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# BULLETIN

OF THE  
NEW YORK CITY BOARD OF STANDARDS  
AND APPEALS

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Volume 97, No. 30

July 25, 2012

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## DIRECTORY

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12-91-BZ	2241 Victory Boulevard, Staten Island
163-04-BZ	671/99 Fulton Street, Brooklyn
292-55-BZ	239-15 Jamaica Avenue, Queens
39-65-BZ	2701-2711 Knapp Street and 3124-3146 Voochries Avenue, Brooklyn
579-78-BZ	236-238 East 58 <sup>th</sup> Street, Manhattan
406-82-BZ	2411 86 <sup>th</sup> Street, Brooklyn
294-06-BZ	31-11 Broadway, Queens
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48-12-BZ	336 West 37 <sup>th</sup> Street, Manhattan
87-12-BZ	1720-28 Sheepshead Bay Road, Brooklyn

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# DOCKET

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New Case Filed Up to July 17, 2012  
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**213-12-A**

900 Beach 184th Street, east side Beach 184th Street, 240' north of Rockaway Point Boulevard., Block 16340, Lot(s) p/o50, Borough of **Queens, Community Board: 14**. The proposed reconstruction and enlargement of the existing single family dwelling partially within the bed of the mapped street is contrary to Article 3, Section 35 of the General City Law. R4 district.  
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**214-12-BZ**

2784 Coney Island Avenue, between Gerald Court and Kathleen Court, Block 7224, Lot(s) 70, Borough of **Brooklyn, Community Board: 13**. Re-instatement (§§11-411 and 11-413) of a previously approved variance which permitted the operation of an Automotive Service Station (UG 16B) on a lot with an existing Auto Laundry. The application seeks to re-instate the term of the variance which ex R5/C2-2 district.  
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**215-12-A**

307 West 79th Street, northside West 79th Street, between West End Avenue and Riverside Drive., Block 1244, Lot(s) 8, Borough of **Manhattan, Community Board: 7**. Appeal seeks a reversal of a DOB determination to revoke the work permit based on the use of the premises as a transient hotel which is contrary to Certificate of Occupancy No. 53010 and that a Certificate of No Harassment from HPD pursuant BC 28-107.4 R10A district.  
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**DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.**

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# CALENDAR

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**AUGUST 7, 2012, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, August 7, 2012, 10:00 A.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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**SPECIAL ORDER CALENDAR**

**548-69-BZ**

APPLICANT – Eric Palatnik, P.C., for BP North America, owner.

SUBJECT – Application March 27, 2012 –Extension of Term for a previously granted Variance for the continued operation of a gasoline service station (*BP North America*) which expired on May 25, 2011; Waiver of the Rules. R3-2 zoning district.

PREMISES AFFECTED – 107-10 Astoria Boulevard, southeast corner of 107<sup>th</sup> Street, Block 1694, Lot 1, Borough of Queens.

**COMMUNITY BOARD #3Q**

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**69-91-BZ**

APPLICANT – The Law Office of Fredrick A. Becker, for The 61 West 62<sup>nd</sup> Street Condominium, owner; TSI Lincoln LLC dba New York Sports Club, lessee.

SUBJECT – Application April 11, 2012 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a Physical Culture Establishment (*New York Sports Club*) which expired on November 26, 2012; an Amendment for the decrease in floor area; Waiver of the Rules. C4-7 (L) zoning district.

PREMISES AFFECTED – 49-61 West 62<sup>nd</sup> Street, northeasterly corner of West 62<sup>nd</sup> Street and Columbus Avenue, Block 1115, Lot 7502, Borough of Manhattan.

**COMMUNITY BOARD #7M**

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**93-97-BZ**

APPLICANT – Eric Palatnik, P.C., for Pi Associates, LLC, owner.

SUBJECT – Application March 13, 2012 – Amendment to a previously granted Variance (72-21) to permit the change in use of a portion of the existing second floor (5902sf) which is currently occupied by 13 off street accessory parking spaces to UG 6 office use. C4-3 zoning district.

PREMISES AFFECTED – 136-21 Roosevelt Avenue, between Main Street and Union Street, Block 4980, Lot 11, Borough of Queens.

**COMMUNITY BOARD #7Q**

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**72-04-BZ**

APPLICANT – Eric Palatnik, P.C., for Bway-129 St. Gasoline Corp., owner.

SUBJECT – Application December 5, 2011 – Extension of Term (§11-411) of a previously approved variance, which permitted the erection and maintenance of an automotive service station (UG 16B) with accessory uses which expired on June 3, 2010; Waiver of the Rules of Practice and Procedure. R6/C1-2 zoning district.

PREMISES AFFECTED – 141-54 Northern Boulevard, southwest corner of Parsons Boulevard, Block 5012, Lot 45, Borough of Queens.

**COMMUNITY BOARD #7Q**

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**98-06-BZ/284-06-A**

APPLICANT – Eric Palatnik, P.C., for Yeshiva Slach Yitzchok, owner.

SUBJECT – Application November 29, 2011 – Amendment to increase the maximum allowable height and amend the setbacks (§24-551 and §24-521), increase floor area (§24-11), increase lot coverage (§24-11), reduce front yards (§24-34), reduce side yards (§24-35) and to extend the time to complete construction in the bed of the mapped not built portion of Dinsmore Avenue under GCL 35 to reflect a new design. R4A Zoning District.

PREMISES AFFECTED – 1045 Beach 9<sup>th</sup> Street, southwest corner of Beach 9<sup>th</sup> Street and Dinsmore Avenue, Block 15554, Lot 49, 51, Borough of Queens.

**COMMUNITY BOARD #14Q**

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**APPEALS CALENDAR**

**45-03-A thru 62-03-A & 64-03-A**

APPLICANT – Joseph Loccisano, P.C., for Willowbrook Road Associates LLC, owner.

SUBJECT – Application October 3, 2011 – Proposed construction of single family homes not fronting on a legally mapped street contrary to Section 36 of the General City Law and also located within the bed of a mapped street contrary to Section 35 of the General City Law. R3-1 zoning district.

PREMISES AFFECTED –Hall Avenue, north side of Hall Avenue, 542.56’ west of the corner formed by Willowbrook Road and Hall Avenue, Block 2091, Lot 60, 80, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

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# CALENDAR

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## 83-12-A & 84-12-A

APPLICANT – Richard G. Leland, Esq./Fried Frank, for Frank Ferrovicchio, owner; Millennium Billboards LLC, lessee..

SUBJECT – Application April 6, 2012 – Appeal from Department of Buildings’s determination that signs are not entitled to continued non- conforming use status as advertising signs. C8-3 Zoning District.

PREMISES AFFECTED – 653 Bruckner Boulevard, intersection of Bruckner Boulevard and Timpson Place, Block 2603, Lot 115, Borough of Bronx.

### COMMUNITY BOARD #2BX

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## 164-12-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; Robert Hauck, lessee.

SUBJECT – Application June 11, 2012 – Proposed reconstruction and enlargement of a single family home not fronting on a legally mapped street contrary to Art. 3 Sect.36 GCL and also partially in the bed of a mapped street contrary to Art 3 Sect. 35 of the Gen. City Law.

PREMISES AFFECTED – 210 Oceanside Avenue, Block 16350, part of Lot 400, Borough of Queens.

### COMMUNITY BOARD #14Q

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**AUGUST 7, 2012, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, August 7, 2012, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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## ZONING CALENDAR

### 2-12-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Tehjila Development, LLC, owner.

SUBJECT – Application January 3, 2012 – Variance (§72-21) for the construction of a three story with cellar, two family dwelling on a vacant lot, contrary to side yard requirement (ZR §23-48); less than the required number of parking spaces (ZR §25-21) and location of one parking space within the front yard (ZR §23-44). R5 Zoning district.

PREMISES AFFECTED – 95-36 115<sup>th</sup> Street, 335.29’ south of intersection of 95<sup>th</sup> Avenue and 115<sup>th</sup> Street, Block 9416, Lot 24, Borough of Queens.

### COMMUNITY BOARD #9Q

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### 11-12-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Marc Edelstein, owner.

SUBJECT – Application November 17, 2012 – Special

Permit (§73-622) for the legalization of an enlargement to an existing single family home contrary floor area and open space (23-141); side yards (23-461) and less than the required rear yard (23-47). R-2 zoning district.

PREMISES AFFECTED – 3599 Bedford Avenue, East side of Bedford Avenue, between Avenue N and Avenue O, Borough of Brooklyn, Block 7679, Lot 13, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

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### 61-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Martha Schwartz, owner; Altamarea Group, lessee.

SUBJECT – Application March 15, 2012 – Variance (§72-21) to permit a Use Group 6 restaurant in a portion of the cellar and first floor of the existing two-story and cellar building. M1-5B zoning district.

PREMISES AFFECTED – 216 Lafayette Street, between Spring Street and Broome Street, 25’ of frontage along Lafayette Street, Block 482, Lot 28, Borough of Manhattan.

### COMMUNITY BOARD #2M

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### 141-12-BZ

APPLICANT – Eric Palatnik, for Won Hoon Cho, Inc., owner.

SUBJECT – Application May 3, 2012 – Re-Instatement (§§11-411 & 11-412) of a previously approved variance which permitted retail (UG 6) in a residential district which expired on October 14, 1989; Amendment to permit the installation of three (3) new awnings with signage; and changes to the interior layout; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 65-02/10 164<sup>th</sup> Street, southwest corner of 65<sup>th</sup> Street, Block 6762, Lot 53, Borough of Queens.

### COMMUNITY BOARD #8Q

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*Jeff Mulligan, Executive Director*

# MINUTES

## REGULAR MEETING TUESDAY MORNING, JULY 17, 2012 10:00 A.M.

Present: Chair Srinivasan, Vice-Chair Collins,  
Commissioner Hinkson and Commissioner Montanez.  
Absent: Commissioner Ottley-Brown  
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### SPECIAL ORDER CALENDAR

#### 534-65-BZ

APPLICATION – Alfonso Duarte for Parker Yellowstone, owner.

SUBJECT – Application March 9, 2012 – Extension of Term permitting surplus tenant parking spaces, within an accessory garage, for transient parking pursuant to §60 (3) of the Multiple Dwelling Law, which expired on July 13, 2010; waiver of the Rules. R7-1 zoning district.

PREMISES AFFECTED – 104-40 Queens Boulevard, northeast corner Yellowstone Boulevard. Block 3175, Lot 1. Borough of Queens.

#### COMMUNITY BOARD #6Q

APPEARANCES –

For Applicant: Alfonso Duarte.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins,  
Commissioner Hinkson and Commissioner Montanez.....4

Absent: Commissioner Ottley-Brown .....1

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of term for a previously granted variance for a transient parking garage, which expired on July 13, 2010; and

WHEREAS, a public hearing was held on this application on May 8, 2012, after due notice by publication in *The City Record*, with a continued hearing on June 12, 2012, and then to decision on July 17, 2012; and

WHEREAS, Community Board 6, Queens, recommends approval of this application; and

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

WHEREAS, the subject site is a corner lot with approximately 247 feet of frontage on Pedestrian Way and 299 feet of frontage on Yellowstone Parkway, within an R7-1 zoning district; and

WHEREAS, the site is occupied by a 16-story residential building; and

WHEREAS, the subject zoning lot consists of the entirety of the block bounded by Queens Boulevard to the north, Pedestrian Way and 68<sup>th</sup> Drive to the west, and Yellowstone Parkway to the south, and is occupied by the

subject building and two additional 16-story residential buildings with inter-connected parking garages located below grade; however, only the parking garage for the subject building at 104-40 Queens Boulevard provides transient parking spaces; and

WHEREAS, two sub-cellar levels of the subject building are occupied by a 181-space accessory parking garage; and

WHEREAS, on July 13, 1965, under the subject calendar number, the Board granted a variance pursuant to Section 60(3) of the Multiple Dwelling Law to permit a maximum of 110 surplus parking spaces to be used for transient parking, for a term of 15 years; and

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

WHEREAS, most recently, on September 12, 2000, the Board granted a ten-year extension of term, which expired on July 13, 2010; and

WHEREAS, the applicant states that the requested number of transient parking spaces has been reduced from 110 to 75; and

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

WHEREAS, at hearing, the Board questioned why the reservoir space reflected on the previous plans has been removed; and

WHEREAS, in response, the applicant states that the reservoir space was provided due to the intermingling of the transient spaces and the tenant spaces, however, separate gates have been installed in the garage for the tenants of the three buildings and for the transient parkers, which alleviated the need for the reservoir space; and

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution having been adopted on July 13, 1965, so that, as amended, this portion of the resolution shall read: "to permit the extension of the term of the grant for an additional ten years from July 13, 2010, to expire on July 13, 2020; *on condition* that all use and operations shall substantially conform to plans filed with this application marked Received 'March 9, 2012' – (1) sheet and 'June 27, 2012'-(2) sheets; and *on further condition*:

THAT this term will expire on July 13, 2020;

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

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

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

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

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occupancy;

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

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

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

Adopted by the Board of Standards and Appeals, July 17, 2012.

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## 12-91-BZ

APPLICANT – Rampulla Associates Architects, for Miggy’s Too Delicatessen Corp., owner.

SUBJECT – Application March 12, 2012 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a UG6 food store (*Bayer’s Market*) which expired on April 21, 2012; Amendment to eliminate landscaping, legalize an outdoor refrigeration unit, eliminate hours for garbage pickup, and request to eliminate the term of the variance. R3-2 zoning district.

PREMISES AFFECTED – 2241 Victory Boulevard, north south corner of Victory Boulevard and O’Connor Avenue, Block 463, Lot 25, Borough of Staten Island.

## COMMUNITY BOARD #1SI

### APPEARANCES –

For Applicant: Phillip L. Rampulla.

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

### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4

Absent: Commissioner Ottley-Brown .....1

Negative:.....0

### THE RESOLUTION –

WHEREAS, this is an application for a reopening, an extension of term, and an amendment to a previously granted variance for the operation of a food store (Use Group 6), which expired on April 21, 2012; and

WHEREAS, a public hearing was held on this application on May 15, 2012 after due notice by publication in *The City Record*, with a continued hearing on June 12, 2012, and then to decision on July 17, 2012; and

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

WHEREAS, Community Board 1, Staten Island, recommends approval of this application; and

WHEREAS, the site is located on an irregularly-shaped corner lot with approximately 130 feet of frontage on the north side of Victory Boulevard and 130 feet of frontage on the east side of O’Connor Avenue, within an R3-2 zoning district; and

WHEREAS, the subject site is occupied by a one-story food store (Use Group 6); and

WHEREAS, the Board has exercised jurisdiction over the site since April 21, 1992 when, under the subject calendar number, the Board granted a variance to permit the construction of a one-story food store (Use Group 6) in an R3-2 zoning district for a term of 20 years, which expired on April 21, 2012; and

WHEREAS, most recently, on September 20, 1994, the Board granted a two-year extension of time to complete construction; and

WHEREAS, the applicant now requests an amendment to (1) eliminate the term of the grant, (2) reflect the replacement of landscaping along the northern lot line at the rear of the site with gravel, (3) modify the condition stipulating the hours of garbage pickup, and (4) reflect the addition of a refrigeration unit at the rear of the site; and

WHEREAS, the applicant states that the elimination of the term is warranted because the subject site has operated in accordance with the terms of the variance for more than 20 years, and represents that imposing such a term on an occupied commercial building constructed pursuant to a variance is an unnecessary encumbrance and financial burden; and

WHEREAS, at the direction of the Board, the applicant notified the neighbors within a 200-ft. radius of the request to eliminate the term of the variance; and

WHEREAS, the Board notes that the only response it received from the neighbors was in support of the proposed application; and

WHEREAS, as to the hours of garbage pickup, the applicant seeks to modify the condition from the original grant which required garbage pickup to occur between the hours of 9:00 a.m. and 3:00 p.m., to reflect extended garbage pickup hours of between 9:00 a.m. and 9:00 p.m.; and

WHEREAS, at hearing, the Board noted that, based on its site visits, the new refrigeration unit at the rear of the site creates noise and requested that the applicant provide sound attenuation measures for the refrigeration unit; and

WHEREAS, in response, the applicant submitted revised plans reflecting that the refrigeration unit will be enclosed with an “acoustifence” sound barrier material attached to a chain link fence with a height of six feet, and that bushes will be planted around the perimeter of the chain link fence to a height of four feet; and

WHEREAS, the applicant states that the noted sound attenuation measures will reduce the noise generated by the refrigeration unit to levels that comply with the New York City Noise Control Code; and

WHEREAS, based upon its review of the record, the Board finds the requested amendment to the approved plans is appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated April 21, 1992, so that as amended this portion of the resolution shall read: “to eliminate the term of the variance and permit the noted modifications to the approved plans; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this

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application and marked 'Received July 2, 2012' –(6) sheets; and *on further condition:*

THAT all garbage will be picked up three times per week between the hours of 9:00 a.m. and 9:00 p.m. to minimize the noise and vehicle impact on the adjacent residential uses;

THAT sound attenuation measures and landscaping will be provided as illustrated on the BSA-approved plans;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 520092195)

Adopted by the Board of Standards and Appeals July 17, 2012.

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## 163-04-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Mylaw Realty Corporation, owner; Crunch Fitness, lessee. SUBJECT – Application April 30, 2012 – Extension of Time to obtain a Certificate of Occupancy of a special permit (§73-63) for the operation of a physical culture establishment (*Crunch Fitness*) which expired on April 24, 2011; Waiver of the Rules. R7A (C2-4) zoning district.

PREMISES AFFECTED – 671/99 Fulton Street, northwest corner of intersection of Fulton Street and St. Felix Street, Block 2096, Lot 66, 69, Borough of Brooklyn.

### COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Todd Dale.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4

Absent: Commissioner Ottley-Brown .....1

Negative:.....0

**THE RESOLUTION** –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time to obtain a certificate of occupancy, which expired on April 24, 2011; and

WHEREAS, a public hearing was held on this application on June 12, 2012 after due notice by publication in *The City Record*, and then to decision on July 17, 2012; and

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

WHEREAS, the subject premises is located on the

northwest corner of Fulton Street and St. Felix Street and is located within a C2-4 (R6) zoning district; and

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

WHEREAS, the site is occupied by a two-story commercial building at 691 Fulton Street (Lot 69) and an adjacent one-story commercial building at 695 Fulton Street (Lot 66); and

WHEREAS, the PCE occupies a portion of the first floor of both buildings and the mezzanine of the two-story building; and

WHEREAS, on July 12, 2005, under the subject calendar number, the Board granted a special permit pursuant to ZR § 73-36, to permit the operation of the PCE within a portion of the existing two-story building for a term of ten years to expire on July 12, 2015; and

WHEREAS, most recently, on April 24, 2007, the Board granted an amendment to permit the enlargement of the first floor by adding 2,775 sq. ft. of floor area on the first floor within the adjacent one-story building, and to extend the hours of operation to 24 hours, daily; and

WHEREAS, substantial construction was to be completed and a certificate of occupancy obtained by April 24, 2011, in accordance with ZR § 73-70; and

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

WHEREAS, the applicant states that, although work is substantially completed, a certificate of occupancy has not been obtained due to problems with contractors and a recent audit of the application affecting Lot 66; and

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

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated July 12, 2005, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy for one year from the date of this resolution, to expire on July 17, 2013; *on condition* that the use and operation of the PCE shall substantially conform to BSA-approved plans associated with the prior grant; and *on further condition:*

THAT there will be no change in ownership or operating control of the PCE without prior approval from the Board;

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

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

THAT a certificate of occupancy must be obtained by July 17, 2013;

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

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

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



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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.”

(DOB Application No. 300326895)

Adopted by the Board of Standards and Appeals, July 17, 2012.

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## **292-55-BZ**

APPLICANT – Alfonso Duarte, for Narkeet Property Inc., owner.

SUBJECT – Application April 2, 2012 – Extension of Term (§11-411) for the continued operation of an Automotive Service Station (GULF) which expired on April 10, 2011; Waiver of the Rules. R3-2 zoning district.

PREMISES AFFECTED – 239-15 Jamaica Avenue, northwest corner of 240<sup>th</sup> Street, Block 8001, Lot 1, Borough of Queens.

### **COMMUNITY BOARD #13Q**

APPEARANCES –

For Applicant: Alfonso Duarte.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4

Absent: Commissioner Ottley-Brown.....1

Negative:.....0

**ACTION OF THE BOARD** – Laid over to August 14, 2012, at 10 A.M., for decision, hearing closed.

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## **39-65-BZ**

APPLICANT – Eric Palatnik, P.C., for SunCo. Inc. (R & M), owners.

SUBJECT – Application March 13, 2012 – Amendment of a previously-approved variance (§72-01) to convert repair bays to an accessory convenience store at a gasoline service station (*Sunoco*); Extension of Time to obtain a Certificate of Occupancy, which expired on January 11, 2000; and Waiver of the Rules. C3 zoning district.

PREMISES AFFECTED – 2701-2711 Knapp Street and 3124-3146 Voohries Avenue, Block 8839, Lot 1, Borough of Brooklyn.

### **COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Trevis Savage.

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

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## **579-78-BZ**

APPLICANT – Alfonso Duarte, for LEM LEE 58 L.P c/o Mautner-Glick Management, owner.

SUBJECT – Application April 24, 2012 – Extension of Term of a previously-approved variance (§72-21) which permitted retail use on a portion of the first floor and cellar

of an existing six story multiple dwelling, which expired on January 30, 2004; Waiver of the Rules. R8B zoning district. PREMISES AFFECTED – 236-238 East 58<sup>th</sup> Street, south side 160’ west of 2<sup>nd</sup> Avenue, Block 1331, Lot 31, Borough of Manhattan.

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

APPEARANCES –

For Applicant: Alfonso Duarte.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4

Absent: Commissioner Ottley-Brown.....1

Negative:.....0

**ACTION OF THE BOARD** – Laid over to August 14, 2012, at 10 A.M., for decision, hearing closed.

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## **406-82-BZ**

APPLICANT – Eric Palatnik, P.C., for Adolf Clause and Theodore Thomas, owners; Hendel Products, lessee.

SUBJECT – Application May 22, 2012 – Extension of Time to obtain a Certificate of Occupancy for a previously-approved special permit (§73-243) for an eating and drinking establishment (*McDonald's*) with accessory drive-thru, which expired on May 3, 2012. C1-3/R5 zoning district.

PREMISES AFFECTED – 2411 86<sup>th</sup> Street, northeast corner of 24<sup>th</sup> Avenue and 86<sup>th</sup> Street, Block 6859, Lot 1, Borough of Brooklyn.

### **COMMUNITY BOARD #11BK**

APPEARANCES –

For Applicant: Trevis Savage.

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

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## **294-06-BZ**

APPLICANT – Goldman Harris LLC, owner; Club Fitness NY, lessee.

SUBJECT – Application February 8, 2012 – Amendment of a previously approved special permit (§73-36) which permitted the operation of a physical culture establishment (*Club Fitness*) on the second and third floors in a three-story building. C2-2 zoning district.

PREMISES AFFECTED – 31-11 Broadway, between 31<sup>st</sup> and 32<sup>nd</sup> Streets, Block 613, Lots 1 & 4, Borough of Queens.

### **COMMUNITY BOARD #1Q**

APPEARANCES –

For Applicant: Eugene C. Traver.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4

Absent: Commissioner Ottley-Brown.....1

Negative:.....0

**ACTION OF THE BOARD** – Laid over to August 14, 2012, at 10 A.M., for decision, hearing closed.

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## APPEALS CALENDAR

### 80-11-A, 84-11-A, 85-11-A & 103-11-A

APPLICANT – Marvin B. Mitzner, Esq., for 327-335 East 9<sup>th</sup> Realty, LLC, owner.

SUBJECT – Application June 10, 2011 – Appeals pursuant to §310 of the Multiple Dwelling Law (MDL) to allow for enlargement to a five-story building, contrary to MDL §§ 51, 143, 146, 148 and 149. R8B zoning district.

PREMISES AFFECTED – 331, 333, 335, 329 East 9<sup>th</sup> Street, between 1<sup>st</sup> and 2<sup>nd</sup> Avenue, Block 451, Lot 46, 45, 44, 47, Borough of Manhattan.

### COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Peter Geis.

For Opposition: Chris Labarge of Council Member Rosie Mendez and Kevin Shea.

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

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### 83-11-A

APPLICANT – Marvin B. Mitzner, Esq., for 159 West 78<sup>th</sup> Street, Corp., for Felix and Lisa Oberholzer-Gee, owners.

SUBJECT – Application June 9, 2011 – Appeal pursuant to §310 of the Multiple Dwelling Law (MDL) to allow for a one-story enlargement of a four-story building, contrary to Multiple Dwelling Law §171(2)(f). R8B zoning district.

PREMISES AFFECTED – 159 West 78<sup>th</sup> Street, north side of West 78<sup>th</sup> Street, between Columbus and Amsterdam Avenues, Block 1150, Lot 8, Borough of Manhattan.

### COMMUNITY BOARD #7M

APPEARANCES –

For Applicant: Peter Geis.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4

Absent: Commissioner Ottley-Brown.....1

Negative:.....0

**ACTION OF THE BOARD** – Laid over to August 14, 2012, at 10 A.M., for decision, hearing closed.

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### 46-12-A

APPLICANT – Eric Palatnik, P.C., for Tremont Three, LLC, owner.

SUBJECT – Application March 1, 2012 – Application to permit a mixed use development located partially within the bed of a mapped but unbuilt street (East Tremont Avenue), contrary to General City Law Section 35. C4-5X/R7X zoning district.

PREMISES AFFECTED – 4215 Park Avenue, north side of East Tremont Avenue, between Park and Webster Avenues, Block 3027, Lot 1, Borough of Bronx.

### COMMUNITY BOARD #6BX

APPEARANCES –

For Applicant: Trevis Savage.

**ACTION OF THE BOARD** – Laid over to August

14, 2012, at 10 A.M., for continued hearing.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

## REGULAR MEETING TUESDAY AFTERNOON, JULY 17, 2012 1:30 P.M.

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

Absent: Commissioner Ottley-Brown

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## ZONING CALENDAR

### 71-11-BZ

#### CEQR #11-BSA-099Q

APPLICANT – Sheldon Lobel, P.C., for Masjid Al-Taufiq, Inc., owner.

SUBJECT – Application May 23, 2011 – Variance (§72-21) to legalize the conversion of a mosque (*Masjid Al-Taufiq*), contrary to lot coverage (§24-11), front yard (§24-34), and side yard (§24-35) regulations. R4 zoning district.

PREMISES AFFECTED – 41-02 Forley Street, northeast corner of the intersection formed by Forley Street and Britton Avenue, Block 1513, Lot 6, Borough of Queens.

### COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Jordan Most.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4

Absent: Commissioner Ottley-Brown.....1

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated April 21, 2011, acting on Department of Buildings Application No. 420340615 reads, in pertinent part:

The proposed enlargement and change of use group from residential (Use Group 2) to community facility (Use Group 4) in an R4 zoning district is contrary to Zoning Resolution Sections 24-11 (lot coverage), 24-34 (front yard), and 24-35 (side yards); and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21 to permit, on a site within an R4 zoning district, the conversion and of an existing residential building (Use Group 2) to a mosque (Use Group 4), which does not comply with the underlying zoning district regulations for lot coverage, front yard, and side yards, contrary to ZR §§ 24-11, 24-34, and 24-35; and

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WHEREAS, a public hearing was held on this application on March 27, 2012, after due notice by publication in *The City Record*, with continued hearings on May 15, 2012 and June 12, 2012, and then to decision on July 17, 2012; and

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

WHEREAS, Community Board 4, Queens, recommends approval of the application; and

WHEREAS, this application is being brought on behalf of Masjid Al-Taufiq, Inc. (the "Mosque"), a non-profit religious entity; and

WHEREAS, the subject site is located on the southeast corner of the intersection of Forley Street and Britton Avenue, within an R4 zoning district; and

WHEREAS, the subject lot has 27'-6" of frontage on Forley Street, 100 feet of frontage on Britton Avenue, and a lot area of 2,750 sq. ft.; and

WHEREAS, the subject site is currently occupied by a legal non-complying 4,049 sq. ft. (1.47 FAR) two-story building with a mosque at the cellar and first floors and residential dwelling units at the second floor, which does not comply with the residential zoning requirements for lot coverage, front yard, and side yards; and

WHEREAS, the applicant proposes to convert the entire building to a mosque (Use Group 4) which, due to the more restrictive zoning provisions for community facility uses, creates a new non-compliance with the front yard along Forley Street, and increases the degree of non-compliance with respect to lot coverage, the front yard along Britton Avenue, and one of the side yards; and

WHEREAS, specifically, the proposed mosque will have the following parameters: a floor area of 3,989 sq. ft. (1.45 FAR) (the maximum permitted floor area is 5,500 sq. ft. (2.0 FAR)); a wall height of 21'-0" (the maximum permitted wall height is 35'-0"); a lot coverage of 75 percent (the maximum permitted lot coverage is 60 percent); a front yard along Forley Street with a depth of 12'-0" and no front yard along Britton Avenue (two front yards with a minimum depth of 15'-0" each are required); and no side yards (two side yards with a minimum width of 8'-0" each are required); and

WHEREAS, the applicant originally proposed to enlarge the existing building to a floor area of 4,064 sq. ft. (1.48 FAR); and

WHEREAS, in response to concerns raised by the Board, the applicant submitted revised plans reflecting that the proposed conversion of the building to a mosque will be entirely within the existing envelope of the building; and

WHEREAS, the proposal provides for the following uses: (1) a study room and ablution room at the cellar; (2) a prayer room and accessory kitchenette at the first floor; and (3) a prayer room at the second floor; and

WHEREAS, because the proposed building does not comply with the bulk regulations of the underlying zoning district, the subject variance is requested; and

WHEREAS, the applicant states that the following is the

primary programmatic need of the Mosque which necessitates the requested variances: to accommodate the prayer space needs of the growing congregation; and

WHEREAS, the applicant states that the Mosque was founded in 1987 at a facility at 85-37 Britton Avenue, with approximately six executive members; and

WHEREAS, the applicant further states that in 2005 the Mosque relocated to the cellar and first floor of the subject building, where there are currently approximately 40 executive members; and

WHEREAS, the applicant represents that the Mosque anticipates a growth of 25 to 50 members over the next five years; and

WHEREAS, the applicant notes that the Mosque carries out five daily prayers and a special congregational prayer held on Friday afternoons, all of which are open to Muslims and are not limited to members of the Mosque; and

WHEREAS, the applicant represents that, depending on the time of day and day of the week, daily prayers are attended by between 15 and 35 worshippers, and as many as 150 to 200 worshippers may attend Friday afternoon prayer; and

WHEREAS, the applicant further represents that during holiday times and when there is school recess, even more worshippers attend the Friday afternoon prayer, such that worshippers must set up mats outside the building to pray; and

WHEREAS, the applicant states that prayer sessions last approximately 30 minutes and including a washing ritual where congregants use water to wash and cleanse in preparation for prayer prior to congregating in the prayer rooms; and

WHEREAS, the applicant represents that the conversion of the entire building to mosque use will better accommodate the prayer space needs of the Mosque, and the proposed expansion into the existing second floor will reasonably accommodate overflow prayer times during busy periods as well as the anticipated growth in membership; and

WHEREAS, the Board acknowledges that the Mosque, as a religious institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Westchester Reform Temple v. Brown, 22 NY2d 488 (1968), a religious institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the Mosque create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, however, the applicant also represents that the narrow width of the corner lot and the effect of the community facility regulations on the existing building create an unnecessary hardship in developing the site in compliance with applicable regulations; and

WHEREAS, the subject site is a corner lot with a width

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of 27'-6"; and

WHEREAS, the applicant states that although a mosque is permitted as-of-right in the subject zoning district, the existing building does not comply with the underlying community facility regulations which require two front yards with depths of 15'-0" each and two side yards with depths of 8'-0" each; and

WHEREAS, the applicant states that the only way for the subject building to be used for an as-of-right community facility use is to remove extensive portions of three of the buildings' four facades to create complying yards and lot coverage; and

WHEREAS, the applicant notes that providing complying front and side yards would reduce the width of the building to 4'-6", rendering a complying use of the site as a community facility infeasible; and

WHEREAS, the applicant represents that, therefore, the requested lot coverage and yard waivers are required to allow for efficient floor plates that accommodate the Mosque's programmatic needs; and

WHEREAS, based upon the above, the Board finds that the aforementioned physical conditions, when considered in conjunction with the programmatic needs of the Mosque, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant need not address ZR § 72-21(b) since the Mosque is a not-for-profit organization and the proposed development will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that that the proposed use is permitted in the subject zoning district; and

WHEREAS, as to bulk, the applicant states that the surrounding area is characterized by a variety of residential buildings; and

WHEREAS, as noted above, the applicant states that it merely proposes to convert the existing legal non-complying building to community facility use as a mosque and expand the mosque to the existing second floor of the subject building; no physical enlargement is proposed; and

WHEREAS, the applicant represents that there is no parking required for the proposed change of use to community facility use, and notes that all members of the Mosque and those attending daily prayers live within close proximity of the site and generally walk to the Mosque to pray; and

WHEREAS, at the direction of the Board, the applicant submitted revised plans reflecting that landscaping will be provided at the front of the site along Forley Street; and

WHEREAS, at hearing, the Board raised concerns about whether the fence along the site's Britton Avenue frontage is located on the sidewalk beyond the property line; and

WHEREAS, in response, the applicant confirmed that the building is constructed to the lot line along Britton Avenue and

therefore the fence is located approximately three feet beyond the property line; and

WHEREAS, the applicant provided an analysis of the fencing along Britton Avenue between Elbertson Street and Gleane Street which reflects that there are many fences located in the sidewalk within the immediate area; and

WHEREAS, the applicant states that the fence constitutes an obstruction in the City street, which the Department of Transportation ("DOT") has jurisdiction over, and represents that DOT often permits this type of condition to remain under its revocable consent program; and

WHEREAS, the applicant further states that it will petition DOT for a revocable consent to allow the fence or a modified fence to remain at the location; however, the applicant states that it anticipates the revocable consent approval process to take more than a year; and

WHEREAS, accordingly, the Board finds that this action will neither 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 applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of the Mosque could occur on the existing lot; and

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

WHEREAS, as noted above, the applicant originally proposed a small enlargement to the existing building, but removed the enlargement at the direction of the Board; and

WHEREAS, accordingly, the Board finds the requested waivers to be the minimum necessary to afford the Mosque the relief needed to meet its programmatic needs; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 11BSA099Q, dated May 23, 2011; and

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

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

WHEREAS, the Board has determined that the proposed

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action will not have a significant adverse impact on the environment.

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an R4 zoning district, the conversion and of an existing residential building (Use Group 2) to a mosque (Use Group 4), which does not comply with the underlying zoning district regulations for lot coverage, front yard, and side yards, contrary to ZR §§ 24-11, 24-34, and 24-35; *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 May 10, 2012" – Eight (8) sheets, and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: a floor area of 3,989 sq. ft. (1.45 FAR); a wall height of 21'-0"; a maximum lot coverage of 75 percent; a front yard along Forley Street with a depth of 12'-0"; no front yard along Britton Avenue; and no side yards, as illustrated on the BSA-approved plans;

THAT any change in control or ownership of the building requires the prior approval of the Board;

THAT the use will be limited to a house of worship (Use Group 4);

THAT no commercial catering will take place onsite;

THAT prior to the issuance of a certificate of occupancy, the applicant must either obtain from DOT a revocable consent for the fence along the Britton Avenue frontage, or remove said fence;

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

THAT a new certificate of occupancy will be obtained by July 17, 2014;

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

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

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

Adopted by the Board of Standards and Appeals, July 17, 2012.

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## 174-11-BZ

### CEQR #12-BSA-039Q

APPLICANT – Daniel H. Braff, Esq., for The Church of Jesus Christ of Latter-day Saints, owner.

SUBJECT – Application November 9, 2011 – Variance (§72-21) to permit the development of a two-story chapel (*The Church of Jesus Christ of Latter-day Saints*), contrary to floor area ratio (§24-111) and permitted obstructions in the side yards and rear yard (§24-33). R2A zoning district. PREMISES AFFECTED – 145-15 33<sup>rd</sup> Avenue, north side of 33<sup>rd</sup> Avenue approximately 400' east of Parsons Boulevard, Block 4789, Lot 81, Borough of Queens.

### COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Daniel Braff.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4

Absent: Commissioner Ottley-Brown .....1

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated October 20, 2011, acting on Department of Buildings Application No. 420256270 reads, in pertinent part:

Proposed community facility floor area and FAR exceed the maximum permitted under ZR § 24-111; and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21 to permit, on a site within an R2A zoning district, a two-story building to be occupied by a church (Use Group 4), which does not comply with the underlying zoning regulations for floor area ratio ("FAR"), contrary to ZR § 24-111; and

WHEREAS, a public hearing was held on this application on April 24, 2012, after due notice by publication in *The City Record*, with a continued hearing on June 5, 2012, and then to decision on July 17, 2012; and

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

WHEREAS, Community Board 7, Queens, recommends disapproval of this application; and

WHEREAS, Queens Borough President Helen Marshall recommends disapproval of this application; and

WHEREAS, New York State Senator Toby Ann Stavisky, New York State Senator Tony Avella, New York State Assembly Member Grace Meng, and New York State Assembly Member Rory I. Lancman provided testimony in opposition to this application; and

WHEREAS, the North East Flushing Civic Association, the Queens Village Civic Association, Inc., the Bayside Hills Civic Association, the Broadway-Flushing Homeowners' Association, Inc., and the Auburndale Improvement Association provided testimony in opposition to this

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application; and

WHEREAS, certain members of the community provided oral and written testimony in opposition to this application; and

WHEREAS, collectively, the parties who submitted testimony in opposition to this application are referred to as the "Opposition"; and

WHEREAS, the Opposition raised the following primary concerns: (1) the church should accommodate its programmatic needs within an as-of-right building at the site or redevelop its larger property at Sanford Avenue if it requires a building of the proposed size; (2) the claimed programmatic needs are exaggerated and the church does not require the number of Bible-study rooms requested; (3) the floor area for the proposed building is out of context with the surrounding neighborhood; (4) the proposed variance would undermine the Community Facility Reform Text Amendment of 2004; and (5) the proposed building does not represent the minimum variance because it is larger than is necessary to accommodate the size of the congregation; and

WHEREAS, this application is being brought on behalf of Corporation of the Presiding Bishop of The Church of Jesus Christ of Latter-day Saints, a non-profit religious entity (the "Church"); and

WHEREAS, the subject site is located on the north side of 33<sup>rd</sup> Avenue, between Parsons Boulevard and 146<sup>th</sup> Street, within an R2A zoning district; and

WHEREAS, the subject site has 125 feet of frontage on 33<sup>rd</sup> Avenue, a depth of 195 feet, and a total lot area of 24,417 sq. ft.; and

WHEREAS, the applicant proposes to construct a two-story church building with a floor area of 21,433 sq. ft. (0.877 FAR); a lot coverage of 51 percent; a front yard with a depth of 32'-2"; two side yards each with a width of 11'-6"; a rear yard with a depth of 30'-0"; a total height of approximately 27'-4" at the side yards, 36'-4" at the center, 47'-3" at the top of the steeple base, and 91'-9" at the top of the steeple; and an accessory below-grade parking garage with 48 parking spaces (the "Chapel"); and

WHEREAS, the applicant originally proposed to construct a two-story building with a floor area of 23,097 sq. ft. (0.95 FAR), a lot coverage of 54 percent, a front yard with a depth of 26'-8", and a below-grade accessory parking garage with 55 parking spaces and a ramp with a grade of 13.5 percent in the front yard accessing the garage; and

WHEREAS, the original proposal required three variances: one to permit a community facility with an FAR exceeding the maximum permitted FAR of 0.50; a second to permit a deck above the base plane in the side yards and rear yard over the accessory below-grade parking garage, which is not a permitted obstruction; and a third to permit the proposed driveway for the accessory below-grade parking garage in the front yard with a grade exceeding the maximum permitted grade of 11 percent; and

WHEREAS, in response to concerns raised by the Opposition and the Board, the applicant submitted an interim proposal which reduced the floor area to 21,466 sq. ft. (0.879 FAR), reduced the lot coverage to 51 percent, increased the

depth of the front yard to 32'-2", and provided a level driveway in the front yard that eliminated the need for a waiver of ZR § 25-635 for maximum driveway grade; and

WHEREAS, in response to additional concerns raised by the Board regarding the requested variance for the deck in the side yards and rear yard, the applicant further revised its plans to eliminate the obstructions in the side yards and rear yard, such that the only remaining variance requested is for the FAR; and

WHEREAS, the proposed building will have the following uses: (1) a 48-space accessory parking garage at the cellar level; (2) a chapel, multi-purpose room, Bible-study rooms/teaching stations, clergy offices, and storage space at the first floor; and Bible-study rooms/teaching stations, clergy offices, and storage space at the second floor; and

WHEREAS, because the proposal does not comply with the underlying zoning district requirements for FAR, the subject variance is requested; and

WHEREAS, as to the finding under ZR § 72-21(a), that there are unique physical conditions which create practical difficulties or unnecessary hardship in complying with the underlying zoning regulations, the Board acknowledges that the Church, as a religious institution, is entitled to significant deference under the law of the State of New York as to zoning and as to the ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Synagogue which necessitate the requested variances: (1) to locate the chapel in the subject neighborhood; (2) to accommodate the size of the congregation and allow for future growth; (3) to provide a sufficient number of bible study rooms/teaching stations; and (4) to provide an adequately-sized multi-purpose room; and

WHEREAS, the applicant represents that the Church holds as a religious tenet the need to locate its chapels in a neighborhood near to where local members live; and

WHEREAS, the applicant states that the proposed Chapel will serve three congregations whose members reside in Flushing and its closely surrounding areas: a Spanish-speaking congregation, an English-speaking congregation, and a Korean-speaking congregation, with average weekly attendance at congregational services of 98, 108, and 45, respectively; and

WHEREAS, the applicant notes that the Spanish and English-speaking congregations currently meet in a temporary facility at 14427 Sanford Avenue (the "Sanford Facility"); and

WHEREAS, the applicant represents that the Sanford Facility, which was formerly owned by the First Church of Christ, Scientist, has 7,600 sq. ft. of floor area above grade and 5,500 sq. ft. of floor space in the cellar, and does not meet the programmatic needs of the Church in terms of space, dimension, décor, layout, or design; and

WHEREAS, the applicant states that the Church purchased the Sanford Facility in 1994 when the Spanish and English-speaking congregations were significantly smaller, such that modest alterations to the building enabled members residing in Flushing to temporarily use the facility for worship without needing to travel to Little Neck, the next closest

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Church facility; and

WHEREAS, the applicant further states that since 1994, the two small congregations have grown in size and a Korean-speaking congregation has been formed; accordingly, the Sanford Facility does not provide a sufficient number of teaching stations, the Bible-study rooms are too small for the attendees, the room for the women's ministry is inadequate, the movable doors and low ceilings in the cellar space make it difficult to use as a worship space, there is no multi-purpose room for essential ministry activities, and the building is not ADA accessible preventing some members from participating in worship; and

WHEREAS, further, due to the space constraints and inadequate design, the applicant notes that the Korean-speaking congregation is entirely displaced and travels a great distance to share a facility at Little Neck for services; and

WHEREAS, the applicant represents that construction of the Chapel will allow all three congregations to meet central to where their members actually reside and in a facility that suits their worship needs; and

WHEREAS, the applicant submitted a programmatic needs study detailing why the Church requires the proposed Chapel, with its particular size and design, which notes that the Chapel consists of four major components: the sanctuary, teaching stations/Bible-study rooms, clergy offices, and a multi-purpose room; and

WHEREAS, the programmatic needs study submitted by the applicant states that one of the primary needs for the proposed floor area waiver is to provide a sufficient number of teaching stations/Bible-study rooms of appropriate size; and

WHEREAS, the applicant states that two sessions of instruction follow the congregational meeting during Sunday services as members divide by age and/or gender for targeted instruction and study of various subjects; and

WHEREAS, specifically, the programmatic needs study notes that: (1) toddlers 18 months to three years old require space or supervised play and simple gospel instruction; (2) children ages three to 11 meet for two hours each Sunday for "Primary," the children's ministry, where children ages eight to 11 meet together in a larger room for singing and group instruction for the first hour while children ages three to eight divide in one-year increments for age-appropriate instruction, and the groups switch at the end of the hour with the younger children meeting for group instruction and the older children dividing into individualized classes by age, with each group requiring its own small Bible-study room; (3) youth ages 12 to 18 meet for Sunday School in two-year increments and then further divide by gender, with each group requiring its own Bible-study room; (4) adults meet for Sunday school where they receive various courses in core religious subjects, each course requiring its own Bible-study room; and (5) the youth, women's, and men's ministries provide specialized teaching that caters to the needs of each group, which occurs during the third hour of the Church's three-hour worship services; and

WHEREAS, accordingly, the applicant states that all of the Bible-study rooms in the proposed Chapel will be continuously occupied during the two-hour instructional period for Primary, Sunday School, and the youth and adult ministries;

and

WHEREAS, the applicant further states that the elimination of teaching stations/Bible-study rooms would result in the Church not providing certain topics of study or the exclusion of certain congregants; and

WHEREAS, the applicant notes that the lack of adequate teaching stations/Bible-study rooms in the Sanford Facility is one of the primary reasons it is inadequate to meet the programmatic needs of the Church, as they are too small and insufficient in number, and are located in the cellar where they are not conducive to religious study; and

WHEREAS, the applicant states that the multi-purpose room is also essential to the Church's programmatic needs; and

WHEREAS, the applicant states that the multi-purpose room in the proposed Chapel provides overflow seating for congregational meetings in the sanctuary, is partitioned to create additional teaching stations during the instructional periods of worship, and is the principal venue for activities of the youth and women's ministries; and

WHEREAS, the applicant further states that the proposed multi-purpose room provides high ceilings to match those of the sanctuary to facilitate acoustics and a spirit of reverence during Sunday worship; and

WHEREAS, the applicant notes that the youth ministries, which will be held in the multi-purpose room on weekdays, are essential to the Church's programmatic needs as they fulfill the important religious purpose of strengthening the collective faith and helping youth resist the pull of drugs, delinquency, and other socially destructive behaviors; and

WHEREAS, the applicant represents that these activities (ranging from community service to scouting, tutoring, crafts, organized sports, or musical productions) are an integral part of the Church's outreach and worship, and invariably include prayer and religious messages; and

WHEREAS, the applicant states that the women's meetings, periodic social events, and select community efforts (such as blood drives and emergency response) also use the multi-purpose room and are necessary to meet the Church's programmatic needs; and

WHEREAS, the applicant represents that without an adequate multi-purpose room, as is the case with the Sanford Facility, members would be required to travel great distances, activities would be cancelled or poorly attended, and the ministries would be significantly impaired; and

WHEREAS, the applicant also submitted as-of-right plans reflecting a one-story church building with a floor area of 12,205 sq. ft. (0.50 FAR); and

WHEREAS, the applicant states that the as-of-right scenario fails to provide the required space, layout, and design to meet the programmatic needs of the Church; and

WHEREAS, specifically, the applicant states that the as-of-right building includes a total of ten Bible-study rooms totaling 2,222 sq. ft., while the proposed Chapel includes 17 Bible-study rooms totaling 4,980 sq. ft., each of which are necessary for the Church to meet its programmatic needs; and

WHEREAS, the applicant further states that the Bible-study rooms in the as-of-right scenario are forced to the center of the chapel around a multi-purpose room of insufficient size,

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where they will have no windows or natural light, and are too small to meet the Church's programmatic needs; and

WHEREAS, the as-of-right scenario provides a multi-purpose room of 1,108 sq. ft. with an occupancy of 93 persons while the proposed Chapel provides a multi-purpose room of 1,870 sq. ft. with an occupancy of 195 persons, which the applicant represents is the smallest possible size that accommodates the Church's need to provide adequate space for the youth and women's ministries, provide overflow seating, allow partitioning for additional teaching stations, and accommodate periodic fellowship activities of the entire congregation; and

WHEREAS, in contrast to the as-of-right scenario, the applicant states that the proposed Chapel will provide the additional space required for the Church to meet its programmatic needs; and

WHEREAS, in response to the Opposition's argument that the Church should redevelop the temporary Sanford Avenue site rather than pursuing the construction of the Chapel in the proposed location, the applicant states that an analysis of alternative properties where the Church "should" build its new chapel is irrelevant under the standards of review applicable to the subject variance, and cites to Community Synagogue v. Bates, 1 N.Y.2d 445 (1956) as establishing that municipal boards do not have the "unfettered power to say that the 'precise spot' selected is not the right one," with respect to religious and educational uses, and further cites to Matter of Hofstra Coll. v. Wilmerding, 24 Misc. 2d 248 (Sup. Ct. 1960) for the proposition that the "existence of other suitable, or more suitable sites, is totally irrelevant to the inquiry" concerning municipal approval of a religious or educational use; and

WHEREAS, nonetheless, the applicant notes that the Church explored in depth the option of redeveloping the Sanford Avenue site as an alternative to the purchase and development of a new site, but states that that option proved wholly impracticable for a variety of reasons, and the Church was forced to abandon the plan; and

WHEREAS, specifically, the applicant states that demolition and construction of a new chapel at the Sanford Avenue site would result in the displacement of the existing congregations during the demolition and construction for a significant and unendurable amount of time; and

WHEREAS, the applicant further states that the Sanford Avenue site is too shallow to support the proper layout and design for the Church to meet its programmatic needs, as it is not possible to align the multi-purpose room and sanctuary on the same level so that there is overflow space for the sanctuary, which would require the Church to build upward and stack the multi-purpose room on top of the sanctuary or vice versa, resulting in wasted space and the disruption of worship activities, particularly during congregational meetings; and

WHEREAS, finally, the applicant states that the need to stack the spaces in order to construct the chapel at the Sanford Avenue site would significantly increase construction costs, as the Church would be required to construct an additional, double-height level in the new building; and

WHEREAS, as to the Opposition's challenges to the Church's claimed programmatic needs, the applicant states that

the proposed Chapel is designed for long-term use and the Church forecasts the needs of the congregations to be served based on current use, growth projections, and the Church's experience operating thousands of similarly situated congregations that conduct identical worship services each week; and

WHEREAS, the Opposition contends that, based on the Church's governing handbooks, classes could be combined to reduce the number of Bible-study rooms; and

WHEREAS, in response, the applicant notes that the demographics of a congregation's ministries at any given point of time are inherently transitory and unreliable for planning purposes, as children grow, families move, new members join, and interest levels change; and

WHEREAS, the applicant states that nothing in the Church's governing handbooks authorizes combining classes across ministries, and therefore Primary classes cannot be combined with Sunday School classes, and young men's classes cannot be combined with young women's classes or the adult ministries; each ministry requires its own space for meetings during the second or third hours of the Sunday worship services, as well as for weekday gatherings; and

WHEREAS, the Opposition argues that the Church's programmatic needs could alternatively be satisfied by adding a few Bible-study rooms to the as-of-right design by replacing other required rooms with Bible-study rooms; and

WHEREAS, in response, the applicant states, as noted above, that the as-of-right scenario fails to meet the Church's programmatic needs because, in addition to the insufficient number of Bible-study rooms, the Bible-study rooms provided are too small and lack natural light, the multi-purpose room is too small, the room for the women's ministry is too small, and the Primary room is too small; and

WHEREAS, the applicant further states that the Opposition's suggestion that the multi-purpose room, a clergy interview room, and other allegedly non-essential space could be sacrificed partially or entirely discounts the religious importance of these other spaces, which are also necessary to meet the programmatic needs of the Church; and

WHEREAS, as noted above, the Board acknowledges that the Church, as a religious institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Westchester Reform Temple v. Brown, 22 NY2d 488 (1968), a religious institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the Church create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant need not address ZR § 72-21(b) since the Church is a not-for-profit organization and the



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proposed development will be in furtherance of its not-for-profit mission; and

WHEREAS, as to the finding under ZR § 72-21(c), the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that the proposed use is permitted in the subject zoning district; and

WHEREAS, in response to the Opposition's contention that the proposed Chapel is out of context with the surrounding area, the applicant states that the Chapel is consistent with the character of the existing surrounding community, which includes numerous other religious buildings and multi-story apartment buildings within a few blocks of the property, including a four-story apartment complex on the subject block; and

WHEREAS, the applicant further states that the subject lot is substantially larger than the surrounding developed lots because it was created from the combination of three residential lots, and therefore it can appropriately support a building that is larger than other buildings in the immediate vicinity; and

WHEREAS, the applicant notes that despite the fact that a variance is required for the additional FAR, the Chapel fits completely within the permitted building envelope at the site and complies with all other zoning regulations, including front yard, rear yard, side yards, lot coverage, parking, and sky exposure plane; and

WHEREAS, the applicant further notes that the steeple/spire is a permitted obstruction and therefore permitted as-of-right; and

WHEREAS, accordingly, the applicant states that the Church could essentially build an identical building as-of-right, with no visible differences from the outside, provided it omitted the second story inside to limit the FAR to 0.50; and

WHEREAS, the applicant states that the Chapel will be landscaped on all sides and submitted a landscaping plan reflecting that trees, shrubbery, flower gardens, a masonry wall, and decorative fencing will be provided to mitigate neighborhood concerns about bulk, to buffer noise, and to provide screening for surrounding properties; and

WHEREAS, the applicant further states that decorative metal gates will be provided at the front of each side yard to prevent unnecessary access, planted shrub heights in the side yards of three feet will be provided for additional privacy, and fully landscaped terracing will be provided in the front yard of the deck in order to break up the appearance of bulk from the street; and

WHEREAS, the applicant also represents that the Chapel will be a "green" facility, with the intention to seek LEED certification upon completion of construction; and

WHEREAS, the applicant states that the Chapel will also be developed with a 48-space below-grade parking garage that will provide sufficient parking for its members, and will limit any impact on parking on local streets; and

WHEREAS, as to traffic impacts, the applicant states that there will be little or no use of the Chapel at typical times of

high traffic during the weekday morning and evening rush hour periods, as weekday use of the Chapel will be limited to ministry activities for short periods during the early morning and evenings; and

WHEREAS, the applicant further states that the Chapel will generate the most traffic during its typical Sunday schedule of services, where a total of 38 vehicle trips are anticipated during the peak hour for traffic demand between 12:00 p.m. and 1:00 p.m., which is less than the CEQR threshold for quantitative traffic analysis; and

WHEREAS, the applicant notes that an FAR of 1.0 is also permitted for certain community facility uses, including the proposed Chapel, by a bulk modification special permit from the City Planning Commission pursuant to ZR § 74-901; and

WHEREAS, the applicant provided an analysis of the findings required to be made under ZR § 74-901, and represents that the proposed Chapel meets the requirements of the special permit such that it would qualify for a special permit to permit a community facility with an FAR of 1.0 in the subject district; and

WHEREAS, the Opposition argues that the proposed Chapel would undermine the Community Facility Reform Text Amendment of 2004 which limited the FAR for houses of worship to 0.50, and would set a precedent for other houses of worship; and

WHEREAS, in response, the applicant states that the effect of the subject text amendment on the R2A district was limited to parking requirements and permitted obstructions in the rear yard for houses of worship, and that the text amendment did not reduce the FAR for community facilities in the subject district; and

WHEREAS, the applicant notes that the Board reviews variance applications for religious uses in all zoning districts on a case-by-case basis and grants variances only when warranted under the criteria set forth in the Zoning Resolution and case law, and that the Board has reviewed and granted variances for houses of worship exceeding 0.50 FAR both before and after the adoption of the Community Facility Reform Text Amendment of 2004; and

WHEREAS, accordingly, the Board finds that this action will neither 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, as to the finding under ZR § 72-21(d), the applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of the Church could occur on the existing lot; and

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

WHEREAS, as to the finding under ZR § 72-21(e) requiring that the variance be the minimum necessary to afford relief, as noted above, the applicant originally proposed to construct a chapel with a floor area of 23,097 sq. ft. (0.95 FAR), which required two additional variances for a driveway in the front yard with a slope of 13.5 percent and a

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deck/covered parking in the side and rear yards exceeding the base plane which did not qualify as a permitted obstruction; and

WHEREAS, in response to concerns raised by the Board and the Opposition over the course of the hearing process, the applicant revised its plans on multiple occasions, ultimately reducing the floor area to 21,433 sq. ft. (0.877 FAR), eliminating the waivers related to the driveway grade and the yard obstruction, and also reducing the lot coverage, increasing the depth of the front yard, and reducing the height of the parapets at the street wall of the Chapel resulting in a net reduction in the elevation of the steeple base and the top of the steeple by three feet; and

WHEREAS, the applicant also submitted an analysis of the existing Sanford Facility and an as-of-right scenario and explained why each option is inadequate to satisfy the Church's programmatic needs, and also why redeveloping the Sanford Avenue site with a new facility is impracticable; and

WHEREAS, the Opposition contends that the proposed Chapel does not represent the minimum variance because there will be no more than 285 congregants in total for all three congregations when the facility is completed and therefore the main space of the Chapel does not need to accommodate a 350 person occupancy, as proposed; and

WHEREAS, in response, the applicant states that it projects facility needs and decides when to divide congregations based on average attendance, which means attendance will exceed the average as often as it falls below it and therefore there is a need to accommodate more attendance than just the average; and

WHEREAS, the applicant further states that the expected number of congregants who might use the building is 350, with one congregation in the sanctuary and another using the Bible-study rooms, and the multi-purpose room can be used by either congregation either as overflow for the sanctuary for one congregation or as an additional teaching station for another (while the other congregation is in the sanctuary); and

WHEREAS, the applicant represents that escalated growth is predicted in the Congregation upon completion of the proposed Chapel because, based on the Church's experience, families with children, the elderly and others with special needs that are put off by inadequate or overcrowded facilities return for meaningful spiritual experiences when a new chapel is constructed that accommodates their needs and alleviates crowding; and

WHEREAS, accordingly, the Board finds the requested waivers to be the minimum necessary to afford the Church the relief needed both to meet its programmatic needs and to construct a building that is compatible with the character of the neighborhood; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental

Assessment Statement, CEQR No. 12BSA039Q, dated November 9, 2011; and

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

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an R2A zoning district, a two-story building to be occupied by a church (Use Group 4), which does not comply with the underlying zoning regulations for FAR, contrary to ZR § 24-111, *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 July 3, 2012" – Twenty (20) sheets; and *on further condition*:

THAT the building parameters will be: two stories; a maximum floor area of 21,433 sq. ft. (0.877 FAR); a lot coverage of 51 percent; a front yard with a depth of 32'-2"; two side yards each with a width of 11'-6"; a rear yard with a depth of 30'-0"; a total height of approximately 27'-4" at the side yards, 36'-4" at the center, 47'-3" at the top of the steeple base, and 91'-9" at the top of the steeple; and an accessory below-grade parking garage with 48 parking spaces, as illustrated on the BSA-approved plans;

THAT any change in control or ownership of the building shall require the prior approval of the Board;

THAT the use shall be limited to a house of worship (Use Group 4);

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

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

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

THAT construction shall proceed in accordance with ZR § 72-23;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant

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laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 17, 2012.

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## **31-12-BZ**

### **CEQR #12-BSA-077M**

APPLICANT – Sheldon Lobel, P.C., for Cactus of Harlem, LLC, owner.

SUBJECT – Application February 8, 2012 – Special Permit (§73-50) to seek a waiver of rear yard requirements (§33-292) to permit the construction of commercial building. C8-3 zoning district.

PREMISES AFFECTED – 280 West 155<sup>th</sup> Street, corner of Frederick Douglas Boulevard and West 155<sup>th</sup> Street, Block 2040, Lot 48, 61 & 62, Borough of Manhattan.

### **COMMUNITY BOARD #10M**

APPEARANCES –

For Applicant: Nora Martins.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4

Absent: Commissioner Ottley-Brown .....1

Negative:.....0

**THE RESOLUTION** –

WHEREAS, the decision of the Manhattan Borough Superintendent, dated January 9, 2012, acting on Department of Buildings Application No. 120927756, reads in pertinent part:

    ZR 33-292 Provide 30' deep open area at a level not higher than curb level along rear boundary between commercial and residential district.; and

    WHEREAS, this is an application under ZR §§ 73-50 and 73-03, to permit, on a site in a C8-3 zoning district abutting an R7-2 zoning district, the construction of a one-story commercial building which encroaches on a required 30-foot open area, contrary to ZR § 33-292; and

    WHEREAS a public hearing was held on this application on May 15, 2012 after due notice by publication in *The City Record*, with a continued hearing on June 19, 2012, and then to decision on July 17, 2012; and

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

    WHEREAS, Community Board 10, Manhattan, recommends disapproval of this application based on the following concerns: (1) increased traffic from the parking; (2) the concentration of other supermarkets within the immediate area; and (3) the land could better serve the community if developed with a public service use; and

    WHEREAS, Councilmember Inez E. Dickens recommends disapproval of this application, citing the same concerns raised by the Community Board; and

    WHEREAS, the site is a corner lot located on the

south side of West 155<sup>th</sup> Street and Frederick Douglas Boulevard comprising three lots (lots 48, 61 and 62); and

    WHEREAS, the site has 450 feet of frontage on West 155<sup>th</sup> Street, 49.92 feet of frontage on Frederick Douglas Boulevard, a depth of 99.92 feet, and a total lot area of 39,964 sq. ft.; and

    WHEREAS, the subject site is vacant and currently used for off-street parking; and

    WHEREAS, the subject site is located within a C8-3 zoning district that abuts an R7-2 zoning district to its rear; and

    WHEREAS, pursuant to ZR § 33-292, an open area at curb level with a minimum depth of 30 feet is required on a zoning lot within a C8 district with a rear lot line that abuts the rear lot line of a zoning lot in a residential district; and

    WHEREAS, on February 8, 2000, under BSA Calendar No. 45-99-BZ, the Board granted a special permit under ZR § 73-50 to construct a supermarket on lot 61 which encroached into the required open area; and

    WHEREAS, the Board notes that the special permit has since lapsed and the owner has acquired two additional adjoining lots (lots 48 and 62); and

    WHEREAS, the applicant proposes to construct a new three-story, 79,428 sq. ft. commercial building which will contain supermarket uses on the first and second floor, general commercial uses on the third floor, and 79 parking spaces in the cellar; and

    WHEREAS, the first floor encroaches within the required 30 foot open area up to a height of 23 feet, contrary to ZR § 33-292; and

    WHEREAS, under ZR § 73-50, the Board may grant a waiver of the open area requirements set forth in ZR § 33-29 in appropriate cases; and

    WHEREAS, the applicant represents that the project site is located within an area identified as underserved in the FRESH food store program in the Zoning Resolution; and

    WHEREAS, the applicant further represents that the uses adjacent to the required open area are buildings occupied with commercial and community facility uses; and

    WHEREAS, the Board raised concerns regarding the proposed height of the one-story building at a height of 23 feet within the open area; and

    WHEREAS, the Board questioned whether the height of the building within the open area could be reduced; and

    WHEREAS, in response, the applicant submitted information showing that the space in the required open area would have a clear floor to ceiling height of 16 feet and that the area between 16 and 23 feet would be used for HVAC, utilities, and structural steel bar joists needed to span the space without the use of columns; and

    WHEREAS, the applicant represents that the 16 feet floor to ceiling height is the minimum required to allow for product shelving, lights, air circulation and storage above shelves; and

    WHEREAS, at hearing, the Board requested that the applicant provide information regarding the impacts of the portion of the building that occupies the required open area on the adjacent uses; and

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WHEREAS, in response, the applicant submitted cross sections showing the grade change between the subject and adjacent parcels and the height of the proposed building in relationship to the adjacent yards; and

WHEREAS, the Board notes that due to the grade change from West 155<sup>th</sup> Street, the effective height of the portion of the proposed building within the open area, when viewed from the adjoining parcels to the rear, is between 11'-6" and 15'-0" in height, as compared to the actual height of 23'-0"; and

WHEREAS, the applicant represents that due to the change in grade between parcels there would be minimal impact on the adjacent uses at the rear of the site; and

WHEREAS, therefore, the Board finds that the waiver to the required open area will not have an adverse affect on the surrounding area; and

WHEREAS, in response to the concerns raised by the Community Board and Councilmember related to traffic, the Board notes that an Environmental Assessment Statement was conducted and found that there would be no impact on traffic; and

WHEREAS, as to the concerns about the site being used for a public service use rather than a supermarket, the Board notes that the use is allowed as of right in the C8-3 zoning district and that the Board limits its review to the waiver requested under the special permit; and

WHEREAS, therefore the Board has determined that the application meets the requirements of ZR §73-03(a) in that the disadvantages to the community at large are outweighed by the advantages derived from such special permit; and that the adverse effect, if any, will be minimized by appropriate conditions; and

WHEREAS, the proposed project will not interfere with any pending public improvement project and therefore satisfies the requirements of ZR §73-03(b); and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§73-50 and 73-03.

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 17.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No.12BSA077M, dated February 8, 2012; and

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

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-50 and 73-03, to permit, on a lot within a C8-3 zoning district abutting an R7-2 zoning district, the construction of a three-story commercial building, in which one story will encroach within the 30-foot open area required by ZR § 33-292, *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 3, 2012" – eighteen (18) sheets; and *on further condition*;

THAT the height of the building within the open area will be limited to 23'-0";

THAT no mechanical equipment will be located on the roof of the building within the 30'-0" open area;

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

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

Adopted by the Board of Standards and Appeals, July 17, 2012.

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## 91-12-BZ

APPLICANT – Jorge Lee, for Juan Noboa, owner.

SUBJECT – Application April 11, 2012 – Re-instatement (§11-411) of a previously approved variance permitting commercial retail (UG 6) in a residential district, which expired on March 29, 1998. R8 zoning district.

PREMISES AFFECTED – 846 Gerard Avenue, east side of Gerard Avenue, 132.37' south of East 161<sup>st</sup> Street, Block 2474, Lot 35, Borough of Bronx.

### COMMUNITY BOARD #4BX

APPEARANCES – None.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4

Absent: Commissioner Ottley-Brown .....1

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Bronx Borough

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Commissioner, dated March 13, 2012, acting on Department of Buildings Application No. 220172578, reads in pertinent part:

- Substantiate legality of existing building layout.
- 1) Provide BSA certificate describing the parameter for the legal use of the commercial use in a residential district.
  - 2) Provide drawing for existing conditions as approved by the Board of Standards and Appeals; and

WHEREAS, this is an application for a reinstatement and an extension of term for a prior Board approval of a commercial retail building (Use Group 6) in a residential district, pursuant to ZR § 11-411; and

WHEREAS, a public hearing was held on this application on June 12, 2012, after due notice by publication in the *City Record*, and then to decision on July 17, 2012; and

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

WHEREAS, Community Board 4, Bronx, recommends approval of this application; and

WHEREAS, the premises is located on the east side of Gerard Avenue between East 158<sup>th</sup> Street and East 161<sup>st</sup> Street, within an R8 zoning district; and

WHEREAS, the site consists of a one-story commercial building occupied by three separate stores; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 21, 1949 when, under BSA Cal. No. 1003-48-BZ, the Board granted a variance to permit the construction of a one-story retail building in a residential district, for a term of ten years; and

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

WHEREAS, most recently, on February 5, 1988, the Board granted a ten-year extension of term, which expired on March 29, 1997; and

WHEREAS, the term of the variance has not been extended since its expiration on March 29, 1997, and

WHEREAS, the applicant represents, however, that the use of the site as a commercial building was continuous from the time of the initial grant until February 26, 2011 when the Department of Buildings (“DOB”) issued a vacate order for the three stores as a result of a fire which partially damaged the roof structure in one of the stores; and

WHEREAS, the applicant represents that an application was filed to repair the damaged roof, however, the owner must reinstate the subject grant and obtain a new certificate of occupancy before DOB will lift the vacate order and allow the owner to repair the roof; and

WHEREAS, accordingly, the applicant now proposes to reinstate the prior grant; and

WHEREAS, pursuant to ZR § 11-411, the Board may extend the term of an expired variance for a term of not more than ten years; and

WHEREAS, the Board has determined that evidence in the record supports the findings required to be made under ZR § 11-411.

*Therefore it is Resolved* that the Board of Standards and

Appeals issues a Type II determination under 6 NYCRR Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR § 11-411 to permit, within an R8 zoning district, the reinstatement of a prior Board approval of a commercial building (Use Group 6) at the subject site, *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked “Received April 11, 2012”-(3) sheets; and *on further condition*:

THAT the term of this grant will be for ten years, to expire on July 17, 2022;

THAT all signage will comply with C1 district regulations;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, July 17, 2012.

## 111-12-BZ

### CEQR #12-BSA-121M

APPLICANT – Eric Palatnik, P.C., for Wells 60 Broad Street, LLC, owner; Bree and Oliver NYC Inc., lessee.

SUBJECT – Application April 19, 2012 – Special Permit (§73-36) for a physical culture establishment (*Cross Fit Wall Street*). C5-5 (LM) zoning district.

PREMISES AFFECTED – 60 New Street, 54-68 Broad Street; 52-66 New Street, north of Beaver Street, Block 24, Lot 1, Borough of Manhattan.

### COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Eric Palatnik.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4

Absent: Commissioner Ottley-Brown .....1

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated April 9, 2012, acting on Department of Buildings Application No. 121020064, reads in pertinent part:

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Proposed change of use to a physical culture establishment, as defined by ZR 12-10, is contrary to ZR 32-10 and must be referred to the Board of Standards and Appeals for approval pursuant to ZR 73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in a C5-5 zoning district within the Special Lower Manhattan District, the operation of a physical culture establishment (PCE) on a portion of the ground floor of a 38-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on June 12, 2012, after due notice by publication in *The City Record*, and then to decision on July 17, 2012; and

WHEREAS, Community Board 1, Manhattan, recommends approval of this application; and

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

WHEREAS, the subject site is located on the northeast corner of New Street and Beaver Street, in a C5-5 zoning district within the Special Lower Manhattan District; and

WHEREAS, the site has approximately 222 feet of frontage on New Street, 246 feet of frontage on Beaver Street, 214 feet of frontage along Broad Street, and a total lot area of 46,645 sq. ft.; and

WHEREAS, the proposed PCE will occupy 2,082 sq. ft. of floor area on the ground floor; and

WHEREAS, the PCE will be operated as Cross Fit Wall Street; and

WHEREAS, the applicant states that the hours of operation for the proposed PCE will be: Monday through Friday, from 5:00 a.m. to 7:00 p.m.; with limited weekend hours by appointment; and

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

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

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

WHEREAS, the applicant states that the proposed PCE will not have any adverse effect on the goals of the Special Lower Manhattan District and its proposed ground floor use will be in context with ground floor commercial establishments in other buildings in this area; and

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

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

community; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 12BSA121M, dated April 11, 2012; and

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

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit on a site located in a C5-5 zoning district within the Special Lower Manhattan District, the operation of a PCE on a portion of the ground floor of a 38-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received July 9, 2012" - Two (2) sheets, and *on further condition*:

THAT the term of this grant will expire on July 17, 2022;

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

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

THAT the site will be maintained free of graffiti;

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

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

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

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

THAT this approval is limited to the relief granted by

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

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

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

Adopted by the Board of Standards and Appeals, July 17, 2012.

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## 93-11-BZ

APPLICANT – Moshe M. Friedman, P.E., for Yeshiva Ore Mordechai, owners.

SUBJECT – Application June 23, 2011 – Special Permit (§73-19) to allow the conversion of the third and fourth floors in an existing four-story factory and warehouse building to a Use Group 3 school (*Yeshiva Ore Mordechai*). M1-1 zoning district.

PREMISES AFFECTED – 1536 62<sup>nd</sup> Street, aka 1535 63<sup>rd</sup> Street, Block 5530, Lot 19, Borough of Brooklyn.

### COMMUNITY BOARD #4BK

APPEARANCES –

For Applicant: Moshe M. Friedman, Jane Carey, Yidel Perlstein and Jack Misashin.

**ACTION OF THE BOARD** – Laid over to August 21, 2012, at 1:30 P.M., for continued hearing.

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## 113-11-BZ

APPLICANT – Slater & Beckerman, LLP, for St. Patrick’s Home for the Aged and Infirm, owners.

SUBJECT – Application August 10, 2011 – Variance (§72-21) to permit a proposed enlargement of a Use Group 3 nursing home (*St. Patricks Home for the Aged and Infirm*) contrary to rear yard equivalent requirements (§24-382). R7-1 zoning district.

PREMISES AFFECTED – 66 Van Cortlandt Park South, corner lot, south of Van Cortlandt Park S, east of Saxon Avenue, west of Dickinson Avenue, Block 3252, Lot 76, Borough of Bronx.

### COMMUNITY BOARD #8BX

APPEARANCES –

For Applicant: Neil Weisbard and Sister Patrick Michael.  
For Opposition: Eugene Travers.

**ACTION OF THE BOARD** – Laid over to September 11, 2012, at 1:30 P.M., for continued hearing.

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## 117-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Sisters of St. Joseph, owners.

SUBJECT – Application August 15, 2011 – Variance (§72-21) to permit the development of a new athletic center accessory to an existing UG 3 school (*Mary Louis Academy*), contrary to maximum height and sky exposure plane (§24-521), minimum rear yard, (§24-382) minimum front yard (§24-34) and nameplates or identification signs (§22-321). R1-2 and R5 zoning districts.

PREMISES AFFECTED – 86-50 Edgerton Boulevard, corner through lot bounded by Dalny Road, Wexford Terrace, and Edgerton Boulevard, block 9885, Lot 8, borough of Queens.

### COMMUNITY BOARD # 8Q

APPEARANCES –

For Applicant: Nora Martins.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4

Absent: Commissioner Ottley-Brown.....1

Negative:.....0

**ACTION OF THE BOARD** – Laid over to August 7, 2012, at 1:30 P.M., for decision, hearing closed.

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## 165-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Agudath Israel Youth of Boro Park, owner.

SUBJECT – Application October 19, 2011 – Variance (§72-21) to enlarge an existing Use Group 4A house of worship (*Agudath Israel Youth of Boro Park*) for an educational center on proposed third and fourth floors and to legalize two interior balconies, contrary to rear yard (§24-36) and lot coverage (§24-11) regulations. R6 zoning district.

PREMISES AFFECTED – 1561 50<sup>th</sup> Street, near the corner of 16<sup>th</sup> Avenue, Block 5453, Lot 51, Borough of Brooklyn.

### COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Nora Martins.

**ACTION OF THE BOARD** – Laid over to July 24, 2012 at 1:30 P.M., for adjourned hearing.

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## 178-11-BZ

APPLICANT – Eric Palatnik, P.C., for Elie Zeitoune, owner.

SUBJECT – Application November 29, 2011 – Special Permit (§73-622) for the enlargement of an existing two story, semi-detached single family home, contrary to floor area and open space (§23-141(b)); side yard (§23-461) and rear yard (§23-47) requirements. R5 zoning district.

PREMISES AFFECTED – 1944 East 12<sup>th</sup> Street, between Avenue S and T, Block 7290, Lot 24, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to August

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21, 2012, at 1:30 P.M., for continued hearing.

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**191-11-BZ**

APPLICANT – Sheldon Lobel, P.C., for Zerillo Family Trust, owner.

SUBJECT – Application December 19, 2011 – Special Permit (§73-622) for the in-part legalization and enlargement of an existing single family home, contrary to maximum allowable floor area (§23-141(b)). R 4-1 zoning district.

PREMISES AFFECTED – 1246 77<sup>th</sup> Street, between 12<sup>th</sup> and 13<sup>th</sup> Avenues, Block 6243, Lot 24, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

APPEARANCES –

For Applicant: Nora Martins.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4

Absent: Commissioner Ottley-Brown.....1

Negative:.....0

**ACTION OF THE BOARD** – Laid over to August 7, 2012, at 1:30 P.M., for decision, hearing closed.

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**5-12-BZ**

APPLICANT – Moshe M. Friedman, P.E., for Aaron Herzog, owner.

SUBJECT – Application January 12, 2012 – Variance (§72-21) for the addition of a third floor to an existing two family residential building, contrary to front yard requirements (§23-146(c)), front yards and side yard requirement (§23-146(d)). R5 zoning district/Borough Park.

PREMISES AFFECTED – 812 Dahill road, northwest corner of Dahill Road and 19<sup>th</sup> Avenue, Block 5445, Lot 39, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

APPEARANCES –

For Applicant: Moshe M. Friedman.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4

Absent: Commissioner Ottley-Brown.....1

Negative:.....0

**ACTION OF THE BOARD** – Laid over to August 7, 2012, at 1:30 P.M., for decision, hearing closed.

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**9-12-BZ**

APPLICANT – Eric Palatnik, P.C., for Mikhail Dadashev, owner.

SUBJECT – Application January 17, 2012 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area (§23-141). R3-1 zoning district.

PREMISES AFFECTED – 186 Girard Street, corner of Oriental Boulevard and Girard Street, Block 8749, Lot 278,

Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to August 21, 2012, at 1:30 P.M., for continued hearing.

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**23-12-BZ**

APPLICANT – Simons & Wright LLC, for 949-951 Grand Street, LLC, owner.

SUBJECT – Application February 2, 2012 – Variance (§72-21) to allow for the development of a residential building, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 951 Grand Street, between Morgan and Catherine Streets, Block 2924, Lot 48, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES –

For Applicant: Chris Wright.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4

Absent: Commissioner Ottley-Brown.....1

Negative:.....0

**ACTION OF THE BOARD** – Laid over to August 21, 2012, at 1:30 P.M., for decision, hearing closed.

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**43-12-BZ**

APPLICANT – Raymond H. Levin, Wachtel & Masyr, LLP, for SDS Great Jones, LLC, owner.

SUBJECT – Application February 17, 2012 – Variance (§72-21) to permit a residential building, contrary to use regulations (§42-00). M1-5B zoning district.

PREMISES AFFECTED – 25 Great Jones Street, lot fronting on both Great Jones and Bond Street, between Lafayette and Bowery Streets, Block 530, Lot 19, Borough of Manhattan.

**COMMUNITY BOARD #2M**

APPEARANCES –

For Applicant: Raymond Levin and Jack Freeman.

For Opposition: Suzanne Stewart and Caspar Luard.

**ACTION OF THE BOARD** – Laid over to August 21, 2012, at 1:30 P.M., for continued hearing.

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**48-12-BZ**

APPLICANT – Law Office of Marvin B. Mitzner, LLC, for IGS Realty Co., owner.

SUBJECT – Application March 5, 2012 – Variance (§72-21) to permit the legalization of an existing 14-story commercial building for use as offices, contrary to Special Garment Center regulations (§121-11). C6-4 (GC, P2) zoning district.

PREMISES AFFECTED – 336 West 37<sup>th</sup> Street, between Eighth and Ninth Avenues, Block 760, Lot 63, Borough of Manhattan.



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## COMMUNITY BOARD #4M

### APPEARANCES –

For Applicant: Peter Geis and Jack Freeman.

**ACTION OF THE BOARD** – Laid over to August 21, 2012, at 1:30 P.M., for continued hearing.

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## 87-12-BZ

APPLICANT – Troutman Sanders, LLP, for A & J Properties, LLC, owner; Bally's Total Fitness of Greater New York, lessee.

SUBJECT – Application April 11, 2012 – Special Permit (§73-36) to permit the continued operation of the existing physical culture establishment (*Bally Total Fitness*). C2-2/R4 zoning district.

PREMISES AFFECTED – 1720-28 Sheepshead Bay Road, 123.21' south of the intersection of Vorhies Avenue, Block 8770, Lot 12, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

### APPEARANCES –

For Applicant: Jeremich M. Candreva.

### THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez.....4  
Absent: Commissioner Ottley-Brown.....1  
Negative:.....0

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

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*