 90 Havemeyer Street, between Hope Street and Metropolitan Avenue, Block 2368, Lot 26(Former Lots 26, 27 and 28), Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

358-03-BZ

APPLICANT - Harold Weinberg, P.E., for Rita Citronenbaum, owner.

SUBJECT - Application November 19, 2003 - under Z.R. §72-21 to permit the proposed enlargement to an existing single family residence, Use Group 1, located in an R5 zoning district, which does not comply with the zoning requirements for lot coverage, also rear and side yards, is contrary to Z.R. §23-146 and §23-47.

PREMISES AFFECTED - 1651 52nd Street, north side, 334'-4½" west of 17th Avenue, Block 5466, Lot 69, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Harold Weinberg, Rita Citronenbaum and Grace

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Scire.

ACTION OF THE BOARD - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

373-03-BZ

APPLICANT - The Agusta Group, for 3235 Hull LLC, owner.

APPEARANCES -

For Applicant: Sol Korman.

ACTION OF THE BOARD - Laid over to September 21, 2004, at 1:30 P.M., for continued hearing.

9-04-BZ

APPLICANT - Marvin B. Mitzner, Esq., Fischbein Badillo Wagner Harding for Walworth Condominium, Inc., owner.

SUBJECT - Application January 12, 2004 - under Z.R. §72-21 to permit the proposed multiple dwelling, which will contain forty-seven dwelling units, located in an M1-1 zoning district, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 114 Walworth Street, northwest corner of Myrtle Avenue, Block 1735, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Marvin Mitzner, Felipe Pedanza and Jack Freeman.

ACTION OF THE BOARD - Laid over to September 28, 2004, at 10 A.M., for continued hearing.

17-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Renee Kubie, owner.

SUBJECT - Application January 28, 2004 - under Z.R. §72-21 to permit the legalization of an enlargement in portions of the first and second floors, of a single family residence, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, side and front yards, also perimeter wall height, is contrary to Z.R. §23-141, §23-461A, §23-631B and §23-45.

PREMISES AFFECTED - 2323 Avenue "S", northwest corner of East 24th Street, Block 6829, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Lyra Altman.

ACTION OF THE BOARD - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

19-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Motiva Enterprises, LLC, owner.

SUBJECT - Application February 6, 2004 - under Z.R. §11-412 to permit the reestablishment of an expired variance previously granted

SUBJECT - Application December 2, 2003 - under Z.R. §72-21 to permit the proposed off-site accessory parking lot, to be located in an R7-zoning district, which is contrary to Z.R. §25-52.

PREMISES AFFECTED - 293 East 207th Street, north side, 80' west of Perry Avenue, Block 3343, Lot 683, Borough of The Bronx.

COMMUNITY BOARD #7BX

under Cal. No. 423-54-BZ, for a gasoline service station in a C2-1 within an R-4 zoning district, also the legalization of the conversion of a portion of the gas station to an accessory retail convenience store, is contrary to Z.R. §22-10 and §32-10.

PREMISES AFFECTED - 1217 East 233rd Street, a/k/a 3923 Baychester Avenue, Block 4954, Lot 68, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to September 14, 2004, at 1:30 P.M., for decision, hearing closed.

38-04-BZ

APPLICANT - Eric Palatnik, P.C., for Sanford Becker and Howard Ochs, owner.

SUBJECT - Application February 13, 2004- under Z.R. §72-21 to permit the legalization of the northern side yard at an existing dentist's office, Use Group 4, located in an R3-2 zoning district, which is in non-compliance with Z.R. §23-464 and §24-35.

PREMISES AFFECTED - 70-15 164th Street, east side, between Jewel and 71st Avenues, Block 6933, Lot 78, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to October 5, 2004, at 1:30 P.M., for continued hearing.

40-04-BZ

APPLICANT - Agusta & Ross, for Steven Witriol, owner.

SUBJECT - Application February 13, 2004 - under Z.R. §72-21 to permit the proposed change of use from an automobile repair and used vehicles sales (Use Group 16), previously approved by the Board under Cal. No. 56-95-BZ, to a retail store (Use Group 6), located in an R5 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 2252 Linden Boulevard, southeast corner of Cleveland Street, Block 4360, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES - None.

MINUTES

ACTION OF THE BOARD - Laid over to October 5, 2004, at 1:30 P.M., for continued hearing.

42-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Emerich Goldstein and Zipora Goldstein, owners.

SUBJECT - Application February 23, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, side and rear yards, is contrary to Z.R. §23-141, §23-461 and §23-47.

PREMISES AFFECTED - 1264 East 27th Street, between Avenues "L" and "M", Block 7644, Lot 71, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Lyra Altman.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to September 14, 2004, at 1:30 P.M., for decision, hearing closed.

134-04-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for 184 Kent Avenue Associates, owner.

SUBJECT - Application March 19, 2004 - under Z.R. §§72-22 and 1-05(e) to permit the proposed construction of a public esplanade between the building and bulkhead line, also the proposed construction of an additional forty-seven residential units, located in an M3-1 zoning district, is contrary to a previous variance granted under Cal. No. 191-00-BZ.

PREMISES AFFECTED - 184 Kent Avenue, northwest corner of North Third Street, Block 2348, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Howard Hornstein, Barbara Hair, Jack Freeman, Karl Fischer.

For Opposition: Rebecca Brillhart, Nina Englander, Peter Gillespie, Philip Mohr and Jay Platt.

ACTION OF THE BOARD - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

142-04-BZ

APPLICANT - Rampulla Associates Architects, for Frank

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

Negative:.....0

Absent: Commissioner Miele.....1

McErlean, owner.

SUBJECT - Application March 30, 2004 - under Z.R. §72-21 to permit the proposed single family detached residence, Use Group 1, located within the required front yard, which is contrary to Z.R. §23-45.

PREMISES AFFECTED - 516 Arbutus Avenue, north side, at the intersection of Shore Avenue and Trout Place, Block 6529, Lot 15, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Philip L. Rampulla.

ACTION OF THE BOARD - Laid over to September 21, 2004, at 1:30 P.M., for continued hearing.

143-04-BZ

APPLICANT - Rampulla Associates Architects, for Charles Farina, owner.

SUBJECT - Application March 30, 2004 - under Z.R. §72-21 to permit the proposed in-ground pool, located within the required front yard, which is contrary to Z.R. §23-12.

PREMISES AFFECTED - 522 Arbutus Avenue, north side, at the intersection of Shore Avenue and Trout Place, Block 6529, Lot 10, Borough of Staten Island

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Howard A. Zipser, Bex Axsehod, Joan Krevlin, Joseph Jerome and Martin Maskowitz.

ACTION OF THE BOARD - Laid over to September 21, 2004, at 1:30 P.M., for continued hearing.

206-04-BZ

APPLICANT - Howard A. Zipser, Esq., for Sephardic Community Youth Center, Inc., owner.

SUBJECT - Application May 19, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing community facility, Use Group 4, located in an R5 within the Special Ocean Parkway zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, building's height and setback, also the rear yard, is contrary to Z.R. §23-141, §23-631, §113-55, §113-51 and §113-544.

PREMISES AFFECTED - 1901 Ocean Parkway, southeast corner of Avenue "S", Block 7088, Lots 1, 14, 15, 16 and 89, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING -

ACTION OF THE BOARD - Laid over to September 14, 2004, at 1:30 P.M., for decision, hearing closed.

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Pasquale Pacifico, Executive Director.

Adjourned: 6:45 P.M.