
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

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JOEL A. MIELE, SR.

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Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE - 40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD - 40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @ <http://www.nyc.gov/html/bsa/home.html>

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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DOCKETS

New Case Filed Up to January 11, 2005

386-04-BZ B.Q. 22-44 119TH Street, corner of 23rd Avenue, Block 4194, Lot 20, Borough of Queens. Applic.#401963586. Proposed enlargement and development of an existing community facility, located in M1-1 zoning district, which does not comply with the zoning requirements for accessory off-street loading berth, waterfront yards, total height and parking, is contrary to Z.R. §44-52, §62-331, §62-34, §62-441 and §44-21.

COMMUNITY BOARD #7Q

387-04-BZ B.S.I. 908 Clove Road (formerly 904 and 908 Clove Road), east side, between Bard and Tyler Avenues, Block 323, Lot 42 (previously Lots 42 and 44), Borough of Staten Island. N.B.#500740665. Proposed construction of a one story and cellar building (retail and office), Use Group 6, located in an RS-2(HS) zoning district, is contrary to Z.R. §22-00.

COMMUNITY BOARD #1SI

388-04-BZ B.Q. 133-16 Springfield Boulevard, west side, 114.44' north of Merrick Boulevard and 277' south of Lucas Street, Block 12723, Lot 9, Borough of Queens. Applic.#401867119. Proposed construction of a one story and cellar commercial building, comprising of four stores, and accessory parking, Use Group 6, located in an R2 and a C8-1 zoning district, is contrary to Z.R. §22-00.

COMMUNITY BOARD #12Q

389-04-BZ B.M. 150 East 34th Street, between Lexington and Third Avenues, Block 889, Lot 55, Borough of Manhattan. Applic.#103932167. The legalization of an existing physical culture establishment, situated on the second floor of the subject premises, requires a special permit from the Board as per Z.R. §73-36.

COMMUNITY BOARD #6M

390-04-BZ B.BX. 2290 Boston Road, southeast corner of Astor Avenue, Block 4343, Lot 31, Borough of The Bronx. Applic.#s200920539 and 200920520. The reestablishment of a gasoline service station, Use Group 16, with accessory auto repairs, accessory parking and the storage of motor vehicles, located in a C1-3 within an R6 zoning district, is contrary to Z.R. §32-00.

COMMUNITY BOARD #11BX

391-04-BZ B.BK. 2610 Avenue "L", south side, 60' east of the intersection of Avenue "L" and East 26th Street, Block 7644, Lot 44, Borough of Brooklyn. Applic.#301874032. Proposed enlargement to an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio and open space ratio, is contrary to Z.R. §23-141(a).

COMMUNITY BOARD #14BK

392-04-BZ B.BK. 966 East 23rd Street, west side, 220.0' north of Avenue "J", between Avenues "I" and "J", Block 7586, Lot 75, Borough of Brooklyn. Applic.#301760912. Proposed two story rear enlargement, to an existing one family residence, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, rear and side yards, is contrary to Z.R. §23-141, §23-461, §23-47 and §54-31.

COMMUNITY BOARD #14BK

393-04-BZ B.Q. 41-19 Bell Boulevard, east side, 75' north of 42nd Avenue, Block 6290, Lot 5, Borough of Queens. Alt.1#400391679. The legalization of an existing physical culture establishment, located in a one story masonry building, situated in a C4-2/C8-1 zoning district, is contrary to §32-00.

COMMUNITY BOARD #11Q

394-04-BZ B.M. 44 Mercer Street, aka 471 Broadway, east side, 107.1/2" north of the intersection of Grand and Mercer Streets, Block 474, Lot 49, Borough of Manhattan. Applic.#103576024. Proposed construction of a seven-story mixed-use building, containing residential and retail uses, whereas such uses are not permitted as right, located within an M1-5B zoning district, is contrary to Z.R. §42-10 and §42-14(D)(2)(B).

COMMUNITY BOARD #2M

DOCKETS

395-04-BZ B.BK. 1232 54TH Street, southwest side, 242'-6" southeast of the intersection formed by 54th Street and 12th Avenue, Block 5676, Lot 17, Borough of Brooklyn. Applic.#301860706. Proposed synagogue and rectory, Use Group 4, located in an R4 zoning district, which does not comply with the zoning requirements for front wall, sky exposure, side and front yards, also parking, is contrary to Z.R. §24-521, §24-35(a), §24-34 and §25-31.

COMMUNITY BOARD #12BK

396-04-BZ B.M. 180 West Broadway, northwest corner, between Leonard and Worth Streets, Block 179, Lots 28 and 32, Borough of Manhattan. Applic.#103938045. Proposed construction of a thirteen story, mixed use building, located in a C6-2A, TMU zoning district, which does not comply with the zoning requirements for floor area, lot coverage, street walls, building height and tree planting, is contrary to Z.R. §111-104, §23-145, §35-24(c)(d) and §28-12.

COMMUNITY BOARD #1M

397-04-A B.M. 151 West 76th Street, north side, 471' from the intersection of Columbus Avenue, Block 1148, Lot 112, Borough of Manhattan. Applic.#103869084. An appeal to request the Board to determine that the apartment house at subject premises, is not a "single room occupancy multiple dwelling" and (2) nullify the Department of Buildings' plan review "objection" that resulted in this appeal application.

398-04-BZ B.BK. 2103 Avenue "M", northeast corner of East 21st Street, Block 7639, Lot 9, Borough of Brooklyn. Applic.#301056264. The legalization of an enlargement to an existing single family residence, located in an R2 zoning district, which does not comply with the zoning requirements for floor area and open space ratio, is contrary to Z.R. §23-141, also the proposed removal of the existing garage, which is situated at the northern end of the existing enlarged home.

COMMUNITY BOARD #14BK

399-04-BZ B.M. 425/27 Broome Street, southeast corner of Crosby Street, Block 473, Lot 33, Borough of Manhattan. Applic.#103670029. Proposed use of the subcellar for accessory parking, first floor and cellar for retail, and the construction of partial sixth and seventh stories for residential use, also a special permit to allow a physical culture establishment on

the cellar level, of the subject premises, located in an M1-5B zoning district, is contrary to Z.R.§42-14(D), §13-12(a) and §73-36.

COMMUNITY BOARD #2M

400-04-A B.Q. 42-03 249th Street (t/b/k/a 42-01 and 42-03 249th Street), bounded by 41st Avenue, Little Neck Parkway, 43rd Avenue and 249th Street, Block 8127, Lots 43 and 45(Tentative Lots 42 and 45), Borough of Queens. Applic.#s401994277 and 401994286. Proposed two semi-detached, two-family dwellings, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

401-04-BZ B.BK. 1395 Ocean Avenue, northeast corner of Avenue "I", Block 7566, Lot 6, Borough of Brooklyn. Applic.#301397771. Proposed enlargement of an existing yeshiva, Use Group 3, located in an R4 zoning district, which does not comply with the zoning requirements for floor area, lot coverage, wall height and the sky exposure, is contrary to Z.R. §24-11 and §24-522.

COMMUNITY BOARD #14BK

402-04-BZ B.BK. 2461 Knapp Street, east side, between Avenues "X and Y", Block 8833, Lot 200, Borough of Brooklyn. Applic.#301858112. Proposed change in use from an enclosed amusement arcade, Use Group 15, to a self-storage facility, Use Group 16, located in a C3 and a C7 zoning district, is contrary to Z.R.§32-00 and §33-122.

COMMUNITY BOARD #15BK

403-04-A B.Q. An appeal asking the Board to rescind an Order issued by the Commissioner of the Department of Buildings, dated December 16, 2004, which is contrary to §26-115 of the NYC Administrative Code.

DOCKETS

404-04-BZ B.BK. 1384 East 24th Street, bounded by Avenue "N", East 23rd Street, Avenue "M" and East 24th Street, Block 7659, Lot 81, Borough of Brooklyn. Applic.#301853297.

Proposed enlargement of an existing one family dwelling , which does not comply with the zoning requirements for floor area, open space ratio, and side and rear yards, is contrary to Z.R. §23-141, §23-461 and §23-47.

COMMUNITY BOARD #14BK

405-04-BZ B.BK. 1734 East 27th Street, west side, between Quentin Road and, Avenue "R", Block 6809, Lot 24, Borough of Brooklyn. Applic.#301865747. Proposed enlargement of an existing one family dwelling , which does not comply with the zoning requirements for floor area, lot coverage, height of walls, and side and rear yards, is contrary to Z.R. §23-141, §23-461 and §23-47 and §23-631.

COMMUNITY BOARD #15BK

1-05-A B.BX. 1426 Shore Drive and 1428 Shore Drive, 643.08' south of the intersection of Layton Avenue and Shore Drive, Block 5467, New Lots 138 and 139, (p/o of Lots 37 and 38, Borough of The Bronx. Applic.#s 200786514 and 200786505. Proposed construction of two-one family dwellings, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

FEBRUARY 8, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, February 8, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

314-28-BZ

APPLICANT - Manuel B. Vidal, Jr., for Henilda Realty Corporation, owner; Henilda Realty Corporation, lessee.

SUBJECT - Application July 8, 2004 - reopening for an amendment to the prior resolution to permit the removal of the existing kiosk and to erect a new building on the property to be used as a convenience store.

PREMISES AFFECTED - 902/14 Westchester Avenue and 911/15 Rogers Place, south west corner of 889/903 East 163rd Street, Block 2696, Lot 130, Block 2696, Lot 130, Borough of The Bronx.

COMMUNITY BOARD #2BX

450-46-BZ

APPLICANT - Friedman & Gotbaum, LLP by Shelley S. Friedman, Esq., for 41 East LLC, owner.

SUBJECT - Application December 29, 2004 - Extension of Term for a commercial UG6B in a residential district previously granted, which is not permitted in R8B zoning district and an amendment to include a community use facility UG4, which is as of right, is contrary to previously approved plans. This application is an In-Part legalization.

PREMISES AFFECTED - 41 East 62nd Street, Manhattan, north side of East 62nd Street, 105' east of the corner formed by the intersection of East 62nd Street and Madison Avenue, Block 1377, Lot 27, Borough of Manhattan.

COMMUNITY BOARD #8M

286-99-BZ

APPLICANT - Rampulla Associates Architects, for Vasilios Koniosis, owner.

SUBJECT - Application September 20, 2004 - Extension of Time/Waiver of the Rules of Practice and Procedures to complete construction for the conversion of an existing single family detached dwelling to stores and offices, approved by the Board on May 2, 2000.

PREMISES - 4142 Hylan Boulevard, SE/S of Hylan Boulevard at the corner of Hylan Boulevard and Hinz Avenue, Block 5310, Lot 1, Borough of Staten Island.

FEBRUARY 8, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday*

COMMUNITY BOARD #3SI

295-99-BZ

APPLICANT - Rampulla Associates Architects, for Wyckoff Heights Medical Center, owner.

SUBJECT - Application September 20, 2004 - Extension of Time/Waiver of the Rules of Practice and Procedures to complete construction the erection of a five (5) story parking facility, which will service the Wyckoff Hospital as an accessory parking facility which was granted by the Board on May 2, 2000.

PREMISES - 370 Stanhope Street, Stanhope Street between Wyckoff Avenue and St. Nicholas Avenue, Block 3271, Lots 17, 18, 20, 22, 37, 38, Borough of Brooklyn.

COMMUNITY BOARD #4BK

224-00-BZ

APPLICANT - Sheldon Lobel, P.C., for Basile Builders Group, Inc., owner.

SUBJECT - Application December 18, 2003 - Reopening for an application previously denied by the Board of Standards and Appeals to consider additional information that was not available at the time the BSA originally considered this application. The application was filed pursuant to section 72-21 of the zoning resolution to permit a proposed six story residential building located in an R-5 zoning district, which would create non-compliance with respect to Section 23-141, FAR, lot coverage and open space, Section 23-631 height and perimeter wall, Section 23-222 lot area per dwelling unit, Sections 23-45, 23-46 and 2347 yard requirements.

PREMISES - 2353 Cropsey Avenue, a/k/a 247 Bay 34th Street, Block 6889, Lots 7, 9, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEALS CALENDAR

312-04-A

APPLICANT - Eric Paltnik, P.C for Aspinwall Building Corp., owner.

SUBJECT - Application September 15, 2004 - Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law .

PREMISES - 14 Letty Court , 185.87' west of Van Name Avenue, Block 1188, Lot 115, Borough of Staten Island.

COMMUNITY BOARD #1SI

afternoon, February 8, 2005, at 1:30 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

CALENDAR

ZONING CALENDAR

72-04-BZ

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

SUBJECT - Application March 5, 2004 - under Z.R. §11-411 to request an extension of term of the previously granted variance, which permitted the erection and maintenance of a gasoline service station with accessory uses, and Section 11-412 to authorize the alteration of the signage and the accessory use of a convenience store located in an R6/C1-2 and R6 zoning district.

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

COMMUNITY BOARD #7Q

220-04-BZ

APPLICANT - Eric Palatnik, P.C., for Marjay Realty, LLC, owner; Maxim Health and Fitness, lessee.

SUBJECT - Application May 28, 2004 - under Z.R. §73-36 to permit the proposed physical culture establishment, to occupy a portion of the second floor, of an existing six story building, located in an M1-2 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 500 Driggs Avenue, aka 482/504 Driggs Avenue, through lot fronting on North 9th and 10th Streets and Driggs Avenue, Block 2305, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #1BK

234-04-BZ

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

SUBJECT - Application June 18, 2004 - under Z.R. §72-21 to permit in a M1-1 and M1-2 district, approval sought to legalize residential occupancy of 73 dwelling units in a four-story and basement industrial building, which was constructed in 1931. The legal use is listed artist loft space for the 73 units. There are proposed 18 parking spaces on the open portion of the lot, which consists of 25,620 SF in its entirety. The use is contrary to district use regulations.

PREMISES AFFECTED - 255 McKibbin Street, between Bushwick Avenue and White Street, Block 3082, Lot 65, Borough of Brooklyn.

COMMUNITY BOARD #1BK

FEBRUARY 15, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, February 15, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

265-04-BZ

APPLICANT - Greenberg & Traurig, LLP by Jay A. Segal, Esq. for LVMH, Inc., owner; BlissWorld LLC, Lessee.

SUBJECT - Application July 27, 2004 - under Z.R. §73-36 to permit the legalization of the operation of a physical cultural establishment on the 3rd floor of a twenty -two story commercial building consisting of 3,792sqft located within a C5-3 (MID) Zoning district.

PREMISES AFFECTED - 19 East 57th Street - north side of East 57th Street and Madison Avenue ,Block 1293, Lot 14, Borough of Manhattan

COMMUNITY BOARD #5M

298-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Yeshiva Emek Hatalmud, owner.

SUBJECT - Application September 7, 2004 - under Z.R. §72-21 to permit the proposed conversion of a two family residential house to a Yeshiva (Religious School), located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, street wall, sky exposure, side and rear yards, is contrary to Z.R. §24-11, §24-521, §24-35(a) and §24-36.

PREMISES AFFECTED - 1746 East 21st Street, west side, 440' north of Quentin Road, Block 6783, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #15

SPECIAL ORDER CALENDAR

1126-48-BZ

APPLICANT - Sheldon Lobel, P.C., for Advance Parking LLC, owner.

SUBJECT - Application July 30, 2004 - Reopening for an

CALENDAR

extension of term of variance for an open garage for parking & storage of more than five(5) motor vehicles, located in C1-5 zoning district.

PREMISES - 249/51 West 43rd Street, north side of West 43rd Street, 200' east of 8th Avenue, Block 1015, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #5M

259-98-BZ

APPLICANT - Davidoff Malito & Hutcher LLP by Howard S. Weiss, Esq., for Kent Plaza Realty Corp., owner.

SUBJECT - Application November 17, 2004 - reopening for an amendment to a previously granted variance for a multiple dwelling, located in an M1-2 zoning district.

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

COMMUNITY BOARD #3BK

FEBRUARY 15, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, February 15, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

138-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Cong. Machne Chaim, Inc., owner; Yeshiva Bais Sorah, lessee.

SUBJECT - Application March 24, 2004 - under Z.R. §73-19 to request a special permit for a school, Use Group 3, within an M1-1 Zoning District to vary Z.R. §42-00 so as to permit the school on the Premises.

PREMISES AFFECTED - 6101-6123 16th Avenue, 16th Avenue between 61st and 62nd Streets, Block 5524, Lot 1, Borough of Queens.
PREMISES AFFECTED - 610 Lanett Avenue, north west side of Lanett Avenue, 200' east of Beach 8th Street, Block 15596, Lot 7, Borough of Queens.

COMMUNITY BOARD #14Q

296-04-BZ

APPLICANT - Sheldon Lobel, P.C., for 135 Orchard Street, Co., LLC, owner.

SUBJECT - Application August 30, 2004 - under Z.R. §72-21 to

Brooklyn.

COMMUNITY BOARD #11BK

187-04-BZ

APPLICANT - Eric Palatnik, P.C., for 182 MXB, LLC owner.
SUBJECT - Application May 4, 2004 - under Z.R. §72-21 to permit the proposed construction of a four story building, with eight dwelling units, Use Group 2, located in an R-5 zoning district, which does not comply with the zoning requirements for lot coverage, floor area, front yards, parking, height and perimeter wall, also the number of dwelling units, is contrary to Z.R. §23-141(c), §23-631(e), §23-45(a), §25-23(a) and §23-22.

PREMISES AFFECTED - 182 Malcolm X Boulevard, north west corner of Madison Street, Block 1642, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD #3BK

230-04-BZ

APPLICANT - Sheldon Lobel, P.C., for La Perst, LLC, owner.
SUBJECT - Application June 16, 2004 - under Z.R. §72-21 to permit the legalization of the residential conversion of a building located in an M1-2 zoning district.

PREMISES AFFECTED - 260 Moore Street, between White Street and Bogart Street), Block 3110, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #1BK

293-04-BZ

APPLICANT - Eric Palatnik, P.C., for Torah Academy For Girls, owner.

SUBJECT - Application August 25, 2004 - under Z.R. §72-21 in an R3-1 district, approval sought to enlarge an existing Yeshiva (Torah Academy High School for Girls). It is proposed to add four classrooms, bringing the total number of classrooms to 22; a new multi-purpose room, and the enlargement of an existing auditorium/gymnasium/multi-purpose room. The application seeks waivers from floor area, wall height, side yard, rear yard and sky exposure plane requirements.

permit the legalization of the residential uses on floors two through five of an existing five-story mixed use building located in a C6-1 zoning district.

PREMISES AFFECTED - 135 Orchard Street, (a/k/a 134 Allen Street), between Delancey and Rivington Streets, Block 415, Lot 69, Borough of Manhattan.

COMMUNITY BOARD #3M

Pasquale Pacifico, Executive Director

MINUTES

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JANUARY 11, 2005
10:00 A.M.**

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, October 26, 2004, were approved as printed in the Bulletin of November 4, 2004, Volume 89, No. 44.

SPECIAL ORDER CALENDAR

457-56-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for Beatrice Trachtman, owner.

SUBJECT - Application June 24, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired February 13, 2004 to permit accessory parking of motor vehicles, customer parking, loading and unloading in conjunction with adjacent factory building, located in an R6 zoning district.

PREMISES AFFECTED - 152/4 India Street, south side of India Street 150' east of Manhattan Avenue, Block 2541, Lots 12 & 13, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening and an extension pursuant to Z.R. § 11-41 of the term of the variance, which expired on February 13, 2004; and

WHEREAS, a public hearing was held on this application on October 19, 2004, after due notice by publication in The City Record, with a continued hearing on December 7, 2004, and then to decision on January 11, 2005; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since December 4, 1956, when it granted an application under the subject calendar number to permit accessory parking, loading and unloading in connection with a factory building located on another lot; and

WHEREAS, the Board has granted subsequent extensions of

410-68-BZ

APPLICANT - Sheldon Lobel, P.C., for Alessandro Bartellino, owner.

SUBJECT - Application June 29, 2004 - reopening for an

the term of the variance and minor amendments to the resolution, most recently on January 31, 1995, when the variance was extended for a term of 10 years from February 13, 1994; and

WHEREAS, the applicant asserts that no amendments to the variance are being requested; and

WHEREAS, pursuant to Z.R. § 11-411, the Board may, in appropriate cases, allow an extension of the term of a pre-1961 variance; and

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

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, and extends the term of the variance which expired on February 13, 2004, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional ten (10) years from February 13, 2004 expiring on February 13, 2014; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 27, 2004" - (1) sheet; and on further condition;

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

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

THAT an 8'-0" high, 100 percent opaque fence shall be installed and maintained along the easterly lot line;

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

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect; THAT the aforementioned fence shall be installed within 30 days from the date of this grant, and the applicant shall provide photographic evidence of the installation of such fence to the Board's Executive Director within such time;

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 #301801904)

Adopted by the Board of Standards and Appeals, January 11, 2005.

amendment to the resolution to convert a portion of the existing automotive service station to a convenience store and permit the construction of a new building to contain two automobile service repair bays, service attendant area and customer waiting area.

MINUTES

PREMISES AFFECTED - 85-05 Astoria Boulevard, fronting 85th Street and 24th Avenue, Block 1097, Lot 1, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application under Z.R. § 11-412 for an amendment to the resolution, to permit the conversion of a portion of an existing automotive service station to a convenience store, the construction of a new building to contain two automotive service repair bays, service attendant area and customer waiting area, an extension of the existing canopy, the relocation of the pump islands, and the addition of one new fuel dispenser; and

WHEREAS, a public hearing was held on this application on November 16, 2004, after due notice by publication in The City Record, with a continued hearing on December 7, 2004 and then to January 11, 2005 for decision; and

WHEREAS, Community Board 3, Queens, recommended conditional approval of this application, and certain of said conditions are incorporated herein as conditions; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since February 24, 1953, when the Board granted an application to permit the erection and maintenance of a gasoline service station, with an auto wash, lubricatorium and motor vehicle repairs; and

WHEREAS, most recently, on February 29, 2000, the Board granted an application to extend the term of the variance for a period of ten years from November 29, 1998, and to permit the installation of a steel canopy over the motor fuel dispensers and the conversion of a portion of the existing building for an attendant's area; and

WHEREAS, the subject application seeks to convert the existing 1,868 sq. ft., three-bay automotive service station to a one-bay service station, with an office, utility room, and convenience store, and to permit a new 934 sq. ft. addition to the building; and

WHEREAS, the applicant represents that the new addition will contain two automobile service repair bays, a service attendant area and a customer waiting area; and WHEREAS, pursuant to Z.R. § 11-412, the Board may, in appropriate cases, allow the enlargement of a building on a premises subject to a pre-1961 variance, provided that the enlargement does not exceed 50 percent of the floor area of the existing building; and

283-90-BZ

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

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

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

COMMUNITY BOARD #ISI

WHEREAS, the Board has determined that the evidence in the record supports the finding required to be made under Z.R. § 11-412.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution pursuant to Z.R. § 11-412, said resolution having been adopted on December 24, 1929, so that as amended this portion of the resolution shall read: "To permit the conversion of a portion of an of an existing automotive service station to a convenience store, an addition to the existing building to contain two automotive service repair bays, a service attendant area and a customer waiting area, an extension of the existing canopy, the relocation of the pump islands, and the addition of one new fuel dispenser; on condition that all work shall substantially conform to drawings filed with this application marked 'Received December 9, 2004'-(5) sheets; and on further condition;

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

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

THAT all lighting shall be directed downward and away from adjacent residential uses;

THAT the hours of operation of the automotive repairs shall be limited to Monday through Saturday, 8:00 AM - 6:00 PM;

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

THAT all curb cuts and landscaping shall be installed and/or maintained as shown on the BSA-approved plans; the curb cut on 24th Avenue shall be eliminated;

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

THAT a new certificate of occupancy be obtained within one year from the date of this grant;

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 # 401856997).

Adopted by the Board of Standards and Appeals, January 11, 2005.

APPEARANCES -

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner

MINUTES

Caliendo, Commissioner Miele and
Commissioner Chin.....5
Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner
Caliendo, Commissioner Miele and
Commissioner Chin.....5
Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for an amendment to the variance, to permit the enlargement of a non-conforming eating and drinking establishment in an R3X zoning district; and

WHEREAS, a public hearing was held on this application on March 27, 2004, after due notice by publication in The City Record, with continued hearings on June 7, August 10, September 28, October 19, November 16, and December 14, 2004, and then to decision on January 11, 2005; and

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

WHEREAS, Community Board No. 1, Staten Island, recommended disapproval of this application; and

WHEREAS, the application was also opposed by the Clove Lake Civic Association, as well as various neighbors; and

WHEREAS, the subject lot is irregularly shaped, with frontages on three streets (Clove Road to the east, Oneida Avenue to the west, and Oswego Street to the north), and is currently developed with a two-story and cellar building; and

WHEREAS, in 1977, under BSA Calendar No. 185-77-BZ, the Board permitted, pursuant to Z.R. § 72-21, the enlargement of the site (which was then in an R3-1 zoning district) in order to provide accessory parking for 20 cars and the enlargement of the cellar for additional storage space; however, these enlargements were never built; and

WHEREAS, on September 10, 1996, under the subject calendar number, the Board granted an application to permit an enlargement of the existing non-conforming eating and drinking establishment on the site; and

WHEREAS, specifically, the Board approved an enlargement of the eating and drinking establishment by 1430 sq. ft. and an

WHEREAS, specifically, at the October 19, 2004 hearing, the Board requested that the applicant provide: (1) a wall, treated in stucco on all exposed surfaces, 4'-6" away from the southerly property line, with a landscaped area behind it and a gate for access; (2) proof that the area formerly used for garbage is now free of garbage; (3) a workable parking layout; and (4) a plan eliminating access from Oneida Street so that no vehicles or pedestrians can enter or exit the premises from that side; and

WHEREAS, the Board finds that the applicant has sufficiently responded to these specific requests and has submitted adequate plans incorporating the Board requirements; and

WHEREAS, the applicant has also submitted photos indicating that the area formerly used for trash storage has been converted to a landscaped area and showing that the open area adjacent to Clove Road was cleared of weeds; and

enlargement of the parking area to provide a total of 18 accessory parking spaces; and

WHEREAS, on March 6, 2001, the Board granted an application for an extension of time to complete construction for a period of two years, expiring on September 10, 2003; and

WHEREAS, a certificate of occupancy, issued on August 14, 2003, provides that the following are permitted uses at the premises: accessory storage in the cellar, eating and drinking establishment on the first floor and mezzanine, and one family residence on the second floor; and

WHEREAS, in 2003, the Board was made aware that the eating and drinking establishment at the site was enlarged and being operated contrary to certain terms and conditions of the Board's prior grant; the Board then initiated compliance proceedings; and

WHEREAS, after being notified of the non-compliances, the applicant filed the subject amendment application; and

WHEREAS, in the instant proceeding, the applicant acknowledged the following non-compliances with the prior BSA approval: (1) no apartment was constructed on the second floor; the second floor is instead utilized as another dining area; (2) a landscaped area was not provided along the southerly lot line of the premises; (3) a masonry wall was erected instead of a wrought iron fence; (4) a dumpster/refuse area was provided at the southeast corner of the premises; (5) the cellar is used for active food preparation as well as for storage; (6) the entrances/exits on the first floor were modified, partially in order to accommodate the installation of a handicapped accessibility ramp from the parking lot; and (6) other minor interior modifications were made, such as the addition of a pantry area outside the kitchen; and

WHEREAS, the applicant states that the apartment was not constructed because it was not a feasible living area given the level of activity in the eating and drinking establishment; and

WHEREAS, the Board agrees with the applicant that residential use of the subject second floor area now used as a dining room does not make sense, given the level of activity in the eating and drinking establishment and the fact that there is no need for a live-in caretaker; and

WHEREAS, in addition, after much discussion at public hearing, the applicant has agreed to certain site and operation modifications requested by the Board that will address the other existing non-compliances; and

WHEREAS, additionally, the applicant has committed to the installation of all fencing and landscaping as required within 60 days of the date of this grant, and will submit proof of such installation to the Board; and

WHEREAS, finally, at the request of the Board, the applicant has committed to provide attended parking for 30 vehicles on Friday and Saturday nights, between 5 pm and 2 am, in order to alleviate any parking congestion on the streets surrounding the site; and

WHEREAS, accordingly, based upon both its review of the submissions and the applicant's willingness to accept the conditions set forth below, the Board finds that the proposed amendment to the prior resolution is appropriate.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on May 20, 1997, as amended on December 11,

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2001, so that as amended this portion of the resolution shall read: "To permit the conversion of the second floor space formerly designated as an apartment to a dining area, the use of the cellar for food preparation and storage, the relocation of the garbage area, the installation of fencing and landscaping, and other minor interior modifications on condition that all work shall substantially conform to drawings filed with this application marked 'Received December 27, 2004' - (3) sheets and 'Received January 11, 2005' - (1) sheet; and on further condition:

THAT total occupancy shall be limited to 166 patrons, with 50 persons in the existing dining room on the first floor, 56 persons in the bar area on the first floor, 30 persons in the new dining area on the second floor, and 30 persons in the existing dining area on the second floor, as shown on the BSA-approved plans;

THAT the hours of operation shall be 11 am to 1 am Sunday through Thursday, and 11 am to 2 am on Friday and Saturday;

THAT there shall be no access of any kind from Oneida Avenue to the parking area; this entrance shall be sealed off;

THAT the parking area shall be gated off and inaccessible during non-business hours, except for garbage collection;

THAT attended parking for 30 cars will be provided on Friday and Saturday between 5 pm and 2 am;

THAT handicapped parking shall be provided as shown on the BSA-approved plans;

THAT no lighting shall be installed along the portion of the wall adjacent to the southerly lot line, and that all exterior lighting shall be limited to decorative fixtures, with bulbs of 75 watts maximum;

THAT no dining area in the eating and drinking establishment shall be used for catering or as a banquet hall;

THAT garbage shall be collected only between the hours of 7 am to 11 am; garbage collection shall occur from inside the parking lot and not across the sidewalk

THAT a concrete pad for garbage cans shall be provided and maintained on the north side of the parking lot; this area shall not be accessible from the sidewalk;

218-96-BZ

APPLICANT - The Agusta Group for The Armenian Apostolic Church, owners.

SUBJECT - Application August 10, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to complete construction of an enlargement to an existing community facility.

PREMISES AFFECTED - 138 East 39th Street, south side 123.4' east of Lexington Avenue, Block 894, Lot 60, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES - None.

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

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION-

WHEREAS, this is an application for a waiver of the Rules of

THAT all landscaping and fencing shall be provided and maintained as indicated on the BSA-approved plans;

THAT a 3 ft. access gate, 100 percent opaque, shall be maintained in the southerly wall, shall be used for maintenance of the planting area only, and shall be locked at all other times;

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

THAT all conditions from prior resolutions not specifically waived, superceded or modified herein remain in effect;

THAT installation of all required fencing, landscaping, and other items as shown on the BSA-approved plans shall be completed within 60 days of the date of this grant, and proof of same shall be submitted to the Board's Executive Director when installation has been completed;

THAT a new certificate of occupancy be obtained within six months of the date of this grant;

THAT all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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. 500648409)

Adopted by the Board of Standards and Appeals, January 11, 2005.

Practice and Procedure, and an extension of time to complete construction and obtain a Certificate of Occupancy; and

WHEREAS, a public hearing was held on this application on December 7, 2004, after due notice by publication in The City Record, and then to decision on January 11, 2005; and

WHEREAS, on May 20, 1997, the Board granted an application under the subject calendar number to permit a one-story enlargement above the basement level at the rear of an existing community facility building, occupied by the Armenian Apostolic Church; and

WHEREAS, on December 11, 2001, the Board granted an application for an extension of time to complete construction for a period of two years, expiring on December 11, 2003; and

WHEREAS, the applicant represents that due to continued and unforeseeable adverse economic conditions, the construction has not been completed, and the Certificate of Occupancy application has been delayed; and

WHEREAS, the applicant states that the community facility has now obtained the required funds to undertake the expense of construction, and has submitted sufficient evidence of this to the Board.

Resolved, that the Board of Standards and Appeals reopens

MINUTES

and amends the resolution, said resolution having been adopted on May 20, 1997 as amended on December 11, 2001, so that as amended this portion of the resolution shall read: "To permit an extension of the time to obtain a Certificate of Occupancy for an additional two (2) years from the date of this resolution to expire on January 11, 2007 on condition:

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

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, January 11, 2005.

200-01-BZ

APPLICANT - Davidoff Malito & Hutcher LLP by Howard S. Weiss, Esq., for Hillside Manor Rehabilitation/Browne Associates; Hillside Manor Rehabilitation and Extended Care Center LLC; lessee
SUBJECT - Application July 29, 2004 - request for a waiver of the Rules of Practice and Procedure and Extension of Time to obtain a Certificate of Occupancy for a variance granted for the enlargement

WHEREAS, the applicant represents that due to unforeseen delays related to obtaining a special permit from the City Planning Commission and program and funding approvals from the New York State Department of Health, the construction has not been completed, and the certificate of occupancy application has been delayed.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on April 16, 2002, so that as amended this portion of the resolution shall read: "To permit an extension of the time to obtain a Certificate of Occupancy for an additional two (2) years from the date of this resolution to expire on January 11, 2007 on condition:

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

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, January 11, 2005.

256-01-BZ

of the twelfth floor of an existing 11 (plus partial 12) story community facility building and the addition of three elevators.

PREMISES AFFECTED - 182-15 Hillside Avenue, northern corner of Hillside Avenue and Avon Street, Block 9950, Lot 1, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES -

For Applicant: Juan Reyes.

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

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on December 14, 2004, after due notice by publication in The City Record, and then to decision on January 11, 2005; and

WHEREAS, on April 16, 2002, the Board granted an application under the subject calendar number to permit the enlargement of the twelfth floor of an existing eleven (plus partial twelve) story community facility building and the addition of three elevators; and

APPLICANT - Carl A. Sulfaro, Esq., for Mundream Realty Corp., owner; Hempstead Auto Care, Inc., lessee.

SUBJECT - Application March 4, 2004 - reopening for an amendment to the resolution to permit a one story enlargement to the existing building and new partitions within the salesroom.

PREMISES AFFECTED - 219-06 Hempstead Avenue, southeast corner of 219th Street and Hempstead Avenue, Block 11154, Lot 22, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Carl A. Sulfaro.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application under Z.R. § 11-412, for a re-opening and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on September 21, 2004, after due notice by publication in the City Record, with continued hearings on October 19, 2004 and

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November 23, 2004, and then to January 11, 2005 for decision; and

WHEREAS, the Queens Borough President as well as Community Board No. 13, recommended approval of this application; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since 1958, when under Calendar Number 634-54-BZ Vol. II, the Board granted an application to permit the erection and maintenance of a gasoline service station with accessory uses, lubritorium, car wash (non-automatic), minor repairs, office, sales and storage of automobile accessories, and parking of cars awaiting service; and

WHEREAS, the record indicates that the gasoline service station operated continuously from 1958 until 1998, when the gasoline storage tanks and fuel dispensing pumps were removed; and

WHEREAS, the record indicates that subsequent to the elimination of the gasoline station service use, the property was sold and operated as an automotive repair facility providing minor repairs, lubrication, inspection, and related automotive services including the sale of automotive accessories; and

WHEREAS, on September 10, 2002 the Board granted an application under the subject calendar number, pursuant to Z.R. §§

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit the an 843 sq. ft. one-story enlargement to the existing building for use as additional service bays for cars being repaired; on condition that all work shall substantially conform to drawings as filed with this application, marked 'Received October 4, 2004' - (4) sheets, 'Received November 8, 2004' -(2) sheets, and 'Received November 22, 2004' - (1) sheet; and on further condition;

THAT the landscaped area on the eastern portion of the lot adjacent to residential uses shall be maintained and shall not be used for any commercial use;

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

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

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

THAT all 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

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

(DOB ALT II. #401758415)

Adopted by the Board of Standards and Appeals, January 11, 2005.

11-411 and 11-413, to re-establish the use of the subject premises as a gasoline service station with motor vehicle repairs (Use Group 16B), and to change the use of part of the facility from a gasoline service station to a motor vehicle repair establishment; and

WHEREAS, the instant application seeks an amendment to the resolution to permit a one-story, 843 sq. ft. enlargement to the existing building for use as additional service bays for cars being repaired; and

WHEREAS, the applicant states that the additional service bays will provide for faster service for customers and reduce the number of parking spaces needed to store cars awaiting service; and

WHEREAS, in response to the concerns of the Board related to automotive and pedestrian traffic, the applicant has eliminated the curb cut on 219th Street and consolidated the two curb cuts along Hempstead Avenue; and

WHEREAS, pursuant to Z.R. § 11-412, the Board may, in appropriate cases, allow the alteration of a building on a premises subject to a pre-1961 variance; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 11-412.

151-02-BZ

APPLICANT - Law Offices of Howard Goldman, LLC, for Cavan Development Corp., owner.

SUBJECT - Application July 8, 2004 - reopening for an amendment to the resolution to permit the conversion of portion of cellar to livable space.

PREMISES AFFECTED - 223 West 80th Street, between Broadway and Amsterdam, Block 1228, Lot 19, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES -

For Applicant: Chris Wright.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for an amendment to the resolution, to conform the BSA-approved plans with those filed and approved at the Department of Buildings, which reflect the conversion of a portion of the cellar (607 sq. ft.) to residential floor area, the relocation of recreation space from the cellar to the roof, and an increase in dwelling units from 11 to 12; and

WHEREAS, a public hearing was held on this application on November 23, 2004, after due notice by publication in The City Record, and then to January 11, 2005 for closure and decision; and

WHEREAS, Community Board 7, Manhattan, waived recommendation upon this application; and

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WHEREAS, on January 14, 2003, under the subject calendar number, the Board granted a variance pursuant to Z.R. § 72-21 permitting the proposed construction of a twelve-story building on a site within a C4-6A zoning district, which exceeded the maximum permissible height; and

WHEREAS, under the 2003 grant, the Floor Area Ratio ("FAR") of the proposed building was 8.3, the number of dwelling units was 11 and the recreation space was to be located in the cellar; and

WHEREAS, the applicant represents that although the cellar space will now be converted to living area, because of mechanical deductions, the resulting FAR of the proposed building under this amendment is 8.2; and

WHEREAS, the applicant further represents that the rear yard fully complies with all applicable Z.R. and Multiple Dwelling Law requirements, and notes that the rear yard has already been approved by DOB; and

WHEREAS, the applicant also states that the recreational space to be provided on the roof will total 586 sq. ft., and the overall

THAT DOB shall ensure that the BSA-approved plans conform to those approved by DOB prior to issuance of any temporary or permanent 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; 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. 103134724).

Adopted by the Board of Standards and Appeals, January 11, 2005.

442-42-BZ

APPLICANT - Sheldon Lobel, P.C., for Cropsey 20th Avenue Corporation, owner.

SUBJECT - Application July 30, 2004 - reopening for an amendment to an existing gasoline service station to erect a new canopy over the existing MPD's and alter signage.

PREMISES AFFECTED - 2001/2011 Cropsey Avenue, northeast corner of 20th Avenue and Cropsey Avenue, Block 6442, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Janice Cahalane and Shirin Semnani.

ACTION OF THE BOARD - Laid over to February 8, 2005, at 10 A.M., for continued hearing.

198-66-BZ

recreational space will total 742 sq. ft. (the original grant provided 594 sq. ft. in the cellar); this space meets the requirements of the Quality Housing regulations and will be accessible to all tenants; and

WHEREAS, the Board has determined that based upon the evidence in the record, the subject amendment is appropriate to grant.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on January 14, 2003, so that as amended this portion of the resolution shall read: "to conform the BSA-approved plans with those filed and approved at the Department of Buildings, which reflect the conversion of a portion of the cellar (607 sq. ft.) to residential floor area, the relocation of recreation space from the cellar to the roof, and an increase in dwelling units from 11 to 12; on condition that all work shall substantially conform to drawings filed with this application marked 'Received October 6, 2004' -(9) sheets, and 'Received January 10, 2005' -(2) sheets; and on further condition:

APPLICANT - Eric Palatnik, P.C., for 300 East 74 Owners Corp., owner.

SUBJECT - Application December 16, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 300 East 74th Street, southeast corner of 2nd Avenue and East 74th Street, Block 1448, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -None.

ACTION OF THE BOARD - Laid over to March 15, 2005, at 10 A.M., for continued hearing.

722-68-BZ

APPLICANT - Sheldon Lobel, P.C., for Matthews Pines, owner; Speedstar Motors, Inc., lessee.

SUBJECT - Application July 30, 2003 - reopening for an amendment to legalize a change of use from wholesale storage and packaging establishment, with an accessory office and loading area (Use Group 16) to automotive repair and sales (Use Group 16) and warehouse (Use Group 16), with accessory offices, located in an R-6 zoning district.

PREMISES AFFECTED - 388-392 Kings Highway, West 3rd Street and Kings Place, Block 6678, Lot 68, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Irving E. Minkin.

ACTION OF THE BOARD - Laid over to February 15, 2005, at 10 A.M., for continued hearing.

164-94-BZ

APPLICANT - Sullivan, Chester & Gardner, P.C., for Tuckahoe Realty, LLC, owner; Lucille Roberts Health Club, lessee.

SUBJECT - Application February 11, 2004 - Extension of term and Waiver of the Rules and Procedures for an expired variance for a physical culture establishment ("Lucille Roberts Fitness for

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Women"), granted pursuant to section 72-21 which expired on March 1, 2003.

PREMISES AFFECTED - 84 Hugh Grant Circle, South side of Hugh Grant Circle, 95.69 feet west of Cross Bronx Expressway, Block 3794 Lot 109, The Bronx.

COMMUNITY BOARD #9BX

APPEARANCES -

For Applicant: Jeffrey Chester.

ACTION OF THE BOARD - Laid over to February 8, 2005, at 10 A.M., for continued hearing.

322-98-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for HUSA Management Co., LLC, owner; TSI Harlem USA, Inc. d/b/a New York Sports Club, lessee.

133-99-BZ

APPLICANT - Harold Weinberg, P.E., P.C., for Anna Kadar, owner.

SUBJECT - Application February 2, 2004 and June 10, 2004 - reopening for an extension of time to complete construction and obtain a certificate of occupancy to permit a one story family residence and for an amendment to the resolution to modify the interior arrangement and also raise the height of the building.

PREMISES AFFECTED - 1253 Oriental Boulevard, northwest corner Norfolk Street, Block 8756, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: **Harold Weinberg.**

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to February 15, 2005, at 10 A.M., for continued hearing.

150-00-BZ

APPLICANT - Eric Palatnik, P.C., for Yeshiva of Far Rockaway, owner.

SUBJECT - Application May 17, 2004 - reopening for an amendment to the resolution for modification of an existing Yeshiva previously approved by the Board.

PREMISES AFFECTED - 802 Hicksville Road, corner of Beach 9th Street, Block 15583, Lot 16, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

SUBJECT - Application March 15, 2004 - reopening for an amendment to the resolution to allow the enlargement of a previously granted special permit permitting the operation of a physical culture establishment located in portions of the first floor and of the fourth floor of the subject premises.

PREMISES AFFECTED - 300 West 125th Street, south side of West 125th Street, between St. Nicholas Avenue and Frederick Douglas Boulevard, Block 1951, Lots 22, 25, 27, 28, 29, 33, 39, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES -

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD - Laid over to February 1, 2005, at 10 A.M., for continued hearing.

ACTION OF THE BOARD - Laid over to January 25, 2005, at 10 A.M., for decision, hearing closed.

111-01-BZ

APPLICANT - Eric Palatnik, P.C., acting of Counsel to Charles R. Foy, Esq., for George Marinello, owner; Wendy's Restaurant, lessee.

SUBJECT - Application March 23, 2004 - reopening for an amendment to the resolution to amend the hours of operation of the existing drive thru facility until 4 A.M. daily.

PREMISES AFFECTED - 9001 Ditmas Avenue, between 91st Street and Remsen Avenue, Block 8108, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #17BK

APPEARANCES -

For Applicant: Eric Palatnik.

For Opposition: Marva Straker and Esme Trotman.

ACTION OF THE BOARD - Laid over to February 1, 2005, at 10 A.M., for continued hearing.

APPEALS CALENDAR

253-04-A

APPLICANT - Joseph P. Morsellino, Esq., for P & D Builders Inc., owners.

SUBJECT - Application July 15, 2004 - Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 fo the General City Law.

PREMISES AFFECTED - 102-35 Williams Court, west of Ocean Avenue, Block 14239, Lot 1184, Borough of Queens.

COMMUNITY BOARD #10Q

APPEARANCES -

For Applicant: Joseph Morsellino.

MINUTES

ACTION OF THE BOARD -Appeal granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated June 18, 2004 acting on Department of Buildings Application No. 401872274, which reads in pertinent part:

"1. Comply with General City Law 36 for buildings not fronting a mapped street.

WHEREAS, the applicant has agreed to fully sprinkler the homes in accordance with the Fire Department's request; and

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

Therefore, it is Resolved that the decision of the Queens Borough Commissioner, dated June 18, 2004 acting on Department of Buildings Application No. 401872274, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked, "Received, November 22, 2004" - (1) sheet; that the proposal comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

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

THAT the homes shall be sprinklered in accordance with the Fire Department's request ;

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

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

Adopted by the Board of Standards and Appeals, January 11, 2005.

254-04-A

APPLICANT - Joseph P. Morsellino, Esq., for P & D Builders Inc., owners.

SUBJECT - Application July 15, 2004 - Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 fo the General City Law.

PREMISES AFFECTED - 102-29 Williams Court, west of Ocean Avenue, Block 14239, Lot 1186, Borough of Queens.

COMMUNITY BOARD #10Q

APPEARANCES -

For Applicant: Joseph Morsellino.

ACTION OF THE BOARD -Appeal granted on condition.

THE VOTE TO GRANT -

2. Comply with Section 27-291, building frontage."; and

WHEREAS, a public hearing was held on this application on December 14, 2004 after due notice by publication in the City Record, and then to decision on January 11, 2005; and

WHEREAS, by letter dated November 5, 2004, the Fire Department states that it has reviewed the above project and has recommended that since this is a new street with no other developments, a 30ft curb to curb street width is required since the existing street is only 20ft in width and access is compromised; and

WHEREAS, the Fire Department also states that if the Board finds that 20ft width street is acceptable, the buildings will need to be sprinklered; and

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated June 18, 2004 acting on Department of Buildings Application No. 401872283, which reads in pertinent part:

"1. Comply with General City Law 36 for buildings not fronting a mapped street.

2. Comply with Section 27-291, building frontage."; and

WHEREAS, a public hearing was held on this application on December 14, 2004 after due notice by publication in the City Record, and then to decision on January 11, 2005; and

WHEREAS, by letter dated November 5, 2004, the Fire Department states that it has reviewed the above project and has recommended that since this is a new street with no other developments, a 30ft curb to curb street width is required since the existing street is only 20ft in width and access is compromised; and

WHEREAS, the Fire Department also states that if the Board finds that 20ft width street is acceptable, the buildings will need to be sprinklered; and

WHEREAS, the applicant has agreed to fully sprinkler the homes in accordance with the Fire Department's request; and

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

Therefore, it is Resolved that the decision of the Queens Borough Commissioner, dated June 18, 2004 acting on Department of Buildings Application No. 401872283, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked, "Received, November 22, 2004" - (1) sheet; that the proposal comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

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

THAT the homes shall be sprinklered in accordance with the Fire Department's request ;

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

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

MINUTES

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, January 11, 2005.

53-04-A thru 62-04-A

APPLICANT - New York City Department of Buildings

OWNER OF RECORD: Thomas Huang

SUBJECT - Applications February 26, 2004 - Application to revoke Certificate of Occupancy No. 401223289, on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED -

140-26A 34th Avenue, Block 4994, Lot 24, Borough of Queens.

140-28 34th Avenue, Block 4994, Lot 224, Borough of Queens.

140-28A 34th Avenue, Block 4994, Lot 224, Borough of Queens.

140-30 34th Avenue, Block 4994, Lot 125, Borough of Queens.

140-30A 34th Avenue, Block 4994, Lot 225, Borough of Queens.

140-32 34th Avenue, Block 4994, Lot 126, Borough of Queens.

140-32A 34th Avenue, Block 4994, Lot 27, Borough of Queens.

140-34 34th Avenue, Block 4994, Lot 127, Borough of Queens.

140-34A 34th Avenue, Block 4994, Lot 227, Borough of Queens.

140-36 34th Avenue, Block 4994, Lot 327, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES -

For Opposition: Adam W. Rothkrug and Tom B.

For Administration: Lisa Orantia, Department of Buildings.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to March 15, 2005, at 10 A.M., for decision, hearing closed.

148-04-A

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

OWNER OF RECORD: Sterling & Seventh LLC.

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

building on Lot 52.

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

COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Paul Selver, Caroline Harris and Howard Goldman.

For Administration: Lisa Orantia, Department of Buildings.

ACTION OF THE BOARD - Laid over to February 15, 2005, at 10 A.M., for continued hearing.

226-04-A

APPLICANT - Joseph Sherry, for Breezy Point Cooperative, Inc., owner; William Basher, lessee.

SUBJECT - Application June 15, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, located within the bed of a mapped street and has a private disposal system in the bed of the mapped street, is contrary to Sections 35 and 36 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 106 West Market Street, north side, 55.8' south of Rockaway Point Boulevard, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to February 1, 2005, at 10 A.M., for decision, hearing closed.

278-04-A

APPLICANT - Gary Lenhart, R.A., for One Breezy Point Cooperative, Inc., owner; Ann-Marie & Edward Reilly, lessees.

SUBJECT - Application August 10, 2004 - Proposed reconstruction and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35 of the General City Law.

PREMISES AFFECTED -21 State Road, aka Rockaway Point Boulevard, north side, 83.42' east of Beach 178th Street, Block 16340, Lot 50, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

MINUTES

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

279-04-A

APPLICANT - Gary Lenhart, R.A., for One Breezy Point Cooperative, Inc., owner; Karen & Walter Zunic, lessees.

SUBJECT - Application August 10, 2004 - Proposed enlargement of an existing one family dwelling, located within the bed of a mapped street, and has a private disposal system situated in the bed of the service lane, is contrary to Section 35, Article 3 of the General City Law and Department of Buildings Policy.

PREMISES AFFECTED - 29 Suffolk Walk, east side, 240.37' south of Sixth Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to January 25, 2005, at 10 A.M., for decision, hearing closed.

341-04-A

APPLICANT - Gary Lenhart, R.A., for One Breezy Point Cooperative, Inc., owner; Jacqueline Amari, lessee.

SUBJECT - Application October 20, 2004 - Proposed alteration and enlargement of an existing single family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 115 Beach 215th Street, east side, 280' south of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to January 25, 2005, at 10 A.M., for decision, hearing closed.

342-04-A

APPLICANT - Gary Lenhart, R.A., for One Breezy Point Cooperative, Inc., owner; Patricia & John Martin, lessees.

SUBJECT - Application October 20, 2004 - Proposed reconstruction and enlargement of an existing single family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 124 Reid Avenue, west side, 230' south

Negative:.....0

ACTION OF THE BOARD - Laid over to January 25, 2005, at 10 A.M., for decision, hearing closed.

of Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to January 25, 2005, at 10 A.M., for decision, hearing closed.

343-04-A

APPLICANT - Gary Lenhart, R.A., for One Breezy Point Cooperative, Inc., owner; Mary & Michael Cotter, lessees.

SUBJECT - Application October 20, 2004 - Proposed alteration and enlargement of an existing single family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 35 Beach 220th Street, east side, 260.92' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to January 25, 2005, at 10 A.M., for decision, hearing closed.

346-04-BZY

APPLICANT - Sheldon Lobel, P.C., for GRA V LLC, owner.

SUBJECT - Application October 27, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

PREMISES AFFECTED - 3329-3333 Giles Place (a/k/a 3333 Giles Place), west side of Giles Place between Canon Place and Fort Independence Street, Block 3258, Lot 5 and 7, Borough of The Bronx.

APPEARANCES -

For Applicant: Jordan Most, Tony Perez Cassino, Chair, CB#8; Lynn Schwarz.

ACTION OF THE BOARD - Laid over without date.

MINUTES

Pasquale Pacifico, Executive Director.
REGULAR MEETING
TUESDAY AFTERNOON, JANUARY 11, 2005
2:00 P.M.

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

ZONING CALENDAR

161-02-BZ

APPLICANT - SFS Associates, for Coral Cove, LLC, owner.
SUBJECT - Application May 20, 2002 - under Z.R. § 72-21 to permit the proposed construction of a six story residential building, Use Group 2, located in a C3 zoning district, which does not comply with the zoning requirements for floor area ratio, perimeter wall, height, lot area per dwelling unit, setback, sky exposure and parking, is contrary to Z.R. §§23-00 and 25-00.

PREMISES AFFECTED - 2433 Knapp Street, corner of Knapp Street and Avenue "X", Block 8833, Lot 1, Borough of Brooklyn.
COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Peter Hirshman.

ACTION OF THE BOARD -

THE VOTE TO REOPEN HEARING - Application granted on condition.

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Borough Commissioner, dated April 19, 2002, acting on Department of Buildings Application No. 301318376, reads:

"The proposed new residential building located in a C3 zoning district does not comply with the new residential bulk regulations and is contrary to Section 23-00 ZR and requires approval from the

WHEREAS, the following waivers are required: FAR - 0.5 is the maximum, 1.0 is proposed; number of dwelling units - 14 units are the maximum permitted, 21 units are proposed; streetwall height - 21 ft. is the maximum, 32 ft. is proposed; rear yard - 30 ft. is required, a rear yard with a varying depth of 10 to 20 ft. is proposed; and parking spaces - 21 are required; 20 are proposed; and

WHEREAS, the applicant states that the following are unique

Adjourned: 1:15 P.M.

BSA. And contrary to Section 25-00 ZR, 23-141 ZR, 23-22 ZR, 23-631 ZR, 62-332 ZR, 25-23 ZR."; and

WHEREAS, a public hearing was held on this application on September 16, 2003 after due notice by publication in The City Record, with continued hearings on November 5, 2003, February 3, April 13, June 8, July 13, September 14, and November 9, 2004, and then to decision on January 11, 2005; and

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

WHEREAS, Community Board 15, Brooklyn recommended disapproval of the original version of this application; and

WHEREAS, the following elected officials testified at hearing or made a submission to the Board: Congressman Wiener, Council Member Fidler, and State Senator Golden; and

WHEREAS, certain members of the community appeared in opposition to the application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed construction of a three-story multiple dwelling (Use Group 2), with a floor area ratio ("FAR") of 1.0, to contain twenty-one residential units, located in an C3 zoning district, contrary to Z.R. §§ 25-00, 23-141, 23-22, 23-631, 62-332 and 25-23; and

WHEREAS, in response to the request of the Board, the applicant has revised the project from the original proposal - the FAR has been reduced from 1.92 to 1.0; the height of the building has been reduced from 60'-0" (six stories) to 32'-0" (three stories); and the number of dwelling units has been reduced from 43 to 21; and

WHEREAS, an intermediate version of this proposal contemplated a FAR of 1.43, five stories, 26 dwelling units and a height of 48 ft.; and

WHEREAS, a second intermediate version of this proposal contemplates a FAR of 1.35, four stories, 23 dwelling units, and a height of 37 ft.; and

WHEREAS, the subject site is a waterfront corner lot located at the intersection of Knapp Street and Avenue X, near Shellbank Creek; and

WHEREAS, the Board notes that although Avenue X, east of Knapp Street, is not developed, it is nevertheless a mapped street; and

WHEREAS, the site is improved with a two-story commercial building fronting Knapp Street, with a one-story addition in the rear, which the applicant states has been vacant for the past decade; and

WHEREAS, the proposal contemplates the demolition of the existing vacant structure and the construction of a three-story multiple dwelling; and

physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: (1) the majority of the subject site is below water; (2) the site is burdened with adverse subsurface soil conditions stemming from the proximity to water; and (3) the developable portion of the site is irregular and triangularly-shaped; and

MINUTES

WHEREAS, the record indicates that although the total lot area for the subject premises is 78,000 sq. ft., only 25,000 sq. ft. is above water and considered upland; and

WHEREAS, the applicant represents that as per the waterfront regulations set forth in the Zoning Resolution, only the upland area of a zoning lot may be used to determine the applicable bulk regulations; and

WHEREAS, while the Board acknowledges that much of the site is under water, the Board does not deem this a unique physical condition that contributes to hardship on the site, in that such a condition is reflected in the purchase price for all similarly situated properties; thus, any alleged hardship is not unique; and

WHEREAS, the applicant states that water was found at a depth of nine feet below grade, precluding construction of usable floor area below grade, and also increasing costs for foundation construction, in that piles are required; and

WHEREAS, the Board notes that the condition of the soil leads to a hardship in that it increases the foundation construction costs and necessitates the need for additional compensatory FAR and an increase in the amount of dwelling units, and the triangular shape of the lot leads to a hardship in that it eliminates the possibility of a feasible layout for multiple dwellings and necessitates the need for the yard relief, as well as the smaller waivers for parking and streetwall; and

WHEREAS, accordingly, the Board finds that certain of the aforementioned unique physical conditions, namely the water table condition and the shape of the developable portion of the site, when considered in the aggregate, create unnecessary hardship and practical difficulties in developing the site in conformity with the current zoning; and

WHEREAS, after much discussion at hearing as to the actual premium costs associated with the site conditions and the most efficient layout for the proposed development, the applicant has submitted a revised feasibility study, reflecting the increased cost of foundation work on the site resulting from poor soil conditions, which demonstrates that developing the entire premises with a complying use would not yield the owner a reasonable return; and

WHEREAS, the Board finds the this feasibility study credible and sufficient; and

WHEREAS, the applicant also submitted an earlier as-of-right scenario showing a single-family development, and determined that that such a scenario was not feasible as the amount of individual buildings to be constructed significantly increased foundation costs, due to the soil conditions; 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 02-BSA-204K dated May 5, 2002; 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; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise;

WHEREAS, the Board notes that the applicant has also submitted analyses of conforming restaurant and marina uses and determined that such uses are not feasible; and

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

WHEREAS, the applicant represents that the surrounding area is comprised predominantly of one-and-one-half and two-story, single-family residential development to the north and east of the subject site, with some commercial uses to the west on Knapp Street; and

WHEREAS, the Board notes that residential use of the site is permitted under the applicable zoning, and that no use waiver is required; and

WHEREAS, the Board observes that the applicant has significantly reduced the proposed bulk to more closely conform with the surrounding area, with both the height and number of units now at levels such that no negative impact on the character of the neighborhood or impact upon nearby uses is anticipated; and

WHEREAS, the Board also notes that applicant will provide 20 on-site parking spaces for residents of the proposed development; and

WHEREAS, the Board further notes that the applicant will provide a community park on the premises which will remain open to the public during the hours set forth below as a condition; and

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

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

WHEREAS, after accepting guidance from the Board as to the proper amount of relief necessary to alleviate the hardship associated with the site while providing a building that is compatible with the essential character of the neighborhood, the applicant significantly reduced the proposed bulk of the building, both in terms of height, amount of dwelling units and FAR; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; and 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

MINUTES

under Z.R. § 72-21 and grants a variance to permit the proposed construction of a three-story multiple dwelling (Use Group 2), with an FAR of 1.0, to contain twenty-one residential units, located in an C3 zoning district, contrary to Z.R. §§ 25-00, 23-141, 23-22, 23-631, 62-332 and 25-23; 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 December 28, 2004" - (5) sheets and "January 10, 2005" - (1) sheet; and on further condition:

THAT the proposed community park will be open from 7 am to 8:30 pm May 1 through September 30, and 7 am to 7 pm October 1 through March 30, and shall be maintained by the owner of the property;

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

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

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

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

Adopted by the Board of Standards and Appeals, January 11, 2005.

193-03-BZ

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

SUBJECT - Application June 10, 2003 - under Z.R. §72-21 to permit the proposed construction of a five (5) story, 27 unit residential building, in an M1-1 zoning district.

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

COMMUNITY BOARD #3BK

WHEREAS a public hearing was held on this application on July 20, 2004 after due notice by publication in The City Record, with continued hearings on December 7, 2004, and then to January 11, 2004 for decision; and

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

WHEREAS, this is an application under Z.R. §§ 73-30 and 73-03, to permit the proposed construction of a non-accessory radio tower for public utility wireless communications, within an R4 zoning district, which is contrary to Z.R. §§ 22-21 and 22-11; and

WHEREAS, pursuant to Z.R. § 73-30, the Board may grant a special permit for a non-accessory radio tower such as the cellular pole proposed, provided it finds "that the proposed location, design, and method of operation of such tower will not have a detrimental effect on the privacy, quiet, light and air of the neighborhood."; and

WHEREAS, the applicant represents that the pole has been

APPEARANCES - None.

ACTION OF THE BOARD - Application withdrawn

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

Adopted by the Board of Standards and Appeals, January 11, 2005.

16-04-BZ

APPLICANT - Snyder & Snyder, LLP c/o Omnipoint Communications, Inc., for Montauk NY, LLC, owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application January 27, 2004 - under Z.R. §73-30 to permit the proposed construction of a non-accessory radio tower for public utility wireless communications, within an R4 zoning district, which is contrary to Z.R. § 22-21 and 22-11.

PREMISES AFFECTED - 186-05 120th Road, southwest corner of Farmers Boulevard, Block 12458, Lot 421, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 20, 2004, acting on Department of Buildings Application No. 401733567, reads in pertinent part:

"Proposed non-accessory radio tower and related telecommunications equipment in building requires a special permit from the Board of Standards and Appeals pursuant to Section 73-30 of the NYC Zoning Resolution."; and

designed and sited to minimize adverse visual effects on the environment and adjacent residents; that the construction and operation of the pole will comply with all applicable laws, that no noise or smoke, odor or dust will be emitted; and that no adverse traffic impacts are anticipated; and

WHEREAS, the applicant states that the proposed telecommunications facility will consist of an 85-foot high monopole which with twelve small panel antennae attached thereon; and

WHEREAS, in response to community-based concerns and at the request of the Board, the applicant has relocated the proposed tower towards the rear portion of the property, and redesigned the facility as a stealth flagpole; and

WHEREAS, the applicant states that only a small portion of the monopole will be visible above the roof-line of the existing building on the premises from the surrounding area, and that the facility will be further screened by trees; and

WHEREAS, the applicant also states that related equipment cabinets will be installed inside the basement of a building on the

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premises, and the cables connecting the equipment cabinets and the monopole will be located underground; and

WHEREAS, the applicant further represents that the height is the minimum necessary to provide the required wireless coverage, and that the pole will not interfere with radio, television, telephone or other uses; and

WHEREAS, based upon its review of evidence in the record, the Board finds that the proposed pole and related equipment will be located, designed and operated so that there will be no detrimental effect on the privacy, quiet, light and air of the neighborhood; and

WHEREAS, therefore, the Board finds that the subject application meets the findings set forth at Z.R. § 73-30; and

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

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 N.Y.C.R.R. Part 617

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, January 11, 2005.

153-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for Peter Moschovitis, owner.

SUBJECT - Application April 9, 2004 - under Z.R. §72-21 to permit the proposed two family dwelling, Use Group 2, located in an R3-2 zoning district, which does not comply with the zoning requirements for front yard, lot width, lot area and minimum dwelling size units, in a detached residence, is contrary to Z.R. §23-222, §23-45 and §23-32.

PREMISES AFFECTED - 2948 Voorhies Avenue, a/k/a 2710 Haring Street, southwest corner, Block 8794, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #15

APPEARANCES -

and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings and grants a special permit under Z.R. §73-03 and §73-30, to permit the proposed construction of a non-accessory radio tower for public utility wireless communications, within an R4 zoning district, which is contrary to Z.R. § 22-21 and 22-11, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received December 22, 2004"-(5) sheets; and on further condition;

THAT routine repairs and service of the pole and related equipment shall be limited to Monday through Friday between the hours of 9:00 A.M. and 5:00 P.M.;

THAT any fencing and landscaping will be maintained in accordance with BSA approved plans;

THAT no commercial or retail signage will be posted;

THAT any lighting will be positioned down and away from residential uses;

THAT the pole be designed to include additional slots for other carriers to promote co-location;

THAT the flag will be replaced at least one time per year, properly maintained at all times and lit at night;

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

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

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

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

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

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted upon condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Borough Commissioner, dated April 27, 2004, acting on Department of Buildings Application No. 301632936, reads, in pertinent part:

- "1. Proposed two family dwelling is not compliant to Zoning Resolution 23-23, minimum size of dwelling unit.
- 2. Proposed two family dwelling is not compliant to Zoning Resolution 23-45, front yard requirements for corner lot.
- 3. Proposed lot is not compliant to Zoning Resolution 23-32, minimum lot width and lot area."; and

WHEREAS, a public hearing was held on this application on October 26, 2004, after due notice by publication in The City Record, with a continued hearing on December 7, 2004, and then to decision on January 11, 2005; and

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

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Commissioner Miele and Commissioner Chin; and

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

WHEREAS, certain neighbors appeared in opposition to this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed construction of a two-story and cellar, two-family dwelling (Use Group 2), located in an R3-2 zoning district, which does not comply with the zoning requirements for minimum dwelling unit size, front yard, and lot width, contrary to Z.R. §§ 23-23, 23-45 and 23-32; and

WHEREAS, as an initial matter, the Board notes that the street address number of the premises may be changed in the future, as the currently assigned number is already in use by another premises on the block; however, the lot number of the subject premises will remain the same, and any street address change will not have any impact upon the Board's decision herein; and

WHEREAS, the record indicates that the subject premises is a corner lot located on the southwest corner of the intersection of Haring Street and Voorhies Avenue, has a total lot area of 2,500 sq. ft., with dimensions of 25 ft. in width and 100 ft. in depth, and is currently vacant; and

WHEREAS, the proposal contemplates a 3 ft. front yard along the Haring Street frontage; the other yards will be conforming; and

WHEREAS, the proposal also contemplates parking for two cars within the 41-foot deep side yard behind the house, through a curb cut on Haring Street; and

WHEREAS, additionally, the applicant has conducted a survey of the surrounding area, and has submitted a color-coded map, which demonstrates that there are a significant number of two-family and multiple dwellings in the vicinity of the subject site; and

WHEREAS, the applicant represents that a two-family structure is allowed in the subject zoning district, and that based upon current construction and housing costs, it would be the exception to develop a site with a single-family dwelling where two or three family dwellings are permitted; and

WHEREAS, the applicant also states that without the dwelling unit size waiver, which is necessitated by the two-family proposal, a less desirable and marketable layout would result, making the proposed development infeasible; and

WHEREAS, the Board finds that the aforementioned unique physical condition, namely the smallness and narrowness of the subject undeveloped corner lot, creates a practical difficulty in developing the site in compliance with the applicable zoning provision; and

WHEREAS, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict compliance with the applicable zoning requirements will result in a residential development that would be habitable; and

WHEREAS, the applicant states that the bulk of the proposed building is consistent with the surrounding residential uses; and

WHEREAS, the applicant represents that the impact of the 3 ft. front yard along Haring Street will be offset by the 41 ft. distance to the northerly lot line, on which a garage structure provides further separation from the nearest adjacent dwelling to the north; and

WHEREAS, at the request of the Board, the applicant also

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties in developing the subject lot in compliance with underlying district regulations: the site is an undeveloped corner lot that is uniquely small and narrow; and

WHEREAS, the applicant represents that the lot has a width of 25'-0" and that the provision of the required 5'-0" side yard and a 10'-0" front yard along Haring Street would result in a house with a 10'-0" depth, which the applicant represents is neither practical nor marketable; and

WHEREAS, the applicant notes that Z.R. § 23-33 would eliminate the lot area and width objections for a single-family dwelling, but not the front yard objection; thus, as-of-right development is not possible without waivers and

WHEREAS, at the request of the Board, the applicant conducted a survey of corner lots in a 200 ft. radius of the subject lot and the Department of Building records associated with their development, and established that the subject lot's physical conditions were not so prevailing in the area that the lot could not be considered uniquely afflicted; and

WHEREAS, specifically, this survey revealed that with the exception of two significantly larger lots, the corner lots in the vicinity of the subject premises were developed prior to the implementation of the December 15, 1961 zoning and thus were not subject to the current front yard regulations, which the applicant alleges make development of the subject premises impossible without the requested yard waiver; and

documented the applicable parking regulations for the surrounding area, and has determined that there were no parking restrictions on either side of Haring Street or Voorhies Avenue; and

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 72-21, to permit the proposed construction of a two-story and cellar, two-family dwelling (Use Group 2) located in an R3-2 zoning district, which does not comply with the zoning requirements for minimum dwelling unit size, front yard, and lot width, contrary to Z.R. §§ 23-23, 23-45 and 23-32; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 22, 2004"- (6) sheets; and on further condition;

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

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

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

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

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

Adopted by the Board of Standards and Appeals, January 11, 2005.

156-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Edwin Umanoff, owner.
SUBJECT - Application April 13, 2004 - under Z.R. §72-21 to permit the legalization of an existing insurance brokerage business, Use Group 6, located in an R5 zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 9712 Flatlands Avenue, between East

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

WHEREAS, this is an application under Z.R. § 72-21, to permit, on a lot within an R5 zoning district, the legalization of an existing commercial use, contrary to Z.R. § 22-00; and

WHEREAS, Community Board No. 18, Brooklyn, recommended approval of this application; and

WHEREAS, the subject premises is an 80' by 20' lot, with a total lot area of 1600 sq. ft., located on Flatlands Avenue between East 98th Street and Rockaway Parkway; and

WHEREAS, the site is currently improved upon with a two-story plus attic structure, with 1887 sq. ft. of floor area, built around 1915 as a single-family home (hereinafter, the "House"); and

WHEREAS, the applicant represents that the House has been occupied exclusively by an insurance brokerage business since 1977; and

WHEREAS, the applicant further represents that the Padlock Enforcement Unit of the Department of Buildings sought to close this illegal commercial use, but that pursuant to a stipulation between the owner and DOB, closure was stayed pending the outcome of the instant variance application; and

WHEREAS, the applicant alleges that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in using the House or otherwise developing the lot in strict conformance with underlying district regulations: (1) the site is uniquely small; (2) the House has two non-complying side yards and a non-complying front yard, which detracts from the appeal of residential use; (3) the site is located among other non-residential uses; (4) the site is located on a major thoroughfare (Flatlands Avenue), which conspires against the reasonable enjoyment of residential use of the building; and (5) the House is too small to be converted to a multi-family structure; and

WHEREAS, in support of the claim of unique hardship, the

98th Street and Rockaway Parkway, Block 8205, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Application denied.

THE VOTE TO GRANT -

Affirmative:.....0

Negative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

THE RESOLUTION:

WHEREAS, the decision of the Borough Commissioner, dated March 25, 2004, acting on Department of Buildings Application No. 301810128, reads:

"Proposed use in R5 zoning district is contrary to Section 22-00 of the Zoning Resolution."; and

WHEREAS, a public hearing was held on this application on September 21, 2004 after due publication in The City Record, with a continued hearing on November 9, 2004, and then to decision on January 11, 2005; and

applicant has submitted a letter from a real estate broker that states that the property is undesirable for residential use because of its "rather small" size and its location, and is better suited for commercial use; and

WHEREAS, the applicant also cites to case law, claiming it establishes precedent for the following propositions: (1) that physical features may affect other parcels in the area and still support a claim of unique hardship; (2) that uniqueness is not limited to the land itself, but may also relate to the building on the land; (3) that uniqueness can be based upon location and traffic conditions; and (4) that uniqueness can be based upon the totality of many conditions; and

WHEREAS, however, leaving aside the validity of these propositions, as an initial matter, the Board notes that the mere existence of certain physical conditions on, or related to, a site is insufficient to support the uniqueness finding set forth at Z.R. § 72-21(a); and

WHEREAS, Z.R. § 72-21(a) provides that the physical conditions, once proven to be unique, must also result in practical difficulties or unnecessary hardship in strictly conforming to applicable zoning provisions; and

WHEREAS, as noted by the Board at hearing, the relevant inquiry when the Board evaluates variance requests for a single-family dwelling such as the House is whether the dwelling is habitable without the requested waivers, or at all; and

WHEREAS, the Board observes that the House is capable of being used as a single or two-family residence in conformance with the applicable use regulations in an R5 zoning district; and

WHEREAS, the claimed unique features set forth above do not affect this determination: small houses with non-complying yards situated on busy streets can be both habitable and marketable, and the applicant has not provided any compelling evidence that the House can not be occupied residentially because of its size, non-complying yards, or location; and

WHEREAS, the Board also notes that the mere fact that commercial use of the House may be more profitable or desirable

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from the perspective of the illegal commercial occupant/owner or the real estate broker does not support a finding that use of the House for residential purposes imposes unnecessary hardship or practically difficulties; and

WHEREAS, moreover, the Board disagrees that proximity to community facility uses - which, under certain conditions, are permitted uses in residential districts because they are presumed to be compatible with residential uses - contributes to a finding of uniqueness; community facilities are often in proximity to residences; and

WHEREAS, additionally, the applicant's claim that the House's proximity to other illegally commercially occupied houses contributes to a finding of uniqueness is problematic in that the illegal status of these occupancies subjects them to the same padlock and closure enforcement actions that were pursued against the subject premises;

WHEREAS, the applicant contends that this is evidence that the smallness of the homes on the block renders them uninhabitable as single-family dwellings; and

WHEREAS, however, the applicant concedes that this is speculation, and has not offered any evidence regarding the other homes that shows that they possess some physical feature that makes them uninhabitable as a single-family home; and

WHEREAS, the Board observes that it is just as likely that the owners of said homes have availed themselves of an opportunity to maximize financial gain by converting them into unlawful three-family dwellings, notwithstanding the fact that they are habitable for lawful residential occupancies; and

WHEREAS, in the most recent submission to the Board, the applicant cites to two recently decided BSA cases and suggests that the facts and the Board's findings in these two cases are similar to the facts and the applicant's proposed findings in the case at hand; and

WHEREAS, the Board observes as an initial matter that all of its decisions on variance applications are site-specific, and notwithstanding commonalities in the language used to describe the Board's findings, the decisions do not serve as binding precedent for other applications; and

WHEREAS, in any event, the two cases are significantly dissimilar to the instant matter and therefore are erroneously cited by the applicant as being indicative of how the Board should (or must) analyze and decide the subject application; and

WHEREAS, in BSA Cal. No. 306-03-BZ, the Board considered an application for a conversion and enlargement of a manufacturing building in an M1-2 zoning district to residential use, and found that uniqueness was established because: (1) the lot was too small to support floor plates necessary for modern manufacturing uses; and (2) the building was obsolete for its intended purpose; and

WHEREAS, in BSA Cal. No. 377-03-BZ, the Board considered an application for construction of a residential building in a manufacturing district and concluded that uniqueness was established by: (1) the small size of the lot and the resulting inability to support floor plates necessary for modern manufacturing uses; and (2) the unique structural features of a non-conforming garage and attendant premium demolition costs; and

WHEREAS, the Board observes that the applicant has attempted to attach the importance of lot size and floor plate size for modern manufacturing uses, as discussed in the two prior cases, to residential use, but has not provided an explanation of why the floor

should DOB continue to enforce against such illegal uses on the subject block, it is conceivable that such commercial uses will no longer be present; and

WHEREAS, while the Board has previously recognized that proximity to lawful commercial establishments may impact the viability of residential development, no evidence has been offered by the applicant that the Board has given the same recognition to unlawful commercial uses; and

WHEREAS, accordingly, the Board declines to credit the House's proximity to illegally commercially occupied houses as a partial basis of unique hardship; and

WHEREAS, the applicant makes much of the fact that other dwellings constructed as single-family homes on the subject block appear to be illegally occupied as three-family dwellings with cellar units; and

plates of the House are deficient for residential use; and

WHEREAS, in fact, the Board finds that the floor plates of the House are sufficient for lawful residential use; and

WHEREAS, the Board is unaware of any past BSA decision in which it was found that a single or two-family dwelling's floor plates were insufficient for residential use, and the applicant did not provide the Board with any such decision; and

WHEREAS, additionally, the applicant has not provided any evidence that the House is obsolete for its intended purpose for some other reason, as was provided when the Board evaluated the building considered in BSA Cal. No. 306-03-BZ; and

WHEREAS, in sum, based upon its review of the record, the Board finds that the applicant has not provided any evidence that the alleged unique physical conditions, when considered in the aggregate, compromise the habitability of the House for residential purposes to the degree where it could be said that practical difficulties or unnecessary hardship arise; and

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

WHEREAS, because the Board finds that the application fails to meet the finding set forth at Z.R. § 72-21(a), which is a threshold finding for any variance grant, the Board declines to address the remaining findings.

Therefore it is Resolved that the decision of the Borough Commissioner, dated March 25, 2004, acting on Department of Buildings Application No. 301810128, is sustained and the subject application is hereby denied.

Adopted by the Board of Standards and Appeals, January 11, 2005.

185-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Raymond Chakkalo, owner.

SUBJECT - Application May 3, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing two family dwelling, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for floor area, lot coverage, rear and side yards, is contrary to Z.R. §23-141, §23-47 and §23-461.

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PREMISES AFFECTED - 2275 East Second Street, between Avenue "W" and Gravesend Neck Road, Block 7154, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Elisa B. Hwu.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner

WHEREAS a public hearing was held on this application on November 16, 2004 after due notice by publication in The City Record, and then to January 11, 2005 for decision; and

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

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

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit the proposed enlargement of an existing two-family residence (Use Group 2), located in an R5 zoning district, which does not comply with the zoning requirements for rear yard, contrary to Z.R. § 23-47; and

WHEREAS, the subject lot is located on the east side of East 2nd Street between Avenue W and Gravesend Neck Road, and has a total lot area of approximately 4,000 sq. ft.; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-story and cellar residential structure; and

WHEREAS, the applicant also represents that because the subject premises qualifies to use predominantly built up regulations, the proposed floor area ratio ("FAR") of 1.32 is permitted as of right (the maximum FAR permitted under predominantly built up regulations is 1.35); and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

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

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the

Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Borough Commissioner, dated December 7, 2004, acting on Department of Buildings Application No. 301664982, reads, in pertinent part:

"Proposed rear yard is contrary to ZR 23-47." and;

required findings under Z.R. §§ 73-622 and 73-03, to permit the proposed enlargement of an existing two-family residence (Use Group 2), located in an R5 zoning district, which does not comply with the zoning requirements for rear yard, contrary to Z.R. § 23-47; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received December 28, 2004" - (9) sheets, and on further condition;

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth on the certificate of occupancy;

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

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, January 11, 2005.

203-04-BZ

APPLICANT - Dennis D'Dellangelo, for Benjamin Epstein, owner.

SUBJECT - Application May 17, 2004 - under Z.R. §73-622 to permit the proposed horizontal enlargement to an existing detached one family dwelling, which creates non-compliance with respect to open space ratio and floor area ratio, is contrary to Z.R. §23-14.

PREMISES AFFECTED - 2801 Avenue "N", northeast corner of East 28th Street, Block 7664, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES - None.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION-

WHEREAS, the decision of the Borough Commissioner, dated April 26, 2004, acting on Department of Buildings Application No.

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301443873, reads, in pertinent part:

"The proposed F.A.R. and O.S.R constitutes an increase in the WHEREAS a public hearing was held on this application on November 23, 2004 after due notice by publication in The City Record, and then to January 11, 2005 for decision; and

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

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

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R2 zoning district, which does not comply with the zoning requirements for floor area and open space lot contrary to Z.R. §§ 23-141; and

WHEREAS, the subject lot is located on the northeast corner of the intersection created by Avenue N and East 28th, and is improved upon with an existing two-story, attic and cellar residential structure; and

WHEREAS, the applicant states that the subject premises has an existing non-complying lot area of approximately 3,333 sq. ft. (the minimum required is 3,800 sq. ft.) and an existing non-complying lot width of 33'-4" (the minimum required is 40'-0"); and

WHEREAS, the applicant states that the subject premises also has two existing non-complying front yards of 9'-6" and 8'-0" (the minimum required is 15'-0") and one existing non-complying side yard of 4'-7" (the minimum required is 5'-0"); and

WHEREAS, the applicant seeks to enlarge the existing structure through the construction of a horizontal extension at the northern end of the building; and

WHEREAS, the applicant seeks an increase in the floor area from 1,730.77 sq. ft. (0.52 Floor Area Ratio or "FAR") to 2,530.77 sq. ft. (0.75 FAR) - the maximum floor area permitted is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant seeks to reduce the open space ratio from 94.28 to 70.22 - the minimum required is 1.50; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the applicant states that no rear yard is required because the premises is located on a corner lot; and

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

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

WHEREAS, the Board 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 Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5
Negative:.....0

degree of existing non-compliance contrary to Sec. 23-14 of the NYC Zoning Resolution."; and advantages to be derived by the community; and

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R2 zoning district, which does not comply with the zoning requirements for floor area and open space lot contrary to Z.R. §§ 23-141; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received October 4, 2004"-(6) sheets, and "Received December 28, 2004" - (3) sheets; and on further condition;

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth on the certificate of occupancy;

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

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, January 11, 2005.

204-04-BZ

APPLICANT - Dennis D'Dellangelo, for Simy Kofman, owner.

SUBJECT - Application May 17, 2004 - under Z.R. §73-622 to permit the proposed horizontal enlargement to an existing detached one family dwelling, which creates non-compliance with respect to open space ratio, floor area ratio, also rear and side yards, is contrary to Z.R. §23-14, §23-46 and §24-47.

PREMISES AFFECTED - 1116 East 22nd Street, west side, 340' south of Avenue "J", Block 7603, Lot 65, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -None.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated May 6, 2004, acting on Department of Buildings Application No. 301797312, reads, in pertinent part:

MINUTES

"1. Proposed F.A.R. and O.S.R constitutes an increase in the degree of existing non-compliance contrary to Sec. 23-14 of the NYC Zoning Resolution.

2. Proposed horizontal enlargement provides less than the required side yards contrary to Sec. 23-46 Z.R. and less than the required rear yard contrary to Sec. 23-47 Z.R."; and

WHEREAS a public hearing was held on this application on November 23, 2004 after due notice by publication in The City Record, and then to January 11, 2005 for decision; and

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

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

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space, and side and rear yard, contrary to Z.R. §§ 23-141, 23-461 and 23-47; and

WHEREAS, the subject lot is located on the west side of East 22nd Street, between Avenues J and K, with a total lot area of 2,000 sq. ft., and is improved upon with an existing three-story and cellar residential structure; and

WHEREAS, the applicant represents that the subject premises is currently non-complying with regards to side yards - the premises has side yards of 2'-7" and 5'-7" (the minimum required is 5'-0" for each, with a total of 13'-0"); and

WHEREAS, the applicant seeks an increase in the floor area from 2,778.15 sq. ft. (0.69 Floor Area Ratio or "FAR") to 3,996 sq. ft. (0.99 FAR) - the maximum floor area permitted is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant seeks to reduce the open space ratio from 0.80 to 0.55 - the minimum required is 1.50; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

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

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

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

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at PREMISES AFFECTED -1335 East 22nd Street, between Avenues "L and M", Block 7640, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner

large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space, and side and rear yard, contrary to Z.R. §§ 23-141, 23-461 and 23-47; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received October 4, 2004" - (2) sheets, "Received December 28, 2004" - (7) sheets; and on further condition;

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth on the certificate of occupancy;

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

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, January 11, 2005.

227-04-BZ

APPLICANT - Eric Palatnik, P.C., for Moshe Katz, owner.

SUBJECT - Application June 15, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for open space ratio, floor area ratio, and side and rear yards, is contrary to Z.R. §23-141(a), §23-47 and §23-48.

Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated May 18, 2004, acting on Department of Buildings Application No. 301739723, reads, in pertinent part:

"1. Plans are contrary to Z.R. 23-141(a) in that the proposed

MINUTES

Floor Area Ratio (FAR) exceeds the permitted .5.

2. Plans are contrary to Z.R. 23-141(a) in that the proposed Open Space Ratio (OSR) is less than the minimum required 150.0.

3. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required 30'-0".

4. Proposed plans are contrary to Z.R. 23-48 in that the minimum side yard is less than the required 5'-0".; and

WHEREAS a public hearing was held on this application on December 7, 2004 after due notice by publication in The City Record, and then to January 11, 2005 for decision; and

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

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

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space, and side and rear yard, contrary to Z.R. §§ 23-141, 23-47 and 23-48; and

WHEREAS, the subject lot is located on the east side of East 22nd Street, between Avenues L and M, with a total lot area of 3,000 square feet, and is improved upon with an existing two-story, attic and cellar residential structure; and

WHEREAS, the applicant states that the subject premises has an existing non-complying lot width of 30 ft. (the minimum required is 40 ft.) and non-complying side yards of 2'-2" and 7'-8" (the minimum required is 5'-0" for each, with a total of 9'-8", in accordance with the provisions for existing narrow zoning lots); and

WHEREAS, the applicant seeks to enlarge the existing structure through the construction of an addition at the front and rear of the existing home; and

WHEREAS, the applicant seeks an increase in the floor area from 2,035 sq. ft. (0.68 Floor Area Ratio or "FAR") to 2,640 sq. ft. (0.88 FAR) - the maximum floor area permitted is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, the applicant seeks to reduce the open space ratio from 0.82 to 0.74 - the minimum required is 1.50; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

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

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

Adopted by the Board of Standards and Appeals, January 11, 2005.

259-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Richard Senior, owner.

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the existing non-complying side yard on the northern end of the house will be enlarged from 2'-2" to 3'-10"; and

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

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space, and side and rear yard, contrary to Z.R. §§ 23-141, 23-47 and 23-48; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received December 27, 2004" - (9) sheets; and on further condition;

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth on the certificate of occupancy;

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

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

SUBJECT - Application July 20, 2004- under Z.R. §73-622 to permit the proposed enlargement of a single family residence in an R-2 zoning district, which does not comply with the zoning requirements for floor area, open space, side and rear yards, is contrary to Z.R. §23-461 and §23-47.

PREMISES AFFECTED -1181 East 22nd Street, between Avenues "K" and "L", Block 7622, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Elisa B. Hwu.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

MINUTES

Commissioner Chin.....5
Negative:.....0
RESOLUTION-

WHEREAS, the decision of the Borough Commissioner, dated June 24, 2004, acting on Department of Buildings Application No. 301743754, reads, in pertinent part:

"The proposed work does not conform to the following Z.R.:

- 1) 23-14 The proposed Floor Area Ratio is greater than the maximum allowed of [0.50].
- 2) 23-14 The proposed open space ratio is less than the minimum required of 150.
- 3) 23-32 The proposed lot area is less than the minimum required of 4,000 square feet.
- 4) 23-32 The proposed lot width is less than the minimum required of 40'-0".
- 5) 23-461 Proposed side yard width is less than the minimum width of 5' for one yard and the total width of 13' for two yards
- 6) 23-47 Proposed rear yard is less than the minimum requirement of 30'0"."; and

WHEREAS a public hearing was held on this application on December 14, 2004 after due notice by publication in The City Record, and then to January 11, 2005 for decision; and

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

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

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space, and side and rear yard, contrary to Z.R. §§ 23-141, 23-32, 23-461 and 23-47; and

WHEREAS, the subject lot is located on the east side of East 22nd Street, between Avenues K and L, and is improved upon with an existing two-story and cellar residential structure; and

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space, and side and rear yard, contrary to Z.R. §§ 23-141, 23-32, 23-461 and 23-47; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received December 28, 2004" - (6) sheets; and on further condition;

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth on the certificate of occupancy;

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

WHEREAS, the applicant states that the subject premises has an existing non-complying lot width of 35'-0" (the minimum lot width required is 40'-0") and an existing non-complying lot area of approximately 3,500 sq. ft. (the minimum lot area required is 4,000 sq. ft.); and

WHEREAS, the applicant also represents that the subject premises is currently non-complying with regards to side yards - the premises has side yards of 2'-11" and 8'-9" (the minimum required is 5'-0" for each, with a total of 13'-0"); and

WHEREAS, the applicant seeks to enlarge the existing structure through the construction of an addition to the rear of the second floor; and

WHEREAS, the applicant seeks an increase in the floor area from 2,604 sq. ft. (0.74 Floor Area Ratio or "FAR") to 2,943 sq. ft. (0.84 FAR) - the maximum floor area permitted is 1,750 sq. ft. (0.50 FAR); and

WHEREAS, the applicant seeks to reduce the open space ratio from 0.84 to 0.71 - the minimum required is 1.50; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

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

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

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

WHEREAS, the Board 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

the Department of Buildings;

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, January 11, 2005.

327-02-BZ

APPLICANT - Harold Weinberg, P.E., for Frank Galeano, owner.

MINUTES

SUBJECT - Application November 4, 2002 - under Z.R. §72-21 to permit the proposed erection of a four story, four family residence, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 82 Union Street, south side, 266'-0" west of Columbia Street, east of Van Brunt Street, Block 341, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Harold Weinberg.

ACTION OF THE BOARD - Laid over to February 15, 2005, at 1:30 P.M., for continued hearing.

394-03-BZ

APPLICANT - Sheldon Lobel, Esq., for American Physique of Ridgewood, owner.

SUBJECT - Application December 23, 2003 - under Z.R. §73-36 to permit the legalization of the operation of a physical cultural establishment on the ground and mezzanine level of a one story with mezzanine building located within a M1-4D zoning district.

PREMISES AFFECTED - 16-61 Weirfield Street, between Wyckoff and Cypress Avenues, Block 3549, Lots 74, 78 and 80, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES -

For Applicant: Elisa B. Hwu.

For Opposition: Victoria Hofro.

ACTION OF THE BOARD - Laid over to March 1, 2005, at 1:30 P.M., for continued hearing.

PREMISES AFFECTED - 108-24 Astoria Boulevard, southwest corner of 110th Street, Block 1703, Lots 94, 97, 98 and 99, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES -None.

ACTION OF THE BOARD - Laid over to February 8, 2005, at 1:30 P.M., for continued hearing.

126-04-BZ

APPLICANT - Eric Palatnik, Esq., for James Bateh, owner.

SUBJECT - Application October 7, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, Use Group 2, located in an R3-1(BR) zoning district, which does not comply with the zoning requirements for open space, floor area, also side and front yards, is contrary to Z.R. §23-141, §23-461(a) and §23-45.

PREMISES AFFECTED - 66 87th Street, south side, between Narrows Avenue and Colonial Road, Block 6046, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES -

For Applicant: Eric Palatnik.

8-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Jewish Center of Torah Emeth, owner; Yeshiva Ketanah D'Queens, lessee.

SUBJECT - Application June 9, 2004 - under Z.R. §72-21 to permit the proposed renovation of an existing two story community facility (school), Use Group 3, by the addition of two additional stories, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, height of front walls, and the location of front stair and handicap elevator, which is contrary to Z.R. §24-11, §24-521, §24-34 and §24-33.

PREMISES AFFECTED - 78-15 Parsons Boulevard, between 78th Avenue and 78th Road, Block 6829, Lot 1, Borough of Queens.

COMMUNITY BOARD #8

APPEARANCES -

For Applicant: Elisa B. Hwu.

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to February 15, 2005, at 1:30 P.M., for decision, hearing closed.

63-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Showky Kaldawy, owner.

SUBJECT - Application February 27, 2004- under Z.R. §72-21 to permit the proposed accessory parking, for an adjacent car rental facility, (Use Group 8), located in an R5 zoning district, is contrary to Z.R. §22-10.

ACTION OF THE BOARD - Laid over to February 1, 2005, at 1:30 P.M., for continued hearing.

150-04-BZ

APPLICANT - The Agusta Group, for Shun K. Fung, owner.

SUBJECT - Application August 3, 2004 - under Z.R. §72-20 to permit the proposed construction of a mixed-use residential and commercial building, within an M1-5 zoning district, which does not permit residential use, and has a non-complying front wall, is contrary to Z.R. §42-10 and §43-43.

PREMISES AFFECTED - 129 Elizabeth Street, west side, 60'-5" south of Broome Street, Block 470, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to February 15, 2005, at 1:30 P.M., for continued hearing.

207-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for David Spira and Gayle Malka Spira, owners.

MINUTES

SUBJECT - Application May 19, 2004 - under Z.R. §72-21 to permit the proposed enlargement of the cellar, first and second floors, also the attic, on the northerly side of a single family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, also side and front yards, is contrary to Z.R. §23-141, §23-461 and §23-45.

PREMISES AFFECTED - 2721 Avenue "N", northwest corner of East 28th Street, Block 7663, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Lyra Altman.

ACTION OF THE BOARD - Laid over to February 8, 2005, at 1:30 P.M., for continued hearing.

208-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Brian Gross and Chedva Gross, owners.

SUBJECT - Application May 21, 2004 - under Z.R. §72-21 to permit the proposed enlargement of the cellar, first floor and second floor, on the southerly side of single family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, side and front yards, also the front setback, is contrary to Z.R. §23-141, §23-461, §23-45 and §23-631.

PREMISES AFFECTED - 2822 Avenue "L", southwest corner of

ACTION OF THE BOARD - Laid over to February 8, 2005, at 1:30 P.M., for decision, hearing closed.

258-04-BZ

APPLICANT - Eric Palatnik, P.C., for Mindy Elmann, owner.

SUBJECT - Application November 16, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage and rear yard, is contrary to Z.R. §23-141(b) and §23-47.

PREMISES AFFECTED - 1837 and 1839 East 24th Street, south of Avenue "R", Block 6830, Lots 70 and 71 (tentative Lot 71), Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to February 8, 2005, at 1:30 P.M., for continued hearing.

263-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Jack Zarif and Randy Zarif, owners.

SUBJECT - Application July 22, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence in an R3-1 zoning district, which exceeds the allowable floor area, causes

East 29th Street, Block 7646, Lot 51, Borough of Brooklyn.

COMMUNITY BOARD #14

APPEARANCES -

For Applicant: Lyra Altman.

ACTION OF THE BOARD - Laid over to February 8, 2005, at 1:30 P.M., for continued hearing.

237-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Tony Perez Cassino, owner.

SUBJECT - Application June 21, 2004 - under Z.R. §72-21 to permit the proposed construction of a two-unit detached house, in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, lot coverage ratio, height, side and front yards, and is contrary to Z.R. §23-141, §23-48, §23-45 and §23-631.

PREMISES AFFECTED - 5722 Faraday Avenue, southeast corner of Valles Avenue, Block 5853, Lot 2198, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES -

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

an increase in lot coverage, has a non-complying rear yard, and a perimeter wall that exceeds the maximum permitted, is contrary to §23-141, §23-631, and §23-47.

PREMISES AFFECTED - 150 Girard Street, between Hampton Avenue and Oriental Boulevard, 360' south of Hampton Avenue, Block 8749, Lot 262, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Lyra Altman.

THE VOTE TO REOPEN HEARING-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to January 25, 2005, at 1:30 P.M., for decision, hearing closed.

311-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Jack Madonia, owner.

SUBJECT - Application September 14, 2004 - under Z.R. §72-21 to permit the proposed one-family dwelling, located in an R1-2

MINUTES

(NA-1) zoning district, which does not provide the required lot area, requires tree removal, modification of topography and waiver of the front and rear yards requirements, is contrary to Z.R. §105-50, §105-421, §105-423 and §105-432.

PREMISES AFFECTED - 380 Lighthouse Avenue, south side, 579' west of Windsor Avenue, Block 2285, Lots 1 and 45, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to February 8, 2005, at 1:30 P.M., for decision, hearing closed.

21 to permit, in an R5 (Infill) district, approval sought to erect a four-story, 45 foot eight inch high, residential building on a currently unimproved lot consisting of 25,413 SF. There are proposed 39 dwelling units with 28 parking spaces in the cellar. The proposed building is non-compliant to wall height and total height requirements.

PREMISES AFFECTED - 35 McDonald Avenue, a/k/a 25/47 McDonald Avenue, east side, between 20th Street and Terrace Place, Block 895, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Lance I Michaels and Steven Sinacori.

For Opposition: John Keefe-State Assemblyman, Guy Lingley, Robbin Bloch, Peter Levinson, Holly Sears, Shirley Chetter, Barbara Johnson,

ACTION OF THE BOARD - Laid over to February 15, 2005, at 1:30 P.M., for continued hearing.

319-04-BZ

APPLICANT - Steven Sinacori/Stadtmauer Bailkin, for Joseph De Simone, owner.

SUBJECT - Application September 20, 2004 - under Z.R. §72-

SUBJECT - Application October 7, 2004 - under Z.R. §72-21

to permit in a C5-5 (Lower Manhattan Special District) the expansion of floor area in an existing commercial structure (Century 21). The proposed enlargement exceeds the maximum floor area permitted.

PREMISES AFFECTED - 26 Cortlandt Street, northeast corner of Dey Street, Block 63, Lots 3 and 6, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: Jay Segal.

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to February 15, 2005, at 1:30 P.M., for decision, hearing closed.

331-04-BZ

APPLICANT - Jay A. Segal, Esq., Greenberg Traurig, LLP, owner; Century 21 Department Stores, LLC, lessee.

Pasquale Pacifico, Executive Director.

Adjourned: 3:50 P.M.

CORRECTIONS

***CORRECTION**

This resolution adopted on March 30, 2004, under Calendar No. 142-03-BZ and printed in Volume 89, Bulletin No. 15, is hereby corrected to read as follows:

**142-03-BZ
CEQR #03-BSA-180Q**

APPLICANT - George Sirinakis/Phanuel Soba, for Ishamael Miller, owner.

SUBJECT - Application May 1, 2003 - under Z.R. §§11-412 and 11-413, to permit **in C2-2 within an R3-2 zoning district, the reestablishment of a variance granted by the board, to allow for the continued operation of an automotive repair establishment (Use Group 7), and to permit a 384 square foot enlargement of the existing structure, in order to accommodate an additional service bay.**

PREMISES AFFECTED - 140-20 Farmers Boulevard, northwest corner of 142nd Avenue, Block 12592, Lot 315, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Phanuel Soba.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 31, 2003, acting on Department of Buildings Application No. 401218446, reads:

“Proposed use group 16 is not permitted in C2-2 district, as per 32-00. Requires BSA approval.”; and

WHEREAS, a public hearing was held on this application on October 28, 2003 after due notice by publication in the *City Record*, with continued hearings on November 25, 2003, January 6, 2004, February 10, 2004, March 9, 2004, and then laid over to March 30, 2004 for decision; and

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

Board; and

WHEREAS, this is an application under Z.R. §§11-412 and 11-413, on a site previously before the Board, to permit the reestablishment and amendment of a previously granted variance allowing a gasoline service station (Use Group 16), on a lot located in a C2-2 within an R3-2 zoning district, which is contrary to Z.R. §32-00; and

WHEREAS, on April 14, 1953, under Calendar Number 807-52-BZ, the Board granted an application permitting the erection and maintenance of a gasoline service station, lubritorium, car washing, motor vehicle repair, storage and sale of accessories, office use, and parking and storage of motor vehicles on the unbuilt portion of the lot; and

WHEREAS, since the original grant in 1953, the Board has granted several extensions of term, most recently of which was on November 3, 1978, extending the term of the variance to September 26, 1988; and

WHEREAS, the applicant has provided evidence that the sale of gasoline was discontinued and the gasoline tanks were removed in 1985; and

WHEREAS, the subject application seeks only to allow the continued operation of the site as an automotive service establishment (Use Group 7) and a 384 square foot expansion which would accommodate an additional service bay; and

WHEREAS, the subject site is a 11,888 square foot lot that fronts on Farmers Boulevard and 142nd Avenue, and is currently improved with a one-story 1,176 square foot building containing two service bays; and

WHEREAS, the most recent Certificate of Occupancy, issued on April 30, 1968, and certified on September 16, 1998, lists the use of the site as a “gasoline service station, lubritorium, car washing, minor adjustments with hand tools only, storage, office & sales, parking and storage of motor vehicles”; and

WHEREAS, the record indicates that the automotive service/repair/lubritorium use has been continuous since 1952; and

WHEREAS, the record indicates that the instant proposal does not increase the size of the subject zoning lot and that all activity is contained on the zoning lot as originally approved by the Board; and

WHEREAS, the record indicates that the continued use of the site as an automotive service establishment will not impair the essential character or future use of development of the area, because the essential character of the area within the vicinity of the subject site is more commercial than residential, as evidenced by the numerous commercial uses along Farmers Boulevard; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§11-412 and 11-413; and

WHEREAS, both the Queens Borough President as well as Community Board #12Q have recommended approval of this application; and

WHEREAS, the Board has conducted an environmental

review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable

CORRECTIONS

significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

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

Resolved that the Board of Standards and Appeals issues a negative declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §§11-412 and 11-413, on a site previously before the Board, to permit in C2-2 within an R3-2 zoning district, the reestablishment of a variance granted by the board, to allow for the continued operation of an automotive repair establishment (Use Group 7), and to permit a 384 square foot enlargement of the existing structure, in order to accommodate an additional service bay; *on condition* that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received May 1, 2003"-(2) sheets and "March 30, 2004"-(1) sheet; and *on further condition*;

THAT the term of the variance shall be limited to ten (10) years from March 30, 2004, expiring on March 30, 2014;

THAT there shall be no curb cuts on the property along 142nd Avenue;

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

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

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

THAT all applicable fire safety measure will be complied with;

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

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

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

THAT substantial construction be completed and a new Certificate of Occupancy be obtained in accordance with Z.R. §73-70.

Adopted by the Board of Standards and Appeals, March 30, 2004.

*The resolution has been corrected in the part of the resolution which read: "(Use Group 7)" now reads: (Use Group 16). Corrected in Bulletin Nos. 1-3, Vol. 90, dated January 20, 2005.

*CORRECTION

This resolution adopted on December 14, 2004, under Calendar No. 258-03-BZ and printed in Volume 89, Bulletin Nos. 51-52, is hereby corrected to read as follows:

258-03-BZ

CEQR #04-BSA-025K

APPLICANT - Law Office of Howard Goldman, PLLC, for Thames Realty, LLC, owner.

SUBJECT - Application August 12, 2003 - under Z.R. §72-21 to permit the legalization of twenty-three residential units, in a four story building, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 47 Thames Street, between Morgan Street and Knickerbocker Avenue, Block 3008, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin:.....5

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin:.....5

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin:.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 30, 2003, acting on DOB Application No. 301619336 reads:

"Proposed residential dwellings in an M1-1 district are contrary to section 42-00 of the Zoning Resolution and require a variance from the Board of Standards and Appeals."; and

WHEREAS, a public hearing was held on this application on March 2, 2004 after due notice by publication in *The City Record*, with continued hearings on April 13, 2004, June 15, 2004, July 13, 2004, August 17, 2004, and October 26, 2004, and then to decision on December 7, 2004; and

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

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Commissioner Caliendo, Commissioner Miele and

WHEREAS, this is an application under Z.R. § 72-21, to permit, in an M1-1 zoning district, the legalization of 14 dwelling units on the third and fourth floors of a four-story manufacturing building, contrary to Z.R. § 42-00; and

WHEREAS, the original version of this application contemplated the legalization of 23 residential units on the first through fourth floors, with a portion of the first floor retained for conforming artist/retail uses; and

WHEREAS, in response to concerns expressed by the Board that the relief requested in the original version was not justified by the degree of hardship present at the site and therefore did not reflect the minimum variance; the applicant eventually modified the original proposal to the current proposal; and

WHEREAS, Community Board 1, Brooklyn, recommended approval of the original version of this application; and

WHEREAS, the subject zoning lot is located on Thames Street between Morgan and Knickerbocker Avenues in the East Williamsburg section of Brooklyn, and has a total lot area of approximately 11,500 square feet; and

WHEREAS, the site is improved upon with a four-story building, with a total floor area of 34,530 sq. ft.; and

WHEREAS, the applicant represents that the building is currently occupied by three conforming uses and three residential units on the first floor, and 20 residential units on the second through fourth floors; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the site in strict conformance with underlying zoning regulations: the building is obsolete for modern manufacturing concerns, in that it has only one passenger size elevator, limited street access through three pedestrian size doors, low ceiling heights of eight to nine feet, 18 support columns spaced throughout the floor plate, and no loading docks; and

WHEREAS, the applicant also states that there is no access to the upper floors or even the ground floor for bulk shipments, due to lack of access and ramps; and

WHEREAS, the applicant concludes that these features combine to create unnecessary hardship and practical difficulties in using the building for conforming use; and

WHEREAS, the Board questioned the degree of hardship created by the cited building conditions, and asked the applicant to explore retrofitting the building in order to address them; and

WHEREAS, in particular, the Board suggested that the applicant investigate the viability of sloping a loading dock below the ground floor level, in order to gain sufficient clearance for trucks; and

WHEREAS, the applicant responded by stating that such

Commissioner Chin; and

a retrofit would be cost prohibitive, but the Board continued to suggest alternative, viable schemes for creation of a loading dock, including an option to create a non-compliant but usable dock; and

WHEREAS, the Board also asked the applicant to establish that the cited building conditions were in fact unique, by submitting a survey of neighboring buildings, showing whether such buildings had complying loading docks and what their floor to floor heights were; and

WHEREAS, based upon its review of the submitted survey of the buildings in the area, which revealed that the conforming uses within the study area were almost all housed in one-to-two-story buildings, the Board concludes that the subject building is in fact one of the few multi-story manufacturing buildings in the area; and

WHEREAS, specifically, the submitted survey shows that there were only four other buildings in a 400 ft. radius with more than two stories, and that two of these buildings had larger floor plates, better suited for conforming uses; and

WHEREAS, after reviewing the various submissions made in response to its queries, the Board determined that though there was an insufficient nexus between the actual degree of hardship present at the site and the originally requested relief, some unnecessary hardship existed on the site, primarily related to the multi-story status of the building and the lack of internal access for bulk transfer of goods within the building; and

WHEREAS, based upon the above, the Board finds that the conditions cited by the applicant, when considered in the aggregate, create unnecessary hardship and practically difficulties in strictly conforming with the applicable provision of the Zoning Resolution, but only as to the third and fourth floors of the existing building; and

WHEREAS, the applicant initially submitted a feasibility study which purported to demonstrate that developing the premises on all four floors in conformance with applicable district use regulations would not yield the owner a reasonable return; and

WHEREAS, additionally, the applicant submitted evidence of failed marketing attempts for conforming uses; and

WHEREAS, based upon this study, the Board agrees that there is no reasonable possibility that development in strict conformance on all four floors of the building with zoning regulations will provide a reasonable return; and

WHEREAS, however, as noted above, the Board determined that any unnecessary hardship really afflicted only the top two floors of the building, and that lesser variance scenarios (discussed below) needed to be analyzed; and

WHEREAS, the applicant represents that the proposed variance will not affect the character of the neighborhood, and

that residential use of the existing building is compatible with the uses in the surrounding neighborhood; and

WHEREAS, in support of this representation, the applicant submitted a copy of the Department of City Planning's April 2001 land use application for a zoning text

buildings within certain delineated loft districts in Brooklyn, including the district in which the subject building is located, which was based upon a study by a task force of various City agencies (the "Task Force"); and

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change to permit the as-of-right conversion of industrial

WHEREAS, the applicant states that the Task Force determined that the existing building was part of a group of other Brooklyn buildings with illegal residential occupancy, and recommended that the existing buildings be considered appropriate for residential use; and

WHEREAS, the Board finds that the applicant's reliance on the Task Force recommendation is misplaced, because the Task Force did not evaluate whether the Proposed Building would negatively impact the essential character of the neighborhood or nearby conforming use or development in the same manner and with the same degree of scrutiny as required of the Board in its review of a site-specific application for a variance; and

WHEREAS, rather, the Board understands that the Task Force made recommendations as to a variety of buildings largely in response to the perceived pervasive problem of illegal conversions in Brooklyn, and these recommendations were based on a concern that wide-spread evictions of such tenants would cause a hardship given the City's housing shortage; and

WHEREAS, therefore, the Board finds that the finding set forth at Z.R. § 72-21(c) can not be made merely by citing to the Task Force recommendation; and

WHEREAS, the Board thus requested that the applicant engage in a more traditional analysis of the finding set forth at Z.R. § 72-21(c); and

WHEREAS, in response, the applicant conducted a survey of the surrounding area and submitted a revised land use map, showing that thirty of the lots within the studied area contained legal residential units, and that 31 lots were vacant; and

WHEREAS, the Board agrees that there is some legal residential use in the immediate area, but also notes that the area still has some active conforming uses; and

WHEREAS, however, the Board observes that the introduction of 14 residential units in this area, as opposed to the 30 units initially proposed by the applicant, will not impact the essential character of the neighborhood or impact conforming uses; and

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

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

WHEREAS, in response to the request of the Board to examine a lesser variance, the applicant has submitted additional studies of the following scenarios: (1) a retrofit of the building that would bring it up to modern industrial standards by providing legal loading docks and sufficient elevator capacity; (2) a renovation of the building for conforming office use; and (3) utilization of the lower two floors for conforming warehouse purposes, with residential use on the upper two floors; and

WHEREAS, the applicant's financial consultant opined that none of these scenarios would result in a reasonable return; and

WHEREAS, instead, the applicant proposed a mixed-use Joint Living-Work Quarters for Artists ("JWLQA") and residential scenario, with residential on the third and fourth floors, and JWLQA in place of the existing residential units on the first and second floors, as well as retention of the commercial units on a portion of the first floor; and

WHEREAS, the Board notes that the provisions in the Zoning Resolution that created the JWLQA mechanism were enacted by the City Council in response to area-specific problems in Manhattan, and that the JWLQA designation requires that certain pre-requisites as to the building be met; and

WHEREAS, accordingly, the Board declines to extend JWLQA status to other buildings in non-designated areas through the variance process; and

WHEREAS, moreover, the Board notes that the applicant submitted no evidence that the building meets all the parameters for JWLQA status as set forth in the Zoning Resolution; and

WHEREAS, thus, the Board disagreed that a conventional mixed-use alternative was not feasible, and, in response, the applicant modified the proposal to the current version of the application; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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 04-BSA-025K dated November 10, 2003; 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; 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,

CORRECTIONS

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 Z.R. § 72-21 and grants a variance to permit, in an M1-1 zoning district, the legalization of 14 dwelling units on the third and fourth floors of a four-story manufacturing building, contrary to ZR § 42-00; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 12, 2004 – (2) sheets and "Received December 10, 2004 – (3) sheets; *on further condition*;

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

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

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

THAT a new certificate of occupancy shall be obtained within two years from the date of this grant;

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

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

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

Adopted by the Board of Standards and Appeals, December 14, 2004.

*The resolution has been corrected in the part of the 5th WHEREAS, which read: "*30 residential units*" **now reads: "23 residential units"**. **Corrected in Bulletin Nos. 1-3, Vol. 90, dated January 20, 2005.**

*CORRECTION

This resolution adopted on March 30, 2004, under Calendar No. 309-03-BZ and printed in Volume 89, Bulletin No. 15, is hereby corrected to read as follows:

309-03-BZ CEQR #04-BSA-059M

APPLICANT - Howard A. Zipser, Stadtmauer Bailkin, LLP, for James Horvath, owner.

SUBJECT - Application October 6, 2003 - under Z.R. §72-21 to permit **the proposed erection of a six-story residential building, Use Group 2, on a zoning lot divided by C6-1 and R6 zoning**

districts, which does not comply with the zoning requirements for floor area, height and setbacks, contrary to Z.R. §§23-145 and 23-633 (and Table A thereof).

PREMISES AFFECTED - 744/48 Greenwich Street, west side, between Perry and West 11th Streets, Block 633, Lots 20 and 119, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated November 24, 2003, acting on Department of Buildings Application No. 103433009, reads:

- "1. Section Zr 23-145, Proposed plan indicate floor area exceeding maximum permitted floor area for this new building hence not permitted.
2. Section Ze (sic) 23-633, proposed building height (sic) and setback limit per Table A hence [not] permitted"; and

WHEREAS, a public hearing was held on this application on December 9, 2003 after due notice by publication in the City Record; with continued hearings on January 27, 2004 and March 2, 2004, and then laid over for decision on March 30, 2004; and

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

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

WHEREAS, this is an application under Z.R. §72-21 to permit the proposed erection of a six story residential building, Use Group 2, on a zoning lot divided by C6-1 and R6 zoning districts, which does not comply with the zoning requirements for floor area, height and setbacks, contrary to Z.R. §§23-145 and 23-633 (and Table A thereof); and

WHEREAS, the subject premises is on the west side of Greenwich Street between Perry and West 11th Streets, has a total lot area of approximately 4,650 square feet, is located partially within an R6 zoning district and partially within a C6-1 zoning district, and is currently occupied by a one story (with mezzanine) building with a legal use as a photographic studio, as well as a small one story triangular shaped building with a legal use as a doctor's office; and

WHEREAS, approximately 1067 square feet of the lot area is within the C6-1 zoning district, while the remaining 3583 square feet is within the R6 zoning district; and

WHEREAS, the subject zoning lot is also within the Greenwich Village Historic District, and the proposed building received a Certificate of Appropriateness from the City's Landmarks Preservation Commission ("LPC") on September 9, 2003; and

WHEREAS, under Calendar No. 9-95-BZ, the Board

CORRECTIONS

permitted the conversion and the enlargement of a former one story garage to a photographic studio, which is contrary to applicable residential use regulations, finding that the subject lot's "irregular shape and history of development gave rise to an unnecessary hardship"; and

WHEREAS, the subject zoning lot is irregularly shaped, being bounded by seven lot lines, and shallow, and has a frontage of approximately 89 feet on Greenwich Street, with a depth ranging from a minimum of 9.75 feet to a maximum of 91 feet; and

WHEREAS, the subject zoning lot is proposed to be developed with a five dwelling unit six story residential building, with a floor area of 15,977.42 square feet, and a height of 65 feet; and

WHEREAS, the requested bulk waiver is for approximately 4,487 square feet of floor area over the permitted 11,500 square feet; the requested perimeter wall waiver is for approximately 10 feet above the permitted 45 feet; and the requested height waiver is for approximately 10 feet above the permitted 55 feet; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in constructing the proposed building in conformity with underlying district regulations: the lot is irregular in shape and is shallow, and is divided by a district boundary separating the lot between two zoning districts; and

WHEREAS, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardships in developing the site in strict conformity with current applicable zoning regulations; and

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

WHEREAS, during the course of the public hearing process, opposition to the proposed development contended that a rental alternative could be viable, that the assumed construction loan interest rate as utilized in the submitted feasibility study was too high, that it was inappropriate to include the value of an existing one story building in estimating the overall property value, and that the comparables in the feasibility study were inappropriate; and

WHEREAS, in response to this allegation, the applicant submitted supplementary materials from its financial expert, explaining: 1) why a rental alternative would lead to an unacceptably low return on investment; 2) that the construction loan interest rate was appropriate and further, that this rate's effect on the overall feasibility of the proposal was minimal; 3) that the one-story building reflected an improvement to the property, and that it is reasonable that the value of the building would be recognized by a seller or owner and reflected in the transaction price, and 4) that the comparables provided fell within acceptable real estate practice; and

WHEREAS, the Board has reviewed the supplementary materials and find that they provide a sufficient and credible response to the concerns of the opposition; and

WHEREAS, the Board finds sufficient and credible the

supplementary evidence submitted by the applicant pertaining to the viability of the existing photographic studio located at the premises and marketing efforts that were unsuccessful in obtaining a conforming user for the existing building; and

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

WHEREAS, the applicant states that in the immediate neighborhood there are numerous buildings occupied by both commercial and residential uses, with heights comparable to or higher than the proposed building ; and

WHEREAS, the applicant further states that the massing of the proposed building is in scale with the buildings in the immediate vicinity, and that existing buildings adjacent to the zoning lot having a greater FAR; and

WHEREAS, the applicant notes that the bulk of the proposed building is less than what would be permitted as of right, was specifically designed to be contextual to the neighbors and the historic character of the neighborhood, and designed with a garden space on one side of the building so that the adjacent properties will receive light and air rather than constructing the building to directly abut said properties; and

WHEREAS, at hearing, the opposition raised concerns about the height of the proposed building, its shadow effect, and its massing in terms of the context of the surrounding neighborhood; and

WHEREAS, the applicant submitted supplemental evidence, including a revised shadow study, showing that: 1) a majority of adjacent buildings are above the height of the proposed building, 2) the building's shadow effect is minimal, and 3) the massing of the building is contextual to the surrounding neighborhood, and was massed to address functionality and contextual design concerns; and

WHEREAS, the Board finds sufficient and credible both the revised shadow analysis, which shows that the difference between the effect of the proposed building and an as of right building would be minimal, and as the supplemental submissions concerning height and massing, which show that the proposed building is contextual in both respects; and

WHEREAS, the Board notes that the massing and height of the proposed building has been approved by the LPC, in terms of its compatibility with the historic district; and

WHEREAS, based on the above, the Board finds that the subject application, if granted, will not alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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

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

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

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

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

Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit the proposed erection of a six-story residential building, Use Group 2, on a zoning lot divided by C6-1 and R6 zoning districts, which does not comply with the zoning requirements for floor area, height and setbacks, contrary to Z.R. §§23-145 and 23-633 (and Table A thereof); *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 "March 4, 2004"-(13) sheets; and *on further condition*:

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

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

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

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

Adopted by the Board of Standards and Appeals, March 30, 2004.

*The resolution has been corrected in the part of the 12th WHEREAS, which read: "3,477 square feet" **now reads: "4,484 square feet"**. **Corrected in Bulletin Nos. 1-3, Vol. 90, dated January 20, 2005.**

Pasquale Pacifico, Executive Director.

BULLETIN

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February 3, 2005

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JOEL A. MIELE, SR.

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Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Tuesday, January 25, 2005**

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**MINUTES of Special Hearing,
Wednesday, January 26, 2005**

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233-04-BZ	136-20 38 th Avenue, Queens
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DOCKETS

New Case Filed Up to January 25, 2005

2-05-A **B.Q.** **37 Marion Walk,**
east side, 102.98' south of Oceanside Avenue, Block 16350,
Lot 400, Borough of Queens. Alt. #402017367. Proposed
enlargement of an existing one family dwelling, not fronting
on a legally mapped street, and has a private disposal
system which is being upgraded in the bed of a private
service road, is contrary to Section 36, Article 3 of the
General City Law, and Department of Buildings Policy.

3-05-A **B.Q.** **10 Doris Lane,**
south side, 42.02' west of Reid Avenue, Block 16350, Lot
400, Borough of Queens. Alt. #1-402015369. Proposed
enlargement of an existing one family dwelling, not fronting
on a legally mapped street, and has a private disposal
system which is being upgraded in the bed of a private
service road, is contrary to Section 36, Article 3 of the
General City Law, and Department of Buildings Policy.

4-05-BZ **B.Q.** **69-02 Garfield Avenue,**
south side, between 69th Street and 69th Place, Block 2438,
Lot 20, Borough of Queens. Alt.1 #402065224. Proposed
accessory parking on the roof, of an as-of-right commercial
building (catering facility), located in an M1-1 zoning district,
requires a special permit from the Board as per §73-49.
COMMUNITY BOARD #2Q

5-05-BZ **B.Q.** **59-25 Fresh Meadow Lane,**
east side, between Horace Harding Expressway and 59th
Avenue, Block 6887, Lot 24, Borough of Queens. Applic.
#402067712. Proposed enlargement of an existing
contractor's establishment, with accessory wholesale, Use
Group 16, located in an R3-2 zoning district, requires a
special permit from the Board as per
Z.R. §73-53.
COMMUNITY BOARD #11Q

6-05-BZ **B.BK.** **3046 Bedford Avenue,**
between Avenues "I and J", Block 7588, Lot 52, Borough of
Brooklyn. Applic. #301881961. Proposed enlargement to an
existing one family dwelling, Use Group 1, located in an R-2
zoning district, which does not comply with the zoning
requirements for floor area ratio, open space ratio, side and
rear yards, is contrary to Z.R. §23-141, §23-46 and §23-47.
COMMUNITY BOARD #14BK

7-05-BZ **B.M.** **715 Ninth Avenue**
and 410 West 49th Street, 50' south of West 49th Street and
Ninth Avenue, Block 1058, Lots 34 and 38, Borough of
Manhattan. Applic. #103308804. Proposed construction of a
six-story, residential and community facility enlargement, to
an existing five-story residential and retail building, located
in an R8, C1-5 Clinton Special District, which does not
comply with the zoning requirements for rear yard, inner
court dimension and lot coverage, is contrary to Z.R. §96-
103, §23-85 and §96-102.
COMMUNITY BOARD #4M

8-05-BZ **B.Q.** **85-15 Queens Boulevard**
(aka 51-35 Reeder Street), entire frontage between Reeder
Street and Broadway, Block 1549, Lot 41(aka 41 and 28),
Borough of Queens. N.B.#401400239. Proposed construction
of a seventeen-story mixed-use building, split by R5 and
R6/C1-2 zoning districts, which does not comply with the
zoning requirements for floor area, floor area ratio, open
space, open space ratio, front yard, also the commercial use
and side yard for portion of Lot 41, that is the R5 district, is
contrary to Z.R. §23-14, §23-45, §22-00 and §23-46.
COMMUNITY BOARD #4Q

9-05-BZ **B.Q.** **86-15 Broadway**
(a/k/a 86-05 Queens Boulevard), between Broadway and 55th
Avenue, Block 1842, Lot 1 (aka 1,9 and 97), Borough of
Queens. Alt.1 #401033243. Proposed construction of a
sixteen story, mixed use building, located in a C1-2/R6
zoning district, which does not comply with the zoning
requirements for residential floor area, floor area ratio,
open space and open space ratio, is contrary to Z.R. §23-14.
COMMUNITY BOARD #4Q

DESIGNATIONS: D-Department of Buildings; B.BK.-
Department of Buildings, Brooklyn; B.M.-Department of
Buildings, Manhattan; B.Q.-Department of Buildings,
Queens; B.S.I.-Department of Buildings, Staten Island;
B.BX.-Department of Building, The Bronx; H.D.-Health
Department; F.D.-Fire Department.

CALENDAR

MARCH 1, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 1, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

121-93-BZ

APPLICANT - Kenneth H. Koons, Architect, for Pauline O'Sullivan, owner.

SUBJECT - Application November 23, 2004 - Reopening for an extension of term of variance for an eating and drinking establishment, without restrictions on entertainment and dancing, Use Group 12, located in a C2-3 within an R6 zoning district.

PREMISES AFFECTED - 202 West 236th Street, aka 5757 Broadway, southwest corner of Broadway and West 236th Street, Block 5760, Lot 150, Borough of The Bronx.

COMMUNITY BOARD #8BX

69-03-BZ

APPLICANT - Friedman & Gotbaum, LLP, by Shelly Friedman, Esq., for 40 Bond Street Partners, LLC, owner.

SUBJECT - Application December 20, 2004 - reopening for an amendment to the resolution to modify the variance for a use conversion from manufacturing to residential that was originally granted on April 27, 2004.

PREMISES AFFECTED - 32-40 Bond Street, 163' east of the corner formed by the intersection of Bond and Lafayette Streets, Block 530, Lot 48, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEALS CALENDAR

384-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Maureen & Bill Tully, lessees.

SUBJECT - Application December 6, 2004 - Proposed reconstruction and enlargement of an existing single family residence, not fronting on a legally mapped street, also the proposed upgrading of the private disposal system in the bed of the service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings Policy.

300-04-BZ

APPLICANT - Malcolm Kaye of Aston Associates, for Jimmy

PREMISES AFFECTED - 37 Jamaica Walk, east side, 75.61' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

MARCH 1, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, March 1, 2005, at 1:30 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

219-04-BZ

APPLICANT - Eric Palatnik, P.C., for Cora Realty Co., LLC, owner.

SUBJECT - Application May 28, 2004 - under Z.R. §72-21 to permit The legalization of a portion of the required open space of the premises, for use as parking spaces (30 spaces), which are to be accessory to the existing 110 unit multiple dwelling, located in an R7-1 zoning district, is contrary to Z.R. §25-64 and §23-142.

PREMISES AFFECTED - 2162/70 University Avenue, aka Dr. Martin Luther King Boulevard, southeast corner of University Avenue and 181st Street, Block 3211, Lots 4 and 9, Borough of The Bronx.

COMMUNITY BOARD #5BX

255-04-BZ

APPLICANT - Eric Palatnik, P.C., for Eli Kafif, owner.

SUBJECT - Application July 15, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, which does not comply with the zoning requirements for floor area and side yard, is contrary to Z.R. §23-141 and §23-461(a), located in an R5 zoning district.

PREMISES AFFECTED - 1924 Homecrest Avenue, between Avenues "S and T", Borough of Brooklyn.

COMMUNITY BOARD #15BK

Tuohy, Eurostruct, Inc, owner; Diana Zelvin, lessee.

SUBJECT - Application filed September 9, 2004 - under Z.R.

CALENDAR

Section 73-36 to permit a proposed physical cultural establishment located on the first and second floor of a two story commercial building, within an M1-1 Zoning district.

PREMISES AFFECTED - 66 Huron Street , south of West Street and Franklin Street, Block 2531 , Lot 12 Borough of Brooklyn.

COMMUNITY BOARD #3BK

340-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Anthony R. and Valerie J. Racanelli, owners; Walgreens, lessee.

SUBJECT - Application October 15, 2004 - under Z.R. §72-21 to request a bulk variance to allow the construction of a new drug store without the required parking in a C4-1 district, contrary to Z.R. §§33-23(B) and 36-21.

PREMISES AFFECTED - 1579 Forest Avenue, northeast side of Forest Avenue and Decker Avenue, Block 1053, Lot 149, Borough of Staten Island.

COMMUNITY BOARD #1SI

345-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Yad Yosef, owner.

SUBJECT - Application October 22, 2004 - under Z.R. §72-21 to request a bulk variance to allow the construction of a new synagogue in an R5 district contrary to Z.R. §§23-141, 23-464, 23-47, 113-12, 23-631(d), 113-30, 25-18 and 25-31.

PREMISES AFFECTED - 1030-1044 Ocean Parkway, west side, between Avenues "J and "L", Block 5495, Lots 909, 911 and 914, Borough of Brooklyn.

COMMUNITY BOARD #12BK

Pasquale Pacifico, Executive Director

MINUTES

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, November 9, 2004, were approved as printed in the Bulletin of November 18, 2004, Volume 89, Nos. 45 & 46.

SPECIAL ORDER CALENDAR

67-79-BZ

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

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

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

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: W. Tyler Fairbairn.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

Adopted by the Board of Standards and Appeals, January 25, 2005.

283-82-A

APPLICANT - Francis R. Angelino, Esq. for Jewish Child Care Association, owner.

SUBJECT - Application July 20, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance to permit use of the first and second floor as a Day Care Center.

PREMISES AFFECTED - 108-58 68th Road, 108th Street, Block 2179, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Francis Angelino and Stephen H. Katz.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Therefore it is Resolved that the Board of Standards and Appeals waives its rules and *reopens and amends* the resolution, said resolution having been adopted on August 10, 1982, and amended on August 8, 1995, so that as amended this portion of the resolution shall read: “to extend the term of the waiver for a period of twenty years from the last expiration date, to expire on August 10, 2022; *on condition* that all work shall substantially conform to drawings filed with

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Board’s Rules of Practice and Procedure, a reopening, and an extension of term of the waiver of Section C26-254.0 of the Administrative Code of the City of New York (“A.C.”), previously granted to a day care center located at the subject premises (the “Daycare”), which expired on August 10, 2002; and

WHEREAS, a public hearing was held on this application on December 14, 2004, after due notice by publication in *The City Record*, and then to decision on January 25, 2005; and

WHEREAS, this application was brought on behalf of the Jewish Child Care Association, the owner of the lot and the operating entity of the Daycare; and

WHEREAS, on August 10, 1982, under the subject calendar number, the Board granted a waiver of A.C. § C26-254.0, permitting the occupancy by the Daycare of the two-story, class 4 building existing on the site; the Daycare is categorized as a school and is therefore not allowed to occupy a class 4 structure as-of-right; and

WHEREAS, on August 8, 1995, the Board granted an extension of term for this waiver for a period of ten years, to expire on August 10, 2002; and

WHEREAS, the applicant states that the Daycare’s program and facilities director was unaware of the need to renew the grant, and was only made aware of this need upon due diligence by the Daycare’s architect; and

WHEREAS, the applicant states that in addition to the application for the extension of term, the Daycare also seeks to construct an as-of-right addition to the existing building, as indicated in dashed-line form on the plans approved hereunder; and

WHEREAS, the Board notes that its approval of the application for an extension of term does not include approval of this enlargement; and

WHEREAS, however, the Board has no objection to any proposed as-of-right enlargement, provided that the Department of Buildings reviews and approves of it; should DOB confirm that the proposed enlargement is as-of-right as to applicable Building Code and Zoning Resolution requirements, then no further BSA action, including issuance of a Letter of No Objection, is required; and

WHEREAS, the Board has determined that the evidence in the record supports the grant of this application. this application marked “Received November 1, 2004”-(3) sheets and “Received January 11, 2005”-(1) sheet; and *on further condition:*

THAT this waiver shall expire on August 10, 2022;

THAT the above condition shall be noted on the certificate of occupancy;

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

MINUTES

THAT the as-of-right addition, as shown on the BSA-approved plans in dashed-line form, shall be reviewed and approved by DOB; no further approval from the BSA for such addition is required;

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. 401962006).

Adopted by the Board of Standards and Appeals, January 25, 2005.

150-00-BZ

APPLICANT - Eric Palatnik, P.C., for Yeshiva of Far Rockaway, owner.

SUBJECT - Application May 17, 2004 - reopening for an amendment to the resolution for modification of an existing Yeshiva previously approved by the Board.

PREMISES AFFECTED - 802 Hicksville Road, corner of Beach 9th Street, Block 15583, Lot 16, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Board’s Rules of Practice and Procedure, a reopening, an amendment, and an extension of time to complete construction and obtain a certificate of occupancy, all related to an enlargement of a building occupied by a religious school, previously approved by the Board through the grant of a variance; and

WHEREAS, a public hearing was held on this application on November 9, 2004, after due notice by publication in The City Record, with continued hearings on December 7, 2004 and January 11, 2004, and then to decision on January 25, 2005; and

WHEREAS, this application was brought on behalf of the Yeshiva of Far Rockaway, the owner of the lot and the operating entity of the religious school; and

WHEREAS, the Board agrees that there is adequate availability of on street parking in the vicinity of the Yeshiva, and notes that the requested waiver as to parking is modest; and

WHEREAS, the Board has determined that the evidence

WHEREAS, on January 9, 2000, under the subject calendar number, the Board granted a variance, permitting the enlargement of the Yeshiva and authorizing waivers of Z.R. provisions regulating floor area, perimeter wall height, sky exposure, and off-street parking; and

WHEREAS, the applicant states that since the approval, a new architect hired by the Yeshiva determined that the previous plans were not as efficient as they could have been, and that minor amendments were necessary in order to accommodate a redesigned enclosed gymnasium and rooftop play area; and

WHEREAS, specifically, the applicant represents that the lack of a cellar at the side of the previously approved gymnasium eliminated valuable space that could otherwise be put to use to service the Yeshiva’s programmatic needs; and

WHEREAS, the revised plans approved hereunder call for the total demolition of the existing one-story portion of the building and its proposed replacement with a small portion consisting of two stories to match the existing two-story portion; and

WHEREAS, the applicant states that the revised plans create a better layout that is more conducive to the programmatic needs of the Yeshiva; and

WHEREAS, proposed plan revisions reflect the following non-compliances: (1) floor area of 29,586.25 sq. ft. (30,885.5 sq. ft. was previously approved; the maximum permitted is 17,287.5 sq. ft.); (2) a sky exposure plane of 31.5 ft. (same as previously approved; the maximum permitted in 25 ft.); (3) 14 spaces of off-street parking (17 were previously approved; 24 is the minimum amount required); and (4) a perimeter wall height of 17.5 ft. at the one-story portion and 30 ft. at the newly proposed partial two-story portion (a perimeter wall height of 30 ft. was previously approved for the one-story enlargement portion; 25 ft. is the maximum permitted); and

WHEREAS, the applicant represents that the proposed plan revisions also trigger a new DOB objection as to Z.R. §24-382 (rear yard equivalent); the non-compliance as to this section occurs on the Beach 9th Street side of the premises; and

WHEREAS, specifically, the revised plans provide a 20 ft. rear yard equivalent; a 30 ft. rear yard equivalent is required; and

WHEREAS, the applicant states that this waiver is necessary to facilitate a more efficient design for the proposed enlargement; and

WHEREAS, in response to Board concerns about the availability of on-street parking in the vicinity of the Yeshiva, the applicant has submitted: (1) photos purporting to demonstrate the availability of on-street parking; and (2) an affidavit regarding the availability of on-street parking from the executive director of the Yeshiva; and

in the record supports the grant of this application.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on August 10, 1982, and subsequently extended and amended, so that as amended this portion of the

MINUTES

resolution shall read: “to extend the term of the waiver for a period of twenty years from the last expiration date, to expire on August 10, 2022; on condition that all work shall substantially conform to drawings filed with this application marked “Received November 23, 2004”-(11) sheets and “Received December 27, 2004”-(1) sheet; and on further condition:

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

THAT construction be completed and a new certificate of occupancy be obtained within two years from the date of this grant;

THAT the gymnasium area, as shown on the BSA-approved plans, shall be counted as zoning floor 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; 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. 401962006).

Adopted by the Board of Standards and Appeals, January 25, 2005.

135-46-BZ

APPLICANT - Harold Weinberg, P.E., for Leon Rubinfeld, owner.

SUBJECT - Application January 7, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired January 29, 2002.

PREMISES AFFECTED - 3802 Avenue U, southeast corner of East 38th Street, between Ryder Avenue and East 38th Street, Block 8755, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Harold Weinberg, P.E.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to February 15, 2005, at 10 A.M., for decision, hearing closed.

803-61-BZ

APPLICANT - Eric Palatnik, P.C., for Philip and Martin Blessinger, owner; BP Products North America, owner.

100-71-BZ

APPLICANT - The Agusta Group, for Maurice Cohen/1065 Eagle, LLC, owner.

SUBJECT - Application July 21, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of

SUBJECT - Application to reopen and amend the BSA resolution to extend the time to obtain a Certificate of Occupancy. On December 9, 2003 the Board issued a resolution and required that a new Certificate of Occupancy be obtained within Twelve (12) months from the date of the resolution. The period in which to obtain the C of O expires December 9, 2004.

PREMISES AFFECTED - 1416 Hylan Boulevard, corner of Hylan Boulevard and Reid Street, Block 3350, Lot 30, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to February 8, 2005, at 10 A.M., for decision, hearing closed.

785-67-BZ

APPLICANT - Eric Palatnik, P.C., for Park Circle Realty Associates, owner; BP Products North America, lessee.

SUBJECT - Application - September 13, 2004 - to reopen and amend the BSA resolution to extend the time to obtain a Certificate of Occupancy. On December 9, 2003 the Board issued a resolution and required that a new Certificate of Occupancy be obtained within Twelve (12) months from the date of the resolution. The period in which to obtain the C of O expires December 9, 2004.

PREMISES AFFECTED - 577/89 Marcy Avenue, Southeast corner of Marcy Avenue and Myrtle Avenue, Block 1755, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to February 8, 2005, at 10 A.M., for decision, hearing closed.

term of variance to permit the use of an open area for the sale of used cars (U.G. 16) and accessory parking on a lot containing an existing automobile repair shop, located in an R5 zoning district.

PREMISES AFFECTED - 61-03 Northern Boulevard, northeast corner of Northern Boulevard, and 61st Street, Block 1162, lot 53,

MINUTES

Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to March 8, 2005, at 10 A.M., for continued hearing.

300-73-BZ

APPLICANT - Rothkrug Rothkrug Weinberg and Spector, LLP, for Vito Santoro, owner.

SUBJECT - Application March 2, 2004 - Reopening for an extension of term for a commercial vehicle storage facility and for an amendment to convert a portion of the facility for minor auto repair UG 16, located in an R-5 zoning district.

PREMISES AFFECTED - 101-08 97th Avenue, 97th Avenue, 50' west of 102nd Street, Block 9403, Lot 3, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to March 1, 2005, at 10 A.M., for continued hearing.

53-86-BZ

APPLICANT - Sheldon Lobel, P.C., for Hallmark Equities, L.P., owner.

SUBJECT - Application June 29, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of time to obtain a Certificate of Occupancy which expired January 19, 2000.

PREMISES AFFECTED - 350 Wadsworth Avenue, west side of Wadsworth Avenue, 72.3' north of West 190th Street, Block 2170, Lot 281, Borough of Manhattan.

COMMUNITY BOARD #12M

APPEARANCES -

For Applicant: W. Tyler Fairbairn.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to February 15, 2005, at 10 A.M., for decision, hearing closed.

178-03-BZ

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

WHEREAS, by letter dated November 10, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated July 30, 2004, acting on Department of Buildings Application No. 401953374 is modified under the power vested in the Board by Section 35 of

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

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

COMMUNITY BOARD #10Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to January 25, 2005, at 10 A.M., for continued hearing.

278-04-A

APPLICANT - Gary Lenhart, R.A., for One Breezy Point Cooperative, Inc., owner; Ann-Marie & Edward Reilly, lessees.

SUBJECT - Application August 10, 2004 - Proposed reconstruction and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35 of the General City Law.

PREMISES AFFECTED - 21 State Road, a/k/a Rockaway Point Boulevard, north side, 83.42' east of Beach 178th Street, Block 16340, Lot 50, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Appeal granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated July 30, 2004, acting on Department of Buildings Application No. 401953374, reads in pertinent part:

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

WHEREAS, a public hearing was held on this application on January 11, 2005, after due notice by publication in the *City Record*, and then to decision on January 25, 2005; and

WHEREAS, by letter dated August 23, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated October 19, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked, “Received January 14, 2005” - (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition:*

THAT this approval is limited to the relief granted by the

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

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

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

Adopted by the Board of Standards and Appeals, January 25, 2005.

279-04-A

APPLICANT - Gary Lenhart, R.A., for One Breezy Point Cooperative, Inc., owner; Karen & Walter Zunic, lessees.

SUBJECT - Application August 10, 2004 - Proposed enlargement of an existing one family dwelling, located within the bed of a mapped street, and has a private disposal system situated in the bed of the service lane, is contrary to Section 35, Article 3 of the General City Law and Department of Buildings Policy.

PREMISES AFFECTED - 29 Suffolk Walk, east side, 240.37' south of Sixth Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Appeal granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated July 30, 2004 acting on Department of Buildings Application No. 401867388 which reads in pertinent part:

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

A-2 The proposed upgraded private disposal system is in the bed of the service lane contrary to Department of Buildings Policy.”;

WHEREAS, a public hearing was held on this application on January 11, 2005 after due notice by publication in the City
PREMISES AFFECTED - 115 Beach 215th Street, east side, 280' south of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Appeal granted on condition

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and

Record, and then to decision on January 25, 2005; and

WHEREAS, by letter dated August 23, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated October 19, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated November 10, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated July 30, 2004, acting on Department of Buildings Application No. 401867388 is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked, “Received January 14, 2005”- (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

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

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

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

Adopted by the Board of Standards and Appeals, January 25, 2005.

341-04-A

APPLICANT - Gary Lenhart, R.A., for One Breezy Point Cooperative, Inc., owner; Jacqueline Amari, lessee.

SUBJECT - Application October 20, 2004 - Proposed alteration and enlargement of an existing single family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated October 4, 2004 acting on Department of Buildings Application No. 401946034 which reads in pertinent part:

“A-1 The street giving access to the existing dwelling to be altered is not duly placed on the Official map of the City of New York,

MINUTES

therefore a Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law;

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

WHEREAS, a public hearing was held on this application on January 11, 2005 after due notice by publication in the *City Record*, and then to decision on January 25, 2005; and

WHEREAS, by letter dated November 5, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated October 4, 2004, acting on Department of Buildings Application No. 401946034 is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked, “Received October 20, 2004”- (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

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

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

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

Adopted by the Board of Standards and Appeals, January 25, 2005.

342-04-A

APPLICANT - Gary Lenhart, R.A., for One Breezy Point Cooperative, Inc., owner; Patricia & John Martin, lessees.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated October 8, 2004, acting on Department of Buildings Application No. 401946025 is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked, “Received January 14, 2005”- (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules,

SUBJECT - Application October 20, 2004 - Proposed reconstruction and enlargement of an existing single family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 124 Reid Avenue, west side, 230' south of Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Appeal granted on condition THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated October 8, 2004 acting on Department of Buildings Application No. 401946025 which reads in pertinent part:

“A-1 The street giving access to the existing dwelling to be altered is not duly placed on the Official map of the City of New York, therefore a Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law;

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

A-2 The proposed upgraded private disposal system is in the bed of a service lane contrary to Department of Buildings Policy.”; and

WHEREAS, a public hearing was held on this application on January 11, 2005 after due notice by publication in the *City Record*, and then to decision on January 25, 2005; and

WHEREAS, by letter dated November 5, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

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

and regulations shall be complied with; and on further condition:

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

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

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

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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, January 25, 2005.

343-04-A

APPLICANT - Gary Lenhart, R.A., for One Breezy Point Cooperative, Inc., owner; Mary & Michael Cotter, lessees.

SUBJECT - Application October 20, 2004 - Proposed alteration and enlargement of an existing single family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 35 Beach 220th Street, east side, 260.92' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Appeal granted on condition

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated October 8, 2004 acting on Department of Buildings Application No. 401990976, which reads in pertinent part:

“A-1 The street giving access to the existing dwelling to be altered is not duly placed on the Official map of the City of New York, therefore a Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law;
Existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space and is contrary to Section 27-291 of the Administrative Code of the City of New York.”; and

WHEREAS, a public hearing was held on this application on January 11, 2005 after due notice by publication in the *City Record*, and then to decision on January 25, 2005; and

20 Tompkins Place, 125' east of Court Street, Block 522, Lot 15, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Willy C. Yuin.

For Opposition: Michael Arvanites.

ACTION OF THE BOARD -Laid over to March 1, 2005, at 10 A.M., for continued hearing.

273-04-A

WHEREAS, by letter dated November 5, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated October 8, 2004, acting on Department of Buildings Application No. 401990976 is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked, “Received October 20, 2004”- (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

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

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

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

Adopted by the Board of Standards and Appeals, January 25, 2005.

45-04-A through 49-04-A

APPLICANT - Willy C. Yuin, R.A., for Gal Sela, owner.

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

PREMISES AFFECTED -

4 Tompkins Place, 125' east of Court Street, Block 522, Lot 20, Borough of Staten Island.

8 Tompkins Place, 125' east of Court Street, Block 522, Lot 18, Borough of Staten Island.

12 Tompkins Place, 125' east of Court Street, Block 522, Lot 17, Borough of Staten Island.

16 Tompkins Place, 125' east of Court Street, Block 522, Lot 16, Borough of Staten Island.

APPLICANT - Michael S. Gruen, Esq. for Katrina Maxtone Graham, Felix C. Ziffer, Michelle R. Yogada, Stanley Ely. adjacent neighbors.

OWNER - Allen Stevenson School.

SUBJECT - Application August 5, 2004 - An Administrative Appeal challenging the Department of Building's final determination dated August 3, 2004 in which the Department refused to revoke approvals and permits which allow an enlargement of a school that violates the rear yard requirements under ZR Sections 33-26 and 33-301.

PREMISES AFFECTED - 128/32 East 78th Street and 121/23

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East 77th Street, between (but not abutting) Park and Lexington Avenues, Block 1412, Lot 58, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Michael Gruen and Stanley Ely.

For Opposition: Marvin Mitzner.

For Administration: Janine Gayland, Department of Buildings.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to March 8, 2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 11:10 A.M.

REGULAR MEETING

TUESDAY AFTERNOON, JANUARY 25, 2005

2:00 P.M.

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

ZONING CALENDAR

391-03-BZ

CEQR #04-BSA-110K

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

SUBJECT - Application December 22, 2003 - under Z.R. §72-21 to permit the proposed construction of an eight-story plus basement

WHEREAS, the decision of the Borough Commissioner, dated March 10, 2005, acting on Department of Buildings Application No. 103080336, reads:

“Proposed construction of a new building to be operated as a gasoline filling station with an accessory convenience store (Use Group No. 16) located in a C2-3 within an R5 Zoning District [is not permitted] per NYC Zoning Code Section 32-00 [and] therefore must be referred to the BSA.” and

WHEREAS, a public hearing was held on this application on September 14, 2004 after due notice by publication in The City Record, with continued hearings on October 19, 2004 and December 14, 2004, and then to decision on January 25, 2005;

residential building, Use Group 2, located in an R6 zoning district, which does not comply with the zoning requirements for maximum building height and floor area, is contrary to Z.R. §23-633 and §23-145.

PREMISES AFFECTED - 1288 East 19th Street, between Avenues "L and M", Block 6738, Lots 36, 38, 137 and part of 136, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

Adopted by the Board of Standards and Appeals, January 25, 2005.

136-04-BZ

CEQR #04-BSA-147K

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

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

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

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

and

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

WHEREAS, Community Board 7, Brooklyn, recommended conditional approval of the subject application; and

WHEREAS, this is an application for a special permit pursuant to Z.R. §§73-211 and 73-03, on a site previously the subject of various applications before the Board, to permit, in an R5/C2-3 zoning district within the Ocean Parkway Special District, the redevelopment of an existing gasoline service

MINUTES

station, contrary to Z.R. §32-00; and

WHEREAS, on May 15, 1962, under BSA Cal. No. 617-47-BZ (Vol. II), the Board granted an application for the reconstruction of a gasoline service station, with various accessory uses; and

WHEREAS, this grant has subsequently been amended at various times, most recently on February 28, 1995, when the Board granted an application to permit construction of a retail convenience store in addition to other structural alterations; and

WHEREAS, due to a fire that destroyed most of the existing building on the site, the applicant now seeks the total redevelopment of site through the subject special permit application; and

WHEREAS, the site contains approximately 28,256 sq. ft. of lot area, and has frontages of 264 feet along Fort Hamilton Parkway, 155 feet along East Second Street, 250 feet along Caton Avenue, and 70 feet along McDonald Avenue; and

WHEREAS, the applicant represents that the proposed redevelopment includes the demolition of the existing fire-damaged service station and the construction of a 3,817 sq. ft. gasoline service station with accessory convenience store to contain 1,748 sq. ft. of sales area, as well as the alteration of the existing signage, installation of a new canopy, installation of one new underground storage tank, relocation of the existing pump islands, the addition of two new pump islands, and the creation of two new curb cuts on Fort Hamilton Parkway and one new curb cut on McDonald Avenue for safer vehicular egress and ingress; and

WHEREAS, the applicant further represents that gasoline sales alone will not provide the service station with enough profit to make the use of the site by the station viable, and that the convenience store use is therefore necessary; and

WHEREAS, Z.R. §73-211(a) requires that a site contain a minimum lot area of 7,500 square feet; the subject development proposal complies with this requirement as the site has a lot area of 28,256 sq. ft.; and

WHEREAS, Z.R. §73-211(b) limits the proposed use to 15,000 square feet for sites not located on an arterial highway or major street; and

WHEREAS, the applicant states, and the Board agrees,

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; 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, the New York State Department of Environmental Conservation ("NYSDEC") has approved, through a letter dated November 12, 2004, the Remedial

that Fort Hamilton Parkway and McDonald Avenue are major streets; thus, this limitation is not applicable; and

WHEREAS, at hearing, the Board expressed concern that the site access layout would compromise the safe egress and ingress from the site; in particular, the Board was concerned that the traffic controls on McDonald Avenue would not allow for safe egress from the site; and

WHEREAS, accordingly, the Board asked the applicant's traffic engineer for further explication of the traffic controls near the site; and

WHEREAS, the traffic engineer, in a written submission dated December 15, 2004, stated that the projected traffic volume entering and exiting the McDonald Avenue driveway was considered and that traffic signal operation and phasing along McDonald Avenue will provide for the safe operation of the proposed site access design, including this driveway; and

WHEREAS, based upon this submission, the Board has determined that the entrances and exits are planned so that at maximum operation, vehicular traffic into or from the premises will cause a minimum obstruction on the streets or sidewalks; and

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

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-211 and 73-03.

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 04-BSA-147K dated June 29, 2004; and

Action Plan ("RAP") described in a report dated November 4, 2004 prepared by Geologic Services Corporation ("GSC"); 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 stipulated on the conditions noted below under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality

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Review and makes each and every one of the required findings under Z.R. §§73-211 and 73-03, on a site previously the subject of various applications before the Board, to permit, in a R5/C2-3 zoning district within the Ocean Parkway Special District, the redevelopment of an existing gasoline service station, contrary to Z.R. §32-00; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 5, 2004"-(6) sheets; and on further condition:

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

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

THAT reservoir space for five waiting vehicles shall be provided;

THAT all signage shall comply with applicable C2-3 zoning district regulations;

THAT all fencing and landscaping as shown on the BSA-approved plans shall be installed and maintained in good condition;

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

THAT, the Applicant shall comply with all remedial activities stated in the RAP and shall consult with the NYSDEC with any substantive changes that may affect the RAP; and

THAT, the Applicant shall conduct a review of FDNY Underground Storage Tanks ("USTs") records to determine if there is additional information related to former UST locations. GSC will complete the investigative activities proposed in the RAP during Site redevelopment; and

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

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

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

Adopted by the Board of Standards and Appeals, January 25, 2004.

WHEREAS, Community Board 6, Brooklyn, recommended conditional approval of this application; and

WHEREAS, the subject site is located on the north side of Carroll Street between Nevins Street and Third Avenue, with a total lot area of 2,500 sq. ft., and is improved upon with an existing four-story building; and

WHEREAS, the applicant states that the existing building was occupied for several decades by a manufacturer of precision-machined components, but then this use was discontinued in 2003 and the building has subsequently been vacant; and

WHEREAS, the applicant originally proposed the

147-04-BZ

CEQR #04-BSA-157K

APPLICANT - Sullivan, Cheser & Gardner, P.C., for Ben Schrank, owner.

SUBJECT - Application April 8, 2004 - under Z.R. §72-21 to permit the proposed conversion of a light manufacturing building, to residential use, Use Group 2, located in an M1-2 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 459 Carroll Street, 175' west of the corner of Carroll Street and Third Avenue, Block 447, Lot 46, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 30, 2004 acting on Department of Buildings Application No. 301691364, reads:

"Change of use from manufacturing to residential contrary to zoning, refer to Board of Standards and Appeals."; and

WHEREAS, a public hearing was held on this application on September 21, 2004 after due notice by publication in The City Record, with continued hearings on October 26, 2004, and then to decision on November 23, 2004, on which date the decision was deferred to January 25, 2005; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, within an M1-2 zoning district, the conversion of an existing four-story industrial building into a two-family residential building, contrary to Z.R. §42-00; and

addition of a partial fifth floor to the existing building, but, in response to Board concerns, the proposal was modified to reflect a conversion within the envelope of the existing building; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformity with underlying district regulations: (1) the existing building has narrow and irregularly shaped floors which make it difficult to locate and position manufacturing equipment; (2) the lack of storage space makes it necessary to store items offsite; and (3) due to the narrow wooden staircase and the

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limited-capacity freight elevator, it is difficult to move machines, parts and goods from floor to floor; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulties in developing the site in conformity with the current zoning; and

WHEREAS, the applicant submitted a feasibility study demonstrating that a conforming manufacturing use would not yield a reasonable return; and

WHEREAS, the applicant also submitted evidence of failed marketing attempts for a conforming use; and

WHEREAS, at the request of the Board, the applicant evaluated a scenario with conforming retail use on the first floor of the existing building; and

WHEREAS, as part of this evaluation, the applicant conducted a survey of ground floor uses in the vicinity; and

WHEREAS, the applicant conducted such a survey, and concluded that because Carroll Street is a residential cross street, there is no critical foot traffic that would create a market for a ground-floor retail space, unlike nearby Fifth Avenue; and

WHEREAS, the applicant submitted documentation that in the two blocks along Carroll Street immediately adjacent to the property, there is only one existing ground floor retail space, which the applicant states is currently for sale; and

WHEREAS, the applicant also submitted a letter from a broker confirming that the ground floor space would not be able to support a retail use; and

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

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood; and

WHEREAS, the applicant states that the buildings surrounding the property are predominantly residential, and that while the property is within an M1-2 district, it is adjacent to R6, R6B and R7B zoning districts; and

WHEREAS, the applicant states that 34 out of the 47 lots surrounding the property on tax block 447, as well as 25 of the 36 lots facing Carroll Street between Nevins and Third

WHEREAS, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection ("DEP") has reviewed the October 7, 2003 Phase I Environmental Site Assessment Report, the January 17, 2005 letter from Sullivan, Chester & Gardner P.C., and the December 23, 2004 and January 14, 2005 letters from Environmental Risk and Loss Control, Inc.; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials impacts and provided remediation proposals; and

WHEREAS, DEP concurs with the remediation proposals included in the December 23, 2004 letter and recommends that each proposal be implemented; and

WHEREAS, the applicant agrees as a condition to the

Avenue, are occupied by residential uses; and

WHEREAS, the Board has conducted a site visit and concludes that residential use of the site is appropriate given the predominance of residential use in the immediate area; and

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

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

WHEREAS, after accepting guidance from the Board as to the proper amount of relief necessary to alleviate the hardship associated with the site, the applicant eliminated the proposed addition of a fifth floor; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 04-BSA-157K dated April 5, 2004; 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; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the action is located within New York City's Coastal Zone Boundary, and has been determined to be consistent with the New York City Waterfront Revitalization Program; and

grant herein that a written remediation schedule setting forth all remediation proposals and the estimated start and completion dates shall be submitted to DEP (with a copy to the BSA) prior to commencement of any remediation work; and

WHEREAS, the applicant agrees as a further condition to the grant herein that, upon completion of all remedial actions, a final written report should be prepared and signed by Environmental Risk and Loss Control, Inc., and provided to DEP (with a copy to the BSA) for review and approval; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal so long as the remediation proposals are implemented and completed; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact

MINUTES

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, with conditions as stipulated below, 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 Z.R. §72-21 and grants a variance to permit, within an M1-2 zoning district, the conversion of an existing four-story industrial building into a two-family residential building, contrary to Z.R. §42-00; 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 November 12, 2004"- (9) sheets; and on further condition:

THAT prior to commencement of any remediation work or issuance of any building or other permit, the applicant shall submit a written remediation schedule setting forth all remediation proposals and the estimated start and completion dates to DEP (with a copy to the BSA);

THAT prior to issuance of any Certificate of Occupancy, either permanent or temporary, the applicant shall ensure that all remediation measures identified in the December 23, 2004 letter from Environmental Risk and Loss Control, Inc. have been implemented and completed; satisfaction of this condition shall occur only when the applicant provides a final written report to DEP (with a copy to the BSA), and DEP formally determines that the remediation proposals have been satisfactorily implemented and completed;

THAT if, at any point prior to issuance of a permanent Certificate of Occupancy, DEP determines that further remediation proposals are necessary, the applicant shall implement and complete such measures at the direction of DEP; all such additional measures shall be reflected on a revised written remediation schedule, which shall be forwarded to both DEP and the BSA;

THAT this approval is limited to the relief granted by the WHEREAS, a public hearing was held on this application on December 14, 2004 after due notice by publication in *The City Record*, and then to decision on January 25, 2005; and

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

WHEREAS, Community Board No. 2, Manhattan, recommended approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit a proposed physical culture establishment on the cellar, first floor and mezzanine of an existing mixed-use building, located within a M1-5B zoning district, contrary to Z.R. § 42-10; and

WHEREAS, the subject premises is occupied by a twelve-story, mixed-use residential and commercial building

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

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

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

Adopted by the Board of Standards and Appeals, January 25, 2005.

238-04-BZ

CEQR #04-BSA-220M

APPLICANT - Agusta & Ross, for C - Squarewood, LLC, owner; New York Health & Racquet Club, lessee.

SUBJECT - Application June 23, 2004 - under Z.R. §73-36 to permit the proposed physical culture establishment, to be located in the cellar, also on the first and mezzanine floors, of an existing twelve story mixed-use building, located in an M1-5B zoning district.

PREMISES AFFECTED - 62 Cooper Square, west side, 159.05' south of Astor Place, Block 544, Lot 7501 (condo), Zoning Lots 32, 33 and 34, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Mitchell Ross.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner dated June 2, 2004, acting on Department of Buildings Application No. 103728325, reads:

"The Proposed Health Establishment is not permitted use as of right in an M1-5B zoning district and is therefore contrary to Section 42-10 Z.R."; and containing 27 apartments and commercial condominiums, located on the westerly side of Cooper Square, south of Astor Place; and

WHEREAS, the applicant represents that the PCE will have a total area of 16,847 sq. ft., with 5,990 sq. ft. in the cellar, 7,108 sq. ft. on the first floor and 3,749 sq. ft. on the mezzanine floor; and

WHEREAS, the applicant states that the PCE will have facilities for classes, instruction and programs for physical improvement, such as strength and resistance training, yoga, weight training and aerobic training, as well as the practice of massage performed by New York State licensed masseurs or masseuses; and

WHEREAS, the applicant will install sound attenuation measures, as outlined in a report from the acoustical

MINUTES

consultant, dated January 7, 2005; and

WHEREAS, additionally, the applicant has agreed to install certain fire safety measures as requested by the Fire Department; and

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

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

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

WHEREAS, therefore the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA- 220M, dated July 13, 2004; 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; 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

THAT the following sound attenuation measures shall be installed and maintained:

1. Installation of locked sound limiters for each zone.
2. A distributed sound system consisting of numerous small speakers will be used for all music playback systems, both in the main space and in the spin room; no large speakers (woofer larger than 8" diameter) shall be used.
3. The speakers will be mounted using resilient mounts.
4. The treadmill area on the mezzanine will contain resilient isolation under each machine.
5. The weight and machines area on the first floor will be isolated using a spring isolator system.
6. To contain the loud music in the "spin" area in

WHEREAS, per the Landmarks Preservation Commission's comments of September 13, 2004, as the site is located in the NOHO Historic District, a permit from LPC is required for all work prior to construction; said permit should be appended to the EAS; 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 Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617.4 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 Z.R. §§ 73-36 and 73-03, to permit the proposed physical culture establishment use on the cellar floor, first floor and mezzanine of an existing mixed-use building, located within a M1-5B zoning district, contrary to Z.R. §42-10; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 14, 2005" - (1) one sheet and "January 21, 2005" - (3) three sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years from January 25, 2005, expiring January 25, 2015;

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

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

THAT the hours of operation shall be limited to: Monday through Sunday 6 AM to 11 PM;

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

THAT that all fire protection measures indicated on the BSA-approved plans shall be installed and maintained;

the rear of the first floor, a double wall around the "spin" area shall be built, and a soundlock with solid core doors shall be installed.

THAT all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT no building permit shall be issued until the Landmarks Preservation Commission issues a certificate of appropriateness or no effect, or otherwise indicates its formal consent to the proposed use;

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

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

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

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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, January 25, 2005.

263-04-BZ

CEQR #05-BSA-015K

APPLICANT - The Law Office of Fredrick A. Becker, for Jack Zarif and Randy Zarif, owners.

SUBJECT - Application July 22, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence in an R3-1 zoning district, which exceeds the allowable floor area, causes an increase in lot coverage, has a non-complying rear yard, and a perimeter wall that exceeds the maximum permitted, is contrary to §23-141, §23-631, and §23-47.

PREMISES AFFECTED - 150 Girard Street, between Hampton Avenue and Oriental Boulevard, 360' south of Hampton Avenue, Block 8749, Lot 262, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Lyra Altman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 13, 2005, acting on Department of Buildings Application No. 301759194, reads, in pertinent part:

“The proposed enlargement of the existing one family residence in an R3-1 zoning district.:

- 1. Causes an increase in the floor area exceeding the allowable floor area ratio and is contrary to the allowable floor area ratio allowed by section

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

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

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

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

WHEREAS, the Board 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

23-141 of the Zoning Resolution

- 2. Causes an increase in the lot coverage exceeding the allowable lot coverage allowed by section 23-141 of the Zoning Resolution.

- 3. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the 30'-0" that is required.”; and

WHEREAS a public hearing was held on this application on December 7, 2004 after due notice by publication in *The City Record*, and then to January 11, 2005 for decision, on which date the decision was adjourned to January 25, 2004; and

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

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R3-1 zoning district, which does not comply with the zoning requirements for floor area, lot coverage, and rear yard, contrary to Z.R. §§ 23-141 and 23-47; and

WHEREAS, the subject lot is located on the west side of Girard Street, between Hampton Avenue and Oriental Boulevard, with a total lot area of 6,000 square feet, and is improved upon with an existing two-story, attic and cellar residential structure; and

WHEREAS, the applicant seeks to enlarge the existing structure through the construction of an addition to the second floor and attic levels; and

WHEREAS, the applicant seeks an increase in the floor area from 3,958 sq. ft. (0.66 Floor Area Ratio or “FAR”) to 5,300 sq. ft. (0.88 FAR) – the maximum floor area permitted is 3,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant seeks to increase the lot coverage from 32% to 37% - the maximum permitted is 35%; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R3-1 zoning district, which does not comply with the zoning requirements for floor area, lot coverage, and rear yard, contrary to Z.R. §§ 23-141 and 23-47; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked “Received July 22, 2004”– (8) sheets, “Received October 18, 2004”– (1) sheet; and “Received December 27, 2004”– (1) sheet and on further condition;

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THAT there shall be no habitable room in the cellar;
THAT the above condition shall be set forth on the certificate of occupancy;

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

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, January 25, 2005.

102-03-BZ

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

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

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

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jordan Most.

For Opposition: Brandon Cole, Steven Frankel and Janyce Stefan.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to February 8, 2005, at 1:30 P.M., for deferred decision.

348-03-BZ

APPLICANT - The Agusta Group, for Sebastiano Manciameli, owner.

SUBJECT - Application November 14, 2003 - under Z.R. §72-21 to permit the proposed construction of a three story, one family semi-detached dwelling, which does not comply with the minimum eight foot side yard, is contrary to Z.R. §23-461(a).

PREMISES AFFECTED - 66-18 74th Street, west side, 169' south of Juniper Valley Road, Block 3058, Lot 35, Borough of Queens.

COMMUNITY BOARD #5Q

Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to March 8, 2005, at 1:30 P.M., for decision, hearing closed.

218-03-BZ

APPLICANT - Gerald J. Caliendo, R.A., for TTW Realty LLC, owner.

SUBJECT - Application June 25, 2003 - under Z.R. §72-21 to permit the proposed nine-story mixed use building with residential, commercial and community facility uses, located in an M1-1 zoning district, which does not comply with the zoning requirements for the uses, permitted floor area, total height and perimeter wall, is contrary to Z.R. §42-00, §23-141 and §23-631.

PREMISES AFFECTED - 19-73 38th Street, corner of 20th Avenue, Steinway Street and 38th Street, Block 811, Lot 1, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

for Applicant: Sandy Anagnostou.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to April 5, 2005, at 1:30 P.M., for decision, hearing closed.

291-03-BZ

APPLICANT - Stuart A. Klein, Esq., for 6202 & 6217 Realty Company, owner.

SUBJECT - Application September 4, 2003 - under Z.R. §72-21 to permit the proposed residential building, Use Group 2, located on a site in that is in an M1-1 and an R5 zoning district, which is contrary to Z.R. §42-00.

APPEARANCES -

For Applicant: Nelly Minella.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to March 8, 2005, at 1:30 P.M., for decision, hearing closed.

355-03-BZ

APPLICANT - Agusta & Ross, for D'Angelo Properties, Inc., owner.

SUBJECT - Application September 27, 2004 - under Z.R. §72-21 to permit the proposed four story and penthouse mixed-use multiple dwelling, Use Groups 2 and 6, in a C2-2/R4 zoning district, which does not comply with the zoning requirements for residential floor

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area, building height, number of dwelling units and residential front yard, is contrary to Z.R. §23-141, §23-60, §35-20, §23-22 and §23-45.

PREMISES AFFECTED - 64-01/07 Grand Avenue, northeast corner of 64th Street, Block 2716, Lot 1, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES -

For Applicant: Mitchell Ross, Mildred Brown, Patrick Benenati, John D. Gangi, Christina Lowes, Roberto Amwi and Jan Curcid.

For Opposition: Manny Carvana, Robert Holden, Christine Jobocienska, Rosemary Felle, Warren Chow, Anthony Nunziato Sr., Edward Kamperman, Anthony Nunziato Jr., Vytas Volertas, M. Zero and Beth Kempista.

ACTION OF THE BOARD - Laid over to March 8, 2005, at 1:30 P.M., for continued hearing.

369-03-BZ

APPLICANT - Sheldon Lobel, Esq. for Queens Boulevard Spa Corp. dba Sky Athletic, lessee.

SUBJECT - Application December 2, 2003 - under Z.R. §72-21 to permit part of the cellar and ground level of an existing two story building within an R7-1/C1-2 district to be occupied as physical cultural establishment.

PREMISES AFFECTED - 99-01/23 Queens Boulevard, between 66th Road and 67th Avenue, Block 2118, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Janice Cahalane and Dr. Albert Marango.

ACTION OF THE BOARD - Laid over to February 15, 2005, at 1:30 P.M., for continued hearing.

20-04-BZ

APPLICANT - Eric Palatnik, P.C., for Marcia Dachs, owner.

SUBJECT - Application February 9, 2004 - under Z.R. §72-21 to permit the proposed construction of a single family dwelling, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for side yards, floor area ratio, open space ratio and open space, is contrary to Z.R. §23-141(a), §23-45 and §23-461.

PREMISES AFFECTED - 5723 17th Avenue, corner of 58th Street, Block 5498, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Eric Palatnik, Steve Wygoda and Mrs. Rottenberg.

ACTION OF THE BOARD - Laid over to March 1, 2005, at 1:30 P.M., for continued hearing.

22-04-BZ

APPLICANT - Sheldon Lobel, P.C., for 2556 Miftar Corp.,

385-03-BZ

APPLICANT - Joseph P. Morsellino, for Fabian Organization II, LLC, owner.

SUBJECT - Application December 12, 2003 - under Z.R. §72-21 to permit the proposed erection of a six-story multiple dwelling with 46 Units, located in an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, dwelling units, and height and setback, is contrary to Z.R. §23-141(c), §23-22 and §23-631(b).

PREMISES AFFECTED - 85-15 & 85-17 120th Street, southeast corner of 85th Avenue, Block 9266, Lots 48 and 53, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

ACTION OF THE BOARD - Laid over to March 8, 2005, at 1:30 P.M., for continued hearing.

6-04-BZ

APPLICANT - Sheldon Lobel, Esq. for TSI Bay Ridge, Inc. dba New York Sports Club, lessee.

SUBJECT - Application January 7, 2004 - under Z.R. §72-21 to legalize an existing physical cultural establishment in a three story building within a R-6/C1-3/R-6 zoning district.

PREMISES AFFECTED - 7118-7124 Third Avenue, between 71st street and 72nd Street, Block 5890, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES -

For Applicant: Janice Cahalane.

For Opposition: Veronica Pawon, John Pawson, Michael Riccio Jr., Mary Riccio.

ACTION OF THE BOARD - Laid over to March 15, 2005, at 1:30 P.M., for continued hearing.

owner.

SUBJECT - Application February 9, 2004 - under Z.R. §72-21 to permit the proposed construction of a six-story garage, plus a cellar and sub-cellar, to be occupied as an enclosed fully attended commercial parking facility, Use Group 8C, located in an R7-1 zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 2556 Briggs Avenue, fronting on Briggs Avenue, Poe Place and Coles Lane, Block 3293, Lots 21 and 90, Borough of The Bronx.

COMMUNITY BOARD #7BX

APPEARANCES -

For Applicant: Elysa Hwu.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to March 1, 2005, at 1:30 P.M., for decision, hearing closed.

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168-04-BZ

APPLICANT - Jay A. Segal, Esq., Greenberg Traurig LLP, for Greenwich Triangle 1, LLC, owner.

SUBJECT - Application April 23, 2004 - under Z.R. §72-21 to permit

the proposed construction of an eight story building, with residential use on its upper seven floors, in an M1-5 zoning district, within the Special Tribeca Mixed Use District, is contrary to Z.R. §111-02.

PREMISES AFFECTED - 500 Canal Street, (a/k/a 471 Greenwich Street), triangle bounded by Canal, Watts and Greenwich Streets, Block 594, Lots 1 and 3, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: Jay Segal.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to March 1, 2005, at 1:30 P.M., for decision, hearing closed.

225-04-BZ

APPLICANT - Jay A. Segal, Esq., for 201 Berry Street, LLC, c/o Martin Edward, Management, owner.

SUBJECT - Application September 28, 2004 - under Z.R. §72-21 to permit the construction of three four-story residential buildings in an M1-2 zoning district contrary to Z.R. §42-10.

PREMISES AFFECTED - 201 Berry Street (a/k/a 121-157 North 3rd Street; 248-252 Bedford Avenue; 191-205 Berry Street), North 3rd Street from Bedford Avenue to Berry Street (northern

APPLICANT - Jay A. Segal, Esq., Greenberg Traurig, LLP, for MKD Group, LLC, owner.

SUBJECT - Application July 15, 2004 - under Z.R. §72-21 to permit the conversion and enlargement of an existing two-story, vacant industrial building in an M1-2 zoning district contrary to Z.R. §42-10.

PREMISES AFFECTED - 170 North 11th Street. South side of North 11th Street between Bedford Avenue and Driggs Avenue, Block 2298, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jay Segal.

For Opposition: Michael Freedman Schnapp and Dawn Ladd.

ACTION OF THE BOARD - Laid over to March 8, 2005, at 1:30 P.M., for continued hearing.

264-04-BZ

APPLICANT - Eric Palatnik, P.C., for Glak Operating Corp., owner.

SUBJECT - Application July 27, 2004 - under Z.R. §§11-412 and 11-413 to permit the legalization of the change in use from motor vehicle repair shop and gasoline service station, Use Group 16, to retail use, Use Group 6, also proposed alterations to the site to

part of block bounded by North 4th Street), Block 2351, Los 1, 28 and 40, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jay Segal.

For Opposition: Richard Drake.

ACTION OF THE BOARD - Laid over to March 1, 2005, at 1:30 P.M., for continued hearing.

228-04-BZ

APPLICANT - Louis Ari Schwartz, for Louis Ari Schwartz, owner.

SUBJECT - Application September 2, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family dwelling, which does not comply with the zoning requirements for floor area ratio, open space ratio and rear yard, is contrary to Z.R. §23-141(a) and §23-47.

PREMISES AFFECTED - 1400 East 22nd Street, west side, 300' south of Avenue "M", Block 7657, Lot 62, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Lewis Garfinkel.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to February 8, 2005, at 10 A.M., for continued hearing.

252-04-BZ

effectuate the desired change in use, which requires a special permit.

PREMISES AFFECTED - 977 Victory Boulevard, northeast corner of Cheshire Place, Block 240, 26, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to February 15, 2005, at 1:30 P.M., for decision, hearing closed.

295-04-BZ

APPLICANT - Amato & Associates, P.C., by Alfred L. Amato, for Benevolent and Protective Order of Elks, Staten Island Lodge No. 841, owners.

SUBJECT - Application August 27, 2004 - under Z.R. §§73-30 & 22-21 to permit approval sought from Verizon Wireless to erect a 100 foot monopole in an R3-2 and Special South Richmond Development District. The proposed tower will be located on a portion of a site currently occupied by a community facility. There is

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also proposed an accessory 360 SF communications shelter. The proposal also requires CPC Special Permit approval pursuant to Section 107-73, which allows the placement of a structure higher than 50 feet in the Special South Richmond Development District. PREMISES AFFECTED - 3250 Richmond Avenue, corner of Richmond and Wainwright Avenues, Block 5613, Part of Lot 400, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Ginny Watral and Al Amato.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

ACTION OF THE BOARD - Laid over to March 8, 2005, at 1:30 P.M., for decision, hearing closed.

363-04-BZ

APPLICANT - Herrick Feinstein, LLP, for 6002 Fort Hamilton Parkway Partners, owners.

SUBJECT - Application November 18, 2004 - under Z.R. §§72-01(b) and 72-21 to permit in an M1-1 district, approval sought to convert an existing industrial building to residential use. The proposed development will contain 115,244 SF of residential space containing 90 dwelling units, as well as 9,630 SF of retail space. There will be 90 parking spaces. The development is contrary to district use regulations per Section 42-00.

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

233-04-BZ

APPLICANT - Kevin McGrath, Esq. c/o Phillips Nizer, for F&T International, owner.

SUBJECT - Application June 18, 2004 - under Z.R. §72-21 to permit the proposed development of a twelve story building, which will contain a mix of retail uses, office space, community facility space and two levels of underground parking, located in a C4-3 zoning district, which does not comply with the zoning requirements for floor area ratio, accessory off-street parking, off-street loading berths and building height, is contrary to Z.R. §32-423, §33-122, §35-31, §36-20, §36-62, §61-00 and §61-40.

PREMISES AFFECTED - 136-20 38th Avenue, (a/k/a 38-21 Main Street, 136-17 39th Avenue, 38-10 138th Street and 38-25 Main Street), north side of the intersection of Main Street and 39th Avenue, Block 4978, Lot 101, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Kevin B. McGrath, Phillip Nizer and Jack Freeman.

ACTION OF THE BOARD - Laid over to March 1, 2005, at 1:30 P.M., for continued hearing.

PREMISES AFFECTED - 6002 Fort Hamilton Parkway, a/k/a 949/59 61st Street, a/k/a 940/66 60th Street, south side of 61st Street, east side, of Fort Hamilton Parkway and north side of 60th Street, Block 5715, Lots 21 and 27, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Joe Lombardi.

ACTION OF THE BOARD - Laid over to March 15, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 7:30 P.M.

**SPECIAL HEARING
WEDNESDAY MORNING, JANUARY 26, 2005
10:00 A.M.**

BULLETIN

OF THE
NEW YORK CITY BOARD OF STANDARDS
AND APPEALS

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Volume 90, No. 6

February 9, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE - 40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD - 40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @ <http://www.nyc.gov/html/bsa/home.html>

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Tuesday, February 1, 2005**

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350-04-BZ	3450 Wayne Avenue, The Bronx

DOCKETS

New Case Filed Up to January 11, 2005

10-05-BZ B.BK. 449 and 459 39th Street, between Fourth and Fifth Avenues, Block 705, Lot 53, Borough of Brooklyn. N.B.#301868997. Proposed construction of a five story residential building, to contain 27 residential units, with fifteen parking spaces, located in an M1-2 zoning district, is contrary to Z.R.§42-00.

COMMUNITY BOARD #7BK

11-05-BZ B.M. 214 East 49th Street, between Second and Third Avenues, Block 1322, Lot 43, Borough of Manhattan. Applic.#1036677120. Proposed 520 square foot addition at the rear of the existing eating and drinking establishment, Use Group 6, located in an R8B zoning district, is contrary to Z.R. §22-10.

COMMUNITY BOARD #6M

12-05-BZ B.BK. 1662 East 28th Street, between Quentin Road and Avenue "P", Block 6790, Lot 21, Borough of Brooklyn. Applic.#301874531. Proposed enlargement to an existing one family dwelling, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, side and rear yards, is contrary to Z.R. §23-141, §23-461 and §23-47.

COMMUNITY BOARD #15BK

13-05-BZ B.BK. 614/26 Sheepshead Bay Road, bounded by West 6th and 8th Streets, Block 7279, Lot 6, Borough of Brooklyn. Applic.#301566712. Proposed physical culture establishment, located in a C8-2(OP) zoning district, requires a special permit from the Board as per Z.R.§73-36.

COMMUNITY BOARD #13BK

14-05-BZ B.M. 300 West 56th Street, southwest corner of 8th Avenue, Block 1046, Lot 36, Borough of Manhattan. Applic.#103963613. Proposed physical culture establishment, located in a C6-4(CL) zoning district, on the second and third floors, of a three story commercial building, requires a special permit from the Board as per Z.R.§73-36.

COMMUNITY BOARD #4M.

15-05-BZ B.M. 209 West 20th Street, north side, 141' west of Seventh Avenue, Block 770, Lot 33, Borough of

Manhattan. Applic.#103430529. Proposed construction of a seven-story 64.5' residential building, located in an R8B zoning district, which exceeds the permitted height of 60' is contrary to Z.R.§23-692.

COMMUNITY BOARD #4M

16-05-BZ B.S.I. 161 Westervelt Avenue, southeast corner of Curtis Place, Block 30, Lot 11, Borough of Staten Island. Applic.#500697971. Proposed erection of a one family dwelling, Use Group 1, located in an R3A-Hillside Preservation zoning district, which does not comply with the zoning requirements for side and front yards, is contrary to Z.R. §23-45 and §23-461.

COMMUNITY BOARD #1SI

17-05-A B.BX. 3329/3333 Giles Place, (aka 3333 Giles Place), west side, between Canon Place and Fort Independence Street, Block 3258, Lots 5 and 7, Borough of The Bronx. An appeal seeking a determination that the owner of said premises has acquired a common-law vested right to continue a development commenced under R6 Zoning.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

MARCH 8, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 8, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

490-69-BZ

APPLICANT - Sheldon Lobel, P.C., for 300 East 74th Owners Corp., owner; GGMC Parking, LLC, lessee.

SUBJECT - Application September 2, 2004 - reopening for an extension of term of a variance for attended transient parking in a multiple dwelling presently located in a C1-9 and R8-B zoning district. The original grant of the variance by the Board of Standards and Appeals was made pursuant to Section 60(3) of the multiple Dwelling Law.

PREMISES AFFECTED - 1408/18 Second Avenue, 303/09 East 73rd Street, 300/04 East 74th Street, east side of Second Avenue, 50' north of East 73rd Street, Block 1448, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #8M

183-97-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for Daniel M. Frishwasser, owner; 250 East 60th Street Co., LP, lessee.

SUBJECT - Application September 10, 2004 - to reopen and extend the time and waiver of the Rules and Procedures, in which to complete construction and obtain a new certificate of occupancy pursuant to the resolution adopted by the board on September 15, 1998.

PREMISES AFFECTED - 250 East 60th Street, south side of East 60th Street, Block 1414, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #8M

158-02-BZ

APPLICANT - Eric Palatnik, P.C., for Torah Academy For Girls, owner.

SUBJECT - Application September 15, 2004 - reopening for an amendment to extend the time to obtain a certificate of occupancy which expired October 8, 2004.

PREMISES AFFECTED - 444 Beach 6th Street, between Jarvis and Meehan Avenues, Block 15596, Lot 1, Borough of Queens.

COMMUNITY BOARD #14Q

339-04-BZ

APPLICANT - Eric Palatnik, P.C., for Kramer & Wurtz, Inc, owner; Apache Oil Co., lessee.

SUBJECT - Application October 13, 2004 - under Z.R. §§11-411 & 11-412 to reinstate the previous BSA variance, under calendar

MARCH 8, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, March 8, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

144-04-BZ

APPLICANT - Eric Palatnik, P.C., for Atlantic Realty Management, Inc., owner.

SUBJECT - Application March 30, 2004 - Under Z.R. §72-21, to permit the proposed development which will contain residential uses at the second through eighth floors (Use Group 2), within an M1-6 zoning district to vary Z.R. §43-10.

PREMISES AFFECTED - 286 Hudson Street, East side of Hudson Street between Dominick and Spring Streets, Block 579, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #2M

174-04-BZ

APPLICANT - Law Offices of Howard Goldman, PLLC for Harold Milgrim, Trustee.

SUBJECT - Application April 28, 2004 - under Z.R. §72-21 Proposed conversion of floors two through six, to residential use, Use Group 2, in an existing six-story commercial building, located in an M1-6 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 124 West 24th Street, south side, between Sixth and Seventh Avenues, Block 799, Lot 54, Borough of Manhattan.

COMMUNITY BOARD #4M

267-04-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Kermit Square, LLC, owner.

SUBJECT - Application July 30, 2004 - under Z.R. §72-21, to permit the proposed thirty-two unit multiple dwelling, Use Group 2, located in a C8-2 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 362/64 Coney Island Avenue, northwest corner of Kermit Place, Block 5322, Lot 73, Borough of Brooklyn.

COMMUNITY BOARD #7BK

number 205-29-BZ, for automotive service station located in an R3-1 zoning district. The application seeks an amendment to permit the installation of a new steel framed canopy over the existing fuel dispenser islands.

PREMISES AFFECTED - 157-30 Willets Point Boulevard, south

CALENDAR

side of the intersection formed by Willets Point Boulevard and Clintonville Street, Block 4860, Lot 15, Borough of Queens.
COMMUNITY BOARD #7Q

Pasquale Pacifico, Executive Director

**REGULAR MEETING
TUESDAY MORNING, FEBRUARY 1, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on

Tuesday morning and afternoon, November 16, 2004, were approved as printed in the Bulletin of November 25, 2004, Volume 89, No. 47.

SPECIAL ORDER CALENDAR

MINUTES

111-01-BZ

APPLICANT - Eric Palatnik, P.C., acting of Counsel to Charles R. Foy, Esq., for George Marinello, owner; Wendy's Restaurant, lessee.

SUBJECT - Application March 23, 2004 - reopening for an amendment to the resolution to amend the hours of operation of the existing drive thru facility until 4 A.M. daily.

PREMISES AFFECTED - 9001 Ditmas Avenue, between 91st Street and Remsen Avenue, Block 8108, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #17BK

APPEARANCES -

For Applicant: Eric Palatnik, Erma Trotman and Marva Straker.

For Opposition: Marva Straker and Esme Trotman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT-

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this application is for a re-opening and an amendment to the resolution, to permit an extension in the hours of operation of an existing drive-thru facility for a restaurant (Wendy's) until 1 A.M. daily; and

WHEREAS, a public hearing was held on this application on October 5, 2004 after due notice by publication in The City Record, and then to November 16, 2004 for decision, on which date the matter was reopened; a subsequent continued hearing was held on January 11, 2005, and the matter was closed and decided on February 1, 2005; and

WHEREAS, Community Board 17, Brooklyn, recommended approval of this application; and

WHEREAS, however, certain residential neighbors of the restaurant testified in opposition to this application, on the basis that the operation of the restaurant interfered with the reasonable enjoyment of their premises, especially at night; and

WHEREAS, on August 15, 2001, under the referenced THAT the term of this grant shall be for one year, to expire on February 1, 2006;

THAT the hours of operations for the drive-through facility shall be from 10 A.M. to 1 A.M. daily;

THAT upon closure of the main restaurant at 11 P.M., the parking areas at the site shall be chained off by restaurant staff so that no vehicle access to these areas is possible; all chains shall be visible to drivers at nights, in accordance with the note on the BSA-approved plans;

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

THAT all landscaping shall be planted and maintained as indicated on the BSA-approved plans, and all trees adjacent to the

calendar number, the Board granted a special permit pursuant to Z.R. § 73-243, on a site within an R5 (C1-2) zoning district, allowing an accessory drive-thru facility for the proposed eating and drinking establishment, on condition that the hours of operation for the drive-thru would be Sunday through Thursday, 10:00 A.M. to 11:00 P.M., and Friday And Saturday, 10:00 A.M. to 12:00 midnight; and

WHEREAS, the applicant initially requested that the Board allow the drive-thru facility to remain open until 4 A.M.; and

WHEREAS, the Board expressed concern that there was no demonstration of any actual need for the facility to remain open until 4 A.M., and suggested to the applicant that reduced hours be investigated; and

WHEREAS, the applicant subsequently modified its request regarding hours of operation for the drive-thru to the following: 10 A.M. to 1 A.M., daily; and

WHEREAS, the applicant also represents that the dining room will now close at 11 P.M. daily; and

WHEREAS, the applicant states that the proposed extension of the hours of operation for the drive-thru is necessary because the early drive-thru closing time forces the dining room to remain open late, which has caused security problems and lower sales; and

WHEREAS, in support of this argument, the applicant has provided the following documentation: (1) a Crime Against Property/Persons Index, which indicates that the subject facility is located in an area with a high level of criminal activity; and (2) a sales comparison chart, which compares the sales of three Wendy's locations that operate late night drive-thru facilities and demonstrates the financial disadvantage resulting from the previously established drive-thru closing time; and

WHEREAS, the Board has reviewed the request for the proposed extension of drive-thru hours, and finds that approval is warranted so long as Wendy's implements and complies with certain mitigating conditions, set forth below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on August 15, 2001, so that as amended this portion of the resolution shall read: "to amend the hours of operation of the existing drive-thru facility to 10 A.M. to 1 A.M. daily; on condition that all work shall substantially conform to drawings filed with this application and marked 'Received December 28, 2004' - (4) sheets and 'Received January 18, 2005' - (1) sheet; and on further condition:

neighboring residential uses shall be maintained at a maximum height of 6 ft.;

THAT all conditions from prior resolutions not subsequently waived or modified by the Board remain in effect;

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

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

(DOB Application No. 301816275).

MINUTES

Adopted by the Board of Standards and Appeals, February 1, 2005.

102-95-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for The Argo Corp., as agent for 50 West 17 Realty Co.; Renegades Assoc. dba Splash Bar, lessee.

SUBJECT - Application March 23, 2004 - Extension of Term for an eating & drinking establishment with dancing. Amendment for interior modifications in portions of the cellar and first floor. Located in M1-6M zoning district.

PREMISES AFFECTED - 50 west 17th Street, south side of West 17th Street, between 5th Avenue and 6th Avenue, Block 818, Lot 78, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to February 15, 2005, at 10 A.M., for decision, hearing closed.

234-98-BZ

APPLICANT - Walter T. Gorman, P.E., for Jose Vasquez, owner; Harlem Hand Carwash, lessee.

SUBJECT - Application November 18, 2003 - reopening for an extension of time to complete construction which expires on November 23, 2003.

PREMISES AFFECTED - 2600-2614 Adam Clayton Powell Jr. Boulevard, a/k/a 2600-2614 7th Avenue, west side of Adam Clayton Powell Jr. Boulevard, block front from W. 150th Street to W. 151st

PREMISES AFFECTED - 188-16 Northern Boulevard, southwest corner of 189th Street, Block 5510, Lot 38, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: H. I. Sigman.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 1, 2005, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

226-04-A

Street, Block 2036, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES - None.

For Applicant: Deirdre Carson.

ACTION OF THE BOARD - Laid over to May 17, 2005, at 10 A.M., for continued hearing.

322-98-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for HUSA Management Co., LLC, owner; TSI Harlem USA, Inc. d/b/a New York Sports Club, lessee.

SUBJECT - Application March 15, 2004 - reopening for an amendment to the resolution to allow the enlargement of a previously granted special permit permitting the operation of a physical culture establishment located in portions of the first floor and of the fourth floor of the subject premises.

PREMISES AFFECTED - 300 West 125th Street, south side of West 125th Street, between St. Nicholas Avenue and Frederick Douglas Boulevard, Block 1951, Lots 22, 25, 27, 28, 29, 33, 39, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES -

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to February 15, 2005, at 10 A.M., for decision, hearing closed.

144-03-BZ

APPLICANT - H. Irving Sigman, for Ching Kuo Chiang, owner.

SUBJECT - Application September 29, 2004 - Pursuant to Z.R. Sections 72-01 and 72-22 to reopen an amend a previously granted variance to allow modifications of a mixed use building (U.G. 2 & 6) with accessory storage and parking in an R3-2 district.

APPLICANT - Joseph Sherry, for Breezy Point Cooperative, Inc., owner; William Basher, lessee.

SUBJECT - Application June 15, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, located within the bed of a mapped street and has a private disposal system in the bed of the mapped street, is contrary to Sections 35 and 36 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 106 West Market Street, north side, 55.8' south of Rockaway Point Boulevard, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner

MINUTES

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

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated June 1, 2004 acting on Department of Buildings Application No. 401849504, reads:

"A-1 The proposed enlargement is on a site located partially in the bed of a mapped street; therefore, no permit or Certificate of Occupancy can be issued as per Art. 3, Sect 35 of the General City Law.

A-2 The site and building is not fronting on an official mapped street; therefore, no permit or Certificate of Occupancy can be issued as per Art. 3, Sect 36 of the General City Law; also, no permit can be issued since the proposed construction does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street or frontage space and is therefore contrary to Section 27-291 of the Administrative Code of the City of New York.

A-3 The private disposal system is in the bed of a mapped street contrary to Dept of Buildings Policy"; and

WHEREAS, a public hearing was held on this application on January 11, 2005 after due notice by publication in the City Record, and then to decision on February 1, 2005, and

WHEREAS, by letter dated July 15, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated August 18, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated September 10, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated June 1, 2004, acting on Department of Buildings Application No. 401849504, is modified under the APPEARANCES -

For Applicant: Loretta Papa.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to February 15, 2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 1:15 P.M.

**REGULAR MEETING
TUESDAY AFTERNOON, FEBRUARY 1, 2005
2:00 P.M.**

power vested in the Board by Section 35 and Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked, "Received November 26, 2004" - (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

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

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

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

Adopted by the Board of Standards and Appeals, February 1, 2005.

277-04-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative Inc., owner; John & Anne Egan, lessees.

SUBJECT - Application August 10, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, located partially within the bed of a mapped street and has a private disposal system in the bed of a mapped street, is contrary to Sections 35 and 36, of the General City Law and Department of Buildings Policy

PREMISES AFFECTED - 155 Reid Avenue, east side, 493.42' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

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

ZONING CALENDAR

349-03-BZ

APPLICANT - The Agusta Group, for Cyril Pereira, owner.

SUBJECT - Application November 14, 2003 - under Z.R. §72-21 to permit the legalization of the conversion of a two family dwelling, into a three family dwelling, is contrary to Z.R. §22-12, which only permits two family dwelling in R3-1 zoning districts.

PREMISES AFFECTED - 85-14 63RD Drive, east side, between Fitchett Street and Woodhaven Boulevard, Block 3115, Lot 21, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Sol Korman.

MINUTES

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 15, 2005, at 1:30 P.M., for decision, hearing closed.

350-03-BZ

APPLICANT - The Agusta Group, for Cyril Pereira, owner.

SUBJECT - Application November 14, 2003 - under Z.R. §72-21 to permit the legalization of the conversion of a two family dwelling, into a three family dwelling, is contrary to Z.R. §22-12, which only permits two family dwelling in R3-1 zoning districts.

PREMISES AFFECTED - 85-16 63RD Drive, east side, between Fitchett Street and Woodhaven Boulevard, Block 3115, Lot 22, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Sol Korman.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 15, 2005, at 1:30 P.M., for decision, hearing closed.

126-04-BZ

APPLICANT - Eric Palatnik, Esq., for James Bateh, owner.

SUBJECT - Application October 7, 2004 - under Z.R. §73-622 to

152-04-BZ

APPLICANT - James M. Plotkin, Esq., for Frank T. Porco, owner.

SUBJECT - Application April 9, 2004 - under Z.R. §72-21 to permit in an R5 district, on a site consisting of 11,970SF, the construction of a four one-story warehouses (UG 16). Currently, the site is improved with four buildings: one concrete block building, and three sheds. The proposed warehouse is contrary to residential district use regulations.

PREMISES AFFECTED - 3213 Edson Avenue, bounded on the north by East 222nd Street, south by Burke Avenue and west by Grace Avenue, Block 4758, Lot 25, Borough of The Bronx.

COMMUNITY BOARD #12

APPEARANCES -

For Applicant: Steven Epstein and Frank T. Porco.

For Opposition: Donald Horn, Kinereth Stubbs, Caren L. Portuondo, Catherine McDow, Simon Simms and Hattie Stringfellow.

ACTION OF THE BOARD - Laid over to April 12, 2005, at 1:30 P.M., for continued hearing.

permit the proposed enlargement of a single family residence, Use Group 2, located in an R3-1(BR) zoning district, which does not comply with the zoning requirements for open space, floor area, also side and front yards, is contrary to Z.R. §23-141, §23-461(a) and §23-45.

PREMISES AFFECTED - 66 87th Street, south side, between Narrows Avenue and Colonial Road, Block 6046, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES -

For Applicant: Eric Palatnik.

For Opposition: Victoria Hofmo.

ACTION OF THE BOARD - Laid over to March 1, 2005, at 1:30 P.M., for continued hearing.

135-04-BZ

APPLICANT - Joseph P. Morsellino, for Manuel Minino, owner.

SUBJECT - Application March 19, 2004 - under Z.R. §72-21 to permit the proposed erection and maintenance of an automobile showroom with offices, Use Group 6, located in an R2 and C2-2(R5) zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 91-22 188th Street, northeast corner of Jamaica Avenue, Block 9910, Tentative Lot 43 (part of lot 1), Borough of Queens

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

For Opposition: Eugenia Rudmann, and Linda S. Mitchell.

ACTION OF THE BOARD - Laid over to April 5, 2005, at 1:30 P.M., for continued hearing.

190-04-BZ

APPLICANT - Agusta & Ross, for Ira and Larry Weinstein, LLC, owner.

SUBJECT - Application May 7, 2004 - under Z.R. §72-21 to permit the proposed conversion of a former lead factory, into a multiple dwelling (45 families), with a ground floor waterfront restaurant, and doctor's office, is contrary to Z.R. §22-12, which states that "residential uses" shall be limited to single, two family or semi-detached residences in an R3-1 zoning district.

PREMISES AFFECTED - 2184 Mill Avenue, a/k/a 6001 Strickland Avenue, southwest corner, Block 8470, Lot 1090, Part of Lot 1091, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Mitchell Ross and Albert Marengo.

For Opposition: Sol/Saul Needle and Bryan Lee.

ACTION OF THE BOARD - Laid over to March 1, 2005, at 1:30 P.M., for continued hearing.

266-04-BZ

APPLICANT - Fredrick A. Becker, Esq. for TSI Cobble Hill d/b/a/New York Sports Club-Lessee.

MINUTES

SUBJECT - Application July 28, 2004 - under Z.R. §73-36 to allow the operation of a physical cultural establishment on the first and second floor of a two story commercial building located within a C2-3 zoning district .

PREMISES AFFECTED - 96 Boreum Place - southwest corner of Boreum Place and Pacific Street, Block 279, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Fredrick A. Becker, Adam Shane and Jaime?.

For Opposition: Eugenia Rudmann, Linda S. Mitchell and Edward P. Doran.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 1, 2005, at 1:30 P.M., for decision, hearing closed.

270-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Benjamin Gross, owner.

SUBJECT - Application November 18, 2004 - under Z.R. §73-622 to permit the enlargement of a single family residence. Varying the requirements for floor area & open space pursuant to §23-141, side yard pursuant to §23-461 and rear yard is less than required pursuant to §23-47. Located in an R-2 zoning district.

PREMISES AFFECTED - 1239 East 22nd Street, east side of East

APPEARANCES -

For Applicant: Deirdre A. Carson.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 1, 2005, at 1:30 P.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 3:50 P.M.

22nd Street, between Avenue K and Avenue L, Block 7622, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Richard Lobel.

For Opposition: Eugenia Rudmann, Linda S. Mitchell and Edward P. Doran.

ACTION OF THE BOARD - Laid over to March 1, 2005, at 1:30 P.M., for continued hearing.

350-04-BZ

APPLICANT - Greenberg & Traurig by Deirdre A. Carson, Esq., LLP, for Montefiore Hospital Housing Section II, Inc, owner; Fordham University, lessee.

SUBJECT - Application October 29, 2004 - under Z.R. § Z.R.73-30 in an R7-2/C1-3 (partial) district, permission sought to erect a non-accessory radio tower on the roof of an existing 28-story residential structure. The radio tower will be operated by Fordham University (WFUV 90.7 FM), and will have total height of 161 feet, including a mechanical equipment room that will be contained inside an existing masonry enclosure originally built to house an HVAC cooling tower. The elevation of the tower will be 621 feet, including the height of the existing structure.

PREMISES AFFECTED - 3450 Wayne Avenue, Wayne Avenue, between Gun Hill Road and East 210th Street (roof), Block 3343, Lot 245, Borough of The Bronx.

COMMUNITY BOARD #7BX

BULLETIN

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Volume 90, No. 7

February 17, 2005

DIRECTORY

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John E. Reisinger, *Counsel*

OFFICE - 40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD - 40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @ <http://www.nyc.gov/html/bsa/home.html>

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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DOCKETS

New Case Filed Up to February 8, 2005

18-05-BZ **B.Q.** **87-25 Clover Place,**
east side, between Foothill Avenue and Clover Hill Road, Block 10509, Lot 31,
Borough of Queens. Applic. #401754482. Proposed reduction in the requirements
for side yard footage and the minimum distance between windows, for a proposed
one family garage with an accessory garage, is contrary to Z.R.§23-461 and §23-44.
COMMUNITY BOARD #8Q

19-05-BZ **B.M.** **151 West 28th Street,**
north side, 101' east of Seventh Avenue, Block 804, Lot 8, Borough of Manhattan.
Applic. #103993270. Proposed change of use, of portions of a nine-story mixed use
building, to residential use, Use Group 2, located in an M1-6 zoning district, is
contrary to Z.R. §72-21.
COMMUNITY BOARD #5M

20-05-A **B.M.** **An appeal asking the**
Board to rescind an Order issued by the Commissioner of the Department of
Buildings, dated December 29, 2004, pursuant to §26-115 of the NYC Administrative
Code demanding the production of documents.

21-05-A **B.S.I.** **2380 Hylan Boulevard,**
south side of Otis Avenue, Block 3904, Lot 1, Borough of Staten Island. Alt.1
#500751411. Proposed addition to an existing banquet hall, which will be located
within the bed of a mapped street, is contrary to Section 35, Article 3 of the General
City Law.

22-05-A **B.S.I.** **5728 Amboy Road**
and 3 Haynes Street, southeast corner, Block 6654, Lot 9, Borough of Staten Island.
Applic.#s 500744885 and 500744894. An appeal challenging the Department of
Buildings' ("DOB") decision that approved and permitted the building of two (2)
houses on a lot containing less than the required square footage as zoned for in the
Special South Richmond District ("SSRD"), also this appeal is seeking to reverse
the DOB' decision not to enforce §107-42 of the SSRD within NYC Zoning
Resolution.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings,
Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of
Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-
Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire
Department.

CALENDAR

MARCH 15, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 15, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

1237-66-BZ

APPLICANT - Eric Palatnik, P.C., for BP Products North America, Inc., owner.

SUBJECT - Application - December 14, 2004 - Extension of Term to obtain a Certificate of Occupancy for a gasoline service station, with accessory uses, located in a C2-2 zoning district.

PREMISES AFFECTED - 1 East 233rd Street, northeast corner of Van Cortland and Park East, Block 3363, Lots 18 and 23, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEALS CALENDAR

2-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Mr. & Mrs. Terrance Farrell, lessee.

SUBJECT - Application January 11, 2005 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system which is being upgraded in the bed of a private service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings Policy.

PREMISES AFFECTED - 37 Marion Walk, east side, 102.98' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

3-05-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative Inc., owner; Dale & Susan Salmonese; lessee.

SUBJECT - Application January 11, 2005 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system which is being upgraded in the bed of a private service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings Policy.

PREMISES AFFECTED - 10 Doris Lane, south side, 42.02' west of Reid Avenue, Block 16350, Lot 400, Borough of Queens.

241-04-A

APPLICANT - Rampulla Associates Architects, for Erin Esposito,

247-04-BZ

APPLICANT - Sheldon Lobel, P.C., for BC Merrick Storage LP, owner.

owner.

SUBJECT - Application June 28, 2004 - Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 6515 Amboy Road, 650' south of Bedell Avenue, Block 7664, Lot 452 (Tentative Lot 463), Borough of Staten Island.

COMMUNITY BOARD #3SI

385-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Christine & Barry Fixxher, lessee.

SUBJECT - Application December 6, 2004 - Proposed reconstruction and enlargement of an existing single family dwelling, also the proposed upgrading of an existing private disposal system, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law and Department of Buildings Policy.

PREMISES AFFECTED - 2 Deauville Walk, in the bed of Beach 214th Street, at the intersection of Palmer Drive, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

MARCH 15, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, March 15, 2005, at 1:30 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

212-04-BZ

APPLICANT - Rampulla Associates Architects, for G.A.C. Caterers, Inc., owner.

SUBJECT - Application May 21, 2004 - under Z.R. §72-21 to permit the proposed erection and maintenance of a cellar and two (2) story photography and video studio, Use Group 6, located in an R3-2 zoning district, which is contrary to Z.R. §22-10.

PREMISES AFFECTED - 2360 Hylan Boulevard, a/k/a 333 Otis Avenue, between Otis and Bryant Avenues, Block 3905, Lot 17, Borough of Staten Island.

COMMUNITY BOARD #2SI

SUBJECT - Application July 7, 2004 - under Z.R. §72-21, to permit the proposed enlargement of a two-story storage facility (Use Group 16) in a C8-1 zoning district, which creates non-compliance

CALENDAR

by exceeding the permitted floor area authorized by Section 33-122 of the Zoning Resolution and creates a second floor within a rear yard equivalent, increasing the degree of non-compliance contrary to Sections 54-31 and 33-283 of the Zoning Resolution.

PREMISES AFFECTED - 22-20 Merrick Blvd., Northern side of the area bounded by Merrick Blvd., 125th Avenue, Merrill Street and Baisley Blvd., Block 12516, Lot 37, Borough of Queens.

COMMUNITY BOARD #12Q

297-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Arthur Djmal, owner.
SUBJECT - Application January 18, 2005 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family dwelling, Use Group 1, located in an R-2 zoning district, which does not comply with the zoning requirement for floor area ratio, is contrary to Z.R. §23-141.

PREMISES AFFECTED - 1174 East 22nd Street, southwest corner of Avenue "K", Block 7621, Lot 47, Borough of Brooklyn.

COMMUNITY BOARD #14BK

315-04-BZ - 318-04-BZ

APPLICANT - Steve Sinacori/Stadtmauer Bailkin, for Frank Mignone, owner.

SUBJECT - Application September 20, 2004 - Under Z.R. §72-21 to permit the proposed development which will contain four three-family homes (Use Group 2), within an M1-1 Zoning District which is contrary to Section 42-00 of the Resolution.

PREMISES AFFECTED -

1732 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 127), Borough of Brooklyn.

1734 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 128), Borough of Brooklyn.

1736 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 129), Borough of Brooklyn.

1738 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 130), Borough of Brooklyn.

COMMUNITY BOARD #11BK

Pasquale Pacifico, Executive Director

MARCH 16, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing,

Tuesday morning, March 16, 2005, 10:00 A.M., at 40 Rector

309-04-BZY & 310-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Steeplechase Building Corp, owner.

SUBJECT - Application September 13, 2004 - Application to extend time to complete construction for a major development as per Z.R. §11-331.

PREMISES AFFECTED -

Street, 6th Floor, New York, N.Y. 10006, on the following matters:

BZY CALENDAR

301-04-BZY

APPLICANT - Rothkrug, Rothkrug, Weinberg & Spector, for Medhat M. Hanna, owner.

SUBJECT - Application September 10, 2004 - Application to complete construction for a minor development as per Z.R. §11-331.

PREMISES AFFECTED - 102 Greaves Avenue, corner of Dewey Avenue, Block 4568, Lot 40, Borough of Staten Island.

303-04-BZY thru 308-04-BZY

APPLICANT - Edward Lauria, P.E., for Fred LaRocca, owner.

SUBJECT - Application September 10, 2004 - Application to complete construction for a minor development as per Z.R. §11-331.

PREMISES AFFECTED -

81 Lorrain Avenue, north side, 220' west of Ralph Avenue, Block 6212, Lot 62, Borough of Staten Island.

85 Lorrain Avenue, north side, 220' west of Ralph Avenue, Block 6212, Lot 61, Borough of Staten Island.

89 Lorrain Avenue, north side, 220' west of Ralph Avenue, Block 6212, Lot 58, Borough of Staten Island.

93 Lorrain Avenue, north side, 220' west of Ralph Avenue, Block 6212, Lot 56, Borough of Staten Island.

88 Jeannette Avenue, north side, 220' west of Ralph Avenue and Lorrain Avenues, Block 6212, Lot 26, Borough of Staten Island.

92 Jeannette Avenue, north side, 220' west of Ralph Avenue and Lorrain Avenues, Block 6212, Lot 27, Borough of Staten Island.

65 North Burgher Avenue, east side, 630.42' south of Richmond Terrace, Block 158, Lot 173, Borough of Staten Island.

67 North Burgher Avenue, east side, 655.42' south of Richmond Terrace, Block 158, Lot 171, Borough of Staten Island.

CALENDAR

324-04-BZY

APPLICANT - Edward Lauria, P.E., for Peter Rendel, owner.
SUBJECT - Application September 13, 2004 - Application to extend time to complete construction for a major development pursuant to Z.R. §11-331.
PREMISES AFFECTED - 1150 Arden Avenue, northeast side, 736.38' southeast of Ralph and Arden Avenues, Block 6212, Lot 115, Borough of Staten Island.

347-04-BZY & 348-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Ana Canton Ramirez, owner.
SUBJECT - Application October 28, 2004 - Application to extend time to complete construction for a major development pursuant to Z.R. §11-331.
PREMISES AFFECTED -
3056 Cross Bronx Expressway, west side, 176.54' north of Sampson Avenue, Block 5443, Lot 71, Borough of The Bronx.
3058 Cross Bronx Expressway, west side, 119.70' north of Sampson Avenue, Block 5443, Lot 80, Borough of The Bronx.
COMMUNITY BOARD#10BX

349-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Anamika Kaur Sahni, owner.
SUBJECT - Application October 28, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.
PREMISES AFFECTED - 1420 Balcom Avenue, east side, 225' north of Latting Street, Block 5370, Lot 10, Borough of The Bronx.
COMMUNITY BOARD#10BX

Pasquale Pacifico, Executive Director

**REGULAR MEETING
TUESDAY MORNING, FEBRUARY 8, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on

Tuesday morning and afternoon, November 23, 2004, were approved as printed in the Bulletin of December 2, 2004, Volume 89, No. 48.

SPECIAL ORDER CALENDAR

MINUTES

803-61-BZ

APPLICANT - Eric Palatnik, P.C., for Philip and Martin Blessinger, owner; BP Products North America, owner.

SUBJECT - Application to reopen and amend the BSA resolution to extend the time to obtain a Certificate of Occupancy. On December 9, 2003 the Board issued a resolution and required that a new Certificate of Occupancy be obtained within Twelve (12) months from the date of the resolution. The period in which to obtain the C of O expires December 9, 2004.

PREMISES AFFECTED - 1416 Hylan Boulevard, corner of Hylan Boulevard and Reid Street, Block 3350, Lot 30, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and an extension of time to obtain a Certificate of Occupancy (“CO”) for a gas station; and

WHEREAS, a public hearing was held on this application on January 25, 2005 after due notice by publication in *The City Record*, and then to decision on February 8, 2005; and

WHEREAS, on November 14, 1961, the Board granted an application under the subject calendar number to permit, in a C2-1 within an R3 zoning district, an automotive service station with accessory uses; and

WHEREAS, on December 9, 2003, under the same calendar number, the Board granted an application for an extension of term and required that a new CO be obtained within twelve months from the date of the resolution; and

WHEREAS, the period in which to obtain the CO expired on December 9, 2004; and

WHEREAS, the applicant states the reason for the requested extension of time is an unexpected delay in the retention of an organization to make the required filings at the Department of Buildings.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and an extension of time to obtain a Certificate of Occupancy (“CO”) for a gas station; and

WHEREAS, a public hearing was held on this application on January 25, 2005 after due notice by publication in *The City Record*, and then to decision on February 8, 2005; and

WHEREAS, on August 10, 1967, the Board granted an application under the subject calendar number, to permit, in an R6 zoning district, the enlargement in lot area of a site

reopens and amends the resolution, said resolution having been adopted on November 14, 1961, and subsequently extended, so that as amended this portion of the resolution shall read: “to permit an extension of the time to obtain a Certificate of Occupancy for an additional one year from the date of this resolution to expire on February 8, 2006; on condition:

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

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. 500623104)

Adopted by the Board of Standards and Appeals, February 8, 2004.

785-67-BZ

APPLICANT - Eric Palatnik, P.C., for Park Circle Realty Associates, owner; BP Products North America, lessee.

SUBJECT - Application - September 13, 2004 - to reopen and amend the BSA resolution to extend the time to obtain a Certificate of Occupancy. On December 9, 2003 the Board issued a resolution and required that a new Certificate of Occupancy be obtained within Twelve (12) months from the date of the resolution. The period in which to obtain the C of O expires December 9, 2004.

PREMISES AFFECTED - 577/89 Marcy Avenue, Southeast corner of Marcy Avenue and Myrtle Avenue, Block 1755, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

occupied by an automotive service station with accessory uses; and

WHEREAS, at various times since 1967, under the same calendar number, the Board has reopened the application to allow for other site modifications; and

WHEREAS, on December 9, 2003, under the same calendar number, the Board granted an application for an extension of term and required that a new CO be obtained within twelve months from the date of the resolution; and

WHEREAS, the period in which to obtain the CO expired

MINUTES

on December 9, 2004; and

WHEREAS, the applicant states the reason for the requested extension of time is an unexpected delay in the retention of an organization to make the required filings at the Department of Buildings.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, said resolution having been adopted on August 10, 1967, and subsequently extended and modified, so that as amended this portion of the resolution shall read: "to permit an extension of the time to obtain a Certificate of Occupancy for an additional one year from the date of this resolution, to expire on February 8, 2006; on condition:

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

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. 301619390)

Adopted by the Board of Standards and Appeals, February 8, 2004.

53-86-BZ

APPLICANT - Sheldon Lobel, P.C., for Hallmark Equities, L.P., owner.

SUBJECT - Application June 29, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of time to obtain a Certificate of Occupancy which expired January 19, 2000.

PREMISES AFFECTED - 350 Wadsworth Avenue, west side of Wadsworth Avenue, 72.3' north of West 190th Street, Block 2170,

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

(DOB Alt. No. 1175/61)

Adopted by the Board of Standards and Appeals, February 8, 2004.

Lot 281, Borough of Manhattan.

COMMUNITY BOARD #12M

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

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 ("CO") for a parking lot; and

WHEREAS, a public hearing was held on this application on October 5, 2004 after due notice by publication in *The City Record*, with continued hearings on November 9, 2004, and January 25, 2005, and then to decision on February 8, 2005; and

WHEREAS, on December 5, 1961, the Board granted an application under BSA Calendar No. 1252-61-BZ, to permit, in an R7-2 zoning district, the maintenance of a parking lot for the parking and storage of more than five motor vehicles; and

WHEREAS, on January 19, 1999, under the subject calendar number, the Board extended the term of the grant and required that a new CO be obtained within twelve months from the date of the resolution; and

WHEREAS, the period in which to obtain the CO expired on January 19, 2000; and

WHEREAS, the applicant represents that a new CO could not be obtained due to illness of the owner and other unforeseen circumstances.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, said resolution having been adopted on December 5, 1961, so that as amended this portion of the resolution shall read: "to permit an extension of the time to obtain a Certificate of Occupancy for an additional six months from the date of this resolution to expire on August 8, 2005; on condition:

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

314-28-BZ

APPLICANT - Manuel B. Vidal, Jr., for Henilda Realty Corporation, owner; Henilda Realty Corporation, lessee.

SUBJECT - Application July 8, 2004 - reopening for an amendment to the prior resolution to permit the removal of the existing kiosk and to erect a new building on the property to be used as a convenience store.

PREMISES AFFECTED - 902/14 Westchester Avenue and 911/15 Rogers Place, south west corner of 889/903 East 163rd Street, Block 2696, Lot 130, Block 2696, Lot 130, Borough of The

MINUTES

Bronx.

COMMUNITY BOARD #2BX

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to March 1, 2005, at 10 A.M., for continued hearing.

442-42-BZ

APPLICANT - Sheldon Lobel, P.C., for Cropsey 20th Avenue Corporation, owner.

SUBJECT - Application July 30, 2004 - reopening for an amendment to an existing gasoline service station to erect a new canopy over the existing MPD's and alter signage.

PREMISES AFFECTED - 2001/2011 Cropsey Avenue, northeast corner of 20th Avenue and Cropsey Avenue, Block 6442, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 1, 2005, at 10 A.M., for decision, hearing closed.

450-46-BZ

APPLICANT - Friedman & Gotbaum, LLP by Shelley S. Friedman, Esq., for 41 East LLC, owner.

SUBJECT - Application December 29, 2004 - Extension of Term for a commercial UG6B in a residential district previously granted, which is not permitted in R8B zoning district and an amendment to include a community use facility UG4, which is as of right, is contrary to previously approved plans. This application is an In-Part legalization.

PREMISES AFFECTED - 41 East 62nd Street, Manhattan, north side of East 62nd Street, 105' east of the corner formed by the intersection of East 62nd Street and Madison Avenue, Block 1377, Lot 27, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Shelly Friedman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, 295-99-BZ

APPLICANT - Rampulla Associates Architects, for Wyckoff Heights Medical Center, owner.

SUBJECT - Application September 20, 2004 - Extension of Time/Waiver of the Rules of Practice and Procedures to complete construction the erection of a five (5) story parking facility, which will service the Wyckoff Hospital as an accessory parking facility which was granted by the Board on May 2, 2000.

PREMISES - 370 Stanhope Street, Stanhope Street between Wyckoff Avenue and St. Nicholas Avenue, Block 3271, Lots 17,

Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to March 1, 2005, at 10 A.M., for decision, hearing closed.

164-94-BZ

APPLICANT - Sullivan, Chester & Gardner, P.C., for Tuckahoe Realty, LLC, owner; Lucille Roberts Health Club, lessee.

SUBJECT - Application February 11, 2004 - Extension of term and Waiver of the Rules and Procedures for an expired variance for a physical culture establishment ("Lucille Roberts Fitness for Women"), granted pursuant to section 72-21 which expired on March 1, 2003.

PREMISES AFFECTED - 84 Hugh Grant Circle, South side of Hugh Grant Circle, 95.69 feet west of Cross Bronx Expressway, Block 3794 Lot 109, The Bronx.

COMMUNITY BOARD #9BX

APPEARANCES -

For Applicant: Jeffrey Chester.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to April 19, 2005, at 10 A.M., for decision, hearing closed.

286-99-BZ

APPLICANT - Rampulla Associates Architects, for Vasilios Koniosis, owner.

SUBJECT - Application September 20, 2004 - Extension of Time/Waiver of the Rules of Practice and Procedures to complete construction for the conversion of an existing single family detached dwelling to stores and offices, approved by the Board on May 2, 2000.

PREMISES - 4142 Hylan Boulevard, SE/S of Hylan Boulevard at the corner of Hylan Boulevard and Hinz Avenue, Block 5310, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Philip Rampulla.

ACTION OF THE BOARD - Laid over to March 15, 2005, at 10 A.M., for continued hearing.

18, 20, 22, 37, 38, Borough of Brooklyn.

COMMUNITY BOARD #4BK

APPEARANCES -

For Applicant: Philip Rampulla.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 15, 2005, at 10 A.M., for decision, hearing closed.

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224-00-BZ

APPLICANT - Sheldon Lobel, P.C., for Basile Builders Group, Inc., owner.

SUBJECT - Application December 18, 2003 - Reopening for an application previously denied by the Board of Standards and Appeals to consider additional information that was not available at the time the BSA originally considered this application. The application was filed pursuant to section 72-21 of the zoning resolution to permit a proposed six story residential building located in an R-5 zoning district, which would create non-compliance with respect to Section 23-141, FAR, lot coverage and open space, Section 23-631 height and perimeter wall, Section 23-222 lot area per dwelling unit, Sections 23-45, 23-46 and 2347 yard requirements.

PREMISES AFFECTED - 2353 Cropsey Avenue, a/k/a 247 Bay 34th Street, Block 6889, Lots 7, 9, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to April 19, 2005, at 10 A.M., for decision, hearing closed.

271-04-A

APPLICANT - Pier 63 Maritime, Inc. , by Michele A. Luzio.

SUBJECT - Application August 3, 2004 - An appeal challenging the Department of Buildings jurisdiction to issue summons to subject property, on the grounds that the NYC Department of Business Services has exclusive jurisdiction over The "Barge".

PREMISES AFFECTED - One Pier 63, at 23rd Street and The Hudson River, (The Barge), Block 662, Lot 2, Borough of Manhattan.

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to March 8, 2005,

REGULAR MEETING

TUESDAY AFTERNOON, FEBRUARY 8, 2005

2:00 P.M.

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

ZONING CALENDAR

at 10 A.M., for continued hearing.

312-04-A

APPLICANT - Eric Paltnik, P.C for Aspinwall Building Corp.,owner.

SUBJECT - Application September 15, 2004 - Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General Ciy Law .

PREMISES - 14 Letty Court, 185.87' west of Van Name Avenue, Block 1188, Lot 115, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to March 15, 2005, at 10 A.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 11:00 A.M.

228-04-BZ

CEQR #BSA-04-214-K

APPLICANT - Louis Ari Schwartz, for Louis Ari Schwartz, owner.

SUBJECT - Application September 2, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family dwelling, which does not comply with the zoning requirements for floor area ratio, open space ratio and rear yard, is contrary to Z.R. §23-141(a) and §23-47.

PREMISES AFFECTED - 1400 East 22nd Street, west side, 300' south of Avenue "M", Block 7657, Lot 62, Borough of Brooklyn.

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COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated May 18, 2004, acting on Department of Buildings Application No. 301497155, reads:

- “1. Proposed plans are contrary to Z.R. 23-141(a) in that the floor area ratio is greater than the 50% permitted.
2. Proposed plans are contrary to Z.R. 23-141(a) in that the open space ratio is less than the 1.5 permitted.
3. Proposed plans are contrary to Z.R. 23-47 in that the rear yard is less than 30 feet.”; and

WHEREAS a public hearing was held on this application on October 26, 2004 after due notice by publication in *The City Record*, with continued hearings on November 16, 2004, December 14, 2004, and January 25, 2004, and then to decision on February 8, 2005; and

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

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

WHEREAS, this is an application under Z.R. § 73-622 to permit, in an R2 zoning district, the proposed enlargement of an existing single-family residence (Use Group 1), which does not comply with the zoning requirements for floor area, open space ratio and rear yards, contrary to Z.R. §§ 23-141(a) and 23-47; and

WHEREAS, the subject lot is located on the west side of East 22nd Street, between Avenues M and N, and has a total lot area of approximately 4,000 sq. ft.; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-story residential structure; and

WHEREAS, the applicant seeks an increase in the floor

THAT the above condition shall be set forth on the certificate of occupancy;

THAT the total floor area on the premises, including the attic, shall be limited to 1.0;

THAT the proposed attic floor area shall be reviewed and confirmed by the Department of Buildings;

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

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

area from 2,450 sq. ft. (0.61 Floor Area Ratio or “FAR”) to 4,000 sq. ft. (1.0 FAR) (the maximum floor area permitted is 2,000 sq. ft. (0.50 FAR)); and

WHEREAS, the proposed enlargement will reduce the Open Space Ratio (“OSR”) from 108 to 52 (the minimum open space ratio required is 150); and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

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

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing single family residence (Use Group 1), which does not comply with the zoning requirements for floor area, open space ratio and rear yards, contrary to Z.R. §§ 23-141(a) and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked “Received January 6, 2005”–(9) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

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

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

Adopted by the Board of Standards and Appeals, February 8, 2005.

237-04-BZ

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CEQR #BSA-04-219X

APPLICANT - Sheldon Lobel, P.C., for Tony Perez Cassino, owner.

SUBJECT - Application June 21, 2004 - under Z.R. §72-21 to permit the proposed construction of a two-unit detached house, in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, lot coverage ratio, height, side and front yards, and is contrary to Z.R. §23-141, §23-48, §23-45 and §23-631.

PREMISES AFFECTED - 5722 Faraday Avenue, southeast corner of Valles Avenue, Block 5853, Lot 2198, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated May 21, 2004, acting on Department of Buildings Application No. 200842348, reads, in pertinent part:

- “1. Proposed floor area ratio exceeds maximum allowed under ZR 23-141
2. Proposed open space ratio less than the minimum required under ZR 23-141
3. Proposed lot coverage ratio exceeds maximum allowed under ZR 23-141
4. Proposed side yard less than minimum required under ZR 23-48
5. Proposed front yard less than minimum required under ZR 23-45
6. Proposed height is contrary to the stated section of the code. ZR 23-631”; and

WHEREAS, a public hearing was held on this application on October 5, 2004, after due notice by publication in *The City Record*, with continued hearings on November 23, 2004 and January 11, 2005, and then to decision on February 8, 2005; and

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

WHEREAS, construction of the dwelling as currently proposed will result in the following non-compliances: an F.A.R. of .85 (.5 is the maximum permitted); open space of 60% (65% is the minimum required); a lot coverage of 40% (35% is the maximum permitted); no setbacks as required, with a total height of 34.3 ft. on the north side of the site, and 25.5 ft. on the south side of the site; one non-complying front yard of 5 ft. (10 ft. is the minimum required); and a side yard of 3 ft. (5 ft. is the minimum required); and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties in developing the subject lot in compliance with underlying district regulations: (1) the site is a corner lot facing an

Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

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

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed construction of a two-family detached dwelling (Use Group 2), located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio (F.A.R.), open space ratio, lot coverage ratio, height, and side and front yards, contrary to Z.R. §§ 23-141, 23-48, 23-45 and 23-631; and

WHEREAS, the original version of this application contemplated an F.A.R. of .90, a front yard of 17.45 ft, a side yard (which will function as a rear yard) of 20 ft., and a lot coverage ratio of .42; and

WHEREAS, the current version of this application contemplates a F.A.R. of .85, a front yard of 15 ft., a side yard of 25 ft., and a lot coverage ratio of .40; and

WHEREAS, the subject premises is a vacant corner lot located on the southeast corner of Farraday and Valles Avenues, with a total lot area of 2,530 sq. ft.; and

WHEREAS, the applicant represents that though the site is technically a corner lot, it is more akin on a practical level to an interior lot due to its frontage on Valles Avenue; and

WHEREAS, Valles Avenue is a mapped but unbuilt street, and is a steep and rocky knoll covered densely with vegetation where it intersects with Farraday Avenue; and

WHEREAS, the applicant has submitted a letter from the Department of Transportation indicating that there is no plan to reconstruct, widen or alter the existing layout of Valles Avenue, and that it is unlikely that it will be developed in the foreseeable future; and

WHEREAS, the applicant proposes to construct a two-story (plus basement and cellar), two-family dwelling, with a studio unit in the front of the basement level, and a three bedroom unit on the first and second floors; a two-car garage will also be provided at the cellar level; and

WHEREAS, the applicant represents that the cellar level is occupied only by the garage, which will be located at the north portion of the site (fronting Farraday Avenue); and

WHEREAS, the applicant further represents that the basement level has a small entranceway terrace and a studio unit, also fronting Farraday Avenue; and unmapped street that is rocky and overgrown with vegetation; (2) the lot is narrow; (3) the site slopes steeply upward in the southern and western direction, with an elevation differential from the front lot line of between 15 and 25 feet; and

WHEREAS, the applicant represents that due to the width of the lot and the required yards, complying construction would result in a building 80 feet long and only ten feet wide, which would not be habitable; and

WHEREAS, the applicant further represents that a dwelling with a complying F.A.R. would result in an awkward, functionally compromised living space, as available floor area would be inordinately allocated to non-livable space such as stairwells and accompanying hallways (needed to compensate

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for the slope on the site), thereby reducing the amount of livable rooms and compromising the habitability of the dwelling; and

WHEREAS, the Board finds that both the narrowness of the lot and the slope affecting it create a practical difficulty in developing the site in compliance with the applicable zoning provision; and

WHEREAS, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with the applicable zoning requirements will result in a residential development that would be habitable; and

WHEREAS, the applicant states that the bulk and density of the proposed building is consistent with the surrounding residential uses; and

WHEREAS, in furtherance of this statement, the applicant submitted a Neighborhood Character table which shows that many buildings in the immediate vicinity of the site are two and three family homes; and

WHEREAS, the applicant represents that the same table shows that many buildings in the area exceed the allowable F.A.R. and are comparable in bulk to the proposed building; and

WHEREAS, the applicant also submitted photos of the surrounding neighborhood, which show the variety of density and bulk mentioned above; and

WHEREAS, this variety was confirmed on the Board's site visit as well; and

WHEREAS, the applicant further notes that the impact of the proposed development's bulk is mitigated by the site's location, in that it is adjacent to a three-family home to the east with an F.A.R. of .83, and also adjacent to Valles Avenue (which is unlikely to be opened); and

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

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

WHEREAS, the Board asked the applicant to redesign the proposed dwelling in order to provide more light and air to the proposed units, which resulted in a design that required a lesser F.A.R. waiver and provided a larger side yard (at the 311-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Jack Madonia, owner.

SUBJECT - Application September 14, 2004- under Z.R. §72-21 to permit the proposed one-family dwelling, located in an R1-2 (NA-1) zoning district, which does not provide the required lot area, requires tree removal, modification of topography and waiver of the front and rear yards requirements, is contrary to Z.R. §105-50, §105-421, §105-423 and §105-432.

PREMISES AFFECTED - 380 Lighthouse Avenue, south side, 579' west of Windsor Avenue, Block 2285, Lots 1 and 45, Borough of Staten Island.

rear of the proposed structure); and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 72-21, to permit the proposed construction of a two-family detached home (Use Group 2), located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, lot coverage ratio, height, and side and front yards, contrary to Z.R. §§ 23-141, 23-48, 23-45 and 23-631; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 21, 2004" - (3) sheets and "Received December 28, 2004" - (6) sheets; and *on further condition*:

THAT the following bulk parameters will apply to the development approved herein: an F.A.R. of .85; open space of 60%; lot coverage of 40%; wall heights of 20 ft. and 20 ft.; total heights of 34.3 ft. and 25.5 ft.; front yards of 15 and 5 ft.; and a side yard of 3 ft., all as illustrated on the BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, February 8, 2005.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 17, 2004, acting on Department of Buildings

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Application No. 500733646, reads, in pertinent part:

“Proposed one-family dwelling in an R1-2 (NA-1) district, without a required front yard, rear yard, or lot area, and which requires modification of existing topography, alteration of botanic environments or removal of trees, modification of yard, height, and setback regulations and parking location regulations and alteration of other natural features. City Planning Commission does not have jurisdiction to waive required lot area, as per Section 105-50, so application is referred to Board of Standards and Appeals.”; and

WHEREAS, a public hearing was held on this application on November 23, 2004, after due notice by publication in *The City Record*, with a continued hearing on January 11, 2005, and then to decision on February 8, 2005; and

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

WHEREAS, Community Board 2, Staten Island, recommended disapproval of this application; and

WHEREAS, Council Member Oddo and the Lighthouse Hill Civic Association objected to this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed construction of a one-family detached home (Use Group 2), located in an R1-2 (NA-1) zoning district, which does not comply with the zoning requirements for lot area, rear yard, and front yard, and which requires modification of the existing topography, alteration of botanic environments or removal of trees and the alteration of other natural features, contrary to Z.R. §§ 105-50, 105-241, 105-423 and 105-432; and

WHEREAS, the subject premises is an irregularly shaped vacant lot, with 186.34 ft. of frontage on Lighthouse Avenue, a depth of 65.23 ft., and a total lot area of 9,773 sq. ft.; and

WHEREAS, the Board notes that the subject lot was in existence prior to the enactment of the Special Natural Area District regulations (Z.R. 105-00 et seq., hereinafter “SNAD”); and

WHEREAS, the applicant states that the site is sloped, from an elevation of 120 ft. along the northerly lot line,

WHEREAS, the applicant represents that the proposed one-family dwelling is comparable in size and shape to other dwellings in the area, and that its development will not alter the essential character of the neighborhood or substantially impact adjacent properties; and

WHEREAS, in support of this representation, the applicant submitted a Sanborn map that indicates that the majority of lots to the north of the premises are developed and improved with existing homes varying in heights from one story to two and a half stories; and

WHEREAS, the applicant also notes the deficiency in lot area will not negatively impact any adjacent property or the neighborhood in general; and

WHEREAS, based upon the above, the Board finds that

adjacent to Lighthouse Avenue, to an elevation of less than 84 ft. along the southerly lot line, such that the site meets the definition of “steep slope” as set forth in Z.R. § 105-11(b)(1); and

WHEREAS, the applicant notes that the City Planning Commission (“C.P.C”) normally has jurisdiction over the SNAD regulations applicable to the subject development proposal, but because C.P.C. can not vary the lot area requirement, a Board application was necessary; and

WHEREAS, as noted below, the applicant has provided the Board with proposed findings for the applicable SNAD regulations; and

WHEREAS, the proposed development will result in the following non-compliances: a lot area of 9,773 sq. ft. (12,500 sq. ft. is the minimum required); a front yard of 10 ft. (20 ft. is the minimum required); and a rear yard of 10 ft. (30 ft. is the minimum required); and

WHEREAS, the floor area ratio of the proposed dwelling will meet applicable district requirements; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties in developing the subject lot in compliance with underlying district regulations: (1) the site suffers from a very steep slope; and (2) the lot is narrow; and

WHEREAS, the applicant represents that due to the width of the lot and the required yards, complying construction would result in a building only 15 feet wide, which would not be habitable; and

WHEREAS, the applicant further represents that due to the slope on the site and the SNAD regulations, yard relief is required so that any need to cut into the slope or disturb the natural terrain for construction purposes is minimized; and

WHEREAS, the Board finds that both the narrowness of the lot and the slope affecting it create a practical difficulty in developing the site in compliance with the applicable zoning provisions; and

WHEREAS, the Board has determined that because of the subject lot’s unique physical conditions, there is no reasonable possibility that development in strict compliance with the applicable zoning requirements will result in a residential development that would be habitable; and

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

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

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

WHEREAS, the Board notes that the applicant has submitted suggested findings pursuant to the applicable provisions of the SNAD; and

WHEREAS, the Board has reviewed the proposed findings and has determined that they have been met; and

WHEREAS, the Board notes that the applicant has

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committed to planting twelve new trees, to compensate for the trees that will be removed during construction of the proposed dwelling; and

WHEREAS, the Board notes that it defers to the Department of Buildings the review and approval of the proposed trees plantings; and

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 72-21, to permit the proposed construction of a one-family detached home (Use Group 2), located in an R1-2 (NA-1) zoning district, which does not comply with the zoning requirements for lot area, rear yard, and front yard, and which requires modification of the existing topography, alteration of botanic environments or removal of trees and the alteration of other natural features, contrary to Z.R. §§ 105-50, 105-241, 105-423 and 105-432; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 14, 2004"-(6) sheets, "Received December 27, 2004"-(1) sheet, "Received January 10, 2005" -(2) sheets, and "Received January 25, 2005"- (1) sheet; and *on further condition*:

THAT use of the cellar shall be limited to storage and recreation, and not sleeping purposes;

THAT the above condition shall be noted on the certificate of occupancy

THAT twelve new trees shall be planted on the site prior to issuance of any certificate of occupancy;

THAT all tree plantings shall be as reviewed and approved by DOB;

THAT all laws, rules, regulations, and DOB policies related to site and construction safety and protection of adjoining properties shall be complied with during the construction of the subject dwelling;

THAT the following requirements must be implemented
291-03-BZ

APPLICANT - Stuart A. Klein, Esq., for 6202 & 6217 Realty Company, owner.

SUBJECT - Application September 4, 2003 - under Z.R. §72-21 to permit the proposed residential building, Use Group 2, located on a site in that is in an M1-1 and an R5 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 1380 62nd Street, northwest corner of 14th Avenue, Block 5733, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to March 1, 2005, at 1:30 P.M., for deferred decision.

during construction and identified on the construction plan submitted to and reviewed by DOB:

(a) construction fences shall be erected around all vegetation proposed for preservation and all other areas that must be protected, and those portions of the fence that are downhill from the construction site shall have hay bales placed adjacent to them.

(b) a construction staging area shall be located in an area on the subject site that would most minimize destruction of the natural features of the landscape; such area shall be as close to the construction area on the site as practical, and shall be either on the flattest portion of the site or behind a containment wall where it will not erode any area that must be protected or endanger any tree designated for preservation;

THAT DOB shall ensure that the above conditions are met during construction;

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

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

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

Adopted by the Board of Standards and Appeals, February 8, 2005.

357-03-BZ

APPLICANT - Agusta & Ross, for ECROB, LLC., owner.

SUBJECT - Application November 19, 2003 - under Z.R. §72-21 to permit the proposed four-story and penthouse multiple dwelling in an M1-2 district contrary to Z.R. §42-10.

PREMISES AFFECTED - 33 Berry Street, a/k/a 144 North 12th Street, southwest corner of North 12th Street and Berry Street, Block 2290, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to March 15, 2004,

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

3-04-BZ

APPLICANT - Eric Palatnik, P.C., for Rushikesh Trivedi, owner.
SUBJECT - Application January 6, 2004 - under Z.R. §72-21 to permit the proposed dental office, Use Group 6, located in an R-2 zoning district, which does not comply with the zoning requirements for floor area, open space, front and side yards and use, which is contrary to Z.R. §24-111, §22-14, §24-34 and §24-35.

PREMISES AFFECTED - 147-08 46th Avenue, between Parsons Boulevard and 149th Street, Block 5452, Lot 3, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Eric Palatnik and Dr. Shilpo Trivedi.

ACTION OF THE BOARD - Laid over to April 5, 2005, at 1:30 P.M., for continued hearing.

63-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Showky Kaldawy, owner.

SUBJECT - Application February 27, 2004 - under Z.R. §72-21 to permit the proposed accessory parking, for an adjacent car rental facility, (Use Group 8), located in an R5 zoning district, is contrary to Z.R. §22-10.

PREMISES AFFECTED - 108-24 Astoria Boulevard, southwest corner of 110th Street, Block 1703, Lots 94, 97, 98 and 99, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Joseph Morsellino, Jimmy Smith and Vera Brome.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 15, 2005, at 1:30 P.M., for decision, hearing closed.

208-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Brian Gross and Chedva Gross, owners.

SUBJECT - Application May 21, 2004 - under Z.R. §72-21 to permit the proposed enlargement of the cellar, first floor and second floor, on the southerly side of single family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the

For Opposition: Beverly McDermott, Robert Tucker and Joe Amoroso.

ACTION OF THE BOARD - Laid over to April 5, 2005, at 1:30 P.M., for continued hearing.

72-04-BZ

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

SUBJECT - Application March 5, 2004 - under Z.R. §11-411 to request an extension of term of the previously granted variance, which permitted the erection and maintenance of a gasoline service station with accessory uses, and Section 11-412 to authorize the alteration of the signage and the accessory use of a convenience store located in an R6/C1-2 and R6 zoning district.

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

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Laid over to March 8, 2005, at 1:30 P.M., for continued hearing.

207-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for David Spira and Gayle Malka Spira, owners.

SUBJECT - Application May 19, 2004 - under Z.R. §72-21 to permit the proposed enlargement of the cellar, first and second floors, also the attic, on the northerly side of a single family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, also side and front yards, is contrary to Z.R. §23-141, §23-461 and §23-45.

PREMISES AFFECTED - 2721 Avenue "N", northwest corner of East 28th Street, Block 7663, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Lyra Altman.

zoning requirements for floor area ratio, open space ratio, side and front yards, also the front setback, is contrary to Z.R. §23-141, §23-461, §23-45 and §23-631.

PREMISES AFFECTED - 2822 Avenue "L", southwest corner of East 29th Street, Block 7646, Lot 51, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Lyra Altman.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 15, 2005, at 1:30 P.M., for decision, hearing closed.

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220-04-BZ

APPLICANT - Eric Palatnik, P.C., for Marjay Realty, LLC, owner; Maxim Health and Fitness, lessee.

SUBJECT - Application May 28, 2004 - under Z.R. §73-36 to permit the proposed physical culture establishment, to occupy a portion of the second floor, of an existing six story building, located in an M1-2 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 500 Driggs Avenue, a/k/a 482/504 Driggs Avenue, through lot fronting on North 9th and 10th Streets and Driggs Avenue, Block 2305, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 15, 2005, at 1:30 P.M., for decision, hearing closed.

234-04-BZ

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

SUBJECT - Application June 18, 2004 - under Z.R. §72-21 to permit in a M1-1 and M1-2 district, approval sought to legalize residential occupancy of 73 dwelling units in a four-story and basement industrial building, which was constructed in 1931. The legal use is listed artist loft space for the 73 units. There are proposed 18 parking spaces on the open portion of the lot, which consists of 25,620 SF in its entirety. The use is contrary to district use regulations.

PREMISES AFFECTED - 255 McKibbin Street, between Bushwick Avenue and White Street, Block 3082, Lot 65, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jordan Most and Robert Pauls.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 1, 2005, at 1:30 P.M., for decision, hearing closed.

298-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Yeshiva Emek Hatalmud, owner.

SUBJECT - Application September 7, 2004 - under Z.R. §72-21 to permit the proposed conversion of a two family residential house to a Yeshiva (Religious School), located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, street wall, sky exposure, side and rear yards, is contrary to Z.R. §24-11, §24-521, §24-35(a) and

ACTION OF THE BOARD - Laid over to April 12, 2005, at 1:30 P.M., for continued hearing.

258-04-BZ

APPLICANT - Eric Palatnik, P.C., for Mindy Elmann, owner.

SUBJECT - Application November 16, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage and rear yard, is contrary to Z.R. §23-141(b) and §23-47.

PREMISES AFFECTED - 1837 and 1839 East 24th Street, south of Avenue "R", Block 6830, Lots 70 and 71 (tentative Lot 71), Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Eric Palatnik and Lewis Garfinkel.

ACTION OF THE BOARD - Laid over to March 8, 2005, at 1:30 P.M., for continued hearing.

265-04-BZ

APPLICANT - Greenberg & Traurig, LLP by Jay A. Segal, Esq. for LVMH, Inc., owner; BlissWorld LLC, Lessee.

SUBJECT - Application July 27, 2004 - under Z.R. §73-36 to permit the legalization of the operation of a physical cultural establishment on the 3^d floor of a twenty-two story commercial building consisting of 3,792 sq. ft. located within a C5-3 (MID) Zoning district.

PREMISES AFFECTED - 19 East 57th Street - north side of East 57th Street and Madison Avenue, Block 1293, Lot 14, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Meloney McMonoy.

§24-36.

PREMISES AFFECTED - 1746 East 21st Street, west side, 440' north of Quentin Road, Block 6783, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Moshe Friedman and Abraham Sandberg.

For Opposition: Suellen Rubin and Richard S. Klotz.

ACTION OF THE BOARD - Laid over to April 12, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 4:25 P.M.

MINUTES

BULLETIN

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February 24, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE - 40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD - 40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @ <http://www.nyc.gov/html/bsa/home.html>

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Tuesday, February 15, 2005**

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296-04-BZ	135 Orchard Street, Manhattan

DOCKETS

New Case Filed Up to February 15, 2005

23-05-A B.Q. 32 Bedford Avenue, south side, 515.07' west of 12th Avenue, Block 16350, Part of Lot Lot 300, Borough of Queens. Applic.#402077569. Proposed enlargement to an existing one family dwelling, located within the bed of a mapped street and not fronting on a legally mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

24-05-BZ B.Q. 97-15 Northern Boulevard, northwest corner of 98th Street, Block 1427, Lot 33, Borough of Queens. N.B.#402069756. Proposed redevelopment of an existing gasoline service station, with an accessory convenience store, located within an R6/C2-4 zoning district, requires a special permit from the Board as per Z.R. §73-211.
COMMUNITY BOARD #3Q

25-04-BZ B.M. 521/25 West 36th Street, between 10th and 11th Avenues, Block 708, Lot 20, Borough of Manhattan. Applic.#103636059. The legalization of three residential units, in an existing four-story and penthouse mixed use building, located within an M1-5 zoning district, is contrary to Z.R. §42-00.
COMMUNITY BOARD #4M

26-05-BZ B.BK. 1702/28 East 9th Street, aka 815 Kings Highway, west side, between Kings Highway and Quentin Road, Block 6665, Lots 7, 12 and 15, Borough of Brooklyn. Applic.#301647895. Proposed bulk variance, to facilitate the new construction of an 89 room hotel on floors 4-6, catering facility on floors 1-3, ground floor retail and three levels of underground parking, which creates non-compliance with regards to floor area, rear yard, interior lot, permitted obstructions in the rear yard, setback, sky exposure plane, loading berths and accessory off-street parking spaces, is contrary to Z.R. §33-122, §33-26, §33-432, §36-21, §33-23 and §36-62.
COMMUNITY BOARD #15BK

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

MARCH 29, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 29, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

200-24-BZ

APPLICANT - Stephen Ely, for Ebed Realty c/o Ruben Greco, owner.

SUBJECT - Application December 22, 2004 - reopening for an extension of time to obtain a Certificate of Occupancy, located in an R8 and C8-2 zoning district.

PREMISES AFFECTED - 3030 Jerome Avenue a/k/a 3103 Villa Avenue, 161.81' south of East 204th Street on the East Side of Jerome Avenue, Block 3321, Lot 25, Borough of The Bronx.

COMMUNITY BOARD #7BX

189-96-BZ

APPLICANT - John C Chen, for Ping Yee, owner; Edith D'Angelo-Cnandonga, lessee.

SUBJECT - Application September 8, 2004 - Extension of Term-Waiver- for an eating and drinking establishment with dancing, Located in an C2-3 overlay within an R6 zoning district.

PREMISES AFFECTED - 85-12 Roosevelt Avenue, (85-10 Roosevelt Avenue), south side of Roosevelt Avenue, 58' east side of Forley Street, Block 1502, Lot 3, Borough of Queens.

COMMUNITY BOARD #4Q

28-02-BZ

APPLICANT - Sheldon Lobel. P.C., for Farbod Realty Corp., owner; Harris G. Joseph, Inc., lessee.

SUBJECT - Application - November 5, 2004 - Extension of Term & Amendment for the the use of a Pysical Cultural Establishment which was granted by BSA pursuant to Section 73-36 of the Zoning Resolution on February 4, 2003 for a term of two years. The application requests a change in the hours of operation contrary to the conditions set in the prior Resolution, located in a C5-2 zoning district.

PREMISES AFFECTED - 80 Madison Avenue, between 28th and 29th Streets, Block 858, Lot 14, Borough of Manhattan.

COMMUNITY BOARD#5M

201-04-BZ

APPLICANT - Eric Palatnik, P.C., for Marilyn Levine & Melvin Mesnick, Urban Spa, Inc., dba Carapan, lessee.

SUBJECT - Application May 14, 2004 - under Z.R. §73-36, to permit the legalization of an existing physical culture establishment, located in the basement level of a four story commercial structure,

APPEALS CALENDAR

210-04-A

APPLICANT - Joseph P. Morsellino, Esq., for Chilton Paint Co., owner; CPP Development, LLC, lessee.

SUBJECT - Application May 21, 2004 - Proposed six story residential building, with 134 dwelling units, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 109-09 15th Avenue, northwest corner of 110th Street, Block 4044, Lot 60, Borough of Queens.

COMMUNITY BOARD #7Q

397-04-A

APPLICANT - Petraro & Jones, LLP, for Jennifer Walker, owner.

SUBJECT - Application December 23, 2004 - An appeal to request the Board to determine that the apartment house at subject premises, is not a "single room occupancy multiple dwelling" and (2) nullify the Department of Buildings' plan review "objection" that resulted in this appeal application.

PREMISES AFFECTED - 151 West 76th Street, north side, 471' from the intersection of Columbus Avenue, Block 1148, Lot 112, Borough of Manhattan.

COMMUNITY BOARD #7M

MARCH 29, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, March 29, 2005, at 1:30 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

174-04-BZ

APPLICANT - Law Offices of Howard Goldman, PLLC for Harold Milgrim, Trustee.

SUBJECT - Application April 28, 2004 - under Z.R. §72-21 Proposed conversion of floors two through six, to residential use, Use Group 2, in an existing six-story commercial building, located in an M1-6 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 124 West 24th Street, south side, between Sixth and Seventh Avenues, Block 799, Lot 54, Borough of Manhattan.

COMMUNITY BOARD #4M

situated in a C6-2M zoning district, which requires a special permit.

PREMISES AFFECTED - 5 West 16th Street, between Fifth Avenue and Avenue of the Americas, Block 818, Lot 37, Borough of Manhattan.

COMMUNITY BOARD #5M

CALENDAR

209-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Chilton Paint Co., owner; CPP Development, LLC, lessee.

SUBJECT - Application May 21, 2004 - under Z.R.§72-21 to permit the proposed six story residential building, with 134 dwelling units, Use Group 2, located in an M2-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 109-09 15th Avenue, northwest corner of 110th Street, Block 4044, Lot 60, Borough of Queens.

COMMUNITY BOARD #7Q

Pasquale Pacifico, Executive Director

**REGULAR MEETING
TUESDAY MORNING, FEBRUARY 15, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, December 7, 2004, were approved

as printed in the Bulletin of December 16, 2004, Volume 89, Nos. 49-50.

SPECIAL ORDER CALENDAR

MINUTES

135-46-BZ

APPLICANT - Harold Weinberg, P.E., for Leon Rubinfeld, owner.
SUBJECT - Application January 7, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired January 29, 2002.

PREMISES AFFECTED - 3802 Avenue U, southeast corner of East 38th Street, between Ryder Avenue and East 38th Street, Block 8755, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Harold Weinberg, P.E.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the rules of practice and procedure, a re-opening to amend the resolution, and a renewal of term for a previously granted variance that expired January 29, 2002; and

WHEREAS, a public hearing was held on this application on October 26, 2004 after due notice by publication in The City Record, with continued hearings on December 7, 2004 and January 25, 2005 and then to February 15, 2005 for decision; and

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

WHEREAS, Community Board No. 18, Brooklyn, recommends disapproval of this application; and

WHEREAS, the premises is located on the southeast corner of East 38th Street, between Ryder Avenue and East 38th Street, Brooklyn; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since July 16, 1946, when under the subject calendar number, it granted a variance for a change of use, to allow the erection of a new building on an existing gasoline service station and parking for more than five (5) motor vehicles, minor repairs, brake testing and wheel alignment; and

WHEREAS, the applicant represents that use of the site for gasoline sales has not been active for over two years, but that the

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. 301689466)

Adopted by the Board of Standards and Appeals, February 15, 2005.

102-95-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for The Argo Corp., as agent for 50 West 17 Realty Co.; Renegades Assoc. dba Splash Bar, lessee.

SUBJECT - Application March 23, 2004 - Extension of Term for an

owner now desires to reinstate the use; and

WHEREAS, the Board finds that the reinstatement of the gasoline sales use on the subject site is appropriate, with the conditions set forth below, including a condition that the curb cuts on East 38th and Ryder Streets shall be eliminated.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "To permit a renewal of the term of a previously granted variance that expired January 29, 2002, for a term of ten years; on condition that all work shall substantially conform to drawings as filed with this application, marked 'Received January 26, 2005' - (1) sheet; and on further condition:

THAT the term of this grant shall be for 10 years, from January 29, 2002, to expire on January 29, 2012;

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

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

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

THAT all work shall be with hand tools only;

THAT there shall be no body repair, burning or welding performed on the premises;

THAT there shall be no sale of automobiles on the subject premises;

THAT active gas pumps be maintained on the premises;

THAT the above conditions shall be listed on the Certificate of Occupancy;

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

THAT fencing and landscaping shall be installed and/or maintained in accordance with the BSA-approved plans;

THAT all signage shall comply with the C2-2 zoning district regulations;

THAT all curb cuts shall be as shown on BSA-approved plans; the curb cut on Ryder Street and the curb cut on East 38th Street shall be removed;

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

eating & drinking establishment with dancing. Amendment for interior modifications in portions of the cellar and first floor. Located in M1-6M zoning district.

PREMISES AFFECTED - 50 west 17th Street, south side of West 17th Street, between 5th Avenue and 6th Avenue, Block 818, Lot 78, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a re-opening, an

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extension of the term of the variance that expired on March 5, 2004, and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on February 1, 2005, after due notice by publication in The City Record, and then to February 15, 2005 for decision; and

WHEREAS, Community Board 5, Manhattan, recommended approval of this application; and

WHEREAS, the subject premises is located on the south side of West 17th Street between Fifth and Sixth Avenues, and is improved upon with a 12-story structure that contains the subject eating and drinking establishment use on the cellar and first floor levels; and

WHEREAS, on March 5, 1996, the Board granted an application under the subject calendar number, to permit the conversion of an existing eating and drinking establishment (Use Group 6) to an eating and drinking establishment with entertainment and a capacity of more than 200 persons, with dancing (Use Group 12), in the first floor and cellar of the 12-story building, for a term of two years; and

WHEREAS, the Board has subsequently granted other applications for extensions of the term of the variance as well as minor amendments to the resolution, most recently on August 14, 2001; and

WHEREAS, the applicant represents that the site has been rezoned recently, from M1-6M to C6-4A; and

WHEREAS, in addition to an extension of term, the subject application seeks an amendment to legalize the addition of storage closets, as well as a change in the location of some interior doorways; and

WHEREAS, the applicant represents that these interior modifications have not created any adverse impacts in connection with the operation of the subject establishment, nor have they increased the floor area; and

WHEREAS, the Board has reviewed the record and evaluated the representations of the applicant, and finds that the requested extension and amendment are appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this **322-98-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, for HUSA Management Co., LLC, owner; TSI Harlem USA, Inc. d/b/a New York Sports Club, lessee.

SUBJECT - Application March 15, 2004 - reopening for an amendment to the resolution to allow the enlargement of a previously granted special permit permitting the operation of a physical culture establishment located in portions of the first floor and of the fourth floor of the subject premises.

PREMISES AFFECTED - 300 West 125th Street, south side of West 125th Street, between St. Nicholas Avenue and Frederick Douglas Boulevard, Block 1951, Lots 22, 25, 27, 28, 29, 33, 39, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES -

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

portion of the resolution shall read: "To extend the term of the variance for an additional three (3) years from March 5, 2004, to expire on March 5, 2007, and to permit the legalization of the addition of storage closets and a change in the location of some interior doorways; on condition that all work shall substantially conform to drawings as filed with this application, marked 'Received February 2, 2005' - (3) sheets ; and on further condition:

THAT the term of this grant is from March 5, 2004 to March 5, 2007;

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

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

THAT there will be no queuing of patrons on the sidewalk abutting the premises, or anywhere else outside of the building;

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

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

THAT the internal layout of the premises, all exiting requirements, and Local Law 58/87 compliance, shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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. 102482760)

Adopted by the Board of Standards and Appeals, February 15, 2005.

Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a re-opening and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on January 11, 2005, after due notice by publication in the City Record, with a continued hearing on February 1, 2005, and then to February 15, 2005 for decision; and

WHEREAS, Community Board 10, Manhattan, recommends approval of the subject application; and

WHEREAS, on March 23, 1999, the Board granted a special permit application pursuant to Z.R. § 73-36, to permit in a C4-5 zoning district, the use of portions of the first and fourth floors of an existing four-story building as a physical culture establishment ("PCE"); and

WHEREAS, the record indicates that the PCE was approved for instruction and programs for physical improvement, strength

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training and aerobic improvement; and

WHEREAS, the instant application seeks to expand the facility on the fourth floor of the building in order to allow for the construction of a basketball court, as an accessory use to the PCE; and

WHEREAS, the applicant represents that the proposed enlargement comprises 5,343 square feet of floor area; and

WHEREAS, the Board finds that this application is appropriate to grant, with the conditions set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit a 5,343 square-foot expansion of the facility on the fourth floor of the building in order to allow for the construction of a basketball court as accessory to the PCE; on condition that all work shall substantially conform to drawings as filed with this application, marked `November 16, 2004' - (2) sheets and `February 2, 2004' - (4) sheets; and on further condition:

THAT the Department of Buildings will ensure that the proposed enlargement complies with all applicable district bulk regulations;

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

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. 101835016)

Adopted by the Board of Standards and Appeals, February 15, 2005.

WHEREAS, the Board has exercised jurisdiction over the subject premises since May 7, 1948, when under Calendar No. 512-48-BZ, the Board granted a variance for a change of use, to allow the erection and maintenance of a gasoline service station; and

WHEREAS, on October 14, 1987, under Calendar Number 844-87-BZ, the Board granted a special permit for construction of, and the use of the subject lot as, a self-service gasoline station, for a term of ten (10) years; and

WHEREAS, the grant under Calendar Number 844-87-BZ included a Conditional Negative Declaration (the "1989 CND"), which contained various requirements to be satisfied, all related to the use of the gasoline service station; and

WHEREAS, the special permit granted under Calendar Number 844-87-BZ expired on December 5, 1999 and was never renewed; and

WHEREAS, on October 29, 2004, under the subject calendar number, the Board granted a special permit to allow in a C2-2/R3-2 zoning district, the legalization of an automotive service station use, as well as approval of modifications to existing signage, on condition that within 5 months from the date of the grant, the applicant should satisfy various environmental conditions set forth in the resolution issued by the Board; and

WHEREAS, this resolution also provided that the grant would

178-03-BZ

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

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

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

COMMUNITY BOARD #10Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION-

WHEREAS, this is an application for a reinstatement for a previously granted variance that expired on April 28, 2004, by operation of a previously issued resolution; and

WHEREAS, a public hearing was held on this application on March 23, 2004 after due notice by publication in The City Record, with continued hearings on May 18, August 10, and November 16, 2004 and then to February 15, 2005 for decision; and

WHEREAS, Community Board No. 10, Queens has recommended approval of this application; and

WHEREAS, the premises is located on the southwest corner of Linden Boulevard and Van Wyck Expressway, Queens; and

expire on April 28, 2004, and that a new application would then have to be filed; and

WHEREAS, when the instant application was initially filed, the applicant represented that not all of the conditions contained in the previous BSA resolution had been satisfied; and

WHEREAS, however, during the course of the hearing process, all the environmental conditions were satisfied; and

WHEREAS, a Restrictive Declaration was executed and recorded for the subject site which addressed the environmental conditions raised in the 1989 Conditional Negative Declaration for the prior case; and

WHEREAS, therefore, the Board concludes that it is appropriate to reinstate the previously expired grant.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "To permit the renewal of a previously granted variance that expired April 28, 2004; on condition:

THAT all relevant site-mitigation conditions from prior resolutions, including the resolution dated October 23, 2004, 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;

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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. 4016488885)

Adopted by the Board of Standards and Appeals, February 15, 2005.

1126-48-BZ

APPLICANT - Sheldon Lobel, P.C., for Advance Parking LLC, owner.

SUBJECT - Application July 30, 2004- Reopening for an extension of term of variance for an open garage for parking & storage of more than five(5) motor vehicles, located in C1-5 zoning district.

PREMISES - 249/51 West 43rd Street, north side of West 43rd Street, 200' east of 8th Avenue, Block 1015, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 8, 2005, at **208-78-BZ**

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

SUBJECT - Application May 18, 2004- request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance to permit a funeral establishment (Use Group 7), located in an R3-2 zoning district.

PREMISES AFFECTED - 2145 Richmond Avenue, east side of Richmond Avenue, 11.74' south of Rockland Avenue, Block 2360, Lot 54, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 15, 2005, at 10 A.M., for decision, hearing closed.

259-98-BZ

APPLICANT - Davidoff Malito & Hatcher LLP by Howard S. Weiss, Esq., for Kent Plaza Realty Corp., owner.

SUBJECT - Application November 17, 2004 - reopening for an amendment to a previously granted variance for a multiple dwelling, located in an M1-2 zoning district.

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

722-68-BZ

APPLICANT - Sheldon Lobel, P.C., for Matthews Pines, owner; Speedstar Motors, Inc., lessee.

SUBJECT - Application July 30, 2003 - reopening for an amendment to legalize a change of use from wholesale storage and packaging establishment, with an accessory office and loading area (Use Group 16) to automotive repair and sales (Use Group 16) and warehouse (Use Group 16), with accessory offices, located in an R-6 zoning district.

PREMISES AFFECTED - 388-392 Kings Highway, West 3rd Street and Kings Place, Block 6678, Lot 68, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Irving E. Minkin.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 15, 2005, at 10 A.M., for decision, hearing closed.

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

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Howard S. Weiss.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 8, 2005, at 10 A.M., for decision, hearing closed.

133-99-BZ

APPLICANT - Harold Weinberg, P.E., P.C., for Anna Kadar, owner.

SUBJECT - Application February 2, 2004 and June 10, 2004 - reopening for an extension of time to complete construction and obtain a certificate of occupancy to permit a one story family residence and for an amendment to the resolution to modify the interior arrangement and also raise the height of the building.

PREMISES AFFECTED - 1253 Oriental Boulevard, northwest corner Norfolk Street, Block 8756, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #15BK

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APPEARANCES -

For Applicant: Harold Weinberg.

ACTION OF THE BOARD - Laid over to March 15, 2005, at 10 A.M., for continued hearing.

277-04-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative Inc., owner; John & Anne Egan, lessees.

SUBJECT - Application August 10, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, located partially within the bed of a mapped street and has a private disposal system in the bed of a mapped street, is contrary to Sections 35 and 36, of the General City Law and Department of Buildings Policy

PREMISES AFFECTED - 155 Reid Avenue, east side, 493.42' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES - None.

ACTION OF THE BOARD -Appeal granted on condition

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

WHEREAS, by letter dated November 30, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated October 19, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated November 10, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated July 12, 2004, acting on Department of Buildings Application No. 401867958, is modified under the power vested in the Board by Sections 35 & 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked, "Received November 26, 2004"-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

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

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

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

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

WHEREAS, the decision of the Queens Borough Commissioner, dated July 12, 2004, acting on Department of Buildings Application No. 401867958, reads:

"A-1 The proposed enlargement is on a site located partially in the bed of a mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 35 of the General City Law;

A-2 The site and building is not fronting on an official mapped street; therefore, no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law; also, no permit can be issued since the proposed construction does not have at least 8% of total perimeter of building fronting directly upon a legally mapped street or frontage space and is therefore contrary to Section C27-291 (C26-401.1) of the Administrative Code of the City of New York .

A-3 The private disposal system is in the bed of a mapped street contrary to Department of Buildings Policy."; and

WHEREAS, a public hearing was held on this application on February 1, 2005 after due notice by publication in the City Record, and then to decision on February 15 2005; and

Adopted by the Board of Standards and Appeals, February 15, 2005.

148-04-A

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

OWNER OF RECORD: Sterling & Seventh LLC.

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

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

COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Peter Geis.

For Administration: Lisa Orantia, Department of Buildings.

ACTION OF THE BOARD -Application withdrawn.

THE VOTE TO WITHDRAW -

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

Negative:.....0

Adopted by the Board of Standards and Appeals, February 15, 2005.

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Pasquale Pacifico, Executive Director.

Adjourned: 10:25 A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, FEBRUARY 15, 2005
2:00 P.M.**

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

ZONING CALENDAR

WHEREAS, the decision of the Borough Commissioner, dated September 11, 2003, acting on Department of Buildings Application No. 102987314, reads, in pertinent part:

"Dwelling units are not permitted as-of-right in a M1-5 district as per sections 42-00 ZR and 42-133 ZR."; and

WHEREAS, a public hearing was held on this application on February 3, 2004 after due notice by publication in the City Record, with continued hearings on March 23 and July 13, 2004, and then to decision on September 21, 2004; the decision was deferred to November 8, 2004, on which date the matter was reopened, and then to decision on February 15, 2005; and

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

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an M1-5 zoning district, residential use of three co-op units on the third, fourth and fifth floors of an existing building (Use Group 2), contrary to Z.R. §§ 42-00 and 42-133; and

WHEREAS, this application is brought on behalf of 253 West 28th Street Corp., a residential co-operative; and

WHEREAS, Community Board No. 5, Manhattan, recommends disapproval of this application; and

WHEREAS, the subject zoning lot is 49'-9" wide by 116'-11¼" deep, with a total lot area of 5,825 sq. ft., and is improved upon with a five-story plus cellar, 50' high co-op building with 27,778 sq. ft. of total floor area (the "subject building" or "building"); and

WHEREAS, the applicant states that the subject building was built in 1896 as a stable and wagon storage facility, changed to light manufacturing and furrier use in the 1930s, and left vacant in the mid-1970s; and

WHEREAS, the applicant further states that the building converted to a co-operative in 1979, and, in years subsequent, the first floor and cellar were sold to a nightclub, the second and fifth floors were sold to photographers, the third floor was sold to an artist, and the fourth floor was sold to an attorney; and

WHEREAS, the record indicates that the first floor and cellar

221-03-BZ

APPLICANT - Martyn & Don Weston, for 253 West 28th Street, Corp., owner.

SUBJECT - Application June 26, 2003 - under Z.R. §72-21 to permit the legalization of three existing residential units, located on the third, fourth and fifth floors, of a five story mixed use building, in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 253/55 West 28th Street, north side, 105'-1" east of Eighth Avenue, Block 778, Lot 7, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Don Weston, Frank Angelino and Peter Mackie.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

level of the building are currently undergoing renovations to accommodate a nightclub (hereinafter, the "Club" or the "Lessee"), which plans to establish operations on these levels; and

WHEREAS, Certificate of Occupancy No. 87128 lists the following as legal uses of the building: cellar - boiler room & storage, dressing rooms, toilet rooms and storage rooms for Eating and Drinking Establishment at 1st floor; first floor - Eating and Drinking Establishment without restrictions Use Group No. 12; second floor - Photographic Studio; third floor - Art Studio; fourth floor - Offices; and fifth floor - Photographic Studio; and

WHEREAS, the applicant represents that three floors of the building have been used for residential purposes for more than twenty years; and

WHEREAS, both the Lessee and the owner of the shares allocable to the cellar and first floor co-op units (hereinafter, the "First Floor Owner") appeared in opposition to the subject application; and

WHEREAS, the applicant represents that the following are unique physical conditions inherent to the subject building and zoning lot, which create practical difficulties and unnecessary hardship in developing the entire building with a conforming use: (1) the ceilings are too low for most commercial or industrial uses; (2) the one small elevator is not suitable for most commercial or industrial uses; (3) the space is broken up with columns spaced at 18 ft. on center; (4) the total floor loading capacity is 88 pounds per square foot; (5) the floor plates are too small for most commercial and industrial users; (6) the electrical service is inadequate; (7) the building adjoins two zoning districts that permit residential use; (8) there is no off-street parking or loading; (9) the subject units could have qualified for Interim Multiple Dwelling status at one time; and (10) the Fashion Institute ("FIT") is directly across the street; and

WHEREAS, in a submission dated August 23, 2004, the Lessee disputes that any of the ten factors listed above constitute a unique physical condition inherent to the building or zoning lot; and

WHEREAS, the Board agrees that adjacency to residential districts, lack of off-street parking, potential qualification for IMD status and proximity to FIT should not be considered unique

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physical conditions; and

WHEREAS, however, the Board disagrees that the other factors, when considered together, could not properly be considered unique physical conditions, and notes that similar fact-patterns have been found sufficient to support the uniqueness finding in other cases; and

WHEREAS, in addition, in response to the contention of the Lessee that the subject building is not unique, the applicant made a submission which provided further explication of why the subject building is significantly different than others in the vicinity; and

WHEREAS, the analysis showed that the subject building was different from the three remaining buildings which were possibly comparable to the subject building, explaining that one of the buildings was a larger, modern building on a corner lot, one was in a zone that allowed residential use as-of-right, and one was actually significantly smaller; and

WHEREAS, based upon its review of the record and its observations, the Board finds that the subject building is unique relative to neighboring properties, and notes that even if there were more buildings comparable to the subject building in the area, a finding of uniqueness would nevertheless not be precluded, so long as the comparable buildings were not the prevailing building form within the area; and

WHEREAS, however, the Board observes that five-story loft buildings with bulk parameters comparable to the subject building are not the predominant building form in the surrounding neighborhood; and

WHEREAS, accordingly, the Board finds that certain of the unique conditions mentioned above, namely, that (1) the low ceilings, small floor plates, antiquated electrical service, and small elevator are not suitable for most commercial or industrial uses, (2) the space is broken up with columns spaced at 18 ft. on center, and (3) the total floor loading capacity is deficient, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the entire site in strict conformity with current zoning; and

WHEREAS, the applicant has submitted a feasibility study, and subsequent amplifying submissions, which purport to show that a conforming proposal for the subject building would not result in a reasonable return; and

WHEREAS, the First Floor Owner contends that the original feasibility analysis is flawed because it analyzes the conforming use scenario based upon rentals from all five co-op units, but analyzes the proposed variance scenario only based upon rental value for the third through fifth floors; and

WHEREAS, in order to address this concern, the Board asked the applicant to analyze the entire building as a hypothetical rental proposal, on the theory that this would lead to consideration of the building's financial hardship in its entirety, which would provide a better measure of the building's economic viability for conforming uses; and

WHEREAS, in response, the applicant's financial consultant conducted such a study, and utilized the estimate of building value proposed by the First Floor Owner's financial expert; and

WHEREAS, the First Floor Owner's financial consultant questioned the use of this estimate as a true reflection of the building value, alleging that he proffered the figure not as a proposed acquisition cost, but as a representation of the return that could be

WHEREAS, the applicant's financial consultant, in a submission dated January 4, 2005, provided an analysis of all buildings within a 400' radius of the subject site; and

WHEREAS, this analysis distinguished the subject building from other buildings in this radius that had different permitted uses, were in different zoning districts, or which were substantially smaller or larger in terms of stories, floor plate sizes, and/or lot sizes; and

WHEREAS, the analysis also eliminated for comparison purposes vacant land or land occupied by parking lots or garages; and realized from the investment of the individual unit owners when aggregated; and

WHEREAS, the Board notes that this is the equivalent of market value, and thus this estimate is an appropriate figure to use; and

WHEREAS, using this site valuation, the applicant's financial expert also stated that the estimate is an appropriate measure of current value, based upon an aggregate of average vacant land sales and the replacement value of the subject building; and

WHEREAS, the applicant's financial expert also notes that the original valuation estimate submitted with the first feasibility study was made over one year ago, and that updating of the land value was therefore necessary and appropriate; and

WHEREAS, accordingly, the Board agrees with the applicant that the revised building value estimate is reasonable; and

WHEREAS, the applicant's financial consultant concluded that a conforming use alternative did not realize a reasonable return, but that the proposed mixed-use alternative realized a modest return; and

WHEREAS, the First Floor Owner also questioned the methodology that the Board proposed to the applicant, and suggested that if an evaluation of the actual profit that each individual unit owner could make based upon acquisition and sales prices was undertaken, no hardship could be shown; and

WHEREAS, however, the Board notes that individual unit owner profit is not an appropriate gauge by which to measure hardship, for the obvious reason that an inflated acquisition price could lead to a hardship claim in every application; this problem is precisely the reason why the Board instead used an estimate of overall building value based upon the market; and

WHEREAS, moreover, the Board notes that the applicant was instructed to approach the analysis as a rental proposal for the entire building because the First Floor Owner alleged that the original analysis was, in part, not based upon the entire building; and

WHEREAS, the Board notes that the finding set forth at Z.R. § 72-21(b) requires an analysis of the entire zoning lot (and thus any building thereupon), which would make a full rental proposal a much more appropriate measure of hardship than an assessment of an individual unit owner's ability to make a profit on an acquisition and sale; and

WHEREAS, the Board notes that marketing attempts are often submitted or requested by the Board in the context of a variance application, but observes that no Board rule requires that such evidence be submitted in each and every case, as the Lessee contends; and

WHEREAS, here, such evidence would have been difficult to obtain given the fact that any marketing attempts would have to be

MINUTES

initiated by the individual shareholder/occupants of the subject units, who did not have any motivation to market the units given the use of them for residential purposes; and

WHEREAS, moreover, here, the Board is able to render a

WHEREAS, based upon its review of the record, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance, if granted, will not negatively impact the character of the community; and

WHEREAS, the applicant represents that the character of the community is mixed-use, and cites to, as illustrated on the submitted land use map, numerous residential, community facility, and residential-compatible uses in close proximity to the subject site, including FIT, some multiple dwellings, commercial uses, a religious institution, vacant lots, and parking garages; and

WHEREAS, based upon the evidence submitted, the Board agrees that the neighborhood in which the subject site is located is best characterized as mixed-use; and

WHEREAS, the Board also finds that the proposal only contemplates the legalization of three residential units, which is a small amount that is compatible with the mixed-use character of the neighborhood; and

WHEREAS, accordingly, the Board finds that the variance, if granted, will not negatively impact the character of the neighborhood; and

WHEREAS, the applicant also represents that the proposed variance, if granted, will not adversely impact adjacent conforming uses, including the Club in the cellar and first floors of the Building; and

WHEREAS, both the Lessee and the First Floor Owner contend that the likely sound levels that will emanate from the Club could be so significant that regardless of any sound attenuation measures taken by the applicant, there is no assurance that Noise Code violations would not be issued to the Club; and

WHEREAS, both the Lessee and the First Floor Owner argue that legalizing the third through fifth floors will give the occupants of those floors the legal right to complain to the City's Department of Environmental Protection about noise resulting from the Club's operations, and that the Club could be forced out of business as a consequence; and

WHEREAS, the First Floor Owner has provided expert testimony in support of these contentions; and

WHEREAS, the applicant has submitted its own expert testimony, which the applicant argues shows that Noise Code compliant levels could be achieved in the proposed residential units, with the installation of sound attenuation measures that the individual shareholders of the third, fourth and fifth floors have committed to undertaking; and

WHEREAS, the Board observes that since the Club is not in operation and no test can be conducted, the alleged harm that the Club might suffer if the residential units are legalized is speculative at best; and

WHEREAS, even so, the Board notes that if sound attenuation measures can indeed shield the residential units from the noise

determination as to the finding set forth at Z.R. § 72-21(b) in the absence of such evidence, as the revised feasibility study and subsequent submissions are sufficient to support the finding; and

generated by the Club such that no Noise Code violation would result, then it is reasonable to conclude that there would be no potential adverse impact upon the Club; and

WHEREAS, the Board observes it need not determine which expert is correct, and instead conditions the grant made herein on Department of Buildings enforcement of a series of conditions requiring that the individual shareholders seeking legalization install and maintain sound attenuation and further requiring that a test be conducted within each of the proposed residential units, the result of which must show that no Noise Code violable condition exist in any of the units when the Club is in operation; and

WHEREAS, this condition will specify that no temporary or permanent certificate of occupancy shall be issued absent such a test report; and

WHEREAS, should the tests result show that the a Noise Code violable condition does in fact exist in the proposed residential uses, then no certificate of occupancy can be issued, and the units will not be legalized; and

WHEREAS, the Board finds that the conditions provide reasonable protection for the Club (should it open) from any potential impact due to the grant of the variance herein; and

WHEREAS, the Board notes that the series of conditions in not intended in any way to limit or otherwise compromise the Department of Environmental Protection's authority to enforce any provision of the Noise Code as necessary; and

WHEREAS, in sum, based on the above, the Board finds that the subject application, if granted, will not alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Lessee argues that the failure of the occupants of floors three through five to take advantage of a residential conversion option through the Loft Law during the time period when these floors could have been converted constitutes a self-created hardship; and

WHEREAS, the Board disagrees, and notes that the claimed hardship is based upon the functional obsolescence for conforming use of the third through fifth floors; the fact that prior occupants did not avail themselves of the conversion option under the Loft Law is not relevant; and

WHEREAS, similarly irrelevant is the Lessee's claim that the fourth floor was recently purchased for commercial use, and that this prevents a claim of hardship based upon inability to use the space for commercial use; and

WHEREAS, the Board is aware that commercial properties are often purchased ostensibly as commercial properties, not in anticipation of actual commercial use, but in anticipation of a potential variance application, and that the finding set forth at Z.R. § 72-21(d) contemplates that this can legally occur; and

WHEREAS, Z.R. § 72-21(d) provides in part, "where all other required findings are made, the purchase of a zoning lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship"; and

MINUTES

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

WHEREAS, this proposal is the minimum necessary to afford relief; and

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

WHEREAS, the Board notes in passing that the First Floor Owner has made various allegations as to the conduct of the applicant concerning various contractual arrangements with the applicant that are not pertinent to the Board's deliberations on the variance application; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 03-BSA-220M dated June 26, 2003; 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; 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, with conditions as stipulated below, 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 Z.R. § 72-21, to permit, within an M1-5 zoning district, the legalization of residential use of three co-op units on the third, fourth and fifth floors of an existing building (Use Group 2), contrary to Z.R. §§ 42-00 and 42-133; 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 August 9, 2004"-(3) sheets; and on further condition:

THAT the individual shareholders with ownership interests in the co-op units on the third, fourth, and fifth floors of the subject building, or any of their successors, shall install, or shall ensure the installation of, at their own expense, sound attenuation measures within the building such that the db and dB(A) levels in the proposed residential

8-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Jewish Center of Torath Emeth, owner; Yeshiva Ketanah D'Queens, lessee.

SUBJECT - Application June 9, 2004 - under Z.R. §72-21 to permit the proposed renovation of an existing two story community facility (school), Use Group 3, by the addition of two additional

units on the third through fifth floors are compliant with the City's Noise Code provisions applicable to buildings with residential occupancy, taking into consideration the sound levels from the nightclub use on the first floor;

THAT at all times, the individual shareholders, or their successors, shall monitor, maintain in good condition, and upgrade if necessary, the installed sound attenuation measures, such that the db and dB(A) levels in the proposed residential units on the third through fifth floors are compliant with the City's Noise Code provisions applicable to buildings with residential occupancy, taking into consideration the sound levels from the nightclub use on the first floor;

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

THAT no temporary or final certificate of occupancy legalizing residential use on the third through fifth floors of the subject building shall be issued unless and until a test report from the Department of Environmental Protection is submitted to the Department of Buildings;

THAT this test report must show that the db and dB(A) levels in the proposed residential units are compliant with the City's Noise Code provisions applicable to buildings with residential occupancy in effect at the time of the test;

THAT this test shall be conducted when the nightclub proposed for the first floor and cellar level of the subject building is in operation and playing music;

THAT this resolution does not constitute in any way a final legalization of the proposed residential use on the third through fifth floors of the subject building; final legalization of the residential uses shall only occur upon issuance of a certificate of occupancy;

THAT this set of conditions is not intended to limit in any way the Department of Environmental Protection's authority to enforce the Noise Code, either as it exists currently or as modified, at any time;

THAT all light and air requirements per the Multiple Dwelling Law, and all Home Occupation requirements, shall be as reviewed and approved by the Department of Buildings;

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

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

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

Adopted by the Board of Standards and Appeals, February 15, 2005.

stories, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, height of front walls, and the location of front stair and handicap elevator, which is contrary to Z.R. §24-11, §24-521, §24-34 and §24-33.

PREMISES AFFECTED - 78-15 Parsons Boulevard, between 78th Avenue and 78th Road, Block 6829, Lot 1, Borough of

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Queens.

COMMUNITY BOARD #8

APPEARANCES -

For Applicant: Elisa B. Hwu.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Borough Commissioner, dated December 8, 2003, acting on Department of Buildings Application No. 400865328, reads:

- "1. Proposed Floor Area Ratio, Community Facility, is contrary to ZR 24-11
2. Proposed height of front walls, Community Facility, is contrary to ZR 24-521
3. Proposed front stair location & handicap elevator location on front yard is not a permitted obstruction, and contrary to ZR 24-34 & 24-33."; and

WHEREAS, a public hearing was held on this application on November 16, 2004 after due notice by publication in The City Record, with a continued hearing on January 11, 2005, and then to decision on February 15, 2005; and

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

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R3-2 zoning district, the vertical expansion of an existing religious school, which does not comply with applicable district requirements for Floor Area Ratio ("F.A.R."), height of front walls, front stair location, and handicap elevator location, contrary to Z.R. §§ 24-11, 24-521, 24-33 & 24-34; and

WHEREAS, this application is brought on behalf of the Jewish Center of Torath Emeth, a not-for-profit entity (hereinafter, the "School"); and

WHEREAS, both the Queens Borough President and Community Board 8, Queens, recommended conditional approval of this application; and

WHEREAS, the local Civic Association objected to the proposed application, largely due to concerns about parking; and

WHEREAS, the subject site is located between 78th Avenue and 78th Road, with a total lot area of 21,994 sq. ft., and is currently improved upon with a two-story building with a total floor area of

WHEREAS, the applicant states that the current play area is too small to handle the anticipated increase in enrollment, and that even with the enrollment as it exists now, recesses must be staggered and scheduled at inconvenient times; and

WHEREAS, the applicant represents with the addition of the roof-top play area, the DOE, but not the DCP, standards will be met; and

WHEREAS, the applicant also represents that the ability to provide the proposed additional classrooms and school space in the proposed arrangement will enhance the ability of the School to operate effectively; and

WHEREAS, the Board agrees that, based upon the submitted

21,142 sq. ft., occupied by the School, as well as a one-story synagogue; and

WHEREAS, the applicant proposes to construct an approximately 8,500 sq. ft., two-story addition to the existing School building, to house additional classrooms, offices, and resource rooms; and

WHEREAS, the applicant also proposes a roof-top play area of approximately 2,800 sq. ft.; and

WHEREAS, construction of the addition as currently proposed will result in the following non-compliances: an F.A.R. of 1.35 (1.0 is the maximum permitted); and a front wall height of 40 ft. (25 ft. is the maximum permitted); and

WHEREAS, additionally, an elevator and front stairwell will be located outside the envelope of the building, and are not considered permitted obstructions within the front yard; and

WHEREAS, the Board notes that the stairwell already exists; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: the School building has insufficient space for necessary programs as it was not designed to accommodate the increased enrollment of the School and the resulting programmatic needs; and

WHEREAS, the applicant states that the following are the programmatic needs of the School, all of which have been driven by an increase in enrollment, from the current 290 students to an estimated 340 students: (1) increased classroom space; (2) increased number of resource rooms for students with special needs; (3) space for a library and conference room; and (4) an extra recreation space in addition to the existing play area at the ground floor level; and

WHEREAS, the applicant also represents that the placement of the elevator outside the envelope of the building with the stairwell was necessitated by the need to not have these elements take away valuable square footage allotted for programmatic needs; and

WHEREAS, in response to Board questions about the need for the additional roof-top play area, the applicant provided the Board with a submission showing that without the additional space, the recreational area would not meet the standards for square feet of play area per student promulgated by the New York City Department of Education ("DOE") or the Department of City Planning ("DCP"); and

evidence, the enlargement is necessary in order to meet the programmatic needs of the School; and

WHEREAS, therefore, the Board finds that the cited unique physical condition, when considered in conjunction with the programmatic needs of the School, create practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

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

WHEREAS, the applicant represents that the proposed

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variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant states that even when increased in height, the School building will not be significantly higher in appearance than three-story dwellings across the street that have peak roofs; and

WHEREAS, the applicant also notes the existence of nearby community facilities with greater or comparable height, including a five-story hospital one block away and a four-story public school two blocks away; and

WHEREAS, the applicant represents that traffic impacts will be minimal, as most of the students live within a mile of the School and will walk; and

WHEREAS, the applicant conducted a parking study, which showed that there is an adequate amount of on-street parking spaces in the surrounding area for staff members; and

WHEREAS, the Board confirmed on its site visit that on-street parking appeared to be available during the school day; and

WHEREAS, in addition, the applicant submitted a letter from the City's Department of Transportation, indicating that it will install "No Parking School Days 8am-4pm" signs on 78th Avenue; and

WHEREAS, the Board notes that the applicant has agreed to a condition as to the hours of the roof-top play area; and

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

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

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 04-BSA-118Q dated August 9, 2004; and

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

THAT the roof top playground and the exterior stairwell shall meet all legal requirements, as determined by DOB;

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

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

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

Adopted by the Board of Standards and Appeals, February 15, 2005.

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration 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 the required findings under Z.R. § 72-21, to permit, within an R3-2 zoning district, the vertical expansion of an existing religious school, which does not comply with applicable district requirements for Floor Area Ratio, height of front walls, front stair location, and handicap elevator location, contrary to Z.R. §§ 24-11, 24-521, 24-33 & 24-34; 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 February 1, 2005" - (5) sheets and "Received January 8, 2004 - (3) sheets; and on further condition:

THAT the hours of the roof-top play area shall be as follows: from 10 am to 5 pm Monday through Thursday, 9:30 am to 12 pm on Friday, and 10 am to 1 pm on Sunday;

THAT the roof-top play area shall not be used for any other purpose than student recreation, and shall not be used outside the stated hours;

THAT the refuse container shall be enclosed and located on the site as shown on the BSA-approved plans;

THAT the HVAC system shall be located on the roof;

264-04-BZ

APPLICANT - Eric Palatnik, P.C., for Glak Operating Corp., owner.

SUBJECT - Application July 27, 2004 - under Z.R. §§11-412 and 11-413 to permit the legalization of the change in use from motor vehicle repair shop and gasoline service station, Use Group 16, to retail use, Use Group 6, also proposed alterations to the site to effectuate the desired change in use, which requires a special permit. PREMISES AFFECTED - 977 Victory Boulevard, northeast corner of Cheshire Place, Block 240, 26, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD -

THE VOTE TO REOPEN HEARING -Application granted

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on condition.

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Borough Commissioner, dated July 16, 2004, acting on Department of Buildings Application No. 500709245, reads, in pertinent part:

"Proposed changes of use and modification of the subject building to be approved by Board of Standards and Appeals"; and

WHEREAS, a public hearing was held on this application on October 19, 2004, after due notice by publication in The City Record, with continued hearings on December 7, 2004 and January 11, 2005, and then to decision on February 15, 2005; and

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

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, and a change in use made pursuant to Z.R. § 11-413; and

WHEREAS, Community Board No. 1, Staten Island, recommended conditional approval of the subject application; 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; 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, the action is located within New York City's Coastal Zone Boundary, and has been determined to be consistent with the New York City Waterfront Revitalization Program; 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 Z.R. §11-413, on a site previously before the Board, the change in use from Use Group 16 to Use Group 6; on condition that

WHEREAS, the Board has exercised jurisdiction over the subject premises since December 4, 1956, when, under BSA Calendar No. 619-45-BZ, it granted an application to permit the use of the site as a gasoline service station with various accessory uses; and

WHEREAS, the applicant represents that the building approved by the Board under the prior grant remains, and is now occupied by a motor vehicle repair shop; and

WHEREAS, the applicant now proposes the conversion of the existing building to Use Group 6 (Retail); and

WHEREAS, slight interior modifications to the existing building are proposed to accommodate the change in use; no structural alterations are proposed; and

WHEREAS, the Board notes that the proposed modifications result in a slight decrease in floor area within the existing building; and

WHEREAS, pursuant to Z.R. § 11-413, the Board may allow a change in use permitted by a pre-1961 variance to a non-conforming use, so long as the change is one that would be permitted under the provisions of Article 5 of the Zoning Resolution; and

WHEREAS, the Board had determined that the evidence in the record supports the findings required to be made under Z.R. § 11-413.

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 05-BSA-016R dated July 27, 2004; and

all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received January 11, 2005" - (3) sheets, "Received February 1, 2005" - (1) sheet and "Received February 11, 2005" - (1) sheet; and on further condition:

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

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

THAT a 6'-0" high, 100 percent opaque wood fence shall be installed and maintained as shown on the BSA-approved plans;

THAT only Use Group 6 uses shall be permitted on the lot;

THAT no use on the site shall be open past 10 PM any day of the week;

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

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

THAT all signage shall comply with applicable C1 regulations, as reviewed and approved by DOB;

THAT all site and sidewalk trees shall be installed and maintained in the locations indicated on the BSA-approved site plan;

THAT any interior reconfiguration of the proposed building may be approved by DOB without further Board action;

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

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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.

Adopted by the Board of Standards and Appeals, February 15, 2005.

331-04-BZ

APPLICANT - Jay A. Segal, Esq., Greenberg Traurig, LLP, owner; Century 21 Department Stores, LLC, lessee.

SUBJECT - Application October 7, 2004 - under Z.R. §72-21 to permit in a C5-5 (Lower Manhattan Special District) the expansion of floor area in an existing commercial structure (Century 21). The proposed enlargement exceeds the maximum floor area permitted.

PREMISES AFFECTED - 26 Cortlandt Street, northeast corner of Dey Street, Block 63, Lots 3 and 6, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

WHEREAS, this is an application under Z.R. § 72-21, to permit, within a C5-5 zoning district (within the Lower Manhattan Special District), a floor area variance to allow the existing partial second floor of the Century 21 store to be expanded by 4,583 sq. ft., while an equal amount of floor area will simultaneously be retired from a property adjacent to the store, and to permit a variance from the requirement to relocate two adjacent subway entrances into the store as a result of the expansion, contrary to Z.R. §§ 31-122 & 91-43; and

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

WHEREAS, the subject site is located on the north side of Cortland Street and along the eastern side of Church Street, with a total lot area of 38,178 sq. ft., and is comprised of two tax lots (3 and 6); and

WHEREAS, the proposed expansion will affect Century 21's interest in three contiguous buildings: 26 Cortlandt Street (Block 63, Lot 6), the five-story former East River Savings Bank (the "Bank Building"); 22 Cortlandt (Block 63, Lot 3), a thirty three-story office tower (the "Tower Building"); and 10-12 Cortlandt Street (Block 63, Lot 1); and

WHEREAS, the applicant states that Century 21 owns both the Bank Building and 10-12 Cortland Street, and holds a 99-year lease to six stories in the Tower Building; and

WHEREAS, the applicant states that the three buildings are interconnected and each is occupied by Century 21; and

WHEREAS, the applicant represents that Century 21 suffered a significant decline in sales due to its proximity to the World Trade Center site and the resulting access restrictions on local streets around the store, implemented to

For Applicant: Melaney McMurry.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decisions of the Borough Commissioner, dated September 30, 2004 and January 14, 2005, acting on Department of Buildings Application No. 101013957, read, respectively:

"The proposed enlargement of the 2nd floor exceeds the maximum floor area permitted and is therefore contrary to Section 31-122 of the Zoning Resolution." and

"The proposed enlargement does not comply with the requirements of Section 91-43 of the Zoning Resolution for the off-street relocation or renovation of the existing subway stairs."; and

WHEREAS, a public hearing was held on this application on January 11, 2005 after due notice by publication in The City Record, and then to decision on February 15, 2005; and

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

accommodate various clean up, rebuilding, and security measures, as well as the general downturn in the economy and departure of businesses from the area; and

WHEREAS, the proposed variance would allow Century 21 to add 4,583 SF of floor area to the Bank Building at the second floor level and the retirement of the same amount of square footage at 10-12 Cortlandt St; and

WHEREAS, the applicant states that an as-of-right merger is not economically feasible due to an inability to arrange reasonable terms with the owners of the Tower Building; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: (1) the Bank Building was originally designed for use as a bank, and its long, narrow floor plate (approximately 214' x 48') was not designed for efficient retail layouts and customer circulation; (2) because the first floor sales space is divided by the wall separating the Bank and Tower buildings, the Bank sales space is not visible from the Tower Building, and customer circulation between the two space is restricted to two approximately 12 foot-wide staircases between them; (3) the two portions of the partial second floor are not connected to each other so that, in order to get from one end of the partial second floor to the other, one must travel down to the first floor, across to another staircase, and back up to the partial second floor; (4) because of the location of fire stairs in the Tower Building, it is not possible to connect the existing partial second floor sales space to the adjacent second floor sales area in the Tower Building; and (5) the expense of

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creating the two subway entrances combined with the loss of a significant portion of Century 21's most valuable selling space would far exceed the benefit of the additional 4,583 square feet of second floor space; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulties in developing the site in compliance with the current zoning; and

WHEREAS, the applicant states that the aforementioned unique physical site conditions result in there being no reasonable possibility of using the existing partial second floor as an efficient sales space; and

WHEREAS, the applicant has submitted an analysis of the transactions per square foot per year of the partial second floor, which shows that this space generates approximately 5 transactions per foot per year, while the entire store averages 25 transactions per foot per year; and

WHEREAS, the applicant concludes that, assuming an average of \$20.00 per transaction, the partial second floor generates gross revenues of \$100.00 per foot per year while the entire store averages \$500.00 per foot per year; and

WHEREAS, the applicant states that compliance with the provisions of Z.R. §91-43, which would require the relocation of two adjacent subway stations to within the Building, would be prohibitively expensive in light of the scale of the proposed bulk variance sought and the anticipated return; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §72-21, to permit, within an C5-5 zoning district (within the Lower Manhattan Special District), for a floor area variance to permit the existing partial second floor of the Century 21 store to be expanded by 4,583 sq. ft., while an equal amount of floor area will simultaneously be retired from a property adjacent to the store, and to permit a variance from the requirement to relocate two adjacent subway entrances into the store as a result of the expansion, contrary to Z.R. §§ 31-122 & 91-43; 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 February 1, 2005"-(2) sheets; and on further condition:

THAT prior to issuance of a final certificate of occupancy, a deed restriction providing for the permanent and irrevocable retirement of 4,583 sq. ft. of floor area as to 10-12 Cortlandt Street shall be executed and recorded, and then submitted to the Department of Buildings, with a copy of same to the Board's Executive Director for placement in the case file;

THAT all exiting shall be as reviewed and approved by DOB;

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and THAT the Department of Buildings must ensure

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

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood; and

WHEREAS, the applicant states that the expansion of the second floor is contained entirely within an existing building, and is an expansion of an existing use; and

WHEREAS, the applicant also states that because of the small scale of the project, no appreciable increase in traffic to the store will result; and

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

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

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

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

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, February 15, 2005.

327-02-BZ

APPLICANT - Harold Weinberg, P.E., for Frank Galeano, owner.
SUBJECT - Application November 4, 2002 - under Z.R. §72-21 to permit the proposed erection of a four story, four family residence, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 82 Union Street, south side, 266'-0" west of Columbia Street, east of Van Brunt Street, Block 341, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Harold Weinberg.

THE VOTE TO CLOSE HEARING -

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

ACTION OF THE BOARD - Laid over to April 19, 2005, at 1:30 P.M., for decision, hearing closed.

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332-03-BZ

APPLICANT - The Agusta Group, for Steve Polisano, Astoria Ice Inc., owner.

SUBJECT - Application October 28, 2003 - under Z.R. §72-21 to permit the proposed addition to an existing sports complex, which does not comply with the zoning requirements for rear yard equivalent, number of required loading berths, and minimum vertical clearance, is contrary to Z.R. §43-28(b), §44-52 and §44-581.

PREMISES AFFECTED - 34-38 38th Street, through block between 37th and 38th Streets, 115' north of 35th Avenue, Block 645, Lot 10, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES - None.

ACTION OF THE BOARD - Laid over without date.

369-03-BZ

APPLICANT - Sheldon Lobel, Esq. for Queens Boulevard Spa Corp. dba Sky Athletic, lessee.

SUBJECT - Application December 8, 2003 - under Z.R. §72-21 to permit the proposed expansion of existing social security offices, and the addition of school by adding a second floor, to an existing one story building, located in an M1-1 zoning district, which does not comply with the zoning requirements for Use Group and floor area, and is contrary to Z.R. §42-00, §43-12 and §43-122.

PREMISES AFFECTED - 6023 Fort Hamilton Parkway, a/k/a 6013/23 Fort Hamilton Parkway, a/k/a 6012/24 Tenth Avenue, and a/k/a 973/83 61st Street, northeast corner, Block 5715, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to April 19, 2005, at 1:30 P.M., for continued hearing.

9-04-BZ

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

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

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

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Marvin Mitzner.

ACTION OF THE BOARD - Laid over to March 8, 2005, at 1:30 P.M., for deferred decision.

138-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Cong. Machne Chaim, Inc., owner; Yeshiva Bais Sorah, lessee.

SUBJECT - Application March 24, 2004 - under Z.R. §73-19 to

SUBJECT - Application December 2, 2003 - under Z.R. §72-21 to permit part of the cellar and ground level of an existing two story building within an R7-1/C1-2 district to be occupied as physical cultural establishment.

PREMISES AFFECTED - 99-01/23 Queens Boulevard, between 66th Road and 67th Avenue, Block 2118, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 15, 2005, at 1:30 P.M., for decision, hearing closed.

381-03-BZ

APPLICANT - Moshe M. Friedman, P.E., for Hamilton G.S. Realty, owner.

request a special permit for a school, Use Group 3, within an M1-1 Zoning District to vary Z.R. §42-00 so as to permit the school on the Premises.

PREMISES AFFECTED - 6101-6123 16th Avenue, 16th Avenue between 61st and 62nd Streets, Block 5524, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Elisa B. Hwu and Simcha Felder.

ACTION OF THE BOARD - Laid over to March 29, 2005, at 1:30 P.M., for continued hearing.

150-04-BZ

APPLICANT - The Agusta Group, for Shun K. Fung, owner.

SUBJECT - Application August 3, 2004 - under Z.R. §72-20 to permit the proposed construction of a mixed-use residential and commercial building, within an M1-5 zoning district, which does not permit residential use, and has a non-complying front wall, is contrary to Z.R. §42-10 and §43-43.

PREMISES AFFECTED - 129 Elizabeth Street, west side, 60'-5' south of Broome Street, Block 470, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Shun K. Fung and Sol Korman.

For Opposition: Philip Grossman.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 29, 2005, at 1:30 P.M., for decision, hearing closed.

187-04-BZ

MINUTES

APPLICANT - Eric Palatnik, P.C., for 182 MXB, LLC owner.
SUBJECT - Application May 4, 2004 - under Z.R. §72-21 to permit the proposed construction of a four story building, with eight dwelling units, Use Group 2, located in an R-5 zoning district, which does not comply with the zoning requirements for lot coverage, floor area, front yards, parking, height and perimeter wall, also the number of dwelling units, is contrary to Z.R. §23-141(c), §23-631(e), §23-45(a), §25-23(a) and §23-22.

PREMISES AFFECTED - 182 Malcolm X Boulevard, north west corner of Madison Street, Block 1642, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to March 29, 2005, at 1:30 P.M., for continued hearing.

293-04-BZ

APPLICANT - Eric Palatnik, P.C., for Torah Academy For Girls, owner.

SUBJECT - Application August 25, 2004 - under Z.R. §72-21 in an R3-1 district, approval sought to enlarge an existing Yeshiva (Torah Academy High School for Girls). It is proposed to add four classrooms, bringing the total number of classrooms to 22; a new multi-purpose room, and the enlargement of an existing auditorium/gymnasium/multi-purpose room. The application seeks waivers from floor area, wall height, side yard, rear yard and sky exposure plane requirements.

PREMISES AFFECTED - 610 Lanett Avenue, north west side of Lanett Avenue, 200' east of Beach 8th Street, Block 15596, Lot 7, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Eric Palatnik and David Shteierman.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 8, 2005, at 1:30 P.M., for decision, hearing closed.

296-04-BZ

APPLICANT - Sheldon Lobel, P.C., for 135 Orchard Street, Co., LLC, owner.

SUBJECT - Application August 30, 2004 - under Z.R. §72-21 to permit the legalization of the residential uses on floors two through five of an existing five-story mixed use building located in a C6-1 zoning district.

PREMISES AFFECTED - 135 Orchard Street, (a/k/a 134 Allen Street), between Delancey and Rivington Streets, Block 415, Lot 69, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES -

230-04-BZ

APPLICANT - Sheldon Lobel, P.C., for La Perst, LLC, owner.
SUBJECT - Application June 16, 2004 - under Z.R. §72-21 to permit the legalization of the residential conversion of a building located in an M1-2 zoning district.

PREMISES AFFECTED - 260 Moore Street, between White Street and Bogart Street), Block 3110, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane, Harold Weinberg, Jack Freeman and Sheldon Lobel.

ACTION OF THE BOARD - Laid over to March 29, 2005, at 1:30 P.M., for continued hearing.

For Applicant: Irving Minkin and Sheila Saks.

For Opposition: Emanuel Eichler.

ACTION OF THE BOARD - Laid over to May 10, 2005, at 1:30 P.M., for continued hearing.

319-04-BZ

APPLICANT - Steven Sinacori/Stadtmauer Bailkin, for Joseph De Simone, owner.

SUBJECT - Application September 20, 2004 - under Z.R. §72-21 to permit, in an R5 (Infill) district, approval sought to erect a four-story, 45 foot eight inch high, residential building on a currently unimproved lot consisting of 25,413 SF. There are proposed 39 dwelling units with 28 parking spaces in the cellar. The proposed building is non-compliant to wall height and total height requirements.

PREMISES AFFECTED - 35 McDonald Avenue, a/k/a 25/47 McDonald Avenue, east side, between 20th Street and Terrace Place, Block 895, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Lance I Michaels and Steven Sinacori.

For Opposition: John Keefe--State Assemblyman, Guy Lingley, Robbin Bloch, Peter Levinson, Holly Sears, Shirley Chetter, Barbara Johnson,

ACTION OF THE BOARD - Laid over to March 29, 2005, at 1:30 P.M., for continued hearing.

MINUTES

Pasquale Pacifico, Executive Director.

Adjourned: 4:15 P.M.

BULLETIN

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Volume 90, Nos. 10-11

March 10, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE - 40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD - 40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @ <http://www.nyc.gov/html/bsa/home.html>

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Tuesday, March 1, 2005**

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345-04-BZ	1030-1044 Ocean Parkway, Brooklyn

DOCKETS

New Case Filed Up to March 1, 2005

27-05-BZ **B.Q.** **91-11 Roosevelt Avenue,**
north side, between 91st and 92nd Streets, Block 1479, Lot
38, Borough of Queens. Applic. #402016983. Proposed
reestablishment of an expired variance, previously granted
by the Board under Cal. No. 361-37-BZ, which permitted a
gasoline service station and repair facility, located in a C1-2
within an R6 zoning district.
COMMUNITY BOARD #3Q

28-05-A **B.BK.** **7202 Ridge Boulevard,**
a/k/a Flagg Court, Block 5906, Lot 18, Borough of Brooklyn.
Applic. #301573991(A3). An appeal challenging the
Department of Decision dated 1/21/05, for (a) failing to
enforce the permitted use of Certificate of Occupancy over
storage of garbage, (b) continuing to misclassify the
definition of the lot, (c) failing to order the restoration of the
streetscape as it was prior to the destruction of the new
externals storage area, and (d) allowing such illegal activity
that should be stamped out by the Commission as required
by law.

29-05-BZ **B.M.** **350 West Broadway,**
60' north of Grand Street, Block 476, Lot 75, Borough of
Manhattan, Applic. #103976592. Proposed enlargement and
renovation to an existing vacant fifteen story, to contain
retail use in the cellar, first and second floor, and residential
use on the third through fifteen floors, located in an M1-5A
zoning district, is contrary to Z.R. §42-14, §42-00 and §42-10.
COMMUNITY BOARD #2M

30-05-A **B.M.** **44 Mercer Street,**
a/k/a 471 Broadway, east side, 107'1/2" north of the
intersection of Grand and Mercer Streets, Block 474, Lot
49, Borough of Manhattan. Applic. #103576024. Proposed
seven-story mixed-use building, with J-2 occupancy, must
comply with §27-366 of the NYC Building Code and Article 3,
§102 of the Multiple Dwelling Law, regarding two
independent stairs for egress.

31-05-BZ **B.BK.** **1897 East Second Street,**
between Billings Place and Colin Place, Block 6681, Lot 211,
Borough of Brooklyn. Applic. #301874504. Proposed
enlargement of an existing one family dwelling, Use Group 1,
located in an R2X (OP) zoning district, which does not
comply with the zoning requirements for floor area ratio, side
yards and permitted wall height, is contrary to §23-141, §23-
461 and §23-631.
COMMUNITY BOARD #15BK

DESIGNATIONS: D-Department of Buildings; B.BK.-
Department of Buildings, Brooklyn; B.M.-Department of
Buildings, Manhattan; B.Q.-Department of Buildings,
Queens; B.S.I.-Department of Buildings, Staten Island;
B.BX.-Department of Building, The Bronx; H.D.-Health
Department; F.D.-Fire Department.

CALENDAR

MARCH 29, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 29, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

200-24-BZ

APPLICANT - Stephen Ely, for Ebed Realty c/o Ruben Greco, owner.

SUBJECT - Application December 22, 2004 - reopening for an extension of time to obtain a Certificate of Occupancy, located in an R8 and C8-2 zoning district.

PREMISES AFFECTED - 3030 Jerome Avenue a/k/a 3103 Villa Avenue, 161.81' south of East 204th Street on the East Side of Jerome Avenue, Block 3321, Lot 25, Borough of The Bronx.

COMMUNITY BOARD #7BX

189-96-BZ

APPLICANT - John C Chen, for Ping Yee, owner; Edith D'Angelo-Cnandong, lessee.

SUBJECT - Application September 8, 2004 - Extension of Term-Waiver- for an eating and drinking establishment with dancing, Located in an C2-3 overlay within an R6 zoning district.

PREMISES AFFECTED - 85-12 Roosevelt Avenue, (85-10 Roosevelt Avenue), south side of Roosevelt Avenue, 58' east side of Forley Street, Block 1502, Lot 3, Borough of Queens.

COMMUNITY BOARD #4Q

28-02-BZ

APPLICANT - Sheldon Lobel. P.C., for Farbod Realty Corp., owner; Harris G. Joseph, Inc., lessee.

SUBJECT - Application - November 5, 2004 - Extension of Term & Amendment for the the use of a Pysical Cultural Establishment which was granted by BSA pursuant to Section 73-36 of the Zoning Resolution on February 4, 2003 for a term of two years. The application requests a change in the hours of operation contrary to the conditions set in the prior Resolution, located in a C5-2 zoning district.

PREMISES AFFECTED - 80 Madison Avenue, between 28th and 29th Streets, Block 858, Lot 14, Borough of Manhattan.

COMMUNITY BOARD#5M

377-03-BZ

MARCH 29, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday*

APPLICANT - Fischbein Badillo Wagner Harding, LLP, for Shinbone Alley Associates, LLC, owner.

SUBJECT - Application February 18, 2005 - reopening for an amendment to the resolution granted on June 8, 2004 to rearrange approve floor area and units.

PREMISES AFFECTED - 25 Bond Street, south side of Bond Street, 70' east of Lafayette Street, Block 529, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEALS CALENDAR

210-04-A

APPLICANT - Joseph P. Morsellino, Esq., for Chilton Paint Co., owner; CPP Development, LLC, lessee.

SUBJECT - Application May 21, 2004 - Proposed six story residential building, with 134 dwelling units, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 109-09 15th Avenue, northwest corner of 110th Street, Block 4044, Lot 60, Borough of Queens.

COMMUNITY BOARD #7Q

329-04-A

APPLICANT - Jeffrey Geary, for Riley Realty Corp., owner.

SUBJECT - Application October 5, 2004 - Proposed construction of a two story single family residence, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law

PREMISES AFFECTED -10-03 Channel Road, (aka 100th Place), west side, 33.94' south of 197th Avenue, Block 15475, Lot 26, Borough of Queens.

COMMUNITY BOARD #14Q

397-04-A

APPLICANT - Petraro & Jones, LLP, for Jennifer Walker, owner.

SUBJECT - Application December 23, 2004 - An appeal to request the Board to determine that the apartment house at subject premises, is not a "single room occupancy multiple dwelling" and (2) nullify the Department of Buildings' plan review "objection" that resulted in this appeal application.

PREMISES AFFECTED - 151 West 76th Street, north side, 471' from the intersection of Columbus Avenue, Block 1148, Lot 112, Borough of Manhattan.

COMMUNITY BOARD #7M

afternoon, March 29, 2005, at 1:30 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

CALENDAR

6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

174-04-BZ

APPLICANT - Law Offices of Howard Goldman, PLLC for Harold Milgrim, Trustee.

SUBJECT - Application April 28, 2004 - under Z.R. §72-21 Proposed conversion of floors two through six, to residential use, Use Group 2, in an existing six-story commercial building, located in an M1-6 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 124 West 24th Street, south side, between Sixth and Seventh Avenues, Block 799, Lot 54, Borough of Manhattan.

COMMUNITY BOARD #4M

201-04-BZ

APPLICANT - Eric Palatnik, P.C., for Marilyn Levine & Melvin Mesnick, Urban Spa, Inc., dba Carapan, lessee.

SUBJECT - Application May 14, 2004 - under Z.R. §73-36, to permit the legalization of an existing physical culture establishment, located in the basement level of a four story commercial structure, situated in a C6-2M zoning district, which requires a special permit.

PREMISES AFFECTED - 5 West 16th Street, between Fifth Avenue and Avenue of the Americas, Block 818, Lot 37, Borough of Manhattan.

COMMUNITY BOARD #5M

209-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Chilton Paint Co., owner; CPP Development, LLC, lessee.

SUBJECT - Application May 21, 2004 - under Z.R. §72-21 to permit the proposed six story residential building, with 134 dwelling units, Use Group 2, located in an M2-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 109-09 15th Avenue, northwest corner of 110th Street, Block 4044, Lot 60, Borough of Queens.

COMMUNITY BOARD #7Q

Pasquale Pacifico, Executive Director

APRIL 5, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 5, 2005, 10:00 A.M., at 40 Rector Street,

91-02-BZ

APPLICANT - Sheldon Lobel, P.C., for David Winiarski, owner.

SUBJECT - Application April 13, 2004 - reopening for an amendment to a previously granted variance under ZR§72-21 to allow minor modification of the approved plans.

PREMISES AFFECTED - 3032-3042 West 22nd Street, West

SPECIAL ORDER CALENDAR

348-82-BZ

APPLICANT - Salvati Architects for George Gong, owner.

SUBJECT - Application December 17, 2004 - Extension of Term/ Waiver/ Amendment, application seeks to legalize the change from three (3) storefronts (U.G. 6) to two (2) storefronts (U.G. 6 & 16D) located in an R5 zoning district. The application was approved under section 72-21 of the zoning resolution to permit in an R5 zoning district, the establishment of three (U.G. 6) storefronts for a term of 20 years which expired on April 12, 2003.

PREMISES AFFECTED - 204 Avenue S, Avenue S and West 6th Street, Block 7083, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #11BK

14-92-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for DG Equities and Greenwich Reade Associates, for TSI Greenwich Street, Inc., lessee.

SUBJECT - Application May 19, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired May 3, 2003 and for an amendment to the resolution to allow the operation of a physical culture establishment.

PREMISES AFFECTED - 311 Greenwich Street aka 151 Reade Street, southeast corner of Greenwich Street and Reade Street, Block 140, Lot 7502, Borough of Manhattan.

COMMUNITY BOARD #1M

68-94-BZ

APPLICANT - Fischbein Badillo Wagner & Harding for Bally Total Fitness, lessee

SUBJECT - Application January 21, 2005 - to Reopen and Extension of Term of a Special Permit for a Physical Cultural Establishment located on a portion of the first and second floor of the Bay Plaza shopping center which expired on November 11, 2004. Located in a C4-3 Zoning district. Minor interior layout change and signage change.

PREMISES AFFECTED - 2100 Bartow Avenue, south side, at the eastern most side of Baychester Avenue, Bronx

COMMUNITY BOARD#10BX

22nd Street, 180' north of Highland View Avenue, Block 7071, Lot 19 (fka 19, 20, 22), Borough of Brooklyn.

COMMUNITY BOARD #13BK

CALENDAR

APPEALS CALENDAR

232-04-A

APPLICANT - Snyder & Snyder LLP, c/o Omnipoint Communications, Inc., for Edward Zdanowicz, owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application June 18, 2004 - Proposed construction of a communications structure on a property that is not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 17 Feldmeyers Lane, 130' from the intersection of Feldmeyers Lane and Victory Boulevard, Block 2660, Lot 63, Borough of Staten Island.

COMMUNITY BOARD #2SI

ZONING CALENDAR

286-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP for Pei-Yu Zhong, owner.

SUBJECT - Application August 18, 2004 - under Z.R. §72-21 to permit the proposed one family dwelling, without the required lot width and lot area is contrary to Z.R. §23-32.

PREMISES AFFECTED - 85-78 Santiago Street, west side, 111.74' south of McLaughlin Avenue, Block 10503, Part of Lot 13(tent.#13), Borough of Queens.

COMMUNITY BOARD #8Q

287-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP for Pei-Yu Zhong, owner.

SUBJECT - Application August 18, 2004 - under Z.R. §72-21 to permit the proposed one family dwelling, without the required lot width and lot area is contrary to Z.R. §23-32.

PREMISES AFFECTED - 85-82 Santiago Street, west side, 177' south of McLaughlin Avenue, Block 10503, Part of Lot 13(tent.#15), Borough of Queens.

COMMUNITY BOARD #8Q

290-04-BZ

APPLICANT - Stuart A. Klein, Esq., for Alex Lokshin - Carroll Gardens, LLC, owner.

SUBJECT - Application August 20, 2004 - under Z.R. §72-21 to permit, in an R4 zoning district, the conversion of an existing one-story warehouse building into a six-story and penthouse mixed-use residential/commercial building, which is contrary to Z.R. §§22-00, 23-141(b), 23-631(b), 23-222, 25-23, 23-45, and 23-462(a).

PREMISES AFFECTED - 341-349 Troy Avenue (a/k/a 1515 Carroll Street), Northeast corner of intersection of Troy Avenue and Carroll Street, Block 1407, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #9BK

APRIL 5, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, April 5, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

294-04-BZ

APPLICANT - Petraro & Jones, LLP., by Patrick W. Jones, Esq., for 2478-61 Realty Corp., owner.

SUBJECT - Application August 26, 2004 - under Z.R. §72-21 proposed construction of a three family dwelling, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for front and side yards, is contrary to Z.R.

§§23-45 and 23-49.

PREMISES AFFECTED - 103-05 35th Avenue, (a/k/a 34-2935th Avenue), northeast corner of 103rd Street, Block 1744, Lot 43, Borough of Queens.

COMMUNITY BOARD #3Q

CALENDAR

371-04-BZ

APPLICANT - Eric Palatnik, P.C., for Hillel Kirschner, owner.
SUBJECT - Application November 22, 2004 - under Z.R.73-622 to permit the proposed enlargement of an existing single family residence, located in an R5 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, side and rear yards, is contrary to Z.R. §23-141(a), §23-46 and §23-47.

PREMISES AFFECTED - 1271 East 28th Street, between Avenues "L and M", Block 7646, Lot 16, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Pasquale Pacifico, Executive Director

**REGULAR MEETING
TUESDAY MORNING, MARCH 1, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on

Tuesday morning and afternoon, December 14, 2004, were approved as printed in the Bulletin of December 23, 2004, Volume 89, No. 51.

SPECIAL ORDER CALENDAR

MINUTES

442-42-BZ

APPLICANT - Sheldon Lobel, P.C., for Cropsey 20th Avenue Corporation, owner.

SUBJECT - Application July 30, 2004 - reopening for an amendment to an existing gasoline service station to erect a new canopy over the existing MPD's and alter signage.

PREMISES AFFECTED - 2001/2011 Cropsey Avenue, northeast corner of 20th Avenue and Cropsey Avenue, Block 6442, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application under Z.R. § 11-412, for a re-opening and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on January 11, 2005, after due notice by publication in the *City Record*, with continued hearings on February 8, 2005, and then to March 1, 2004 for decision; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since September 29, 1942, when under the subject calendar number, the Board granted an application to permit the reconstruction and extension of an existing gasoline service station; and

WHEREAS, subsequent extensions of the term of the variance as well as minor amendments were granted under BSA Cal. No. 708-42-A and the above-referenced calendar number, most recently on November 28, 1950; and

WHEREAS, the record indicates that the gasoline service station has operated continuously since the time of the original grant; and

WHEREAS, the instant application seeks an amendment to the resolution to permit an extension of the canopy and alteration of the signage; and

WHEREAS, the proposed metal canopy will measure 20'-0" x 50'-8" and will be placed over existing gasoline pumps; and

WHEREAS, the Board has determined that the evidence in the record supports the finding required to be made under Z.R. § 11-412.

Therefore it is Resolved that the Board of Standards and

ACTION OF THE BOARD - Application granted.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit an extension of the canopy, which will connect to the existing building, as well as an alteration of the signage; *on condition* that all work shall substantially conform to drawings as filed with this application, marked "Received January 25, 2005" - (5) sheets; and *on further condition*:

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

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

THAT there shall be no coin-operated car wash or vacuum on the premises;

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

THAT all signage shall comply with applicable zoning regulations;

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

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# 301782934)

Adopted by the Board of Standards and Appeals, March 1, 2005.

450-46-BZ

APPLICANT - Friedman & Gotbaum, LLP by Shelley S. Friedman, Esq., for 41 East LLC, owner.

SUBJECT - Application December 29, 2004 - Extension of Term for a commercial UG6B in a residential district previously granted, which is not permitted in R8B zoning district and an amendment to include a community use facility UG4, which is as of right, is contrary to previously approved plans. This application is an In-Part legalization.

PREMISES AFFECTED - 41 East 62nd Street, Manhattan, north side of East 62nd Street, 105' east of the corner formed by the intersection of East 62nd Street and Madison Avenue, Block 1377, Lot 27, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES - None.

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application, made pursuant to Z.R. §§ 11-411 and 11-412, for a re-opening, an extension of the

MINUTES

term of the variance and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on February 8, 2005 after due notice by publication in the *City Record*, and then to March 1, 2005 for decision; and

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

WHEREAS, Manhattan Community Board No. 8 recommends approval of the subject application; and

WHEREAS, the premises consists of an interior lot with a 35'-0" frontage along East 62nd Street, between Madison Avenue and Park Avenue, with a depth of 100'-5" and a total lot area of 3,514.6 sq. ft.; and

WHEREAS, on July 23, 1946, under the subject calendar number, the Board granted an application to permit the change in occupancy from garage for 18 cars, storage and one-family dwelling to office use; and

WHEREAS, on September 24, 1946, the resolution was amended to allow the enlargement of the first floor of the building to a depth of approximately 71 ft.; and

WHEREAS, the term of the variance was subsequently extended on May 8, 1956, September 13, 1966, October 5, 1971, October 5, 1976 and December 16, 1986; and

WHEREAS, on November 1, 1994, the resolution was amended to eliminate the condition that restricted the occupancy of the office space to a portion of the premises, to permit commercial occupancy (Use Group 6B), and to extend the term of the variance for ten years from November 1, 1994, on condition that occupancy shall be limited to a single Use Group 6B office use; and

WHEREAS, the applicant now seeks an extension of the variance, as originally approved on July 23, 1946, and as amended with regard to the extension of the first floor on September 24, 1946, and an amendment to permit an addition to the building; and

WHEREAS, the applicant states that in early 2002, the owner of the site proposed to convert the premises from the small, under-built, owner-occupied building to a single-family residential townhouse with approximately 12,000 sq. ft.; and

WHEREAS, this proposal was then modified so that each floor would be built out with conforming residential use; the modification was approved by the NYC Landmarks Preservation Commission ("LPC") and the Department of Buildings ("DOB"); and

WHEREAS, the applicant represents that the proposal was abandoned mid-construction, and due to the "stop-start"

THAT the Department of Buildings shall ensure compliance with regard to the location and configuration of the commercial floor area;

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

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

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

pattern of the building alteration, the building is currently in a deteriorated condition: the existing rear elevation is demolished; the steel necessary to support the expanded floors is in place but exposed; the cinderblock side walls are in various states of installation; most of the rear expansions are open to the sky; and the interior of the building is gutted; and

WHEREAS, the current proposal seeks to expand the building in accordance with the existing LPC and DOB approved plans, with all new additional floor area (other than the permitted commercial floor area as per the original variance) to be occupied by an as-of-right community facility use; and

WHEREAS, the applicant states that since the last Board action, the project architect has reevaluated previously approved BSA plans, and has determined that the corrected legal, and existing commercial floor area is 5,904.5 sq. ft. or a Floor Area Ratio ("FAR") of 1.68; and

WHEREAS, the instant application proposes to maintain the same square footage of commercial floor area; and

WHEREAS, the applicant proposes to develop an additional 5,164.0 sq. ft. (1.47 FAR) of community facility space, increasing the total square footage of the building to 11,068.5 (3.15 FAR), which is less than the maximum 4.0 FAR permitted in the underlying R8B Zoning District; and

WHEREAS, the Board has determined that the evidence in the record supports the grant of the requested amendment to the prior resolution.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit an extension of the variance permitting commercial use, as originally approved on July 23, 1946, and as amended with regard to the extension of the first floor on September 24, 1946, for a term of ten (10) years from November 1, 2004 to expire on November 1, 2014, and to permit an as-of-right addition to the building which will be occupied by a conforming community facility use; *on condition* that all work shall substantially conform to drawings as filed with this application, marked 'Received February 22, 2005' - (9) sheets; and *on further condition*:

THAT the commercial floor area of the premises shall be limited to 5,904.5 s.f. (1.68 FAR);

THAT there shall be no accessory business signage at the premises;

THAT the above conditions shall appear on the certificate of occupancy; 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, March 1, 2005.

173-94-BZ

APPLICANT - Board of Standards and Appeals

OWNER OF PREMISES: Richard Shelala.

MINUTES

SUBJECT - Application reopening for compliance to the resolution.
PREMISES AFFECTED - 165-10 144th Road, Block 13271, Lot 17, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application dismissed.

THE VOTE TO DISMISS -

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

Negative:.....0

Adopted by the Board of Standards and Appeals, March 1, 2005.

144-03-BZ

APPLICANT - H. Irving Sigman, for Ching Kuo Chiang, owner.
SUBJECT - Application September 29, 2004 - Pursuant to Z.R. Sections 72-01 and 72-22 to reopen an amend a previously granted variance to allow modifications of a mixed use building (U.G. 2 & 6) with accessory storage and parking in an R3-2 district.

PREMISES AFFECTED - 188-16 Northern Boulevard, southwest corner of 189th Street, Block 5510, Lot 38, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: H. I. Sigman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on February 1, 2005, after due notice by publication in the *City Record*, with a continued hearing on March 1, 2005, on which date the case was closed and decided; and

WHEREAS, Community Board No. 11, Queens and the Queens Borough President recommend conditional approval of the subject application; said conditions are reflected below; and

WHEREAS, on October 28, 2003, under the subject THAT the premises shall be maintained free of debris and graffiti;

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

THAT the hours of operation for the bank shall be 8:30AM to 4:00PM (Monday thru Friday) and 9:00AM to 1:00PM (Saturday and Sunday);

THAT a ramp shall be constructed to provide access for disabled individuals to the building in the rear;

THAT the parking lot shall be locked with a secure system after the bank's hours of operation, providing access only to residents of the building;

calendar number, the Board granted an application under Z.R. § 72-21, to permit, in an R3-2 zoning district, the construction of a two-story building with accessory storage in the cellar level, retail stores (Use Group 6) on the first floor, two residential units (Use Group 2) on the second floor and open accessory parking, which is contrary to Z.R. §§ 22-00, 23-00, 23-141, 23-22, 23-45 and 23-631; and

WHEREAS, the applicant now seeks an amendment to the resolution to permit a change in use on the first floor and cellar level from the four retail stores (Use Group 6) to a bank (Use Group 6), as well as architectural changes to the façade of the building and changes to the layout of the residential units on the second floor; and

WHEREAS, the changes specifically include: (1) a redesign of the first floor and cellar floor to provide for a bank use as the only commercial occupancy in the premises; (2) in lieu of eight exterior doors to service the retail stores, the bank will have one pair of entry doors from Northern Boulevard and one pair of entry doors from the rear parking lot; (3) the cellar stair emerging to an exit at grade at Northern Boulevard has been deleted in the proposed bank design; (4) the architectural layouts of the second floor residential units have been redesigned; (5) the design of the facades of the building have changed to accommodate the new door locations and the window requirements for the bank; and (6) the covered vault for a conveyor has been deleted from the site plan; and

WHEREAS, the applicant further states that there is not an increase in overall floor area; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of the requested amendment to the prior resolution.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit a change in use on the first floor and cellar level from the four retail stores (Use Group 6) to a bank (Use Group 6), as well as architectural changes to the façade of the building and changes to the layout of the residential units on the second floor; on condition that all work shall substantially conform to drawings as filed with this application, marked "Received September 29, 2004"- (4) sheet and "February 14, 2005"- (4) sheets; and on further condition:

THAT commercial refuse shall be collected after 8 AM; THAT the refuse collection area shall be enclosed with an opaque fencing;

THAT all commercial deliveries shall be limited to Northern Boulevard;

THAT a 6 ft. high opaque fence shall be installed and 6 ft. evergreens shall be planted, as indicated on the BSA-approved plans;

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

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

MINUTES

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 Permit No. 102702522)

Adopted by the Board of Standards and Appeals, March 1, 2005.

314-28-BZ

APPLICANT - Manuel B. Vidal, Jr., for Henilda Realty Corporation, owner; Henilda Realty Corporation, lessee.

SUBJECT - Application July 8, 2004 - reopening for an amendment to the prior resolution to permit the removal of the existing kiosk and to erect a new building on the property to be used as a convenience store.

PREMISES AFFECTED - 902/14 Westchester Avenue and 911/15 Rogers Place, south west corner of 889/903 East 163rd Street, Block 2696, Lot 130, Borough of The Bronx.

COMMUNITY BOARD #2BX

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to April 12, 2005, at 10 A.M., for decision, hearing closed.

300-73-BZ

APPLICANT - Rothkrug Rothkrug Weinberg and Spector, LLP, for Vito Santoro, owner.

SUBJECT - Application March 2, 2004 - Reopening for an extension of term for a commercial vehicle storage facility and for an amendment to convert a portion of the facility for minor auto repair UG 16, located in an R-5 zoning district.

PREMISES AFFECTED - 101-08 97th Avenue, 97th Avenue, 50' west of 102nd Street, Block 9403, Lot 3, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES -

For Applicant: Shelly Friedman and Gary Hendel.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 29, 2005, at 10 A.M., for decision, hearing closed.

25-04-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Michael Picciallo, owner.

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 29, 2005, at 10 A.M., for decision, hearing closed.

121-93-BZ

APPLICANT - Kenneth H. Koons, Architect, for Pauline O'Sullivan, owner.

SUBJECT - Application November 23, 2004 - Reopening for an extension of term of variance for an eating and drinking establishment, without restrictions on entertainment and dancing, Use Group 12, located in a C2-3 within an R6 zoning district.

PREMISES AFFECTED - 202 West 236th Street, a/k/a 5757 Broadway, southwest corner of Broadway and West 236th Street, Block 5760, Lot 150, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES -

For Applicant: Kenneth H. Koons.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 29, 2005, at 10 A.M., for decision, hearing closed.

69-03-BZ

APPLICANT - Friedman & Gotbaum, LLP, by Shelly Friedman, Esq., for 40 Bond Street Partners, LLC, owner.

SUBJECT - Application December 20, 2004 - reopening for an amendment to the resolution to modify the variance for a use conversion from manufacturing to residential that was originally granted on April 27, 2004.

PREMISES AFFECTED - 32-40 Bond Street, 163' east of the corner formed by the intersection of Bond and Lafayette Streets, Block 530, Lot 48, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

SUBJECT - Application February 11, 2004 - Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 506 Bradford Avenue, south side, 148' south of Drumgoole Road, Block 6946, Lot 36, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to June 14, 2005, at 10 A.M., for continued hearing.

MINUTES

26-04-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Michael Picciallo, owner.

SUBJECT - Application February 11, 2004 - Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 510 Bradford Avenue, south side, 108' south of Drumgoole Road, Block 6946, Lot 38, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to June 14, 2005, at 10 A.M., for continued hearing.

45-04-A through 49-04-A

APPLICANT - Willy C. Yuin, R.A., for Gal Sela, owner.

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

PREMISES AFFECTED -

4 Tompkins Place, 125' east of Court Street, Block 522, Lot 20, Borough of Staten Island.

8 Tompkins Place, 125' east of Court Street, Block 522, Lot 18, Borough of Staten Island.

12 Tompkins Place, 125' east of Court Street, Block 522, Lot 17, Borough of Staten Island.

16 Tompkins Place, 125' east of Court Street, Block 522, Lot 16, Borough of Staten Island.

20 Tompkins Place, 125' east of Court Street, Block 522, Lot 15, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Willy C. Yuin.

ACTION OF THE BOARD - Laid over to March 29, 2005, at 10 A.M., for continued hearing.

384-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point

REGULAR MEETING

TUESDAY AFTERNOON, MARCH 1, 2005

2:00 P.M.

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

ZONING CALENDAR

Cooperative, owner; Maureen & Bill Tully, lessees.

SUBJECT - Application December 6, 2004 - Proposed reconstruction and enlargement of an existing single family residence, not fronting on a legally mapped street, also the proposed upgrading of the private disposal system in the bed of the service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings Policy.

PREMISES AFFECTED - 37 Jamaica Walk, east side, 75.61' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to May 15, 2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 10:40 A.M.

394-03-BZ

CEQR #04-BSA-111Q

APPLICANT - Sheldon Lobel, Esq., for American Physique of Ridgewood, owner.

SUBJECT - Application December 23, 2003 - under Z.R. §73-36 to permit the legalization of the operation of a physical cultural establishment on the ground and mezzanine level of a one story with mezzanine building located within a M1-4D zoning district.

PREMISES AFFECTED - 16-61 Weirfield Street, between Wyckoff and Cypress Avenues, Block 3549, Lots 74, 78 and 80, Borough of Queens.

COMMUNITY BOARD #5Q

MINUTES

APPEARANCES -

For Applicant: Elisa B. Hwu.

THE ACTION OF BOARD - Application granted on condition.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner dated November 24, 2003, acting on Department of Buildings Application No. 401713428, reads:

“A physical culture establishment is not permitted as of right in a M1-4D district. Secure special permit from the Board of Standards and Appeals- Sec.73-36 ZR.”; and

WHEREAS, a public hearing was held on this application on January 11, 2005 after due notice by publication in *The City Record*, with a continued hearing on March 1, 2005, on which date the case was closed and decided; and

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

WHEREAS, this is an application for under Z.R. § 73-36, to permit, within an M1-4D zoning district, the legalization of the operation of a physical culture establishment (“PCE”) use located at the ground floor and mezzanine level of an existing one-story building; and

WHEREAS, both Community Board 5, Queens, and the Queens Borough President recommend approval of this application; and

WHEREAS, the subject premises is located on Weirfield Street between Wyckoff and Cypress Avenue; and

WHEREAS, the applicant states that the 12,739 sq. ft. site is improved upon with a vacant one-story building with a ground floor of approximately 12,020 sq. ft and a mezzanine level of approximately 3,100 sq. ft.;

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; 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

WHEREAS, the applicant also states that the building was formerly used as a warehouse but has been vacant for years; and

WHEREAS, that the PCE will occupy the entire building; and

WHEREAS, the applicant states that the ground level contains a stretching area, machine and free weights, and aerobics and boxing rooms; the mezzanine level contains a spin room and cardio and stretching areas; and

WHEREAS, the applicant represents that the neighborhood surrounding the subject premises is primarily developed with a mix of manufacturing buildings, two-story attached residences and community facilities; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the future use or development of adjacent properties, nor will it 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 proposed project will not interfere with any pending public improvement project; and

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

WHEREAS, therefore the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-36 and 73-00; and

WHEREAS, the project is classified as a Unlisted action pursuant to 6 NYCRR Part 617.; 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. 04-BSA- 111Q dated December 9, 2004; and

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 6NYCRR Part 617.4 and 6-07(b) of the Rules of Procedure for the City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes each and every one of the required findings under Z.R. §§ 73-36 and 73-00 to permit, within an M1-4D zoning district, the legalization of the operation of a physical culture establishment use located at the ground floor and mezzanine level of an existing one-story building; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “December 23, 2004”

MINUTES

- 2 sheets and "February 28, 2005" - 2 sheets; and on further condition:

THAT this Special Permit shall be limited to a term of ten years from March 1, 2005, expiring March 1, 2015;

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

THAT the hours of operation shall be 6:00 AM to 11:00 PM (Monday thru Friday) and 7:00 AM to 9:00 PM (Saturday and Sunday);

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

THAT an interior fire alarm system shall be installed and maintained, including area smoke detectors throughout the premises, manual pull stations at each required exit, local audible and visual alarms, and connection of the such system and existing sprinkler system to a NYC Fire Department-approved central station, as shown on the BSA-approved plans;

THAT the DOB shall ensure compliance with all exiting requirements and Local Law 58/87;

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, March 1, 2005.

22-04-BZ

CEQR #04-BSA-126X

APPLICANT - Sheldon Lobel, P.C., for 2556 Miftar Corp., owner.

SUBJECT - Application February 9, 2004 - under Z.R. §72-21 to permit the proposed construction of a six-story garage, plus a cellar and sub-cellar, to be occupied as an enclosed fully attended commercial parking facility, Use Group 8C, located in an R7-1

WHEREAS, the subject premises consists of two pre-existing lots, lot 21 and lot 90; lot 21 fronts on Briggs Avenue and lot 90 fronts on two unmapped streets, Poe Place and Coles Lane; and

WHEREAS, the site has approximately 7,500 square feet of total lot area; and

WHEREAS, the current proposal contemplates the construction of a four-story plus cellar and sub-cellar building, with a Floor Area Ratio ("F.A.R.") of 4.0, to be occupied as an attended, 24-hour, elevator-serviced parking garage, with 30,396 square feet of total floor area and space for 140 cars; and

WHEREAS, the original proposal sought the construction

zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 2556 Briggs Avenue, fronting on Briggs Avenue, Poe Place and Coles Lane, Block 3293, Lots 21 and 90, Borough of The Bronx.

COMMUNITY BOARD #7BX

APPEARANCES -

For Applicant: Elysa Hwu.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 9, 2004, acting on Department of Buildings Application No. 200759508, reads:

"Proposed construction of a parking garage (Use Group 8C) in an R7-1 zoning district is contrary to section 22-00 Z.R.;" and

WHEREAS, a public hearing was held on this application on September 28, 2004 after due notice by publication in the City Record, with continued hearings on December 7, 2004 and January 25, 2005, and then to decision on March 1, 2005; and

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

WHEREAS, both Community Board 7, Bronx, and the Bronx Borough President recommend approval of this application; and

WHEREAS, this is an application under Z.R. § 72-21 to permit, in an R7-1 zoning district, the construction of a four-story parking garage, contrary to Z.R. § 22-00; and of a six-story garage with a 6.0 F.A.R.; and

WHEREAS, the currently proposed building will rise four stories above grade to a height of 46 ft., 9 in. from grade to the top of the parapet on Briggs Avenue, and six stories to a height of 64 ft., 6 in. from grade to the top of the parapet on Poe Place; and

WHEREAS, the subject building will be a masonry structure, built full on the lot, and will include rooftop parking; and

WHEREAS, the applicant submitted a parking summary for each level of the premises, which reads as follows: Sub-level 2 - 28 cars (with stackers); Sub-level 1 - 21 cars; First Floor - 0 cars; Second Floor - 21 cars; Third Floor - 21 cars;

MINUTES

Fourth Floor - 21 cars; Roof - 21 cars; and

WHEREAS, the applicant states that the proposed garage would help alleviate the loss of parking in the neighborhood that occurred when over one hundred metered spaces were removed for the construction of Fordham Park Plaza and the creation of new bus lanes; and

WHEREAS, the applicant also states that the proposed garage would alleviate traffic congestion that arises when drivers look for parking spaces in the neighborhood; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in constructing the proposed building in conformity with underlying district regulations: (1) the premises is located in an area of heavy traffic and borders a C4-4 zoning district; (2) lot 21 is the only vacant lot in the neighborhood and lot 90 measures approximately 31' x 70', which could be considered a substandard lot making it difficult or impossible to develop the lot for conforming uses; (3) lot 90 fronts only on Coles Lane and Poe Place, both of which are unmapped, contrary to Section 36 of the General City Law, and thus the two lots must be combined to allow frontage on Briggs Avenue, a mapped street; (4) there is a significant slope affecting the site; and

WHEREAS, the applicant represents that there is an approximate 20 ft. grade change affecting the site, such that the proposed garage will rise four stories above grade at the Briggs Avenue elevation and six stories above grade at the Poe Place elevation; and

WHEREAS, the Board only views the slope affecting the site and the lack of frontage on lot 90 as actual hardships; and

WHEREAS, accordingly, the Board finds that two of the unique conditions mentioned above, namely, the site's slope and lot 90's lack of frontage on a mapped street, create practical difficulties and unnecessary hardships in developing the site in strict conformity with applicable zoning regulations; and

WHEREAS, the applicant has submitted a feasibility study that demonstrates that none of the following as-of-right proposals, if developed on the subject site, would result in a reasonable return: a 36-unit apartment building; a seven-story community facility building; a mixed-use community facility and residential building; or a 36-unit apartment building with a residential parking lot; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 04-BSA-126X dated July 6, 2004; and

WHEREAS, based upon its review of the record, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with zoning will provide a reasonable return; and

WHEREAS, the applicant states that the immediate neighborhood surrounding the site is a heavily-trafficked mixed-use district, with residential and commercial uses; and

WHEREAS, the applicant also notes that the site borders a C4-4 zoning district where the proposed commercial parking garage would be permitted as-of-right; and

WHEREAS, the Board has reviewed the submitted land use map and has conducted a site and neighborhood examination, and agrees that there are many commercial uses in the area near the site, especially on the Briggs Avenue side; and

WHEREAS, the Board finds that the proposed garage will be compatible with these nearby uses; and

WHEREAS, the Board also notes that the proposed amount of parking spaces is not so significant that there will be a negative impact on the surrounding uses; and

WHEREAS, additionally, the Board recognizes that there is a need for parking in the area; and

WHEREAS, based on the above, the Board finds that the subject application, if granted, will not alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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

WHEREAS, the Board raised concerns regarding the applicant's original proposal, which was for a six-story garage with a 6.0 F.A.R.; and

WHEREAS, in particular, the Board expressed a concern that the proposed bulk and height of the originally proposed building was out of context with the neighboring buildings on Poe Place and Coles Lane, primarily due to the change in grade; and

WHEREAS, the Board recommended that the applicant consider the use of stackers and roof parking as a means to reduce the overall F.A.R. and height; and

WHEREAS, the applicant reduced the number of stories from six to four and the F.A.R. from 6.0 to 4.0; 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

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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 Z.R. § 72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, in an R7-1 zoning district, the construction of a four-story parking garage, contrary to Z.R. § 22-00; *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 February 28, 2005" – (1) sheet and "Received February 15, 2005" – (10) sheets; and *on further condition*:

THAT there shall be a maximum of 140 parking spaces in the garage;

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

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

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

THAT the proposed garage will be constructed with the following bulk parameters: an F.A.R. of 4.0 and a height as indicated on the BSA-approved plans;

THAT the internal parking layout of the garage shall be as reviewed and approved by the Department of Buildings;

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

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

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

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an M1-5 zoning district within the Special Tribeca Mixed Use District, the proposed construction of a new seven-story building with retail use on the ground floor and residential use on the upper floors, contrary to Z.R. § 111-02; and

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

WHEREAS, the original version of this application contemplated an eight-story, 98 ft. high (exclusive of mechanicals) building with an F.A.R. of 6.0, with six full stories of 6,800 sq. ft. and then two additional 4,130 sq. ft. partial stories, set back from the street; and

WHEREAS, the current version of this application contemplates a seven-story, 86 ft. 6 in. high (exclusive of

Adopted by the Board of Standards and Appeals, March 1, 2005.

168-04-BZ

CEQR #04-BSA-174M

APPLICANT - Jay A. Segal, Esq., Greenberg Traurig LLP, for Greenwich Triangle 1, LLC, owner.

SUBJECT - Application April 23, 2004 - under Z.R. §72-21 to permit the proposed construction of an eight story building, with residential use on its upper seven floors, in an M1-5 zoning district, within the Special Tribeca Mixed Use District, is contrary to Z.R. §111-02.

PREMISES AFFECTED - 500 Canal Street, (a/k/a 471 Greenwich Street), triangle bounded by Canal, Watts and Greenwich Streets, Block 594, Lots 1 and 3, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: Meloney McMonoy.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated April 20, 2004, acting on Department of Buildings Application No. 103723320, reads, in pertinent part:

"Proposed residential use is not permitted in M1-5 (TMU, B2). It is contrary to Z.R. 111-02."; and

WHEREAS, a public hearing was held on this application on October 26, 2004 after due notice by publication in the *City Record*; with continued hearings on December 14, 2004 and January 25, 2004, and then laid over for decision on March 1, 2005; and

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

mechanicals) building with an F.A.R. of 5.48, with six full stories of 6,630 sq. ft. and then one additional 4,027 sq. ft. story, set back from the street; and

WHEREAS, the subject premises is an 8,000 sq. ft. triangular lot, with frontages of 107.5 feet on Greenwich Street, 148 feet on Watts Street and 183.5 feet on Canal Street, and is partially improved upon with abandoned one and three story buildings; and

WHEREAS, the portion of the premises fronting on Canal Street is directly adjacent to a tunnel approach to the Holland Tunnel; and

WHEREAS, the applicant proposes to demolish the abandoned buildings on the premises and construct the proposed building; and

WHEREAS, the applicant states that the following are

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unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance with underlying district regulations: (1) the lot is a uniquely triangular-shaped site; and (2) the lot is directly adjacent to a Holland Tunnel approach; and

WHEREAS, the applicant represents that the triangular shape of the lot leads to increased façade construction costs; and

WHEREAS, in support of this representation, the applicant has submitted a financial analysis that reflects increased development costs related to the construction of additional façade; and

WHEREAS, this analysis shows that the costs of developing the proposed building on the subject site are higher than the cost of a comparable building on a normally shaped lot, because of façade expenditures; and

WHEREAS, the Board also observes that the triangular shape of the site would negatively impact conforming development in that any building constructed on the site will have awkward floor plates that would not be marketable for conforming manufacturing or office uses; and

WHEREAS, the applicant represents that due to the proximity of the lot to the tunnel approach, Port Authority regulations applicable to foundation requirements preclude the drilling of “H” piles; and

WHEREAS, the applicant has submitted a section drawing showing the horizontal and vertical proximity of the property to the Holland Tunnel, as well as a memo from the Port Authority describing the Port Authority’s policy regarding the drilling of piles near approaches; and

WHEREAS, the applicant also represents that the foundation requirements and facade construction will lengthen the construction period, thereby further increasing overall development costs; and

WHEREAS, accordingly, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict conformity with current applicable zoning regulations; and

WHEREAS, the applicant submitted an initial feasibility study purporting to show that a conforming office/retail development with an F.A.R. of 5.0 would not realize a reasonable return, but that the originally proposed 6.0 F.A.R.

WHEREAS, specifically, this map shows that there is a 5.9 F.A.R. residential building directly across Watts Street at a height of 88 ft., a 5.8 F.A.R. residential building with a height of 94 ft. directly across Canal Street, and a 5.6 F.A.R. residential building with a height of 88 ft. directly across Greenwich Street; and

WHEREAS, the Board also observed residential uses near the subject site on its field visit; and

residential building would; and

WHEREAS, however, the Board found that the condominium sales comparables used in the feasibility study were out of date and too low, and asked the applicant to adjust them upwards; and

WHEREAS, the Board then asked the applicant to analyze the construction of a residential condominium with an F.A.R. of 5.0 using revised comparables; and

WHEREAS, the applicant subsequently submitted a feasibility study purporting to show that a residential proposal with an F.A.R. of 5.0 would not result in a reasonable return; this study reflected both revised comparables and a revised site valuation; and

WHEREAS, however, the Board was not convinced that an intermediate proposal, with an F.A.R. of between 5.0 and 6.0, was infeasible; and

WHEREAS, the applicant made adjustments, and subsequently, the proposal was modified and the F.A.R. of the proposed building was reduced to 5.48; and

WHEREAS, the Board notes in passing that the Special Tribeca Mixed Use District does not permit the construction of hotels, thus eliminating the necessity of a hotel feasibility analysis; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot’s unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant represents that there is a heavy concentration of residential use in the area surrounding the subject site, due to numerous conversions obtained pursuant to authorizations from the City Planning Commission; and

WHEREAS, the applicant represents that the bulk currently proposed for the building is consistent with the bulk of buildings in the neighborhood; and

WHEREAS, the applicant submitted a map of the surrounding neighborhood which illustrates the above representations; and

WHEREAS, the Board notes that the significant reduction in F.A.R. and height from the applicant’s initial proposal to the applicant’s current proposal is more compatible with the built conditions surrounding the site; and

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

WHEREAS, the Board finds that the hardship herein was

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not created by the owner or a predecessor in title; and

WHEREAS, after taking direction from the Board as to the proper amount of relief, the applicant modified the development proposal to the current version; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 04-BSA-174M dated March 24, 2004; 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, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the Applicant: (1) an Environmental Assessment Statement Form, dated March 24, 2004; (2) a Phase I Environmental Site Assessment Report, dated October 24, 2002; (3) a Response Memorandum from Wall & Associates, Inc. dated December 13, 2004; and (4) a Phase II Workplan and Health and Safety Plan, dated February 2005; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials, air quality and noise impacts; and

WHEREAS, a Restrictive Declaration was executed and recorded for the subject property to address hazardous materials concerns; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the Restrictive Declaration and the Applicant's agreement to the conditions

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, March 1, 2005.

noted below; 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, with conditions as stipulated below, 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 the required findings under Z.R. § 72-21, to permit, in an M1-5 zoning district within the Special Tribeca Mixed Use District, the proposed construction of a new seven-story building with retail use on the ground floor and residential use on the upper floors, contrary to Z.R. § 111-02; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 24, 2005"- (8) sheets; and *on further condition*:

THAT there shall be no restaurant or bar located at the first floor of the proposed building;

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

THAT the bulk parameters of the proposed building shall be as follows: an F.A.R of 5.48; a street wall height of 75 ft.; and a total height of 86 ft. 6 in. (exclusive of mechanicals);

THAT a window/wall attenuation of 40 dB(A) or greater on the Canal Street facade of the proposed building shall be provided, in order to achieve an acceptable interior noise level of 45 dB(A); an alternate means of ventilation shall also be provided in order to maintain a closed window condition; alternate means of ventilation shall include, but are not limited to, a provision for central air-conditioning or a provision for air conditioning sleeves for use by an air conditioner;

THAT the fresh air intakes shall not be placed on the Canal Street facade of the proposed building, in order to minimize any potential air quality effects or impacts from the high volumes of diesel trucks on Canal Street;

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 265-04-BZ

CEQR #05-BSA-017M

APPLICANT - Greenberg & Traurig, LLP by Jay A. Segal, Esq. for LVMH, Inc., owner; BlissWorld LLC, Lessee.

SUBJECT - Application July 27, 2004 - under Z.R. §73-36 to permit the legalization of the operation of a physical cultural establishment on the 3rd floor of a twenty-two story commercial building consisting of 3,792 sq. ft. located within a C5-3 (MID) Zoning district.

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PREMISES AFFECTED - 19 East 57th Street - north side of East 57th Street and Madison Avenue, Block 1293, Lot 14, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Meloney McMony.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner dated July 13, 2004, acting on Department of Buildings Application No. 103775149, reads:

“Proposed Physical Culture Establishment within a C5-3 zone requires Board of Standards and Appeals approval as set forth in Z.R. §§ 12-10 and 73-36”; and

WHEREAS, a public hearing was held on this application on February 8, 2005 after due notice by publication in *The City Record*, and then to decision on March 1, 2005; and

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

WHEREAS, Community Board No. 5, Manhattan, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit, within a C5-3 (MID) zoning district, the legalization of a physical culture establishment on the entire third floor of an existing twenty-two story commercial building; and

WHEREAS, the PCE has been in operation on the premises without a special permit since January 2, 2000; and

WHEREAS, the subject premises is improved upon with a commercial building occupied by numerous retail and office uses; and

WHEREAS, the applicant represents that the third floor of the building has a total floor area of 3,742 sq. ft.; and

WHEREAS, the applicant represents that the PCE occupies the entire third floor of the building; and

WHEREAS, the applicant states that the PCE has facilities for a variety of body treatment and beauty services including manicure, pedicure, facials, waxing and massage; and

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 Z.R. §§ 73-36 and 73-03, to permit, within a C5-3 (MID) zoning district, the legalization of a physical culture establishment on the entire third floor of an existing twenty-

WHEREAS, the applicant states that all masseurs and masseuses employed by the facility are New York State licensed masseurs and masseuses; and

WHEREAS, the applicant states that the existing building is adjacent to a retail store to the east and another spa to the west; and

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

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Unlisted action pursuant to 6 NYCRR Part 617; 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. 05-BSA-017M dated October 15, 2004; 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; 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, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

two story commercial building; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received October 15, 2004” - (1) sheet; and *on further condition*:

THAT this grant shall be limited to a term of five years from March 1, 2005, expiring March 1, 2010;

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

THAT there shall be no change in ownership or operating

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control of the physical culture establishment without prior application to and approval from the Board;

THAT the hours of operation shall be limited to: Monday through Friday 9:30 AM to 8:30 PM; Alternate Wednesdays: 12:30 pm to 8:30 pm; and Saturdays 9:30am to 6:30pm;

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

THAT all exiting requirements shall be as reviewed and approved by the Department of Buildings;

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

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

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

Adopted by the Board of Standards and Appeals, March 1, 2005.

266-04-BZ

CEQR #05-BSA-018K

APPLICANT - Fredrick A. Becker, Esq. for TSI Cobble Hill d/b/a/New York Sports Club-Lessee.

SUBJECT - Application July 28, 2004 - under Z.R. §73-36 to allow the operation of a physical cultural establishment on the first and second floor of a two story commercial building located within a C2-3 zoning district.

PREMISES AFFECTED - 96 Boreum Place - southwest corner of Boreum Place and Pacific Street, Block 279, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner

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

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

dated July 28, 2004, acting on Department of Buildings Application No. 301539761, reads:

“The Proposed Physical Culture Establishment is contrary to Z.R. § 32-00. Board of Standards and Appeals approval is required.”; and

WHEREAS, a public hearing was held on this application on February 1, 2005 after due notice by publication in *The City Record*, and then to decision on March 1, 2005; and

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

WHEREAS, Community Board No. 2, Brooklyn, recommended approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit, within a C2-3 zoning district, a proposed physical culture establishment in an existing two-story commercial building; and

WHEREAS, the ground floor and the second floor of the subject building are each 3,200 sq. ft.; the PCE will occupy the entirety of both floors; and

WHEREAS, the adjacent building located at 110 Boerum Place is operating as a PCE pursuant to a special permit re-issued by the Board under BSA Cal. No. 813-87-BZ in 1998, which is effective through 2008; and

WHEREAS, the subject PCE will operate in conjunction with the PCE located at 110 Boerum Place and will provide enhanced facilities for the existing members of the PCE at 110 Boerum Place; and

WHEREAS, there will be one shared access point to the entire facility located in the space between 96 Boerum Place and 110 Boerum Place on the first floor on the Boerum Place façade of the premises; and

WHEREAS, the subject PCE, together with the existing PCE at 110 Boerum Place, will continue to offer classes in fitness, weight training, exercise, aerobics and related areas of physical betterment; and

WHEREAS, the applicant states that the subject PCE provides an expanded open fitness area, enhanced layouts for the entire facility, and additional cardio-vascular and weight training machines; and

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

community; and

WHEREAS, therefore the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; 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. 05-BSA-018K, dated November 16, 2004; and

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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; 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, 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 Z.R. §§ 73-36 and 73-03, to permit, within a C2-3 zoning district, a proposed physical culture establishment in an existing two-story commercial building, contrary to Z.R. § 32-10; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 11, 2004" - (6) sheets and "Received February 24, 2005" - (1) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years from March 1, 2005, expiring on March 1, 2015;

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

THAT the hours of operation shall be limited to: Monday through Thursday 6 AM to 11 PM; Friday 6 AM to 9 PM; and Saturday to Sunday 8 AM to 8 PM;

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

THAT all fire protection measures indicated on the BSA-approved plans shall be installed and maintained;

THAT all exiting requirements shall be as reviewed and approved by the Department of Buildings;

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

WHEREAS a public hearing was held on this application on February 1, 2005 after due notice by publication in *The City Record*, and then to decision on March 1, 2005; and

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

WHEREAS, Community Board 7, Bronx, the Bronx Borough President, Congressman Eliot L. Engel, and the Mosholu Preservation Corporation recommend approval of the application; and

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

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

Adopted by the Board of Standards and Appeals, March 1, 2005.

350-04-BZ

CEQR #05-BSA-055X

APPLICANT - Greenberg & Traurig by Deirdre A. Carson, Esq., LLP, for Montefiore Hospital Housing Section II, Inc, owner; Fordham University, lessee.

SUBJECT - Application October 29, 2004 - under Z.R. § Z.R.73-30 in an R7-2/C1-3 (partial) district, permission sought to erect a non-accessory radio tower on the roof of an existing 28-story residential structure. The radio tower will be operated by Fordham University (WFUV 90.7 FM), and will have total height of 161 feet, including a mechanical equipment room that will be contained inside an existing masonry enclosure originally built to house an HVAC cooling tower. The elevation of the tower will be 621 feet, including the height of the existing structure.

PREMISES AFFECTED - 3450 Wayne Avenue, Wayne Avenue, between Gun Hill Road and East 210th Street (roof), Block 3343, Lot 245, Borough of The Bronx.

COMMUNITY BOARD #7BX

APPEARANCES -

For Applicant: Meloney McMony.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 29, 2004, acting on Department of Buildings Application No. 200912584, reads in pertinent part:

"Non-accessory radio tower requires Board of Standards and Appeals special permit pursuant to Z.R. Section 73-30."; and

WHEREAS, this is an application under Z.R. §§ 73-30 and 73-03, to permit the proposed construction of a non-accessory radio tower and antenna for a radio station within an R7-1 zoning district with a partial C1-3 overlay, which is contrary to Z.R. §§ 22-21 and 22-11; and

WHEREAS, pursuant to Z.R. § 73-30, the Board may grant a special permit for a non-accessory radio tower such as the antenna tower proposed, provided it finds "that the proposed location, design, and method of operation of such tower will not have a detrimental effect on the privacy, quiet, light and air of the neighborhood"; and

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WHEREAS, the applicant also states that it has been looking for a new site for its radio tower for the broadcast of its public radio station, WFUV, since the mid-1990's; and

WHEREAS, the applicant notes that Montefiore Medical Center offered it a site for its radio tower atop its residential building at 3450 Wayne Avenue in 2004; and

WHEREAS, the antenna tower will be located on a rooftop enclosure that currently houses 60 antenna structures and is high above the urban and residential streetscape; and

WHEREAS, that the antenna tower will be constructed in a single, 6-month phase so as to minimize any noise and privacy impacts; and

WHEREAS, the applicant states that once the antenna tower is operating no employees associated with the antenna tower will reside in the Montefiore Medical Center, and any on-site visits for continuing inspection, maintenance and repairs to the antenna tower structure and related equipment will be so intermittent and of such short duration that they will not cause any significant disruption to the privacy of the residents of Montefiore Medical Center; and

WHEREAS, the applicant also states that the antenna tower has been designed not to create a significant visual obstruction or cast a significant shadow; and

WHEREAS, the applicant observes that the antenna tower will be located on a building that is located at the edge of a mixed use (C1-3) area that accommodates a number of non-residential uses in the immediate project area; and

WHEREAS, the proposed antenna tower will consist of three parts: a mechanical equipment room/support structure; a tower that will be 80 feet high and an antenna mast that will be 60 feet high; and a three foot beacon atop; and

WHEREAS, the applicant represents that the antenna tower complies with the use and bulk requirements of the Zoning Resolution and is within the applicable sky exposure plane; and

WHEREAS, based upon its review of evidence in the record, the Board finds that the proposed antenna tower will be located, designed and operated so that there will be no detrimental effect on the privacy, quiet, light and air of the neighborhood; and

WHEREAS, therefore, the Board finds that the subject application meets the findings set forth at Z.R. § 73-30; and

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

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the 291-03-BZ

APPLICANT - Stuart A. Klein, Esq., for 6202 & 6217 Realty Company, owner.

SUBJECT - Application September 4, 2003 - under Z.R. §72-21 to permit the proposed residential building, Use Group 2, located on a site in that is in an M1-1 and an R5 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 1380 62nd Street, northwest corner of 14th Avenue, Block 5733, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #10BK

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 N.Y.C.R.R. Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings and grants a special permit under Z.R. §§ 73-03 and 73-30, to permit the proposed construction of a non-accessory radio tower and antenna for a radio station within an R7-1 zoning district with a partial C1-3 overlay, which is contrary to Z.R. §§ 22-21 and 22-11, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received October 29, 2004"-(4) sheets; and *on further condition*;

THAT no commercial or retail signage will be posted;

THAT any lighting will be positioned down and away from residential uses;

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

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

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

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

Adopted by the Board of Standards and Appeals, March 1, 2005.

APPEARANCES -

For Applicant: Neatta Patrobe.

ACTION OF THE BOARD - Laid over to March 29, 2005, at 1:30 P.M., for continued hearing.

20-04-BZ

APPLICANT - Eric Palatnik, P.C., for Marcia Dachs, owner.

SUBJECT - Application February 9, 2004 - under Z.R. §72-21 to permit the proposed construction of a single family dwelling, Use

MINUTES

Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for side yards, floor area ratio, open space ratio and open space, is contrary to Z.R. §23-141(a), §23-45 and §23-461.

PREMISES AFFECTED - 5723 17th Avenue, corner of 58th Street, Block 5498, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Eric Palatnik and Marcia Dachs.

ACTION OF THE BOARD - Laid over to May 10, 2005, at 1:30 P.M., for continued hearing.

126-04-BZ

APPLICANT - Eric Palatnik, Esq., for James Bateh, owner.

SUBJECT - Application October 7, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, Use Group 2, located in an R3-1(BR) zoning district, which does not comply with the zoning requirements for open space, floor area, also side and front yards, is contrary to Z.R. §23-141, §23-461(a) and §23-45.

PREMISES AFFECTED - 66 87th Street, south side, between Narrows Avenue and Colonial Road, Block 6046, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES -

For Applicant: Eric Palatnik and Albert Marewad.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 15, 2005, at 1:30 P.M., for decision, hearing closed.

190-04-BZ

APPLICANT - Agusta & Ross, for Ira and Larry Weinstein, LLC, owner.

SUBJECT - Application May 7, 2004 - under Z.R. §72-21 to permit the proposed conversion of a former lead factory, into a multiple dwelling (45 families), with a ground floor waterfront restaurant, and doctor's office, is contrary to Z.R. §22-12, which states that "residential uses" shall be limited to single, two family or APPEARANCES - None.

ACTION OF THE BOARD - Laid over to May 24, 2005, at 1:30 P.M., for continued hearing.

233-04-BZ

APPLICANT - Kevin McGrath, Esq. c/o Phillips Nizer, for F&T International, owner.

SUBJECT - Application June 18, 2004 - under Z.R. §72-21 to permit the proposed development of a twelve story building, which will contain a mix of retail uses, office space, community facility space and two levels of underground parking, located in a C4-3

semi-detached residences in an R3-1 zoning district.

PREMISES AFFECTED - 2184 Mill Avenue, a/k/a 6001 Strickland Avenue, southwest corner, Block 8470, Lot 1090, Part of Lot 1091, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Mitchell Ross, Gary Silver and Albert Marengo.

For Opposition: Debbie Malone, Council Member Fidler's Office and Sol/Saul Needle.

ACTION OF THE BOARD - Laid over to April 12, 2005, at 1:30 P.M., for continued hearing.

219-04-BZ

APPLICANT - Eric Palatnik, P.C., for Cora Realty Co., LLC, owner.

SUBJECT - Application May 28, 2004 - under Z.R. §72-21 to permit The legalization of a portion of the required open space of the premises, for use as parking spaces (30 spaces), which are to be accessory to the existing 110 unit multiple dwelling, located in an R7-1 zoning district, is contrary to Z.R. §25-64 and §23-142.

PREMISES AFFECTED - 2162/70 University Avenue, aka Dr. Martin Luther King Boulevard, southeast corner of University Avenue and 181st Street, Block 3211, Lots 4 and 9, Borough of The Bronx.

COMMUNITY BOARD #5BX

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to May 10, 2005, at 1:30 P.M., for continued hearing.

225-04-BZ

APPLICANT - Jay A. Segal, Esq., for 201 Berry Street, LLC, c/o Martin Edward, Management, owner.

SUBJECT - Application September 28, 2004 - under Z.R. §72-21 to permit the construction of three four-story residential buildings in an M1-2 zoning district contrary to Z.R. §42-10.

PREMISES AFFECTED - 201 Berry Street (a/k/a 121-157 North 3rd Street; 248-252 Bedford Avenue; 191-205 Berry Street), North 3rd Street from Bedford Avenue to Berry Street (northern part of block bounded by North 4th Street), Block 2351, Lots 1, 28 and 40, Borough of Brooklyn.

COMMUNITY BOARD #1BK

zoning district, which does not comply with the zoning requirements for floor area ratio, accessory off-street parking, off-street loading berths and building height, is contrary to Z.R. §32-423, §33-122, §35-31, §36-20, §36-62, §61-00 and §61-40.

PREMISES AFFECTED - 136-20 38th Avenue, (a/k/a 38-21 Main Street, 136-17 39th Avenue, 38-10 138th Street and 38-25 Main Street), north side of the intersection of Main Street and 39th Avenue, Block 4978, Lot 101, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Kevin B. McGrath.

THE VOTE TO CLOSE HEARING -

MINUTES

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

ACTION OF THE BOARD - Laid over to March 29, 2005, at 1:30 P.M., for decision, hearing closed.

255-04-BZ

APPLICANT - Eric Palatnik, P.C., for Eli Kafif, owner.
SUBJECT - Application July 15, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, which does not comply with the zoning requirements for floor area and side yard, is contrary to Z.R. §23-141 and §23-461(a), located in an R5 zoning district.

PREMISES AFFECTED - 1924 Homecrest Avenue, between Avenues "S and T", Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Eric Palatnik.

For Opposition: Kathy Jaworshi, Mores Bougadin, Antoinette Vasile and Edwawrd Jaworski.

ACTION OF THE BOARD - Laid over to April 5, 2005, at 1:30 P.M., for continued hearing.

270-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Benjamin Gross, owner.
SUBJECT - Application November 18, 2004 - under Z.R. §73-622 to permit the enlargement of a single family residence. Varying the requirements for floor area and open space pursuant to §23-141, side yard pursuant to §23-461 and rear yard is less than required pursuant to §23-47. Located in an R-2 zoning district.

PREMISES AFFECTED - 1239 East 22nd Street, east side of East 22nd Street, between Avenue K and Avenue L, Block 7622, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

ACTION OF THE BOARD - Laid over to April 5, 2005, at 1:30 P.M., for continued hearing.

345-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Yad Yosef, owner.

SUBJECT - Application October 22, 2004 - under Z.R. §72-21 to request a bulk variance to allow the construction of a new synagogue in an R5 district contrary to Z.R. §§23-141, 23-464, 23-47, 113-12, 23-631(d), 113-30, 25-18 and 25-31.

PREMISES AFFECTED - 1030-1044 Ocean Parkway, west side, between Avenues "J and "L", Block 5495, Lots 909, 911 and 914, Borough of Brooklyn.

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING -

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

ACTION OF THE BOARD - Laid over to March 29, 2005, at 1:30 P.M., for decision, hearing closed.

300-04-BZ

APPLICANT - Malcolm Kaye of Aston Associates, for Jimmy Tuohy, Eurostruct, Inc, owner; Diana Zelvin, lessee.

SUBJECT - Application filed September 9, 2004 - under Z.R. Section 73-36 to permit a proposed physical cultural establishment located on the first and second floor of a two story commercial building, within an M1-1 Zoning district.

PREMISES AFFECTED - 66 Huron Street , south of West Street and Franklin Street, Block 2531 , Lot 12 Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Diane Zelvin and Malcolm Kaye.

THE VOTE TO CLOSE HEARING -

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

ACTION OF THE BOARD - Laid over to March 8, 2005, at 1:30 P.M., for decision, hearing closed.

340-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Anthony R. and Valerie J. Racanelli, owners; Walgreens, lessee.

SUBJECT - Application October 15, 2004- under Z.R. §72-21 to request a bulk variance to allow the construction of a new drug store without the required parking in a C4-1 district, contrary to Z.R. §§33-23(B) and 36-21.

PREMISES AFFECTED - 1579 Forest Avenue, northeast side of Forest Avenue and Decker Avenue, Block 1053, Lot 149, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Joseph Morsellino.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Lyra Altman, Rabbi David Ozeirey, Fredrick A. Becker, Samantha Sasson, David Sutton, Michael Jemal, Rachelle Cohen, Elli Bozda, Ronnie Adjmi, Ji Vera and Eli Jemal.

For Opposition: Vincent Desantis, Lisa De Santis, Michael De Santiz and Wilhelm Kraus.

ACTION OF THE BOARD - Laid over to April 12, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 5:40 P.M.

MINUTES

BULLETIN

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March 17, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE - 40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD - 40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @ <http://www.nyc.gov/html/bsa/home.html>

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Tuesday, March 8, 2005**

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342-03-BZ 92/94 Greene Street, Manhattan

DOCKETS

New Case Filed Up to March 8, 2005

32-05-BZ B.BK. 288 7th Street, between Fourth and Fifth Avenues, Block 998, Lot 23, Borough of Brooklyn. Alt.#301823668. Proposed relocation and expansion of an existing not-for-profit school, located in an R6B zoning district, which does not comply with the zoning requirements for lot coverage, is contrary to Z.R. §24-11 and §52-31.

COMMUNITY BOARD #6BK

33-05-BZ B.BK. 1132, 1136 and 1140 East 36th Street, west side, between Avenues "K" and "L", Block 7635, Lots 77, 78 and 79, Borough of Brooklyn.

Applic.#301874461. Proposed construction of a five story and cellar community facility (school), located in an R5 zoning district, which does not comply with the zoning requirements for floor area, floor area ratio, open space, open space ratio, lot coverage, total height, side yard, rear yard, sky exposure plane and side setback requirement, is contrary to Z.R. §24-11, §23-141, §24-521, §24-34, §24-36 and §24-551.

COMMUNITY BOARD 18BK

34-05-BZ B.BK. 1975 East 24th Street, east side, between Avenues "S" and "T", Block 7303, Lot 56, Borough of Brooklyn. Alt.#301900272. Proposed enlargement of an existing one family dwelling, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, open space ratio, also side and rear yards, is contrary to Z.R. §23-141, §23-461(a) and §23-47.

COMMUNITY BOARD #15BK

35-05-A B.Q. 37 Beach 221st Street, east side, 240' south of Fourth Avenue, Block 16350, Lot 400, Borough of Queens. Alt.#401997951. Proposed alteration to an existing one family dwelling, not fronting on a legally mapped street, also a proposal to upgrade the existing septic system, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings Policy.

36-05-A B.Q. 35 Janet Lane, east side, 577.98' north of Beach 203rd Street and Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens. Alt.#402009660. Proposed alteration to an existing one family dwelling, located within the bed of a mapped Street, also a proposal to upgrade the existing septic system, is contrary to Section 35, Article 3 of the General City Law and Department of Buildings Policy.

37-05-A B.Q. 17 Fulton Walk, east side, 185' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens. Alt.#402026981. Proposed alteration to an existing one family dwelling, not fronting on a legally mapped street, also a

proposal to upgrade the existing septic system, which is in the bed of the service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings Policy.

38-05-BZ B.Q. 80-01 Elliot Avenue, bounded by 80th Street, Eliot and Caldwell Avenues and 81st Street, Block 2921, Lot 40, Borough of Queens. Alt.#402069621. Proposed construction of a one story, Use Group 6 drugstore, located in a C1-2/R4 zoning district, which does not comply with the required number of parking spaces, and does not contain the required loading berth, is contrary to Z.R. §36-62 and §36-21.

COMMUNITY BOARD #5Q

39-05-BZ B.BK. 6 Lee Avenue, west side, between Clymer and Taylor Streets, Block 2173, Tentative Lot 35(Formerly 31 and 35), Borough of Brooklyn.

Applic.#301886911. Proposed enlargement of an existing yeshiva and associated synagogue, Use Group 3, located in an R6 zoning district, which does not comply with the zoning requirements for lot coverage, side yard, perimeter wall height, setback and sky exposure plane, is contrary to Z.R. §24-11, §24-35(b), and §24-522.

COMMUNITY BOARD #1BK

40-05-BZ B.M. 1095 Second Avenue, west side, 60.5' south of East 58th Street, Block 1331, Lot 25, Borough of Manhattan. Applic.#103997837. Proposed physical culture establishment, located on the second floor of a four story building, within a C2-8 (TA special district), requires a special permit from the Board as per Z.R. §73-36.

COMMUNITY BOARD #6M

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

MARCH 29, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 29, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

200-24-BZ

APPLICANT - Stephen Ely, for Ebed Realty c/o Ruben Greco, owner.

SUBJECT - Application December 22, 2004 - reopening for an extension of time to obtain a Certificate of Occupancy, located in an R8 and C8-2 zoning district.

PREMISES AFFECTED - 3030 Jerome Avenue a/k/a 3103 Villa Avenue, 161.81' south of East 204th Street on the East Side of Jerome Avenue, Block 3321, Lot 25, Borough of The Bronx.

COMMUNITY BOARD #7BX

189-96-BZ

APPLICANT - John C Chen, for Ping Yee, owner; Edith D'Angelo-Cnandonga, lessee.

SUBJECT - Application September 8, 2004 - Extension of Term-Waiver- for an eating and drinking establishment with dancing, Located in an C2-3 overlay within an R6 zoning district.

PREMISES AFFECTED - 85-12 Roosevelt Avenue, (85-10 Roosevelt Avenue), south side of Roosevelt Avenue, 58' east side of Forley Street, Block 1502, Lot 3, Borough of Queens.

COMMUNITY BOARD #4Q

28-02-BZ

APPLICANT - Sheldon Lobel. P.C., for Farbod Realty Corp., owner; Harris G. Joseph, Inc., lessee.

SUBJECT - Application - November 5, 2004 - Extension of Term & Amendment for the the use of a Pysical Cultural Establishment which was granted by BSA pursuant to Section 73-36 of the Zoning Resolution on February 4, 2003 for a term of two years. The application requests a change in the hours of operation contrary to the conditions set in the prior Resolution, located in a C5-2 zoning district.

PREMISES AFFECTED - 80 Madison Avenue, between 28th and 29th Streets, Block 858, Lot 14, Borough of Manhattan.

COMMUNITY BOARD#5M

PREMISES AFFECTED - 151 West 76th Street, north side, 471' from the intersection of Columbus Avenue, Block 1148, Lot 112, Borough of Manhattan.

COMMUNITY BOARD #7M

377-03-BZ

APPLICANT - Fischbein Badillo Wagner Harding, LLP, for Shinbone Alley Associates, LLC, owner.

SUBJECT - Application February 18, 2005 - reopening for an amendment to the resolution granted on June 8, 2004 to rearrange approve floor area and units.

PREMISES AFFECTED - 25 Bond Street, south side of Bond Street, 70' east of Lafayette Street, Block 529, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEALS CALENDAR

210-04-A

APPLICANT - Joseph P. Morsellino, Esq., for Chilton Paint Co., owner; CPP Development, LLC, lessee.

SUBJECT - Application May 21, 2004 - Proposed six story residential building, with 134 dwelling units, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 109-09 15th Avenue, northwest corner of 110th Street, Block 4044, Lot 60, Borough of Queens.

COMMUNITY BOARD #7Q

329-04-A

APPLICANT - Jeffrey Geary, for Riley Realty Corp., owner.

SUBJECT - Application October 5, 2004 - Proposed construction of a two story single family residence, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law

PREMISES AFFECTED -10-03 Channel Road, (aka 100th Place), west side, 33.94' south of 197th Avenue, Block 15475, Lot 26, Borough of Queens.

COMMUNITY BOARD #14Q

397-04-A

APPLICANT - Petraro & Jones, LLP, for Jennifer Walker, owner.

SUBJECT - Application December 23, 2004 - An appeal to request the Board to determine that the apartment house at subject premises, is not a "single room occupancy multiple dwelling" and (2) nullify the Department of Buildings' plan review "objection" that resulted in this appeal application.

MARCH 29, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, March 29, 2005, at 1:30 P.M., at 40 Rector

CALENDAR

Street, 6th Floor, New York, N.Y. 10006, on the following matters:

Pasquale Pacifico, Executive Director

ZONING CALENDAR

174-04-BZ

APPLICANT - Law Offices of Howard Goldman, PLLC for Harold Milgrim, Trustee.

SUBJECT - Application April 28, 2004 - under Z.R. §72-21 Proposed conversion of floors two through six, to residential use, Use Group 2, in an existing six-story commercial building, located in an M1-6 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 124 West 24th Street, south side, between Sixth and Seventh Avenues, Block 799, Lot 54, Borough of Manhattan.

COMMUNITY BOARD #4M

201-04-BZ

APPLICANT - Eric Palatnik, P.C., for Marilyn Levine & Melvin Mesnick, Urban Spa, Inc., dba Carapan, lessee.

SUBJECT - Application May 14, 2004 - under Z.R. §73-36, to permit the legalization of an existing physical culture establishment, located in the basement level of a four story commercial structure, situated in a C6-2M zoning district, which requires a special permit.

PREMISES AFFECTED - 5 West 16th Street, between Fifth Avenue and Avenue of the Americas, Block 818, Lot 37, Borough of Manhattan.

COMMUNITY BOARD #5M

209-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Chilton Paint Co., owner; CPP Development, LLC, lessee.

SUBJECT - Application May 21, 2004 - under Z.R. §72-21 to permit the proposed six story residential building, with 134 dwelling units, Use Group 2, located in an M2-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 109-09 15th Avenue, northwest corner of 110th Street, Block 4044, Lot 60, Borough of Queens.

COMMUNITY BOARD #7Q

68-94-BZ

APPLICANT - Fischbein Badillo Wagner & Harding for Bally Total Fitness, lessee

SUBJECT - Application January 21, 2005 - to Reopen and Extension of Term of a Special Permit for a Physical Cultural Establishment located on a portion of the first and second floor of the Bay Plaza shopping center which expired on November 11, 2004. Located in a C4-3 Zoning district. Minor interior layout change and signage change.

PREMISES AFFECTED - 2100 Bartow Avenue, south side, at the

APRIL 5, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 5, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

348-82-BZ

APPLICANT - Salvati Architects for George Gong, owner.

SUBJECT - Application December 17, 2004 - Extension of Term/ Waiver/ Amendment, application seeks to legalize the change from three (3) storefronts (U.G. 6) to two (2) storefronts (U.G. 6 & 16D) located in an R5 zoning district. The application was approved under section 72-21 of the zoning resolution to permit in an R5 zoning district, the establishment of three (U.G. 6) storefronts for a term of 20 years which expired on April 12, 2003.

PREMISES AFFECTED - 204 Avenue S, Avenue S and West 6th Street, Block 7083, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #11BK

14-92-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for DG Equities and Greenwich Reade Associates, for TSI Greenwich Street, Inc., lessee.

SUBJECT - Application May 19, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired May 3, 2003 and for an amendment to the resolution to allow the operation of a physical culture establishment.

PREMISES AFFECTED - 311 Greenwich Street aka 151 Reade Street, southeast corner of Greenwich Street and Reade Street, Block 140, Lot 7502, Borough of Manhattan.

COMMUNITY BOARD #1M

eastern most side of Baychester Avenue, Bronx

COMMUNITY BOARD #10BX

91-02-BZ

APPLICANT - Sheldon Lobel, P.C., for David Winiarski, owner.

SUBJECT - Application April 13, 2004 - reopening for an amendment to a previously granted variance under ZR§72-21 to

CALENDAR

allow minor modification of the approved plans.

PREMISES AFFECTED - 3032-3042 West 22nd Street, West 22nd Street, 180' north of Highland View Avenue, Block 7071, Lot 19 (fka 19, 20, 22), Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEALS CALENDAR

232-04-A

APPLICANT -Snyder & Snyder LLP, c/o Omnipoint Communications, Inc., for Edward Zdanowicz, owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application June 18, 2004 - Proposed construction of a communications structure on a property that is not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED -17 Feldmeyers Lane, 130' from the intersection of Feldmeyers Lane and Victory Boulevard, Block 2660, Lot 63, Borough of Staten Island.

COMMUNITY BOARD #2SI

APRIL 5, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, April 5, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

294-04-BZ

APPLICANT - Petraro & Jones, LLP., by Patrick W. Jones, Esq., for 2478-61 Realty Corp., owner.

SUBJECT - Application August 26, 2004 - under Z.R. §72-21 proposed construction of a three family dwelling, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for front and side yards, is contrary to Z.R. §§23-45 and 23-49.

PREMISES AFFECTED - 103-05 35th Avenue, (a/k/a 34-29 35th Avenue), northeast corner of 103rd Street, Block 1744, Lot 43, Borough of Queens.

COMMUNITY BOARD #3Q

286-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP for Pei-Yu Zhong, owner.

SUBJECT - Application August 18, 2004 - under Z.R. §72-21 to permit the proposed one family dwelling, without the required lot width and lot area is contrary to Z.R. §23-32.

PREMISES AFFECTED - 85-78 Santiago Street, west side, 111.74' south of McLaughlin Avenue, Block 10503, Part of Lot 13(tent.#13), Borough of Queens.

COMMUNITY BOARD #8Q

287-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP for Pei-Yu Zhong, owner.

SUBJECT - Application August 18, 2004 - under Z.R. §72-21 to permit the proposed one family dwelling, without the required lot width and lot area is contrary to Z.R. §23-32.

PREMISES AFFECTED - 85-82 Santiago Street, west side, 177' south of McLaughlin Avenue, Block 10503, Part of Lot 13(tent.#15), Borough of Queens.

COMMUNITY BOARD #8Q

290-04-BZ

APPLICANT - Stuart A. Klein, Esq., for Alex Lokshin - Carroll Gardens, LLC, owner.

SUBJECT - Application August 20, 2004 - under Z.R. §72-21 to permit, in an R4 zoning district, the conversion of an existing one-story warehouse building into a six-story and penthouse mixed-use residential/commercial building, which is contrary to Z.R. §§22-00, 23-141(b), 23-631(b), 23-222, 25-23, 23-45, and 23-462(a).

PREMISES AFFECTED - 341-349 Troy Avenue (a/k/a 1515 Carroll Street), Northeast corner of intersection of Troy Avenue and Carroll Street, Block 1407, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #9BK

371-04-BZ

APPLICANT - Eric Palatnik, P.C., for Hillel Kirschner, owner.

SUBJECT - Application November 22, 2004 - under Z.R. 73-622 to permit the proposed enlargement of an existing single family residence, located in an R5 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, side and rear yards, is contrary to Z.R. §23-141(a), §23-46 and §23-47.

PREMISES AFFECTED - 1271 East 28th Street, between Avenues "L and M", Block 7646, Lot 16, Borough of Brooklyn.

COMMUNITY BOARD #14BK

CALENDAR

Pasquale Pacifico, Executive Director

**REGULAR MEETING
TUESDAY MORNING, MARCH 8, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, December 21, 2004, were approved as printed in the Bulletin of December 30, 2004, Volume 89, No. 52.

SPECIAL ORDER CALENDAR

1126-48-BZ

APPLICANT - Sheldon Lobel, P.C., for Advance Parking LLC, owner.

SUBJECT - Application July 30, 2004 - Reopening for an extension of term of variance for an open garage for parking & storage of more than five(5) motor vehicles, located in C1-5 zoning district.

PREMISES - 249/51 West 43rd Street, north side of West 43rd Street, 200' east of 8th Avenue, Block 1015, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Richard Lobel.

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ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a reopening and, pursuant to Z.R. § 11-411, an extension of the term of the variance, which expired on October 29, 2004; and

WHEREAS, a public hearing was held on this application on February 15, 2005 after due notice by publication in The City Record, and then to decision on March 8, 2005; and

WHEREAS, on June 14, 1949, under the above referenced calendar number, the Board granted an application to permit the erection and maintenance of a parking garage for a term of fifteen years; and

WHEREAS, since the original grant, the applicant has obtained subsequent minor amendments and extensions of the term of the variance, the most recent extension being granted on November 18, 1997; and

WHEREAS, the subject garage is a five-story building, plus cellar and roof, with 219 parking spaces, and is located on West 43rd Street, between Seventh and Eighth Avenues; and

WHEREAS, the subject garage is in a neighborhood with many Broadway theaters and fulfills a need for parking in the area; and

WHEREAS, therefore, the Board finds that this application for an extension of term is appropriate to grant.

Therefore it is Resolved, that the Board of Standards and Appeals, reopens and amends the resolution, said resolution having been adopted on June 14, 1949, and subsequently amended and extended, and extends the term of the variance, which expired on October 29, 2004 so that, as amended, this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional ten years from October 29, 2004 expiring on October 29, 2014; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this PREMISES AFFECTED - 761-773 Kent Avenue a/k/a 763 Kent Avenue, south frontage of Kent Avenue between Little Nassau Street and Flushing Avenue, Block 1884, Lots 36 & 33 (tent 36), Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Juan Reyes.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a reopening and an amendment of the plans previously approved by the Board in connection with a granted zoning variance; and

WHEREAS, a public hearing was held on this application on February 15, 2005, after due notice by publication in The City Record, and then laid over to March 1, 2005 for decision; and

WHEREAS, Community Board 3, Brooklyn, has recommended disapproval of this application; and

application marked "Received January 5, 2005"- (1) sheet and "Received February 18, 2005" - (9) sheets; and on further condition:

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

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

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

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

THAT any existing signage on the site shall remain as originally granted; no new signage is being approved herein.

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

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

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

(DOB Application #103820732)

Adopted by the Board of Standards and Appeals, March 8, 2005.

259-98-BZ

APPLICANT - Davidoff Malito & Hutcher LLP by Howard S. Weiss, Esq., for Kent Plaza Realty Corp., owner.

SUBJECT - Application November 17, 2004 - reopening for an amendment to a previously granted variance for a multiple dwelling, located in an M1-2 zoning district.

WHEREAS, on October 16, 2001, the Board granted an application under Z.R. § 72-21, to permit within an M1-1 zoning district, the proposed erection of two multiple dwellings (Use Group 2), contrary to Z.R. § 42-00; and

WHEREAS, the applicant represents that the requested amendment arises from a new architect's suggestion that the subject premises offered opportunities for improved building design and added amenities for the building occupants within the zoning envelope approved by the Board; and

WHEREAS, the applicant is seeking the following proposed changes to the subject premises: (1) a relocation of the building's on-site recreation space from the basement to the roof; (2) a 30-ft. court yard in place of the 10-ft. rear yard equivalent provided under the approved plans; (3) a reduction in the floor area from 26,032 square feet to 25,999 square feet; (4) a reduction in the number of residential units from 20 to 16; (5) the creation of 10 parking spaces in the basement; (6) a reduction in lot coverage from 75.5% to 67%; (7) an increase in the open space ratio from 24.5% to 33%; (8) an decrease in the building's height at its mid-block section to 32'-11"; and (9) an increase in the building's height from 49'-4" to 60' at the corners formed by the intersection of Little Nassau Street,

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Kent Avenue and Flushing Avenue; and

WHEREAS, the Board recognizes that the building height will increase from 49'-4" to 60', or one story, at the above-mentioned corners, but that this is compensated for by a decrease in height at the mid-block section; and

WHEREAS, the applicant represents that the proposed use, bulk, and height are consistent with the neighborhood's existing character; and

WHEREAS, the Board notes that the previous Board approval assumed an R6A envelope and that the current proposal is within that envelope; and

WHEREAS, the applicant submitted an area survey that shows that there are buildings in proximity to the project site which are similar in height to the proposed building, including a 60-ft. high multiple dwelling located across the street from the project site, a 60-ft. high combined synagogue and school building located one block east from the project site and a 59-ft. high building that adjoins the project site to the north; and

WHEREAS, the applicant further represents that the proposed building changes will be accomplished in a manner that is consistent with the existing character of the neighborhood and remain consistent with the findings previously made by the Board pursuant to Z. R. § 72-21; and

WHEREAS, the Board finds that the applicant's proposed changes result in an approved building that is more compatible with the surrounding neighborhood than the plans that were previously approved; and

WHEREAS, based upon its review of the presented evidence, the Board finds that the requested amendment is appropriate to grant.

Therefore it is Resolved, that the Board of Standards and Appeals, reopens and amends the resolution, so that as amended this **490-69-BZ**

APPLICANT - Sheldon Lobel, P.C., for 300 East 74th Owners Corp., owner; GGMC Parking, LLC, lessee.

SUBJECT - Application September 2, 2004 - reopening for an extension of term of a variance for attended transient parking in a multiple dwelling presently located in a C1-9 and R8-B zoning district. The original grant of the variance by the Board of Standards and Appeals was made pursuant to Section 60(3) of the multiple Dwelling Law.

PREMISES AFFECTED - 1408/18 Second Avenue, 303/09 East 73rd Street, 300/04 East 74th Street, east side of Second Avenue, 50' north of East 73rd Street, Block 1448, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Richard Lobel.

ACTION OF THE BOARD - Laid over to April 12, 2005, at 10 A.M., for continued hearing.

100-71-BZ

APPLICANT - The Augusta Group, for Maurice Cohen/1065 Eagle, LLC, owner.

portion of the resolution shall read: "to permit an amendment of the plans previously approved by the Board in connection with a zoning variance that permits the development of a residential building on a site located in an M1-2 zoning district; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received November 17, 2004"- (4) sheets and "Received February 1, 2005"- (9) sheets; and on further condition:

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

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

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

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

THAT any permitted obstructions are subject to DOB review and approval;

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. 301862456)

Adopted by the Board of Standards and Appeals, March 8, 2005.

SUBJECT - Application July 21, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance to permit the use of an open area for the sale of used cars (U.G. 16) and accessory parking on a lot containing an existing automobile repair shop, located in an R5 zoning district.

PREMISES AFFECTED - 61-03 Northern Boulevard, northeast corner of Northern Boulevard, and 61st Street, Block 1162, lot 53, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to March 29, 2005, at 10 A.M., for continued hearing.

183-97-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for Daniel M. Frishwasser, owner; 250 East 60th Street Co., LP, lessee.

SUBJECT - Application September 10, 2004 - to reopen and extend the time and waiver of the Rules and Procedures, in which to complete construction and obtain a new certificate of occupancy pursuant to the resolution adopted by the board on September 15, 1998.

PREMISES AFFECTED - 250 East 60th Street, south side of

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East 60th Street, Block 1414, Lot 20, Borough of Manhattan.

COMMUNITY BOARD#8M

APPEARANCES -

For Applicant: James P. Power.

ACTION OF THE BOARD - Laid over to March 29, 2005, at 10 A.M., for decision, hearing closed.

158-02-BZ

APPLICANT - Eric Palatnik, P.C., for Torah Academy For Girls, owner.

SUBJECT - Application September 15, 2004 - reopening for an amendment to extend the time to obtain a certificate of occupancy which expired October 8, 2004.

PREMISES AFFECTED - 444 Beach 6th Street, between Jarvis and Meehan Avenues, Block 15596, Lot 1, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to March 29, 2005, at 10 A.M., for decision, hearing closed.

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the instant appeal comes before the Board in response to a final determination, set forth in a letter dated August 3, 2004, issued by the Manhattan Borough Commissioner of the New York City Department of Buildings ("DOB"), in response to inquiries by Michael S. Gruen, Esq. ("appellant") on behalf of "Neighbors for Light and Air", an organization of neighbors to the referenced premises (the "premises"); and

WHEREAS, this appeal challenges DOB's determination not to revoke approvals issued in connection with DOB Application No. 103256183 (the "application"), which authorized a proposed enlargement of floors three through five of the Allen-Stevenson School (the "school"), located at the premises; and

WHEREAS a public hearing was held on this application on November 23, 2004 after due notice by publication in The City Record, with a continued hearing on January 25, 2005, and then to decision on March 8, 2005; and

WHEREAS, both DOB and the school were represented by counsel in this appeal; and

WHEREAS, the August 3, 2004 final DOB determination states, in relevant part:

APPEALS CALENDAR

273-04-A

APPLICANT - Michael S. Gruen , Esq. for Katrina Maxtone Graham , Felix C. Ziffer, Michelle R. Yogada, Stanley Ely. adjacent neighbors.

OWNER - Allen Stevenson School.

SUBJECT - Application August 5, 2004 - An Administrative Appeal challenging the Department of Building's final determination dated August 3, 2004 in which the Department refused to revoke approvals and permits which allow an enlargement of a school that violates the rear yard requirements under ZR Sections 33-26 and 33-301.

PREMISES AFFECTED - 128/32 East 78th Street and 121/23 East 77th Street, between (but not abutting) Park and Lexington Avenues, Block 1412, Lot 58, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Michael Gruen.

For Opposition: Marvin Mitzner.

For Administration: Felicia Miller, Department of Buildings.

ACTION OF THE BOARD -Appeal denied.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

"In response to your inquiry . . . the Department re-examined the Zoning Analysis for the applicant [the school] and finds that the Zoning Analysis for the applicant [the school] and finds that the approved building is acceptable, as proposed. Therefore, the Department of Buildings finds no cause to revoke any approvals or permits at this time."; and

WHEREAS, the premises is located almost entirely within a C1-8X zoning district; and

WHEREAS, the zoning lot at the premises consists of the referenced tax lots, and fronts 50 feet on East 77th Street and 70 feet, 8 inches on East 78th Street; on East 77th Street, it begins 38 feet 4 inches westerly of Lexington Avenue, and extends the entire depth of the block, which is 204'4"; and

WHEREAS, the site is currently improved upon with five separate buildings, all occupied by the School, including a five-story and two-story structure fronting on East 78th Street; the school seeks to enlarge the two story portion to five stories, and match up the floors of the enlarged portion with the existing five-story portion; and

WHEREAS, DOB represents that the school filed a job application on September 9, 2002 with the following job description: "Enlarge floors 3-5 of an existing school. New construction to comply with code. Misc. interior partitions for classrooms and hallways."; and

WHEREAS, DOB states that the plans filed with the application also show that the school intends to expand the structure into the courtyard area to the rear of the five-story portion and adjacent to the two-story portion; and

WHEREAS, the application was approved on December 12, 2003, and DOB issued a permit for the proposed alteration on

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October 18, 2004; and

WHEREAS, the approved plans do not show the provision of a rear yard; and

WHEREAS, appellant maintains that a rear yard is required, and that the proposed development therefore should not have been approved by DOB; and

WHEREAS, DOB states that while Z.R. § 33-26 generally requires that a 20 foot rear yard be provided for the proposed development on a zoning lot such as the subject lot, such that the space currently existing above the two-story portion of the building, as well as the courtyard, would have to be retained as a rear yard, certain exceptions exist; and

WHEREAS, specifically, Z.R. § 33-30 ("Other Special Provisions for Rear Yards") provides that in C1 zoning districts, the rear yard requirements of Z.R. §33-26 are modified in accordance with the provisions set forth at Z.R. § 33-30 et seq.; and

WHEREAS, the particular modifying provision that is the primary focus of the instant appeal is ZR §33-301 ("33-301"), which provides, "In all districts as indicated [including C1 districts], no rear yard shall be required within 100 feet of the point of intersection of two street lines intersecting at an angle of 135 degrees or less."; and

WHEREAS, the fundamental inquiry of the appeal is how 33-301 should be applied; and

WHEREAS, the Board observes that an arc measurement, had one been irrefutably intended as appellant argues, could either have been explicitly called for in the language of 33-301 or at least illustrated by the drafters of the provision; and

WHEREAS, the Board notes that many Z.R. provisions have been the subject of interpretative appeals before the Board for the precise reason that the language in said provisions is often imprecise and therefore subject to reasonable interpretation; and

WHEREAS, the Board concludes that such is the case here; and

WHEREAS, therefore, the Board rejects appellant's arc measurement theory as the only logical reading of 33-301, and finds DOB's efforts to interpret this section appropriate given the ambiguous language, and consonant with its authority to both interpret and administer the Z.R. subject to BSA review; and

WHEREAS, however, even assuming that 33-301 is subject to interpretation, appellant's arc theory is still one possible interpretation, and the Board therefore carefully considered the testimony of the parties as to this theory; and

WHEREAS, appellant supports the argument that the arc theory is a reasonable way to approach 33-301 by noting that an arc measurement is a methodology used in other provisions of the Z.R.; and

WHEREAS, specifically, appellant cites to particular Z.R. provisions where an arc measurement is indicated, such as Z.R. § 32-01 (no adult establishments within 500 feet of a church or school) or Z.R. § 81-251 (setback lines in the Special Midtown zoning district), among others; and

WHEREAS, however, DOB observes that none of the provisions cited by appellant concern rear yard requirements; and

WHEREAS, DOB states that its review of certain rear yard-related provisions in the Z.R. supports the conclusion that measurements for rear yard purposes should be taken in a manner other than an arc; and

WHEREAS, appellant argues that 33-301 demands no interpretation, and claims instead that it is obvious that the only proper way to measure "within 100 feet of the point of intersection of two street lines" is to draw an arc of 100 feet from the point of intersection and only exempt from the rear yard requirement those portions of affected lots that fall within the area of the arc (hereinafter referred to as the "arc theory"); and

WHEREAS, DOB observes that 33-301 applies to lots that are not directly adjacent to an intersection, and thus does not provide guidance on whether the 100 feet should be measured only along the street line on which the zoning lot fronts, or whether it should be measured along two street lines as if it were a corner lot; and

WHEREAS, DOB also observes that language in other Z.R. sections concerning rear yard exemptions use dissimilar, more clearly defined language, thus reinforcing the notion that 33-301 is ambiguous and subject to interpretation; and

WHEREAS, the Board disagrees with appellant that the language of 33-301 is so clear that it must be read in the way appellant claims; and

WHEREAS, instead, the Board agrees with DOB that the language of 33-301 is ambiguous and subject to interpretation; and

WHEREAS, specifically, DOB cites to the definitions of "rear yard" and "rear lot line" set forth in Z.R. §12-10, neither of which indicate that an arc should be used, but instead require the drawing of lines perpendicular to lines; and

WHEREAS, DOB also notes that Z.R. §33-24 ("Measurement of Yard Width or Depth") provides that in all commercial districts, the width or depth of a rear yard shall be measured perpendicular to lot lines; and

WHEREAS, in addition to its citation of comparable provisions, DOB notes that, as a long-standing policy, it has consistently applied 33-301 by measuring the extent of the rear yard exemption through the drawing of lines 100 feet from and parallel to the street lines, and perpendicular to each other (hereinafter referred to as the "square theory"); and

WHEREAS, additionally, the school notes that block development within the City, especially in Manhattan, is often characterized by high-density development up to 100 feet in depth from the avenues, with rear yard space typically required beyond 100 feet; and

WHEREAS, acceptance of appellant's arc theory would, as noted by the school, obliterate this design by requiring rear yards at 60 feet from the avenue street line, assuming a 90 degree point of intersection between the street and avenue; and

WHEREAS, the Board, which consists of two former DOB commissioners, agrees that DOB has never used an arc measurement when applying 33-301, but has instead been guided by a square theory; and

WHEREAS, further, the school agrees with DOB, stating that the language of 33-301 is similar to that of the definition of corner lot in Z.R. § 12-10, which provides that a corner lot is a zoning lot "which adjoins the point of intersection of two or more streets"; and

WHEREAS, the school states, and the Board agrees, that corner lots have always been measured perpendicular and in a straight line from the street lines (in other words, by applying the

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square theory) and that there is no logical reason to treat the exemption provided for in 33-301 differently; and

WHEREAS, accordingly, the Board agrees with DOB and the school that it is appropriate to measure the area of exemption provided for in 33-301 by construing the phrase "within 100 feet of the point of intersection" to mean a square extending 100 feet in each direction, one corner of which is at the intersection, two sides of which coincide with the street lines, and two sides of which coincide with lines drawn parallel to and 100 feet from the street lines; and

WHEREAS, thus, the Board concludes that the permit was appropriately issued as to that portion of the development site that is within the 100 ft. by 100 ft. square provided for by 33-301; and

WHEREAS, appellant's second argument is that even if one assumes that the square theory is the correct interpretation of 33-301

WHEREAS, however, DOB states that it modifies the application of the square theory slightly for lots that are within 100 feet of the short dimension of the block; and

WHEREAS, specifically, for lots that front on one street and that are within 100 feet of a street line measuring less than 230 feet in length, DOB states that it measures the 100 feet along the street line on which the zoning lot fronts (where the zoning lot fronts on only one street.); and

WHEREAS, DOB further states that this 100 feet defines the frontage area for which no rear yard is required, meaning that for that portion of the zoning lot that is within 100 feet of said intersection, no rear yard is required for the entire depth of the zoning lot; and

WHEREAS, thus, DOB exempts from the rear yard requirement all area within one hundred feet from the avenue so long as the street in question is less than 230 ft.; and

WHEREAS, DOB states that it bases this interpretation of 33-301 on its review of other sections of the Z.R., so that its interpretation is consistent in terms of intent and results with such sections; and

WHEREAS, in particular, DOB points to ZR § 33-302 ("33-302"), which provides that in C1 districts, whenever a front lot line of a zoning lot coincides with all or part of a street line measuring less than 230 feet in length between two intersecting streets, no rear yard shall be required within 100 feet of such front lot line; and

WHEREAS, DOB states that 33-302 thus permits a rectangle of build-up measuring 100 ft. up to 230 ft. along the corners of blocks that measure less than 230 feet by specifically exempting such area from the rear yard requirement; and

WHEREAS, DOB observes that the beginning of Z.R. § 33-30 provides that, "In all districts, as indicated, the rear yard requirements set forth in Z.R. § 33-26 shall be modified as set forth in this Section" and that 33-302 is part of ZR § 33-30; and

WHEREAS, DOB also argues that the situations are comparable, because both Z.R. sections apply to the rear yard requirements for lots with area falling within 100 feet of intersecting street lines; and

WHEREAS, further, DOB observes that 33-302 is also consistent with the full coverage construction within 100 feet of corners that is described in other Z.R. sections; and

WHEREAS, DOB cites to Z.R. § 33-26, which exempts corner lots from the rear yard requirement; and

WHEREAS, DOB also cites to ZR § 12-10's definition of

as applied to that portion of the development site that is within the 100 ft. by 100 ft. square, since a portion of the site is beyond the 100 ft. boundary of the square-shaped area of exemption (the block is approximately 204 ft. long), a rear yard for the remaining portion of the lot (here, approximately 2 ft.) must be provided; and

WHEREAS, appellant contends that even if a square theory is accepted by the Board, DOB must revoke the issued permit on this basis; and

WHEREAS, the Board notes that, without any modification in the application of the square theory, 33-301 does allow for this 100 ft. by 100 ft. square shaped exemption regardless of lot lines, such that a zoning lot could be both within the area of exemption for a portion of the lot, and then subject to a rear yard requirement for the remainder, as appellant contends; and

"corner lot", which provides that "The portion of such zoning lot subject to the regulations for corner lots is that portion bounded by the intersecting street line and lines parallel to and 100 feet from each intersecting street line."; and

WHEREAS, DOB also notes that the school could merge its lot with one that fronts on the avenue, and thus utilize 33-302 to eliminate all rear yard requirements; and

WHEREAS, the Board observes that if a yard requirement could be eliminated through an as-of-right merger, than the import of the provision purportedly triggering the yard requirement is diminished; and

WHEREAS, the Board finds that this supports the logic of DOB's interpretation; and

WHEREAS, the Board also notes that 33-302 and 33-301 were enacted at the same time; thus, it is appropriate to utilize 33-302 as a guide in interpreting 33-301; and

WHEREAS, thus, the Board finds DOB's arguments persuasive, and logical in light of the goals of zoning and yard regulations within the City; and

WHEREAS, the Board notes, however, that it reaches this conclusion based on the logic of interpreting provisions in light of each other, rather than on the theory that the DOB interpretation avoids objectionable results; while the interpretation may in fact avoid objectionable results as applied to the facts at hand, it may not do so in all cases; and

WHEREAS, in sum, the Board agrees with DOB's application of Z.R. § 33-301 when the block length is less than 230 feet, as the resulting area of exemption is the same as would arise under 33-302; and

WHEREAS, the appellant, in subsequent submissions, cites to hypothetical examples of block and lot configurations that allegedly show that DOB's interpretation would not work under all circumstances; and

WHEREAS, the Board, in reviewing the instant appeal, is limited to the facts at hand and the final DOB determination, and need not determine the appropriateness of applying DOB's interpretation to every possible fact pattern; and

WHEREAS, the Board observes in passing that certain of the examples cited, if the site was developed in the way appellant illustrates, could conceivably lead to a requirement for a small segment of rear yard, but this does not necessarily mean that a full rear yard would not be actually built; and

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WHEREAS, as noted above, the Board is concerned about whether an interpretation of the relevant provision is logical and consistent with comparable Z.R. provisions, notwithstanding the fact that it may occasionally lead to results that are arguably questionable; and

WHEREAS, during the course of this appeal, appellant made numerous statutory interpretation arguments, alleging that the Board must approach its analysis of the appeal in a particular way; and

WHEREAS, DOB and the school responded with statutory

WHEREAS, the Board observes that DOB has consistently applied the presented interpretations, and draws upon the personal experience of two of its members, both former DOB commissioners, in support of this observation; and

WHEREAS, moreover, given the other Z.R. provisions that allow for rear yard exemptions for lots in relation to corners or along avenues shorter than 230 ft. in length, DOB's interpretation of 33-301, made in light of said provisions, makes more sense than appellant's, which relies not on comparable provisions but on wholly unrelated provisions; and

WHEREAS, in sum, the Board finds that DOB's interpretation is reasonable; therefore, the exemption of the school's development proposal from any rear yard requirement, as reflected in the DOB-approved plans, was correct, and the approval and permit were appropriately issued; and

WHEREAS, appellant made other supplemental arguments in support of this appeal, all of which the Board finds unpersuasive in light of the counter-arguments proffered by DOB and the school, as reflected in the record.

Therefore it is resolved that the final determination of the New York City Department of Buildings, dated August 3, 2004, is upheld and this appeal is denied.

Adopted by the Board of Standards and Appeals, March 8, 2005.

271-04-A

APPLICANT - Pier 63 Maritime, Inc. , by Michele A. Luzio.

SUBJECT - Application August 3, 2004 - An appeal challenging the

Department of Buildings jurisdiction to issue summons to subject property, on the grounds that the NYC Department of Business Services has exclusive jurisdiction over The "Barge".

PREMISES AFFECTED - One Pier 63, at 23rd Street and The Hudson River, (The Barge), Block 662, Lot 2, Borough of Manhattan.

APPEARANCES -

For Applicant: Michele Luzio.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan,, Commissioner Miele and Commissioner Chin.....3

Recused: Vice-Chair Babbar1

Negative:.....0

ACTION OF THE BOARD - Laid over to March 8, 2005, at 10 A.M., for continued hearing.

Pasquale Pacifico, Executive Director.

interpretation arguments of their own; and

WHEREAS, the Board recognizes the inherent complexity of the City's Zoning Resolution, and thus looks to certain guiding principles when a Z.R. provision is before it; and

WHEREAS, specifically, the Board is guided in large measure by the past practice of the agency administering the Z.R. (DOB) and the logic of the arguments presented in light of what other comparable provisions exist in the Z.R.; and

Adjourned: 10:25 A.M.

REGULAR MEETING TUESDAY AFTERNOON, FEBRUARY 15, 2005 2:00 P.M.

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

ZONING CALENDAR

102-03-BZ

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

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

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

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 24, 2003, acting on Department of Buildings Application No. 301429069, reads, in pertinent part:

"Proposed development of a residential building is not permitted within an M3-1 Zoning District as per Section 42-00 of the Zoning Resolution"; and

WHEREAS, a second decision of the Borough Commissioner, dated January 10, 2005, acting on Department of Buildings Application No. 301429069, reads, in pertinent part:

"Proposed building does not provide rear yard as required by

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ZR 43-26 and ZR 43-28"; and

WHEREAS, a public hearing was held on this application on February 24, 2004 after due notice by publication in the City

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

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

WHEREAS, the City Planning Commission ("CPC") opposed the application at the initial hearing due to concerns related to the proximity of the site to the Domino Sugar Plant and the maintenance of the district as a viable manufacturing district; and

WHEREAS, it was announced in August of 2003 that the Domino Sugar Plant would be shutting down its refinery at the site; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an M3-1 zoning district, the proposed development of eight contiguous and vacant lots with two residential buildings and one commercial building, with 29 parking spaces accommodated in the rear yard between the two residential buildings, contrary to Z.R. §§ 42-00, 43-26 and 43-28; and

WHEREAS, the premises is located on portion of Block 2415 between South Second Street and South Third Street, and Kent Avenue and Wythe Avenue; and

WHEREAS, the lot is an L-shaped lot, part of which is a through lot and part of which is a corner lot, with a frontage of approximately 197 ft. on South Second Street and 88 ft. on South Third Street; and

WHEREAS, the current version of this application proposes the construction of two 45 ft. (total height excluding mechanicals), four-story residential buildings with a total floor area of 49,152 s.f. and an F.A.R. of 2.0, one commercial building with a floor area of 3,212 s.f. and an F.A.R. of 0.13, and 29 parking spaces for the residential tenants accommodated in the rear yard between the two residential buildings; and

WHEREAS, the original version of this application proposed two 125 ft. (total height excluding mechanicals), eleven-story residential buildings with a total floor area of 122,905 s.f. and a floor area ratio ("F.A.R.") of 5.0, an underground accessory parking area and an open recreation space between the two buildings; and

WHEREAS, upon the request of the Board, the applicant submitted a revised application on December 4, 2003 that proposed two 103 ft., nine-story residential buildings with a total floor area of 99,045 s.f. and an F.A.R. of 4.03, an underground accessory parking area and an open recreation space between the two buildings; and

WHEREAS, the applicant submitted a further revised application on June 8, 2004 that proposed two 55 ft., five-story residential buildings and one 70 ft., six-story building, with a total floor area of 72,807 s.f. and an F.A.R. of 2.96, an underground accessory parking area and open recreation space on top of one of the buildings; and

WHEREAS, the applicant subsequently submitted a revised application on July 27, 2004 that contemplated two 55 ft. five-story

WHEREAS, the applicant prepared a revised feasibility study at the Board's request, reflecting a reduction in the proposed project's

Record; with continued hearings on April 12, May 11, June 22, August 10, October 5, and December 7, 2004, and January 25, 2005, and then to decision on March 8, 2005; and residential buildings (total height excluding mechanicals) with a total floor area of 54,078 s.f. and an F.A.R. of 2.2 and 30 parking spaces accommodated in the rear yard between the two residential buildings; and

WHEREAS, after further review and comment by the Board, the application was modified to the current version; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance with underlying district regulations: (i) the site is undeveloped; (ii) the site is sloped; (iii) the site is irregularly shaped; (iv) the site is functionally narrow; (v) the site has frontage on narrow streets and therefore is not suitable for truck access; and (vi) the site has certain subsurface conditions that will necessitate considerable site preparation; and

WHEREAS, the applicant states that the site slopes upward from Kent Avenue heading east on South 2nd Street and it slopes upward from South 3rd Street across to South 2nd Street; and

WHEREAS, the applicant represents that because of the irregular shape of the site, the usable width of the parcel is only 59 ft., and

WHEREAS, the applicant represents that there is only loading frontage on narrow streets, and that such streets would provide poor access for large trucks and make commercial use of the site difficult; and

WHEREAS, the Board finds that these site conditions affect the viability of conforming one-story manufacturing or office development; and

WHEREAS, the applicant states that a ground penetrating radar probe was conducted on the site, and although the tests did not reveal the presence of steel or reinforced concrete foundations, further site work should be carried out as the probe is suggestive of an abandoned underground storage tank; and

WHEREAS, the Board notes that any cost associated with the sub-surface conditions is speculative at this point and does not form the basis of hardship; and

WHEREAS, accordingly, the Board finds that certain of the unique conditions mentioned above, namely, the slope of the site, the irregular shape of the lot, the functional narrowness of the lot and the frontage of the site on narrow streets, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict conformity with applicable zoning regulations; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed three alternative uses of the property, including a conforming manufacturing use, a conforming office use and the proposed residential use; and

WHEREAS, the applicant concluded that a conforming manufacturing or office development would not realize a reasonable return due to the site's constraints, but that the originally proposed residential building would; and F.A.R., height and density; and

WHEREAS, the applicant submitted another revised feasibility

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study at the Board's request. reflecting a further downward adjustment in F.A.R. and including an adjustment in projected condominium sales income to reflect recent market trends; and

WHEREAS, however, the Board was still not convinced that a proposal with a lower F.A.R. was infeasible; and

WHEREAS, the Board then asked the applicant to consider the feasibility of a rental development instead of a condominium; and

WHEREAS, the applicant concluded that although a rental development would have somewhat reduced hard and soft costs, it was unlikely that it would be economically feasible; and

WHEREAS, the Board then asked the applicant to consider an alternative development that would: (1) provide for a commercial component; and (2) reduce total residential floor area; and

WHEREAS, the applicant subsequently modified the application to the current proposal; and

WHEREAS, the Board also notes that the applicant made legitimate, but unsuccessful, marketing attempts to rent the site to as-of-right users, including advertising the site in a newspaper and listing the site with a broker; and

WHEREAS, the Board also asked the applicant to consider whether a parking lot would be a viable and conforming alternative use of the property and referred to a proposal contemplating the same prepared by a member of the community; and

WHEREAS, the applicant studied the issue and concluded that such use of the property would not represent a feasible real estate investment as claimed in the study, because the study was based upon unrealistic occupancy assumptions and inaccurate real estate tax assumptions; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the Board initially shared CPC's concerns about the impact of a new residential building in the area in light of its proximity to the Domino Sugar Plant but acknowledges that these concerns are no longer pressing given the closure of the plant; and

WHEREAS, the applicant states that the block on which the site is located and the blocks immediately to the south and north of the site have significant amounts of undeveloped land and vacant buildings; and

WHEREAS, the applicant conducted a detailed land use survey of the area, focusing on the blocks from Grand Street to South Fifth Street, between Kent and Wythe Avenues, and submitted such survey to the Board; and

WHEREAS, the Board notes that the survey reflects that the area surrounding the site has less high-intensity manufacturing and is

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, the Office of Environmental Planning and

characterized more by vacant lots and other low-intensity uses, such as warehouses; specifically, the subject block has approximately 36,081 s.f. of vacant lot area out of a total of 105,000 s.f., and the block directly across South 2nd Street from the subject block has approximately 53,239 s.f. of vacant lot area out of a total of 106,000 s.f.; and

WHEREAS, the Board observes that because there is very little high-intensity manufacturing in the surrounding area, but many vacant parcels, the introduction of a residential building would not affect the character of the neighborhood; and

WHEREAS, the Board asked the applicant to consider concerns from community members, who stated that there is a need for active conforming uses in the neighborhood and that the height of the proposed building was not in line with other buildings in the neighborhood; and

WHEREAS, in response, the applicant modified its proposal to: (1) include a commercial building with frontage on Kent Avenue, which reinforces the commercial and manufacturing nature of Kent Avenue; and (2) further reduce the building height from five stories to four stories; and

WHEREAS, the Board notes that the currently proposed building is more compatible with previously proposed versions because the height and F.A.R. of the residential buildings has been significantly reduced, and because a commercial building is now proposed for the site; and

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

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

WHEREAS, after taking direction from the Board as to the proper amount of relief given the amount of actual hardship on the site, the applicant modified the development proposal to the current version; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; 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. 03-BSA-160K, dated August 21, 2003; and

Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the applicant: (1) an Environmental Assessment Statement Form, dated August 21, 2003; (2) a CEQR submission regarding a fifty-year site history of the subject site and the adjacent lots and other items from the applicant's consultant, dated January 30, 2003; (3) an updated project description, dated November 18, 2004; (4) a January 2002 Phase I Environmental Site Assessment Report; and (5) an air quality response prepared by the consultant, dated February 15, 2005; and

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WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials, air quality and noise impacts; and

WHEREAS, a Restrictive Declaration was executed and recorded for the subject property to address hazardous materials concerns; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the applicant's responses and the implementation of the measures cited in the Restrictive Declaration, as well as the applicant's agreement to the condition noted below; 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, with conditions as stipulated below, 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 the required findings under Z.R. § 72-21, to permit, within an M3-1 Zoning District, the proposed development of eight contiguous and vacant lots as two residential buildings and one commercial building with 29 parking spaces accommodated in the rear yard between the two residential buildings, contrary to Z.R. §§ 42-00, 43-26 and 43-28; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 31, 2005" - (13) sheets; and on further condition:

THAT a minimum of 35 dB(A) window/wall noise attenuation for all facades shall be provided for the two proposed residential buildings;

THAT the bulk parameters of the proposed buildings shall be as follows: a total F.A.R. of 2.13 (with 2.0 for the residential buildings and 0.13 for the commercial building); and a total height for each of the residential buildings of 45 ft. (excluding mechanicals);

THAT a total of 29 parking spaces shall be provided in the accessory parking lot;

THAT the cellar rooms in the residential buildings, as illustrated on the BSA-approved plans shall be accessory to the residential use, but shall not be habitable rooms;

SUBJECT - Application August 25, 2004 - under Z.R. §72-21 in an R3-1 district, approval sought to enlarge an existing Yeshiva (Torah Academy High School for Girls). It is proposed to add four classrooms, bringing the total number of classrooms to 22; a new multi-purpose room, and the enlargement of an existing auditorium/gymnasium/multi-purpose room. The application seeks waivers from floor area, wall height, side yard, rear yard and sky exposure plane requirements.

PREMISES AFFECTED - 610 Lanett Avenue, north west side of Lanett Avenue, 200' east of Beach 8th Street, Block 15596, Lot 7, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD -Application granted on condition.

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, March 8, 2005.

348-03-BZ

APPLICANT - The Agusta Group, for Sebastiano Manciameli, owner.

SUBJECT - Application November 14, 2003 - under Z.R. §72-21 to permit the proposed construction of a three story, one family semi-detached dwelling, which does not comply with the minimum eight foot side yard, is contrary to Z.R. §23-461(a).

PREMISES AFFECTED - 66-18 74th Street, west side, 169' south of Juniper Valley Road, Block 3058, Lot 35, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES - None.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

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

Adopted by the Board of Standards and Appeals, March 8, 2005.

293-04-BZ

APPLICANT - Eric Palatnik, P.C., for Torah Academy For Girls, owner.

THE VOTE TO GRANT -

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

THE RESOLUTION:

WHEREAS, the decision of the Borough Commissioner, dated November 8, 2003, acting on Department of Buildings Application No. 401972371, reads:

- "1. Proposed floor area is contrary to ZR 24-11.**
- 2. Proposed wall height is contrary to ZR 24-521.**
- 3. Proposed side yard is contrary to ZR 24-35.**
- 4. Proposed rear yard is contrary to ZR 24-33.**
- 5. Proposed sky exposure plane is contrary to ZR 24-521.**
- 6. Proposed lot coverage is contrary to ZR 24-11.";**

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and

WHEREAS, a public hearing was held on this application on February 15, 2005 after due notice by publication in The City Record, and then to decision on March 8, 2005; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, within an R3-1 zoning district, the expansion of an existing religious school, which does not comply with applicable district requirements for Floor Area Ratio ("F.A.R."), wall height, side yard, rear yard, sky exposure plane and lot coverage, contrary to Z.R. §§ 24-11, 24-521, 24-35, and 24-33; and

WHEREAS, this application is brought on behalf of the Torah Academy High School for Girls, a not-for-profit entity (hereinafter, the "School"); and

WHEREAS, the School was incorporated in 1963 with the mission of providing a superior and dedicated secular and religious education for young Jewish women; and

WHEREAS, Community Board 14, Queens, recommends approval of this application; and

WHEREAS, the subject site is currently improved upon with a three-story building with a total floor area of 27,000 sq. ft., occupied by the School; the School houses seventeen classrooms, a pool area, a multi-purpose room and five offices; and

WHEREAS, the applicant proposes to construct an approximately 5,700 sq. ft. addition to the existing School building to house four additional classrooms, a new multi-purpose room, a small enlargement of the existing auditorium/gymnasium and a meat kitchen and storage area; and

WHEREAS, construction of the addition as currently proposed will result in the following non-compliances: an F.A.R. of 1.3 (1.0 is the maximum permitted); a wall height of 34 ft., 5 in. (25 ft. is the maximum permitted); lot coverage of

WHEREAS, the applicant represents that the School is limited by its space in the following ways: the auditorium in the school currently serves as a multipurpose room for meetings and assemblies, a gymnasium and a lunchroom; the entire student body is too large to assemble in the auditorium at one time; the student lounge, typically a place for students to congregate during breaks, has been used as a make-shift classroom because of lack of classroom space; and the School does not have adequate office space for its guidance staff and teachers to consult with students and prepare in between classes; and

WHEREAS, the Board agrees that, based upon the submitted evidence, the enlargement is necessary in order to meet the programmatic needs of the School; and

WHEREAS, therefore, the Board finds that the cited unique physical conditions, when considered in conjunction with the programmatic needs of the School, create practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not

58.7% (55% is the maximum permitted); side yards of 19 ft. and 20 ft., 5 in. (23 ft., 4.5 in. is the minimum required); a rear yard of 1 ft., 5 in. (30 ft. is the minimum required); and a sky exposure plane of 34 ft., 5 in. (25 ft. is the minimum required); and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: (1) the School building has insufficient space for necessary programs as it was not designed to accommodate the increased enrollment of the School and the resulting programmatic needs; (2) the lot is a uniquely triangular-shaped site; and (3) sub-surface conditions exist on the lot; and

WHEREAS, the applicant has submitted a boring report that shows that groundwater is reached at a depth of seven feet below grade; and

WHEREAS, the applicant states that there is no cellar or basement on the lot and the only extension on the lot below grade is the elevator pit and an area for water pumps to release water that accumulates in the elevator pit; and

WHEREAS, the applicant further represents that the high water table prevents the applicant from constructing a cellar or a basement; and

WHEREAS, the Board recognizes that the triangular shape of the lot and the high water table are unique conditions inherent to the subject site; and

WHEREAS, the applicant states that the following are the programmatic needs of the School, all of which have been driven by an over 50 percent increase in enrollment over the past seven years, from an initial enrollment of 160 students to the current enrollment of 270 students: (1) more classroom space to ensure a low teacher-to-student ratio; (2) a multipurpose room to accommodate the entire student population for assemblies and daily religious services; and (3) offices for guidance staff and teachers; and

address Z.R. § 72-21(b) since the applicant is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant represents that the proposed bulk is consistent with the bulk of other community facilities in the immediate vicinity of the School; and

WHEREAS, the applicant represents that traffic impacts will be minimal, as the proposed expansion will not change, move or alter the existing student drop-off area; and

WHEREAS, the applicant represents that although it is planning to increase enrollment by 70 students, it is expected that this will be achieved over several years; and

WHEREAS, the applicant presented projections that showed that based on a maximum number of 70 new students, there is the potential for nine or ten new carpool vehicle trips and 14 pedestrian trips; and

WHEREAS, the applicant concludes that these additional

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trips are not likely to have a significant effect on traffic flow, operating conditions, parking, vehicular and pedestrian safety; and

WHEREAS, the New York City Department of Transportation ("DOT") concurred with this conclusion; and

WHEREAS, in addition, the Board notes that the applicant has agreed to a condition that a traffic monitor will be present in front of the school during drop-off and pick-up times, as recommended by the City's Department of Transportation; and

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

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

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 05-BSA-034Q, dated December 9, 2004 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;

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 the required findings under Z.R. § 72-21, to permit, within an R3-1 zoning district, the expansion of an existing religious school, which does not comply with applicable district requirements for F.A.R., wall height, side yard, rear yard, sky exposure plane and lot coverage, contrary to Z.R. §§ 24-11, 24-521, 24-35, and 24-33; 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 January 9, 2005" - (8) sheets; and marked "Received February 22, 2005" - (1) sheet; and on further condition:

THAT a traffic monitor shall be present in front of the school during drop-off and pick-up times;

THAT the masonry refuse storage area shall be enclosed and located on the site as shown on the BSA-approved plans;

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

THAT this approval is limited to the relief granted by the

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, the School Safety Engineering Division of the New York City Department of Transportation (DOT) has reviewed the following submissions from the Applicant as noted in a letter dated December 21, 2004: (1) an Environmental Assessment Statement Form, dated August 25, 2004; and (2) a response memorandum dated December 13, 2004;

WHEREAS, these submissions specifically examined the proposed action for potential impacts regarding student pedestrian safety; and

WHEREAS, DOT has made the following recommendations regarding student pedestrian safety which have been agreed upon by the applicant in a letter dated February 22, 2005: (1) a safe area for student drop-off by buses and car-pools is to be provided; (2) a traffic monitor / school crossing guard is to be present in front of the school during drop-off and pick-up times; and

WHEREAS, DOT has determined that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in their letter dated December 21, 2004, and the Applicant's agreement to the conditions noted above;

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.

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

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

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

Adopted by the Board of Standards and Appeals, March 8 2005.

295-04-BZ

APPLICANT - Amato & Associates, P.C., by Alfred L. Amato, for Benevolent and Protective Order of Elks, Staten Island Lodge No. 841, owners.

SUBJECT - Application August 27, 2004 - under Z.R. §§73-30 & 22-21 to permit approval sought from Verizon Wireless to erect a

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100 foot monopole in an R3-2 and Special South Richmond Development District. The proposed tower will be located on a portion of a site currently occupied by a community facility. There is also proposed an accessory 360 SF communications shelter. The proposal also requires CPC Special Permit approval pursuant to Section 107-73, which allows the placement of a structure higher than 50 feet in the Special South Richmond Development District. PREMISES AFFECTED - 3250 Richmond Avenue, corner of Richmond and Wainwright Avenues, Block 5613, Part of Lot 400, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES - None.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION-

WHEREAS, the decision of the Borough Commissioner, dated August 24, 2004, acting on Application No. 500734066, reads in pertinent part:

"Proposed monopole (Use Group 6) is contrary to NYC Department of Buildings Technical Policy and Procedure Notice 5/98 and therefore not allowable within R3-2 District (Special South Richmond Development). Refer to the Board of Standards and Appeals for review pursuant to section 73-30 of the NYC Zoning Resolution."; and

WHEREAS, a public hearing was held on this application on January 25, 2005, after due notice by publication in the City Record, and then to decision on March 8, 2005; and

WHEREAS, this is an application under Z.R. §§ 73-30 and 73-03, to permit the erection of a communication facility in an

WHEREAS, the applicant further represents that the pole has been designed and sited to minimize adverse visual effects on adjacent residents; and

WHEREAS, the proposed communication facility will be constructed in the northeast corner of the property at the greatest permissible distance from nearby residential development, and will be surrounded by existing mature trees, additional plantings and an 8-ft. tall stockade fence; and

WHEREAS, the applicant states that the monopole will provide improved wireless communications services to the neighboring community, including essential access to emergency services; and

WHEREAS, based upon its review of evidence in the record, the Board finds that the proposed pole and related equipment will be located, designed and operated so that there will be no detrimental effect on the privacy, quiet, light and air of the neighborhood; and

WHEREAS, therefore, the Board finds that the subject application meets the findings set forth at Z.R. § 73-30; 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;

R3-2 zoning district (Special South Richmond District), which, pursuant to Z.R. § 22-21, requires a special permit; and

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

WHEREAS, the applicant must also receive approval from the City Planning Commission; and

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

WHEREAS, the proposed communication facility will consist of: (1) a one-hundred ft. above grade level flagpole; (2) six wireless communications antennas (three sectors, with two antennas per sector) affixed within the flagpole, with a maximum height of one hundred ft.; (3) a communications equipment shelter measuring 12' x 30'; (4) a backup generator located inside the equipment shelter; and (5) all necessary wires, cables, conduits, fencing and other essential appurtenances; and

WHEREAS, the applicant states that the proposed monopole will be located on a portion of a site currently occupied by a community facility, situated at the corner of Richmond Avenue and Wainwright Avenue; and

WHEREAS, pursuant to Z.R. § 73-30, the Board may grant a special permit for a non-accessory radio tower such as the cellular pole proposed, provided it finds "that the proposed location, design, and method of operation of such tower will not have a detrimental effect on the privacy, quiet, light and air of the neighborhood."; and

WHEREAS, the applicant represents that the proposed communications facility will not pose any significant adverse effect to the privacy, quiet, light or air of the neighboring community, nor will it produce any noise, dust, odors or light emissions; and

and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; 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. 05-BSA-036R, dated February 25, 2005; 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; 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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 N.Y.C.R.R. Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings and grants a special permit under Z.R. §§ 73-30 and 73-03, to permit the erection of a communication facility in a R3-2 zoning district (Special South Richmond District), which, pursuant to Z.R. § 22-21, requires a special permit; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received February 22, 2005"- (3) sheets; and on further condition:

THAT routine repairs and service of the pole and related equipment shall be limited to Monday through Friday between the hours of 9:00 A.M. and 5:00 P.M.;

THAT any fencing and landscaping will be maintained in accordance with BSA approved plans and any CPC approved plans;

THAT no commercial or retail signage will be posted;

THAT any lighting will be positioned down and away from residential uses;

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

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

THAT the flag shall be replaced a minimum of one time per year, and more frequently as required, due to wear and tear or damage;

THAT the proposed tower will be constructed so as to ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Borough Commissioner dated September 3, 2004, acting on Department of Buildings Application No. 301046981, reads:

"Proposed Physical Culture Establishment is not permitted as-of-right in M1-1 zoning districts and is contrary to ZR 42-10. Provide Board of Standards and Appeals Special Permit as required under ZR 73-36"; and

WHEREAS, a public hearing was held on this application on March 1, 2005 after due notice by publication in The City Record, and then to decision on March 8, 2005; and

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

WHEREAS, Community Board No. 1, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit, within an M1-1 zoning district, a proposed physical culture establishment within an existing one-story plus mezzanine commercial building that was previously enlarged as-of-right; and

WHEREAS, the subject building has a total floor area of 7,480

allow for the co-location of other antennas;

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

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

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

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

Adopted by the Board of Standards and Appeals, March 8, 2005.

300-04-BZ

APPLICANT - Malcolm Kaye of Aston Associates, for Jimmy Tuohy, Eurostruct, Inc, owner; Diana Zelvin, lessee.

SUBJECT - Application filed September 9, 2004 - under Z.R. Section 73-36 to permit a proposed physical cultural establishment located on the first and second floor of a two story commercial building, within an M1-1 Zoning district.

PREMISES AFFECTED - 66 Huron Street, south of West Street and Franklin Street, Block 2531, Lot 12 Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Malcolm Kaye.

sq. ft.; and

WHEREAS, the applicant represents that the PCE will occupy all of the available square footage within the building; and

WHEREAS, the applicant states that the PCE will have facilities for weight training, exercise, fitness classes, massage, nutritional education and a retail shop selling fitness-related attire and foods; and

WHEREAS, the applicant states that all masseurs and masseuses employed by the facility are and will be New York State licensed; the applicant has submitted into the record the license for the one anticipated massage therapist; and

WHEREAS, the Board finds that the PCE, given the proposed uses and the hours of operation, will not have any significant impact on the adjacent residential uses; and

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

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

WHEREAS, the Board finds that, under the conditions and

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; 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. 05-BSA-040K, dated December 21, 2004; 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; 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, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

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

THAT all signage shall comply with signage regulations applicable in C1 zoning districts;

THAT all exiting requirements and handicapped accessibility shall be as reviewed and approved by the Department of Buildings;

THAT a full sprinkler system shall be installed in the PCE and an interior fire alarm system consisting of area smoke detectors shall be installed throughout the PCE and pull stations shall be installed at all exits, as indicated on the BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, March 8, 2005.

355-03-BZ

APPLICANT - Agusta & Ross, for D'Angelo Properties, Inc., owner.

SUBJECT - Application September 27, 2004 - under Z.R. §72-21 to permit the proposed four story and penthouse mixed-use multiple dwelling, Use Groups 2 and 6, in a C2-2/R4 zoning district, which does not comply with the zoning requirements for residential floor

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 Z.R. §§73-36 and 73-03, to permit, within an M1-1 zoning district, a proposed physical culture establishment on the first and second floors of an existing two-story commercial building; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 2, 2005"-(4) sheets; and on further condition:

THAT this grant shall be limited to a term of ten years from March 8, 2005, expiring March 8, 2015;

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

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

THAT the hours of operation shall be limited to: Monday through Friday 7 AM to 11 PM and Saturday and Sunday 7 AM to 10 PM;

area, building height, number of dwelling units and residential front yard, is contrary to Z.R. §23-141, §23-60, §35-20, §23-22 and §23-45.

PREMISES AFFECTED - 64-01/07 Grand Avenue, northeast corner of 64th Street, Block 2716, Lot 1, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to April 19, 2005, at 1:30 P.M., for continued hearing.

385-03-BZ

APPLICANT - Joseph P. Morsellino, for Fabian Organization II, LLC, owner.

SUBJECT - Application December 12, 2003 - under Z.R. §72-21 to permit the proposed erection of a six-story multiple dwelling with 46 Units, located in an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, dwelling units, and height and setback, is contrary to Z.R. §23-141(c), §23-22 and §23-631(b).

PREMISES AFFECTED - 85-15 & 85-17 120th Street, southeast corner of 85th Avenue, Block 9266, Lots 48 and 53, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES -

For Applicant: Joseph P. Morsellino and Thomas F. Gusamelli.

ACTION OF THE BOARD - Laid over to April 19, 2005, at 1:30 P.M., for continued hearing.

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9-04-BZ

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

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

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

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Peter Geis.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to May 10, 2005, at 1:30 P.M., for deferred decision.

ACTION OF THE BOARD - Laid over to March 29, 2005, at 1:30 P.M., for decision, hearing closed.

144-04-BZ

APPLICANT - Eric Palatnik, P.C., for Atlantic Realty Management, Inc., owner.

SUBJECT - Application March 30, 2004 - Under Z.R. §72-21, to permit the proposed development which will contain residential uses at the second through eighth floors (Use Group 2), within an M1-6 zoning district to vary Z.R. §43-10.

PREMISES AFFECTED - 286 Hudson Street, East side of Hudson Street between Dominick and Spring Streets, Block 579, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Eric Palatnik and David Reck-CB#2.

ACTION OF THE BOARD - Laid over to April 19, 2005, at 1:30 P.M., for continued hearing.

252-04-BZ

APPLICANT - Jay A. Segal, Esq., Greenberg Traurig, LLP, for MKD Group, LLC, owner.

SUBJECT - Application July 15, 2004 - under Z.R. §72-21 to permit the conversion and enlargement of an existing two-story, vacant industrial building in an M1-2 zoning district contrary to Z.R. §42-10.

PREMISES AFFECTED - 170 North 11th Street. South side of North 11th Street between Bedford Avenue and Driggs Avenue, Block 2298, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

72-04-BZ

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

SUBJECT - Application March 5, 2004 - under Z.R. §11-411 to request an extension of term of the previously granted variance, which permitted the erection and maintenance of a gasoline service station with accessory uses, and Section 11-412 to authorize the alteration of the signage and the accessory use of a convenience store located in an R6/C1-2 and R6 zoning district.

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

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

For Applicant: Jay Segal.

For Opposition: Irene Palmese.

ACTION OF THE BOARD - Laid over to April 19, 2005, at 1:30 P.M., for continued hearing.

258-04-BZ

APPLICANT - Eric Palatnik, P.C., for Mindy Elmann, owner.

SUBJECT - Application November 16, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage and rear yard, is contrary to Z.R. §23-141(b) and §23-47.

PREMISES AFFECTED - 1837 and 1839 East 24th Street, south of Avenue "R", Block 6830, Lots 70 and 71 (tentative Lot 71), Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Eric Palatnik, Moshe Nachum and Mindy Elman.

ACTION OF THE BOARD - Laid over to March 29, 2005, at 1:30 P.M., for continued hearing.

267-04-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Kermit Square, LLC, owner.

SUBJECT - Application July 30, 2004 - under Z.R. §72-21, to permit the proposed thirty-two unit multiple dwelling, Use Group 2, located in a C8-2 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 362/64 Coney Island Avenue, northwest corner of Kermit Place, Block 5322, Lot 73, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Peter Geis.

For Opposition: Randy Perez, George Bissell, Nicholas Bedell, John

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Keefe, Jackie Bhatti, Jessica Dason, David Werner and Joan Dyner.

ACTION OF THE BOARD - Laid over to May 10, 2005, at 1:30 P.M., for continued hearing.

339-04-BZ

APPLICANT - Eric Palatnik, P.C., for Kramer & Wurtz, Inc, owner; Apache Oil Co., lessee.

SUBJECT - Application October 13, 2004 - under Z.R.§§11-411 & 11-412 to reinstate the previous BSA variance, under calendar number 205-29-BZ, for automotive service station located in an R3-1 zoning district. The application seeks an amendment to permit the installation of a new steel framed canopy over the existing fuel dispenser islands.

PREMISES AFFECTED - 157-30 Willets Point Boulevard, south side of the intersection formed by Willets Point Boulevard and Clintonville Street, Block 4860, Lot 15, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to April 12, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 4:40 P.M.

CORRECTIONS

*CORRECTION

This resolution adopted on July 20, 2004, under Calendar No. 342-03-BZ and printed in Volume 89, Bulletin No. 31, is hereby corrected to read as follows:

342-03-BZ

CEQR#04-BSA-074M

APPLICANT - Jay Segal (Greenberg Traurig) for Vincent Perazzo, owner; 92-94 Greene Street, LLC, contract vendee. SUBJECT - Application November 10, 2003 - under Z.R. §72-21 to permit the proposed seven-story building, that will have retail use in its cellar and first floor, and residential use on its upper six floors, Use Groups 2 and 6, located in an M1-5A zoning district, which is contrary to Z.R. §42-14D, §42-00, §42-10 and §43-12.

PREMISES AFFECTED - 92/94 Greene Street, aka 109 Mercer Street, 100' north of Spring Street, Block 499, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 22, 2003 acting on Application No. 103595174 reads, in pertinent part:

- "1. Ground floor retail use not permitted in M1-5A zoning district for a building whose lot coverage exceeds 3,600 S.F. as per Z.R. 42-14D.**
- 2. Residential use is not permitted in New Building in M1-5A zoning as per Z.R. section 42-00, 42-10, and 42-14D.**
- 3. Bulk regulations not provided for residential building in M1-5A zoning district, BSA must provide. (as per Z.R. 43-12 for M1-5);" and**

WHEREAS, a public hearing was held on this application on February 24, 2004 after due notice by publication in The City Record, with continued hearings on April 13, 2004, and June 9, 2004 and then to July 20, 2004 for decision; and

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

WHEREAS, Community Board 2, Manhattan, disapproved this application, and certain civic organizations and individuals opposed it, providing both oral testimony and written submissions in opposition; and

WHEREAS, Assembly Member Glick, State Senator Connor and Council Member Gerson opposed this application; and

WHEREAS, parties opposed to the subject application generally voiced concerns about the alleged negative impact the proposed waivers would have on the character of the neighborhood; specifically, concerns were raised about the compatibility of the proposed height and rear yard equivalent with built conditions, the impact of a single, large ground floor retail use, the obstruction of lot line windows, noise that could potentially result from the recreational use of the rear yard equivalent, and the location of eating and drinking establishments on the ground floor; and

WHEREAS, this is an application under Z.R. §72-21, to permit the construction of a seven-story, mixed-use commercial and residential building on a lot within a M1-5A zoning district, which does not comply with underlying district requirements concerning residential and ground floor retail use, contrary to Z.R. §§42-00, 42-10, and 42-14D; and

WHEREAS, the subject zoning lot is comprised of one tax lot (1) spanning the complete width of the block bounded on the north by Prince Street, on the east by Mercer Street, on the south by Spring Street, and on the west by Greene Street; and

WHEREAS, the lot is within the Cast Iron Historic District, and the proposed building has received a Certificate of Appropriateness ("C of A") from the Landmarks Preservation Commission ("LPC") on January 28, 2002; and

WHEREAS, as a condition of this grant, the applicant will obtain an updated C of A; and

WHEREAS, the site has a lot area of 7,500 square feet and is comprised of a 25' by 200' through lot, with frontage on both Greene and Mercer Streets, and an adjacent 25' by 100' interior lot, with frontage on Greene Street, and is currently used as a public parking lot; and

WHEREAS, the proposed development contemplates the construction of a seven-story building, with retail use on the ground floor and six residential floors, with 15 residential units and no balconies; and

WHEREAS, the second through fifth floors of residential use will also contain mezzanines; and

WHEREAS, the proposed building will have a rear yard equivalent of 55 feet for the through lot portion of the site (and a rear yard of 28 feet for the interior lot portion); and

WHEREAS, a 22 foot setback at the 6th and 7th floors will be provided, pursuant to the current C of A; and

WHEREAS, the proposal contemplates approximately 4,800 square feet of retail floor area on the ground floor (as well as cellar level retail space, which does not count as floor area), which is proposed to be divided into three separate commercial spaces, and which will not be occupied by an eating and drinking establishment; and

WHEREAS, the building will be constructed in two

sections, one with frontage on Greene Street and one with frontage on Mercer Street; and

WHEREAS, the ground floor and cellar retail space will cover the entire site; and

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WHEREAS, the proposed building will have a floor area ratio ("FAR") of 5.0, and will provide a 55 feet rear yard equivalent between the two building sections; and

WHEREAS, the above specifications reflect a decrease in the applicant's original proposal; specifically, the applicant initially proposed a building with a 6.13 FAR, a 40 feet rear yard equivalent, and 18 units with balconies; and

WHEREAS, the applicant states that the following are unique physical conditions which create unnecessary hardship and practical difficulties in developing the site in conformance with the applicable use provisions of the Zoning Resolution: (1) the site's long, narrow shape, which leads to significant increased construction costs as opposed to a regularly shaped property; and (2) the fact that the site is one of the few narrow vacant through lots in the vicinity, and does not possess the benefit of three frontages, which would lower construction costs; and

WHEREAS, opposition to the application claims that the shape of the lot is not unusual and does not cause increased construction costs; and

WHEREAS, the applicant has provided supplementary evidence of the specific dollar amount of increased construction costs associated with the lot's shape; and

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

WHEREAS, the Board also finds that the subject lot is one of the few vacant, narrow through lots in the vicinity, and that it is relatively small; and

WHEREAS, therefore, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulties in developing the site in conformance with the current applicable zoning regulations; and

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

WHEREAS, specifically, the economic analysis evaluated a conforming commercial use and determined that such use would not realize a reasonable return; and

WHEREAS, the Board asked the applicant to explain why a 5.0 FAR proposal that includes a 60 feet rear yard equivalent would not be feasible; and

WHEREAS, in response, the applicant has submitted a letter from its financial expert stating that his analysis does not show a return from 5.0 FAR building with a 55 feet rear yard equivalent, because there would be a loss of floor area at every level of the building which would have to be relocated to the mezzanines, resulting in less overall profit; and

WHEREAS, the Board finds that the FAR relocation analysis of the applicant's financial expert is directly related to the narrowness of the lot frontages and resulting floor plate sizes for both buildings; and

WHEREAS, the applicant, in response to opposition concerns about the financial expert's conclusion regarding a

loss of floor area at every level, submitted a breakdown of the square footage that would be lost; and

WHEREAS, the applicant's financial expert has also previously submitted a letter stating that neither a 5.0 FAR, 60' rear yard equivalent, 15 unit scheme nor a 5.0 FAR, 40 feet rear yard equivalent, 12 unit scheme would realize a reasonable return; and

WHEREAS, opposition claims that the comparable sales used by the applicant in its economic analysis understated the market, and also challenges the construction cost estimates in the analysis; and

WHEREAS, the applicant has provided a response to these claims that the Board finds sufficient and credible; and

WHEREAS, the Board finds that because the site is a through lot, underpinning and shoring costs are increased; and

WHEREAS, the Board finds that because the lot is small, the floor plates that would be created could not sustain a viable conforming development; and

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

WHEREAS, the applicant represents that the proposed mixed-use residential building will not alter the essential character of the neighborhood because: (1) LPC has determined that the proposed building would be appropriate given the context of the street, (2) the sixth and seventh stories of the proposed building would not be visible from Greene or Mercer Streets, (3) the proposed building height is similar to neighboring buildings, (4) the proposed residential units have an average size of 2000 square feet and a minimum unit size of 1200 square feet, (5) no eating and drinking establishments will be located on the first floor or in the cellar, and (6) the rear yard and rear yard equivalents of the proposed building are similar to, or greater than, neighboring lots; and

WHEREAS, opposition claims that the proposed rear yard equivalent, because it falls short of 60 feet, blocks a total of eleven windows and one skylight on adjoining property, and has submitted photographs that purport to support this claim; and

WHEREAS, the applicant states that none of the windows shown in the photographs would be blocked; and

WHEREAS, additionally, opposition raises the following concerns: (1) the possibility of location of one large superstore on the ground floor, (2) the use of the rooftops of the commercial spaces for recreational purposes, (3) the installation of windows facing the lot line that would provide greater privacy for Spring Street residences, through the use of opaque or translucent glass, and (4) a reduction in building height to reduce the effect of shadows on facing residences; and

WHEREAS, the applicant responded by noting that: (1) the maximum square feet available for a single retail

establishment would be approximately 5,000 square feet, and a superstore is typically greater than 10,000 square feet, (2)

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the use of rear yards for recreational purposes is not prohibited in New York City, and the residential occupants of the proposed building should not be treated differently, (3) restrictions on the type of windows is not required by statute and restrictions on the amount of light entering the proposed residential units should not be imposed by the Board, and (4) any reduction in the building height would result in a significant reduction in the value of the affected units; and

WHEREAS, the Board, through its site visit and a review of the submitted land use maps, observes that the proposed building will provide a greater rear yard equivalent than the majority of the buildings on the same block, and that the block also has four six-story buildings, an 8-story building, a 12-story building, and a 14-story building; and

WHEREAS, the Board also observes that the block directly to the east also contains buildings of a greater height than the proposed building; and

WHEREAS, therefore, the Board finds that the neither the building's proposed height nor the 55 feet rear yard equivalent are incompatible with the built conditions in the surrounding neighborhood; and

WHEREAS, the Board also finds that the proposed residential and retail use of the site is appropriate, given that such uses are prevalent in the neighborhood, and that the minimum unit size is typical of the loft dwellings that characterize the neighborhood; and

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

WHEREAS, as noted above, the Board finds that the applicant made significant changes to the proposed building, having reduced the FAR to 5.0 and increasing the rear yard equivalent to 55 feet; and

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

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

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

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

Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variance to permit the construction of a seven-story, mixed-use commercial and residential building on a lot within a M1-5A zoning district which does not comply with underlying district requirements concerning retail and residential use and is contrary to Z.R. §§ 42-00, 42-10, and 42-14D; 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 June 22, 2004" - (6) sheets and "Received July 6, 2004" - (4) sheets; on further condition:

THAT the retail spaces shall be limited to Use Group 6, except that there shall be no eating and drinking establishment located on the ground floor or cellar of the building;

THAT there shall be no single retail establishment occupying more than 10,000 square feet of gross floor area on the ground floor and cellar level;

THAT the open space in the rear yard at the second floor level shall not be common space for the use of all occupants, but instead is restricted to use by those occupants residing on the second floor;

THAT there shall no balconies in the rear yard;

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

THAT the applicant will obtain an updated Certificate of Appropriateness from the Landmarks Preservation Commission prior to any building permit being issued by the Department of Buildings;

THAT all mechanical deductions as shown on the plans shall as approved by the Department of Buildings;

THAT all fire safety provisions as shown on the approved plans will be complied with;

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

THAT interior partitions and layouts as shown on the approved plans for the ground floor, to be occupied by retail space, may be changed without approval of the Board provided that the floor area is not increased;

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

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

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

Adopted by the Board of Standards and Appeals, July 20, 2004.

*The resolution has been corrected in the part which read: "Application No.;" now reads: "Application No.". Corrected in Bulletin No. 12, Vol. 90, dated March 17, 2005.

Pasquale Pacifico, Executive Director.

BULLETIN

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March 24, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE - 40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD - 40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @ <http://www.nyc.gov/html/bsa/home.html>

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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607-70-BZ and 327-87-BZ, which permitted a gasoline
service with accessory uses in an R3-2 zoning district.
COMMUNITY BOARD #11BX

43-05-BZ **B.BK.** **1826 East 28th Street,**
west side, 200'-0" south of Avenue "R", Block 6833, Lot 17,
Borough of Brooklyn. Applic.#301896919. Proposed two
story enlargement to an existing one family dwelling, located
in an R3-2 zoning district, which does not comply with the
zoning requirements for floor area, floor area ratio, open
space, open space ratio, lot coverage, and rear and side
yards, is contrary to Z.R. §23-141, §23-461, §23-47 and §54-
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between Beach 49th and Beach 50th Streets, Block 15841,
Lot 19 (Tentative 50), Borough of Queens. Alt.II
#401873683. Proposed accessory drive-thru facility, to
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located in a C1-2/R5 zoning district, requires a special permit
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COMMUNITY BOARD #14BK

45-05-BZ **B.BK.** **4001 16th Avenue,**
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an R6(BP) zoning district, which does not comply with the
zoning requirements for lot coverage and side yard, is
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46-05-BZ **B.BK.** **1797 Coney Island Avenue,**
east side, 305' north of Avenue "O", Block 6749, Lot 69,
Borough of Brooklyn. N.B.#301567588. Proposed physical
culture establishment, located in a C8-2 zoning district,
requires a special permit from the Board as per Z.R. §73-36.
COMMUNITY BOARD #14BK

47-05-BZ **B.Q.** **90-15 Corona Avenue,**
northeast corner of 90th Street, Block 1586, Lot 10, Borough
of Queens. N.B.#402037924. Proposed eight story and
penthouse mixed-use building, located in an R6B zoning
district, with a C2-3 overlay, which exceeds the permitted
floor area, wall and building height requirements, is contrary
to Z.R. §23-145 and §23-633.
COMMUNITY BOARD #4Q

48-05-BZ **B.M.** **469 West Street,**
a/k/a 70 Bethune Street and a/k/a 394 West 12th Street, west
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an M1-5 zoning district, which does not permit residential
use, and also does not comply with the zoning requirements
for accessory off-street parking spaces, is contrary to Z.R.
§42-00 and §13-12.
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49-05-A **B.Q.** **8 Atlantic Walk,**
west side, 38.15' south of Oceanside Avenue, Block 16350,
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reconstruction and enlargement of an existing one family
dwelling, also a proposal to upgrade the non-complying
private disposal system, located within the bed of a mapped
street, is contrary to Section 35, Article 3 of the General City
Law and Department of Buildings' Policy.

50-05-A **B.Q.** **412 Seabreeze Avenue,**
east side, 40.7" north of Beach 183rd Street, Block 16340,
Lot 50, Borough of Queens. Alt.I #402013806. Proposed
reconstruction and enlargement of an existing one family
dwelling also a proposal to upgrade the non-complying
private disposal system, located within the bed of a mapped
street and not fronting on a legally mapped street, is
contrary to Sections 35 and 36, Article 3 of the General City
Law and Department of Buildings' Policy.

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**51-05-A B.Q. 105 Beach 219th Street,
east side, 80' South of Breezy Point Boulevard, Block 16350,
Lot 400, Borough of Queens. Alt.1 #402064733. Proposed
enlargement of the first story, and the construction of a
partial second story, to an existing one family dwelling, not
fronting on a legally mapped street, is contrary to Section 36,
Article 3 of the General City Law.**

**DESIGNATIONS: D-Department of Buildings; B.BK.-
Department of Buildings, Brooklyn; B.M.-Department of
Buildings, Manhattan; B.Q.-Department of Buildings,
Queens; B.S.I.-Department of Buildings, Staten Island;
B.BX.-Department of Building, The Bronx; H.D.-Health
Department; F.D.-Fire Department.**

CALENDAR

APRIL 12, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 12, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

752-64-BZ

APPLICANT - Patrick Jones, Esq, by Petraro & Jones, for Gallery Partners, LLC, owner.

SUBJECT - Application September 7, 2004 - reopening for an extension of term of a variance for attended transient parking, limited to a maximum of twenty-three (23) vehicles, in a multiple dwelling presently located in C5-1 (MP) zoning district. The original grant of the variance by the Board of Standards and Appeals was made pursuant to Section 60(3) of the multiple Dwelling Law.

PREMISES AFFECTED - 49 East 77th Street, east side of Madison Avenue at intersection of E. 78th Street and E. 77th Street, Block 1392, Lot 1101, Borough of Manhattan.

COMMUNITY BOARD #8M

721-67-BZ

APPLICANT - Sheldon Lobel, P.C., for Bill Wolf Petroleum Corp., owner.

SUBJECT - Application September 15, 2004- reopening for an amendment to the resolution to permit the addition of a canopy and the conversion of the existing accessory service bays to an accessory convenience store.

PREMISES AFFECTED - 7310-7322 New Utrecht Avenue, block bound by New Utrecht Avenue, 74th Street and 16th Avenue, Block 6203, Lot 1, Borough of Brooklyn

COMMUNITY BOARD #11BK

1038-80-BZ

APPLICANT - Davidoff & Malito, LLP, for Feinrose Downing LLC, owner; Expressway Arcade Corp., lessee.

SUBJECT - Application January 13, 2005 - reopening for an extension of term of variance which expired on January 6, 2005 for an amusement arcade.

PREMISES AFFECTED - 31-07/09/11 Downing Street, Whitestone Expressway, Block 4327, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

327-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Beth Gavriel Bukharian

APPEALS CALENDAR

325-04-A

APPLICANT -Rothkrug Rothkrug Weinberg Spector, for Kevin Kane, owner.

SUBJECT - Application October 4, 2004 - Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -91 Wakefield Road, west side, 825.19 north of Woods of Arden Road, Block 5415, Lot 85, Borough of Staten Island.

COMMUNITY BOARD #3SI

APRIL 12, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, April 12, 2005, at 1:30 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

275-04-BZ

APPLICANT - Martyn & Don Weston Architects, for Christodora House Association, owner.

SUBJECT - Application August 9, 2004 - Under Z.R.§72-21 to permit the proposed conversion of an existing unused gymnasium (Use Group 4) into four residential units (Use Group 2), within an R7-2 Zoning District and to vary Sections 23-142 and 23-22 of the Resolution.

PREMISES AFFECTED - 601-603 East 9th Street a/k/a 143 Avenue B, Northeast corner of 143 Avenue B, Block 392, Lot 1087, Borough of Manhattan.

COMMUNITY BOARD #3M

322-04-BZ

APPLICANT - Eric S. Palatnik, P.C., for Beis Avroham, owner.

SUBJECT - Application September 28, 2004 - Z.R. §72-21, to permit the proposed extension of an existing synagogue and Rabbi's apartment (Rectory), within an R2 Zoning District and to vary Sections 24-111(a), 23-141(a), 24-35, 24-34, and 25-31 of the Resolution.

PREMISES AFFECTED - 1124 East 21st Street a/k/a Kenmore Place a/k/a 2015-2025 Avenue J, Northwest corner of the intersection of Avenue J and East 21st Street, Block 7584, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Congregation, owner.

SUBJECT - Application October 4, 2004 - under Z.R.§72-21 to

CALENDAR

request a variance from the following sections of the Zoning Resolution: 24-11(floor area ratio); 24-34 (front yard requirements); and 24-521 (height and setback regulations). The proposal calls for the enlargement of an existing Community Facility.

PREMISES AFFECTED - 66-35 108th Street, between 66th Road and 67th Avenue, Block 2175, Lot 1, Borough of Queens.
COMMUNITY BOARD #6Q

352-04-BZ

APPLICANT - Eric Palatnik, P.C., for R. Randy Lee, owner.
SUBJECT - Application November 4, 2004 - Under Z.R.§72-21, to modify the previous approval by the BSA (118-01-BZ) by altering the configuration of the subject building and to permit a change in use from Use Group 6 office use to Use Group 6 retail use, within an R3-1 Zoning District and to vary Section 22-00 of the Resolution.

PREMISES AFFECTED - 1845 Richmond Avenue, East side of Richmond Avenue, 500 feet south of Eaton Place, Block 2030, Lot 57, Borough of Staten Island.
COMMUNITY BOARD #2SI

16-05-BZ

APPLICANT - James McCormack, Architect, for James McCormack, owner.

SUBJECT - Application January 27, 2005 - under Z.R.§ 72-21 to permit the proposed one family residence which does not meet the requirements of Section 23-45 (Front Yard) and Section 23-461 (Side Yards), located in R3A.HS (Hillside Preservation District).

PREMISES AFFECTED - 161 Westervelt Avenue, southeast corner of Curtis Place, Block 30, Lot 11, Borough of Staten Island.

COMMUNITY BOARD #1SI

Pasquale Pacifico, Executive Director

**REGULAR MEETING
TUESDAY MORNING, MARCH 15, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

MINUTES

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, January 11, 2005, were approved as printed in the Bulletin of January 20, 2005, Volume 90, No. 1-3.

SPECIAL ORDER CALENDAR

722-68-BZ

APPLICANT - Sheldon Lobel, P.C., for Matthews Pines, owner; Speedstar Motors, Inc., lessee.

SUBJECT - Application July 30, 2003 - reopening for an amendment to legalize a change of use from wholesale storage and packaging establishment, with an accessory office and loading area (Use Group 16) to automotive repair and sales (Use Group 16) and warehouse (Use Group 16), with accessory offices, located in an R-6 zoning district.

PREMISES AFFECTED - 388-392 Kings Highway, West 3rd Street and Kings Place, Block 6678, Lot 68, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Irving E. Minkin.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and amendment to the resolution for a previously issued variance; and

WHEREAS, a public hearing was held on this application on July 13, 2004, after due notice by publication in the *City Record*, with continued hearings on September 21, 2004, January 11, 2005, and February 15, 2005, then to decision on March 15, 2005; and

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

WHEREAS, Community Board No. 11, Brooklyn, recommends approval of the subject application, on condition that all vehicles waiting for service at the subject establishment shall be parked on the site and not on the streets surrounding the site; and

WHEREAS, the subject site is located on Kings Highway between West 3rd Street and Kings Place; and

WHEREAS, on July 22, 1969, under the subject THAT screened fences 10 feet high surrounding the inner court and at the rear lot line shall be installed and maintained, as shown on the BSA-approved plans;

calendar number, the Board granted an application under Z.R. § 72-21, to permit, in an R6 district, in an existing one-story building, the extension of a wholesale establishment into the adjoining store; and

WHEREAS, since 1999, the applicant has used the premises to support an automotive facility that includes a repair shop, a retail store and an accessory office and a warehouse devoted to the storage of upholstering fabrics (with an accessory office); and

WHEREAS, the applicant now seeks an amendment to the resolution to legalize a change in use to automotive repair and sales and warehouse (UG 16) with accessory offices; and

WHEREAS, the subject application was previously on the dismissal calendar for lack of prosecution; and

WHEREAS, after the applicant made a required submission, the subject application was withdrawn from the dismissal calendar and placed back on the Special Order Calendar; and

WHEREAS, the Board expressed concerns about the original version of this application specifically related to: (i) the uses proposed, including repair and sale of cars; (ii) the number of spaces for cars awaiting service; (iii) the existing signage; (iv) the use group designation of the fabric store; and (v) the operation of the retail store; and

WHEREAS, in response to the Board's concerns, the applicant amended its application to: (i) remove auto sales from the proposed uses; (ii) have a maximum of two cars waiting for service in the waiting area; (iii) remove one of the existing wall signs and bring the remaining signs into compliance with the business signage regulations applicable in C1 districts; (iv) designate the fabric store as a Use Group 16 warehouse; and (iii) clarify that the retail store would be an accessory use to the automotive establishment; and

WHEREAS, the Board has determined that the evidence in the record supports the grant of the requested amendment to the prior resolution.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on July 22, 1969, so that as amended this portion of the resolution shall read: "to permit, in an R6 zoning district, a change in use from wholesale storage and packaging establishment, with an accessory office and loading area to automotive repair and sales and warehouse (UG 16) with accessory offices; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received January 26, 2005"- (3) sheets and "Received March 1, 2005"- (1) sheet; and *on further condition*:

THAT all vehicles waiting for service at the subject establishment shall be parked on-site and not on the streets surrounding the site or the sidewalk;

THAT the inner court and the rear yard shall be clean and kept free of debris and materials at all times and should not be used for auto repair use;

MINUTES

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

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

THAT a new certificate of occupancy be obtained within two years from the date of this grant;

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. 301232850).

Adopted by the Board of Standards and Appeals, March 15, 2005.

208-78-BZ

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

SUBJECT - Application May 18, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance to permit a funeral establishment (Use Group 7), located in an R3-2 zoning district.

PREMISES AFFECTED - 2145 Richmond Avenue, east side of Richmond Avenue, 11.74' south of Rockland Avenue, Block 2360, Lot 54, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an extension of the term of the variance; and

WHEREAS, a public hearing was held on this application on December 7, 2004 after due notice by publication in the *City Record*, with a continued hearing on February 15, 2005 and then to decision on March 15, 2005; and

WHEREAS, Community Board No. 2, Staten Island recommends approval of the subject application; and

WHEREAS, in 1978, under the subject calendar number, the Board granted a variance application to permit, in an R3-2 district, the erection of a one-story building for 133-99-BZ

APPLICANT - Harold Weinberg, P.E., P.C., for Anna Kadar,

use as a funeral establishment, with accessory parking in the open area; the term of variance was subsequently extended on September 3, 1994; and

WHEREAS, the premises is located on the east side of Richmond Avenue, 11.74 feet south of Rockland Avenue, and has a total lot area of 19,771 sq. ft.; and

WHEREAS, the applicant now seeks an extension of the term of variance for ten years; and

WHEREAS, the applicant initially represented that there had been no change in the operation or layout of the subject establishment; and

WHEREAS, however, upon review of the submitted plans, the Board noted that there was an illegal roof sign on the subject building; and

WHEREAS, the applicant removed this roof sign at the Board's direction; and

WHEREAS, the Board has determined that the evidence in the record supports the grant of the requested amendment to the prior resolution.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: “to extend the term of a funeral establishment use, with accessory parking in the open area, previously granted by the Board, for a term of ten years from September 3, 2004 to expire on September 3, 2014; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received January 21, 2005”-(2) sheets and “Received May 18th, 2004”-(3) sheets; and *on further condition*:

THAT there shall be no signage above the eave on the lower roof of the building;

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

THAT all conditions from prior resolution(s) not specifically waived by the Board remain in effect and shall be listed on the certificate of occupancy if listed previously;

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. 500665728)

Adopted by the Board of Standards and Appeals, March 15, 2005.

owner.

SUBJECT - Application February 2, 2004 and June 10, 2004 -

MINUTES

reopening for an extension of time to complete construction and obtain a certificate of occupancy to permit a one story family residence and for an amendment to the resolution to modify the interior arrangement and also raise the height of the building.

PREMISES AFFECTED - 1253 Oriental Boulevard, northwest corner Norfolk Street, Block 8756, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Harold Weinberg.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening, an extension of time to complete construction and obtain a certificate of occupancy, and an amendment to the resolution, to increase the height and Floor Area Ratio ("F.A.R.") of the proposed enlarged residential structure; and

WHEREAS, a public hearing was held on this application on November 9, 2004, after due notice by publication in the *City Record*, with continued hearings on December 7, 2004, January 11, 2005, and February 15, 2005, and then to decision on March 15, 2005; and

WHEREAS, on February 8, 2000, the Board granted a special permit pursuant to Z.R. § 73-622 and under the subject calendar number to allow, in an R3-1 zoning district, the enlargement of an existing one-family dwelling; and

WHEREAS, the period in which to complete construction expired on February 8, 2004; and

WHEREAS, the applicant states the reason for the requested extension of time is due to a major family dispute resulting in a divorce proceeding that lasted nearly four years; and

WHEREAS, in connection with the special permit, the Board approved an F.A.R. of 0.89 and a building height of 29 ft.; and

WHEREAS, the applicant is seeking an increase in F.A.R. from 0.89 to 1.02 and an increase in building height from 29 ft. to 31 ft., 8 in.; and

WHEREAS, the increase in F.A.R. is due to the a reconfiguration of the attic, which qualifies the attic floor space as zoning floor area; and

WHEREAS, the applicant notes that the maximum permitted height in an R3-1 district is 35 ft.; and

WHEREAS, the applicant represents that a different building height must be calculated due to a new Department of 295-99-BZ

APPLICANT - Rampulla Associates Architects, for Wyckoff Heights Medical Center, owner.

Buildings Procedure and Policy Notice ("PPN"), which requires the elevation of structures within a Flood Plane zone to be measured from the Base Flood Plane; and

WHEREAS, the Board acknowledges the new PPN and has no objection to the measurement of height as represented by the applicant so long as the elevation will be measured from the Base Flood Plane as per DOB's current practice, as reviewed and confirmed by DOB; and

WHEREAS, based upon its review of the applicant's submissions, the Board has determined that the requested extension and amendment is appropriate to grant.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on February 8, 2000, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete construction for a period of three years from the date of this resolution" *on condition* that all work shall substantially conform to drawings filed with this application marked "Received February 23, 2005"-(8) sheets and "Received March 9, 2005"-(1) sheet; *and on further condition:*

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth on the certificate of occupancy;

THAT the total F.A.R., including the attic floor area, shall not exceed 1.02;

THAT the elevation will be measured from the Base Flood Plane as per the Department of Buildings' current practice, as reviewed and approved by the Department of Buildings;

THAT the proposed attic floor area shall be reviewed and confirmed by the Department of Buildings;

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

THAT a new certificate of occupancy be obtained within three years from the date of this grant; and

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

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

(DOB Application No. 300863153)

Adopted by the Board of Standards and Appeals, March 15, 2005.

SUBJECT - Application September 20, 2004 - Extension of Time/Waiver of the Rules of Practice and Procedures to complete construction the erection of a five (5) story parking facility, which will

MINUTES

service the Wyckoff Hospital as an accessory parking facility which was granted by the Board on May 2, 2000.

PREMISES - 370 Stanhope Street, Stanhope Street between Wyckoff Avenue and St. Nicholas Avenue, Block 3271, Lots 17, 18, 20, 22, 37, 38, Borough of Brooklyn.

COMMUNITY BOARD #4BK

APPEARANCES -

For Applicant: Philip Rampulla.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and an extension of time to complete construction for a five-story parking facility previously approved by the Board; and

WHEREAS, a public hearing was held on this application on February 8, 2005, 2005 after due notice by publication in the *City Record*, and then to decision on March 15, 2005; and

WHEREAS, on May 2, 2000, the Board granted a variance application under the subject calendar number to permit, within an R6 zoning district, the erection of a five story parking facility, to serve as accessory parking to an existing community facility; and

WHEREAS, the period in which to complete construction expired on May 2, 2004; and

WHEREAS, the applicant has constructed an at-grade as-of-right open accessory parking lot in the interim; and

WHEREAS, the applicant states that the reason for the requested extension of time is because of financing difficulties; and

WHEREAS, therefore, the Board has determined that the evidence in record supports the grant of the requested waiver and extension.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, said resolution having been adopted on May 2, 2000, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete construction of a five story parking facility for an additional three years from the date of this resolution to expire on March 15, 2008; on condition:

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 286-99-BZ

APPLICANT - Rampulla Associates Architects, for Vasilios Koniosis, owner.

SUBJECT - Application September 20, 2004 - Extension of

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. 300845708)

Adopted by the Board of Standards and Appeals, March 15, 2005.

198-66-BZ

APPLICANT - Eric Palatnik, P.C., for 300 East 74 Owners Corp., owner.

SUBJECT - Application December 16, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 300 East 74th Street, southeast corner of 2nd Avenue and East 74th Street, Block 1448, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to April 19, 2005, at 10 A.M., for continued hearing.

1237-66-BZ

APPLICANT - Eric Palatnik, P.C., for BP Products North America, Inc., owner.

SUBJECT - Application - December 14, 2004 - Extension of Term to obtain a Certificate of Occupancy for a gasoline service station, with accessory uses, located in a C2-2 zoning district.

PREMISES AFFECTED - 1 East 233rd Street, northeast corner of Van Cortland and Park East, Block 3363, Lots 18 and 23, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to April 19, 2005, at 10 A.M., for decision, hearing closed.

Time/Waiver of the Rules of Practice and Procedures to complete construction for the conversion of an existing single family detached dwelling to stores and offices, approved by the Board on May 2, 2000.

MINUTES

PREMISES - 4142 Hylan Boulevard, SE/S of Hylan Boulevard at the corner of Hylan Boulevard and Hinz Avenue, Block 5310, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Philip Rampulla.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to April 12, 2005, at 10 A.M., for decision, hearing closed.

384-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Maureen & Bill Tully, lessees.

SUBJECT - Application December 6, 2004 - Proposed reconstruction and enlargement of an existing single family residence, not fronting on a legally mapped street, also the proposed upgrading of the private disposal system in the bed of the service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings Policy.

PREMISES AFFECTED - 37 Jamaica Walk, east side, 75.61' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated November 12, 2004, acting on Department of Buildings Application No. 401947756, reads:

“A-1 The street giving access to the existing building to be altered is not duly placed on the official map of the City of New York , therefore:

- A) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.
- B) Existing dwelling to be altered does not have at least 8 % of total perimeter of the Building fronting directly upon a legally mapped street or frontage is contrary to Section 27-291 of the Administrative Code.

140-28A 34th Avenue, Block 4994, Lot 224, Borough of Queens.

140-30 34th Avenue, Block 4994, Lot 125, Borough of Queens.

A-2 The proposed upgraded private disposal system is in the bed of am service lane contrary to Department of Buildings Policy.”; and

WHEREAS, a public hearing was held on this application on March 1, 2005 after due notice by publication in the *City Record*, and then to decision on March 15, 2005; and

WHEREAS, by letter dated December 16, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated November 12, 2004, acting on Department of Buildings Application No. 401867958, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked, “Received December 6, 2004” - (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

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

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

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

Adopted by the Board of Standards and Appeals, March 15, 2005.

53-04-A thru 62-04-A

APPLICANT - New York City Department of Buildings

OWNER OF RECORD: Thomas Huang

SUBJECT - Applications February 26, 2004 - Application to revoke Certificate of Occupancy No. 401223289, on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED -

140-26A 34th Avenue, Block 4994, Lot 24, Borough of Queens.

140-28 34th Avenue, Block 4994, Lot 224, Borough of Queens.

140-30A 34th Avenue, Block 4994, Lot 225, Borough of Queens.

140-32 34th Avenue, Block 4994, Lot 126, Borough of Queens.

140-32A 34th Avenue, Block 4994, Lot 27, Borough of

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Queens.
140-34 34th Avenue, Block 4994, Lot 127, Borough of
Queens.
140-34A 34th Avenue, Block 4994, Lot 227, Borough of
Queens.
140-36 34th Avenue, Block 4994, Lot 327, Borough of
Queens.

COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: Lisa Orrantia, Department of Buildings.

For Opposition: Adam W. Rothkrug and Tom Beriawato.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to July 12, 2005, at
10 A.M., for continued hearing.

241-04-A

APPLICANT - Rampulla Associates Architects, for Erin Esposito,
owner.

SUBJECT - Application June 28, 2004 - Proposed one family
dwelling, not fronting on a legally mapped street, is contrary to
Section 36, Article 3 of the General City Law.

PREMISES AFFECTED -6515 Amboy Road, 650' south of
Bedell Avenue, Block 7664, Lot 452 (Tentative Lot 463), Borough
of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Philip Rampulla.

For Opposition: B.C. Carty and Anthony Scaduto, Fire Department.

ACTION OF THE BOARD - Laid over to April 12, 2005,
at 10 A.M., for continued hearing.

312-04-A

APPLICANT - Eric Paltnik, P.C for Aspinwall Building
Corp.,owner.

SUBJECT - Application September 15, 2004 - Proposed building
not fronting on a legally mapped street, is contrary to Section 36,
Article 3 of the General Ciy Law .

PREMISES - 14 Letty Court, 185.87' west of Van Name Avenue,
Block 1188, Lot 115, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

3-05-A

APPLICANT -Joseph A. Sherry, for Breezy Pt. Cooperative Inc.,
owner; Dale & Susan Salmonese; lessee.

SUBJECT - Application January 11, 2005 - Proposed enlargement
of an existing one family dwelling, not fronting on a legally mapped

ACTION OF THE BOARD - Laid over to April 12, 2005,
at 10 A.M., for decision, hearing closed.

385-04-A

APPLICANT -Gary Lenhart, R.A., for The Breezy Point
Cooperative, owner; Christine & Barry Fixxher, lessee.

SUBJECT - Application December 6, 2004 - Proposed
reconstruction and enlargement of an existing single family dwelling,
also the proposed upgrading of an existing private disposal system,
located within the bed of a mapped street, is contrary to Section 35,
Article 3 of the General City Law and Department of Buildings
Policy.

PREMISES AFFECTED - 2 Deauville Walk, in the bed of Beach
214th Street, at the intersection of Palmer Drive, Block 16350, Lot
300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to April 5, 2005, at
10 A.M., for decision, hearing closed.

2-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative
Inc., owner; Mr. & Mrs. Terrance Farrell, lessee.

SUBJECT - Application January 11, 2005 - Proposed enlargement
of an existing one family dwelling, not fronting on a legally mapped
street, and has a private disposal system which is being upgraded in
the bed of a private service road, is contrary to Section 36, Article 3
of the General City Law, and Department of Buildings Policy.

PREMISES AFFECTED -37 Marion Walk, east side, 102.98'
south of Oceanside Avenue, Block 16350, Lot 400, Borough of
Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 29, 2005,
at 10 A.M., for decision, hearing closed.

street, and has a private disposal system which is being upgraded in
the bed of a private service road, is contrary to Section 36, Article 3
of the General City Law, and Department of Buildings Policy.

PREMISES AFFECTED - 10 Doris Lane, south side, 42.02' west
of Reid Avenue, Block 16350, Lot 400, Borough of Queens.

MINUTES

APPEARANCES -

For Applicant: Loretta Papa.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to March 29, 2005, at 10 A.M., for decision, hearing closed.

17-05-A

APPLICANT - Sheldon Lobel, P.C., for GRA V LLC, owner.
SUBJECT - Application January 27, 2005 - An appeal seeking a determination that the owner of said premises has acquired a common-law vested right to continue a development commenced under R6 Zoning.

PREMISES AFFECTED - 3329/3333 Giles Place, (a/k/a 3333 Giles Place), west side, between Canon Place and Fort Independence Street, Block 8258, Lots 5 and 7, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES -

For Applicant: Jordon Most, Donna Difara and William Turkish.
For Opposition: Janine Gayland, Lynn Schwartz, Arax Hogroian, Margaret Groarke and Karen Argentu.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to May 10, 2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 12:25 P.M.

**REGULAR MEETING
TUESDAY AFTERNOON, MARCH 15, 2005
2:00 P.M.**

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

126-04-BZ

CEQR #04-BSA-141K

APPLICANT - Eric Palatnik, Esq., for James Bateh, owner.
SUBJECT - Application October 7, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, Use Group 2, located in an R3-1(BR) zoning district, which does not comply with the zoning requirements for open space, floor area, also

ZONING CALENDAR

349-03-BZ

CEQR #04-BSA-079Q

APPLICANT - The Agusta Group, for Cyril Pereira, owner.
SUBJECT - Application November 14, 2003 - under Z.R. §72-21 to permit the legalization of the conversion of a two family dwelling, into a three family dwelling, is contrary to Z.R. §22-12, which only permits two family dwelling in R3-1 zoning districts.
PREMISES AFFECTED - 85-14 63RD Drive, east side, between Fitchett Street and Woodhaven Boulevard, Block 3115, Lot 21, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES - None.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

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

Negative:.....0

Adopted by the Board of Standards and Appeals, March 15, 2005.

350-03-BZ

CEQR #04-BSA-080Q

APPLICANT - The Agusta Group, for Cyril Pereira, owner.
SUBJECT - Application November 14, 2003 - under Z.R. §72-21 to permit the legalization of the conversion of a two family dwelling, into a three family dwelling, is contrary to Z.R. §22-12, which only permits two family dwelling in R3-1 zoning districts.
PREMISES AFFECTED - 85-16 63RD Drive, east side, between Fitchett Street and Woodhaven Boulevard, Block 3115, Lot 22, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES - None.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

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

Negative:.....0

Adopted by the Board of Standards and Appeals, March 15, 2005.

side and front yards, is contrary to Z.R. §23-141, §23-461(a) and §23-45.

PREMISES AFFECTED - 66 87th Street, south side, between Narrows Avenue and Colonial Road, Block 6046, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES -

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For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated September 28, 2004, acting on Department of Buildings Application No. 301685610, reads:

“Obtain approval from the Board of Standards and Appeals for the following objections:

1. Proposed floor area is contrary to ZR 23-141
2. Proposed open space ratio is contrary to ZR: 23-141
3. Proposed side yard is contrary to ZR 23-461(a)”; and

WHEREAS a public hearing was held on this application on January 11, 2005 after due notice by publication in *The City Record*, with continued hearings on February 1, 2005 and March 1, 2005, and then to decision on March 15, 2005; and

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

WHEREAS, Community Board 10, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 73-622 to permit, in an R3-1 zoning district, the proposed enlargement of an existing single-family residence (Use Group 1), which does not comply with the zoning requirements for floor area, open space ratio and side yard, contrary to Z.R. §§ 23-141 and 23-461(a); and

WHEREAS, the subject lot is located on the south side of 87th Street between Colonial Road and Narrows Avenue, and has a total lot area of 5,000 sq. ft.; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-story residential structure with attic; and

WHEREAS, the applicant seeks an increase in the floor area from 3,066 sq. ft. (0.62 Floor Area Ratio or “FAR”) to 4,678.82 sq. ft. (.936 FAR); this exceeds the permitted 2,500 sq. ft. floor area (0.60 FAR with attic); and

WHEREAS, the proposed enlargement will reduce the Open Space Ratio (“OSR”) from 61% to 57% (the minimum open space ratio required is 65%); and

WHEREAS, the applicant received a letter from the Department of Buildings that states that the applicant can

THAT the total attic floor area shall not exceed 997.74 s.f.;

THAT the proposed attic floor area shall be reviewed and confirmed by the Department of Buildings;

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

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

maintain the existing perimeter wall height of 21’-0” so long as the applicant obtains waivers from the Board of Standards and Appeals for F.A.R., open space ratio and side yards; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant proposes a straight line enlargement into the rear yard; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width between the building and the side lot line; and

WHEREAS, the applicant submitted photographs documenting houses in the immediate vicinity of the site that stand two stories high with no setbacks between the first and second floors; and

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R3-1 zoning district, the proposed enlargement of an existing single-family residence (Use Group 1), which does not comply with the zoning requirements for floor area, open space ratio and side yard, contrary to Z.R. §§ 23-141 and 23-461(a); *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked “Received August 24, 2004” - (5) sheets, “Received February 15, 2005” - (1) sheet, and “Received March 8, 2004” - (1) sheet; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth on the certificate of occupancy;

THAT the total F.A.R. for the premises, including the attic, shall not exceed 0.936;

jurisdiction objection(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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

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configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 15, 2005.

207-04-BZ

CEQR #04-BSA-206K

APPLICANT - The Law Office of Fredrick A. Becker, for David Spira and Gayle Malka Spira, owners.

SUBJECT - Application May 19, 2004 - under Z.R. §72-21 to permit the proposed enlargement of the cellar, first and second floors, also the attic, on the northerly side of a single family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, also side and front yards, is contrary to Z.R. §23-141, §23-461 and §23-45.

PREMISES AFFECTED - 2721 Avenue "N", northwest corner of East 28th Street, Block 7663, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Lyra Altman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated May 5, 2004, acting on Department of Buildings Application No. 301745967, reads in pertinent part:

1. Proposed plans are contrary to Z.R. 23-141 in that the proposed building exceeds the maximum permitted floor area ratio of .50.
2. Proposed plans are contrary to Z.R. 23-141 in that the proposed open space ratio is less than the minimum required open space ratio of 150.
3. Proposed plans are contrary to Z.R. 23-461 in that the proposed straight line enlargement continues with the existing non-complying side

WHEREAS, the proposed enlargement is a straight line extension into the complying side yard; and

WHEREAS, the enlargement into the complying side yard does not result in a decrease in the existing minimum width between the building and the side lot line on the non-complying side; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the

yard of 3'-7" and is less than the minimum required side yard of 5'-0"; and

WHEREAS a public hearing was held on this application on December 7, 2004 after due notice by publication in *The City Record*, with continued hearings on January 11, 2004 and February 8, 2004, and then to decision on March 15, 2005; and

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

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

WHEREAS, this is an application under Z.R. § 73-622 to permit, in an R2 zoning district, the proposed enlargement of an existing single-family residence (Use Group 1), which does not comply with the zoning requirements for floor area, open space ratio and side yard, contrary to Z.R. §§ 23-141 and 23-461; and

WHEREAS, this application was initially submitted to the Board as a request for a variance pursuant to Z.R. § 72-21; and

WHEREAS, the applicant failed to provide evidence to substantiate a claim of uniqueness inherent to the site, that would affect the habitability of the structure; and

WHEREAS, thus, the Board found that the findings required to issue a variance were not supported by substantial evidence; and

WHEREAS, moreover, the relief requested by the applicant was possibly obtainable through a special permit pursuant to Z.R. § 73-622; and

WHEREAS, accordingly, the applicant converted the application to the present request for a special permit; and

WHEREAS, the subject corner lot is located on the northwest corner of Avenue N and East 28th Street, and has a total lot area of 3,333 sq. ft.; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-story residential structure with attic; and

WHEREAS, the applicant seeks an increase in the floor area from 2,020 sq. ft. (0.60 Floor Area Ratio or "F.A.R.") to 3,390.41 sq. ft. (1.01 FAR); this exceeds the permitted 1,667 sq. ft. floor area (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the Open Space Ratio ("O.S.R.") from 115 to 43 (the minimum O.S.R. required is 150); and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing single-family residence (Use Group 1), which does not comply with the zoning requirements for floor area, open space ratio and side yard, contrary to Z.R. §§ 23-141, and 23-461; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received March 14, 2005"-(10) sheets; and on further condition:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth on the certificate of occupancy;

THAT the total F.A.R. on the premises, including the attic, shall not exceed 1.01;

THAT the total attic floor area shall not exceed 909.81 sq. ft.;

THAT the proposed attic floor area shall be reviewed and confirmed by the Department of Buildings;

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

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, March 15, 2005.

208-04-BZ

CEQR #04-BSA-207K

WHEREAS a public hearing was held on this application on December 7, 2004 after due notice by publication in *The City Record*, with continued hearings on January 11, 2004 and February 8, 2004, and then to decision on March 15, 2005; and

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

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

WHEREAS, this is an application under Z.R. § 73-622 to

APPLICANT - The Law Office of Fredrick A. Becker, for Brian Gross and Chedva Gross, owners.

SUBJECT - Application May 21, 2004 - under Z.R. §72-21 to permit the proposed enlargement of the cellar, first floor and second floor, on the southerly side of single family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, side and front yards, also the front setback, is contrary to Z.R. §23-141, §23-461, §23-45 and §23-631.

PREMISES AFFECTED - 2822 Avenue "L", southwest corner of East 29th Street, Block 7646, Lot 51, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Lyra Altman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated May 19, 2004, acting on Department of Buildings Application No. 301744511, reads in pertinent part:

"The proposed enlargement of the existing one family residence in an R2 zoning district:

1. Creates non-compliance with respect to floor area by exceeding the allowable floor area ratio and is contrary to Section 23-141 of the Zoning Resolution.
 2. Creates non-compliance with respect to the open space ratio and is contrary to Section 23-141 of the Zoning Resolution.
 3. Creates non-compliance with respect to the side yard by not meeting the minimum requirements of Section 23-461 of the Zoning Resolution.";
- and

permit, in an R2 zoning district, the proposed enlargement of an existing single-family residence (Use Group 1), which does not comply with the zoning requirements for floor area, open space ratio and side yard, contrary to Z.R. §§ 23-141 and 23-461; and

WHEREAS, this application was initially submitted to the Board as a request for a variance pursuant to Z.R. § 72-21; and

WHEREAS, the applicant failed to provide evidence to substantiate a claim of uniqueness inherent to the site, that would affect the habitability of the structure; and

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WHEREAS, the Board found that the findings required to issue a variance were not supported by substantial evidence,

WHEREAS, moreover, the relief requested by the applicant was obtainable possibly through a special permit pursuant to Z.R. § 73-622; and

WHEREAS, accordingly, the applicant converted the application to the present request for a special permit; and

WHEREAS, the subject lot is located on the southwest corner of Avenue L and East 29th Street, and has a total lot area of 3,333 sq. ft.; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-story residential structure; and

WHEREAS, the applicant seeks an increase in the floor area from 2,727 sq. ft. (0.82 Floor Area Ratio or "FAR") to 3,479 sq. ft. (1.05 FAR); this exceeds the permitted 1,667 sq. ft. floor area (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the Open Space Ratio ("OSR") from 82 to 56 (the minimum open space ratio required is 150); and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the proposed enlargement is a straight line extension into the complying side yard; and

WHEREAS, the enlargement into the complying side yard does not result in a decrease in the existing minimum width between the building and the side lot line on the non-complying side; and

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner

the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing single-family residence (Use Group 1), which does not comply with the zoning requirements for floor area, open space ratio and side yard, contrary to Z.R. §§ 23-141 and 23-461; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received March 1, 2005" - (3) sheets and "Received March 14, 2005"-(6) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth on the certificate of occupancy;

THAT the total F.A.R. on the premises, including the attic, shall not exceed 1.05;

THAT the proposed attic floor area shall be reviewed and confirmed by the Department of Buildings;

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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; no approval has been given by the Board as to the use and layout of the cellar; THAT the approved

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, March 15, 2005.

220-04-BZ

CEQR #04-BSA-211K

APPLICANT - Eric Palatnik, P.C., for Marjay Realty, LLC, owner; Maxim Health and Fitness, lessee.

SUBJECT - Application May 28, 2004 - under Z.R. §73-36 to permit the proposed physical culture establishment, to occupy a portion of the second floor, of an existing six story building, located in an M1-2 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 500 Driggs Avenue, a/k/a 482/504 Driggs Avenue, through lot fronting on North 9th and 10th Streets and Driggs Avenue, Block 2305, Lot 18, Borough of Brooklyn.

dated May 12, 2004, acting on Department of Buildings Application No. 301216716, reads:

"Proposed physical culture establishment is contrary to ZR Section 42-10 and requires BSA approval as per ZR 73-36"; and

WHEREAS, a public hearing was held on this application on February 4, 2005 after due notice by publication in *The City Record*, and then to decision on March 15, 2005; and

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

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WHEREAS, Community Board No. 1, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit within a M1-2 zoning district, the legalization of a physical culture establishment located on the second floor of an existing mixed-use building, contrary to Z.R. § 42-10; and

WHEREAS, on January 28, 2003, the Board granted an application under Calendar No. 366-01-BZ for the subject premises to permit the conversion of the fourth, fifth and sixth floors of a six-story manufacturing building to residential occupancy; and

WHEREAS, the applicant represents that the PCE will occupy a total area of 10,036 sq. ft., on the second floor level, serviced by two sets of stairs as well as two elevators; and

WHEREAS, the applicant states that the PCE will contain workout equipment, open spaces for aerobics, martial arts and other and programs for physical improvement, as well as areas for sun tanning and the practice of massage; all massages will be performed by New York State licensed masseurs or masseuses; and

WHEREAS, the PCE will operate from 5 AM to 11 PM Monday through Friday, 6 AM to 7 PM Saturday, and 7 AM to 7 PM Sunday; and

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

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

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

WHEREAS, therefore the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-36 and 73-03; and

THAT the hours of operation shall be limited to from 5 AM to 11 PM Monday through Friday, 6 AM to 7 PM Saturday, and 7 AM to 7 PM Sunday;

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

THAT all fire protection measures indicated on the BSA-approved plans shall be installed and maintained;

THAT all exiting requirements shall be as reviewed and approved by the Department of Buildings;

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; 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. 04BSA-0211K, dated May 24, 2004; 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; 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, 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 Z.R. §§ 73-36 and 73-03, to permit the legalization of a physical culture establishment on the second floor of an existing mixed-use building, located within a M1-2 zoning district, contrary to Z.R. § 42-10; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 1, 2004"-(1) sheet and "Received February 28, 2005"-(2) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years from January 1, 2005, expiring on January 1, 2015;

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

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

THAT the 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, March 15, 2005.

361-02-BZ

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

SUBJECT - Application December 13, 2002 and updated January 5, 2004 - under Z.R. §72-21 to permit the proposed renovation and

MINUTES

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

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

COMMUNITY BOARD #7BK

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to April 12, 2005, at 1:30 A.M., for defer decision.

357-03-BZ

APPLICANT - Agusta & Ross, for ECROB, LLC., owner.

SUBJECT - Application November 19, 2003 - under Z.R. §72-21 to permit the proposed four-story and penthouse multiple dwelling in an M1-2 district contrary to Z.R. §42-10.

PREMISES AFFECTED - 33 Berry Street, a/k/a 144 North 12th Street, southwest corner of North 12th Street and Berry Street, Block 2290, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES - None.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 1:30 P.M., for decision, hearing closed.

6-04-BZ

APPLICANT - Sheldon Lobel, Esq. for TSI Bay Ridge, Inc. dba New York Sports Club, lessee.

SUBJECT - Application January 7, 2004 - under Z.R. §72-21 to legalize an existing physical cultural establishment in a three story building within a R-6/C1-3/R-6 zoning district.

PREMISES AFFECTED - 7118-7124 Third Avenue, between 71st street and 72nd Street, Block 5890, Lot 43, Borough of Brooklyn.

247-04-BZ

APPLICANT - Sheldon Lobel, P.C., for BC Merrick Storage LP, owner.

SUBJECT - Application July 7, 2004 - under Z.R. §72-21, to permit the proposed enlargement of a two-story storage facility (Use Group 16) in a C8-1 zoning district, which creates non-compliance by exceeding the permitted floor area authorized by Section 33-122 of the Zoning Resolution and creates a second floor within a rear yard equivalent, increasing the degree of non-compliance contrary to Sections 54-31 and 33-283 of the Zoning Resolution.

PREMISES AFFECTED - 22-20 Merrick Blvd., Northern side of the area bounded by Merrick Blvd., 125th Avenue, Merrill Street and Baisley Blvd., Block 12516, Lot 37, Borough of Queens.

COMMUNITY BOARD #10BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Laid over to April 12, 2005, at 1:30 P.M., for continued hearing.

134-04-BZ

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

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

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

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Barbara Hair.

ACTION OF THE BOARD - Laid over to May 24, 2005, at 1:30 p.m., for defer decision.

212-04-BZ

APPLICANT - Rampulla Associates Architects, for G.A.C. Caterers, Inc., owner.

SUBJECT - Application May 21, 2004 - under Z.R. §72-21 to permit the proposed erection and maintenance of a cellar and two (2) story photography and video studio, Use Group 6, located in an R3-2 zoning district, which is contrary to Z.R. §22-10.

PREMISES AFFECTED - 2360 Hylan Boulevard, a/k/a 333 Otis Avenue, between Otis and Bryant Avenues, Block 3905, Lot 17, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Philip Rampulla.

For Opposition: Edward Vamero and Silvia Mazza.

ACTION OF THE BOARD - Laid over to May 24, 2005, at 1:30 P.M., for continued hearing.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Richard Lobel and David Levefeld.

ACTION OF THE BOARD - Laid over to April 19, 2005, at 1:30 P.M., for continued hearing.

297-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Arthur Djmal, owner.

SUBJECT - Application January 18, 2005 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family dwelling, Use Group 1, located in an R-2 zoning district, which does not comply with the zoning requirement for floor area ratio, is contrary to Z.R. §23-141.

PREMISES AFFECTED - 1174 East 22nd Street, southwest

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corner of Avenue "K", Block 7621, Lot 47, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Richard Lobel.

ACTION OF THE BOARD - Laid over to April 19, 2005, at 1:30 P.M., for continued hearing.

315-04-BZ thru 318-04-BZ

APPLICANT - Steve Sinacori/Stadtmauer Bailkin, for Frank Mignone, owner.

SUBJECT - Application September 20, 2004 - Under Z.R. §72-21 to permit the proposed development which will contain four three-family homes (Use Group 2), within an M1-1 Zoning District which is contrary to Section 42-00 of the Resolution.

PREMISES AFFECTED -

1732 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 127), Borough of Brooklyn.

1734 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 128), Borough of Brooklyn.

1736 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 129), Borough of Brooklyn.

1738 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 130), Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Steven Sinacori.

ACTION OF THE BOARD - Laid over to May 10, 2005, at 1:30 P.M., for continued hearing.

363-04-BZ

APPLICANT - Herrick Feinstein, LLP, for 6002 Fort Hamilton Parkway Partners, owners.

SPECIAL MEETING WEDNESDAY MORNING, MARCH 16, 2005 10:00 A.M.

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

301-04-BZY

APPLICANT - Rothkrug, Rothkrug, Weinberg & Spector, for Medhat M. Hanna, owner.

SUBJECT - Application September 10, 2004 - Application to complete construction for a minor development as per Z.R. §11-331.

PREMISES AFFECTED - 102 Greaves Avenue, corner of Dewey Avenue, Block 4568, Lot 40, Borough of Staten Island.

APPEARANCES -

SUBJECT - Application November 18, 2004 - under Z.R. §§72-01(b) and 72-21 to permit in an M1-1 district, approval sought to convert an existing industrial building to residential use. The proposed development will contain 115,244 SF of residential space containing 90 dwelling units, as well as 9,630 SF of retail space. There will be 90 parking spaces. The development is contrary to district use regulations per Section 42-00.

PREMISES AFFECTED - 6002 Fort Hamilton Parkway, a/k/a 949/59 61st Street, a/k/a 940/66 60th Street, south side of 61st Street, east side, of Fort Hamilton Parkway and north side of 60th Street, Block 5715, Lots 21 and 27, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Mitchell Korbey and Jack Freeman.

ACTION OF THE BOARD - Laid over to April 19, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 4:00 P.M.

For Applicant: Adam W. Rothkrug.

For Opposition: Council Member Andrew Lanza, Steven Morello, Ralph R. Cagro and others.

ACTION OF THE BOARD - Laid over to April 12, 2005, at 10 A.M., for continued hearing.

303-04-BZY thru 308-04-BZY

APPLICANT - Edward Lauria, P.E., for Fred LaRocca, owner.

SUBJECT - Application September 10, 2004 - Application to complete construction for a minor development as per Z.R. §11-331.

PREMISES AFFECTED -

81 Lorrain Avenue, north side, 220' west of Ralph Avenue, Block 6212, Lot 62, Borough of Staten Island.

85 Lorrain Avenue, north side, 220' west of Ralph Avenue, Block 6212, Lot 61, Borough of Staten Island.

89 Lorrain Avenue, north side, 220' west of Ralph

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Avenue, Block 6212, Lot 58, Borough of Staten Island.
93 Lorrain Avenue, north side, 220' west of Ralph Avenue, Block 6212, Lot 56, Borough of Staten Island.
88 Jeannette Avenue, north side, 220' west of Ralph Avenue and Lorrain Avenues, Block 6212, Lot 26, Borough of Staten Island.
92 Jeannette Avenue, north side, 220' west of Ralph Avenue and Lorrain Avenues, Block 6212, Lot 27, Borough of Staten Island.

APPEARANCES -

For Applicant: Edward Laura.

ACTION OF THE BOARD - Laid over to April 12, 2005, at 10 A.M., for continued hearing.

309-04-BZY & 310-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Steeplechase Building Corp, owner.

SUBJECT - Application September 13, 2004 - Application to extend time to complete construction for a major development as per Z.R. §11-331.

PREMISES AFFECTED -

65 North Burgher Avenue, east side, 630.42' south of Richmond Terrace, Block 158, Lot 173, Borough of Staten Island.

67 North Burgher Avenue, east side, 655.42' south of Richmond Terrace, Block 158, Lot 171, Borough of Staten Island.

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Laid over to April 19, 2005, at 10 A.M., for continued hearing.

324-04-BZY

For Applicant: Adam W. Rothkrug and Orazio LaPietra.

For Opposition: James Vacca, Community Board #10, Christopher Tocca and other.

ACTION OF THE BOARD - Laid over to April 19, 2005, at 10 A.M., for continued hearing.

349-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Anamika Kaur Sahni, owner.

SUBJECT - Application October 28, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

PREMISES AFFECTED - 1420 Balcom Avenue, east side, 225' north of Latting Street, Block 5370, Lot 10, Borough of The Bronx.

COMMUNITY BOARD#10BX

APPEARANCES -

For Opposition: James Vacca, Community Board #10.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

APPLICANT - Edward Lauria, P.E., for Peter Rendel, owner.
SUBJECT - Application September 13, 2004 - Application to extend time to complete construction for a major development pursuant to Z.R. §11-331.

PREMISES AFFECTED - 1150 Arden Avenue, northeast side, 736.38' southeast of Ralph and Arden Avenues, Block 6212, Lot 115, Borough of Staten Island.

APPEARANCES -

For Applicant: Edward Lauria, Igor Neghdonou and Alexandra Riplan.

For Opposition: Council Member Andrew Lanza.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to April 12, 2005, at 10 A.M., for decision, hearing closed.

347-04-BZY & 348-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Ana Canton Ramirez, owner.

SUBJECT - Application October 28, 2004 - Application to extend time to complete construction for a major development pursuant to Z.R. §11-331.

PREMISES AFFECTED -

3056 Cross Bronx Expressway, west side, 176.54' north of Sampson Avenue, Block 5443, Lot 71, Borough of The Bronx.

3058 Cross Bronx Expressway, west side, 119.70' north of Sampson Avenue, Block 5443, Lot 80, Borough of The Bronx.

COMMUNITY BOARD#10BX

APPEARANCES -

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to April 19, 2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 12:00 P.M.

BULLETIN

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April 7, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE - 40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD - 40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @ <http://www.nyc.gov/html/bsa/home.html>

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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218-96-BZ 138 East 39th Street, Manhattan
350-04-BZ 3450 Wayne Avenue, The Bronx

DOCKETS

New Case Filed Up to March 29, 2005

52-05-BZ B.BK. 6209 11th Avenue, northeast corner of 63rd Street, Block 5731, Lot 2, Borough of Brooklyn. N.B.#301757061. Proposed development of a six-story and cellar building, with community use on floors one through three, residential use on floors three through six, and with parking in the cellar, located in a C1-2 within an R5 zoning district.

COMMUNITY BOARD #10BK

53-05-A B.Q. 62-41 Forest Avenue, east side, 216' south of Metropolitan Avenue, Block 3492, Lots 25, 28, 55 and 58(Tentative Lot 25), Borough of Queens. N.B.#402039487. Proposed construction of a three and four story residential and commercial building, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

54-05-A B.BK. 1824 53rd Street, southeast corner of 18th Avenue, Block 5480, Lot 14, Borough of Brooklyn. Applic.#300131122. Application to revoke Certificate of Occupancy No. 300131122, on the basis that the Certificate of Occupancy allows conditions at the subject premises that are contrary to the Zoning Resolution and the Administrative Code.

55-05-A B.Q. 40 Ocean Avenue, west side, 295.32' north of Rockaway Boulevard, Block 16350, Lot 300, Borough of Queens. N.B.#402074027. Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

56-05-A B.Q. 10 Janet Lane, south side, 235.6' west of Beach 201st Street, Block 16350, Lot 400, Borough of Queens. N.B.#402074036. Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

57-05-A B.Q. 667 Highland Place, east side, .10' north of 12th Avenue,, Block 16350, Lot 300, Borough of Queens. N.B.#402059179. Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

58-05-A B.Q. 15 Ocean Avenue, east side, 295.32' north of Rockaway Point Boulevard, Block 16350, Lot 300, Borough of Queens. N.B.#402074018. Proposed enlargement to an existing one family dwelling not fronting on a legally mapped

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

59-05-A B.Q. 5 Courtenay Lane, north side, 237.31' east of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens. N.B.#402059160. Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, also a proposal to upgrade the private disposal in the bed of an existing service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

60-05-BZ B.BK. 1024 Lancaster Avenue, between East 12th Street and Coney Island Avenue, Block 7394, Lot 50, Borough of Brooklyn. Applic.#301898098. Proposed enlargement of an existing single family residence, Use Group 1, located in an R4 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, lot coverage and rear yard, is contrary to Z.R. §23-141(b) and §23-47.

COMMUNITY BOARD #15BK

61-05-A B.BK. 35 McDonald Avenue, aka 25/47 McDonald Avenue, east side, between 20th Street and Terrace Place, Block 895, Lot 1, Borough of Brooklyn. Applic.#301604299. Proposed erection of a four-story residential building, located partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

62-05-BZ B.BK. 597 Gates Avenue, north side, 242.00' west of Throop Avenue, Block 1810, Lot 59, Borough of Brooklyn. Applic.#301425615. Proposed off-street parking facility, located within 600 feet, accessory to an existing community facility use located at 470 Throop Avenue, situated in an R6 zoning district, is contrary to Z.R. §23-53.

COMMUNITY BOARD #3BK

DOCKETS

63-05-BZ B.BK. 2324 West 13th Street, between Avenues "W and "X", 150' south of Avenue "W", Block 7160, Lot 15, Borough of Brooklyn. Alt.#301900833. Proposed two story addition, to an existing community facility, located in an R5 within an R5/C1-2 zoning district, which does not comply with the zoning requirements for front yard, maximum street wall height and lot coverage, is contrary to Z.R.§24-11, §24-34 and §77-28.

COMMUNITY BOARD #13BK

64-05-BZ B.S.I. 40 Conyningham Avenue, west side, between Springhill and Castleton Avenues, Block 101, Lot 445, Borough of Staten Island. Applic.#500753749. Proposed construction of a one family dwelling, Use Group 1, located in an R1-2 zoning district, which does not comply with the zoning requirements, for lot width, lot area and side yard, is contrary to Z.R. §23-32 and §23-461.

COMMUNITY BOARD #1SI

65-05-BZ B.BX. 269/75 East Burnside Avenue, north side, between Ryer and Anthony Avenues, Block 3156, Lot 85, Borough of The Bronx. Applic.#200929200.

The legalization of an automotive service station without the sale of gasoline, is contrary to a previous variance granted by the Board under Cal. No. 931-86-BZ, which permitted a gasoline service station with accessory automotive repairs in a C1-4/R8 zoning district.

COMMUNITY BOARD #5BX

66-05-BZ B.BX. 1236 Prospect Avenue, southeast corner of Home Street, Block 2693, Lot 29, Borough of The Bronx. Applic.#200929193. The legalization of an automotive service station without the sale of gasoline, is contrary to a previous variance granted by the Board under Cal. No. 176-35-BZ, which permitted a gasoline service station with accessory automotive repairs in a C2-4/R7-1 zoning district.

COMMUNITY BOARD #2BX

67-05-BZ B.M. 1710 Broadway, northeast corner of West 54th Street, Block 1026, Lot 21, Borough of Manhattan. Applic.#104053612. Proposed physical culture establishment, within the cellar level, with entry on the ground level, of an existing six-story building, located in a C6-6/C6-7 zoning district, requires a special permit from the Board as per Z.R. §73-36.

COMMUNITY BOARD #5M

68-05-BZ B.BK. 4911 17TH Avenue, east side, between 49th and 50th Streets, Block 5455, Lot 5, Borough of Brooklyn.

Alt.#301108450. Proposed enlargement of a three story plus attic building, currently housing a synagogue, with accessory residential on the second, third, and attic floors, which does comply with the zoning requirements for floor area ratio, side and front yards, is contrary to Z.R. §24-11, §24-162, §24-35, §24-34 and §23-141.

COMMUNITY BOARD #12BK

69-05-BZ B.BK. 1557 East 27th Street, 527.8' north of Avenue "P", Block 7688, Lot 19, Borough of Brooklyn. Applic.#301918628. Proposed enlargement of an existing one family dwelling, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage and rear yard, is contrary to Z.R. §23-141(b) and §23-47.

COMMUNITY BOARD #15BK

70-05-BZ B.BK. 2905 Avenue "M", north side, 25' east of East 29th Street, Block 7647, Lot 8, Borough of Brooklyn. Applic.#301911634. Proposed enlargement of an existing one family dwelling, Use Group 1, located in an R-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, and side yards, is contrary to Z.R. §23-141 (a) and §23-461(a).

COMMUNITY BOARD #14BK

71-05-BZ B.BK. 1226 East 29th Street, west side, between Avenues "L and M", Block 7646, Lot 56, Borough of Brooklyn. Applic.#301889767. Proposed enlargement of an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, and side and rear yards, is contrary to Z.R. §23-141, §23-46 and §23-47

COMMUNITY BOARD #14BK

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

APRIL 19, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 19, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

APPEALS CALENDAR

22-05-A

APPLICANT - Dennis Dell'Angelo, President for Pleasant Plains, Richmond Valley, Civic Association for Joseph Galante, owner.

SUBJECT - Application February 7, 2005 - An appeal challenging the Department of Buildings' ("DOB") decision that approved and permitted the building of two (2) houses on a lot containing less than the required square footage as zoned for in the Special South Richmond District ("SSRD"), also this appeal is seeking to reverse the DOB' decision not to enforce §107-42 of the SSRD within NYC Zoning Resolution.

PREMISES AFFECTED - 5728 Amboy Road and 3 Haynes Street, southeast corner, Block 6654, Lot 9, Borough of Staten Island.

COMMUNITY BOARD #3S.I.

APRIL 19, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, April 19, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

257-04-BZ

APPLICANT - Patrick W. Jones, Petraro & Jones, LLP, for Boerum Place, LLC, owner.

SUBJECT - Application November 19, 2004 - under Z.R. §72-21, to permit the proposed construction of an eight story mixed-use, retail-residential building, located in an R6A, R6, C2-4 and C2-3 zoning districts which does not comply with the zoning requirements for floor area ratio, lot coverage, building height and loading berth, is contrary to Z.R. §23-145, §33-121, §23-633, §35-25 and §36-22.

SUBJECT - Application September 7, 2004 - under Z.R. §72-21 - Proposed construction of a one-story retail building, Use Group 6, located in an R3-2 zoning district, is contrary to Z.R. §22-11.

PREMISES AFFECTED - 111-02 Sutphin Boulevard, (a/k/a 111-04/12 Sutphin Boulevard), southeast corner of 111th Avenue, Block 11965, Lots 26, 188 and 189 (tentative 26), Borough of Queens.

COMMUNITY BOARD #12Q

PREMISES AFFECTED - 252/60 Atlantic Avenue (a/k/a 83/87 Boerum Place; 239/47 Pacific Street), east side of Boerum Place, between Atlantic Avenue and Pacific Street, Block 181, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

272-04-BZ

APPLICANT - Sullivan Chester & Gardner, for Chickie, LLC, owner.

SUBJECT - Application August 5, 2004 - under Z.R. §72-21 to permit the proposed five story, twenty- unit multiple dwelling, Use Group 2, located in an R-5 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, density, side and front yards, height and/or setback and parking spaces, is contrary to Z.R. §23-141, §23-22, §23-45a, §23-461(a and b), §23-462, §23-631d and §25-23.

PREMISES AFFECTED - 14-38/40 31st Drive, East side, between 14th and 21st Streets, Block 531, Lots 50 and 51, Borough of Queens.

COMMUNITY BOARD #1Q

292-04-BZ

APPLICANT - Eric Palatnik, P.C., for Daniel Hirsch, owner.

SUBJECT - Application August 23, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, rear and side yards, is contrary to Z.R. 23-141(a), §23-47 and §23-48.

PREMISES AFFECTED - 1340 East 26th Street, between Avenues "M and N", Block 7661, Lot 59, Borough of Brooklyn.

COMMUNITY BOARD #14BK

299-04-BZ

APPLICANT - Patrick W. Jones, Petraro & Jones, LLP, for Sutphin Boulevard, owner.

391-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Meilech Fastag, owner.

CALENDAR

SUBJECT - Application December 13, 2004 - under Z.R. §73-622 Proposed enlargement to an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio and open space ratio, is contrary to Z.R. §23-141(a).

PREMISES AFFECTED - 2610 Avenue "L", south side, 60' east of the intersection of Avenue "L" and East 26th Street, Block 7644, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Pasquale Pacifico, Executive Director

APRIL 20, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 20, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

DISMISSAL CALENDAR

45-65-BZ

APPLICANT - New York City Board of Standards and Appeals.
OWNER OF PREMISES: John Catsimatidis c/o Red Apple Group.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 1526 Grand Concourse aka 1539 Sheridan Avenue, Sheridan Avenue between East 172nd Street and Mount Eden Parkway, Block 2821, Lot 11, Borough of The Bronx.

COMMUNITY BOARD #4BX

154-04-BZ

APPLICANT - New York City Board of Standards and Appeals.
OWNER OF PREMISES: Wavebrook Associates.

245-04-BZ

APPLICANT - New York City Board of Standards and Appeals.
OWNER OF PREMISES: Mark Stern

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 102-104 Franklin Avenue, westerly side of Franklin Avenue, 182' south of Park Avenue, Block 1898, Lots 45 & 46, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APRIL 20, 2005, 10:00 A.M.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 63 Rapeleye Street, north side of Rapeleye Street, 116' east of Hamilton Avenue, Block 363, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD #6BK

160-04-BZ/161-04-A

APPLICANT - New York City Board of Standards and Appeals.
OWNER OF PREMISES: Daffna, LLC.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 77 Washington Avenue, easterly side of Washington Avenue, 170' north of Park Avenue, Block 1875, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #2BK

194-04-BZ

APPLICANT - New York City Board of Standards and Appeals.
OWNER OF PREMISES: Always Ready Corp.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 9029 Krier Place, aka 900 E. 92nd Street, 142' west of 92nd Street, Block 8124, Lot 75 (ten.180), Borough of Brooklyn.

COMMUNITY BOARD #18BK

239-04-BZ

APPLICANT - New York City Board of Standards and Appeals.
OWNER OF PREMISES: 341 Scholes Street, LLC.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 225 Starr Street, northerly side of Starr Street, 304' east of Irving Avenue, Block 3188, Lot 53, Borough of Brooklyn.

COMMUNITY BOARD #4BK

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 20, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL HEARING

146-03-BZ/139-02-A

APPLICANT - Jesse Masyr, Wachtel & Masyr, LLP, for 1511

CALENDAR

Third Avenue Assoc., owner.

SUBJECT - Application January 19, 2005 - request for a rehearing to permit the filing of a new special permit application pursuant to Z.R.§73-36 to legalize the operation of a physical culture establishment based on substantial new evidence and material changes in the proposed plans. Based on the new evidence, this application requests that the Board permit the filing of a modification to a condition in a previously decided Appeals case under Cal. No. 139-02-A.

PREMISES AFFECTED - 1511 Third Avenue, aka 201 East 85th Street, southwest corner bounded by Second and Third Avenues and East 85th & 86th Streets, Block 1531, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

Pasquale Pacifico, Executive Director

**REGULAR MEETING
TUESDAY MORNING, MARCH 29, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, January 25, 2005 and January 26, 2005, were approved as printed in the Bulletin of February 3, 2005, Volume 90, Nos. 4-5.

SPECIAL ORDER CALENDAR

300-73-BZ

APPLICANT - Rothkrug Rothkrug Weinberg and Spector, LLP, for Vito Santoro, owner.

SUBJECT - Application March 2, 2004 - Reopening for an extension of term for a commercial vehicle storage facility and for an amendment to convert a portion of the facility for minor auto repair UG 16, located in an R-5 zoning district.

PREMISES AFFECTED - 101-08 97th Avenue, 97th Avenue, 50' west of 102nd Street, Block 9403, Lot 3, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on January 25, 2005, after due notice by publication in the City Record, laid over to March 1, 2005 and then to March 29, 2005 for decision; and

WHEREAS, Community Board No. 9, Queens recommends approval of the subject application; and

WHEREAS, on May 17, 1973, under the subject calendar number, the Board granted an application under Z.R. § 72-21, to permit, in an R5 zoning district, the construction of a one-story enlargement to an existing commercial vehicle storage establishment for a term of ten years, contrary to Z.R. §§22-00, 52-22, 52-41 and 23-142; and

WHEREAS, at various times since 1967, under the same calendar number, the Board has reopened the application to allow for other site modifications and extensions of term, the last being granted on February 7, 1995; and

WHEREAS, the most recent term of the variance expired on May 14, 2004; and

WHEREAS, the applicant now seeks an extension of term of the variance and an amendment to permit the use of a portion of the premises for minor mechanical repairs; and

WHEREAS, the applicant states that the proposed accessory repair use will take place within the easterly portion of the existing structure, which is completely enclosed and fully accessible with its own overhead door for egress/ingress; and

WHEREAS, the applicant further states that: (1) the proposed repair use will be relatively minor in nature and will be performed exclusively upon the vehicles of the fuel oil company at the premises, which are already stored there and (2) no body and fender repairs will be performed on the premises, so the proposed repair use will not interfere with the use and enjoyment of any surrounding property; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of an extension of term and the requested amendment to the prior resolution with the conditions listed below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit a APPLICANT - Kenneth H. Koons, Architect, for Pauline O'Sullivan, owner.

SUBJECT -Application November 23, 2004 - Reopening for an extension of term of variance for an eating and drinking establishment, without restrictions on entertainment and dancing, Use Group 12, located in a C2-3 within an R6 zoning district.

PREMISES AFFECTED - 202 West 236th Street, a/k/a 5757 Broadway, southwest corner of Broadway and West 236th Street, Block 5760, Lot 150, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES -

For Applicant: Kenneth H. Koons.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

an extension of term of the variance for an additional ten (10) years from the date of this resolution to expire on March 28, 2015 and an amendment to permit use of a portion of the premises for minor mechanical repairs; on condition that all work shall substantially conform to drawings as filed with this application, marked `Received March 2, 2005' - (1) sheet and `Received March 15, 2005'-(1) sheet; and on further condition:

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

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

THAT the repair facility's hours of operation shall be 7:00 am to 7:00 pm, Monday to Saturday;

THAT the minor mechanical repairs on the premises are limited to general vehicle maintenance including tune-ups, brake service, oil and other fluid, filter and gasket changes,.

THAT the use of an acetylene torch and paint spraying is not permitted on the premises;

THAT no automotive repair will be conducted in the open yard of the site;

THAT the open yard will be kept free of debris;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB Permit No.401730935)

Adopted by the Board of Standards and Appeals, March 29, 2005.

121-93-BZ

Negative:.....0

THE RESOLUTION-

WHEREAS, this is an application for a re-opening and an extension of the term of a variance previously granted by the Board; and

WHEREAS, a public hearing was held on this application on March 1, 2005 after due notice by publication in the City Record, and then to decision on March 29, 2005; and

WHEREAS, Community Board No. 8, Bronx, recommends approval of the subject application; and

WHEREAS, the premises is within a C2-3 (R6) zoning district, is located on the southwest corner of Broadway and West 236th Street, and is currently improved upon with a four-story plus cellar building, with an eating and drinking

establishment without restrictions on entertaining or dancing (Use Group 12) and stores on the ground floor, and residential units on the second and third floors; and

WHEREAS, on February 14, 1989, under BSA Calendar No. 702-87-BZ, the Board granted a special permit under Z.R. §73-241, legalizing the existing eating and drinking establishment at the premises; and

WHEREAS, this special permit subsequently lapsed, though the eating and drinking establishment remained in active operation at the site; and

WHEREAS, on June 6, 1995, under the subject calendar number, the Board granted a variance under Z.R. § 72-21, legalizing the eating and drinking establishment use, and waiving certain bulk regulations related to a proposed expansion of the establishment; and

WHEREAS, on January 7, 1997, under the subject calendar number, the Board granted an amendment to the approved plans; specifically, the proposed enlargement of the eating and drinking establishment was abandoned, and therefore omitted from the plans; and

WHEREAS, the applicant now seeks an extension of the term of the use variance for ten years; and

WHEREAS, the Board has determined that the evidence in the record supports the grant of the requested extension of term.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to extend the term of a variance for an eating and drinking establishment without restrictions on entertainment or dancing (UG 12), previously granted by the Board, for a term of ten years; on condition that this use shall substantially conform to drawings for the ground floor and cellar of the building filed with this application marked 'Received March 10, 2005' - (2) sheets; and on further condition:

THAT the term of this variance shall be limited to ten years, to expire on June 6, 2015;

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

THAT all conditions from prior resolution(s) not specifically waived by the Board remain in effect and shall be listed on the certificate of occupancy if listed previously;

THAT the interior layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

WHEREAS, a public hearing was held on this application on March 8, 2005 after due notice by publication in the City Record, and then to decision on March 29, 2005; and

WHEREAS, on September 15, 1998, the Board granted a variance application under the subject calendar number to permit the erection of a nine-story plus penthouse building, with retail uses on the ground floor (Use Groups 2 and 6), located in a C2-8/R8B (TA) zoning district, with non-compliances as to height, setback, rear yard, minimum distance between legally required windows and side yard, contrary to Z.R. §§ 23-47, 23-692, 33-492 and 23-861; and

WHEREAS, the period in which to complete construction expired on September 15, 2002; and

WHEREAS, the applicant states that the reason for the requested extension of time is due to financial considerations; and

WHEREAS, therefore, the Board has determined that the

THAT all plans for the second and third floors previously stamped by the Board in relation to its January 7, 1997 grant remain in effect;

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

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

(DOB Application No. 200918230)

Adopted by the Board of Standards and Appeals, March 29, 2005.

183-97-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for Daniel M. Frishwasser, owner; 250 East 60th Street Co., LP, lessee.

SUBJECT - Application September 10, 2004 - to reopen and extend the time and waiver of the Rules and Procedures, in which to complete construction and obtain a new certificate of occupancy pursuant to the resolution adopted by the board on September 15, 1998.

PREMISES AFFECTED - 250 East 60th Street, south side of East 60th Street, Block 1414, Lot 20, Borough of Manhattan.

COMMUNITY BOARD#8M

APPEARANCES -

For Applicant: James P. Power.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and an extension of time to complete construction of, and obtain a certificate of occupancy for, a nine-story plus penthouse residential building previously approved by the Board; and

evidence in record supports the grant of the requested waiver and extension.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, said resolution having been adopted on May 2, 2000, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete construction of a nine-story plus penthouse building, with retail uses on the ground floor and to obtain a certificate of occupancy, for an additional four years from the date of this resolution to expire on March 28, 2009; on condition:

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

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. 101709126)

Adopted by the Board of Standards and Appeals, March 29, 2005.

158-02-BZ

APPLICANT - Eric Palatnik, P.C., for Torah Academy For Girls, owner.

SUBJECT - Application September 15, 2004 - reopening for an amendment to extend the time to obtain a certificate of occupancy which expired October 8, 2004.

PREMISES AFFECTED - 444 Beach 6th Street, between Jarvis and Meehan Avenues, Block 15596, Lot 1, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Trevis Savage and Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

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 ("CO") for a community facility; and

WHEREAS, a public hearing was held on this application on March 8, 2005, after due notice by publication in The City Record, and then to decision on March 28, 2005; and

WHEREAS, on October 8, 2002, the Board granted an application under the subject calendar number, to permit, in an R3-1 zoning district, the proposed enlargement of an existing two-story Community Facility (Use Group 3); and WHEREAS, the period in which to obtain the CO expired on October 8, 2004; and

WHEREAS, the applicant represents that a new CO could not
THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on March 1, 2005, after due notice by publication in the City Record, and then to decision on March 29, 2005; and

WHEREAS, Community Board No. 2, Manhattan, recommends approval of the subject application; said conditions are reflected below; and

WHEREAS, on April 27, 2004, under the subject calendar number, the Board granted an application under Z.R. § 72-21, to permit the proposed erection of a 120' high, 10-story mixed use building (Use Groups 2 and 6) consisting of residential apartments and local retail usage, located in an M1-5B zoning district, which is contrary to Z.R. § 42-10; and

WHEREAS, the applicant now seeks an amendment to the resolution to permit the replacement of the previously approved first

be obtained due to unexpected delays in making the required filings at the New York City Department of Buildings.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, said resolution having been adopted on October 8, 2002, so that as amended this portion of the resolution shall read: "to permit an extension of the time to obtain a Certificate of Occupancy for an additional two years from the date of this resolution to expire on March 29, 2007; on condition:

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

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 No. 401600736)

Adopted by the Board of Standards and Appeals, March 29, 2005.

69-03-BZ

APPLICANT - Friedman & Gotbaum, LLP, by Shelly Friedman, Esq., for 40 Bond Street Partners, LLC, owner.

SUBJECT - Application December 20, 2004 - reopening for an amendment to the resolution to modify the variance for a use conversion from manufacturing to residential that was originally granted on April 27, 2004.

PREMISES AFFECTED - 32-40 Bond Street, 163' east of the corner formed by the intersection of Bond and Lafayette Streets, Block 530, Lot 48, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Lori Cuisinier.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

floor retail use with residential townhouse use and the cellar level with accessory residential uses, a modified rear yard, a minor re-allocation of residential square footage at the rooftop level and minor modifications to the previously approved mechanical system located at such level; and

WHEREAS, the applicant specifically proposes: (1) to abandon the CPC special permit approving retail (and/or hotel use) on the ground floor, cellar, and sub-cellar of the premises; (2) to build five residential duplex units on the first and second floors as opposed to the construction set forth in the approved plans, which indicate 6,415 square feet of retail on the first floor and seven residential units on the second floor; and (3) to redistribute a small amount (936 square feet) of residential floor area to the penthouse; and

WHEREAS, the applicant states that the proposed plans do not increase the FAR, because the small amount of residential space added is offset by the reduced square footage of the

now-recessed 1st and 2nd floors as depicted in the revised plans; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of the requested amendment to the prior resolution.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit the replacement of the previously approved first floor retail use with residential townhouse use and the cellar level with accessory residential uses, a modified rear yard, a minor re-allocation of residential square footage at the rooftop level and minor modifications to the previously approved mechanical system located at such level; on condition that all work shall substantially conform to drawings as filed with this application, marked 'Received March 16, 2005'- (13) sheet; and on further condition:

THAT all use of the rear yard is to be reviewed and approved by the Department of Buildings;

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

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

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

(DOB Permit No. 103340396)

Adopted by the Board of Standards and Appeals, March 29, 2005.

200-24-BZ

APPLICANT - Stephen Ely, for Ebed Realty c/o Ruben Greco, owner.

SUBJECT - Application December 22, 2004 - reopening for an extension of time to obtain a Certificate of Occupancy, located in an R8 and C8-2 zoning district.

PREMISES AFFECTED - 3030 Jerome Avenue a/k/a 3103 Villa Avenue, 161.81' south of East 204th Street on the East Side of Jerome Avenue, Block 3321, Lot 25, Borough of The Bronx.

COMMUNITY BOARD #7BX

APPEARANCES -

For Applicant: Stephen Ely.

APPLICANT - Sheldon Lobel. P.C., for Farbod Realty Corp., owner; Harris G. Joseph, Inc., lessee.

SUBJECT - Application - November 5, 2004 - Extension of Term & Amendment for the the use of a Physical Cultural Establishment which was granted by BSA pursuant to Section 73-36 of the Zoning Resolution on February 4, 2003 for a term of two years. The application requests a change in the hours of operation contrary to the conditions set in the prior Resolution, located in a C5-2 zoning district.

PREMISES AFFECTED - 80 Madison Avenue, between 28th and 29th Streets, Block 858, Lot 14, Borough of Manhattan.

COMMUNITY BOARD#5M

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

ACTION OF THE BOARD - Laid over to April 12, 2005, at 10 A.M., for decision, hearing closed.

100-71-BZ

APPLICANT - The Agusta Group, for Maurice Cohen/1065 Eagle, LLC, owner.

SUBJECT - Application July 21, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance to permit the use of an open area for the sale of used cars (U.G. 16) and accessory parking on a lot containing an existing automobile repair shop, located in an R5 zoning district.

PREMISES AFFECTED - 61-03 Northern Boulevard, northeast corner of Northern Boulevard, and 61st Street, Block 1162, lot 53, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Laid over to May 10, 2005, at 10 A.M., for continued hearing.

189-96-BZ

APPLICANT - John C Chen, for Ping Yee, owner; Edith D'Angelo-Cnandong, lessee.

SUBJECT - Application September 8, 2004 - Extension of Term-Waiver- for an eating and drinking establishment with dancing, Located in an C2-3 overlay within an R6 zoning district. PREMISES AFFECTED - 85-12 Roosevelt Avenue, (85-10 Roosevelt Avenue), south side of Roosevelt Avenue, 58' east side of Forley Street, Block 1502, Lot 3, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES -

For Applicant: John Chen and John Feisco, Esq..

ACTION OF THE BOARD - Laid over to May 10, 2005, at 10 A.M., for continued hearing.

28-02-BZ

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

ACTION OF THE BOARD - Laid over to April 19, 2005, at 10 A.M., for decision, hearing closed.

377-03-BZ

APPLICANT - Fischbein Badillo Wagner Harding, LLP, for Shinbone Alley Associates, LLC, owner.

SUBJECT - Application February 18, 2005 - reopening for an amendment to the resolution granted on June 8, 2004 to rearrange approve floor area and units.

PREMISES AFFECTED - 25 Bond Street, south side of Bond Street, 70' east of Lafayette Street, Block 529, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Howard Hornstein and Peter Geis.

For Opposition: Stuart Klein and Gina Nanni O'Brien

ACTION OF THE BOARD - Laid over to May 10, 2005, at 10 A.M., for continued hearing.

APPEALS CALENDAR

271-04-A

APPLICANT - Pier 63 Maritime, Inc. , by Michele A. Luzio.

SUBJECT - Application August 3, 2004 - An appeal challenging the Department of Buildings jurisdiction to issue summons to subject property, on the grounds that the NYC Department of Business Services has exclusive jurisdiction over The "Barge".

PREMISES AFFECTED - One Pier 63, at 23rd Street and The Hudson River, (The Barge), Block 662, Lot 2, Borough of Manhattan.

APPEARANCES -

For Opposition: Janine A. Gaylard, Department of Buildings.

ACTION OF THE BOARD -Application dismissed.

THE VOTE TO GRANT -

Affirmative:0

Negative Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

Not Voting: Vice-Chair Babbar1

THE RESOLUTION -

WHEREAS, the instant appeal comes before the Board in response to a final determination, set forth in Criminal Court summons No. 406908328, dated July 2, 2004 ("2004 Summons") issued by the New York City Department of Buildings ("DOB"), that charges Pier 63, Maritime, Inc. ("appellant") with, among other things, the failure to obtain a Place of Assembly Permit and Certificate of Occupancy for the barge permanently moored at Pier 63 ("Barge"); and

WHEREAS, this appeal challenges DOB's jurisdiction to issue the summons to the appellant; and

WHEREAS a public hearing was held on this application on December 14, 2004 after due notice by publication in The City Record, with continued hearings on February 8, 2005 and March 8, 2005, and then to decision on March 29, 2005; and

WHEREAS, both DOB and the appellant were represented by

WHEREAS, appellant now challenges DOB's jurisdiction to issue the 2004 Summons and to require appellant to obtain a place of assembly permit or a certificate of occupancy for the premises; and

WHEREAS, DOB's primary assertion is that the doctrine of collateral estoppel precludes the Board's consideration of appellant's challenge of DOB's jurisdiction in this matter; and

WHEREAS, specifically, DOB states that the Board should not decide the issue of whether DOB has jurisdiction over the appellant because this issue was necessarily decided in the Criminal Court Decision; and

WHEREAS, DOB further maintains that the doctrine of collateral estoppel applies to criminal court decisions in subsequent administrative venues, and has submitted case law regarding the same; and

WHEREAS, the Board agrees with DOB that the following are

counsel in this appeal; and

WHEREAS, the premises consists of a barge permanently moored at Pier 63 in the Hudson River at West 23rd Street; the barge is approximately 320 ft. by 40 ft.; and

WHEREAS, an old lightship vessel, known as the Frying Pan, is also permanently moored at Pier 63, and is a subtenant of the appellant; and

WHEREAS, previously, on July 26, 2002, a DOB inspector inspected the premises and issued Notice of Violation No. 072602CMTF01RNS and Criminal Court summons No. 406907366-8 ("2002 Summons"), for, among other things, operating a cabaret and eating/drinking establishment without a place of assembly permit or approved place of assembly plan; and

WHEREAS, on November 14, 2002, the appellant moved in Criminal Court to dismiss the 2002 Summons on various jurisdictional grounds; and

WHEREAS, appellant states that one of the grounds upon which it filed its motion to dismiss in the Criminal Court proceeding was that DOB lacked jurisdiction to enforce violations against the premises as it is situated on waterfront property and engaged in activities in furtherance of waterfront navigation; and

WHEREAS, by decision and order dated March 11, 2003 (the "Criminal Court Decision"), Hon. Martin P. Murphy, Judge of the Criminal Court, denied appellant's motion and held "that the City of New York has jurisdiction over the Barge and the Frying Pan, to enforce the Building Code as well as the Fire Prevention Code"; and

WHEREAS, on July 2, 2004, DOB again inspected the premises and issued NOV No. 070204CNTF02RNS and the 2004 Summons; and

WHEREAS, the appellant notes that at the same time that DOB served the 2004 Summons, DOB also served upon the appellant a Notice of Violation and Hearing before the Environmental Control Board ("ECB"), under Violation No. 34400007R, again charging appellant with operating a permanently moored barge as a place of assembly without a place of assembly permit; and

WHEREAS, the ECB issued a Decision and Order on October 18, 2004 dismissing the violation against the appellant; and

WHEREAS, the ECB Administrative Law Judge stated in her decision that DOB lacked jurisdiction to issue the subject violation; and

the elements necessary to invoke the doctrine of collateral estoppel: (1) the issue raised in the instant proceeding is identical to that decided in a prior proceeding; (2) the issue was necessarily decided in the prior proceeding; and (3) the appellant had a full and fair opportunity to litigate the issue in the prior proceeding; and

WHEREAS, as per the first element of collateral estoppel, DOB argues that the issue raised in this appeal and in the Criminal Court proceeding are identical since: (1) both involve the issuance of a violation and summons by a DOB inspector for operation of the premises as a place of assembly without a place of assembly permit; (2) both violations and summonses name the appellant as defendant; and (3) in both proceedings, the question of whether DOB has jurisdiction over the appellant is tantamount; and

WHEREAS, the appellant argues that because the violations at issue in the Criminal Court Decision were not for failure to

possess a certificate of occupancy for the premises, whereas the 2004 NOV does cite such a violation, the two proceedings are not identical; and

WHEREAS, however, the issuance of additional code violations by DOB does not render each subsequent violation a new issue to be re-litigated because the issue that is essential to both challenges by the appellant relates to whether DOB has jurisdiction to enforce the Building Code over the premises and not what types of violations DOB issues; and

WHEREAS, the appellant further argues that the issue raised in this proceeding is not identical to that raised in the prior proceeding because the Criminal Court Decision applied to both the Frying Pan and the Barge, and this proceeding only applies to the Barge; and

WHEREAS, however, the Criminal Court's consideration of the Frying Pan in addition to the Barge in the prior proceeding in no way negates or modifies its holding that the City has jurisdiction over the Barge; and

WHEREAS, appellant also argues that the issue in this proceeding is not identical to the Criminal Court proceeding because the judge in that proceeding decided whether New York City or New York State had jurisdiction over the Barge, and in this proceeding the Board is being asked to analyze whether DOB has jurisdiction over the Barge; and

WHEREAS, the appellant acknowledges that one of the grounds upon which it filed its motion to dismiss in the Criminal Court proceeding was that DOB lacked jurisdiction over the Barge; and

WHEREAS, the Criminal Court Decision clearly states that appellant's "contention that the Department of Buildings lacks jurisdiction . is without merit"; and

WHEREAS, in holding that the City of New York has jurisdiction over the Barge, the Criminal Court necessarily found that DOB, specifically, had jurisdiction over the Barge, since the motion to dismiss was predicated on appellant's assertion that DOB did not have jurisdiction over the Barge, and such motion to dismiss was denied; and

WHEREAS, the issue raised in this proceeding, namely, whether DOB has jurisdiction over the Barge, is identical to the issue decided in the Criminal Court Decision; and

WHEREAS, as per the second element of collateral estoppel, whether the issue was necessarily decided in the prior proceeding, DOB states that the Criminal Court Decision contains a detailed analysis that addresses appellant's contention that DOB lacked jurisdiction over the premises; and

WHEREAS, the Board has determined that, based on the content of the Criminal Court Decision, it is collaterally estopped from deciding the issue of whether DOB has jurisdiction over the appellant; and

WHEREAS, both parties have submitted arguments and exhibits related to the merits of whether DOB had the jurisdiction to issue the summons and to order appellant to obtain a place of assembly permit and a certificate of occupancy; and

WHEREAS, since the Board is estopped from deciding de novo the issue of jurisdiction, it need not entertain the merits of appellant's claim.

Therefore it is resolved that the instant appeal is dismissed on the basis of collateral estoppel.

Adopted by the Board of Standards and Appeals, March 29, 2005.

WHEREAS, the Criminal Court Decision clearly addresses the City's jurisdiction over the Barge; and

WHEREAS, the appellant argues that the issue was not necessarily decided in the prior proceeding because there are inconsistent results between the Criminal Court Decision and the ECB Administrative Law Judge's decision, and, therefore, DOB has not met the second element of collateral estoppel; and

WHEREAS, the Board observes that the appellant has cited case law supporting such premise; and

WHEREAS, the full board of ECB has held that the principle of res judicata does not apply to decisions and orders of ECB Administrative Law Judges; and

WHEREAS, based upon the above, the jurisdictional issue was necessarily decided in the Criminal Court proceeding, notwithstanding the ECB Administrative Law Judge's determination; and

WHEREAS, as per the third element of collateral estoppel, whether there was a full and fair opportunity to litigate the issue in the prior proceeding, appellant argues that it was prevented from fully litigating the case because it did not have the opportunity to come to the Board prior to presenting its case in Criminal Court; and

WHEREAS, the Board has jurisdiction over final determinations of DOB, including summonses, and the appellant could have appealed the 2002 Summons had it so chosen; and

WHEREAS, however, appellant chose to challenge DOB's jurisdiction in Criminal Court; and

WHEREAS, Judge Murphy reviewed evidence submitted by the appellant, analyzed New York City statutes relating to jurisdiction of various New York City departments, and researched and cited New York State case law in arriving at his decision; and

WHEREAS, Judge Murphy dedicated the entire legal analysis portion of his decision to the issue of whether DOB had jurisdiction over the premises; and

WHEREAS, the appellant had a full and fair opportunity to litigate the issue of DOB's jurisdiction over appellant in the Criminal Court proceeding; and

WHEREAS, appellant made other supplemental arguments in support of this appeal, all of which the Board finds unpersuasive in light of the counter-arguments proffered by DOB; and

2-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Mr. & Mrs. Terrance Farrell, lessee.

SUBJECT - Application January 11, 2005 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system which is being upgraded in the bed of a private service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings Policy.

PREMISES AFFECTED -37 Marion Walk, east side, 102.98' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated December 15, 2004, acting on Department of Buildings Application No. 402017367, reads:

"A-1 The site and building is not fronting on an official mapped street; therefore no permit or Certificate of Occupancy can be issued as per Art. 3, Section 36 of the General City Law; also no permit can be issued since proposed construction does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space and is therefore contrary to Section C27-291 of the Administrative Code of the City of New York.

A-2 The existing private disposal system being upgraded is in the bed of a private service road contrary to Department of Buildings Policy."; and

WHEREAS, a public hearing was held on this application on March 15, 2005, after due notice by publication in the City Record, and then to decision on March 29, 2005; and

WHEREAS, by letter dated January 24, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated December 15, 2004, acting on Department of Buildings Application No.402017367 is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked "Received January 11, 2005" - (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

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

THAT the approved plans shall be considered approved only for A-2 The upgraded private disposal system is in the bed of a private service road contrary to Department of Buildings Policy."; and

WHEREAS, a public hearing was held on this application on March 15, 2005, after due notice by publication in the City Record, and then to decision on March 29, 2005; and

WHEREAS, by letter dated January 24, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated December 15, 2004, acting on Department of Buildings Application No. 402015369 is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked, "Received January 11, 2005" - (1)

the portions related to the specific relief granted; and

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

Adopted by the Board of Standards and Appeals, March 29, 2005.

3-05-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative Inc., owner; Dale & Susan Salmonese; lessee.

SUBJECT - Application January 11, 2005 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system which is being upgraded in the bed of a private service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings Policy.

PREMISES AFFECTED - 10 Doris Lane, south side, 42.02' west of Reid Avenue, Block 16350, Lot 400, Borough of Queens.

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated December 15, 2004, acting on Department of Buildings Application No. 402015369 reads:

"A-1 The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Art. 3, Section 36 of the General City Law; also no permit can be issued since proposed construction does not have at least 8% of total perimeter of building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section C27-291 of the Administrative Code of the City of New York.

sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

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

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

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

Adopted by the Board of Standards and Appeals, March 29, 2005.

45-04-A through 49-04-A

APPLICANT - Willy C. Yuin, R.A., for Gal Sela, owner.
SUBJECT - Application - Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.
PREMISES AFFECTED -

- 4 Tompkins Place, 125' east of Court Street, Block 522, Lot 20, Borough of Staten Island.
- 8 Tompkins Place, 125' east of Court Street, Block 522, Lot 18, Borough of Staten Island.
- 12 Tompkins Place, 125' east of Court Street, Block 522, Lot 17, Borough of Staten Island.
- 16 Tompkins Place, 125' east of Court Street, Block 522, Lot 16, Borough of Staten Island.
- 20 Tompkins Place, 125' east of Court Street, Block 522, Lot 15, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES - None.
ACTION OF THE BOARD - Application granted on condition.
THE VOTE TO CLOSE HEARING -
 Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4
 Negative:.....0
THE VOTE TO GRANT -
 Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4
 Negative:.....0
THE RESOLUTION:

WHEREAS, the decision of the Staten Island Borough Commissioner, dated January 27, 2004, acting on Department of Buildings Application Nos. 500648294, 8301, 8310, 8239, & 8338 reads:

"The proposed building(s) does not have at least 8% of the total perimeter of the building(s) fronting directly upon a legally mapped street, or frontage space is contrary to Section 27-291 of the Administrative Code and Section 36 of the General City Law. Therefore Board of Standards and Appeals approval is required."; and

WHEREAS, a public hearing was held on this application on Adopted by the Board of Standards and Appeals, March 29, 2005.

329-04-A

APPLICANT - Jeffrey Geary, for Riley Realty Corp., owner.
 SUBJECT - Application October 5, 2004 - Proposed construction of a two story single family residence, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law
 PREMISES AFFECTED - 10-03 Channel Road, (aka 100th Place), west side, 33.94' south of 197th Avenue, Block 15475, Lot 26, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES - None.
THE VOTE TO CLOSE HEARING -
 Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

January 25, 2005, after due notice by publication in the City Record, with a continued hearing on March 1, 2005, and then to decision on March 29, 2005; and

WHEREAS, by letter dated November 20, 2004, the Fire Department states that it has reviewed the above project and recommends that due to Tompkins Place being a dead end and having no turnaround, all proposed buildings shall be fully sprinklered, no parking shall be permitted on the street, and street signs shall be provided throughout the development to read "No Parking -Fire Lane"; and

WHEREAS, the owner has agreed to install sprinklers as per the recommendation of the Fire Department; and

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

Therefore it is Resolved that the decision of the Staten Island Borough Commissioner, dated January 27, 2004, acting on Department of Buildings Application Nos. 500648294, 8301, 8310, 8239, & 8338, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked `Received March 16, 2005' - (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

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

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

THAT all proposed buildings shall be fully sprinklered as per Local Law 10 of 1999; and

THAT no parking shall be permitted on the street;

THAT street signs shall be provided throughout the development to read: No Parking -Fire Lane; 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.

Negative:.....0

ACTION OF THE BOARD - Laid over to April 5, 2005, at 10 A.M., for decision, hearing closed.

397-04-A

APPLICANT - Petraro & Jones, LLP, for Jennifer Walker, owner.
 SUBJECT - Application December 23, 2004 - An appeal to request the Board to determine that the apartment house at subject premises, is not a "single room occupancy multiple dwelling" and (2) nullify the Department of Buildings' plan review "objection" that resulted in this appeal application.
 PREMISES AFFECTED - 151 West 76th Street, north side, 471' from the intersection of Columbus Avenue, Block 1148, Lot 112, Borough of Manhattan.
COMMUNITY BOARD #7M
 APPEARANCES -

For Applicant: Patrick Jones, Esq., Joseph Trivisonno, Jennifer Walker and Jessica Rehki.

For Opposition: Janine A. Gaylard.

ACTION OF THE BOARD - Laid over to May 10, 2005, at 10 A.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 10:25 A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, MARCH 29, 2005
2:00 P.M.**

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

ZONING CALENDAR

72-04-BZ

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

SUBJECT - Application March 5, 2004 - under Z.R. §11-411 to request an extension of term of the previously granted variance, which permitted the erection and maintenance of a gasoline service station with accessory uses, and Section 11-412 to authorize the alteration of

WHEREAS, on February 9, 1960, under Calendar No. 436-59-BZ, the Board granted a variance for a term of twenty years, to permit, in a local retail and residence use district, the erection and maintenance of a gasoline service station, with lubritorium, car washing, minor auto repairs, office and sales, storage room, parking and storage of motor vehicles, with a business entrance within 75 feet of a residence use district; and

WHEREAS, since the original grant, the applicant has obtained subsequent minor amendments and extensions of term of the variance, the most recent extension being granted on July 2, 1996; and

WHEREAS, the applicant states that from the time of the original variance, the site has been continuously occupied as a gasoline service station; and

WHEREAS, pursuant to Z.R. § 11-411, the Board may extend the term of an expired variance; and

WHEREAS, pursuant to Z.R. § 11-412, the Board may, in appropriate cases, allow minor alterations on sites subject to a pre-1961 variance; and

WHEREAS, the applicant submitted a sign analysis which reflect the proposed minor amendments to the signage and states that the signage is in full compliance with C1-2 district sign regulations; and

the signage and the accessory use of a convenience store located in an R6/C1-2 and R6 zoning district.

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

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the rules of practice and procedure, a re-opening to amend the resolution, and pursuant to Z.R. §§ 11-411 and 11-412, a renewal of term for a previously granted variance that expired on June 3, 2000, an alteration of the signage and an authorization of the existing convenience store as an accessory use; and

WHEREAS, a public hearing was held on this application on February 8, 2005, after due notice by publication in The City Record, with a continued hearing on March 8, 2005, and then to March 29, 2005 for decision; and

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

WHEREAS, the Queens Borough President and Community Board No. 7, Queens recommend approval of this application; and

WHEREAS, the premises is located on the southwest corner of Northern Boulevard and Parsons Boulevard, partially within an R6(C1-2) zoning district and partially within an R6 zoning district, and has a total lot area of 15,933 square feet; and

WHEREAS, the premises is improved upon with a 1,540 square foot, one-story gasoline service station used for automobile repairs, lubritorium, car wash, convenience store and office; and

WHEREAS, based upon its review of the record, the Board has determined that the evidence supports the requested extension of term and authorizations under Z.R. §§ 11-411 and 11-412.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, pursuant to Z.R. §§ 11-411 and 11-412, so that as amended this portion of the resolution shall read: "To renew the term of the variance for ten years from June 3, 2000 to expire on June 3, 2010, and to permit an alteration of the signage and an authorization of the existing convenience store as an accessory use on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked 'Received March 15, 2005' - (3) sheets; and on further condition;

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

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

THAT there shall be no parking of vehicles on the sidewalk;
THAT there shall be no work on the engines of automobiles outside the repair bays;

THAT there shall be no body repair, burning or welding

performed on the premises;

THAT all curb cuts shall be as shown on BSA-approved plans;

THAT there shall be no sale of automobiles on the subject premises;

THAT fencing and landscaping shall be installed and maintained in accordance with the BSA-approved plans;

THAT all signage shall comply with the R6/C1-2 and R6 zoning district regulations;

THAT the terms of this grant shall be for ten (10) years from June 3, 2000, to expire on June 3, 2010;

THAT these conditions appear on the Certificate of Occupancy;

THAT all conditions from prior resolution(s) not specifically waived by the Board remain in effect and shall be listed on the certificate of occupancy if listed previously;

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. 4018275640)

Adopted by the Board of Standards and Appeals, March 29, 2005.

150-04-BZ

APPLICANT - The Agusta Group, for Shun K. Fung, owner.

SUBJECT - Application August 3, 2004 - under Z.R. §72-20 to permit, within a C6-2G zoning district in the Special Little Italy

WHEREAS, this is an application under Z.R. § 72-21, to permit, within a C6-2G zoning district in the Special Little Italy District, the proposed construction of a new four-story building, with a retail store and one-car garage on the ground floor, a studio on the 2nd floor and a duplex on the 3rd and 4th floors, contrary to Z.R. §§ 23-32 and 109-122; and

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

WHEREAS, an owner of property located near the site submitted correspondence to the Board, purportedly on behalf of others in the community, asking the Board not to grant the variance; and

WHEREAS, the original version of this application contemplated a five-story plus cellar mixed use building with a commercial use on the ground floor and residential on the upper floors, with a floor area ratio ("F.A.R.") of 4.7, a total floor area of 3,837 sq. ft., and a total building height of 73 ft., 6 in.; and

WHEREAS, in an interim proposal, the applicant lowered the height of each floor to 10 ft., and lowered the total building height to 50 ft., 6 in.; and

WHEREAS, the current version of this application contemplates a four-story building, with a complying F.A.R. of 4.1, a total floor area of 2,890 sq. ft., a total building height of 43 ft., 6 in., and 100% lot coverage; and

WHEREAS, the subject premises is an 815 sq. ft. lot, with a

District, the proposed construction of a new four-story building, with a retail store and one-car garage on the ground floor, a studio on the 2nd floor and a duplex on the 3rd and 4th floors, contrary to Z.R. §§ 23-32 and 109-122.

PREMISES AFFECTED - 129 Elizabeth Street, west side, 60'-5' south of Broome Street, Block 470, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Sol Korman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 19, 2004, acting on Department of Buildings Application No. 103299048, reads, in pertinent part:

"1. As per section ZR 109-01, Section ZR 35-21 still applies. Therefore the lot dimension is contrary to Section ZR 23-32. Minimum 1700 s.f. is required.

3. Proposed plan indicates lot coverage exceeding 60%; hence it is not permitted by ZR Section 109-122."; and

WHEREAS, a public hearing was held on this application on September 28, 2004, after due notice by publication in the City Record, with continued hearings on November 16, 2004, January 11, 2005, and February 15, 2005, and then to decision on March 29, 2005; and

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

depth of 23 ft., 8 in.; and

WHEREAS, the applicant represents that the lot is a pre-existing lot; and

WHEREAS, the applicant further represents that the lot size is less than half of the required lot size for any residential development; and

WHEREAS, the applicant states that the small lot size and shallow lot depth are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance with underlying district regulations; and

WHEREAS, the applicant represents that due to the small size of the lot, a complying development will result in uncomfortable living space for residential use and inadequate space for commercial development; and

WHEREAS, accordingly, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict conformity with current applicable zoning regulations; and

WHEREAS, the Board asked the applicant to consider an alternative conforming use scenario, such as a commercial use, that would be feasible on the subject site; and

WHEREAS, in response, the applicant submitted a feasibility analysis that showed that a conforming commercial use would not

result in a reasonable return; and

WHEREAS, the Board also asked the applicant to explore any income that could be generated from a commercial use in the cellar, such as a retail store or cellar storage space for a retail use; and

WHEREAS, the applicant represents that a retail store in the cellar is not feasible due to the small size of the site and the inability to comply with ADA and egress requirements; and

WHEREAS, the applicant also submitted a feasibility analysis of a public parking lot scenario, and determined that such use would not provide a reasonable return; and

WHEREAS, the Board requested that the applicant further evaluate alternative development scenarios using an F.A.R. of 4.1; and

WHEREAS, in response, the applicant analyzed the following three alternatives: Alternative A - ground floor with retail and one-car garage, studio on the 2nd floor, and a duplex on the 3rd and 4th floors; Alternative B - ground floor with a retail store, studio on the 2nd floor and a duplex on the 3rd and 4th floors; and Alternative C - one duplex on the ground and 2nd floors and another duplex on the 3rd and 4th floors; and

WHEREAS, at the Board's direction, the applicant revised its application to Alternative A, as described above; and

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

WHEREAS, the applicant represents that there are numerous multiple dwellings, between three and seven stories in height, surrounding the subject site; and

WHEREAS, the applicant represents that the height currently proposed for the building is consistent with the height of buildings in the neighborhood; and

WHEREAS, specifically, the applicant represents that buildings

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, 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 the required findings under Z.R. § 72-21, to permit, within a C6-2G zoning district in the Special Little Italy District, the proposed construction of a new four-story building, with a retail store and one-car garage on the ground floor, a studio on the 2nd floor and a duplex on the 3rd and 4th floors, contrary to Z.R. §§ 23-32 and 109-122; on condition that

to the left of the subject site are approximately 63 ft. and 36 ft., 2 in., and a building to the right of the subject site is 41 ft., 6 in; and

WHEREAS, the applicant submitted a map of the surrounding neighborhood which illustrates the above representations; and

WHEREAS, the Board notes that the significant reduction in F.A.R. and height from the applicant's initial proposal to the applicant's current proposal is more compatible with the built conditions surrounding the site; and

WHEREAS, additionally, the Board notes that a 4.1 F.A.R. is the maximum permitted F.A.R. for interior lots in the Special Little Italy District; and

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

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

WHEREAS, after taking direction from the Board as to the proper amount of relief, the applicant modified the development proposal to the current version; and

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

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

WHEREAS, the project is classified as an Unlisted Action pursuant to 6 NYCRR, Part 617; 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. 04-BSA-158M dated April 1, 2004; and

all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 31, 2005" - (4) sheets; and on further condition:

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

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

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

Adopted by the Board of Standards and Appeals, March 29, 2005.

233-04-BZ

APPLICANT - Kevin McGrath, Esq. c/o Phillips Nizer, for F&T International, owner.

SUBJECT - Application June 18, 2004 - under Z.R. §72-21 to permit, within an C4-3 zoning district, the proposed development of a twelve-story mixed-use commercial and community facility condominium building, with accessory

parking, which exceeds the permitted Floor Area Ratio, does not provide the required amount of parking spaces of loading berths, contemplates an eating and drinking establishment above the first floor, and exceeds the flight obstruction plane, contrary to Z.R. §§ 32-423, 33-122, 35-31, 36-20, 36-62 and 61-00.

PREMISES AFFECTED - 136-20 38th Avenue, (a/k/a 38-21 Main Street, 136-17 39th Avenue, 38-10 138th Street and 38-25 Main Street), north side of the intersection of Main Street and 39th Avenue, Block 4978, Lot 101, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Kevin B. McGrath.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated May 21, 2004, acting on Department of Buildings Application No. 401872354, reads, in pertinent part:

- " 1. Proposed restaurant for use group 8.9.12. shall be located only on a floor above or below grade and is contrary to section 32-423 Z.R.
2. Proposed maximum commercial floor area ratio exceeds 3.4 FAR permitted under C4-3 contrary to section 33-122 of Z.R.
3. Proposed maximum mixed use floor area ratio exceeds 4.8 FAR permitted under C4-3 contrary to section 35-31 of Z.R.
4. Proposed accessory off-street parking is less than amount required under C4-3 contrary to section 36-20 of Z.R.
5. Proposed accessory off-street loading berths less than

WHEREAS, the site is currently vacant; it was formally improved upon with the former Queens County Savings Bank building on the northeast corner of Main Street and 39th Avenue, as well as a privately-operated parking lot located on the vacant land to the northeast of said building; and

WHEREAS, the Bank building has been demolished; and

WHEREAS, the applicant states that the vacant land has been used continuously for over thirty years as a parking lot; and

WHEREAS, the applicant proposes to construct a twelve-story building, containing parking on the sub-cellar and cellar levels, retail space on the ground, first and second floor levels, two restaurants on the third floor, community facility space on the fourth floor, and office space on floors five through twelve; and

WHEREAS, the applicant represents that the sub-cellar and cellar levels, each containing 43,000 square feet, will allow for 401 parking spaces with valet parking only; the ground floor will have 38,000 square feet of space, the first floor 35,000 square feet, the second and third floors will each have 37,000 square feet, floors four through six will have 29,600 square feet each, and floors seven through twelve will each have 14,200 square feet; and

WHEREAS, the applicant notes that there is a change in

amount required under C4-3 contrary to section 36-62 of Z.R.

6. Proposed building height exceeds flight obstruction plane at EL. 184.5 AMSL contrary to section 61-00 of Z.R."; and

WHEREAS, a public hearing was held on this application on December 8, 2004 after due notice by publication in the City Record, with continued hearings on January 26, 2005 and March 1, 2005, and then to decision on March 29, 2005; and

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

WHEREAS, both the Queens Borough President and Community Board 7, Queens, recommend approval of this application; and

WHEREAS, this application also has the support of State Senator Stavisky and Assembly Members Grodenchik and McLaughlin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within a C4-3 zoning district, the proposed development of a twelve-story mixed-use commercial and community facility condominium building, with accessory parking, which exceeds the permitted Floor Area Ratio ("F.A.R."), does not provide the required amount of parking spaces or loading berths, contemplates an eating and drinking establishment above the first floor, and exceeds the flight obstruction plane, contrary to Z.R. §§ 32-423, 33-122, 35-31, 36-20, 36-62 and 61-00; and

WHEREAS, the premises is an irregularly shaped lot located in Flushing, Queens, on a block bordered by 38th and 39th Avenues and Main and 138th Streets; the total lot area is 43,596 sq. ft.; and

grade between Main Street and 138th Street of approximately 13 feet, and that, as a consequence, the ground floor space is not counted as Floor Area pursuant to the Z.R. since it is mostly underground; and

WHEREAS, the applicant also states that the site is affected by an access easement, which will have to be relocated after construction is complete, and replaced by a temporary easement during construction; and

WHEREAS, the proposed development triggers the following waiver requests: (1) a commercial F.A.R. of 5.64 (245,798 sq. ft. of zoning floor area) and a community facility F.A.R. of 0.66 (28,712 sq. ft. of zoning floor area), for a total F.A.R. of 6.3 (274,510 sq. ft. of total zoning floor area); the maximum permitted F.A.R. for a commercial building with community facility space in the subject zoning district is 4.8; (2) a total of 401 parking spaces on the cellar and sub-cellar levels; 719 parking spaces are required; (3) three off-street loading berths for trucks; five are required; (4) a proposed restaurant use on the third floor level; restaurants are not allowed above the first floor in the subject zoning district; and (5) a parapet wall on the roof-top and a portion of the elevator bulk head that penetrate the flight obstruction plane by approximately 10' 4 (however, no other height or setback waivers are required); and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: (1) the site is afflicted with substantial changes in grade level between Main Street and 138th Street as well as between 38th Avenue and 39th Avenue; (2) the site is affected by an underground water table; (3) the site is irregularly shaped; and (4) an existing easement runs across the site; and

WHEREAS, the applicant states that due to the grade changes, the ground level will be underground as it continues toward 138th Street, which makes it difficult to attract tenants to the ground level spaces, thus affecting income that could be gained from these spaces; and

WHEREAS, the applicant states that the grade changes will also necessitate the construction of steeper ramps into the parking garage, thus increasing construction costs; and

WHEREAS, finally, the applicant notes that the grade changes constrain the internal circulation of the proposed building, further affecting costs; and

WHEREAS, the applicant states that due to the soil conditions and water table issue, it is cost prohibitive to construct enough below-grade parking areas to accommodate the required amount of parking spaces, and

WHEREAS, in support of this claim, the applicant submitted an explanation of the groundwater conditions, as part of a report prepared by the engineering consultant; and

WHEREAS, the applicant states that irregular shape of the site increases the amount of perimeter wall and underpinning that must be constructed, thus increasing construction costs; and

WHEREAS, the applicant states the existing easement must be relocated subsequent to construction, and that a temporary construction easement must be created during construction, both of which will increase the construction time period and thus affect anticipated income; and

WHEREAS, the applicant has explained how each of these four claimed bases of uniqueness trigger the requested

WHEREAS, the applicant concluded that a complying development would not realize a reasonable return due to the site's constraints; specifically, the applicant has identified approximately \$8.7 million in premium costs related to the site's unique features that render a complying development infeasible; and

WHEREAS, the applicant also submitted an analysis of a 6.0 total F.A.R. building, with a lesser density, height and parking waiver, which was also shown to be infeasible; and

WHEREAS, at the Board's request, the applicant investigated the possibility of a development proposal with one more level of parking; and

WHEREAS, the applicant stated that due to the presence of the water table, the construction costs associated with the provision of one more below-grade level of parking would be cost-prohibitive; and

WHEREAS, in support of this statement, the applicant made supplemental submissions explaining the costs related to the construction of a third level of parking from its experts, including the engineer, architect, cost estimator and financial consultant; and

waivers; and

WHEREAS, the F.A.R. waiver is driven by the additional construction costs precipitated by the easement issue and the irregularity of the site, and the decreased revenue of the proposed retail space; the increased F.A.R. is necessary to offset these impacts; and

WHEREAS, the parking waiver is necessary to address the extraordinary construction costs that would be incurred to address the water table and soil conditions for a third level of parking; and

WHEREAS, loading berth waiver is necessary because the site's constraints lead to a particular building design that can not accommodate the efficient placement of all five loading berths, as there is no place to locate them without interfering with the parking ramps to the accessory parking levels or otherwise impacting an already constrained internal circulation layout; and

WHEREAS, the restaurant waiver is required because in order to attract main-line retail tenants, which provide income essential to the viability of the development, the street level spaces must be reserved for them; accordingly, the proposed restaurant must be sited on the third floor; and

WHEREAS, finally, the flight obstruction plane waiver arises from the need to accommodate the additional F.A.R. and the inability to build further below grade; and

WHEREAS, the Board observes that the applicant has established each of the bases of uniqueness and justified the requested waivers through the submission of expert testimony, all of which the Board finds credible and persuasive; and

WHEREAS, accordingly, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict compliance with applicable zoning regulations; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed a fully complying building; and

WHEREAS, specifically, the engineering consultant stated that were a third cellar created to accommodate more parking, the proposed slab would be below the water table and be subject to constant hydrostatic water pressure, which would be very expensive to address; and

WHEREAS, the cost estimator opined that the construction of a third level of parking would be close to six million dollars, which the applicant states would be cost-prohibitive to the extent that the owner could not realize a reasonable return even assuming that the other requested waivers were granted; and

WHEREAS, the applicant also submitted a statement from an expert detailing both the need for, and the cost associated with, the creation of a temporary egress walkway during construction; and

WHEREAS, at the Board's suggestion, the applicant evaluated a scenario that increased the community facility space, thus reducing the commercial F.A.R. waiver request; and

WHEREAS, the applicant's financial consultant responded by noting that increasing the amount of

community facility space would jeopardize the financial viability of the project, because building community facility space on a speculative basis, without a confirmed community facility tenant, is highly risky; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant states that the proposed development's lack of required parking, as well as its increased height and F.A.R., will not negatively affect the character of the neighborhood nor impact adjacent uses; and

WHEREAS, the applicant states that although an extensive parking waiver is requested, the provided parking will nonetheless be sufficient for the proposed uses in the building; and

WHEREAS, the applicant also observes that the proposed building is within a vibrant commercial district well-served by public transportation, surrounded by many buildings that have previously been granted parking waivers; and

WHEREAS, specifically, the applicant notes that to the south of the site is a six story office building; to the east is a 12 story office building under construction for which the BSA granted a parking variance, as well as a restaurant which was also granted a parking variance; and

WHEREAS, the applicant further notes that directly to the east a hotel was erected, thereby negating the need for the parking requirements of a C4-3 zoning district; adjacent to this structure is an office building, which was also granted a variance from the parking requirements; and

WHEREAS, the Board observes that across the street from the premises is located the 1,143 car municipal parking lot #1, with an open deck on which parking is permitted; and

WHEREAS, in further support of the contention that the parking waiver will not negatively affect the neighborhood, the applicant submitted a parking study and related memoranda, which illustrates that the proposed parking should accommodate the needs of the building's users; and

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

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

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

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

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA-217Q, dated January 27, 2005; and

WHEREAS, the EAS documents that the project as

WHEREAS, specifically, the applicant's environmental consultant, as part of the Environmental Assessment Statement, conducted a parking accumulation analysis for a 24-hour period for a typical weekday and for a typical Saturday, in order to calculate the maximum parking demand; and

WHEREAS, based upon this analysis, the consultant concluded that the peak parking accumulation for the weekday is projected to be 206 spaces occupied between the hours of 11 am and 12 pm and for a typical Saturday, 135 spaces occupied between the hours of 2 pm and 3pm; and

WHEREAS, the applicant stated that given the building's proposed 401 parking spaces, no significant parking impacts are anticipated; and

WHEREAS, the Board has reviewed the submitted evidence and agrees that the proposed parking waiver will not create any deleterious effects in the neighborhood, as the proposed development provides sufficient parking for the contemplated uses; and

WHEREAS, the Board finds that the proposed parking will not only accommodate the anticipated demand, but will also address the elimination of the 100 public parking spaces currently occupying the site; and

WHEREAS, the Board also agrees that the area is well-served by public parking facilities and public transportation; and

WHEREAS, the applicant submitted approvals for the height of the proposed building from the New York and New Jersey Port Authority and the United States Federal Aviation Administration; and

WHEREAS, in support of the contention that the proposed height of the building is not objectionable, the applicant also submitted a map, with photos, showing the location of other tall building in the area; and

WHEREAS, the Board has reviewed the map and photos, and has also conducted its own site visit, and concludes that the proposed bulk and height of the building will be compatible with the existing conditions in the immediate neighborhood; and

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; Construction Impacts and Public Health; and

WHEREAS, the New York City Department of Transportation ("DOT") has reviewed the EAS and Traffic and Parking data and studies submitted by the Applicant's Consultant. DOT has identified potentially significant traffic impacts at the following intersections for the 2006 Build Year: Main Street at Northern Boulevard; 38th Avenue at 138th Street; and 37th Avenue at 138th Street; and

WHEREAS, as noted in a December 10, 2004 letter, DOT has determined that there would not be any potential traffic impacts at the above-noted locations based on the proposed mitigation measures (signal timing changes and

geometric modifications and parking regulation changes) being implemented for the project; these measures are described in the EAS; and

WHEREAS, DOT will investigate the feasibility of implementing the proposed mitigation measures when the project is built and occupied; and

WHEREAS, the New York City Landmarks Preservation Commission has reviewed the Revised EAS pages dated January 21, 2005 relating to "Shadows" and "Historic Resources" and has no further concerns; and

WHEREAS, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the Applicant: (1) an Environmental Assessment Statement Form, dated January 27, 2005; (2) Supplemental Environmental Studies relating to Hazardous Materials, Air Quality, Infrastructure, and Noise; and (3) a Construction Health and Safety Plan, dated February 2005; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials, air quality, infrastructure, and noise impacts; and

WHEREAS, a Restrictive Declaration was executed and recorded for the subject property to address hazardous materials concerns; and

WHEREAS, DEP has determined, as reflected in its February 24, 2005, and January 20, 2005 letters, that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the Restrictive Declaration, the information in the January 27, 2005 EAS, and the Supplemental Environmental Studies; 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 Type I Negative Declaration, with the condition stipulated below and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of

THAT this same Restrictive Declaration shall be recorded prior to issuance of any temporary or permanent certificate of occupancy, with a copy of same, with recording information, forwarded to the Board for inclusion in the case file;

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

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

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

Adopted by the Board of Standards and Appeals, March 29, 2005.

1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, within an C4-3 zoning district, the proposed development of a twelve-story mixed-use commercial and community facility condominium building, with accessory parking, which exceeds the permitted Floor Area Ratio, does not provide the required amount of parking spaces of loading berths, contemplates an eating and drinking establishment above the first floor, and exceeds the flight obstruction plane, contrary to Z.R. §§ 32-423, 33-122, 35-31, 36-20, 36-62 and 61-00; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 15, 2005"-(8) sheets and "Received March 17, 2005"-(12) sheets; and on further condition:

THAT the applicant shall inform DOT six months prior to any anticipated initial occupancy of the proposed development so that DOT can investigate the feasibility of implementing the proposed mitigation measures prior to the project being built and occupied;

THAT the bulk parameters of the proposed building shall be as follows: (1) a commercial F.A.R. of 5.64 (245,798 sq. ft. of zoning floor area) and a community facility F.A.R. of .66 (28,712 sq. ft. of zoning floor area), for a total F.A.R. of 6.3. (274,510 sq. ft. of total zoning floor area); (2) twelve stories plus the ground floor; and (3) a total height of 194.9 ft., AMSL;

THAT a total of 401 parking spaces shall be provided in the accessory parking levels;

THAT three loading berths shall be provided, as illustrated on the BSA-approved plans;

THAT the interior layout, parking layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT all site preparation and development at the subject site shall proceed in accordance with all of the terms of that certain Restrictive Declaration, dated January 18, 2005 and made by F & T Int'l (Flushing New York) LLC, including that provision of said declaration requiring soil sampling and remediation, and DEP issuance of a Notice of Satisfaction of such prior to issuance of a DOB permit or certificate of occupancy, except as otherwise provided for in the Restrictive Declaration;

258-04-BZ

APPLICANT - Eric Palatnik, P.C., for Mindy Elmann, owner.
SUBJECT - Application November 16, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage and rear yard, is contrary to Z.R. §23-141(b) and §23-47.

PREMISES AFFECTED - 1837 and 1839 East 24th Street, south of Avenue "R", Block 6830, Lots 70 and 71 (tentative Lot 71), Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Eric Palatnik.

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

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

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Borough Commissioner, dated July 2, 2004, acting on Department of Buildings Application No. 301786119, reads:

- "1. Plans are contrary to Z.R. 23-141(b) in that the proposed Floor Area Ratio (FAR) exceeds the permitted .5.
2. Plans are contrary to Z.R. 23-141(b) in that the proposed Open Space is less than the minimum permitted .65 percent.
3. Plans are contrary to Z.R. 23-141(b) in that the proposed lot coverage exceeds maximum permitted .35 percent.
4. Proposed plans are contrary to Z.R. 23-47 in that the proposed rear yard is less than the minimum required 30'-0"; and

WHEREAS a public hearing was held on this application on January 11, 2005 after due notice by publication in The City Record, with continued hearings on February 8, 2005 and March 8, 2005, and then to decision on March 29, 2005; and

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

WHEREAS, Community Board 10, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 73-622 to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family residence (Use Group 1), which does not comply with the zoning requirements for Floor Area Ratio ("F.A.R."), Open Space Ratio ("O.S.R"), lot coverage and rear yard, contrary to Z.R. §§ 23-141(b) and 23-47; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the subject lots, which are adjacent to each other,

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family residence (Use Group 1), which does not comply with the zoning requirements for Floor Area Ratio, Open Space Ratio, lot coverage and rear yard, contrary to Z.R. §§ 23-141(b) and 23-47; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked `Received March 15, 2005' - (8) sheets and `Received March 29, 2005' - (2) sheet; and on further condition:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth on the certificate of occupancy;

THAT no demolition shall be permitted of the portion of the existing building proposed to be retained, as illustrated on Plan Sheets A, B, and C;

THAT the total F.A.R. for the premises, including the attic, shall not exceed 0.87;

THAT the total attic floor area shall not exceed 758 sq. ft.;

are located on East 24th Street south of Avenue R, and have an aggregate total lot area of 6000 sq. ft.; and

WHEREAS, the lots are proposed to be merged into one tax lot, in order to accommodate the proposed development; and

WHEREAS, the applicant states that each of the lots are improved upon with existing single-family homes; and

WHEREAS, the applicant proposed the full demolition of the existing home on lot 70 and the retention and enlargement of a portion of the existing home on lot 71 over both lots; and

WHEREAS, for the proposed development, the applicant seeks an increase in the Floor Area Ratio to 0.87; this exceeds the maximum F.A.R. required in the subject zoning district (0.5); and

WHEREAS, the applicant seeks a reduction in the O.S.R to 59%, which is below the minimum required O.S.R. (65%); and

WHEREAS, the applicant also seeks an increase in the lot coverage to 2,455 sq. ft., which exceed the maximum permitted (2,100 sq. ft.); and

WHEREAS, finally, the applicant proposes a 26 ft. rear yard, which is less than the minimum required (30 ft.); and

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

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

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

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

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

THAT the proposed attic floor area shall be reviewed and confirmed by the Department of Buildings;

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

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, March 29, 2005.

270-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Benjamin Gross, owner.
SUBJECT - Application November 18, 2004 - under Z.R. §73-622 to permit the enlargement of a single family residence. Varying the requirements for floor area and open space pursuant to §23-141, side yard pursuant to §23-461 and rear yard is less than required pursuant to §23-47. Located in an R-2 zoning district.

PREMISES AFFECTED - 1239 East 22nd Street, east side of East 22nd Street, between Avenue K and Avenue L, Block 7622, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION-

WHEREAS, the decision of the Borough Commissioner, dated November 10, 2004, acting on Department of Buildings Application No. 301785085, reads:

"The proposed enlargement of the existing one family residence in an R2 zoning district:

- (1) creates non-compliance with respect to floor area by exceeding the allowable floor area ratio and is contrary to section 25-141 of the Zoning Resolution;
- (2) creates non-compliance with respect to the open space ratio and is contrary to section 23-141 of the Zoning Resolution;
- (3) creates non-compliance with respect to the side yard by not meeting the minimum requirements of section 23-461 of the Zoning Resolution; and
- (4) creates non-compliance with respect to the minimum rear yard by not meeting the requirements of section 23-47 of the Zoning Resolution."

WHEREAS a public hearing was held on this application on February 1, 2005 after due notice by publication in The City

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an

Record, with a continued hearing on March 1, 2005, and then to decision on March 29, 2005; and

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

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

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

WHEREAS, the subject lot is located on the east side of East 22nd Street, between Avenues K and L, and has a total lot area of approximately 4,000 sq. ft.; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-story plus cellar residential structure; and

WHEREAS, the applicant seeks an increase in the floor area from 2,429 sq. ft. (0.61 Floor Area Ratio or "FAR") to 4,203 sq. ft. (1.05 FAR); the maximum floor area permitted is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the Open Space Ratio ("OSR") from 122 to 114; the minimum open space ratio required is 150; and

WHEREAS, the proposed enlargement will reduce the rear yard from 24'-6" to 20'-0"; the minimum rear yard required is 30'-0"; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

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

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

existing single-family residence (Use Group 1), which does not comply with the zoning requirements for floor area, open space ratio, side and rear yards, contrary to Z.R. §§ 23-141, 23-461, 23-47; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked 'Received March 25, 2005' - (9) sheets; and on further condition:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth on the certificate of occupancy;

THAT the total F.A.R. on the premises, including the attic, shall not exceed 1.05;

THAT the total attic floor area shall not exceed 792 sq. ft.;

THAT the proposed attic floor area shall be reviewed and confirmed by the Department of Buildings;

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

THAT this approval is limited to the relief granted by

the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, March 29, 2005.

291-03-BZ

APPLICANT - Stuart A. Klein, Esq., for 6202 & 6217 Realty Company, owner.

SUBJECT - Application September 4, 2003 - under Z.R. §72-21 to permit the proposed residential building, Use Group 2, located on a site in that is in an M1-1 and an R5 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 1380 62nd Street, northwest corner of 14th Avenue, Block 5733, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES -

For Applicant: Stuart Klein.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to April 19, 2005, at 1:30 P.M., for decision, hearing closed.

369-03-BZ

APPLICANT - Sheldon Lobel, Esq. for Queens Boulevard Spa Corp. dba Sky Athletic, lessee.

SUBJECT - Application December 2, 2003 - under Z.R. §72-21 to permit part of the cellar and ground level of an existing two story building within an R7-1/C1-2 district to be occupied as physical cultural establishment.

For Applicant: Chris Wright.

ACTION OF THE BOARD - Laid over to May 17, 2005, at 1:30 P.M., for continued hearing.

187-04-BZ

APPLICANT - Eric Palatnik, P.C., for 182 MXB, LLC owner.

SUBJECT - Application May 4, 2004 - under Z.R. §72-21 to permit the proposed construction of a four story building, with eight dwelling units, Use Group 2, located in an R-5 zoning district, which does not comply with the zoning requirements for lot coverage, floor area, front yards, parking, height and perimeter wall, also the number of dwelling units, is contrary to Z.R. §23-141(c), §23-631(e), §23-45(a), §25-23(a) and §23-22.

PREMISES AFFECTED - 182 Malcolm X Boulevard, north west corner of Madison Street, Block 1642, Lot 48, Borough of Brooklyn.

PREMISES AFFECTED - 99-01/23 Queens Boulevard, between 66th Road and 67th Avenue, Block 2118, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Laid over to April 19, 2005, at 1:30 P.M., for deferred decision.

138-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Cong. Machne Chaim, Inc., owner; Yeshiva Bais Sorah, lessee.

SUBJECT - Application March 24, 2004 - under Z.R. §73-19 to request a special permit for a school, Use Group 3, within an M1-1 Zoning District to vary Z.R. §42-00 so as to permit the school on the Premises.

PREMISES AFFECTED - 6101-6123 16th Avenue, 16th Avenue between 61st and 62nd Streets, Block 5524, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Sheldon Lobel.

ACTION OF THE BOARD - Laid over to May 10, 2005, at 1:30 P.M., for continued hearing.

174-04-BZ

APPLICANT - Law Offices of Howard Goldman, PLLC for Harold Milgrim, Trustee.

SUBJECT - Application April 28, 2004 - under Z.R. §72-21 Proposed conversion of floors two through six, to residential use, Use Group 2, in an existing six-story commercial building, located in an M1-6 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 124 West 24th Street, south side, between Sixth and Seventh Avenues, Block 799, Lot 54, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES -

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to May 10, 2005, at 1:30 P.M., for continued hearing.

201-04-BZ

APPLICANT - Eric Palatnik, P.C., for Marilyn Levine & Melvin Mesnick, Urban Spa, Inc., dba Carapan, lessee.

SUBJECT - Application May 14, 2004 - under Z.R. §73-36, to permit the legalization of an existing physical culture establishment, located in the basement level of a four story commercial structure, situated in a C6-2M zoning district, which requires a special permit.

PREMISES AFFECTED - 5 West 16th Street, between Fifth Avenue and Avenue of the Americas, Block 818, Lot 37,

Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

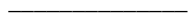
For Applicant: Eric Palatnik

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to April 19, 2005, at 1:30 P.M., for decision, hearing closed.



209-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Chilton Paint Co., owner; CPP Development, LLC, lessee.

SUBJECT - Application May 21, 2004 - under Z.R.§72-21 to permit the proposed six story residential building, with 134 dwelling units, Use Group 2, located in an M2-1 zoning district, which is contrary to Z.R. §42-00.

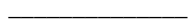
PREMISES AFFECTED - 109-09 15th Avenue, northwest corner of 110th Street, Block 4044, Lot 60, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph P. Morsellino, Dr.James M. Cervino, John Berry, Chames Apecian, Gene Kelty, Jr. and Fred J. Mazzarello.

ACTION OF THE BOARD - Laid over to May 17, 2005, at 1:30 P.M., for continued hearing.



MINUTES

210-04-A

APPLICANT - Joseph P. Morsellino, Esq., for Chilton Paint Co., owner; CPP Development, LLC, lessee.

SUBJECT - Application May 21, 2004 - Proposed six story residential building, with 134 dwelling units, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 109-09 15th Avenue, northwest corner of 110th Street, Block 4044, Lot 60, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph P. Morsellino, Dr. James M. Cervino, John Berry, Chames Apecian, Gene Kelty, Jr. and Fred J. Mazzarello.

ACTION OF THE BOARD - Laid over to May 17, 2005, at 1:30 P.M., for continued hearing.

ACTION OF THE BOARD - Laid over to April 19, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 5:15 P.M.

230-04-BZ

APPLICANT - Sheldon Lobel, P.C., for La Perst, LLC, owner.

SUBJECT - Application June 16, 2004 - under Z.R. §72-21 to permit the legalization of the residential conversion of a building located in an M1-2 zoning district.

PREMISES AFFECTED - 260 Moore Street, between White Street and Bogart Street), Block 3110, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to May 10, 2005, at 1:30 P.M., for decision, hearing closed.

319-04-BZ

APPLICANT - Steven Sinacori/Stadtmauer Bailkin, for Joseph De Simone, owner.

SUBJECT - Application September 20, 2004 - under Z.R. §72-21 to permit, in an R5 (Infill) district, approval sought to erect a four-story, 45 foot eight inch high, residential building on a currently unimproved lot consisting of 25,413 SF. There are proposed 39 dwelling units with 28 parking spaces in the cellar. The proposed building is non-compliant to wall height and total height requirements.

PREMISES AFFECTED - 35 McDonald Avenue, a/k/a 25/47 McDonald Avenue, east side, between 20th Street and Terrace Place, Block 895, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Steven Sinacori.

For Opposition: Robbin Block, Holly Sears, Peter Levinson, Amy Hansmann and ?,

CORRECTIONS

*CORRECTION

This resolution adopted on January 11, 2005, under Calendar No. 218-96-BZ and printed in Volume 90, Bulletin Nos. 1-3, is hereby corrected to read as follows:

218-96-BZ

APPLICANT - The Agusta Group for The Armenian Apostolic Church, owners.

SUBJECT - Application August 10, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to complete construction of an enlargement to an existing community facility.

PREMISES AFFECTED - 138 East 39th Street, south side 123.4' east of Lexington Avenue, Block 894, Lot 60, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES - None.

ACTION OF THE BOARD - Rules of Practice and Procedure waived, application reopened, and time to complete construction extended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

THE RESOLUTION-

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, and an extension of time to complete construction and obtain a Certificate of Occupancy; and

WHEREAS, a public hearing was held on this application on December 7, 2004, after due notice by publication in The City Record, and then to decision on January 11, 2005; and

WHEREAS, on May 20, 1997, the Board granted an application under the subject calendar number to permit a one-story enlargement above the basement level at the rear of an existing community facility building, occupied by the Armenian Apostolic Church; and

WHEREAS, on December 11, 2001, the Board granted an application for an extension of time to complete construction for a period of two years, expiring on December 11, 2003; and

WHEREAS, the applicant represents that due to continued and unforeseeable adverse economic conditions, the construction has not been completed, and the Certificate of Occupancy application has been delayed; and

WHEREAS, the applicant states that the community facility has now obtained the required funds to undertake the expense of construction, and has submitted sufficient evidence of this to the Board.

Resolved, that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on May 20, 1997 as amended on December 11, 2001, so that as amended this portion of the resolution shall read: "To permit an extension of the time to complete construction for an additional two (2) years from the date of this resolution to expire on January 11, 2007 on condition:

THAT a new certificate of occupancy be obtained within four years from the date of this grant.

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

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, January 11, 2005.

***The resolution has been corrected in the part which read: "...to obtain a Certificate of Occupancy...;" now reads: "...to complete construction... and to add to the conditions "THAT a new certificate of occupancy be obtained within four years from the date of this grant". Corrected in Bulletin Nos. 15-16, Vol. 90, dated April 7, 2005.**

*CORRECTION

This resolution adopted on March 1, 2005, under Calendar No. 350-04-BZ and printed in Volume 90, Bulletin Nos. 10-11, is hereby corrected to read as follows:

350-04-BZ

CEQR #05-BSA-055X

APPLICANT - Greenberg & Traurig by Deirdre A. Carson, Esq., LLP, for Montefiore Hospital Housing Section II, Inc, owner; Fordham University, lessee.

SUBJECT - Application October 29, 2004 - under Z.R. § Z.R.73-30 in an R7-2/C1-3 (partial) district, permission sought to erect a non-accessory radio tower on the roof of an existing 28-story residential structure. The radio tower will be operated by Fordham University (WFUV 90.7 FM), and will have total height of 161 feet, including a mechanical equipment room that will be contained inside an existing masonry enclosure originally built to

house an HVAC cooling tower. The elevation of the tower will be 621 feet, including the height of the existing structure.

PREMISES AFFECTED - 3450 Wayne Avenue, Wayne Avenue, between Gun Hill Road and East 210th Street (roof), Block 3343, Lot 245, Borough of The Bronx.

COMMUNITY BOARD #7BX

CORRECTIONS

APPEARANCES -

For Applicant: Meloney McMony.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 29, 2004, acting on Department of Buildings Application No. 200912584, reads in pertinent part:

“Non-accessory radio tower requires Board of Standards and Appeals special permit pursuant to Z.R. Section 73-30.”; and

WHEREAS a public hearing was held on this application on February 1, 2005 after due notice by publication in *The City Record*, and then to decision on March 1, 2005; and

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

WHEREAS, Community Board 7, Bronx, the Bronx Borough President, Congressman Eliot L. Engel, and the Mosholu Preservation Corporation recommend approval of the application; and

WHEREAS, this is an application under Z.R. §§ 73-30 and 73-03, to permit the proposed construction of a non-accessory radio tower and antenna for a radio station within an R7-1 zoning district with a partial C1-3 overlay, which is contrary to Z.R. §§ 22-21 and 22-11; and

WHEREAS, pursuant to Z.R. § 73-30, the Board may grant a special permit for a non-accessory radio tower such as the antenna tower proposed, provided it finds “that the proposed location, design, and method of operation of such tower will not have a detrimental effect on the privacy, quiet, light and air of the neighborhood”; and

WHEREAS, the applicant also states that it has been looking for a new site for its radio tower for the broadcast of its public radio station, WFUV, since the mid-1990’s; and

WHEREAS, the applicant notes that Montefiore Medical Center offered it a site for its radio tower atop its residential building at 3450 Wayne Avenue in 2004; and

WHEREAS, the antenna tower will be located on a rooftop enclosure that currently houses 60 antenna structures and is high above the urban and residential streetscape; and

WHEREAS, that the antenna tower will be constructed in a single, 6-month phase so as to minimize any noise and privacy impacts; and

WHEREAS, the applicant states that once the antenna tower is operating no employees associated with the antenna tower will reside in the Montefiore Medical Center, and any on-site visits for continuing inspection, maintenance and repairs to the antenna tower structure and related equipment will be so intermittent and of such short duration that they will

not cause any significant disruption to the privacy of the residents of Montefiore Medical Center; and

WHEREAS, the applicant also states that the antenna tower has been designed not to create a significant visual obstruction or cast a significant shadow; and

WHEREAS, the applicant observes that the antenna tower will be located on a building that is located at the edge of a mixed use (C1-3) area that accommodates a number of non-residential uses in the immediate project area; and

WHEREAS, the proposed antenna tower will consist of three parts: a mechanical equipment room/support structure; a tower that will be 80 feet high and an antenna mast that will be 60 feet high; and a three foot beacon atop; and

WHEREAS, the applicant represents that the antenna tower complies with the use and bulk requirements of the Zoning Resolution and is within the applicable sky exposure plane; and

WHEREAS, based upon its review of evidence in the record, the Board finds that the proposed antenna tower will be located, designed and operated so that there will be no detrimental effect on the privacy, quiet, light and air of the neighborhood; and

WHEREAS, therefore, the Board finds that the subject application meets the findings set forth at Z.R. § 73-30; and

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

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 N.Y.C.R.R. Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings and grants a special permit under Z.R. §§ 73-03 and 73-30, to permit the proposed construction of a non-accessory radio tower and antenna for a radio station within an R7-1 zoning district with a partial C1-3 overlay, which is contrary to Z.R. §§ 22-21 and 22-11, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked “Received October 29, 2004”-(4) sheets; and *on further condition*;

THAT no commercial or retail signage will be posted;

THAT any security lighting (not including any lighting

positioned down and away from residential uses;

CORRECTIONS

installed on the tower for FAA-compliance purposes)will be

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

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

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

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

Adopted by the Board of Standards and Appeals, March 1, 2005.

***The resolution has been corrected in the part of the conditions which read: "THAT any lighting will be positioned down and away from residential uses;" now reads: "THAT any security lighting (not including any lighting installed on the tower for FAA-compliance purposes)will be positioned down and away from residential uses";. Corrected in Bulletin Nos. 15-16, Vol. 90, dated April 7, 2005.**

Pasquale Pacifico, Executive Director.

BULLETIN

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Volume 90, No. 17

April 14, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE - 40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD - 40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @ <http://www.nyc.gov/html/bsa/home.html>

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Affecting Calendar Numbers:

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72-04-BZ **B.BK.** **245 Hooper Street,**
north side, 205' east of Marcy Avenue, between Marcy and
Harrison Avenues, Block 2201, Lot 61, Borough of
Brooklyn. N.B. #301743344. Proposed erection of a
synagogue and yeshiva, with accessory residences, Use
Groups 2 and 4, located in an R6 zoning district, which does
not comply with the zoning requirements for floor area ratio,
lot coverage, rear yard and open space ratio, is contrary to
Z.R. §24-11, §23-142, §24-36 and §24-12.
COMMUNITY BOARD #1BK

77-05-BZ **B.M.** **132 West 26th Street,**
south side, 364.5' west of Sixth Avenue, Block 801, Lot 60,
Borough of Manhattan. Applic. #104039728. Proposed
construction of a twelve-story mixed building, containing
residential and retail uses, located within an M1-6 zoning
district, in which residential use is not permitted as of right,
is contrary to Z.R. §42-00.
COMMUNITY BOARD #4M

73-05-A **B.Q.** **125-12 31st Avenue,**
bounded by 31st Avenue and 125th Street, Block 4381, Lot 1,
Borough of Queens. N.B. #402086014. Proposed building,
of which a portion is located within the bed of a mapped
street, is contrary to Section 35, Article 3 of the General City
Law.

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.

74-05-BZ **B.S.I.** **1089 Rockland Avenue,**
northeast side, between Borman and Shirra Avenues, Block
2000, Lot 7, Borough of Staten Island. Applic. #500668949.
Proposed construction of a non-accessory radio tower for
public utility wireless communications (disguised as a 50-foot
tall flagpole), located in an R3-2 zoning district, requires a
special permit from the Board as per Z.R. §73-30.
COMMUNITY BOARD #2SI

75-05-BZ **B.S.I.** **2018 Richmond Avenue,**
approximately 650' south of Amsterdam Place and Richmond
Avenue, Block 2100, Lot 460, Borough of Staten Island.
Applic. #500758290. Proposed construction of a non-
accessory radio tower for public utility wireless
communications (disguised as a 90-foot tall flagpole), located
in an R3-2 zoning district, requires a special permit from the
Board as per Z.R. §73-30.
COMMUNITY BOARD #2SI

76-05-BZ **B.M.** **342/6 and 348/54**
Amsterdam Avenue, northwest corner of West 76th Street,
also 207 West 76th Street, north side, 115' west of
Amsterdam Avenue, Block 1168, Lots 26, 30 and 33,
Borough of Manhattan. Applics.#s100226104, 104041226
and 100478573. The legalization of an existing physical
culture establishment, a portion of which was previously
approved by the Board under Cal. #131-91-BZ, located
within three separate buildings, requires a special permit
from the Board as per Z.R. §73-36.
COMMUNITY BOARD #7M

CALENDAR

MAY 10, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, May 10, 2005 , 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

62-83-BZ

APPLICANT - Law Offices of Howard Goldman, LLC, for Shaya B. Pacific, LLC, owner.

SUBJECT - Application June 1, 2004 and updated 3/15/05 - reopening for an amendment to the resolution to allow the redesign of landscaped areas and the elimination of loading docks.

PREMISES AFFECTED - 696 Pacific Street, between Carlton and 6th Avenues, Block 1128, Lot 1002, Borough of Brooklyn.

COMMUNITY BOARD #8BK

110-95-BZ

APPLICANT - John W. Russell, Esq., for 1845 Realty, Inc., owner; 1845 Cornaga Avenue, lessee.

SUBJECT - Application March 15, 2004 - Extension of Term of a variance, which permitted, within a C2/R5 zoning district, the operation of a auto repair facility (UG16), with accessory uses, including parking and minor repairs using handtools.

PREMISES AFFECTED - 1845 Cornaga Avenue, southwest corner of Cornaga Avenue and B19th Street, Block 15563, Lot 1, Borough of Queens.

COMMUNITY BOARD #14

126-99-BZ

APPLICANT - Sheldon Lobel, P.C., for Fortune Hospitality Group LLC, owner.

SUBJECT - Application February 23, 2005 - Extension of Time to Complete Construction of a hotel which was granted on March 28, 2000 under section 72-21 of the zoning resolution for the subject site to be used as a transient hotel located in C1-2 zoning district.

PREMISES AFFECTED - 220-16 Jamaica Avenue, south side of Jamaica Avenue between 220th Street and 221st Street, Block 10789, Lot 268, Borough of Queens.

COMMUNITY BOARD #13Q

215-00-BZ

APPLICANT - McDermott Will & Emery LLP, for Parker Jewish

MAY 10, 2005, 1:30 P.M.

Institute for Health Care and Rehabilitation, owner.

SUBJECT - Application January 13, 2005 - Extension of Time to Complete Construction of the Parker Jewish Institute for Health Care and Rehabilitation, authorized by a variance issued by the Board of Standards and Appeals on January 16, 2001, located R3-2 Zoning District.

PREMISES AFFECTED - 271-11 76th Avenue, Block 8489 and the Nassau County line, Block 8520, Lot 175, Borough of Queens.

COMMUNITY BOARD #13Q

182-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Marcello Porcelli, owner; BP Amoco, plc, lessee.

SUBJECT - Application December 20, 2004 - reopening to request an amendment to redesign a gasoline service station previously approved in 2003. Relocation and reduction of floor area of the convenience store, relocate the fuel dispenser islands and canopy, increase the curb cuts from three to five and to modify the landscaping. The premise is located in R3-2/C1-2 and R3-2 zoning district.

PREMISES AFFECTED - 1705 Richmond Avenue, aka 2990 Victory Boulevard, southeast corner of the intersection of Richmond Avenue and Victory Boulevard, Block 2072, Lot 42, Borough of Staten Island.

COMMUNITY BOARD #2S.I.

APPEALS CALENDAR

211-04-A

APPLICANT - Sheldon Lobel, P.C., for Grace Presbyterian Church, owner.

SUBJECT - Application May 21, 2004 - Proposed expansion and renovation of an existing church building, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 216-50/56 28th Avenue, southwest corner of Cross Island Parkway, Block 6019, Lot 108, Borough of Queens.

COMMUNITY BOARD #11

CALENDAR

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, May 10, 2005, at 1:30 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

127-04-BZ

APPLICANT - Eric Palatnik, P.C., for Abraham Leser, owner; Absolute Power and Fitness, lessee.

SUBJECT - Application March 10, 2004 - under Z.R. §73-36 the legalization of an existing physical culture establishment, located on the fourth floor of a four story building, situated in a C4-3 zoning district.

PREMISES AFFECTED - 5313/23 Fifth Avenue, between 53rd and 54th Streets, Block 816, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

175-04-BZ thru 177-04-BZ

APPLICANT - Joseph P. Morsellino, for 130th Street LLC, owner.

SUBJECT - Application April 29, 2004- under Z.R. §72-21- Proposed erection and maintenance of a two family dwelling, Use Group 2, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, open space, perimeter wall height and rear yard, is contrary to Z.R. §23-141, §23-631 and §23-47.

PREMISES AFFECTED -

7-05 130th Street, east side, Block 3982, Lot 70, Borough of Queens.

7-09 130th Street, east side, Block 3982, Lot 67, Borough of Queens.

7-13 130th Street, east side, Block 3982, Lot 65, Borough of Queens.

COMMUNITY BOARD #7Q

178-04-BZ thru 181-04-BZ

APPLICANT - Joseph P. Morsellino, for 130th Street LLC, owner.

SUBJECT - Application April 29, 2004- under Z.R. §72-21- Proposed erection and maintenance of a two family dwelling, Use Group 2, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage and minimum required open space is contrary to Z.R. §23-141.

PREMISES AFFECTED -

7-04 130th Street, west side, Block 3980, Lot 66, Borough of Queens.

7-06 130th Street, west side, Block 3980, Lot 68, Borough of

372-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Robert Perretta, contract vendee.

Queens.

7-12 130th Street, west side, Block 3980, Lot 72, Borough of Queens.

7-14 130th Street, west side, Block 3980, Lot 74, Borough of Queens.

COMMUNITY BOARD #7Q

189-04-BZ

APPLICANT - D.E.C. Designs, for City of Faith Church of God, owner.

SUBJECT - Application May 5, 2004 - under Z.R. §73-19 to allow a school (UG3) in a C8-1 zoning district which is not permitted as per section 32-00 of the Zoning Resolution.

PREMISES AFFECTED - 3445 White Plains Road, 445.2' south of Magenta Street, Block 4628, Lot 47, Borough of The Bronx.

COMMUNITY BOARD #12BX

276-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Albert J. and Catherine Arredondo, owners.

SUBJECT - Application August 10, 2004 - under Z.R. §72-21 to permit the proposed addition of a second floor plus attic, to an existing one family dwelling, Use Group 1, located in an R4 zoning district, which does not comply with the zoning requirements for rear and side yards, is contrary to Z.R. §23-461 and §23-47.

PREMISES AFFECTED - 657 Logan Avenue, west side, 100' south of Randall Avenue, Block 5436, Lot 48, Borough of The Bronx.

COMMUNITY BOARD #10BX

354-04-BZ

APPLICANT - Friedman & Gotbaum by Shelly S. Friedman, Esq., for Greenwich Tower LLC, owner.

SUBJECT - Application November 8, 2004 - under Z.R. §72-21 to permit the proposed conversion of an existing two-story building, from artist's studio to a single family residence, located in an M1-5 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 637 Greenwich Street, east side, 75.3' south of Barrow Street, Block 603, Lot 51, Borough of Manhattan.

COMMUNITY BOARD #2M

SUBJECT - Application November 23, 2004- under Z.R. §72-21 to permit in a R1-2(NA-1) zoning district the construction of a single family home on a lot with less than the required lot area and

CALENDAR

lot width to vary ZR 23-32.

PREMISES AFFECTED - 8 Lawn Avenue, corner of Nugent
Street, Block 2249, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

Pasquale Pacifico, Executive Director

**REGULAR MEETING
TUESDAY MORNING, APRIL 5, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner
Miele and Commissioner Chin.

MINUTES

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, February 1, 2005, were approved as printed in the Bulletin of February 9, 2005, Volume 90, No. 6.

SPECIAL ORDER CALENDAR

348-82-BZ

APPLICANT - Salvati Architects for George Gong, owner.
SUBJECT - Application December 17, 2004 - Extension of Term/ Waiver/ Amendment, application seeks to legalize the change from three (3) storefronts (U.G. 6) to two (2) storefronts (U.G. 6 & 16D) located in an R5 zoning district. The application was approved under section 72-21 of the zoning resolution to permit in an R5 zoning district, the establishment of three (U.G. 6) storefronts for a term of 20 years which expired on April 12, 2003.
PREMISES AFFECTED - 204 Avenue S, Avenue S and West 6th Street, Block 7083, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to May 24, 2005, at 10 A.M., for postponed hearing.

14-92-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for DG Equities and Greenwich Reade Associates, for TSI Greenwich Street, Inc., lessee.

SUBJECT - Application May 19, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired May 3, 2003 and for an amendment to the resolution to allow the operation of a physical culture establishment.

PREMISES AFFECTED - 311 Greenwich Street, a/k/a 151 Reade Street, southeast corner of Greenwich Street and Reade Street, Block 140, Lot 7502, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to April 19, 2005, at 10 A.M., for decision, hearing closed.

68-94-BZ

APPLICANT - Fischbein Badillo Wagner & Harding for Bally Total Fitness, lessee

SUBJECT - Application January 21, 2005 - to Reopen and
WHEREAS, the decision of the Queens Borough Commissioner dated September 22, 2004 acting on Department of Buildings Application No.401970863, reads, in pertinent part:

Extension of Term of a Special Permit for a Physical Cultural Establishment located on a portion of the first and second floor of the Bay Plaza shopping center which expired on November 11, 2004. Located in a C4-3 Zoning district. Minor interior layout change and signage change.

PREMISES AFFECTED - 2100 Bartow Avenue, south side, at the eastern most side of Baychester Avenue, Bronx

COMMUNITY BOARD#10BX

APPEARANCES -

For Applicant: Barbara Hair.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to April 19, 2005, at 10 A.M., for decision, hearing closed.

91-02-BZ

APPLICANT - Sheldon Lobel, P.C., for David Winiarski, owner.
SUBJECT - Application April 13, 2004 - reopening for an amendment to a previously granted variance under ZR §72-21 to allow minor modification of the approved plans.

PREMISES AFFECTED - 3032-3042 West 22nd Street, West 22nd Street, 180' north of Highland View Avenue, Block 7071, Lot 19 (fka 19, 20, 22), Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Laid over to May 10, 2005, at 10 A.M., for continued hearing.

329-04-A

APPLICANT - Jeffrey Geary, for Riley Realty Corp., owner.
SUBJECT - Application October 5, 2004 - Proposed construction of a two story single family residence, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law

PREMISES AFFECTED -10-03 Channel Road, (aka 100th Place), west side, 33.94' south of 197th Avenue, Block 15475, Lot 26, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

**“General City Law 35: Building in the bed of a mapped street . . .”; and
WHEREAS, a public hearing was held on this application on March 29, 2005, after due notice by**

MINUTES

publication in the *City Record*, and then to decision on April 5, 2005; and

WHEREAS, by letter dated January 11, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated February 17, 2005 the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated December 23, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, September 22, 2004 acting on Department of Buildings Application No.401970863, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received March 29, 2005"-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals April 5, 2005.

385-04-A

APPLICANT -Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Christine & Barry Fisxher, lessee.

SUBJECT - Application December 6, 2004 - Proposed reconstruction and enlargement of an existing single family dwelling, also the proposed upgrading of an existing private disposal system, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law and Department of Buildings Policy.

PREMISES AFFECTED - 2 Deauville Walk, in the bed of Beach 214th Street, at the intersection of Palmer Drive, Block 16350, Lot 300, Borough of Queens.

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

COMMUNITY BOARD #14Q

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated November 23, 2004, acting on Department of Buildings Application No. 402002266, reads:

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

A-2 The proposed upgraded private disposal system is in the bed of a mapped street contrary to Department of Buildings Policy.;" and

WHEREAS, a public hearing was held on this application on March 15, 2005 after due notice by publication in the *City Record*, and then to decision on April 5, 2005; and

WHEREAS, by letter dated December 16, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated January 31, 2005, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated February 2, 2005 in the Department of Transportation has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated November 23, 2004, acting on Department of Buildings Application No. 402002266, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received March 21, 2005"-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 5, 2005.

MINUTES

2:00 P.M.

232-04-A

APPLICANT - Snyder & Snyder LLP, c/o Omnipoint Communications, Inc., for Edward Zdanowicz, owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application June 18, 2004 - Proposed construction of a communications structure on a property that is not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 17 Feldmeyers Lane, 130' from the intersection of Feldmeyers Lane and Victory Boulevard, Block 2660, Lot 63, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES - None.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to April 19, 2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 10:30 A.M.

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

ZONING CALENDAR

218-03-BZ

APPLICANT - Gerald J. Caliendo, R.A., for TTW Realty LLC, owner.

SUBJECT - Application June 25, 2003 - under Z.R. §72-21 to permit the proposed nine-story mixed use building with residential, commercial and community facility uses, located in an M1-1 zoning district, which does not comply with the zoning requirements for the uses, permitted floor area, total height and perimeter wall, is contrary to Z.R. §42-00, §23-141 and §23-631.

PREMISES AFFECTED - 19-73 38th Street, corner of 20th Avenue, Steinway Street and 38th Street, Block 811, Lot 1, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

for Applicant: Sandy Anagnostou.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for decision, hearing closed.

3-04-BZ

APPLICANT - Eric Palatnik, P.C., for Rushikesh Trivedi, owner.

SUBJECT - Application January 6, 2004 - under Z.R. §72-21 to permit the proposed dental office, Use Group 6, located in an R-2 zoning district, which does not comply with the zoning requirements for floor area, open space, front and side yards and use, which is contrary to Z.R. §24-111, §22-14, §24-34 and §24-35.

PREMISES AFFECTED - 147-08 46th Avenue, between Parsons Boulevard and 149th Street, Block 5452, Lot 3, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to June 7, 2005, at 1:30 P.M., for continued hearing.

REGULAR MEETING TUESDAY AFTERNOON, APRIL 5, 2005

63-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Showky Kaldawy, owner.

SUBJECT - Application February 27, 2004 - under Z.R. §72-21

to permit the proposed accessory parking, for an adjacent car rental facility, (Use Group 8), located in an R5 zoning district, is contrary to Z.R. §22-10.

PREMISES AFFECTED - 108-24 Astoria Boulevard, southwest

MINUTES

corner of 110th Street, Block 1703, Lots 94, 97, 98 and 99,
Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Joseph Morsellino

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to May 10, 2005,
at 1:30 P.M., for decision, hearing closed.

135-04-BZ

APPLICANT - Joseph P. Morsellino, for Manuel Minino, owner.
SUBJECT - Application March 19, 2004 - under Z.R. §72-21 to
permit the proposed erection and maintenance of an automobile
showroom with offices, Use Group 6, located in an R2 and C2-
2(R5) zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 91-22 188th Street, northeast corner
of Jamaica Avenue, Block 9910, Tentative Lot 43 (part of lot 1),
Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

ACTION OF THE BOARD - Laid over to May 10, 2005,
at 1:30 P.M., for continued hearing.

255-04-BZ

APPLICANT - Eric Palatnik, P.C., for Eli Kafif, owner.
SUBJECT - Application July 15, 2004 - under Z.R. §73-622 to
permit the proposed enlargement of an existing single family
residence, which does not comply with the zoning requirements for
floor area and side yard, is contrary to Z.R. §23-141 and
§23-461(a), located in an R5 zoning district.

PREMISES AFFECTED - 1924 Homecrest Avenue, between
Avenues "S and T", Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Eric Palatnik.

For Opposition: Kathy Jaworski, Antoinette Vasile and Ed
Jaworski.

ACTION OF THE BOARD - Laid over to May 17, 2005,
at 1:30 P.M., for continued hearing.

286-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP for
Pei-Yu Zhong, owner.

PREMISES AFFECTED - 341-349 Troy Avenue (a/k/a 1515
Carroll Street), Northeast corner of intersection of Troy Avenue
and Carroll Street, Block 1407, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #9BK

APPEARANCES -

For Applicant: Heather Petralia and Stuart Klein.

SUBJECT - Application August 18, 2004 - under Z.R. §72-21 to
permit the proposed one family dwelling, without the required lot
width and lot area is contrary to Z.R. §23-32.

PREMISES AFFECTED - 85-78 Santiago Street, west side,
111.74' south of McLaughlin Avenue, Block 10503, Part of Lot
13(tent.#13), Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES -

For Applicant: Adam Rothkrug.

For Opposition: Linda Valentino and Lurt Hoppe.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to May 10, 2005,
at 1:30 P.M., for decision, hearing closed.

287-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP for
Pei-Yu Zhong, owner.

SUBJECT - Application August 18, 2004 - under Z.R. §72-21 to
permit the proposed one family dwelling, without the required lot
width and lot area is contrary to Z.R. §23-32.

PREMISES AFFECTED - 85-82 Santiago Street, west side, 177'
south of McLaughlin Avenue, Block 10503, Part of Lot
13(tent.#15), Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES -

For Applicant: Adam Rothkrug.

For Opposition: Linda Valentino and Lurt Hoppe.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to May 10, 2005,
at 1:30 P.M., for decision, hearing closed.

290-04-BZ

APPLICANT - Stuart A. Klein, Esq., for Alex Lokshin - Carroll
Gardens, LLC, owner.

SUBJECT - Application August 20, 2004 - under Z.R. §72-21 to
permit, in an R4 zoning district, the conversion of an existing
one-story warehouse building into a six-story and penthouse
mixed-use residential/commercial building, which is contrary to
Z.R. §22-00, 23-141(b), 23-631(b), 23-222, 25-23, 23-45, and
23-462(a).

For Opposition: Linda Scott, Gloria Goodwin and Joseph Scott.

ACTION OF THE BOARD - Laid over to May 24, 2005,
at 1:30 P.M., for continued hearing.

294-04-BZ

MINUTES

APPLICANT - Petraro & Jones, LLP., by Patrick W. Jones, Esq., for 2478-61 Realty Corp., owner.

SUBJECT - Application August 26, 2004 - under Z.R. §72-21 proposed construction of a three family dwelling, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for front and side yards, is contrary to Z.R. §§23-45 and 23-49.

PREMISES AFFECTED - 103-05 35th Avenue, (a/k/a 34-29 35th Avenue), northeast corner of 103rd Street, Block 1744, Lot 43, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Patrick Jones and Willy Zambrarro.

For Opposition: Denis Pease and Dorothy Palmer.

ACTION OF THE BOARD - Laid over to April 19, 2005, at 1:30 P.M., for continued hearing.

340-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Anthony R. and Valerie J. Racanelli, owners; Walgreens, lessee.

SUBJECT - Application October 15, 2004 - under Z.R. §72-21 to request a bulk variance to allow the construction of a new drug store without the required parking in a C4-1 district, contrary to Z.R. §§33-23(B) and 36-21.

PREMISES AFFECTED - 1579 Forest Avenue, northeast side of Forest Avenue and Decker Avenue, Block 1053, Lot 149, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Joseph Morsellino.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to May 10, 2005, at 1:30 P.M., for decision, hearing closed.

371-04-BZ

APPLICANT - Eric Palatnik, P.C., for Hillel Kirschner, owner.

SUBJECT - Application November 22, 2004 - under Z.R.73-622 to permit the proposed enlargement of an existing single family residence, located in an R5 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, side and rear yards, is contrary to Z.R. §23-141(a), §23-46 and §23-47.

PREMISES AFFECTED - 1271 East 28th Street, between Avenues "L and M", Block 7646, Lot 16, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to May 17, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 3:40 P.M.

CORRECTIONS

***CORRECTION**

This resolution adopted on March 15, 2005, under Calendar No. 126-04-BZ and printed in Volume 90, Bulletin Nos. 13-14, is hereby corrected to read as follows:

**126-04-BZ
CEQR #04-BSA-141K**

APPLICANT - Eric Palatnik, Esq., for James Bateh, owner.
SUBJECT - Application October 7, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, Use Group 2, located in an R3-1(BR) zoning district, which does not comply with the zoning requirements for open space, floor area, also side and front yards, is contrary to Z.R. §23-141, §23-461(a) and §23-45.

PREMISES AFFECTED - 66 87th Street, south side, between Narrows Avenue and Colonial Road, Block 6046, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated September 28, 2004, acting on Department of Buildings Application No. 301685610, reads:

“Obtain approval from the Board of Standards and Appeals for the following objections:

1. Proposed floor area is contrary to ZR 23-141
2. Proposed open space ratio is contrary to ZR: 23-141
3. Proposed side yard is contrary to ZR 23-461(a)”; and

WHEREAS a public hearing was held on this application on January 11, 2005 after due notice by publication in *The City Record*, with continued hearings on February 1, 2005 and March 1, 2005, and then to decision on March 15, 2005; and

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

WHEREAS, Community Board 10, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 73-622 to permit, in an R3-1 zoning district, the proposed enlargement of an existing single-family residence (Use Group 1), which does not comply with the zoning requirements for floor area, open space ratio and side yard, contrary to Z.R. §§ 23-141 and

23-461(a); and

WHEREAS, the subject lot is located on the south side of 87th Street between Colonial Road and Narrows Avenue, and has a total lot area of 5,000 sq. ft.; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-story residential structure with attic; and

WHEREAS, the applicant seeks an increase in the floor area from 3,066 sq. ft. (0.62 Floor Area Ratio or “FAR”) to 4,678.82 sq. ft. (.936 FAR); this exceeds the permitted 2,500 sq. ft. floor area (0.60 FAR with attic); and

WHEREAS, the proposed enlargement will reduce the Open Space Ratio (“OSR”) from 61% to 57% (the minimum open space ratio required is 65%); and

WHEREAS, the applicant received a letter from the Department of Buildings that states that the applicant can maintain the existing perimeter wall height of 21’-8” so long as the applicant obtains waivers from the Board of Standards and Appeals for F.A.R., open space ratio and side yards; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant proposes a straight line enlargement into the rear yard; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width between the building and the side lot line; and

WHEREAS, the applicant submitted photographs documenting houses in the immediate vicinity of the site that stand two stories high with no setbacks between the first and second floors; and

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R3-1 zoning district, the proposed enlargement of an existing single-family residence (Use Group 1), which does not comply with the zoning requirements for floor area, open space ratio and side yard, contrary to Z.R. §§ 23-141 and 23-461(a); *on condition* that all work shall substantially conform to drawings as they apply to the

CORRECTIONS

objection above-noted, filed with this application and

marked "Received August 24, 2004" - (5) sheets, "Received February 15, 2005" - (1) sheet, and "Received March 8, 2004" - (1) sheet; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth on the certificate of occupancy;

THAT the total F.A.R. for the premises, including the attic, shall not exceed 0.936;

THAT the total attic floor area shall not exceed 997.74 s.f.;

THAT the proposed attic floor area shall be reviewed and confirmed by the Department of Buildings;

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

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, March 15, 2005.

*The resolution has been corrected in the part of the 10th WHEREAS, which read: "21'-0"" now reads: "21'-8"". Corrected in Bulletin No. 17, Vol. 90, dated April 14, 2005.

BULLETIN

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NEW YORK CITY BOARD OF STANDARDS
AND APPEALS

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Volume 90, No. 18

April 21, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE - 40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD - 40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @ <http://www.nyc.gov/html/bsa/home.html>

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Tuesday, April 12, 2005**

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68-94-BZ	2100 Bartow Avenue, Bronx
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314-28-BZ	902/14 Westchester Avenue and 911/15 Rogers Place, Bronx
752-64-BZ	49 East 77 th Street, Manhattan
721-67-BZ	7310-7322 New Utrecht Avenue, Brooklyn
490-69-BZ	1408/18 Second Avenue, 303/09 East 73 rd Street, 300/04 East 74 th Street, Manhattan
1038-80-BZ	31-07/09/11 Downing Street, Queens
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234-04-BZ	255 McKibbin Street, Brooklyn
275-04-BZ	601-603 East 9 th Street, a/k/a 143 Avenue "B", Manhattan
298-04-BZ	1746 East 21 st Street, Brooklyn
322-04-BZ	1124 East 21 st Street, Brooklyn
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339-04-BZ	157-30 Willets Point Boulevard, Queens
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352-04-BZ	1845 Richmond Avenue, Staten Island
16-05-BZ	161 Westervelt Avenue, Staten Island

DOCKETS

New Case Filed Up to April 12, 2005

78-05 -BZ **B.Q.** **264-15 77th Avenue,**
southwest corner of 256th Street, Block 8538, Lots 29 and 31,
Borough of Queens. **Applic. #402086372.** Proposed
expansion of an existing one story synagogue building,
located in an R2 zoning district, which does not comply with
the zoning requirements for lot coverage, also front and side
yards, is contrary to Z.R. §24-11, §24-24 and §24-35.
COMMUNITY BOARD #13BK

79-05-BZ **B.M.** **101/21 Central Park North,**
west side of Lenox Avenue, between Central Park North and
West 111th Street, Block 1820, Lot 30, Borough of
Manhattan. **N.B. #103977528.** Proposed 20-story mixed use
building, with below grade parking spaces, located in an
R8/C1-4 and R7-2/C1-4 zoning district, which does not
comply with the zoning requirements for floor area, height
and setback, is contrary to Z.R. §23-011, §23-145, §35-22,
§35-31, §23-633 and §35-24.
COMMUNITY BOARD #10M

80-05-BZ **B.M.** **49 West 32nd Street,**
north side, 148.6' west of Broadway, Block 835, Lot 9,
Borough of Manhattan. **Applic. #104045819.** Proposed
operation of a physical culture establishment, at the subject
premise, located in a C6-6(Mid) zoning district, requires a
special permit from the Board as per Z.R. §73-36.
COMMUNITY BOARD #5M

81-05-BZ **B.BK.** **1061/71 52nd Street,**
north side, 229' east of Fort Hamilton Parkway, Block 5653,
Lot 55, Borough of Manhattan. **N.B. #301320372.** Proposed
development of a 7-story plus mezzanine residential building,
with 39 dwelling units and 10 off-street accessory parking
space, located in an R6 zoning district, which does not
comply with the zoning requirements floor area ratio, height
factor, lot coverage, base height, height of streetwall,
setback, sky exposure plane, and parking is contrary to Z.R.
§23-145, §23-632, §23-633 and §25-23.
COMMUNITY BOARD #12BK

82-05-BZ **B.M.** **1841 Park Avenue,**
a/k/a 101 East 126th Street, northeast corner, Block 1775,
Lot 1, Borough of Manhattan. **Applic. #104063193.**
Proposed daycare center (school), Use Group 3A, is not
permitted as-of-right in an M1-2 zoning district, and is
therefore contrary to Z.R. §42-12.
COMMUNITY BOARD #11M

DESIGNATIONS: D-Department of Buildings; B.BK.-
Department of Buildings, Brooklyn; B.M.-Department of
Buildings, Manhattan; B.Q.-Department of Buildings,
Queens; B.S.I.-Department of Buildings, Staten Island;
B.BX.-Department of Building, The Bronx; H.D.-Health
Department; F.D.-Fire Department.

CALENDAR

MAY 17, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, May 17, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

1111-62-BZ

APPLICANT - Sheldon Lobel. P.C., for 200 East Tenants Corporation, owner; Adonis Parking, LLC, lessee.

SUBJECT - Application September 23, 2004 - Extension of Term of a variance to permit transient parking beyond the Ten year term expiring on March 26, 2003 in the C5-2 portion of the lot.

PREMISES AFFECTED - 201 East 56th Street a/k/a 935-951 Third Avenue, 201-207 East 56th Street and 200-210 East 57th Street, Manhattan.

COMMUNITY BOARD #6M

1129-64-BZ

APPLICANT - Sheldon Lobel. P.C., for 147-36 Brookville Boulevard Corp., owner.

SUBJECT - Application November 10, 2004 - Extension of term filed pursuant to sections 72-01 and 72-22, which was originally granted March 2, 1965, to permit the erection of a one story enlargement to an existing building used for the sale of auto supplies in an R3-2 zoning district.

PREMISES AFFECTED - 147-36 Brookville Boulevard, southwest corner of 147th Road and Brookville Boulevard, Block 13729, Lot 33, Borough of Queens.

COMMUNITY BOARD #13Q

138-68-BZ

APPLICANT - Francis R. Angelino c/o DeCamp Diamond & Ash, for Martin A. Gleason Funeral Home, LLC, owner.

SUBJECT - Application - February 18, 2005 - Request a two-year Extension of Time/Waiver to obtain a Certificate of Occupancy for a funeral home. The premise is located in an R-2 zoning district.

PREMISES AFFECTED - 10-25 150th Street, Block 4515, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

PREMISES AFFECTED - 40 Ocean Avenue, west side, 295.32' north of Rockaway Boulevard, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14

739-76-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Cord Meyer Development, Corp., owner; Peter Pan Games of Bayside, lessee.

SUBJECT - Application January 19, 2005 - reopening for an extension of term of variance for an amusement arcade (Use Group 15) which expired April 10, 2005.

PREMISES AFFECTED - 212-95 26th Avenue, 26th Avenue and Bell Boulevard, Block 5900, Lot 2, Borough of Queens.

COMMUNITY BOARD #7Q

348-82-BZ

APPLICANT - Salvati Architects for George Gong, owner.

SUBJECT - Application December 17, 2004 - Extension of Term/Waiver/Amendment, application seeks to legalize the change from three (3) storefronts (U.G. 6) to two (2) storefronts (U.G. 6 & 16D) located in an R5 zoning district. The application was approved under section 72-21 of the zoning resolution to permit in an R5 zoning district, the establishment of three (U.G. 6) storefronts for a term of 20 years which expired on April 12, 2003.

PREMISES AFFECTED - 204 Avenue S, Avenue S and West 6th Street, Block 7083, Lot 4, Borough of Brooklyn.

APPEALS CALENDAR

54-05-A

APPLICANT - NYC Department of Buildings.

OWNER OF PREMISES: Yeshiva Imrei Chaim Viznitz.

SUBJECT - Application March 4, 2005 - Application to revoke Certificate of Occupancy No. 300131122, on the basis that the Certificate of Occupancy allows conditions at the subject premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED - 1824 53rd Street, southeast corner of 18th Avenue, Block 5480, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #12BK

55-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; Giacomo & Elizabeth Reneo, lessee.

SUBJECT - Application March 8, 2005 - Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

CALENDAR

56-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; John & Margaret Carr, lessees.

SUBJECT - Application March 8, 2005 - Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 10 Janet Lane, south side, 235.6' west of Beach 201st Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

SUBJECT - Application March 8, 2005 - Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, also a proposal to upgrade the private disposal in the bed of an existing service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 5 Courtney Lane, north side, 237.31' east of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

57-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; James & Bernadette Geissler, lessees.

SUBJECT - Application March 8, 2005 - Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 667 Highland Place, east side, .10' north of 12th Avenue, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14

MAY 17, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, May 17, 2005, at 1:30 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

58-05-A

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

SUBJECT - Application March 8, 2005 - Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 15 Ocean Avenue, east side, 295.32' north of Rockaway Point Boulevard, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14

ZONING CALENDAR

156-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Edwin Umanoff, owner.

SUBJECT - Application April 13, 2004 - under Z.R. §72-21 to permit the legalization of an existing insurance brokerage business, Use Group 6, located in an R5 zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 9712 Flatlands Avenue, between East 98th Street and Rockaway Parkway, Block 8205, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD #18

59-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; Kevin & Maureen Gormley, lessees.

SUBJECT - Application April 21, 2004 - under Z.R. §73-36 to permit the proposed physical culture establishment, which will occupy portions of the cellar and first floor of an existing two story building located in C1-3(R6) zoning district, which is contrary to Z.R. §32-00.

PREMISES AFFECTED - 677/91 Fulton Street, north side, 28' east of Ashland Place, Block 2096, Lot 69, Borough of Brooklyn.

COMMUNITY BOARD #2BK

163-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector for MyLaw Realty Corp., owner; Fort Greene Sports Club, LLC, lessee.

356-04-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for RFD 55th Street, LLC, owner; The Core Club 55th Street, LLC, lessee.

SUBJECT - Application November 16, 2004 - under Z.R. §73-36 approval sought for a proposed physical cultural establishment to be located on a portion of the cellar and first floor, entire third, fourth and sixth floor levels of a 41 story mixed use building currently under construction. The proposed PCE use will contain 19, 249 gross

CALENDAR

square feet. The site is located in a C5-2.5 Special Midtown District. PREMISES AFFECTED - 60 East 55th Street, southmidblock, East 55th Street, block bounded by Park and Madison Avenues and East 54th and East 55th Streets, Block1290, Lot # 45, Borough of Manhattan.

COMMUNITY BOARD #5M

15-05-BZ

APPLICANT - Friedman & Gotbaum, LLP, by Irving J. Gotbaum, for West 20th Street Realty, LLC, owner.

SUBJECT - Application January 27, 2005 - under Z.R.§72-21 to permit the proposed construction of a seven-story 64.5' residential building, located in an R8B zoning district, which exceeds the permitted height of 60', which is contrary to Z.R.§23-692.

PREMISES AFFECTED - 209 West 20th Street, north side, 141' west of Seventh Avenue, Block 770, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #4M

32-05-BZ

APPLICANT - Law Office of Howard Goldman, for Rivendell School, owner.

SUBJECT - Application February 24, 2005 - under Z.R. §72-21 to permit the proposed relocation and expansion of an existing not-for-profit school, located in an R6B zoning district, which does not comply with the zoning requirements for lot coverage, is contrary to Z.R. §24-11 and §52-31.

PREMISES AFFECTED - 288 7th Street, between Fourth and Fifth Avenues, Block 998, Lot 23, Borough of Brooklyn.

COMMUNITY BOARD #6BK

63-05-BZ

APPLICANT -Carole S. Slater, Esq., Slater & Beckerman, LLP for Otsar, Inc., owner.

SUBJECT - Application March 15, 2005 - Variance pursuant to Section 72-21 of the Zoning Resolution, to permit a two-story addition to a not for profit educational institution for developmentally disabled children, within R5 and R5/C1-2 Zoning Districts to vary Sections 24-11, 24-34, and 77-28 of the Resolution.

PREMISES AFFECTED -2324 West 13th Street between Avenue W and Avenue X; distance of 150 feet south of Avenue W, Block

REGULAR MEETING

TUESDAY MORNING, APRIL 12, 2005

10:00 A.M.

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, February 8, 2005, were approved as printed in the Bulletin of February 17, 2005, Volume 90, No. 7.

7160, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #13BK

82-05-BZ

APPLICANT - Adrienne W. Bernard, Esq., Fried, Frank, Harris, Shriver & Jacobson, LLP, for Association to Benefit Children, owner.

SUBJECT - Application April 5, 2005 - pursuant to Z.R.§ 73-19, to allow an existing child care facility accessory to a not-for-profit community service organization to operate as a Use Group 3A school, within an M1-2 and R7-2 Zoning District and to vary Section 42-12 of the Resolution.

PREMISES AFFECTED - 1841 Park Avenue (a/k/a 101 East 126th Street), Northeast corner of Park Avenue and East 126th Street, Block 1775, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #11M

Pasquale Pacifico, Executive Director

SPECIAL ORDER CALENDAR

200-24-BZ

APPLICANT - Stephen Ely, for Ebed Realty c/o Ruben Greco, owner.

SUBJECT - Application December 22, 2004 - reopening for an extension of time to obtain a Certificate of Occupancy, located in an R8 and C8-2 zoning district.

PREMISES AFFECTED - 3030 Jerome Avenue, a/k/a 3103 Villa Avenue, 161.81' south of East 204th Street on the East Side of

MINUTES

Jerome Avenue, Block 3321, Lot 25, Borough of The Bronx.

COMMUNITY BOARD #7BX

APPEARANCES -

For Applicant: Stephen Ely.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and an extension of time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on March 29, 2005 after due notice by publication in the *City Record*, and then to decision on April 12, 2005; and

WHEREAS, on May 25, 1924, the Board permitted the erection of a storage garage at the subject premises; and

WHEREAS, on March 29, 1960, the Board reopened and amended the resolution to permit a change in use from storage garage to auto repair, for a term of ten years; said term was extended at various times; and

WHEREAS, on March 17, 2001, the Board legalized the change of use from automotive related services (Use Group 16) to a retail food store (Use Group 6) and to extend the term of the variance; and

WHEREAS, on November 26, 2002, the Board reopened and amended the resolution to permit a change of use from retail food store to a bookstore and to extend the time to complete construction and obtain a new certificate of occupancy; and

WHEREAS, the period in which to obtain the CO expired on November 26, 2004; and

WHEREAS, the applicant states that the reason for the requested extension of time is due to financial considerations; and

WHEREAS, therefore, the Board has determined that the evidence in record supports the grant of the requested waiver and extension.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, said resolution having been

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening and an extension of term for a special permit for a physical culture establishment ("PCE"), and an amendment to approve an alteration of the signage and a minor change to the interior layout of the PCE; and

WHEREAS, a public hearing was held on this application on April 5, 2005, after due notice by publication in *The City Record*, and then to decision on April 12, 2005; and

WHEREAS, Community Board No. 10, Bronx, has no objection to the extension of term of the special permit; and

WHEREAS, the PCE is located on a portion of the first and second floors of the Co-Op City Bay Plaza shopping center and occupies 20,290 sq. ft. of floor area; and

adopted on March 25, 1924, so that as amended this portion of the resolution shall read: "to permit an extension of the time to obtain a certificate of occupancy, for a period of one year from the date of this resolution to expire on April 12, 2006; on condition:

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

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. 200608896)

Adopted by the Board of Standards and Appeals, April 12, 2005.

68-94-BZ

APPLICANT - Fischbein Badillo Wagner & Harding for Bally Total Fitness, lessee

SUBJECT - Application January 21, 2005 - to reopen and Extension of Term of a Special Permit for a Physical Cultural Establishment located on a portion of the first and second floor of the Bay Plaza shopping center which expired on November 11, 2004. Located in a C4-3 Zoning district. Minor interior layout change and signage change.

PREMISES AFFECTED - 2100 Bartow Avenue, south side, at the eastern most side of Baychester Avenue, Bronx.

COMMUNITY BOARD#10BX

APPEARANCES -

For Applicant: Barbara Hair.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, on November 1, 1994, under the subject calendar number, the Board granted a special permit for a term of ten years pursuant to Z.R. § 73-36, to permit, in a C3-4 district, the operation of a PCE, with certain conditions; and

WHEREAS, the special permit expired on November 1, 2004; and

WHEREAS, since the original grant, the applicant has changed two signs above the PCE entrance at the rear of the shopping center from "Bally Jack LaLanne" to "Bally Total Fitness," and has installed a wire mesh partition on the second floor for the sale of retail merchandise; and

WHEREAS, the applicant submitted a sign analysis which reflects the amendments to the signage and states that the signage is in full compliance with C4-3 district sign

MINUTES

regulations; and

WHEREAS, additionally, the Board finds that the applicant continues to meet the requirements of Z.R. § 73-36; and

WHEREAS, accordingly, the Board finds that it is appropriate to grant an extension of a special permit in this case.

Therefore it is Resolved that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, and reopens and amends the resolution, said resolution having been adopted on November 1, 1994, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the special permit for an additional ten (10) years to expire on November 1, 2014, and to permit an alteration of the signage and the interior layout on the second floor, on condition that all work shall substantially conform to drawings filed with this application marked 'Received February 28, 2005'-(4) sheets; and on further condition:

THAT the terms of this grant shall be for ten years to expire on November 1, 2014;

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

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

THAT a new Certificate of Occupancy shall be obtained within eighteen (18) months of the date hereof;

THAT all signage shall comply with the C4-3 zoning district regulations;

THAT all plans previously approved by the BSA shall remain in effect except for the changes to the plans approved with respect to the second floor and the signage;

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

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

(DOB Application No. 200925721)

Adopted by the Board of Standards and Appeals, April 12, 2005.

WHEREAS, on January 15, 2002, the applicant wrote a letter to the Board outlining various structural problems encountered with the conversion of the existing residence into a office/retail building, and requested permission to demolish the existing structure and construct a new building with the same amount of square footage, in lieu of converting the existing structure; and

WHEREAS, on March 13, 2002, the Board issued a letter granting the applicant's request to demolish the existing structure and build a new building, and the building has since been demolished; and

WHEREAS, in 2003, the site was down-zoned from R3-2 to R3-1; and

WHEREAS, the period in which to complete construction expired on May 2, 2004; and

286-99-BZ

APPLICANT - Rampulla Associates Architects, for Vasilios Koniosis, owner.

SUBJECT - Application September 20, 2004 - Extension of Time/Waiver of the Rules of Practice and Procedures to complete construction for the conversion of an existing single family detached dwelling to stores and offices, approved by the Board on May 2, 2000.

PREMISES - 4142 Hylan Boulevard, SE/S of Hylan Boulevard at the corner of Hylan Boulevard and Hinz Avenue, Block 5310, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Philip Rampulla.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, an extension of time to complete construction and obtain a certificate of occupancy, and an amendment to the Board-approved resolution; and

WHEREAS, a public hearing was held on this application on February 8, 2005 after due notice by publication in the *City Record*, with a continued hearing on March 15, 2005, and then to decision on April 12, 2005; and

WHEREAS, Community Board 3, Staten Island, has no objection to this application, provided certain conditions, as reflected below, are imposed by the Board; and

WHEREAS, on May 2, 2000, the Board granted an application under the subject calendar number to permit, within an R3-2 zoning district in the Special South Richmond District, a change in use of the subject premises from a one-family dwelling to an office/retail building (Use Group 6), contrary to Z.R. § 22-00; and

WHEREAS, the Board-approved building was for a two-story retail and office building, with a floor area of 5,734 sq. ft., five separate tenant spaces and 21 accessory parking spaces; and

WHEREAS, the applicant's current proposal is a two-story with cellar, bank building, with a floor area of 5,684 sq. ft., one tenant space, and 22 accessory parking spaces; and

WHEREAS, the new building has a diminished footprint, which reduces the lot coverage by 1,377 square feet from the prior grant; and

WHEREAS, in response to Board concerns, the applicant has agreed to conditions regarding the operation of the proposed bank and circulation, reflected below; and

WHEREAS, based upon the above, the Board has determined that the evidence in record supports the grant of

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the requested waiver and extension.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, said resolution having been adopted on May 2, 2000, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete construction of a two-story with cellar, bank and office building and to obtain a certificate of occupancy, for an additional three years from the date of this resolution to expire on April 12, 2008; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked 'Received March 29, 2005' - (1) sheet and 'Received March 1, 2005' - (5) sheets; and *on further condition*:

THAT the term of this grant shall be for a period of 20 years from the date of the original grant, to expire on May 2, 2020;

THAT the hours of operation shall be from 8:30 AM to 4 PM Monday, Tuesday and Wednesday, and 8:30 to 6 PM Thursday and Friday;

THAT all landscaping and fencing shall be installed and maintained in accordance with BSA-approved plans;

THAT the refuse container shall be located within an opaque fenced area;

THAT no vehicles shall be parked on the sidewalk at any time;

THAT the subject premises shall be kept clean and free of debris at all times;

THAT the premises shall remain free of graffiti at all times;

THAT the curb cut on Hylan Boulevard shall be for exiting only and signage and/or markings shall be installed indicating this;

THAT the curb cut on Heinz Avenue nearest to Hylan Boulevard shall be for entrance only and signage and/or markings shall be installed indicating this;

THAT there shall be no change in the use of the site as a bank without prior Board approval;

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

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

SUBJECT - Application September 7, 2004 - reopening for an extension of term of a variance for attended transient parking, limited to a maximum of twenty-three (23) vehicles, in a multiple dwelling presently located in C5-1 (MP) zoning district. The original grant of the variance by the Board of Standards and Appeals was made pursuant to Section 60(3) of the multiple Dwelling Law.

PREMISES AFFECTED - 49 East 77th Street, east side of Madison Avenue at intersection of E. 78th Street and E. 77th Street, Block 1392, Lot 1101, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Steven Simich.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

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.500641638)

Adopted by the Board of Standards and Appeals, April 12, 2005.

314-28-BZ

APPLICANT - Manuel B. Vidal, Jr., for Henilda Realty Corporation, owner; Henilda Realty Corporation, lessee.

SUBJECT - Application July 8, 2004 - reopening for an amendment to the prior resolution to permit the removal of the existing kiosk and to erect a new building on the property to be used as a convenience store.

PREMISES AFFECTED - 902/14 Westchester Avenue and 911/15 Rogers Place, south west corner of 889/903 East 163rd Street, Block 2696, Lot 130, Borough of The Bronx.

COMMUNITY BOARD #2BX

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to May 10, 2005, at 10 A.M., for decision, hearing closed.

752-64-BZ

APPLICANT - Patrick Jones, Esq, by Petraro & Jones, for Gallery Partners, LLC, owner.

Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to May 10, 2005, at 10 A.M., for decision, hearing closed.

721-67-BZ

APPLICANT - Sheldon Lobel, P.C., for Bill Wolf Petroleum Corp., owner.

SUBJECT - Application September 15, 2004- reopening for an amendment to the resolution to permit the addition of a canopy and the conversion of the existing accessory service bays to an accessory convenience store.

PREMISES AFFECTED - 7310-7322 New Utrecht Avenue,

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block bound by New Utrecht Avenue, 74th Street and 16th Avenue,
Block 6203, Lot 1, Borough of Brooklyn

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Laid over to May 10, 2005, at
10 A.M., for continued hearing.

490-69-BZ

APPLICANT - Sheldon Lobel, P.C., for 300 East 74th Owners
Corp., owner; GGMC Parking, LLC, lessee.

SUBJECT - Application September 2, 2004 - reopening for an
extension of term of a variance for attended transient parking in a
multiple dwelling presently located in a C1-9 and R8-B zoning
district. The original grant of the variance by the Board of Standards
and Appeals was made pursuant to Section 60(3) of the multiple
Dwelling Law.

PREMISES AFFECTED - 1408/18 Second Avenue, 303/09 East
73rd Street, 300/04 East 74th Street, east side of Second Avenue, 50'
north of East 73rd Street, Block 1448, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to May 10, 2005, at
10 A.M., for decision, hearing closed.

1038-80-BZ

APPLICANT - Davidoff & Malito, LLP, for Feinrose Downing
LLC, owner; Expressway Arcade Corp., lessee.

SUBJECT - Application January 13, 2005 - reopening for an
extension of term of variance which expired on January 6, 2005 for
an amusement arcade.

PREMISES AFFECTED - 31-07/09/11 Downing Street,
Whitestone Expressway, Block 4327, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant:

APPEALS CALENDAR

303-04-BZY thru 308-04-BZY

APPLICANT - Edward Lauria, P.E., for Fred LaRocca, owner.

SUBJECT - Application September 10, 2004 - Application to
complete construction for a minor development as per Z.R. §11-331.

PREMISES AFFECTED -

81 Lorraine Avenue, north side, 220' west of Ralph Avenue,
Block 6212, Lot 62, Borough of Staten Island.

85 Lorraine Avenue, north side, 220' west of Ralph Avenue,
Block 6212, Lot 61, Borough of Staten Island.

89 Lorraine Avenue, north side, 220' west of Ralph Avenue,
Block 6212, Lot 58, Borough of Staten Island.

93 Lorraine Avenue, north side, 220' west of Ralph Avenue,

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to April 19, 2005,
at 10 A.M., for decision, hearing closed.

97-97-BZ

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

SUBJECT - Application November 5, 2004 - Extension of Time to
Obtain a Certification of Occupancy. On October 7, 1997 the
Board of Standards and Appeals issued a resolution permitting in an
R-5 zoning district, the construction and maintenance of a gasoline
service station with an accessory convenience store.

PREMISES AFFECTED - 1730 Cross Bronx Expressway, a/k/a
1419/21 Rosedale Avenue, Block 3894, Lot 28, Borough of The
Bronx.

COMMUNITY BOARD #9BX

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to April 19, 2005,
at 10 A.M., for decision, hearing closed.

Block 6212, Lot 56, Borough of Staten Island.

88 Jeannette Avenue, north side, 220' west of Ralph
Avenue and Lorraine Avenues, Block 6212, Lot 26,
Borough of Staten Island.

92 Jeannette Avenue, north side, 220' west of Ralph
Avenue and Lorraine Avenues, Block 6212, Lot 27,
Borough of Staten Island.

APPEARANCES - None.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

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

Negative:.....0

Adopted by the Board of Standards and Appeals, by April 12,

MINUTES

2005.

312-04-A

APPLICANT - Eric Paltnik, P.C for Aspinwall Building Corp.,owner.

SUBJECT - Application September 15, 2004 - Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law .

PREMISES - 14 Letty Court, 185.87' west of Van Name Avenue, Block 1188, Lot 115, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Staten Island Borough Commissioner, dated August 23, 2004, acting on Department of Buildings Application No. NB 500624247 reads:

“A1. The street giving access to the proposed building is not duly placed on the official map of the City of New York, therefore:

A) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.

B) Proposed construction does not have at least 8 % of total perimeter of the Building fronting directly upon a legally mapped street or frontage is contrary to Section 27-291 of the Administrative Code.”; and

WHEREAS, a public hearing was held on this application on February 8, 2005 after due notice by publication in the *City Record*, with a continued hearing on March 15, 2005, and then to decision on April 12, 2005; and

WHEREAS, by letter dated January 5, 2005, the Fire APPEARANCES - None.

ACTION OF THE BOARD - Application denied.

THE VOTE TO GRANT -

Affirmative:.....0

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

THE RESOLUTION -

WHEREAS, this is an application under Z.R. § 11-331, to renew a building permit and extend the time for the completion of the foundation of a development under construction; and

WHEREAS, a public hearing was held on this application on March 16, 2005, after due notice by publication in *The City Record*, and to decision on April 12, 2005; and

WHEREAS, Council Member Andrew Lanza appeared in opposition to the subject application; and

WHEREAS, the subject premises is located on the northeast side of Arden Avenue, at the intersection of Ralph Avenue and Arden Avenue; and

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

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

Therefore it is Resolved that the decision of the Staten Island Borough Commissioner, dated August 23, 2004, acting on Department of Buildings Application No. 500624247, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received November 30, 2004”- (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition:*

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

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

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

Adopted by the Board of Standards and Appeals, April 12, 2005.

324-04-BZY

APPLICANT - Edward Lauria, P.E., for Peter Rendel, owner.

SUBJECT - Application September 13, 2004 - Application to extend time to complete construction for a major development pursuant to Z.R. §11-331.

PREMISES AFFECTED - 1150 Arden Avenue, northeast side, 736.38' southeast of Ralph and Arden Avenues, Block 6212, Lot 115, Borough of Staten Island.

WHEREAS, the subject premises is located within an R3-2 zoning district; and

WHEREAS, the subject premises was proposed to be developed with a 14-family multiple dwelling; and

WHEREAS, however, on August 12, 2004 (hereinafter, the “Enactment Date”), the City Council voted to enact text changes to the Zoning Resolution in response to the recommendations of the Staten Island Growth Management Task Force, rendering the proposed development non-complying as to private road width and parking requirements, among other items; and

WHEREAS, Z.R. § 11-331 reads: “If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued as set forth in Section 11-31 paragraph (a), to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a

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minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations.”; and

WHEREAS, Z.R. § 11-31(a) reads: “For the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes ‘complete plans and specifications’ as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met.”; and

WHEREAS, the Board notes that this application was made on September 13, 2004, which is technically within 30 days of the Enactment Date as required by Z.R. § 11-331 because the actual 30th day fell on the weekend, when the Board’s office is closed; and

WHEREAS, the record indicates that on August 10, 2004, a new building permit (Permit No. 500577271-01-NB, hereinafter, the “NB Permit”) was lawfully issued to the applicant for construction of the proposed development by the

Therefore it is resolved that this application made pursuant to Z.R. § 11-331, to renew New Building permit No. 500577271-01-NB, is denied.

Adopted by the Board of Standards and Appeals, April 12, 2005.

241-04-A

APPLICANT - Rampulla Associates Architects, for Erin Esposito, owner.

SUBJECT - Application June 28, 2004 - Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 6515 Amboy Road, 650’ south of Bedell Avenue, Block 7664, Lot 452 (Tentative Lot 463), Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Philip Rampulla.

THE VOTE TO CLOSE HEARING -

Department of Buildings (“DOB”); and

WHEREAS, the Board has reviewed the record and agrees that the aforementioned permit was lawfully issued to the owner of the subject premises; and

WHEREAS, on August 9, 2004, the applicant was issued a stop work order for removing trees without a permit in violation of Section 27-227 of the Administrative Code of the City of New York; and

WHEREAS, on August 10, 2004, DOB rescinded its stop work order and construction continued on the site; and

WHEREAS, on August 11, 2004, the applicant was issued a second stop work order for removing trees without a permit; and

WHEREAS, the applicant’s NB Permit was revoked on August 12, 2004, following the enactment of the text changes; and

WHEREAS, the applicant represents that excavation work was not completed prior to the Enactment Date; and

WHEREAS, however, the applicant alleges that political intervention caused the Department of Buildings to act indiscriminately and incorrectly and prohibited the developer from completing the excavation and foundation prior to the Enactment Date; and

WHEREAS, notwithstanding the applicant’s unsubstantiated allegations, on which the Board takes no position, Z.R. § 11-331 of the Zoning Resolution only authorizes the Board to renew a building permit and permit an extension of time to complete the required foundations if excavation has been completed and substantial progress has been made on foundations as of the Rezoning Date; and

WHEREAS, by the applicant’s own admission, excavation was not completed and substantial progress was not made on foundations as of the Enactment Date; and

WHEREAS, accordingly, the Board has no authority under Z.R. § 11-331 to renew applicant’s building permit and permit an extension of time to complete the foundations; and

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

ACTION OF THE BOARD - Laid over to May 10, 2005, at 10 A.M., for decision, hearing closed.

301-04-BZY

APPLICANT - Rothkrug, Rothkrug, Weinberg & Spector, for Medhat M. Hanna, owner.

SUBJECT - Application September 10, 2004 - Application to complete construction for a minor development as per Z.R. §11-331.

PREMISES AFFECTED - 102 Greaves Avenue, corner of Dewey Avenue, Block 4568, Lot 40, Borough of Staten Island.

APPEARANCES -

For Applicant: Adam W. Rothkrug.

For Opposition: Bill Lile.

ACTION OF THE BOARD - Laid over to May 10, 2005, at 10 A.M., for continued hearing.

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325-04-A

APPLICANT -Rothkrug Rothkrug Weinberg Spector, for Kevin Kane, owner.

SUBJECT - Application October 4, 2004 - Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -91 Wakefield Road, west side, 825.19 north of Woods of Arden Road, Block 5415, Lot 85, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Laid over to May 17, 2005, at 10 A.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 10:50 A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, APRIL 12, 2005
2:00 P.M.**

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

ZONING CALENDAR

361-02-BZ

CEQR #03-BSA-101K

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

SUBJECT - Application December 13, 2002 and updated January 5,

WHEREAS, a public hearing was held on this application on March 23, 2004 after due notice by publication in the *City Record*; with continued hearings on May 11, 2004, June 22, 2004, August 10, 2004, October 5, 2004, December 14, 2004, March 15, 2005, and then to decision on April 12, 2005; and

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

WHEREAS, Community Board No. 7, Brooklyn, recommends disapproval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an M1-1D zoning district, the proposed residential and commercial conversion of an existing manufacturing building, with twelve dwelling units, ten parking spaces, and two small commercial spaces, contrary to Z.R. § 42-00; and

WHEREAS, the current version of this application contemplates the partial demolition of some of the existing buildings on the site, and the conversion of the remaining structures to residential use and commercial use; and

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

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

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Peter Hirshman, Marianne Russo and Joe English.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 15, 2002, acting on Department of Buildings Application No. 301177991, reads, in pertinent part:

“Proposed conversion to residence is in an M1-1D zoning district and is contrary to Sec. 42-00 Z.R., and is therefore not permitted”; and

WHEREAS, the original version of this application contemplated a slightly enlarged purely residential building with 15 dwelling units, a total floor area of 20,686 sq. ft., a total height of 35 to 46 ft., and five parking spaces; and

WHEREAS, upon the request of the Board, the applicant submitted intermediate revised proposals, none of which the Board found satisfactory until the applicant submitted the current mixed-use proposal; and

WHEREAS, the premises is located in the mid-block of 25th Street between Fourth and Fifth Avenues in the Sunset Park area of Brooklyn; and

WHEREAS, the site is 86 ft. by 151 ft., with a total lot area of 12,617 sq. ft.; and

WHEREAS, the site is currently improved upon with multiple one and two story manufacturing structures, originally constructed as a chocolate factory in the late 19th century, with a total floor area of 16,964 sq. ft.; and

WHEREAS, the applicant represents that the structures have been vacant since 1994; and

WHEREAS, the proposed conversion will occur within the envelope of the remaining structures; thus, the existing

MINUTES

yard dimensions and building height will remain the same; and

WHEREAS, the floor area of the proposed development (16,935 sq. ft.), will be slightly less than the floor area of the existing buildings (16,964 sq. ft.); and

WHEREAS, residential use will occupy 11,294 sq. ft. and commercial use will occupy 2070 sq. ft.; and

WHEREAS, the open space on the site will increase from 2845 sq. ft. to 4773 sq. ft., as a result of the partial demolition; and

WHEREAS, residential use is allowed pursuant to an authorization from the City Planning Commission, but the applicant states that it can not meet certain of the requirements for said certification, thus necessitating the instant variance application; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject lot in conformance with underlying district regulations: the existing buildings are deficient for modern manufacturing uses, due to their small configuration, multiple levels between buildings that can not be cost effectively retrofitted, lack of street access for the rear structures, low ceiling heights, narrow interior spaces and lack of loading facilities; and

WHEREAS, the applicant also states that the subject application is comparable in many respects to a Board-granted variance for a residential development on the adjacent lot, and cites to these similarities in a detailed submission; and

WHEREAS, however, the Board notes that each variance case is site-specific and must be evaluated on its own merits regardless of any alleged similar grant; thus, the Board declines to credit applicant's arguments about the comparability of the two applications, and

WHEREAS, the applicant represents due to the limitations of the existing buildings, especially the fact that there are multiple levels, past marketing efforts were not

WHEREAS, again, however, the Board found the applicant's analysis of these scenarios unconvincing; and

WHEREAS, accordingly, the Board then asked the applicant to consider an alternative twelve unit development that would provide for a commercial component, and also reduced residential floor area; and

WHEREAS, the applicant subsequently modified the proposal to the current version, and submitted a revised feasibility study that analyzed both the commercial and residential components; the Board finds this study acceptable; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant argues that the proposed residential conversion would not affect the character of the neighborhood because the site is within a zoning district in which residential use is permitted pursuant to a C.P.C. authorization; and

successful in attracting a conforming manufacturing tenant; and

WHEREAS, the Board notes that the problems with the multiple levels were illustrated on submitted plans and sections, and confirmed upon site inspection; and

WHEREAS, however, the Board finds that certain of the claimed unique physical conditions do not affect the viability of conforming one-story manufacturing or office development; specifically, the Board does not find the alleged irregularity or narrowness of the site, or the narrowness of the street, to be unique physical conditions that cause hardship; and

WHEREAS, accordingly, the Board finds that both the slope of the site and the fact that the site is developed with numerous structures that can not be retrofitted for conforming use, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict conformity with current applicable zoning regulations; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed a conforming manufacturing use, the "as is" condition, and the initially proposed pure residential use; and

WHEREAS, the applicant concluded that neither a conforming manufacturing development nor the "as is" condition would realize a reasonable return, but that the originally proposed residential building would; and

WHEREAS, however, the Board questioned the credibility of this original study, and concluded that the economic hardship for the "as is" condition had not been convincingly demonstrated; and

WHEREAS, the applicant then submitted other scenarios with various amounts of residential units; the applicant stated that none of the scenarios that proposed less than 15 units were financially viable; and

WHEREAS, however, the Board must nevertheless assess the impact of the proposed variance use on the neighborhood's character and adjacent conforming uses; thus, the Board does not accept applicant's argument; and

WHEREAS, the Board also observes that the proposal could not meet the residential character finding for the authorization, thus rendering applicant's argument unpersuasive; and

WHEREAS, further, the Board notes that the predominant land use on both sides of 25th Street is commercial; and

WHEREAS, at the Board's request, the applicant submitted a color coded land use map of 25th Street, showing the various occupancies and the parking for each; and

WHEREAS, the map illustrates that while there is no residential use on the north side of 25th Street, there are two residential uses on the south side, one being the afore-mentioned

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multiple dwelling next door, and the other being a smaller dwelling three doors down; and

WHEREAS, based upon the submitted map and its own site visit, the Board concludes that the character of 25th Street is not predominantly residential; however, the Board finds that the proposed amount of dwelling units, which has been reduced from 15 to 12, is small enough that there will be no significant effect on the essential character of the neighborhood; and

WHEREAS, further, the Board notes that the significant reduction in F.A.R., density and height from the applicant's initial proposal to the current proposed version, and the inclusion of a commercial building on the site, leads to a development proposal more compatible with the built conditions surrounding the site; and

WHEREAS, the Board also finds that the inclusion of ten parking spaces on-site will minimize any parking impact on 25th Street, and lessen any potential conflict with the introduction of residential uses on existing conforming uses and their day to day operation; and

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

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

WHEREAS, after taking direction from the Board as to the proper amount of relief given the amount of actual hardship on the site, the applicant modified the development proposal to the current version; and

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

THAT the bulk parameters of the proposed buildings shall be as follows: a total F.A.R. of 1.34, and floor area of 16,935 sq. ft.; and a total height of 25'-1" (excluding mechanicals);

THAT a total of ten parking spaces shall be provided on-site, as illustrated on the BSA-approved plans;

THAT all exiting and light and air requirements shall be as reviewed and approved by DOB;

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

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

THAT the Department of Buildings must ensure

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; 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. 03-BSA-101K dated December 16, 2002; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration 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 the required findings under Z.R. § 72-21, to permit, within an M1-1D zoning district, the proposed residential and commercial conversion of an existing manufacturing building, with twelve dwelling units, ten parking spaces, and two small commercial spaces, contrary to Z.R. § 42-00; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received April 5, 2005"--(9) sheets and "Received April 11, 2005"--(1) sheet; and *on further condition*:

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

Adopted by the Board of Standards and Appeals, April 12, 2005.

6-04-BZ

CEQR #04-BSA-116K

APPLICANT - Sheldon Lobel, Esq. for TSI Bay Ridge, Inc. dba New York Sports Club, lessee.

SUBJECT - Application January 7, 2004 - under Z.R. §72-21 to

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legalize an existing physical cultural establishment in a three story building within a R-6/C1-3/R-6 zoning district.

PREMISES AFFECTED - 7118-7124 Third Avenue, between 71st street and 72nd Street, Block 5890, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated December 15, 2003, acting on Department of Buildings Application No. 301499484, reads:

“Zoning objection for proposed use on 2nd and 3rd floors. Physical Culture or Health Establishments, including gymnasiums are not permitted within a C1-3 zoning district as per Zoning Regulation sections 32-00 and 22-00.”; and

WHEREAS, a public hearing was held on this application on January 25, 2005 after due notice by publication in *The City Record*, with a continued hearing on March 15, 2005, and then to decision on April 12, 2005; and

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

WHEREAS, this is an application under Z.R. § 72-21, to permit a proposed physical culture establishment (“PCE”) use on the second and third floor of an existing commercial building, previously before the Board, located in an R6 (C1-3) zoning district, contrary to Z.R. §§ 32-00 and 22-00; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance with underlying district regulations: (1) the upper portion of the building was designed to be a movie theater and accordingly has multiple levels and mezzanines and varying ceiling heights; and (2) only the east side of the building has windows; and

WHEREAS, the applicant states that a significant amount of the building’s floor space is located in the upper floors and that it is necessary for the owner to lease these floors in order to generate a profit; and

WHEREAS, the applicant represents that the layout of the building and the lack of existing windows cause the building to be poorly suited for a conventional residential, community facility or retail use as there is insufficient opportunity to produce substantial units that are cost effective; and

WHEREAS, the record indicates that the Board previously granted a variance on July 22, 1960, to permit, in a former retail and residential use district, the change in occupancy of the existing building, from theatre, stores, club room and dance studio to bowling alley with accessory restaurant and bar, extending into the residence use portion of the lot; and

WHEREAS, Community Board 10, Brooklyn, recommends approval of this application, with the following conditions: (1) the courtyard shall not be used for parking of any kind at any time and signs shall be posted to that effect in the courtyard; (2) the fence around the courtyard shall remain and be renovated to conform to the Building Code; and (3) the curb cut to the street from the courtyard shall be restored as a curb; and

WHEREAS, the 72nd Street Block Association opposes the grant of the variance, and specifically requests that the curb cut be restored and the courtyard area not be used as a parking lot; and

WHEREAS, the applicant represents that half of the site is within the area of the C1-3 overlay and the other half is within the underlying R6 zoning district; and

WHEREAS, a variance, rather than a special permit, is required because the proposed PCE is not a permitted special permit use in an R6 or C1-3 zoning district; and

WHEREAS, the subject building is located on the northwesterly corner of 3rd Avenue and 72nd Street; and

WHEREAS, the total floor area of the three-story building is 39,583 sq. ft.; and

WHEREAS, the premises is currently occupied by two commercial establishments on the first floor; and

WHEREAS, the second and third floors were occupied by another PCE starting in 2000, but the previous owner never legalized the PCE; and

WHEREAS, the proposed PCE will occupy a total of 22,046 sq. ft. of floor area in the building, including 700 sq. ft. of the first floor, 14,786 sq. ft. of the second floor and 6,560 sq. ft. of the third floor, with an entrance on the first floor; and

WHEREAS, the Board finds that there are unique physical conditions inherent to the existing building, namely, the limitations of the configuration of the upper floors and the lack of windows as the upper floors were designed for a movie theater, which create an unnecessary hardship in conforming strictly with the applicable use provisions of the Zoning Resolution; and

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

WHEREAS, at the request of the Board, the applicant has submitted brokerage agreements indicating that the broker aggressively but unsuccessfully tried to market the building from 1996 through 2000, and evidence that the applicant advertised the building in various publications in 2002; and

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WHEREAS, the applicant represents that the surrounding area is characterized by commercial buildings and that the proposed use is compatible with these uses; and

WHEREAS, the hours of operation for the proposed PCE will be 6 AM to 11 PM Monday through Friday, and 8 AM to 8 PM Saturday and Sunday; and

WHEREAS, the Community Board had certain concerns, as stated above; and

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

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

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

WHEREAS, the Board notes that although a variance is being requested, the subject application meets all the requirements of the special permit for a PCE, except for the required zoning district; and

WHEREAS, the proposed PCE will contain facilities for classes, instruction and programs for physical improvement, bodybuilding, weight reduction and aerobics; 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 project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; 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.04-BSA-116K, dated November 16, 2004; 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; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise;

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

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

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

Adopted by the Board of Standards and Appeals, April 12, 2005.

Construction Impacts; and Public Health; 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 617.4, 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 Z.R. § 72-21, to permit a proposed physical culture establishment use on the second and third floors of an existing commercial building, located in an R6 (C1-3) zoning district, which is contrary to Z.R. §§ 32-00 and 22-00, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 28, 2005"-(6) sheets and "Received April 8, 2005"-(1) sheet; and *on further condition*:

THAT the term of this variance will be two years, from April 12, 2005 to April 12, 2007;

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

THAT the hours of operation shall be limited to 6 AM to 11 PM Monday through Friday, and 8 AM to 8 PM Saturday and Sunday;

THAT there shall be no parking in the courtyard and signs shall be posted to that effect;

THAT the pedestrian gate to the courtyard shall be no greater than 40 inches in width;

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

THAT there shall be no curb cut on 72nd Street;

THAT all fire protection measures indicated on the BSA-approved plans shall be installed and maintained, as approved by DOB;

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

THAT all exiting requirements shall be as reviewed and approved by the Department of Buildings;

152-04-BZ

APPLICANT - James M. Plotkin, Esq., for Frank T. Porco, owner.

SUBJECT - Application April 9, 2004 - under Z.R. §72-21 to permit in an R5 district, on a site consisting of 11,970SF, the construction of a four one-story warehouses (UG 16). Currently, the site is improved with four buildings: one concrete block building, and three sheds. The proposed warehouse is contrary to residential district use regulations.

PREMISES AFFECTED - 3213 Edson Avenue, bounded on the north by East 222nd Street, south by Burke Avenue and west by

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Grace Avenue, Block 4758, Lot 25, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to May 24, 2005, at 1:30 P.M., for continued hearing.

190-04-BZ

APPLICANT - Agusta & Ross, for Ira and Larry Weinstein, LLC, owner.

SUBJECT - Application May 7, 2004 - under Z.R. §72-21 to permit the proposed conversion of a former lead factory, into a multiple dwelling (45 families), with a ground floor waterfront restaurant, and doctor's office, is contrary to Z.R. §22-12, which states that "residential uses" shall be limited to single, two family or semi-detached residences in an R3-1 zoning district.

PREMISES AFFECTED - 2184 Mill Avenue, a/k/a 6001 Strickland Avenue, southwest corner, Block 8470, Lot 1090, Part of Lot 1091, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Mitchell Ross.

For Opposition: Roberta Sherman, Laura Cotrich and Alan Maisel.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to May 24, 2005, at 1:30 P.M., for decision, hearing closed.

234-04-BZ

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

SUBJECT - Application June 18, 2004 - under Z.R. §72-21 to permit in a M1-1 and M1-2 district, approval sought to legalize residential occupancy of 73 dwelling units in a four-story and basement industrial building, which was constructed in 1931. The legal use is listed artist loft space for the 73 units. There are proposed 18 parking spaces on the open portion of the lot, which consists of 25,620 SF in its entirety. The use is contrary to district use

SUBJECT - Application September 7, 2004 - under Z.R. §72-21 to permit the proposed conversion of a two family residential house to a Yeshiva (Religious School), located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, street wall, sky exposure, side and rear yards, is contrary to Z.R. §24-11, §24-521, §24-35(a) and §24-36.

PREMISES AFFECTED - 1746 East 21st Street, west side, 440' north of Quentin Road, Block 6783, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Moshe Friedman.

THE VOTE TO CLOSE HEARING -

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

regulations.

PREMISES AFFECTED - 255 McKibbin Street, between Bushwick Avenue and White Street, Block 3082, Lot 65, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Laid over to May 24, 2005, at 1:30 P.M., for continued hearing.

275-04-BZ

APPLICANT - Martyn & Don Weston Architects, for Christodora House Association, owner.

SUBJECT - Application August 9, 2004 - Under Z.R. §72-21 to permit the proposed conversion of an existing unused gymnasium (Use Group 4) into four residential units (Use Group 2), within an R7-2 Zoning District and to vary Sections 23-142 and 23-22 of the Resolution.

PREMISES AFFECTED - 601-603 East 9th Street a/k/a 143 Avenue B, Northeast corner of 143 Avenue B, Block 392, Lot 1087, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES -

For Applicant: I. Don Weston, Jack Freeman and Brian Fenwick.

For Opposition: Susan Howard, Jimmy Simopoulos, Cathy McCandless and JM Vangas.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for decision, hearing closed.

298-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Yeshiva Emek Hatalmud, owner.

Negative:.....0

ACTION OF THE BOARD - Laid over to May 10, 2005, at 1:30 P.M., for decision, hearing closed.

322-04-BZ

APPLICANT - Eric S. Palatnik, P.C., for Beis Avroham, owner.

SUBJECT - Application September 28, 2004 - Z.R. §72-21, to permit the proposed extension of an existing synagogue and Rabbi's apartment (Rectory), within an R2 Zoning District and to vary Sections 24-111(a), 23-141(a), 24-35, 24-34, and 25-31 of the Resolution.

PREMISES AFFECTED - 1124 East 21st Street a/k/a Kenmore

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Place a/k/a 2015-2025 Avenue J, Northwest corner of the intersection of Avenue J and East 21st Street, Block 7584, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Moshe M. Friedman.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to May 10, 2005, at 1:30 P.M., for decision, hearing closed.

327-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Beth Gavriel Bukharian Congregation, owner.

SUBJECT - Application October 4, 2004 - under Z.R.§72-21 to request a variance from the following sections of the Zoning Resolution: 24-11(floor area ratio); 24-34 (front yard requirements); and 24-521 (height and setback regulations). The proposal calls for the enlargement of an existing Community Facility.

PREMISES AFFECTED - 66-35 108th Street, between 66th Road and 67th Avenue, Block 2175, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Sheldon Lobel.

For Opposition: Robert Burger and Yuzi Stark.

ACTION OF THE BOARD - Laid over to May 17, 2005, at 1:30 P.M., for continued hearing.

339-04-BZ

APPLICANT - Eric Palatnik, P.C., for Kramer & Wurtz, Inc, owner; Apache Oil Co., lessee.

SUBJECT - Application October 13, 2004 - under Z.R.§§11-411 & SUBJECT - Application November 4, 2004 - Under Z.R.§72-21, to modify the previous approval by the BSA (118-01-BZ) by altering the configuration of the subject building and to permit a change in use from Use Group 6 office use to Use Group 6 retail use, within an R3-1 Zoning District and to vary Section 22-00 of the Resolution.

PREMISES AFFECTED - 1845 Richmond Avenue, East side of Richmond Avenue, 500 feet south of Eaton Place, Block 2030, Lot 57, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to June 7, 2005, at 1:30 P.M., for continued hearing.

16-05-BZ

APPLICANT - James McCormack, Architect, for James McCormack, owner.

11-412 to reinstate the previous BSA variance, under calendar number 205-29-BZ, for automotive service station located in an R3-1 zoning district. The application seeks an amendment to permit the installation of a new steel framed canopy over the existing fuel dispenser islands.

PREMISES AFFECTED - 157-30 Willets Point Boulevard, south side of the intersection formed by Willets Point Boulevard and Clintonville Street, Block 4860, Lot 15, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

ACTION OF THE BOARD - Laid over to May 10, 2005, at 1:30 P.M., for decision, hearing closed.

345-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Yad Yosef, owner.

SUBJECT - Application October 22, 2004- under Z.R. §72-21 to request a bulk variance to allow the construction of a new synagogue in an R5 district contrary to Z.R. §§23-141, 23-464, 23-47, 113-12, 23-631(d), 113-30, 25-18 and 25-31.

PREMISES AFFECTED - 1030-1044 Ocean Parkway, west side, between Avenues "J" and "L", Block 5495, Lots 909, 911 and 914, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to May 17, 2005, at 1:30 P.M., for continued hearing.

352-04-BZ

APPLICANT - Eric Palatnik, P.C., for R. Randy Lee, owner.

SUBJECT - Application January 27, 2005 - under Z.R.§ 72-21 to permit the proposed one family residence which does not meet the requirements of Section 23-45 (Front Yard) and Section 23-461 (Side Yards), located in R3A.HS (Hillside Preservation District).

PREMISES AFFECTED - 161 Westervelt Avenue, southeast corner of Curtis Place, Block 30, Lot 11, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: James McCormack.

ACTION OF THE BOARD - Laid over to May 17, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 4:30 P.M.

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BULLETIN

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DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE - 40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD - 40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @ <http://www.nyc.gov/html/bsa/home.html>

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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DOCKETS

New Case Filed Up to April 19, 2005

83-05-BZ **B.M.** **214/18 West Houston Street and 50/56 Downing Street, between Varick and Bedford Streets, Block 528, Lot 12, Borough of Manhattan. Applic. #104018616. Proposed construction of a 92-bed residential health care facility, Use Group 3, located in an R6 zoning district, which does not comply with the zoning requirements for lot coverage, rear yard and penetration of the initial setback distance, is contrary to Z.R. §24-11, §24-382 and §24-522.**
COMMUNITY BOARD #2M

84-05-BZ **B.Q.** **165-15 Hillside Avenue, northeast corner of 165th Street, Block 9837, Lot 10, Borough of Queens. Applic. #402056261. Proposed redevelopment of an existing gasoline service station, with an accessory convenience store, located in an R5/C2-2 zoning district, is contrary to Z.R. §§22-00 and 32-00.**
COMMUNITY BOARD #8Q

85-05-A **B.Q.** **8 Jamaica Walk, west side, 93.31' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens. Alt.1 #402098779. Proposed reconstruction and enlargement of an existing single family dwelling, not fronting on a legally mapped street, and a proposal to upgrade the private disposal system located in the bed of the service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings policy.**

86-05-A **B.Q.** **103 Oceanside Avenue east side of Beach 204th Street and north side of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens. Alt.1 #402067767. Proposed enlargement of an existing single family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.**

87-05-BZ **B.BK.** **216 26th Street, between Fourth and Fifth Avenues, Block 658, Lot 13, Borough of Brooklyn. Applic. #301909503. Proposed three-story residential building, Use Group 2, located in an M1-ID zoning district, is contrary to Z.R. §42-10.**
COMMUNITY BOARD #7BK

88-05-BZ **B.BK.** **2015 East 22nd Street, east side, between Avenues "S and T", Block 7301, Lot 53, Borough of Brooklyn. Applic. #301687422. Proposed enlargement of an existing single family residence, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage and open space ratio, side yards and height and setback requirements, is contrary to Z.R. §23-141(b) and §23-461(a).**
COMMUNITY BOARD #15BK

89-05-BZ **B.BK.** **18 Heyward Street, between Bedford and Wythe Avenues, Block 2230, Lot 7, Borough of Brooklyn. Alt.#301908988. Proposed addition at the rear of the fourth and fifth floors, of an existing five story community facility and office building, Use Groups 4 and 6, which does not comply with the zoning requirements for floor area and rear yard setback, is contrary to Z.R. §24-11, §24-37 and §24-33.**
COMMUNITY BOARD #1BK

90-05-A **B.Q.** **18 Roosevelt Walk, east side, 285.27 south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens. Alt.1 #401985795. Proposed alteration of an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.**

91-05-A **B.Q.** **60-04 172nd Street, west side, 105.5' from Horace Harding Expressway, Block 6880, Lot 23, Borough of Queens. Applic. #402088129. Proposed construction of a two family dwelling, which lies partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.**

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

MAY 24, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, May 24, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

765-50-BZ

APPLICANT - Kenneth H. Koons, for R. G. Ortiz Funeral Home, Inc., owner.

SUBJECT - Application January 24, 2005 - Extension of Term of a Variance for an existing Funeral Establishment Granted by the Board, filed pursuant to section 11-411 of the zoning resolution, located in aC1-2/R6 zoning district.

PREMISES AFFECTED - 1430-36 Unionport Road, east side 43' south of Olmstead Avenue, Block 3933, Lot 53, Borough of The Bronx.

COMMUNITY BOARD #9BX

348-82-BZ

APPLICANT - Salvati Architects for George Gong, owner.

SUBJECT - Application December 17, 2004 - Extension of Term/ Waiver/ Amendment, application seeks to legalize the change from three (3) storefronts (U.G. 6) to two (2) storefronts (U.G. 6 & 16D) located in an R5 zoning district. The application was approved under section 72-21 of the zoning resolution to permit in an R5 zoning district, the establishment of three (U.G. 6) storefronts for a term of 20 years which expired on April 12, 2003.

PREMISES AFFECTED - 204 Avenue S, Avenue S and West 6th Street, Block 7083, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #11BK

258-90-BZ

APPLICANT - Sheldon Lobel, P.C., for John Isikli, owner.

SUBJECT - Application March 31, 2005 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to obtain a certificate of occupancy for the proposed restaurant and banquet hall.

PREMISES AFFECTED - 2337 Coney Island Avenue, easterly side of Coney Island Avenue between Avenue T and Avenue U, Block 7315, Lot 73, Borough of Brooklyn.

COMMUNITY BOARD #15BK

PREMISES AFFECTED - 17 Fulton Walk, east side, 185' north

189-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 830 East 233rd Street, Corp., owner.

SUBJECT - Application September 20, 2004 - reopening for an amendment to the resolution to permit the enlargement and conversion of the existing accessory service bays to an accessory convenience store.

PREMISES AFFECTED - 836 East 233rd Street, Bushing Avenue, Block 4857, Lots 44 & 41, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEALS CALENDAR

23-05-A

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative, Inc., owner; Richard & Josephine O'Connor.

SUBJECT - Application February 8, 2005 - Proposed enlargement to an existing one family dwelling, located within the bed of a mapped street and not fronting on a legally mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED - 32 Bedford Avenue, south side, 515.07' west of 12th Avenue, Block 16350, Part of Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

35-05-A

APPLICANT - Zygmunt Staszewski, for Breezy Point Co-op Inc., owner; Richard Whalen, lessee.

SUBJECT - Application February 24, 2005 - Proposed alteration to an existing one family dwelling, not fronting on a legally mapped street, also a proposal to upgrade the existing septic system, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings Policy.

PREMISES AFFECTED - 37 Beach 221st Street, east side, 240' south of Fourth Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

37-05-A

APPLICANT - Zygmunt Staszewski, for Breezy Point Cooperative, Inc., owner; Brian J. Lang, lessee.

SUBJECT - Application February 24, 2005 - Proposed alteration to an existing one family dwelling, not fronting on a legally mapped street, also a proposal to upgrade the existing septic system, which is in the bed of the service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings Policy.

of Breezy Point Boulevard, Block 16350, Lot 400, Borough of

CALENDAR

Queens.

COMMUNITY BOARD #14Q

51-05-A

APPLICANT -Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; William & Nancy Gorra, lessees.

SUBJECT - Application March 4, 2005 -Proposed enlargement of the first story, and the construction of a partial second story, to an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 105 Beach 219th Street, east side, 80' South of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

MAY 24, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, May 24, 2005, at 1:30 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

378-03-BZ

APPLICANT - Harold Weinberg, P.E., for The New Way Circus Center by Regina Berenshtein, owner.

SUBJECT - Application December 4, 2003- under Z.R.§72-21 application seeks to waive sections: 23-141 (Lot Coverage), 23-462 (Side Yards), 23-45 (Front Yard), and 23-631 (Perimeter Wall Height, Sky Exposure Plane and Setback), to allow in a R5 zoning district the construction of a two story building to be used as a non-profit institution without sleeping accommodations for teaching of circus skills.

PREMISES AFFECTED - 2920 Coney Island Avenue, west side, 53.96' north of Shore Parkway, Block 7244, Lot 98, Borough of Brooklyn.

COMMUNITY BOARD #15BK

41-04-BZ

4-05-BZ

APPLICANT - Sheldon Lobel, P.C., for V.G.F. Property, LLC, owner.

SUBJECT - Application January 12, 2005 - under Z.R.§73-49, to

APPLICANT - Sheldon Lobel, P.C. for 2113 First Avenue, LLC, owner.

SUBJECT - Application February 23, 2004 - Pursuant to Z.R. § 72-21, to permit the proposed legalization of the existing auto laundry, lubritorium, and accessory retail building in a C2-5 overlay within R7-2 Zoning District, and to vary Sections 33-00 and 22-00 of the Resolution.

PREMISES AFFECTED - 338 East 109th Street aka 2113 First Avenue, First Avenue between East 108th and East 109th Streets, Block 1680, Lots 27 & 32, Borough of Manhattan.

COMMUNITY BOARD #11M

374-04-BZ

APPLICANT - Deirdre A. Carson, Esq., Greenberg Traurig, LLP for Micro Realty Management, LLC c/o Werber Management, owner.

SUBJECT - Application November 26, 2004 - Z.R. §72-21, to permit the proposed development of a seven-story residential building with ground floor commercial space in a C6-2A Special Lower Manhattan District and the South Street Seaport Historic District, to vary Sections 23-145, 23-32, 23-533, 23-692, 23-711, and 24-32 of the Resolution. PREMISES AFFECTED- 246 Front Street a/k/a/ 267 1/2 Water Street, Through lot fronting on Front and Water Streets, 126 feet north of the intersection of Peck Slip and Front Street, and 130 feet north of the intersection of Peck Slip and Water Street, Block 107, Lot 34, Borough of Manhattan.

COMMUNITY BOARD #1M

401-04-BZ

APPLICANT - Eric Palatnik, P.C., for Masores Bais Yaakov, owner.

SUBJECT - Application December 28, 2004 - under Z.R.§72-21 to permit the proposed enlargement of an existing yeshiva, Use Group 3, located in an R4 &R6 zoning districts, which does not comply with the zoning requirements for floor area, lot coverage, wall height and the sky exposure, is contrary to Z.R. §24-11 and §24-522.

PREMISES AFFECTED - 1395 Ocean Avenue, northeast corner of Avenue "I", Block 7566, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #14BK

permit parking on the roof of an as-of-right commercial building located in an M1-1 zoning district. The application seeks to create 114 rooftop parking spaces.

PREMISES AFFECTED - 69-02 Garfield Avenue, south side,

CALENDAR

between 69th Street and 69th Place, Block 2438, Lot 20, Borough
of Queens.

COMMUNITY BOARD #2Q

43-05-BZ

APPLICANT - Harold Weinberg, P.E., for Yossi Cohen, owner.

SUBJECT - Application February 25, 2005 - under Z.R. §73-622
to permit an enlargement to the rear of a single family home to vary
sections ZR 23-141 floor area and open space, ZR 23-461 side
yards and ZR 23-47 for rear yard. The premise is located in an
R3-2 zoning district.

PREMISES AFFECTED - 1826 East 28th Street, west side,
200'-0" south of Avenue "R", Block 6833, Lot 17, Borough of
Brooklyn.

COMMUNITY BOARD #15BK

Pasquale Pacifico, Executive Director

**REGULAR MEETING
TUESDAY MORNING, APRIL 19, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner
Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on

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Tuesday morning and afternoon, February 15, 2005, were approved as printed in the Bulletin of February 16, 2005, Volume 90, No. 8 & 9.

SPECIAL ORDER CALENDAR

198-66-BZ

APPLICANT - Eric Palatnik, P.C., for 300 East 74 Owners Corp., owner.

SUBJECT - Application December 16, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 300 East 74th Street, southeast corner of 2nd Avenue and East 74th Street, Block 1448, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for an amendment to permit modifications to the size, configuration and design of the existing plaza, located on the same lot as a 36-story mixed-use building, previously approved by the Board under the subject calendar number in 1966, through a variance for additional floor area; and

WHEREAS, a public hearing was held on this application on March 9, 2004, after due notice by publication in the *City Record*, with continued hearings on May 25, 2004, August 17, 2004, October 26, 2004, January 11, 2005, and March 15, 2005, and then to April 19, 2005 for closure and decision; and

WHEREAS, Community Board 8, Manhattan, recommends approval of the subject application; and

WHEREAS, the subject site is located on the southeast corner of East 74th Street and 2nd Avenue, on a partial through block zoning lot which extends to the north side of 73rd Street; and

WHEREAS, the portion of the plaza area which is at issue in the instant matter is located at the 73rd Street side of the site; and

WHEREAS, the applicant states that a driveway at the East 74th Street side services the entrance to the residential portion of the existing building; at that driveway the plaza

WHEREAS, based upon the above, the Board finds that this application is appropriate to grant, with the conditions set forth below.

area of the premises begins, which extends 20 feet from the sidewalk of East 74th Street to the building; and

WHEREAS, the applicant further states that this plaza area continues to wrap around the 2nd Avenue side of the premises, where it maintains a 15 ft. width running in front of the commercial uses which line 2nd Avenue, and ends at the rear of the premises on East 73rd Street; it is this rear portion that is the subject of this application; and

WHEREAS, the applicant observes that when the 1966 variance was granted, it included an analysis of a plaza bonus, which enabled an increase in floor area in exchange for the provision of a plaza area, and

WHEREAS, the size of the plaza needed to be 5960 sq. ft. in order to achieve the applicable bonus; and

WHEREAS, there is currently 6553 sq. ft. of plaza area, leaving approximately 593 sq. ft. of existing plaza area for which the site never received a bonus; and

WHEREAS, the applicant seeks: (1) a reduction in the size of the previously approved plaza area by 593 sq. ft. from its current size of 6553 sq. ft. to 5960 sq. ft.; (2) a modification of the East 73rd Street side of the plaza area; so as to enable the existing building to reclaim 593 sq. ft. for the use of the storage of recyclables and to legalize a very small portion for the location of mechanical equipment; and (3) physical, organic and visual enhancements to the East 73rd Street side of the plaza area; and

WHEREAS, the desired 593 sq. ft. of space to be reclaimed will come from the north and north west edges of the East 73rd Street Plaza area; and

WHEREAS, the Board notes that the decrease in plaza space would not affect the amount of bonus generated, as the remaining portion of the plaza would generate the amount of bonus floor area attributable to the existing building; and

WHEREAS, as part of the initial application, the applicant proposed certain design considerations as to lighting, seating, circulation, and safety, among other items; and

WHEREAS, during the course of the public hearing process, the Board and the Department of City Planning (which was also reviewing the plans) expressed many concerns about the proposed plaza modifications, especially in terms of the plaza design; and

WHEREAS, specifically, each agency suggested improvements as to seating, landscaping, lighting, signage, circulation and security; and

WHEREAS, these suggestions were incorporated by the applicant into the most recently submitted set of plans; and

WHEREAS, the Board has reviewed the plans and finds they adequately address the expressed concerns; and

WHEREAS, the Board is also in receipt of a letter from DCP stating that it approves of the final set of plans; and

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit

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modifications to the size, configuration and design of the existing plaza, located on the same lot as a 36-story mixed-use building previously before the Board; *on condition* that the expansion shall strictly conform to drawings as filed with this application, marked 'April 5, 2005'-(8) sheets; and *on further condition*:

THAT the plaza shall be open from 8AM to 8 PM, or until dusk, whichever is later;

THAT a sign showing the hours shall be posted, as shown on the approved plans;

THAT all garbage/recycling shall be collected and stored outside of the plaza area;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT all work be completed within nine months from the date of this grant, and a new certificate of occupancy be obtained within 18 months from the date of this grant;

THAT all signage, lighting, landscaping, security features, and seating shall strictly comply with the BSA-approved site plan;

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. 103595012)

Adopted by the Board of Standards and Appeals, April 19, 2005.

1237-66-BZ

APPLICANT - Eric Palatnik, P.C., for BP Products North America, Inc., owner.

SUBJECT - Application - December 14, 2004 - Extension of Term to obtain a Certificate of Occupancy for a gasoline service station, with accessory uses, located in a C2-2 zoning district.

PREMISES AFFECTED - 1 East 233rd Street, northeast corner of Van Cortland and Park East, Block 3363, Lots 18 and 23, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

1038-80-BZ

APPLICANT - Davidoff & Malito, LLP, for Feinrose Downing LLC, owner; Expressway Arcade Corp., lessee.

THE RESOLUTION -

WHEREAS, this is an application for a reopening and an extension of time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on March 15, 2005, after due notice by publication in *The City Record*, and then to decision on April 19, 2005; and

WHEREAS, on April 11, 1967, the Board granted an application permitting the erection and maintenance of a gasoline service station with accessory uses; and

WHEREAS, on November 14, 2000, the Board granted an application under the subject calendar number to permit the demolition and modernization of the previously existing service station with the condition that a new Certificate of Occupancy be obtained on or before November 14, 2002; and

WHEREAS, on January 7, 2003, the Board approved an application to extend the required time to obtain a Certificate of Occupancy to January 5, 2005; and

WHEREAS, the applicant represents that although it has recently retained an organization to perform the necessary filings with the Department of Buildings to obtain an amended Certificate of Occupancy, it took longer than anticipated to retain such organization and therefore the applicant was not able to obtain a new Certificate of Occupancy by January 5, 2005; and

WHEREAS, based upon the above, the Board has determined that the evidence in record supports the grant of the requested extension.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution to extend the time to obtain a new Certificate of Occupancy, said resolution having been adopted on April 11, 1967, and subsequently modified, so that as amended this portion of the resolution shall read: “to permit an extension of the time to obtain a certificate of occupancy, for an additional period of one year from the date of this resolution, to expire on April 19, 2005; *on condition*:

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, April 19, 2005.

SUBJECT - Application January 13, 2005 - reopening for an extension of term of variance which expired on January 6, 2005 for an amusement arcade.

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PREMISES AFFECTED - 31-07/09/11 Downing Street, Whitestone Expressway, Block 4327, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a reopening and an extension of the term of the special permit, which expired on January 6, 2005; and

WHEREAS, a public hearing was held on this application on April 12, 2005, after due notice by publication in *The City Record*, and then to April 19, 2004 for decision; and

WHEREAS, on January 6, 1981, the Board granted a special permit for the operation of an amusement arcade on the subject premises; and

WHEREAS, on May 13, 1986, the special permit was amended to increase the number of amusement arcade games from 112 to 130; and

WHEREAS, the Board finds that the instant application is appropriate to grant, based upon the evidence submitted.

Therefore it is Resolved that the Board of Standards and Appeals, reopens and amends the resolution, said resolution having been adopted on January 6, 1981 as amended May 13, 1986, so that, as amended, this portion of the resolution shall read: "to permit the extension of the term of the special permit for an additional one (1) year from January 6, 2005 expiring on January 6, 2006; on condition that the all work/on-site conditions shall substantially conform to drawings as filed with this application, marked 'January 13, 2005' - (1) sheet; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT there shall be no more than 130 amusement games on the subject premises;

THAT the above conditions and all conditions from prior resolutions shall appear on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

WHEREAS, the applicant represents that the PCE continues to provide facilities for classes, instruction and programs for physical improvement, body building, weight reduction and aerobics; and

(DOB # 435-81)

Adopted by the Board of Standards and Appeals, April 19, 2005.

14-92-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for DG Equities and Greenwich Reade Associates, for TSI Greenwich Street, Inc., lessee.

SUBJECT - Application May 19, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired May 3, 2003 and for an amendment to the resolution to allow the operation of a physical culture establishment.

PREMISES AFFECTED - 311 Greenwich Street, a/k/a 151 Reade Street, southeast corner of Greenwich Street and Reade Street, Block 140, Lot 7502, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening to amend the resolution, and a renewal of term for a previously granted special permit that expired on May 4, 2003; and

WHEREAS, a public hearing was held on this application on April 5, 2005, after due notice by publication in the *City Record*, and then to April 19, 2005 for decision; and

WHEREAS, Community Board 1, Manhattan, recommends approval of the subject application; and

WHEREAS, on December 19, 1989, the Board granted a special permit application pursuant to Z.R. § 73-36, to permit in a C6-3 (LMM) zoning district, the use of the first floor and cellar of an existing eleven-story building as a physical culture establishment ("PCE"); and

WHEREAS, the resolution was amended in May of 1990, May of 1993 and October of 1995, to allow for expansions of the PCE; and

WHEREAS, the instant application seeks to legalize an expansion of the cellar and first floor; and

WHEREAS, the originally granted total floor area was 11,360 sq. ft.; the proposed total floor area is 12,560 sq. ft.; and

WHEREAS, the applicant represents that the enlargement comprises 1,770 square feet of floor area, entirely on the first floor of the PCE; and

WHEREAS, the Board finds that the applicant continues to meet the requirements of Z.R. § 73-36; and

WHEREAS, therefore, the Board finds that this

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application is appropriate to grant, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: “to permit a 1,770 square foot expansion of the facility on the first floor of the building; *on condition* that the expansion shall substantially conform to drawings as filed with this application, marked ‘April 6, 2005’-(5) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years from April 19, 2005, expiring April 19, 2015;

THAT the hours of operation shall be limited to: Monday through Thursday 5:30 AM to 11 PM; Friday 5:30 AM to 10 PM; and Saturday and Sunday 8 AM to 7 PM;

THAT fire protection measures, including exit signs, emergency lighting, sprinklers and fire extinguishers shall be installed and maintained as indicated on the BSA approved plans; and

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT all signage shall comply with signage regulations applicable in C6-3 (TMU) zoning districts;

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. 103764099)

Adopted by the Board of Standards and Appeals, April 19, 2005.

164-94-BZ

APPLICANT - Sullivan, Chester & Gardner, P.C., for Tuckahoe Realty, LLC, owner; Lucille Roberts Health Club, lessee.

SUBJECT - Application February 11, 2004 - Extension of term and Waiver of the Rules and Procedures for an expired variance for a physical culture establishment (“Lucille Roberts Fitness for Women”), granted pursuant to section 72-21 which expired on March 1, 2003.

PREMISES AFFECTED - 84 Hugh Grant Circle, south side of Hugh Grant Circle, 95.69 feet west of Cross Bronx Expressway, Block 3794 Lot 109, The Bronx.

COMMUNITY BOARD #9BX

APPEARANCES -

For Applicant: Jeffrey Chester.

ACTION OF THE BOARD - Application granted on

THAT the hours of operation shall be 8 AM to 9 PM Monday through Thursday, 8 AM to 8 PM Friday, and 9 AM to 3 PM Saturday and Sunday;

condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Board’s Rules of Practice and Procedure, a re-opening and an extension of term of a previously-approved variance for a physical culture establishment (“PCE”); and

WHEREAS, a public hearing was held on this application on January 11, 2005, after due notice by publication in *The City Record*, with a continued hearing on February 8, 2005, and then to April 19, 2005 for decision; and

WHEREAS, Community Board 9, Bronx, recommends approval of this application; and

WHEREAS, the PCE is located in an existing former theater and retail building, and occupies 14,102 sq. ft. of floor area; it is operated as a Lucille Roberts Health Club; and

WHEREAS, on December 10, 1996, under the subject calendar number, the Board granted a variance for a term of approximately seven years, pursuant to Z.R. § 71-21, to permit, in a C1-2 zoning district, the operation of the subject PCE, with certain conditions; and

WHEREAS, the variance expired on March 1, 2003; and

WHEREAS, the applicant further represents that it has obtained the appropriate waiver recommendation as to Local Law 58/87 from the Mayor’s Office of People with Disabilities; and

WHEREAS, the Board notes, however, that DOB approval is still needed for the waiver to be effective, and that this grant is contingent upon DOB review; and

WHEREAS, though the subject case is a variance, the Board finds that the applicant continues to meet the requirements of Z.R. § 73-36; and

WHEREAS, accordingly, the Board finds that it is appropriate to grant an extension of the variance in this case.

Therefore it is Resolved that the Board of Standards and Appeals waives its Rules of Practice and Procedure and reopens and amends the resolution, said resolution having been adopted on November 1, 1994, so that as amended this portion of the resolution shall read: “to permit the extension of the term of the variance, with a term as specified below; *on condition* that all work and operations shall substantially conform to drawings as filed with this application, marked ‘Received June 9, 2004’ - (1) sheet and ‘Received February 11, 2004’ - (1) sheet; and *on further condition*:

THAT the term of this grant shall be for ten years from the date of the last expiration, to expire on March 1, 2013;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all conditions from prior resolutions not

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specifically waived by the Board shall remain in effect;

THAT a new Certificate of Occupancy shall be obtained within one year of the date from the date of this grant;

THAT all signage shall comply with C1-2 zoning district regulations;

THAT compliance with, or exemption from, Local Law 58/87 shall be as reviewed and approved by DOB;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

(DOB Application No. 200238484)

Adopted by the Board of Standards and Appeals, April 19, 2005.

97-97-BZ

APPLICANT - Eric Palatnik, P.C., for BP Products North America, owner.

SUBJECT - Application November 5, 2004 - Extension of Time to Obtain a Certification of Occupancy. On October 7, 1997 the Board of Standards and Appeals issued a resolution permitting in an R-5 zoning district, the construction and maintenance of a gasoline service station with an accessory convenience store.

PREMISES AFFECTED - 1730 Cross Bronx Expressway, a/k/a 1419/21 Rosedale Avenue, Block 3894, Lot 28, Borough of The Bronx.

COMMUNITY BOARD #9BX

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, and an extension of time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on April 12, 2005, after due notice by publication in the *City Record*, and then to decision on April 19, 2005; and

WHEREAS, on October 7, 1997, the Board granted an application under the subject calendar number to permit, within an R5 zoning district, the construction and maintenance of a gasoline service station with an accessory convenience store; and

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application denied.

WHEREAS, the resolution for said grant specified that a new CO be obtained with four years of the date of the grant; this period of time expired on October 7, 2001; and

WHEREAS, the applicant claims that the need for the extension of time arises from unexpected delays in the retention of an expediter to make the required filings at the Department of Buildings; and

WHEREAS, the applicant represents that the construction work has been completed, and has submitted photos in support of this representation; and

WHEREAS, based upon the above, the Board has determined that the evidence in record supports the grant of the requested waiver and extension.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, said resolution having been adopted on October 7, 1997, so that as amended this portion of the resolution shall read: “to permit an extension of the time to obtain a certificate of occupancy, for an additional period of one year from the date of this resolution, to expire on April 19, 2005; on condition:

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

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. 200410572)

Adopted by the Board of Standards and Appeals, April 19, 2005.

224-00-BZ

APPLICANT - Sheldon Lobel, P.C., for Basile Builders Group, Inc., owner.

SUBJECT - Application December 18, 2003 - Reopening for an application previously denied by the Board of Standards and Appeals to consider additional information that was not available at the time the BSA originally considered this application. The application was filed pursuant to Section 72-21 of the zoning resolution to permit a proposed six story residential building located in an R-5 zoning district, which would create non-compliance with respect to Section 23-141, FAR, lot coverage and open space, Section 23-631 height and perimeter wall, Section 23-222 lot area per dwelling unit, Sections 23-45, 23-46 and 2347 yard requirements.

PREMISES AFFECTED - 2353 Cropsey Avenue, a/k/a 247 Bay 34th Street, Block 6889, Lots 7, 9, Borough of Brooklyn.

COMMUNITY BOARD #11BK

THE VOTE TO GRANT -

Affirmative:0

Negative: Chair Srinivasan, Vice-Chair Babbar,

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Commissioner Miele and Commissioner Chin.....4
THE RESOLUTION -

WHEREAS, this is an application made pursuant to Section 1-10(e) of the Board's Rules of Practice and Procedure for a re-hearing of a case previously denied by the Board; and

WHEREAS, a public hearing was held on this application on February 8, 2005, after due notice by publication in the *City Record*, and then to decision on April 19, 2005; and

WHEREAS, Community Board 11, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of Cropsey Avenue between Bay 34th and Bay 35th Streets, and is within an R5 zoning district; and

WHEREAS, the site is currently improved upon with two commercial buildings, currently used for an auto repair shop and a grocery store; and

WHEREAS, the commercial uses on the site are permitted pursuant to prior Board action from 1950 under a different calendar number; and

WHEREAS, this prior Board action permitted a gasoline service station; and

WHEREAS, since 1950, various Board modifications to this action permitted the current uses on the site; and

WHEREAS, in 2000, an application was made under the subject calendar number for a variance pursuant to Z.R. § 72-21; the application sought approval for a proposed residential building that would not have complied with total Floor Area Ratio ("F.A.R."), lot coverage, open space, height, lot area, and side yards; and

WHEREAS, in this application, applicant originally proposed a six-story building, but later reduced it to a four-story building, with an F.A.R. of 2.2 and a total height of 45 ft.; and

WHEREAS, on May 21, 2002, the Board denied the application; and

WHEREAS, in denying the application, the Board found that the applicant had failed to provide substantial evidence in support of the findings set forth at Z.R. § 72-21 (a), (b) and (c); and

WHEREAS, as to Z.R. § 72-21 (a), the Board found that the applicant had failed to demonstrate that the claimed physical features afflicting the site, namely, a groundwater condition and a slight lot shape irregularity, were in fact unique or that they led to any hardship in developing a complying building; and

WHEREAS, as to Z.R. § 72-21 (b), the Board found that the applicant had failed to present adequate documentation that a complying building would not realize a reasonable return; and

WHEREAS, as to Z.R. § 72-21 (c), the Board found that the bulk of the final version of the proposed building, with a

WHEREAS, thus, the Board concludes that the owner actually knew, or had constructive knowledge, that evidence of environmental contamination was available at the time of

2.2 F.A.R., was out of context with adjacent development; and

WHEREAS, applicant now applies for a re-hearing of the previously denied case, on the basis that the site is afflicted with environmental contamination that must be remediated prior to development, the cost of which makes a complying building financially infeasible; and

WHEREAS, applicant's current proposal is for a six-story building, with an F.A.R. of 2.65 and a total height of 60 ft.; and

WHEREAS, Section 1-10(e) of the Rules of Practice and Procedure provides: "A request for a rehearing shall not be granted unless substantial new evidence is submitted that was not available at the time of the initial hearing, or there is a material change in plans or circumstances or an application is filed under a different jurisdictional provision of the law."; and

WHEREAS, applicant states that the environmental contamination on the site is substantial new evidence sufficient to warrant a re-hearing; and

WHEREAS, applicant has submitted an environmental report in which it is alleged that environmental remediation of the site will cost approximately \$900,000; and

WHEREAS, however, the Board notes that the standard for a re-hearing is the submission of new evidence "that was not available at the time of the initial hearing"; and

WHEREAS, the Board questioned applicant as to why this evidence was not submitted during the prior hearing, especially given the fact that the contamination occurred many years ago and was indisputably present at the site at the time the original application was made; and

WHEREAS, in response, applicant claims that the environmental evidence was unavailable because the property owner previously leased the property to a tenant, and the lease did not authorize the property owner to enter to take soil samples, nor would the tenant allegedly permit the owner to take such samples; and

WHEREAS, the Board finds this explanation unpersuasive, as it is the owner's responsibility to bring forward all available evidence, notwithstanding the owner's failure to enter into a lease with a reasonable right-of-entry provision or failure to negotiate the ability to enter the property for soil tests with the tenant; and

WHEREAS, additionally, the Board notes that a boring study of the site's soil was submitted in the prior hearing, which indicates that the site was accessible for soil testing, contrary to the applicant's assertions; and

WHEREAS, moreover, the site was known by the owner to have been formerly occupied by gasoline station use, with underground storage tanks that were later removed by the owner; thus, the possibility of environmental contamination should have been recognized by the owner and addressed at the prior hearing; and

the initial hearing, but failed to conduct a study and submit it, contrary to the requirement that all evidence in support of a variance application be submitted at the time of the original

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hearing; and

WHEREAS, the Board finds that there is no compelling reason to deviate from this requirement in the instant matter; and

WHEREAS, even assuming *arguendo* that the evidence of contamination warranted a re-hearing on the uniqueness finding, the burden is on applicant to explain why a re-hearing is necessary, not just as to the uniqueness finding, but as to every finding upon which the Board based its prior denial; and

WHEREAS, applicant could attempt to meet this burden by proffering evidence of a material change in plans or circumstances, such as a reduced-bulk development proposal or a significant change in the character of the neighborhood or the bulk of the adjacent development; and

WHEREAS, however, applicant has not made any argument as to why the Board should reconsider its finding that the applicant did not meet the criteria set forth at Z.R. § 72-21 (c); and

WHEREAS, instead, applicant's current proposal contemplates a greater F.A.R. and height than the proposal considered by the Board at the last hearing, which was denied partially on the basis that it would negatively impact adjacent development and the character of the community; and WHEREAS, in the absence of any showing that the neighborhood has changed such that a proposal with greater bulk than the proposal previously denied would not negatively affect the character of the neighborhood or impact adjacent development, the Board finds that a re-hearing is inappropriate, notwithstanding any alleged new evidence of hardship.

Therefore it is Resolved that, based upon the above, this application for a re-hearing of the BSA Calendar No. 224-00-BZ is denied.

Adopted by the Board of Standards and Appeals, April 19, 2005.

28-02-BZ

APPLICANT - Sheldon Lobel. P.C., for Farbod Realty Corp., owner; Harris G. Joseph, Inc., lessee.

WHEREAS, the Board finds that the applicant continues to meet the requirements of Z.R. § 73-36; and

WHEREAS, accordingly, the Board finds that this

SUBJECT - Application - November 5, 2004 - Extension of Term & Amendment for the use of a Physical Cultural Establishment which was granted by BSA pursuant to Section 73-36 of the Zoning Resolution on February 4, 2003 for a term of two years. The application requests a change in the hours of operation contrary to the conditions set in the prior Resolution, located in a C5-2 zoning district.

PREMISES AFFECTED - 80 Madison Avenue, between 28th and 29th Streets, Block 858, Lot 14, Borough of Manhattan.

COMMUNITY BOARD#5M

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening, an extension of term for a previously granted special permit that expired February 4, 2005, and a minor change to the hours of operation of the physical culture establishment; and

WHEREAS, a public hearing was held on this application on March 29, 2005, after due notice by publication in the *City Record*, and then to April 19, 2005 for decision; and

WHEREAS, Community Board 5, Manhattan, recommends approval of the subject application; and

WHEREAS, on February 4, 2005, under the subject calendar number, the Board granted a special permit pursuant to Z.R. § 73-36, to allow, in a C5-2 zoning district, the use of the cellar and a small portion of the first floor of an existing building as a physical culture establishment ("PCE"); and

WHEREAS, the subject PCE will continue to occupy the same amount of square footage within the building; and

WHEREAS, the applicant is requesting a change in the hours of operation, such that the new hours would be 10 AM to 11 PM, seven days a week; and

WHEREAS, the applicant represents that the change in hours of operation is necessary in order to accommodate clients that seek services at later hours; and

WHEREAS, the applicant notes that the increase in hours will not disturb the residential tenants in the building because there are no residential units on the ground floor above the PCE, and the PCE is separated from the residential units by other commercial tenants, all of which stay open to 11 PM; and

WHEREAS, the applicant further represents that the PCE continues to provide facilities for classes, instruction and programs for physical improvement, body building, weight reduction and aerobics; and application is appropriate to grant, with the conditions set forth below.

Therefore it is Resolved, that the Board of Standards

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and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to extend the term of the previously granted special permit, and to modify the hours of operation of the existing PCE; *on condition* that the expansion shall substantially conform to drawings as filed with this application, marked 'Received April 5, 2005' - (2) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years from February 4, 2005, expiring February 4, 2015;

THAT the hours of operation shall be limited to: Monday through Sunday 10 AM to 11 PM;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT fire protection measures, including exit signs, emergency lighting, sprinklers and fire extinguishers shall be installed and maintained as indicated on the BSA-approved plans;

THAT all signage shall comply with signage regulations applicable to C5-2 zoning districts; 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. 103764099)

Adopted by the Board of Standards and Appeals, April 19, 2005.

232-04-A

APPLICANT - Snyder & Snyder LLP, c/o Omnipoint Communications, Inc., for Edward Zdanowicz, owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application June 18, 2004 - Proposed construction of a communications structure on a property that is not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 17 Feldmeyers Lane, 130' from the intersection of Feldmeyers Lane and Victory Boulevard, Block 2660, Lot 63, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Robert Gandioso.

Therefore it is Resolved that the decision of the Staten Island Borough Commissioner, dated June 16, 2004, acting on Department of Buildings Application No. 500667129, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received March 15, 2005" -

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Staten Island Commissioner, dated June 16, 2004, acting on Department of Buildings Application No. 500667129, reads:

"The street giving access to the proposed telecommunications structure and related equipment is not duly placed on the official map of the City of New York Therefore:

A) No Certificate of Occupancy can be issued pursuant to Article 3, Section 36 General City Law.

B) Proposed construction does not have at least 8% of the total perimeter of Telecommunications Structure and related equipment fronting directly upon a legally mapped street or frontage space contrary to Section 27-291 of the New York Building Code."; and

WHEREAS, a public hearing was held on this application on April 5, 2005 after due notice by publication in the *City Record*, and then to decision on April 19, 2005; and

WHEREAS, Community Board 2, Staten Island, has approved the application; and

WHEREAS, by letter dated March 8, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, in connection with the use of the site for a telecommunications facility, the applicant has made certain commitments, as follows: 1) the flag will be replaced at least one time per year, or as needed, properly maintained and lit at night; 2) all lighting will be positioned down and away from any adjacent residential uses; 3) the flagpole will be designed for co-location of other antennas; 4) no commercial or retail signage will be posted at or on the pole or related structures; 5) routine repairs and service of the flagpole and related structures will be limited to Monday through Friday between the hours of 9:00 AM and 5:00 PM; and 6) the site shall be maintained free debris and graffiti, and any graffiti on the site shall be removed within 48 hours; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

(2) sheets; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved

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only for the portions related to the specific relief granted;
and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 19, 2005.

309-04-BZY & 310-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Steeplechase Building Corp, owner.

SUBJECT - Application September 13, 2004 - Application to extend time to complete construction for a major development as per Z.R. §11-331.

PREMISES AFFECTED -

65 North Burgher Avenue, east side, 630.42' south of Richmond Terrace, Block 158, Lot 173, Borough of Staten Island.

67 North Burgher Avenue, east side, 655.42' south of Richmond Terrace, Block 158, Lot 171, Borough of Staten Island.

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Laid over to May 17, 2005, at 10 A.M., for continued hearing.

347-04-BZY & 348-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Ana Canton Ramirez, owner.

SUBJECT - Application October 28, 2004 - Application to extend time to complete construction for a major development pursuant to Z.R. §11-331.

PREMISES AFFECTED -

3056 Cross Bronx Expressway, west side, 176.54' north of Sampson Avenue, Block 5443, Lot 71, Borough of The Bronx.

3058 Cross Bronx Expressway, west side, 119.70' north of Sampson Avenue, Block 5443, Lot 80, Borough of The Bronx.

COMMUNITY BOARD#10BX

APPEARANCES -

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD - Laid over to May 17, 2005, at 10 A.M., for continued hearing.

349-04-BZY

**REGULAR MEETING
TUESDAY AFTERNOON, APRIL 19, 2005
2:00 P.M.**

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Anamika Kaur Sahni, owner.

SUBJECT - Application October 28, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

PREMISES AFFECTED - 1420 Balcom Avenue, east side, 225' north of Latting Street, Block 5370, Lot 10, Borough of The Bronx.

COMMUNITY BOARD#10BX

APPEARANCES -

For Applicant: Adam Rothkrug.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to May 10, 2005, at 10 A.M., for decision, hearing closed.

22-05-A

APPLICANT - Dennis Dell' Angelo, President for Pleasant Plains, Richmond Valley, Civic Association for Joseph Galante, owner.

SUBJECT - Application February 7, 2005 - An appeal challenging the Department of Buildings' ("DOB") decision that approved and permitted the building of two (2) houses on a lot containing less than the required square footage as zoned for in the Special South Richmond District ("SSRD"), also this appeal is seeking to reverse the DOB' decision not to enforce §107-42 of the SSRD within NYC Zoning Resolution.

PREMISES AFFECTED -5728 Amboy Road and 3 Haynes Street, southeast corner, Block 6654, Lot 9, Borough of Staten Island.

COMMUNITY BOARD #3S.I.

APPEARANCES -

For Applicant: Dennis Recca, Andrew Lanza, Robert E. Englert, Eileen Schmidt and Maria Monahan.

For Opposition: Adam Rothkrug.

ACTION OF THE BOARD - Laid over to June 14, 2005, at 10 A.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 11:40 A.M.

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.

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ZONING CALENDAR

291-03-BZ

CEQR #04-BSA-044K

APPLICANT - Stuart A. Klein, Esq., for 6202 & 6217 Realty Company, owner.

SUBJECT - Application September 4, 2003 - under Z.R. §72-21 to permit the proposed residential building, Use Group 2, located on a site in that is in an M1-1 and an R5 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 1380 62nd Street, northwest corner of 14th Avenue, Block 5733, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES -

For Applicant: Stuart Klein.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated April 20, 2004, acting on Department of Buildings Application No. 301534819, reads, in pertinent part:

“Proposed new residential building (UG2) is not permitted as of right use on a site in both an M1-1 and an R5 district as per section 42-00 of the Zoning Resolution, and, as such, must be referred to the Board of Standards and Appeals for approval.”; and

WHEREAS, a public hearing was held on this application on March 2, 2004 after due notice by publication in the *City Record*, with continued hearings on April 20, 2004, June 22, 2004, August 17, 2004, October 5, 2004, December 7, 2004, and then laid over for decision on January 25, 2005, February 8, 2005, March 1, 2005 and then finally on April 19, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar and Commissioner Miele; and

WHEREAS, Community Board 10, Brooklyn, recommended approval of the original version of this application, as discussed below; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, on a site split by M1-1 and R5 zoning district

WHEREAS, although the Board agrees that the site’s proximity to the Long Island Railroad may lead to increased development costs, the Board does not credit the applicant’s contention that proximity to the railroad contributes to the site’s uniqueness or that costs associated with the proximity

boundaries, the proposed construction of a new four-story residential building (Use Group 2), contrary to Z.R. § 42-00; and

WHEREAS, the original version of this application contemplated a six-story residential building, with an F.A.R. of 3.25, 34 residential units, ground floor retail and an underground parking area containing 23 spaces; and

WHEREAS, intermediate proposals contemplated the construction of buildings with F.A.R.s of 3.17, 3.0, 2.59 and 1.64; and

WHEREAS, the current version contemplates a four-story residential building, with an F.A.R. of 2.1, 26 residential units and an underground parking area containing 15 spaces; and

WHEREAS, the building will front both 14th Avenue and 62nd Street, and will have a total building height of 57’-1”, a streetwall height of 36’-9”, with 15 ft. setbacks on both 14th Avenue and 62nd Street, and a total floor area of 33,463 sq. ft.; and

WHEREAS, the subject premises consists of three lots with approximately 16,000 sq. ft. of aggregate lot area; and

WHEREAS, the site has approximately 120 feet of frontage along 14th Avenue and 140 feet of frontage along 62nd Street, and is currently improved upon with a one-story and cellar building that houses a lumber supply and hardware store; and

WHEREAS, the two lots zoned M1-1 have a total area of approximately 14,000 sq. ft. and the lot zoned R5 has a total area of approximately 2,000 sq. ft; and

WHEREAS, the proposed building will be located 60 feet from the cut of the Long Island Railroad, which is approximately 60 to 70 feet deep; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties in developing the subject lot in conformance with underlying district regulations: (1) the site is split by two zoning districts; (2) the building is located 60 feet from the Long Island Railroad; (3) the building is located near a subway tunnel; and (4) the site has poor soil conditions that require substantial foundation work; and

WHEREAS, the applicant represents that due to the proximity of the site to the Long Island Railroad the applicant will be required to use augured piles instead of the less expensive driven piles and will be required to take other precautions for the safety of the bridge abutments; and

WHEREAS, at the request of the board, the applicant submitted reports prepared by two separate consulting engineers stating that increased construction costs will arise in order to comply with certain augured pile requirements of the Metropolitan Transit Authority due to the site’s proximity to the Long Island Railroad; and

to the railroad should be characterized as premium costs; the Board notes that numerous sites adjacent to the subject site are within the same distance from the cut; and

WHEREAS, the applicant further represents that commercial deliveries to the site and loading access to and

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from the site are impeded because of the site's proximity to the Long Island Railroad; and

WHEREAS, the applicant submitted a traffic engineering study describing truck access to the site and concluded that it is difficult for trucks to access the site; and

WHEREAS, the Board does not find this argument persuasive, and does not credit the study as substantiating any uniqueness based upon truck access difficulties; and

WHEREAS, the applicant represents that based upon the findings of a soil investigation report, the developer will have to excavate a minimum of approximately 11 to 13 feet in order to reach soil of appropriate bearing pressure to support the foundation; and

WHEREAS, however, after a careful review of the soil boring tests, the Board does not find that the soil conditions at the site impeded development or contribute to the site's uniqueness; and

WHEREAS, the applicant represents that one of the lots is in an R5 zoning district and cannot meet the minimum lot size for detached housing in an R5 zone; and

WHEREAS, the applicant represents that there is no active retail market along 14th Avenue, and the section of the site within the M1-1 zoning district is too small to support an economically feasible retail alternative such as a large discount retail store with on-site parking; and

WHEREAS, the Board credits this argument as a basis for uniqueness; and

WHEREAS, accordingly, the Board finds that certain of the unique conditions mentioned above, namely, the fact that the site is split by district boundaries, that the R5 portion of the site is of a substandard size, and that the lots zoned M1-1 are not large enough for conforming uses, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict conformance with current applicable zoning provision;

WHEREAS, the applicant submitted a feasibility study that shows that a conforming proposal for the subject building would not result in a reasonable return; and

WHEREAS, the Board asked the applicant to analyze two alternative development scenarios: a building with an F.A.R. of 3.0 and a building with reduced height; and

WHEREAS, in response, the applicant submitted a supplementary feasibility study that shows that construction of a building with a 3.0 F.A.R. is not economically feasible; however, this study was not convincing to the Board; and

WHEREAS, the applicant states that a building with reduced height would yield a lower return than the initial proposal and would not achieve the applicant's goal of accommodating larger families because the applicant would have to eliminate two three-bedroom apartments; and

WHEREAS, the Board subsequently asked the applicant to prepare a feasibility study using the prevailing F.A.R. of 1.64 (R5-infill); and

WHEREAS, in response, the applicant submitted a revised feasibility study with an F.A.R. of 1.64 that shows that the construction of a three-story residential

condominium with 24 residential units, without a penthouse and without any commercial space would not be economically viable; and

WHEREAS, at the Board's direction, the applicant has since revised its application to include an F.A.R. of 2.1; and

WHEREAS, the Board has determined that because of the subject site's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant represents that the area surrounding the site is a residential area characterized by larger density mixed-use (residential and commercial) development along 14th Avenue and New Utrecht Avenue and smaller density multi-family residences located on the side streets; and

WHEREAS, the applicant submitted a land use map indicating the types and heights of buildings in the area surrounding the site; and

WHEREAS, this map shows that there is a four-story residential building directly behind a portion of the site and numerous three-story buildings on both 62nd and 63rd streets; and

WHEREAS, the Board concluded that the initial F.A.R. requested by the applicant of 3.25 was not consistent with the bulk of buildings in the area; and

WHEREAS, however, the Board finds that the applicant's revised F.A.R. of 2.1 is consistent with the bulk of buildings in the neighborhood; and

WHEREAS, the Board also finds that the proposed setbacks further enhances the compatibility of the proposal with the character of the neighborhood; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21.

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; and

WHEREAS, the Board has conducted an environmental

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review of the proposed action and has documented relevant information about the project in the Final Environmental

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, 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 the required findings under Z.R. § 72-21, to permit the proposed construction of a new four-story residential building on a site within both an M1-1 zoning district and a R5 zoning district, contrary to Z.R. § 42-00; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received April 11, 2005"-(9) sheets; and *on further condition*:

THAT the following bulk parameters will apply to the development approved herein: a F.A.R. of 2.1; 26 residential units; a total building height of 57'-1", a streetwall height of 36'-9", setbacks of 15 ft. on 14th Avenue and 62nd Street; and 15 parking spaces;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 19, 2005.

Assessment Statement (EAS) CEQR No. 04-BSA-044K dated September 2, 2003; and

369-03-BZ

CEQR #04-BSA-095Q

APPLICANT - Sheldon Lobel, Esq. for Queens Boulevard Spa Corp. d/b/a Sky Athletic, lessee.

SUBJECT - Application December 2, 2003 - under Z.R. §72-21 to permit part of the cellar and ground level of an existing two story building within an R7-1/C1-2 district to be occupied as physical cultural establishment.

PREMISES AFFECTED - 99-01/23 Queens Boulevard, between 66th Road and 67th Avenue, Block 2118, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner dated November 25, 2003, acting on Department of Buildings Application No. 401454608, reads:

"Proposed Physical Culture Establishment is not permitted in a C1-2 zoning district as per ZR Section 32-10"; and

WHEREAS, a public hearing was held on this application on January 25, 2005 after due notice by publication in *The City Record*, with a continued hearing on February 15, 2005, and then to March 29, 2005 for decision; the decision was deferred to April 19, 2005, on which date the matter was granted; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, this is an application under Z.R. § 72-21, to permit a proposed physical culture establishment ("PCE") use in the cellar, cellar mezzanine and part of the first floor of an existing commercial building, located in a C1-2 overlay within an R7-1 zoning district, which is contrary to Z.R. § 32-10; and

WHEREAS, Community Board 6, Queens, recommends approval of this application, upon the condition that 30 parking spaces be provided to patrons of the PCE; and

WHEREAS, the subject building is located on the northeast side of Queens Boulevard, between 66th Road and 67th Avenue; and

WHEREAS, the total area of the lot is 20,843 sq. ft. and the cellar level covers the entire square footage of the lot; and

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WHEREAS, the lot is composed of six sides, with approximately 41 feet of frontage on 99th Street, 217.39 feet of frontage on Queens Boulevard, 102.54 feet of frontage on

WHEREAS, the applicant represents that the entire building is located within the C1-2 commercial overlay; and

WHEREAS, a variance, rather than a special permit, is required because the proposed PCE is not a special permit use in a C1-2 zoning district; and

WHEREAS, the proposed PCE will occupy a total of 25,175 sq. ft. of floor area in the building, including 17,983 sq. ft. in the cellar, 5,873 sq. ft. in the cellar mezzanine, and 1,319 sq. ft. in the first floor; and

WHEREAS, the record indicates that the cellar area of the subject building has been used as a bowling alley since 1952, and at one time the mezzanine was occupied by a restaurant; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance with underlying district regulations: (1) the cellar space was designed to be a bowling alley; (2) the cellar has no windows or street exposure; and (3) there are two rows of support beams running through the cellar floor; and

WHEREAS, the applicant represents that the beams that run through the cellar obstruct the open space and reduce the potential mobility of goods or equipment within the cellar; and

WHEREAS, the applicant further states that a significant amount of the building's floor space is located in the cellar and that it is necessary for the owner to lease the cellar in order to generate a profit; and

WHEREAS, the Board finds that there are unique physical conditions inherent to the existing building, namely the obsolescence of the cellar space as it was designed to be used as a bowling alley, as well as the limitations of the configuration of the cellar, which create practical difficulties and unnecessary hardship in conforming strictly with the applicable use provisions of the Zoning Resolution; and

WHEREAS, at the request of the Board, the applicant has submitted a letter, dated February 16, 2005, from a commercial real estate broker involved with marketing of the entire building, including the cellar area, which states that the broker aggressively but unsuccessfully tried to market the cellar from September 2003 through July 2004; and

WHEREAS, in addition to the marketing evidence, the applicant has submitted a feasibility study demonstrating that developing the cellar with a conforming use would not yield the owner a reasonable return; and

WHEREAS, the Board has determined that because of the subject site's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant represents that the surrounding area is characterized by commercial buildings and multiple dwellings and that the proposed use is

67th Street, 206.44 feet of frontage along the adjoining site; and 110 feet of frontage on 66th Road; and

compatible with these uses; and

WHEREAS, the hours of operation for the proposed PCE will be 5 AM to 11 PM Monday through Thursday, 5 AM to 9 PM Friday, 7AM to 7PM Saturday, and 7 AM to 5 PM Sunday; and

WHEREAS, the Community Board was concerned with the provision of parking spaces for PCE members; and

WHEREAS, the applicant provided the Board with a copy of an agreement between the applicant and a local parking facility in which the applicant will lease a minimum of 20 parking spaces on a monthly basis and will retain first priority for up to ten additional spaces per day if required by PCE members; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board notes that although a variance is being requested, the subject application meets all the requirements of the special permit for a PCE, except for the required zoning district; and

WHEREAS, the proposed PCE will contain facilities for classes, instruction and programs for physical improvement, bodybuilding, weight reduction, aerobics and martial arts; 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 project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; 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. 04-BSA-095Q, dated November 18, 2004; 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; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy;

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Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, the Board has determined that the *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 617.4, 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 Z.R. § 72-21, to permit a proposed physical culture establishment use in the cellar, cellar mezzanine and part of the first floor of an existing commercial building, located in a C1-2 overlay within an R7-1 zoning district, which is contrary to Z.R. § 32-10, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 1, 2005"-(5) sheets and "Received March 11, 2005"-(1) sheet; and *on further condition*;

THAT the term of this variance will be ten (10) years, from April 19, 2005 and expiring on April 19, 2015;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT the hours of operation shall be limited to 5 AM to 11 PM Monday through Thursday, 5 AM to 9 PM Friday, 7AM to 7PM Saturday, and 7 AM to 5 PM Sunday;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all fire protection measures indicated on the BSA-approved plans shall be installed and maintained, as approved by DOB;

THAT Local Law 58/87 compliance and all exiting requirements shall be as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 19, 2005.

201-04-BZ

CEQR #04-BSA-200M

APPLICANT - Eric Palatnik, P.C., for Marilyn Levine & Melvin Mesnick, Urban Spa, Inc., dba Carapan, lessee.

SUBJECT - Application May 14, 2004 - under Z.R. §73-36, to permit the legalization of an existing physical culture establishment, located in the basement level of a four story commercial structure,

proposed action will not have a significant adverse impact on the environment.

situated in a C6-2M zoning district, which requires a special permit. PREMISES AFFECTED - 5 West 16th Street, between Fifth Avenue and Avenue of the Americas, Block 818, Lot 37, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner dated April 19, 2004, acting on Department of Buildings Application No. 103313022, reads:

"The proposed Physical Culture Establishment is not a permitted 'As-Of Right' use in a C6-2M District. The use is contrary to ZR 32-00.;" and

WHEREAS, a public hearing was held on this application on March 29, 2005 after due notice by publication in *The City Record*, and then to decision on April 19, 2005; and

WHEREAS, Community Board No. 5, Manhattan, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit, within a C6-2M zoning district, a physical culture establishment ("PCE") in the basement of an existing four-story commercial building; and

WHEREAS, the PCE has been in operation for approximately 15 years; and

WHEREAS, the PCE occupies the basement floor of the building and takes up approximately 1,400 square feet; and

WHEREAS, the applicant states that the PCE has facilities for massage and other healing therapies, and an accessory retail shop selling aromatherapy products for the bath, body and home; and

WHEREAS, the applicant states that all masseurs and masseuses employed by the facility are and will be New York State licensed; the applicant has submitted into the record the licenses for 27 massage therapists; and

WHEREAS, the Board finds that the PCE, given the proposed uses and the hours of operation, will not have any significant impact on the adjacent residential uses; and

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WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent

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 proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; 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. 04-BSA-0200M, dated May 14, 2004; 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; 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, 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 Z.R. §§ 73-36 and 73-03, to permit, within a C6-2M zoning district, a physical culture establishment in the basement of an existing four-story commercial building; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received April 12, 2005"- (2) sheets and "Received April 18, 2005"-(1) sheet; and *on further condition*:

THAT this grant shall be limited to a term of five years from April 19, 2005, expiring April 19, 2010;

THAT all massages will be performed only by New York

properties, nor will it be detrimental to the public welfare; and

State licensed massage therapists;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT the hours of operation shall be limited to: Monday through Sunday 10 AM to 11pm

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all signage shall comply with signage regulations applicable in C6-2M zoning districts;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT a full sprinkler system and a Class C fire alarm system shall be installed throughout the PCE, as indicated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 19, 2005.

327-02-BZ

APPLICANT - Harold Weinberg, P.E., for Frank Galeano, owner.

SUBJECT - Application November 4, 2002 - under Z.R. §72-21 to permit the proposed erection of a four story, four family residence, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 82 Union Street, south side, 266'-0" west of Columbia Street, east of Van Brunt Street, Block 341, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Harold Weinberg.

ACTION OF THE BOARD - Laid over to May 24, 2005, at 1:30 P.M., for deferred decision.

355-03-BZ

APPLICANT - Augusta & Ross, for D'Angelo Properties, Inc., owner.

SUBJECT - Application September 27, 2004 - under Z.R. §72-21 to permit the proposed four story and penthouse mixed-use multiple dwelling, Use Groups 2 and 6, in a C2-2/R4 zoning

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district, which does not comply with the zoning requirements for residential floor area, building height, number of dwelling units and residential front yard, is contrary to Z.R. §23-141, §23-60, §35-20, §23-22 and §23-45.

For Applicant: Mitchell Ross.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for decision, hearing closed.

381-03-BZ

APPLICANT - Moshe M. Friedman, P.E., for Hamilton G.S. Realty, owner.

SUBJECT - Application December 8, 2003 - under Z.R. §72-21 to permit the proposed expansion of existing social security offices, and the addition of school by adding a second floor, to an existing one story building, located in an M1-1 zoning district, which does not comply with the zoning requirements for Use Group and floor area, and is contrary to Z.R. §42-00, §43-12 and §43-122.

PREMISES AFFECTED - 6023 Fort Hamilton Parkway, a/k/a 6013/23 Fort Hamilton Parkway, a/k/a 6012/24 Tenth Avenue, and a/k/a 973/83 61st Street, northeast corner, Block 5715, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Moshe E. Friedman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to May 17, 2005, at 1:30 P.M., for decision, hearing closed.

385-03-BZ

APPLICANT - Joseph P. Morsellino, for Fabian Organization II, LLC, owner.

SUBJECT - Application December 12, 2003 - under Z.R. §72-21 to permit the proposed erection of a six-story multiple dwelling with 46 Units, located in an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, dwelling units, and height and setback, is contrary to Z.R. §23-141(c), §23-22 and §23-631(b).

PREMISES AFFECTED - 85-15 and 85-17 120th Street, southeast corner of 85th Avenue, Block 9266, Lots 48 and 53, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to May 24, 2005, at 1:30 P.M., for continued hearing.

PREMISES AFFECTED - 64-01/07 Grand Avenue, northeast corner of 64th Street, Block 2716, Lot 1, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES -

144-04-BZ

APPLICANT - Eric Palatnik, P.C., for Atlantic Realty Management, Inc., owner.

SUBJECT - Application March 30, 2004 - Under Z.R. §72-21, to permit the proposed development which will contain residential uses at the second through eighth floors (Use Group 2), within an M1-6 zoning district to vary Z.R. §43-10.

PREMISES AFFECTED - 286 Hudson Street, East side of Hudson Street between Dominick and Spring Streets, Block 579, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to May 17, 2005, at 1:30 P.M., for decision, hearing closed.

247-04-BZ

APPLICANT - Sheldon Lobel, P.C., for BC Merrick Storage LP, owner.

SUBJECT - Application July 7, 2004 - under Z.R. §72-21, to permit the proposed enlargement of a two-story storage facility (Use Group 16) in a C8-1 zoning district, which creates non-compliance by exceeding the permitted floor area authorized by Section 33-122 of the Zoning Resolution and creates a second floor within a rear yard equivalent, increasing the degree of non-compliance contrary to Sections 54-31 and 33-283 of the Zoning Resolution.

PREMISES AFFECTED - 22-20 Merrick Blvd., Northern side of the area bounded by Merrick Blvd., 125th Avenue, Merrill Street and Baisley Blvd., Block 12516, Lot 37, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Richard Lobel and David Leveufeld.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to May 17, 2005, at 1:30 P.M., for decision, hearing closed.

252-04-BZ

APPLICANT - Jay A. Segal, Esq., Greenberg Traurig, LLP, for MKD Group, LLC, owner.

SUBJECT - Application July 15, 2004 - under Z.R. §72-21 to

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permit the conversion and enlargement of an existing two-story, vacant industrial building in an M1-2 zoning district contrary to Z.R. PREMISES AFFECTED - 170 North 11th Street, south side of North 11th Street between Bedford Avenue and Driggs Avenue, Block 2298, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES - None.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to June 2, 2005, at 1:30 P.M., for decision, hearing closed.

257-04-BZ

APPLICANT - Patrick W. Jones, Petraro & Jones, LLP, for Boerum Place, LLC, owner.

SUBJECT - Application November 19, 2004 - under Z.R. §72-21, to permit the proposed construction of an eight story mixed-use, retail-residential building, located in an R6A, R6, C2-4 and C2-3 zoning districts which does not comply with the zoning requirements for floor area ratio, lot coverage, building height and loading berth, is contrary to Z.R. §23-145, §33-121, §23-633, §35-25 and §36-22.

PREMISES AFFECTED - 252/60 Atlantic Avenue (a/k/a 83/87 Boerum Place; 239/47 Pacific Street), east side of Boerum Place, between Atlantic Avenue and Pacific Street, Block 181, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Patrick Jones, Marc Chemtob and Willy Zambrano.

For Opposition: Victoria Whitmore.

ACTION OF THE BOARD - Laid over to May 24, 2005, at 1:30 P.M., for continued hearing.

272-04-BZ

APPLICANT - Sullivan Chester & Gardner, for Chickie, LLC, owner.

SUBJECT - Application August 5, 2004 - under Z.R. §72-21 to permit the proposed five story, twenty-unit multiple dwelling, Use Group 2, located in an R-5 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, density, side and front yards, height and/or setback and parking spaces, is contrary to Z.R. §23-141, §23-22, §23-45a, §23-461(a and b), §23-462, §23-631d and §25-23.

PREMISES AFFECTED - 14-38/40 31st Drive, East side, between 14th and 21st Streets, Block 531, Lots 50 and 51, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Jeffrey Chester, Joseph Zennaro, Mary L. Rivera and Michelle C. Casamento.

For Opposition: Noreen Violante, Tony Violante, Salvatore Pavone and Maddine Ortiz.

§42-10.

ACTION OF THE BOARD - Laid over to June 7, 2005, at 1:30 P.M., for continued hearing.

292-04-BZ

APPLICANT - Eric Palatnik, P.C., for Daniel Hirsch, owner.

SUBJECT - Application August 23, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, rear and side yards, is contrary to Z.R. 23-141(a), §23-47 and §23-48.

PREMISES AFFECTED - 1340 East 26th Street, between Avenues "M and N", Block 7661, Lot 59, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to May 17, 2005, at 1:30 P.M., for decision, hearing closed.

294-04-BZ

APPLICANT - Petraro & Jones, LLP., by Patrick W. Jones, Esq., for 2478-61 Realty Corp., owner.

SUBJECT - Application August 26, 2004 - under Z.R. §72-21 proposed construction of a three family dwelling, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for front and side yards, is contrary to Z.R. §§23-45 and 23-49.

PREMISES AFFECTED - 103-05 35th Avenue, (a/k/a 34-29 35th Avenue), northeast corner of 103rd Street, Block 1744, Lot 43, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Patrick Jones.

ACTION OF THE BOARD - Laid over to May 17, 2005, at 1:30 P.M., for continued hearing.

297-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Arthur Djmal, owner.

SUBJECT - Application January 18, 2005 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family dwelling, Use Group 1, located in an R-2 zoning district, which does not comply with the zoning requirement for floor area ratio, is contrary to Z.R. §23-141.

PREMISES AFFECTED - 1174 East 22nd Street, southwest corner of Avenue "K", Block 7621, Lot 47, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

MINUTES

For Applicant: Richard Lobel.

ACTION OF THE BOARD - Laid over to May 17, 2005, at 1:30 P.M., for continued hearing.

299-04-BZ

APPLICANT - Patrick W. Jones, Petraro & Jones, LLP, for Sutphin Boulevard, owner.

SUBJECT - Application September 7, 2004 - under Z.R. §72-21 - Proposed construction of a one-story retail building, Use Group 6, located in an R3-2 zoning district, is contrary to Z.R. §22-11.

PREMISES AFFECTED - 111-02 Sutphin Boulevard, (a/k/a 111-04/12 Sutphin Boulevard), southeast corner of 111th Avenue, Block 11965, Lots 26, 188 and 189 (tentative 26), Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Patrick Jones, Marc Chemtob and Willy Zambrano.

ACTION OF THE BOARD - Laid over to May 24, 2005, at 1:30 P.M., for continued hearing.

319-04-BZ

APPLICANT - Steven Sinacori/Stadtmauer Bailkin, for Joseph De Simone, owner.

SUBJECT - Application September 20, 2004 - under Z.R. §72-21 to permit, in an R5 (Infill) district, approval sought to erect a four-story, 45 foot eight inch high, residential building on a currently unimproved lot consisting of 25,413 SF. There are proposed 39 dwelling units with 28 parking spaces in the cellar. The proposed building is non-compliant to wall height and total height requirements.

PREMISES AFFECTED - 35 McDonald Avenue, a/k/a 25/47 McDonald Avenue, east side, between 20th Street and Terrace Place, Block 895, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Steven Sinacori.

For Opposition: John Keefe-State Assemblyman, Robbin Bloch, Holly Sears, Barbara Johnson, Michael Ambrosia, Regina M. Ambrosia and Amy Hausmann.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to May 24, 2005, at 1:30 P.M., for decision, hearing closed.

61-05-A

APPLICANT - Steve Sinacori/Stadtmauer Bailkin, for Joseph De Simone, owner.

SUBJECT - Application March 11, 2005 - Proposed erection of a four-story residential building, located partially within the bed of a

ACTION OF THE BOARD - Laid over to May 24, 2005, at 1:30 P.M., for continued hearing.

mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 35 McDonald Avenue, a/k/a 25/47 McDonald Avenue, east side, between 20th Street and Terrace Place, Block 895, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Steven Sinacori.

For Opposition: John Keefe-State Assemblyman, Robbin Bloch, Holly Sears, Barbara Johnson, Michael Ambrosia, Regina M. Ambrosia and Amy Hausmann.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to May 24, 2005, at 1:30 P.M., for decision, hearing closed.

363-04-BZ

APPLICANT - Herrick Feinstein, LLP, for 6002 Fort Hamilton Parkway Partners, owners.

SUBJECT - Application November 18, 2004 - under Z.R. §§72-01(b) and 72-21 to permit in an M1-1 district, approval sought to convert an existing industrial building to residential use. The proposed development will contain 115,244 SF of residential space containing 90 dwelling units, as well as 9,630 SF of retail space. There will be 90 parking spaces. The development is contrary to district use regulations per Section 42-00.

PREMISES AFFECTED - 6002 Fort Hamilton Parkway, a/k/a 949/59 61st Street, a/k/a 940/66 60th Street, south side of 61st Street, east side, of Fort Hamilton Parkway and north side of 60th Street, Block 5715, Lots 21 and 27, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Mitchell Korbey and Jack Freeman.

ACTION OF THE BOARD - Laid over to June 7, 2005, at 1:30 P.M., for continued hearing.

390-04-BZ

APPLICANT - Walter T. Gorman, P.E., for J R & J Auto Corp., owner.

SUBJECT - Application December 13, 2004 - under Z.R. §72-21, the reestablishment of a gasoline service station, Use Group 16, motor vehicles, located in a C1-3 within an R6 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 2290 Boston Road, southeast corner of Astor Avenue, Block 4343, Lot 31, Borough of The Bronx.

COMMUNITY BOARD #11BX

APPEARANCES -

For Applicant: John Ronan.

MINUTES

391-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Meilech Fastag, owner.

SUBJECT - Application December 13, 2004 - under Z.R.§73-622 Proposed enlargement to an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio and open space ratio, is contrary to Z.R. §23-141(a).

PREMISES AFFECTED - 2610 Avenue "L", south side, 60' east of the intersection of Avenue "L" and East 26th Street, Block 7644, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Moshe M. Friedman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to May 17, 2005, at 1:30 P.M., for decision, hearing closed

Pasquale Pacifico, Executive Director.

Adjourned: 5:30 P.M.

**WEDNESDAY MORNING, APRIL 20, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.

45-65-BZ

APPLICANT - New York City Board of Standards and Appeals.
OWNER OF PREMISES - John Catsimatidis c/o Red Apple Group.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 1526 Grand Concourse, a/k/a 1539 Sheridan Avenue, Sheridan Avenue between East 172nd Street and Mount Eden Parkway, Block 2821, Lot 11, Borough of The Bronx.

COMMUNITY BOARD #4BX

APPEARANCES -

For Applicant: Ellen Hay.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Adopted by the Board of Standards and Appeals, April 20, 2005.

154-04-BZ

APPLICANT - New York City Board of Standards and Appeals.
OWNER OF PREMISES - Wavebrook Associates.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 63 Rapeleye Street, north side of Rapeleye Street, 116' east of Hamilton Avenue, Block 363, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES -

For Opposition: Mitchell Ross.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Adopted by the Board of Standards and Appeals, April 20, 2005.

DISMISSAL CALENDAR

160-04-BZ & 161-04-A

APPLICANT - New York City of Standards and Appeals.

OWNER OF PREMISES - Daffna, LLC.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 77 Washington Avenue, easterly side of Washington Avenue, 170' north of Park Avenue, Block 1875,

MINUTES

Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES - None.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Adopted by the Board of Standards and Appeals, April 20, 2005.

245-04-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES - Mark Stern.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 102-104 Franklin Avenue, westerly side of Franklin Avenue, 182' south of Park Avenue, Block 1898, Lots 45 & 46, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Mitchell Ross.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Adopted by the Board of Standards and Appeals, April 20, 2005.

194-04-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES - Always Ready Corp.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 9029 Krier Place, a/k/a 900 East 92nd Street, 142' west of 92nd Street, Block 8124, Lot 75 (ten. 180), Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Opposition: Mitchell Ross.

ACTION OF THE BOARD - Laid over to May 10, 2005, at 10 A.M., SOC Calendar, for continued hearing.

239-04-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES - 341 Scholes Street, LLC.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 225 Starr Street, northerly side of Starr Street, 304' east of Irving Avenue, Block 3188, Lot 53, Borough of Brooklyn.

COMMUNITY BOARD #4BK

APPEARANCES -

For Opposition: Mitchell Ross.

ACTION OF THE BOARD - Laid over to May 10, 2005, at 10 A.M., for dismissal.

SPECIAL HEARING

146-03-BZ/139-02-A

APPLICANT - Jesse Masyr, Wachtel & Masyr, LLP, for 1511 Third Avenue Assoc., owner.

SUBJECT - Application January 19, 2005 - request for a rehearing to permit the filing of a new special permit application pursuant to Z.R. §73-36 to legalize the operation of a physical culture establishment based on substantial new evidence and material changes in the proposed plans. Based on the new evidence, this application requests that the Board permit the filing of a modification to a condition in a previously decided Appeals case under Cal. No. 139-02-A.

PREMISES AFFECTED - 1511 Third Avenue, a/ka 201 East 85th Street, southwest corner bounded by Second and Third Avenues and East 85th and 86th Streets, Block 1531, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Jesse Masyr and Marl Gensberg.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 10:30 A.M.

BULLETIN

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May 19, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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DOCKETS

New Case Filed Up to May 10, 2005

92-05-A B.Q. 43-36 Cornell Lane, northwest corner of Northern Boulevard, Block 8129, Lot 154, Borough of Queens. Applic.#401861963. Proposed enlargement of the existing ground floor, and the addition of a second floor, to develop a two-family dwelling, on a site that does not front on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

Street, east side, 153' north of Avenue "J", Block 7585, Lot 13, Borough of Brooklyn. Applic.#301892717. Proposed enlargement of an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, also side and rear yards, is contrary to Z.R. §22-14, §23-46 and §23-47.

COMMUNITY BOARD #14BK

93-04-BZ B.BK. 2621 Avenue "M", corner of Avenue "M" and East 27th Street, Block 7644, Lot 1, Borough of Brooklyn. Applic.#301909683.

Proposed enlargement of an existing single family residence, Use Group 2, located in an R2 zoning district, which does not comply with the zoning requirements for floor area and open space, is contrary to Z.R. §23-141.

COMMUNITY BOARD #14BK

98-05-BZ B.M. 46/48 Bond Street, north side, 163.5' west of The Bowery, Block 530, Lot 44, Borough of Manhattan. N.B.#104079943. Proposed development of a 12-story residential/retail building, located in an M1-5B zoning district, which does not comply with the zoning requirements for residential use, commercial use below the level of the second floor, and maximum base height and setback of front wall, is contrary to Z.R. §42-10, §42-14(D)(2)(b) and §43-43.

COMMUNITY BOARD #2M

94-04-BZ B.BK. 1283 East 29th Street, north of Avenue "M", Block 7647, Lot 11, Borough of Brooklyn. Applic.#301909585. Proposed enlargement of an existing single family residence, Use Group 2, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space, side and rear yards, is contrary to Z.R. §23-141, §23-47 and §23-461.

COMMUNITY BOARD #14BK

99-05-BZ B.M. 39 Downing Street, aka 31 Bedford Street, northwest corner, Block 528, Lot 77, Borough of Manhattan. Applic.#104056940. Proposed enlargement of an existing restaurant, which is a legal non-conforming use, located on the first floor of a six-story mixed-use building, situated in an R6 zoning district, is contrary to Z.R. §22-10.

COMMUNITY BOARD #2M

95-05-A B.M. 605 East Ninth Street, between East Ninth and East Tenth Streets, 93' east of Avenue "B", Block 392, Lot 10, Borough of Manhattan. Applic.#103948338. An appeal challenging the Department of Buildings' decision dated March 21, 2005, as to whether they have sufficient documentation to determine the proposed use of said premises as a college student dormitory.

100-05-BZ B.BK. 223 Water Street, aka 48 Bridge Street, northwest corner, Block 31, Lot 30, Borough of Brooklyn. Applic.#301920250. Proposed conversion of the second and third floors, of a six story manufacturing building, to residential use, Use Group 2, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

COMMUNITY BOARD #2BK.

96-05-BZ B.M. 205 West 14th Street, north side, 50' west of Seventh Avenue, Block 764, Lot 35, Borough of Manhattan. Applic.#104027900. The legalization of an existing physical culture establishment, located on the second floor of a five story building, situated in a C6-3A zoning district, requires a special permit from the Board as per Z.R. §73-36.

COMMUNITY BOARD #4M

97-05-BZ B.BK. 1107 East 21st

DOCKETS

101-05-BZ B.M. 377 Greenwich Street, southeast corner of North Moore Street, Block 187, Lot 16, Borough of Manhattan. Applic.#102666394. Proposed development of a seven-story, plus penthouse, transient hotel, located in a C6-2A/TMU(A-1) zoning district, which does not comply with the zoning requirements for floor area ratio, also maximum base height and setback requirements, is contrary to Z.R. §111-104 and §35-24.

COMMUNITY BOARD #1M

102-05-BZ B.BK. 259 Vermont Street, aka 450 Glenmore Avenue, southeast corner, Block 3723, Lot 13. Borough of Brooklyn. N.B.#301828379. Proposed two family dwelling, on a corner lot, located in an R5 zoning district, which does not provide one of the two required front yard, is contrary to Z.R. §23-45.

COMMUNITY BOARD #5BK

103-05-A B.S.I. 366 Nugent Street, southwest corner of Spruce Street, Block 2248, Lot 44, Borough of Staten Island. Applic.#500584799. An appeal challenging the Department of Buildings' decision refusing to lift a "hold", on approved plans for an alteration to an existing one-family dwelling, and requiring approval of a restoration plan by the City Planning Commission.

104-05-BZ B.BK. 255/75 Park Avenue, north side, between Waverly and Washington Avenues, Block 1874, Lot 1, Borough of Brooklyn. Applic.#301797223. Proposed physical culture establishment, to be located in a portion of the first floor, of a seven story mixed use building, located in an M1-2 zoning district, requires a special permit from the Board as per Z.R. §73-36.

COMMUNITY BOARD #2BK

side, approximately 240' east of Bainbridge Avenue, and west of Holt Place, Block 3343, Lot 28, Borough of The Bronx. Applic.#200944522. Proposed construction of a multi-family residential building, located partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

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.

105-05-A B.BX. 3242 Reservoir Oval East, south

CALENDAR

JUNE 7, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, June 7, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

45-65-BZ

APPLICANT - Wachtel & Masyr, LLP, by Jesse Masyr, Esq., for John Catsimatidis c/o Red Apple Group, ownr.
SUBJECT - Application March 31, 2005 - for an amendment pursuant to Z.R. §§72-01 & 72-22 to enclose an open area formerly used for an accessory off-street loading berth.
PREMISES AFFECTED - 1526 Grand Concourse aka 1539 Sheridan Avenue, Sheridan Avenue between East 172nd Street and Mount Eden Parkway, Block2821, Lot 11, Borough of The Bronx.

COMMUNITY BOARD #4BX

129-70-BZ

APPLICANT - Sheldon Lobel. P.C., for 10 West 66th Street Corp., owner.; 10 West 66th Street Garage Corp., lessee.
SUBJECT - Application January 28, 2005 - Extension of Term of variance for use of unused and surplus parking spaces for transient parking, limited to 75 spaces, in thirty-two story multiple dwelling located in a C4-7 and R-10 zoning district.

PREMISES AFFECTED - 6/14 West 66th Street, south side of West 66th Street, 125' west of Central Park West, Block 1118, Lot 22, Borough of Manhattan.

COMMUNITY BOARD #7M

70-91-BZ

APPLICANT - Salvadeo Associates by David L. Businelli, for Mid Island Realty Corp., owner.

SUBJECT - Application January 4, 2005 and updated January 18, 2005 for an Extension of Term/Waiver of a variance to allow commercial/retail stores UG6 in an R3-2 zoning district. 1894/1898 Hylan Boulevard, east side 40.6' north of Seaver Avenue, Block 3657, Lots 1 & 3, Borough of Staten Island.

COMMUNITY BOARD #2SI

397-03-BZ thru 405-03-BZ

APPLICANT - Sheldon Lobel, P.C., for G & G Associates, owner.

APPEALS CALENDAR

85-05-A

APPLICANT -Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc, owner; Pamela & Bruce Kemmlein, lessees.

SUBJECT - Application April 8, 2005 - Proposed reconstruction and enlargement of an existing single family dwelling, not fronting on a legally mapped street, and a proposal to upgrade the private disposal system located in the bed of the service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings policy.

PREMISES AFFECTED -8 Jamaica Walk, west side, 93.31' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

JUNE 7, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, June 7, 2005, at 1:30 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

344-03-BZ/345-03-A

APPLICANT - Law Offices of Howard Goldman, LLC, for City of New York, owner; Nick's Lobster House, lessee.

SUBJECT - Application November 13, 2003 - under Z.R.§73-242, to allow a restaurant in a C3 zoning district. The restaurant allows eating and drinking, provides outdoor seating and has a seating capacity of 190 people. There is no dancing or musical entertainment. Under BSA Calendar No. 345-03-A the application seeks an appeal pursuant to Art. III, Sec. 35, of the General City Law to permit construction of commercial facility on the bed of a mapped Street.

PREMISES AFFECTED - 2777 Flatbush Avenue, corner of Mill Basin, Block 8591, Part of Lots 980 and 175, Borough of Brooklyn.

COMMUNITY BOARD #18BK

SUBJECT - Application December 29, 2003 - under Z.R.§72-21 to permit the proposed three story (3) plus attic building, to contain three residential units, located in an

CALENDAR

M1-1 zoning district, is contrary to Z.R.§42-00.

PREMISES AFFECTED -

1255 60th Street, between 12th and 13th Avenues, Block 5711, Lot 155, Borough of Brooklyn.

1257 60th Street, between 12th and 13th Avenues, Block 5711, Lot 154, Borough of Brooklyn.

1259 60th Street, between 12th and 13th Avenues, Block 5711, Lot 153, Borough of Brooklyn.

1261 60th Street, between 12th and 13th Avenues, Block 5711, Lot 152, Borough of Brooklyn.

1263 60th Street, between 12th and 13th Avenues, Block 5711, Lot 151, Borough of Brooklyn.

1265 60th Street, between 12th and 13th Avenues, Block 5711, Lot 150, Borough of Brooklyn.

1267 60th Street, between 12th and 13th Avenues, Block 5711, Lot 149, Borough of Brooklyn.

1269 60th Street, between 12th and 13th Avenues, Block 5711, Lot 148, Borough of Brooklyn.

1271 60th Street, between 12th and 13th Avenues, Block 5711, Lot 147, Borough of Brooklyn.

COMMUNITY BOARD #12BK

154-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Wavebrook Associates, owner.

SUBJECT - Application April 9, 2004- under Z.R.§72-21 to permit the proposed construction of a four family dwelling, Use Group 2, located in M1-1 zoning district, is contrary to Z.R.§42-10.

PREMISES AFFECTED - 63 Rapeleye Street, north side, 116' east of Hamilton Avenue, Block 363, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD #6BK

404-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Sharokh Rambod, owner.

SUBJECT - Application December 30, 2004 - under Z.R.§73-622 Enlargement of a single family residence to vary ZR 23-141 for open space and floor area, ZR 23-461 for side yards and ZR 23-47 for rear yard. The premise is located in an R2 zoning district.

PREMISES AFFECTED - 1384 East 24th Street, bounded by Avenue "N", East 23rd Street, Avenue "M" and East 24th Street, Block 7659, Lot 81, Borough of Brooklyn.

REGULAR MEETING

TUESDAY MORNING, MAY 10, 2005

10:00 A.M.

Present: Chair Srinivasan, Vice Chair Babbar,
Commissioner Miele and Commissioner Chin.

COMMUNITY BOARD #14BK

405-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Kim Stavrach, owner.

SUBJECT - Application December 30, 2004- under Z.R.§73-622 for an enlargement of a single family residence to vary ZR 23-141 for open space and floor area, ZR 23-461 for side yards and ZR 23-47 for rear yard. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED - 1734 East 27th Street, west side, between Quentin Road and, Avenue "R", Block 6809, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Pasquale Pacifico, Executive Director

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, March 1, 2005, as printed in the Bulletin of March 10, 2005, Volume 90, Nos. 10-11.

MINUTES

SPECIAL ORDER CALENDAR

314-28-BZ

APPLICANT - Manuel B. Vidal, Jr., for Henilda Realty Corporation, owner; Henilda Realty Corporation, lessee.

SUBJECT - Application July 8, 2004 - reopening for an amendment to the prior resolution to permit the removal of the existing kiosk and to erect a new building on the property to be used as a convenience store.

PREMISES AFFECTED - 902/14 Westchester Avenue and 911/15 Rogers Place, south west corner of 889/903 East 163rd Street, Block 2696, Lot 130, Borough of The Bronx.

COMMUNITY BOARD #2BX

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application made pursuant to Z.R. §11-412 for a re-opening and an amendment to the resolution of a previously granted Board variance, permitting a gasoline service station in a former business district; and

WHEREAS, a public hearing was held on this application on February 8, 2005, after due notice by publication in the City Record, with continued hearings on March 1, 2005 and April 12, 2005, and then to decision on May 10, 2005; and

WHEREAS, Community Board No. 2, Bronx recommends approval of the subject application; and

WHEREAS, on October 9, 1928, under the subject calendar number, the Board granted a variance to permit the erection of a gasoline service station with an accessory building; and

WHEREAS, this grant has been modified and amended at various times, most recently in 1987; and

WHEREAS, the site is currently within an R7-1(C1-2) zoning district; and

WHEREAS, the applicant now seeks an amendment to the resolution to permit the removal of the existing kiosk and the erection of a new one-story masonry building to be used as a convenience store; and

WHEREAS, at the request of the Board, the applicant submitted revised site and circulation plans that are more acceptable than those previously approved; and

WHEREAS, in particular, the applicant agrees to
SUBJECT - Application September 7, 2004 - reopening for an extension of term of a variance for attended transient parking, limited to a maximum of twenty-three (23) vehicles, in a multiple dwelling presently located in C5-1 (MP) zoning district. The original grant of the variance by the Board of Standards and Appeals was made pursuant to Section 60(3) of the multiple Dwelling Law.

remove the curb cut on Rogers Place, so that the total number of curb cuts on the site will be four, whereas the original grant permitted five; the change in the curb cuts is reflected on the BSA-approved plans; and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports a grant of the requested amendment to the prior resolution, pursuant to Z.R. § 11-412.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution pursuant to Z.R. § 11-412, so that as amended this portion of the resolution shall read: "to permit the removal of the existing kiosk and the erection of a new one-story masonry building to be used as a convenience store; on condition that all work shall substantially conform to drawings as filed with this application, marked "Received April 20, 2005"- (6) sheets; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT there shall be no parking of vehicles on the sidewalk or in such a manner as to obstruct pedestrian or vehicular traffic;

THAT the above conditions shall appear on the certificate of occupancy;

THAT all conditions from prior resolution(s) not specifically waived by the Board remain in effect;

THAT the curb cut on Rogers Place shall be removed, as reflected on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction 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. 200745667)

Adopted by the Board of Standards and Appeals, May 10, 2005.

752-64-BZ

APPLICANT - Patrick Jones, Esq, by Petraro & Jones, for Gallery Partners, LLC, owner.

PREMISES AFFECTED - 49 East 77th Street, east side of Madison Avenue at intersection of E. 78th Street and E. 77th Street, Block 1392, Lot 1101, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Patrick W. Jones, Esq.

ACTION OF THE BOARD -Application granted upon

MINUTES

condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner
Chin.....4

Negative:.....
...0

THE RESOLUTION -

WHEREAS, this application is a request for a re-opening and an extension of term of the variance; and

WHEREAS, a public hearing was held on this application on April 12, 2005, after due notice by publication in The City Record, and then to decision on May 10, 2005; and

WHEREAS, Community Board No. 8, Manhattan, recommended approval of this application; and

WHEREAS, on October 20, 1964, the Board granted an application pursuant to Section 60(1)(b) of the Multiple Dwelling Law ("MDL") under the subject calendar number to permit the use of transient parking for the unused and surplus parking spaces in a multiple dwelling accessory garage, in addition to tenant and monthly parking, on condition that the transient parking spaces shall not exceed twenty-three in number; and

WHEREAS, the term of the variance was extended for a period of fifteen years on October 2, 1979, a period of ten years on February 7, 1995, and the resolution was reopened and amended on July 2, 1996 to allow the applicant additional time to obtain the certificate of occupancy.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution pursuant to Section 60(1)(b) of the MDL, said resolution having been adopted on October 20, 1964, so that as amended this portion of the resolution shall read: "granted for a term of ten (10) years from October 20, 2004 to expire on October 20, 2014; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked 'Received April 26, 2005' - two (2) sheets; and on further condition;

THAT the number of daily transient parking spaces shall be no greater than 23;

THAT the reservoir spaces shall not be used for parking;

THAT all residential leases shall 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 be placed in a conspicuous place within the garage;

THAT the above conditions shall be listed on the certificate of occupancy;

WHEREAS, a public hearing was held on this application on April 12, 2005, after due notice by publication in the City Record, and then to closure and decision on May 10, 2005; and

WHEREAS, on November 28, 1967, under the subject

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT the layout of the parking garage shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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. 100813448)

Adopted by the Board of Standards and Appeals, May 10, 2005.

721-67-BZ

APPLICANT - Sheldon Lobel, P.C., for Bill Wolf Petroleum Corp., owner.

SUBJECT - Application September 15, 2004- reopening for an amendment to the resolution to permit the addition of a canopy and the conversion of the existing accessory service bays to an accessory convenience store.

PREMISES AFFECTED - 7310-7322 New Utrecht Avenue, block bound by New Utrecht Avenue, 74th Street and 16th Avenue, Block 6203, Lot 1, Borough of Brooklyn

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD -Application granted upon condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner
Chin.....4

Negative:.....
....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner
Chin.....4

Negative:.....
....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an amendment to the resolution of a previously granted Board special permit and variance, to permit the addition of a new canopy and the conversion of the existing accessory service bays to an accessory convenience store at a gasoline service station; and

calendar number, the Board granted an application to permit the reconstruction of an automotive service station with accessory uses in a R5/C2-2 zoning district, with additional pump islands, curb cuts and accessory signs; and

WHEREAS, on March 30, 1971, the Board waived the

MINUTES

rules of procedure and reopened and amended the previous resolution to extend the time within which to obtain a certificate of occupancy; and

WHEREAS, the applicant now seeks an amendment to the resolution to permit the addition of a new canopy and the conversion of the existing accessory service bays to an accessory convenience store; and

WHEREAS, the applicant has resolved all Department of Buildings violations and provided evidence to the Board that they have all been dismissed; and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports a grant of the requested amendment to the prior resolution.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit the addition of a new canopy and the conversion of the existing accessory service bays to an accessory convenience store; on condition that all work shall substantially conform to drawings as filed with this application, marked "Received September 15, 2004"- (3) sheets; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT there shall be no parking of vehicles on the sidewalk or in such a manner as to obstruct pedestrian or vehicular traffic;

THAT the above conditions shall appear on the certificate of occupancy;

THAT all conditions from prior resolution(s) not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application No. 301795083)

Adopted by the Board of Standards and Appeals, May 10, 2005.

490-69-BZ

APPLICANT - Sheldon Lobel, P.C., for 300 East 74th Owners Corp., owner; GGMC Parking, LLC, lessee.

SUBJECT - Application September 2, 2004 - reopening for an extension of term of a variance for attended transient parking in a multiple dwelling presently located in a C1-9 and R8-B zoning district. The original grant of the variance by the Board of Standards and Appeals was made pursuant to

THAT all residential leases shall 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 be placed in a conspicuous place within the garage;

Section 60(3) of the multiple Dwelling Law.

PREMISES AFFECTED - 1408/18 Second Avenue, 303/09 East 73rd Street, 300/04 East 74th Street, east side of Second Avenue, 50' north of East 73rd Street, Block 1448, Lot 3, Borough of Manhattan.

COMMUNITY BOARD#8M

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD -Application granted upon condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this application is a request for a re-opening and an extension of term of the variance; and

WHEREAS, a public hearing was held on this application on March 8, 2005, after due notice by publication in The City Record, with a continued hearing on April 12, 2005, and then to decision on May 10, 2005; and

WHEREAS, Community Board No. 8, Manhattan, recommended approval of this application; and

WHEREAS, on November 25, 1969, the Board granted an application pursuant to Section 60(1)(b) of the Multiple Dwelling Law ("MDL") under the subject calendar number to permit the use of transient parking for the unused and surplus parking spaces in a multiple dwelling accessory garage, in addition to tenant and monthly parking, on condition that the transient parking spaces shall not exceed forty in number; and

WHEREAS, the term of the variance was extended for a period of ten years on January 8, 1985 and November 15, 1994.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution pursuant to Section 60(1)(b) of the MDL, said resolution having been adopted on November 25, 1969, so that as amended this portion of the resolution shall read: "granted for a term of ten (10) years from November 15, 2004 to expire on November 15, 2014; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received April 22, 2005"- (4) sheets; and on further condition;

THAT the number of daily transient parking spaces shall be no greater than 40;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT the layout of the parking garage shall be as approved by the Department of Buildings;

MINUTES

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. 103799383)

Adopted by the Board of Standards and Appeals, May 10, 2005.

377-03-BZ

APPLICANT - Fischbein Badillo Wagner Harding, LLP, for Shinbone Alley Associates, LLC, owner.

SUBJECT - Application February 18, 2005 - reopening for an amendment to the resolution granted on June 8, 2004 to rearrange approve floor area and units.

PREMISES AFFECTED - 25 Bond Street, south side of Bond Street, 70' east of Lafayette Street, Block 529, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Howard Hornstein and Peter Geis.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

...0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

...0

THE RESOLUTION-

WHEREAS, this is an application for a re-opening and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on March 29, 2005, after due notice by publication in the City Record, and then to closure and decision on May 10, 2005; and

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit a decrease in the amount of commercial floor area by 977 sq. ft. (by eliminating the approved retail mezzanine) and an equivalent increase in residential floor area, a decrease in the amount of dwelling units from 23 to 14, a re-allocation of the floor-to-floor heights, and a reduction in the rear yard from 35 ft. to 34 ft., 9 in.; on condition that all work shall substantially conform to drawings as filed with this application, marked `Received February 18, 2005' - three (3) sheets; `March 10,

WHEREAS, Community Board No. 2, Manhattan, recommends approval of the subject application, with conditions, as reflected below; and

WHEREAS, during the public hearing process, certain members of the community appeared and expressed concern about the ongoing excavation and foundation work; and

WHEREAS, the applicant represents that all excavation and foundation work has complied with applicable zoning, Building Code and other legal requirements, including those requirements imposed by the Landmarks Preservation Commission-approved Construction Protection Plan; and

WHEREAS, on June 8, 2004, under the subject calendar number, the Board granted an application under Z.R. § 72-21, to permit the proposed erection of an eight-story mixed use building (Use Groups 2 and 6) consisting of residential apartments and local retail usage, located in an M1-5B zoning district, which is contrary to Z.R. § 42-10; and

WHEREAS, the applicant now seeks an amendment to the resolution to permit a decrease in the amount of commercial floor area by 977 sq. ft. (by eliminating the approved retail mezzanine) and an equivalent increase in residential floor area, a decrease in the amount of dwelling units from 23 to 14, a re-allocation of the floor-to-floor heights, and a reduction in the rear yard from 35 ft. to 34 ft., 9 in.; and

WHEREAS, the applicant states that increase in residential floor area by 977 sq. ft. would occur through the filling in of a previously approved terrace at the rear of the eight floor and by moving the building outward three inches; and

WHEREAS, the applicant further states every proposed unit would retain a minimum of 1,200 sq. ft. of floor area; and

WHEREAS, the ground floor floor-to-floor height would change from 19 ft. to 17 ft., the seventh floor floor-to-floor height would be 13 ft., 4 inches and the eighth floor floor-to-floor height would be 10 ft., 8 inches; however, the overall height would remain at the previously approved 101 ft.; and

WHEREAS, the applicant also proposes minor interior configuration changes; and

WHEREAS, all other bulk parameters shall remain as previously approved under the June 8, 2004 grant; and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports a grant of the requested amendment to the prior resolution.

2005' - two (2) sheets; and `April 26, 2005' - five (5) sheets; and on further condition:

THAT all construction will be conducted in compliance with the LPC-approved Construction Protection Plan, as well as all applicable construction laws, rules and regulations, including TPPN 10/88, with compliance to be ensured by the Department of Buildings;

THAT a copy of the Construction Protection Plan shall be forwarded to DOB;

THAT all conditions from prior resolution(s) not specifically waived by the Board remain in effect;

MINUTES

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 Permit No. 103600499)

Adopted by the Board of Standards and Appeals, May 10, 2005.

194-04-BZ thru 199-04-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES - Always Ready Corp.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 9029 Krier Place, aka 900 East 92nd Street, 142' west of East 92nd Street, Block 8124, Lot 75 (tentative 180),

9031 Krier Place, aka 900 East 92nd Street, 113.5' west of East 92nd Street, Block 8124, Lot 75 (tentative 179) Borough of Brooklyn.

9033 Krier Place, aka 900 East 92nd Street, 93' west of East 92nd Street, Block 8124, Lot 75 (tentative 178) Borough of Brooklyn.

9035 Krier Place, aka 900 East 92nd Street, 72.5' west of East 92nd Street, Block 8124, Lot 75 (tentative 177) Borough of Brooklyn.

9037 Krier Place, aka 900 East 92nd Street, 52' west of East 92nd Street, Block 8124, Lot 75 (tentative 176) Borough of Brooklyn.

9039 Krier Place, aka 900 East 92nd Street, corner of East 92nd Street, Block 8124, Lot 75 (tentative 175) Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Opposition: Mitchell Ross.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0
...0

Adopted by the Board of Standards and Appeals, May 10, 2005.

62-83-BZ

APPLICANT - Law Offices of Howard Goldman, LLC, for Shaya B. Pacific, LLC, owner.

SUBJECT - Application June 1, 2004 and updated 3/15/05 - reopening for an amendment to the resolution to allow the redesign of landscaped areas and the elimination of loading docks.

239-04-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES - 341 Scholes Street, LLC.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 225 Starr Street, northerly side of Starr Street, 304' east of Irving Avenue, Block 3188, Lot 53, Borough of Brooklyn.

COMMUNITY BOARD #4BK

APPEARANCES -

For Opposition: Mitchell Ross.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0
....0

Adopted by the Board of Standards and Appeals, May 10, 2005.

100-71-BZ

APPLICANT - The Agusta Group, for Maurice Cohen/1065 Eagle, LLC, owner.

SUBJECT - Application July 21, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance to permit the use of an open area for the sale of used cars (U.G. 16) and accessory parking on a lot containing an existing automobile repair shop, located in an R5 zoning district.

PREMISES AFFECTED - 61-03 Northern Boulevard, northeast corner of Northern Boulevard, and 61st Street, Block 1162, lot 53, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Adam Rothkrug.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0
.....0

ACTION OF THE BOARD - Laid over to May 24, 2005, at 10 A.M., for decision, hearing closed.

PREMISES AFFECTED - 696 Pacific Street, between Carlton and 6th Avenues, Block 1128, Lot 1002, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES -

For Applicant: Chris Wright.

For Opposition: Paul Sheridan, Regina Cahill, Peter Krashes,

MINUTES

Bayo Calendar, John Herrera, Jimmy Greenfield, Rachel Urganhart, Margaret M. Elwert, Schellie Hagan and Patti Hagan.

ACTION OF THE BOARD - Laid over to July 12, 2005, at 10 A.M., for continued hearing.

110-95-BZ

APPLICANT - John W. Russell, Esq., for 1845 Realty, Inc., owner; 1845 Cornaga Avenue, lessee.

SUBJECT - Application March 15, 2004 - Extension of Term of a variance, which permitted, within a C2/R5 zoning district, the operation of a auto repair facility (UG16), with accessory uses, including parking and minor repairs using handtools.

PREMISES AFFECTED - 1845 Cornaga Avenue, southwest corner of Cornaga Avenue and B19th Street, Block 15563, Lot 1, Borough of Queens.

COMMUNITY BOARD #14

APPEARANCES -

For Applicant: John W. Russell.

ACTION OF THE BOARD - Laid over to June 7, 2005, at 10 A.M., for continued hearing.

189-96-BZ

APPLICANT - John C Chen, for Ping Yee, owner; Edith D'Angelo-Cnandonga, lessee.

SUBJECT - Application September 8, 2004 - Extension of Term-Waiver- for an eating and drinking establishment with dancing, Located in an C2-3 overlay within an R6 zoning district.

PREMISES AFFECTED - 85-12 Roosevelt Avenue, (85-10 Roosevelt Avenue), south side of Roosevelt Avenue, 58' east side of Forley Street, Block 1502, Lot 3, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES -

For Applicant: John Chen.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

...0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 10 A.M., for decision, hearing closed.

126-99-BZ

SUBJECT - Application April 13, 2004 - reopening for an amendment to a previously granted variance under ZR §72-21 to allow minor modification of the approved plans.

PREMISES AFFECTED - 3032-3042 West 22nd Street, West 22nd Street, 180' north of Highland View Avenue, Block 7071, Lot 19 (aka 19, 20, 22), Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPLICANT - Sheldon Lobel, P.C., for Fortune Hospitality Group LLC, owner.

SUBJECT - Application February 23, 2005 - Extension of Time to Complete Construction of a hotel which was granted on March 28, 2000 under section 72-21 of the zoning resolution for the subject site to be used as a transient hotel located in C1-2 zoning district.

PREMISES AFFECTED - 220-16 Jamaica Avenue, south side of Jamaica Avenue between 220th Street and 221st Street, Block 10789, Lot 268, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Sheldon Lobel.

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

....0

ACTION OF THE BOARD - Laid over to May 24, 2005, at 10 A.M., for decision, hearing closed.

215-00-BZ

APPLICANT - McDermott Will & Emery LLP, for Parker Jewish Institute for Health Care and Rehabilitation, owner.

SUBJECT - Application January 13, 2005 - Extension of Time to Complete Construction of the Parker Jewish Institute for Health Care and Rehabilitation, authorized by a variance issued by the Board of Standards and Appeals on January 16, 2001, located R3-2 Zoning District.

PREMISES AFFECTED - 271-11 76th Avenue, Block 8489 and the Nassau County line, Block 8520, Lot 175, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES - None.

THE VOTE TO CLOSE HEARING

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

....0

ACTION OF THE BOARD - Laid over to May 24, 2005, at 10 A.M., for decision, hearing closed.

91-02-BZ

APPLICANT - Sheldon Lobel, P.C., for David Winiarski, owner.

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Laid over to June 7, 2005, at 10 A.M., for continued hearing.

MINUTES

182-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Marcello Porcelli, owner; BP Amoco, plc, lessee.

SUBJECT - Application December 20, 2004 - reopening to request an amendment to redesign a gasoline service station previously approved in 2003. Relocation and reduction of floor area of the convenience store, relocate the fuel dispenser islands and canopy, increase the curb cuts from three to five and to modify the landscaping. The premise is located in R3-2/C1-2 and R3-2 zoning district.

PREMISES AFFECTED - 1705 Richmond Avenue, aka 2990 Victory Boulevard, southeast corner of the intersection of Richmond Avenue and Victory Boulevard, Block 2072, Lot 42, Borough of Staten Island.

COMMUNITY BOARD #2S.I.

APPEARANCES -

For Applicant: Janice Cahalane and Larry Kuo.

ACTION OF THE BOARD - Laid over to June 7, 2005, at 10 A.M., for continued hearing.

APPEALS CALENDAR

241-04-A

APPLICANT - Rampulla Associates Architects, for Erin Esposito, owner.

SUBJECT - Application June 28, 2004 - Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED -6515 Amboy Road, 650' south of Bedell Avenue, Block 7664, Lot 452 (Tentative Lot 463), Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Philip Rampulla.

ACTION OF THE BOARD - Application granted on condition..

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Staten Island Borough Commissioner, dated June 9, 2005, acting on Department of Buildings Application No. 500682273, reads:

"1. Street giving access to the proposed building is not THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 10, 2005.

placed on the official map of the City of New York; therefore,

a. No Certificate of Occupancy can be issued as per Art. 3, Section 36 of the General City Law; and

b. A permit may not be issued since proposed construction does not have at least 8% of total perimeter of building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section C27-291 of the Administrative Code of the City of New York."; and

WHEREAS, a public hearing was held on this application on March 15, 2005, after due notice by publication in the City Record, with a continued hearing on April 12, 2005, and then to closure and decision on May 10, 2005; and

WHEREAS, by letter dated January 27, 2005, the Fire Department has no objection to the above referenced project provided that the building is fully sprinklered, due to its location behind an existing building; in addition, a 30 ft. by 30 ft. frontage space accessible from a road that is at least twenty foot wide is required; and

WHEREAS, by letter dated March 28, 2005, the applicant has agreed to install sprinklers in the proposed single family detached house; also, a 17 ft. wide access drive is proposed in lieu of the requested 20 ft. wide road; and

WHEREAS, the Board finds the 17 ft. wide access drive acceptable; and

WHEREAS, additionally, by letter dated April 11, 2005, the Fire Department states that it has reviewed the applicant's proposal for a 17 ft. wide access drive and has no objection; and

WHEREAS, accordingly, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Staten Island Borough Commissioner, dated June 9, 2005, acting on Department of Buildings Application No. 500682273, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked, "Received April 26, 2005" - (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

349-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Anamika Kaur Sahni, owner.

SUBJECT - Application October 28, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

PREMISES AFFECTED - 1420 Balcom Avenue, east side, 225' north of Latting Street, Block 5370, Lot 10, Borough of

MINUTES

The Bronx.

COMMUNITY BOARD#10BX

APPEARANCES -

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD -Application granted.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION-

WHEREAS, this is an application under Z.R. § 11-331, to renew a building permit and extend the time for the completion of the foundation of a minor development under construction; and

WHEREAS, a public hearing was held on this application on March 6, 2005, after due notice by publication in The City Record, with a continued hearing on April 19, 2005, and then to decision on May 10, 2005; and

WHEREAS, the site was inspected by a committee of the Board, including Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, the subject premises is located on the east side of Balcom Avenue, north of Latting Street; and

WHEREAS, the subject premises was formerly located within an R4 zoning district; and

WHEREAS, however, on September 28, 2004, the effective date of the rezoning (hereinafter, the "Rezoning Date"), the City Council voted to rezone the area which the subject premises is within to R4-1; and

WHEREAS, the subject premises is proposed to be developed with a cellar and three-story, three-family dwelling with 3,037 sq. ft. of floor area, which would comply with the zoning regulations applicable to an R4 zoning district, but not those of an R4-1 zoning district; and

WHEREAS, Z.R. §11-331 reads: "If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued as set forth in Section 11-31 paragraph (a), to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the

WHEREAS, the applicant represents that excavation of the site took place on September 18, 2004, well prior to the Rezoning Date; and

WHEREAS, the applicant represents that, as of the Rezoning Date, substantial progress had been made on foundations; and

WHEREAS, in support of this representation the applicant has submitted, among other items, photographs taken prior to September 28, 2004, an affidavit from the general contractor, and a table

foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations."; and

WHEREAS, Z.R. § 11-31(a) reads: "For the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met."; and

WHEREAS, because the proposed development contemplates a single building on one zoning lot, it meets the definition of Minor Development; and

WHEREAS, the Board notes that this application was made on October 28, 2004, which is within 30 days of the Rezoning Date, as required by Z.R. § 11-331; and

WHEREAS, the applicant represents that all of the relevant Department of Buildings permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the record indicates that on September 16, 2004, a new building permit (Permit No. 200819383-01-NB; hereinafter, the "NB Permit") for the proposed development was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the Board has reviewed the record and agrees that the afore-mentioned permit was lawfully issued to the owner of the subject premises; and

showing the percentage of work to complete the foundations remaining and the amounts of money already spent or committed on the project; and

WHEREAS, the applicant further represents that footings were poured on September 18, 2004; and

WHEREAS, in support of the contention that footings were poured on September 18, 2004, the applicant has submitted a receipt from a concrete batching company reflecting delivery of 14 yards of

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concrete, dated September 18, 2004; and

WHEREAS, the Board has reviewed the photos and the affidavit, and agree that they support the conclusion that excavation and the pouring of the footings were complete as of September 18, 2004; and

WHEREAS, the applicant states that in addition to completing the excavation and footings prior to the Rezoning Date, the applicant also purchased and installed the rebar for the foundation prior to the Rezoning Date; and

WHEREAS, in support of the claim that rebar was purchased and installed prior to the Rezoning Date, the applicant has submitted a receipt from a building supply company noting the purchase of rebar on September 20, 2004; and

WHEREAS, the applicant further states that due to illness of the owner, work stopped on the project approximately one week prior to the Rezoning Date; and

WHEREAS, the Board notes that the applicant has shown that, as of the Rezoning Date, all of the footings were in place and the rebar was installed, and the only remaining work is erection of the forms and pouring of the concrete for the foundation walls; and

WHEREAS, a letter from the applicant's architect states that 12 yards of concrete have been poured and 45 yards remain to be poured; and

WHEREAS, the applicant has submitted a schedule of foundation work completed from the general contractor, which states that \$7,760 of the \$15,360 (or 51 percent) of the foundation costs, including the costs for the supplies and labor associated with installing the footings and the walls, but excluding tree removal costs, excavation costs, and other soft costs associated with development on the site, had been incurred as of the Rezoning Date; and

WHEREAS, the Board finds all of above-mentioned submitted evidence sufficient and credible; and

WHEREAS, based upon the above, the Board finds that excavation was complete and that substantial progress had been made on foundations, and additionally, that the applicant has adequately satisfied all the requirements of Z.R. § 11-331.

Therefore it is resolved that this application to renew New Building permit No. 200819383-01-NB pursuant to Z.R. § 11-331 is granted, and the Board hereby extends the time to complete the required foundations for one term of sixth months from the date of this resolution, to expire on November 10, 2005.

301-04-BZY

APPLICANT - Rothkrug, Rothkrug, Weinberg & Spector, for Medhat M. Hanna, owner.

SUBJECT - Application September 10, 2004 - Application to complete construction for a minor development as per Z.R. §11-331.

PREMISES AFFECTED - 102 Greaves Avenue, corner of Dewey Avenue, Block 4568, Lot 40, Borough of Staten Island.

Adopted by the Board of Standards and Appeals, May 10, 2005.

346-04-BZY

APPLICANT - Sheldon Lobel, P.C., for GRA V LLC, owner.

SUBJECT - Application October 27, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

PREMISES AFFECTED - 3329-3333 Giles Place (a/k/a 3333 Giles Place), west side of Giles Place between Canon Place and Fort Independence Street, Block 3258, Lot 5 and 7, Borough of The Bronx.

APPEARANCES -

For Applicant: Jordan Most and Sheldon Lobel.

For Opposition: Lynn Schwarz and Janine Gaylord, Department of Buildings.

ACTION OF THE BOARD - Laid over to July 12, 2005, at 10 A.M., for continued hearing.

17-05-A

APPLICANT - Sheldon Lobel, P.C., for GRA V LLC, owner.

SUBJECT - Application January 27, 2005 - An appeal seeking a determination that the owner of said premises has acquired a common-law vested right to continue a development commenced under R6 Zoning.

PREMISES AFFECTED - 3329/3333 Giles Place, (a/k/a 3333 Giles Place), west side, between Canon Place and Fort Independence Street, Block 8258, Lots 5 and 7, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES -

For Applicant: Jordan Most.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to July 12, 2005, at 10 A.M., for continued hearing.

APPEARANCES -

For Applicant: Adam W. Rothkrug.

THE VOTE TO CLOSE HEARING

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0
....0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 10 A.M., for decision, hearing closed.

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397-04-A

APPLICANT - Petraro & Jones, LLP, for Jennifer Walker, owner.

SUBJECT - Application December 23, 2004 - An appeal to request the Board to determine that the apartment house at subject premises, is not a "single room occupancy multiple dwelling" and (2) nullify the Department of Buildings' plan review "objection" that resulted in this appeal application.

PREMISES AFFECTED - 151 West 76th Street, north side, 471' from the intersection of Columbus Avenue, Block 1148, Lot 112, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES -

For Applicant: Patrick Jones, Esq., Jerome X. O'Donovan, Jennifer Walker and Joseph P. Trivosonno, R.A..

For Opposition: Janine A. Gaylard.

THE VOTE TO CLOSE HEARING

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0
...0

ACTION OF THE BOARD - Laid over to June 14, 2005, at 10 A.M., for decision, hearing closed.

211-04-A

APPLICANT - Sheldon Lobel, P.C., for Grace Presbyterian Church, owner.

SUBJECT - Application May 21, 2004 - Proposed expansion and renovation of an existing church building, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 216-50/56 28th Avenue, southwest corner of Cross Island Parkway, Block 6019, Lot 108, Borough of Queens.

COMMUNITY BOARD #11

APPEARANCES -

For Applicant: Sheldon Lobel, Kenny Lee, Myung Shin Kim, Dong Chun Seo, Byung Chen Sohn, Soo Gyung Kim, Yak Sui Huang, Ung Chan Kim, Jong Yun Kim, Chung Kuk Kim, Moo Young Soh, David Kim, Soon-Ok Yoo, Young C. Mok and Joo Won Chin.

For Opposition: Robert Horowitz, Donald McLaughlin F

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0
....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0
....0

Kisaks, Bryan Rivera, Councilmember James Colasante - Avella.

THE VOTE TO CLOSE HEARING

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0
.....0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 1:45 P.M.

REGULAR MEETING

TUESDAY AFTERNOON, MAY 10, 2005

2:00 P.M.

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.

ZONING CALENDAR

63-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Showky Kaldawy, owner.

SUBJECT - Application February 27, 2004 - under Z.R. §72-21 to permit the proposed accessory parking, for an adjacent car rental facility, (Use Group 8), located in an R5 zoning district, is contrary to Z.R. §22-10.

PREMISES AFFECTED - 108-24 Astoria Boulevard, southwest corner of 110th Street, Block 1703, Lots 94, 97, 98 and 99, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Joseph Morsellino.

ACTION OF THE BOARD - Application granted upon condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0
.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated June 28, 2004, acting on Department of Buildings Application No. 401815167, reads:

"As per Section 22-10 of the Zoning Resolution in an R-6 zoning district accessory parking for a Use Group 8 is

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not permitted."; and

WHEREAS, a public hearing was held on this application on February 8, 2005 after due publication in The City Record, with a continued hearing on April 5, 2005, and then to decision on May 10, 2005; and

WHEREAS, both the Queens Borough President and Community Board No. 3, Queens, recommend approval of this application with certain conditions; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the use of a vacant lot as an accessory parking lot to an adjacent car rental facility, contrary to Z.R. § 22-10; and

WHEREAS, the subject site is located on the southwest corner of Astoria Boulevard and 110th Street; and

WHEREAS, the site is one zoning lot comprising four separate tax lots and occupies a total of 17,866 sq. ft.; and

WHEREAS, the proposed parking lot would be used by employees of the adjacent car rental facility to park its rental automobiles; and

WHEREAS, there will be a maximum of 33 parking spaces on the subject site; and

WHEREAS, the applicant represents that the site has historically been used to provide accessory parking for the adjoining lots, which the applicant has shown have Certificates of Occupancy ("CO") for commercial or manufacturing uses; and

WHEREAS, specifically, the applicant has submitted the following information regarding the adjoining lots: Lot 93 has an existing CO for a warehouse use (Use Group 16); Lot 87 was developed with an auto repair establishment; and Lot 86 has a CO for the storage of motor vehicles; and

WHEREAS, the Board observes that the subject site does not have a CO, and is currently used for storage; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties in developing the subject lot in conformance with underlying district regulations: (1) the site is located on a major commercial artery; (2) the site is adjacent to manufacturing uses and has historically been used in conjunction with those uses; (3) the shape of the site is long and narrow; and (4) the City Planning Commission has placed an "E" designation on the site and therefore the site would require remediation before any development could be built; and

WHEREAS, in addition to the feasibility studies described above, the applicant has submitted a letter from a local broker detailing the low rental prices in the East Elmhurst vicinity; and

WHEREAS, based on the submitted evidence, the Board has determined that because of the subject site's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant represents that the site and the adjacent property have been developed with heavy commercial and manufacturing district uses for over 50 years;

WHEREAS, the applicant submitted an initial feasibility study that contemplated three conforming scenarios: three single-family homes; a two-story apartment house; and a two-story community facility development; and

WHEREAS, the applicant concluded that none of the conforming developments would realize a reasonable return;

WHEREAS, the Board notes that the configuration of the site, in conjunction with the zoning requirements for parking and open space, results in underbuilt buildings that do not utilize the full potential of the site; and

WHEREAS, in response to the Board's request, the applicant prepared a second feasibility study that proposed development of a residential apartment building under R6 Quality Housing; and

WHEREAS, to accommodate parking requirements under R6 Quality Housing, it was necessary for the applicant to place the apartment building on Astoria Boulevard based on the shape of the site; and

WHEREAS, the Board notes that placement of the building on Astoria Boulevard would create undesirable residential units as they would abut adjacent non-conforming, manufacturing uses; and

WHEREAS, the applicant concluded that the R6 Quality Housing scenario would not realize a reasonable return due to the site's constraints; and

WHEREAS, the applicant has submitted a statement from an environmental data company that states that based on historical information reviewed, there are eleven 550-gallon gasoline tanks and one 3000-gallon gasoline tank on the site, and cost for remediation of the site, based on certain assumptions, would be equal to \$150,000; and

WHEREAS, the Board does not find that the "E" designation or potential for contamination on the site contribute to the uniqueness of the site; and

WHEREAS, however, the Board finds that there are unique physical conditions inherent to the site, namely the location of the site on a major commercial artery, the proximity of the site to manufacturing uses, and the irregular, long, narrow shape of the site, which create practical difficulties and unnecessary hardship in conforming strictly with the applicable use provisions of the Zoning Resolution; and

WHEREAS, accordingly, the Board finds that the applicant has submitted substantial evidence in support of the finding set forth at Z.R. § 72-21(a); and

and

WHEREAS, the applicant further represents that Astoria Boulevard has become one of the major arteries in Queens and serves as an approach to several parkways and LaGuardia Airport; and

WHEREAS, the Board requested that the applicant provide landscaping and a decorative metal fence to improve the aesthetic appearance of the parking lot and fit in with the surrounding area; and the Board further asked the applicant to limit the hours of operation of the lot; and

WHEREAS, the Board observed on its site visit that an accessory parking lot use at the subject site, if properly

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operated with the conditions set forth above, will not impair the character of the neighborhood; and

WHEREAS, thus, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board believes that this action is a reasonable interim measure given the current neighborhood character, and that with an improved market the site could be turned back to residential use; and

WHEREAS, accordingly, the Board is limiting this variance to a term of ten years; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21 of the Zoning Resolution; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 04-BSA-136Q dated April 21, 2004 and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 10, 2005.

230-04-BZ

APPLICANT - Sheldon Lobel, P.C., for La Perst, LLC, owner.

SUBJECT - Application June 16, 2004 - under Z.R. §72-21 to permit the legalization of the residential conversion of a building located in an M1-2 zoning district.

PREMISES AFFECTED - 260 Moore Street, between White

environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, 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 the required findings under Z.R. 72-21, to permit in an R6 zoning district, the proposed accessory parking for an adjacent rental car facility (Use Group 8), contrary to Z.R. 22-10 on condition that all work shall substantially conform to the drawing as it applies to the objections above noted, filed with this application marked "Received May 6, 2005"- one (1) sheet and on further condition:

THAT the term of this variance shall be for ten years from the date of this grant, to expire on May 10, 2015, at which time the applicant must return to the Board with a revised financial analysis discussing the feasibility of a conforming development at the site;

THAT there shall be a maximum of 33 parking spaces on the site;

THAT the hours of operation shall be 7:30AM to 6PM Monday through Friday, 9AM to 12PM on Saturday, with no operation on Sunday;

THAT no cars owned or used by the rental car agency shall be parked on 110th Street, Astoria Boulevard or any of the local streets;

THAT the above conditions be placed on the certificate of occupancy;

THAT landscaping shall be provided as indicated on the BSA-approved plans;

THAT a decorative metal fence shall be constructed along the frontage on Astoria Boulevard and 110th Street, as indicated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

Street and Bogart Street), Block 3110, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES - None.

ACTION OF THE BOARD - Application withdrawn.

Adopted by the Board of Standards and Appeals, May 10, 2005.

286-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP for Pei-Yu Zhong, owner.

SUBJECT - Application August 18, 2004 - under Z.R. §72-21 to permit the proposed one family dwelling, without the required lot width and lot area is contrary to Z.R. §23-32.

PREMISES AFFECTED - 85-78 Santiago Street, west side, 111.74' south of McLaughlin Avenue, Block 10503, Part of

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Lot 13(tent.#13), Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Off Calendar.

287-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP for Pei-Yu Zhong, owner.

SUBJECT - Application August 18, 2004 - under Z.R.§72-21 to permit the proposed one family dwelling, without the required lot width and lot area is contrary to Z.R. §23-32.

PREMISES AFFECTED - 85-82 Santiago Street, west side, 177' south of McLaughlin Avenue, Block 10503, Part of Lot 13(tent.#15), Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Off Calendar.

298-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Yeshiva Emek Hatalmud, owner.

SUBJECT - Application September 7, 2004 - under Z.R. §72-21 to permit the proposed conversion of a two family residential house to a Yeshiva (Religious School), located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, street wall, sky exposure, side and rear yards, is contrary to Z.R. §24-11, §24-521, §24-35(a) and §24-36.

PREMISES AFFECTED - 1746 East 21st Street, west side, 440' north of Quentin Road, Block 6783, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Moshe Friedman.

ACTION OF THE BOARD - Application granted on condition.

WHEREAS, the subject site is currently improved upon with a three-story, two-family residential building with a total floor area of 2,884 sq. ft; and

WHEREAS, the applicant proposes to construct an approximately 4540 sq. ft. addition to the existing building, in order to accommodate occupancy of the building by the School; and

WHEREAS, construction of the addition as currently proposed will result in the following non-compliances: an F.A.R. of 1.86 (1.0 is the maximum permitted); floor area of 7424.85 sq. ft. (4000 sq. ft. is the maximum permitted); lot coverage of 56.63% (55% is the maximum permitted); side yards of 4 ft., 3 inches and 4 ft., 9 & ½ inches at the front, and 0 and 4 ft. at the rear extension (two 8 ft. side yards are required); a street wall height of 40 ft., 0.5 inches (25 ft. is the maximum permitted); and a rear yard of 17 ft. at the second floor (30 ft. is the minimum required, though the first floor is

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 10, 2005, acting on Department of Buildings Application No. 301828529, reads:

"Proposed religious school (Yeshiva) is contrary to: ZR 24-11 - Floor Area and Floor Area Ratio; ZR 24-11 - lot coverage; ZR 24-521 - street wall & sky exposure; ZR 24-35(a) - side yard; ZR 24-36 - rear yard, and requires a variance from the Board of Standards as per Section 72-21"; and

WHEREAS, a public hearing was held on this application on February 8, 2005 after due notice by publication in The City Record, with a continued hearing on March 12, 2005, and then to decision on May 10, 2005; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R3-2 zoning district, the proposed enlargement of an existing three-story residential building for occupancy by a religious school, which does not comply with the zoning requirements for Floor Area Ratio ("F.A.R.") and floor area, lot coverage, street wall and sky exposure, side yard, and rear yard, contrary to Z.R. §§ 24-11, 24-521, 24-35(a) and 24-36; and

WHEREAS, this application is brought on behalf of Yeshiva Emek Hatalmud, a not-for-profit entity (hereinafter, the "School"); and

exempt); and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the existing building, which is on a narrow site, has insufficient space for necessary programs as it was not designed to accommodate the enrollment of the School; and

WHEREAS, the applicant states that the following are the programmatic needs of the School: (1) a location for the School in close proximity to the associated synagogue; and (2) accommodation of the educational and residential components of the School within one building, so as to provide proper supervision for the live-in students; and (3) creation of a large enough religious study room for the School's current enrollment; and

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WHEREAS, the Board notes that the narrow site constrains the accommodation of the religious study spaces required for the programmatic needs of the School, and leads to the necessity for the rear and side yard, height, and lot coverage waivers; and

WHEREAS, thus, the Board agrees that, based upon the submitted evidence, the enlargement is necessary in order to meet the programmatic needs of the School; and

WHEREAS, therefore, the Board finds that the cited unique physical condition, when considered in conjunction with the programmatic needs of the School, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not address Z.R. § 72-21(b) since the applicant is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, in response to the concerns of the Board, the applicant has implemented a side yard along the southern border of the lot that provides a separation between the building and the adjacent three-story residence, and the front façade has been modified to show a peaked roof that is more in character with the neighborhood; and

WHEREAS, in addition, the rear portion of the enlarged building will have an open railing in lieu of a parapet in order to lessen the visual impact of the enlargement; and

WHEREAS, also in response to Board concerns, the applicant reduced the overall height slightly, and modified the roof design, to make the proposed building more compatible with the scale and character of the area; and

WHEREAS, the Board observes that the lot to the

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; 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

north of the subject site is occupied by a large community facility building within an R6 zoning district, set back from the rear lot line such that the impact of the proposed extension will be negligible; and

WHEREAS, this adjacent R6 district also has no side yard requirements; and

WHEREAS, the Board also observes that the side of the subject block on which the site is located is occupied by larger buildings, including two six-story apartment buildings to the north, and a four-story apartment building to the west; and

WHEREAS, additionally, the Board notes that the home could be enlarged in the rear yard up to 20 feet, and the non-complying side yards could be extended on the southern border, via a special permit pursuant to Z.R. § 73-622; and

WHEREAS, the applicant states that parking impacts will be minimal, as the residents of the School will walk between the synagogue and the School, and generally do not have cars; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the School relief; and

WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed Unlisted action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05-BSA-038K dated September 7, 2004; and

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 the required findings under Z.R. § 72-21, to permit, within an R3-2 zoning district, the proposed enlargement of an existing three-story residential building for occupancy by a religious school, which does not comply with the zoning requirements for Floor Area Ratio and floor area, lot coverage, street wall and sky exposure, side yard, and rear yard, contrary to Z.R. §§ 24-11, 24-521, 24-35(a) and 24-36; 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 April 14, 2005" - (11) sheets; and on further condition:

THAT the bulk parameters of the proposed building shall be as follows: (1) a maximum F.A.R. of 1.86 (7,424.85 sq. ft. of zoning floor area); (2) a lot coverage

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of 56.63% (above 23 ft.); (3) a 40 ft., 0.5 inch streetwall; (4) side yards of 4 ft. 3 inches and 4 ft. 9 & ½ inches at the front, and 0 and 4 ft at the rear extension; and (5) a rear yard of 17 ft. beginning at the second floor, all as reflected on the BSA-approved plans;

THAT all fire protection measures as noted on the BSA-approved plans shall be installed and maintained;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 10, 2005.

322-04-BZ

APPLICANT - Eric S. Palatnik, P.C., for Beis Avroham, owner.

SUBJECT - Application September 28, 2004 - Z.R. §72-21, to permit the proposed extension of an existing synagogue and Rabbi's apartment (Rectory), within an R2 Zoning District and to vary Sections 24-111(a), 23-141(a), 24-35, 24-34, and 25-31 of the Resolution.

PREMISES AFFECTED - 1124 East 21st Street a/k/a Kenmore Place a/k/a 2015-2025 Avenue J, Northwest corner of the intersection of Avenue J and East 21st Street, Block 7584, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Moshe M. Friedman.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

WHEREAS, construction of the addition as currently proposed will result in the following non-compliances: an F.A.R. of 1.13 (0.5 is the maximum permitted); side yards of 5 ft. and 0 (two 12 ft. side yards are required); front yards of 10 ft. and 15 ft. (two 15 ft. front yards are required); and no parking spaces; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the existing building has insufficient space for necessary programs as it was not designed to accommodate the increased enrollment of the Synagogue, while still providing separate entrances for men and women; and

WHEREAS, the applicant states that the following are the programmatic needs of the Synagogue, which has been driven by an increase in congregation size over the past eight

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 10, 2005, acting on Department of Buildings Application No. 301828529, reads:

"Proposed extension to existing synagogue and rabbi's apartment (rectory) is contrary to: ZR Sec 24-111(a), 23-141(a) - Floor Area Ratio; ZR Sec 24-35 - side yard; ZR Sec 24-34 - front yard; ZR Sec 25-31 - parking, and requires a variance from the Board of Standards"; and

WHEREAS, a public hearing was held on this application on April 12, 2005 after due notice by publication in The City Record, and then to decision on May 10, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R2 zoning district, the proposed extension of an existing synagogue and rabbi's apartment within an existing two-story building, which does not comply with the zoning requirements for Floor Area Ratio ("F.A.R."), side yards, front yards, and parking, contrary to Z.R. §§ 24-111(a), 23-141(a), 24-35, 24-34 and 25-31; and

WHEREAS, this application is brought on behalf of Congregation Beis Avroham, a not-for-profit entity (hereinafter, the "Synagogue"); and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is currently improved upon with a two-story building with a total floor area of 4200 sq. ft., occupied by the Synagogue since 1995, with a rabbi's apartment on the second floor; and

WHEREAS, the applicant proposes to construct an approximately 1449 sq. ft. one-and-two-story addition to the existing building in the rear, in order to accommodate the growing size of the congregation; and

years to its present size of over 100 families: (1) more worship space than is currently provided, to reduce overcrowded and unsafe conditions; and (2) the provision of separate entrances for men and women; and

WHEREAS, the Board agrees that, based upon the submitted evidence, the enlargement is necessary in order to meet the programmatic needs of the Synagogue; and

WHEREAS, the Board also notes that the lot is small, such that an as-of-right enlargement would not accommodate the needs of the Synagogue; and

WHEREAS, therefore, the Board finds that the cited unique physical condition, when considered in conjunction with the programmatic needs of the Synagogue, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not

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address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant represents that the proposed bulk addition is modest and the same height as the existing building, and was designed to only address the programmatic needs of the Synagogue; and

WHEREAS, the proposal contemplates a rear setback on the second floor, minimizing the impact of the enlargement on the adjacent residential uses; and

WHEREAS, the applicant represents that traffic impacts will be minimal, as the overwhelming majority of congregants walk to the Synagogue for services; and

WHEREAS, the Board observes that the lot to the rear of the subject site is occupied by a larger, four-story apartment building, set well back from the rear lot line such that the impact of the proposed extension will be negligible; and

WHEREAS, the Board also notes that the increase in F.A.R. could be obtained through a special permit pursuant to Z.R. § 73-622; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the School relief; and

WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant

THAT the bulk parameters of the proposed building shall be as follows: (1) an F.A.R. of 1.13 (5,649 sq. ft. of zoning floor area); (2) side yards of 5 ft. and 0; and (3) front yards of 10 ft. and 15 ft., all as reflected on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 10, 2005.

information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05-BSA-045K dated August 18, 2004; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration 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 the required findings under Z.R. § 72-21, to permit, within an R2 zoning district, the proposed extension of an existing synagogue and rabbi's apartment within an existing two-story building, which does not comply with the zoning requirements for Floor Area Ratio, side yards, front yards, and parking, contrary to Z.R. §§ 24-111(a), 23-141(a), 24-35, 24-34 and 25-31; 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 April 14, 2005" - (4) sheets; "Received September 28, 2004" - (5) sheets; and "Received March 7, 2005" - (1) sheet and on further condition:

339-04-BZ

APPLICANT - Eric Palatnik, P.C., for Kramer & Wurtz, Inc, owner; Apache Oil Co., lessee.

SUBJECT - Application October 13, 2004 - under Z.R. §§ 11-411 & 11-412 to reinstate the previous BSA variance, under calendar number 205-29-BZ, for automotive service station located in an R3-1 zoning district. The application seeks an amendment to permit the installation of a new steel framed canopy over the existing fuel dispenser islands.

PREMISES AFFECTED - 157-30 Willets Point Boulevard, south side of the intersection formed by Willets Point Boulevard and Clintonville Street, Block 4860, Lot 15, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

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Commissioner Miele and Commissioner Chin.....4
Negative:.....
...0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 16, 2004, acting on Department of Buildings Application No. 401976723, reads, in pertinent part:

"Install new 24'-0" X 50'-0" steel framed canopy over existing dispenser islands. Proposed automotive service station is contrary to BSA Cal. No. 205-29-BZ, therefore must be referred to the NYC BSA for a special permit pursuant to section 11-411/12 for the purpose of BSA extension of 10 years as per the zoning regulations."; and

WHEREAS, a public hearing was held on this application on March 8, 2005, after due notice by publication in The City Record, with a continued hearing on April 12, 2005, and then to decision on May 10, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-chair Babbar; and

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, a reinstatement of a previously granted use, a minor amendment, and an extension of term pursuant to Z.R. §§ 11-412 and 11-413; and

WHEREAS, Community Board No. 7, Queens, recommends approval of the subject application; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since 1929, when, under BSA

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; 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

Calendar No. 205-29-BZ, it granted an application to permit the use of the site as an automotive service station with various accessory uses; various other Board actions since this date have allowed for extensions of term and amendments to the resolution; and

WHEREAS, the last extension of term expired on June 4, 2002; and

WHEREAS, the applicant represents that the premises is improved upon with an existing automotive services station (Use Group 16), which has occupied the site for more than 75 years, and that this use has been continuous since the expiration noted above; and

WHEREAS, the applicant now proposes to reinstate the prior grant, obtain a new ten year term, and to construct a new canopy over the existing motor fuel dispense islands; and

WHEREAS, because the site is adjacent to residential uses, the Board will impose certain conditions as to hours and signage, reflected below, in order to mitigate any potential impacts; and

WHEREAS, pursuant to Z.R. §11-411, the Board may extend the term of an expired variance; and

WHEREAS, pursuant to Z.R. § 11-412, the Board may, in appropriate cases, allow modifications to a building at a premises subject to a pre-1961 variance; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 11-411 and 11-412; 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. 05-BSA-052Q dated October 13, 2004; and findings under Z.R. §§ 11-411 and 11-412, on a site previously before the Board, to permit the reinstatement of the prior variance, an extension of term, and the installation of a canopy; on condition that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received April 25, 2005"- five (5) sheets; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the existing woven wire fence shall be modified to include opaque privacy slats, and such be installed and maintained as reflected on the BSA-approved plans;

THAT there shall be no illuminated signage on the site;

THAT the hours of operation shall be limited to: 7AM to 6PM Monday through Friday and 7AM to 2 PM Saturday;

THAT the above conditions shall appear on the certificate of occupancy;

THAT all conditions from prior resolutions not

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specifically waived by the Board remain in effect;

THAT all signage shall comply with applicable C1 zoning district regulations, as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 10, 2005.

340-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Anthony R. and Valerie J. Racanelli, owners; Walgreens, lessee.

SUBJECT - Application October 15, 2004 - under Z.R. §72-21 to request a bulk variance to allow the construction of a new drug store without the required parking in a C4-1 district, contrary to Z.R. §§33-23(B) and 36-21.

PREMISES AFFECTED - 1579 Forest Avenue, northeast side of Forest Avenue and Decker Avenue, Block 1053, Lot 149, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Joseph Morsellino.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE VOTE TO CLOSE -

WHEREAS, the Board notes that the subject application originally requested a waiver of rear yard requirements, but that upon redesign of the proposed plans, the request for such waiver has been withdrawn; and

WHEREAS, the subject property is an irregularly shaped 23,564.7 sq. ft. lot located on the northeastern corner of Forest and Decker Avenues, and is situated within a C4-1 zoning district, where the proposed drugstore is permitted as to use and bulk; and

WHEREAS, the record indicates that the zoning lot is presently developed with an abandoned automotive service station, which was previously the subject of a special permit application granted under BSA Cal. No. 777-67-BZ; and

WHEREAS, the applicant proposes the construction of a two-story drugstore, with a total of 7,050 sq. ft. of floor area, with retail space on the first floor and storage

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Staten Island Borough Commissioner, dated March 11, 2005, acting on Department of Buildings Application No. 500735136, reads:

"Proposed number of off street parking spaces is less than the minimum prescribed under section 36-21 of the NYC Zoning Resolution. Refer to the Board of Standards and Appeals for review."; and

WHEREAS, a public hearing was held on this application on March 1, 2005, after due notice by publication in the City Record, with a continued hearing on April 5, 2005, and then to May 10, 2005 for decision; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioners Miele and Chin; and

WHEREAS, Community Board No. 1, Staten Island, recommends approval of this application; and

WHEREAS, the Staten Island Borough President and Council Member McMahon opposed the application, in that they were concerned about the location of the building footprint; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, on a site previously before the Board, in a C4-1 zoning district, the erection and maintenance of a permitted drugstore (Use Group 6), which does not provide the required parking, contrary to § 36-21; and

and an employee area on the second floor; and

WHEREAS, 39 parking spaces are proposed (74 are required); and

WHEREAS, the applicant represents that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in constructing the proposed building in compliance with underlying district regulations: there are subsurface soil conditions, including poor soil and high ground water levels, present at the site; and

WHEREAS, the applicant states that these subsurface and water conditions make the construction of a cellar level cost prohibitive, thus necessitating the need to relocate the employee/storage area to the second floor of the proposed building where it counts as floor area and adds to the parking requirement; and

WHEREAS, in support of this statement, the applicant has submitted boring tests that reflect the poor

MINUTES

soil conditions and water table; and

WHEREAS, the applicant states that an additional above-grade level in the drugstore building is necessary in order to provide the required storage and employee areas; and

WHEREAS, because it is necessary to relocate these areas to a second level of 3,997 square feet, there is an increase in the total floor area of the building that triggers a requirement for 74 parking spaces (39 spaces are proposed); and

WHEREAS, the Board notes that if the storage and employee areas were provided below grade such that the space did not count as floor area, then the heightened parking requirement would not be generated; and

WHEREAS, thus, the applicant represents that in order to build a drug store on the subject site of the size required today to be viable without a cellar, a variance from parking regulations is needed; and

WHEREAS, accordingly, the Board finds that the unique condition mentioned above creates practical difficulties and unnecessary hardship in developing the site in strict compliance with current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises in compliance with applicable parking regulations would not yield the owner a reasonable return, which the Board finds credible and sufficient to establish that there is hardship on the site; and

WHEREAS, the applicant represents that the proposed parking waiver will not have negative effect on any nearby conforming uses or the essential character of the neighborhood; and

WHEREAS, the Board notes that the proposed drugstore is a permitted use in the underlying C4-1 zoning district, and that the proposed Floor Area Ratio is below the maximum permitted; and

WHEREAS, the applicant represents that the proposed second floor would not add to the retail square footage used for sales, and will therefore actually not increase the amount of vehicular traffic to and from the site; 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. 05-BSA-053R dated October 25, 2004; 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

WHEREAS, the applicant has submitted a parking study, which shows that the proposed 39 parking spaces will accommodate the peak weekday and weekend parking demand; and

WHEREAS, the applicant states that the proposed location of the drugstore on the lot would be further away from the adjacent residential use than the existing automotive service station; and

WHEREAS, the Board notes that the site has been formerly developed with commercial uses and is located on a major thoroughfare surrounded by retail uses that do not contain parking; and

WHEREAS, in response to the concerns of the Borough President and Council Member, the applicant considered another development scenario that would place the building on the corner of the site, but convincingly explained to the Board why the alternative siting would create problems with internal circulation, visibility of traffic when cars are exiting, and impacts on the adjacent residential uses due to heightened proximity, among other issues; and

WHEREAS, further, in response to the concerns of the Board, the applicant has agreed to provide landscaping along the entire length of the property line fronting Forest Avenue and Decker, as well as a pedestrian pathway to the drug store; and

WHEREAS, therefore, the Board finds that the instant variance will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21 of the Zoning Resolution; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; and

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 Z.R. §72-21, to permit, in a C4-1 zoning district, the erection and maintenance of a permitted drugstore (Use Group 6) which does not provide the required parking, contrary to Z.R. § 36-21, on condition that all work shall substantially conform to

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drawings as they apply to the objections above noted, filed with this application marked "Received May 9, 2005"- (1) sheet; and "Received December 16, 2004"- (5) sheets; and on further condition;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT all fencing and landscaping shall be installed and maintained as shown on the BSA-approved plans;

THAT 39 parking spaces shall be provided at all times;

THAT the above conditions shall be noted on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 10, 2005.

9-04-BZ

APPLICANT - Marvin B. Mitzner, Esq., Fischbein Badillo Wagner Harding for Walworth Condominium, Inc., owner.

SUBJECT - Application January 12, 2004 - under Z.R. §72-21 to permit the proposed multiple dwelling, which will contain forty-seven dwelling units, located in an M1-1 zoning district, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 114 Walworth Street, northwest corner of Myrtle Avenue, Block 1735, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #3BK

PREMISES AFFECTED - 5313/23 Fifth Avenue, between 53rd and 54th Streets, Block 816, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Eric Palatnik

For Opposition: Aurora Sanchez.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 1:30 P.M., for decision, hearing closed.

135-04-BZ

APPEARANCES -

For Applicant: Marvin Mitzner.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for decision, hearing closed.

20-04-BZ

APPLICANT - Eric Palatnik, P.C., for Marcia Dachs, owner.

SUBJECT - Application February 9, 2004 - under Z.R. §72-21 to permit the proposed construction of a single family dwelling, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for side yards, floor area ratio, open space ratio and open space, is contrary to Z.R. §23-141(a), §23-45 and §23-461.

PREMISES AFFECTED - 5723 17th Avenue, corner of 58th Street, Block 5498, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 1:30 P.M., for decision, hearing closed.

127-04-BZ

APPLICANT - Eric Palatnik, P.C., for Abraham Leser, owner; Absolute Power and Fitness, lessee.

SUBJECT - Application March 10, 2004 - under Z.R. §73-36 the legalization of an existing physical culture establishment, located on the fourth floor of a four story building, situated in a C4-3 zoning district.

APPLICANT - Joseph P. Morsellino, for Manuel Minino, owner.

SUBJECT - Application March 19, 2004 - under Z.R. §72-21 to permit the proposed erection and maintenance of an automobile showroom with offices, Use Group 6, located in an R2 and C2-2(R5) zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 91-22 188th Street, northeast corner of Jamaica Avenue, Block 9910, Tentative Lot 43 (part of lot 1), Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

For Opposition: Eugenia Rudmann.

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for continued hearing.

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138-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Cong. Machne Chaim, Inc., owner; Yeshiva Bais Sorah, lessee.

SUBJECT - Application March 24, 2004 - under Z.R. §73-19 to request a special permit for a school, Use Group 3, within an M1-1 Zoning District to vary Z.R. §42-00 so as to permit the school on the Premises.

PREMISES AFFECTED - 6101-6123 16th Avenue, 16th Avenue between 61st and 62nd Streets, Block 5524, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Sheldon Lobel.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to June 14, 2005, at 1:30 P.M., for decision, hearing closed.

175-04-BZ thru 177-04-BZ

APPLICANT - Joseph P. Morsellino, for 130th Street LLC, owner.

SUBJECT - Application April 29, 2004- under Z.R. §72-21- Proposed erection and maintenance of a two family dwelling, Use Group 2, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, open space, perimeter wall height and rear yard, is contrary to Z.R. §23-141, §23-631 and §23-47.

PREMISES AFFECTED -

7-05 130th Street, east side, Block 3982, Lot 70, Borough of Queens.

7-09 130th Street, east side, Block 3982, Lot 67, Borough of Queens.

7-13 130th Street, east side, Block 3982, Lot 65, Borough of Queens.

COMMUNITY BOARD #7Q**187-04-BZ**

APPLICANT - Eric Palatnik, P.C., for 182 MXB, LLC owner.

SUBJECT - Application May 4, 2004 - under Z.R. §72-21 to permit the proposed construction of a four story building, with eight dwelling units, Use Group 2, located in an R-5 zoning district, which does not comply with the zoning requirements for lot coverage, floor area, front yards, parking, height and perimeter wall, also the number of dwelling units, is contrary to Z.R. §23-141(c), §23-631(e), §23-45(a), §25-23(a) and §23-22.

PREMISES AFFECTED - 182 Malcolm X Boulevard, north west corner of Madison Street, Block 1642, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

APPEARANCES -

For Applicant: Joseph Morsellino and Arnold Montag, R.A..
For Opposition: Bryan Rivera-Council Member Avella and Joan Vegt-S.NEQ Comm.

ACTION OF THE BOARD - Laid over to June 14, 2005, at 1:30 P.M., for continued hearing.

178-04-BZ thru 181-04-BZ

APPLICANT - Joseph P. Morsellino, for 130th Street LLC, owner.

SUBJECT - Application April 29, 2004- under Z.R. §72-21- Proposed erection and maintenance of a two family dwelling, Use Group 2, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage and minimum required open space is contrary to Z.R. §23-141.

PREMISES AFFECTED -

7-04 130th Street, west side, Block 3980, Lot 66, Borough of Queens.

7-06 130th Street, west side, Block 3980, Lot 68, Borough of Queens.

7-12 130th Street, west side, Block 3980, Lot 72, Borough of Queens.

7-14 130th Street, west side, Block 3980, Lot 74, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph Morsellino and Arnold Montag, R.A..
For Opposition: Bryan Rivera-Council Member Avella and Joan Vegt-S.NEQ Comm.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to June 14, 2005, at 1:30 P.M., for decision, hearing closed.

Negative:.....0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 1:30 P.M., for decision, hearing closed.

189-04-BZ

APPLICANT - D.E.C. Designs, for City of Faith Church of God, owner.

SUBJECT - Application May 5, 2004 - under Z.R. §73-19 to allow a school (UG3) in a C8-1 zoning district which is not permitted as per section 32-00 of the Zoning Resolution.

PREMISES AFFECTED - 3445 White Plains Road, 445.2' south of Magenta Street, Block 4628, Lot 47, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to June 14, 2005, at 1:30 P.M., for postponed hearing.

MINUTES

219-04-BZ

APPLICANT - Eric Palatnik, P.C., for Cora Realty Co., LLC, owner.

SUBJECT - Application May 28, 2004 - under Z.R. §72-21 to permit The legalization of a portion of the required open space of the premises, for use as parking spaces (30 spaces), which are to be accessory to the existing 110 unit multiple dwelling, located in an R7-1 zoning district, is contrary to Z.R. §25-64 and §23-142.

PREMISES AFFECTED - 2162/70 University Avenue, aka Dr. Martin Luther King Boulevard, southeast corner of University Avenue and 181st Street, Block 3211, Lots 4 and 9, Borough of The Bronx.

COMMUNITY BOARD #5BX

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to August 9, 2005, at 1:30 P.M., for continued hearing.

267-04-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Kermit Square, LLC, owner.

SUBJECT - Application July 30, 2004 - under Z.R. §72-21, to permit the proposed thirty-two unit multiple dwelling, Use Group 2, located in a C8-2 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 362/64 Coney Island Avenue, northwest corner of Kermit Place, Block 5322, Lot 73, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Peter Geis.

ACTION OF THE BOARD - Laid over to May 24, PREMISES AFFECTED - 135 Orchard Street, (a/k/a 134 Allen Street), between Delancey and Rivington Streets, Block 415, Lot 69, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES -

For Applicant: Irving Minkin, Sheldon Lobel, Dan Bettinger and Dominick Answini.

ACTION OF THE BOARD - Laid over to August 8, 2005, at 1:30 P.M., for continued hearing.

315-04-BZ thru 318-04-BZ

APPLICANT - Steve Sinacori/Stadtmauer Bailkin, for Frank Mignone, owner.

SUBJECT - Application September 20, 2004 - Under Z.R. §72-21 to permit the proposed development which will contain four three-family homes (Use Group 2), within an M1-1 Zoning District which is contrary to Section 42-00 of the Resolution.

PREMISES AFFECTED -

1732 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 127),

2005, at 1:30 P.M., for continued hearing.

276-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Albert J. and Catherine Arredondo, owners.

SUBJECT - Application August 10, 2004 - under Z.R. §72-21 to permit the proposed addition of a second floor plus attic, to an existing one family dwelling, Use Group 1, located in an R4 zoning district, which does not comply with the zoning requirements for rear and side yards, is contrary to Z.R. §23-461 and §23-47.

PREMISES AFFECTED - 657 Logan Avenue, west side, 100' south of Randall Avenue, Block 5436, Lot 48, Borough of The Bronx.

COMMUNITY BOARD #10BX

APPEARANCES -

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to May 24, 2005, at 1:30 P.M., for decision, hearing closed.

296-04-BZ

APPLICANT - Sheldon Lobel, P.C., for 135 Orchard Street, Co., LLC, owner.

SUBJECT - Application August 30, 2004 - under Z.R. §72-21 to permit the legalization of the residential uses on floors two through five of an existing five-story mixed use building located in a C6-1 zoning district.

Borough of Brooklyn.

1734 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 128), Borough of Brooklyn.

1736 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 129), Borough of Brooklyn.

1738 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 130), Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Steven Sinacori.

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for continued hearing.

354-04-BZ

APPLICANT - Friedman & Gotbaum by Shelly S. Friedman, Esq., for Greenwich Tower LLC, owner.

SUBJECT - Application November 8, 2004 - under Z.R. §72-

MINUTES

21 to permit the proposed conversion of an existing two-story building, from artist's studio to a single family residence, located in an M1-5 zoning district, is contrary to Z.R. §42-10. PREMISES AFFECTED - 637 Greenwich Street, east side, 75.3' south of Barrow Street, Block 603, Lot 51, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Shelly Friedman, Richard Gluckman, Corey Ryman and Robert Pauls.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 1:30 P.M., for decision, hearing closed.

2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 5:40 P.M.

372-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Robert Perretta, contract vendee.

SUBJECT - Application November 23, 2004- under Z.R. §72-21 to permit in a R1-2(NA-1) zoning district the construction of a single family home on a lot with less than the required lot area and lot width to vary ZR 23-32.

PREMISES AFFECTED - 8 Lawn Avenue, corner of Nugent Street, Block 2249, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD - Laid over to June 14,

SPECIAL HEARING

WEDNESDAY MORNING, MAY 11, 2005

10:00 A.M.

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.

Council; and Jay Valgora.

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 5:40 P.M.

156-03-BZ

APPLICANT - Law Offices of Howard Goldman, PLLC, for RKO Plaza LLC & Farrington Street Developers, LLC, owner.

SUBJECT - Application May 20, 2003- under Z.R. §72-21 Proposed construction of a eighteen story mixed use building, Use Groups 2, 4 and 6, containing retail, community facility, 200 dwelling units and 200 parking spaces, located in an R6 within a C2-2 overlay zoning district, is contrary to Z.R. §§35-00 and 36-00.

PREMISES AFFECTED - 135-35 Northern Boulevard, northside of Main Street, Block 4958, Lots 48 and 38, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Howard Goldman, John C. Lin, Member, City

BULLETIN

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Volume 90, No. 23

May 26, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Tuesday, May 17, 2005**

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306-04-BZY & 310-04-BZY	65/67 North Burgher Avenue, Staten Island
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DOCKETS

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 Street,
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Proposed enlargement of an existing one family
dwelling, Use Group 1, located in an R3-2 zoning
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requirements for open space ratio, floor area ratio, lot
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COMMUNITY BOARD #15BK

108-05-BZ B.BK. 224-22
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Borough of Brooklyn. N.B. #402039511. Proposed
construction of a one family dwelling, which does not
provide the required front yard, is contrary to Z.R. §23-
462.
COMMUNITY BOARD #13BK

109-05-BZ B.BK. 224-26 Prospect
 Court,
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Borough of Brooklyn. N.B. #402039502. Proposed
construction of a one family dwelling, which does not
provide the required front yard, is contrary to Z.R. §23-
462.
COMMUNITY BOARD #13BK

110-05-BZY B.Q. 56-31 Bell
 Boulevard,
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Lot 47, Borough of Queens. Alt. #402079576.
Application for extension of time to complete
construction and/or obtain a certificate of occupancy
for a minor development pursuant to Z.R. §11-332.

111-05-BZY B.Q. 34-11 203rd
 Street,
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Lot 47, Borough of Queens. Alt. #402009615.
Application for extension of time to complete
construction and/or obtain a certificate of occupancy
for a minor development pursuant to Z.R. §11-332.

112-05-BZY B.Q. 28-56 215th
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north of the corner formed by the intersection of 215th
Place and 29th Avenue, Borough of Queens. Alt.
#402103291. Application for extension of time to
complete construction and/or obtain a certificate of
occupancy for a minor development pursuant to Z.R.
§11-332.

**DESIGNATIONS: D-Department of Buildings; B.BK.-
Department of Buildings, Brooklyn; B.M.-Department of
Buildings, Manhattan; B.Q.-Department of Buildings,
Queens; B.S.I.-Department of Buildings, Staten Island;
B.BX.-Department of Building, The Bronx; H.D.-Health
Department; F.D.-Fire Department.**

CALENDAR

JUNE 14, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, June 14, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

364-87-BZ

APPLICANT - Sheldon Lobel, P.C. for B & V Realty, owner.

SUBJECT - Application January 7, 2005 and updated May 16, 2005 - Extension of Term/Waiver for an Automotive Repair Shop, located in a C2-2 within an R5 zoning district. PREMISES AFFECTED - 1710-1720 Flatbush Avenue, southerly intersection of East 34th Street and Flatbush Avenue, Block 7598, Lots 23,24, Borough of Brooklyn.

COMMUNITY BOARD #18BK

793-88-BZ

APPLICANT - Eric Palatnik, P.C., for 164 Willis Avenue Realty Corp., owner; RSV S/S Inc., lessee.

SUBJECT - Application December 1, 2004 and updated May 3, 2005 for an Amendment to a previously approved variance to a gasoline service station to construct a new convenience store located in an R6 zoning district.

PREMISES AFFECTED - 164/76 Willis Avenue, north east corner of 135th Street and Willis Avenue, Block 2280, Lots 1, 4, 5, 7, 76, Borough of The Bronx.

COMMUNITY BOARD #1BX

162-93-BZ

APPLICANT - Fredrick A. Becker, Esq., for Chelsea Eighth L. P., owner; TSI West 16th Street dba New York Sports Club, lessee.

SUBJECT - Application December 22, 2004 and updated May 9, 2005 - Extension of Term and to legalize an Amendment to expand the floor area of previously granted special permit for a physical culture establishment, and a waiver of the rules of procedure for a late filing. The premises is located in a C2-5, R8 and C6-2M zoning district. PREMISES AFFECTED - 270 West 17th Street, aka 124-128 Eighth Avenue, easterly side of Eighth Avenue between West 17th Street and West 16th Street, Block 766, Lots 36-41, Borough of Manhattan.

COMMUNITY BOARD #4M

12-00-BZ

189-04-BZ

APPLICANT - Eric Palatnik, P.C., for Jack Meisels, owner. SUBJECT - Application November 9, 2004 - Extension of time to complete construction and obtain a C of O permitting the enlargement of a one-family dwelling which was granted on October 17, 2000.

PREMISES AFFECTED - 1045 East 24th Street, east side of 24th Street, approximately 363' south of Avenue "J", Block 7606, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEALS CALENDAR

161-04-A

APPLICANT - Agusta & Ross, for Daffna, LLC, owner.

SUBJECT - Application April 21, 2004 - Proposed conversion of a former loft building, into eight (8) dwelling units, with rear windows for natural light and ventilation, is contrary to Section 27 of the NYC Building Code.

PREMISES AFFECTED -73 Washington Avenue, east side, 170' north of Park Avenue, Block 1875, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #3BK

JUNE 14, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, June 14, 2005, at 1:30 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

160-04-BZ

APPLICANT - Mitchell S. Ross, Esq., Agusta & Ross, for Daffna, LLC, owner.

SUBJECT - Application April 21, 2004 - under Z.R. §72-21 to permit, in an M1-2 zoning district, the residential conversion of an existing four-story commercial loft building into eight dwelling units, contrary to Z.R. §42-10. PREMISES AFFECTED - 73 Washington Avenue, East side of Washington Avenue 170' north of Park Avenue, Block 1875, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPLICANT - D.E.C. Designs, for City of Faith Church of

MINUTES

God, owner.

SUBJECT - Application May 5, 2004 - under Z.R.§73-19 to allow a school (UG3) in a C8-1 zoning district which is not permitted as per section 32-00 of the Zoning Resolution.

PREMISES AFFECTED - 3445 White Plains Road, 445.2' south of Magenta Street, Block 4628, Lot 47, Borough of The Bronx.

COMMUNITY BOARD #12BX

245-04-BZ

APPLICANT - Agusta & Ross, for Mark Stern, owner.

SUBJECT - Application July 6, 2004 - under Z.R.§72-21 to permit the proposed five-story, nine unit multiple dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 102/04 Franklin Avenue, west side, 182' south of Park Avenue, Block 1898, Lots 45 and 46, Borough of Brooklyn.

COMMUNITY BOARD #3BK

394-04-BZ

APPLICANT - Deirdre A. Carson/Greenberg Traurig, LLP, for 33 Mercer Street, LLC, owner.

SUBJECT - Application December 20, 2004 - under Z.R.§72-21 to permit the proposed construction of a seven-story mixed-use building, containing residential and retail uses, whereas such uses are not permitted as right, located within an M1-5B zoning district, is contrary to Z.R. §42-10 and §42-14(D)(2)(B).

PREMISES AFFECTED - 44 Mercer Street, aka 471 Broadway, east side, 107.1/2" north of the intersection of Grand and Mercer Streets, Block 474, Lot 49, Borough of Manhattan.

COMMUNITY BOARD #2M

5-05-BZ

APPLICANT - Sheldon Lobel, P.C., for S & J Real Estate, LLC, owner.

SUBJECT - Application January 14, 2005 - under Z.R.§73-53, to permit the enlargement of an existing non-conforming manufacturing building located within a district designated for residential use (R3-2). The application seeks to enlarge the subject contractor's establishment (Use Group 16) by 2,499.2 square feet.

PREMISES AFFECTED - 59-25 Fresh Meadow Lane, east side, between Horace Harding Expressway and 59th Avenue, Block 6887, Lot 24, Borough of Queens.

COMMUNITY BOARD #11Q

6-05-BZ

APPLICANT - Eric Palatnik, P.C., for Isaac and Renee Sasson, owners.

SUBJECT - Application January 14, 2005 - under Z.R.§73-622 an enlargement to a single family home to vary sections ZR 23-141 for open space and floor area, ZR 23-46 for side yards and ZR 23-47 for rear yard. The premise is located in an R-2 zoning district.

PREMISES AFFECTED - 3046 Bedford Avenue, between Avenues "I and J", Block 7588, Lot 52, Borough of Brooklyn.

COMMUNITY BOARD #14BK

12-05-BZ

APPLICANT - Eric Palatnik, P.C., for Dina Horowitz, owner.

SUBJECT - Application January 21, 2005 - under Z.R.§ 73-622 for an enlargement to a single family home to vary sections ZR23-141 for floor area, ZR 23-461 for side yards and ZR 23-47 for rear yard. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED - 1662 East 28th Street, between Quentin Road and Avenue "P", Block 6790, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, MAY 17, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar,
Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, March 8, 2005, were approved as printed in the Bulletin of March 17, 2005, Volume 90, No. 12.

SPECIAL ORDER CALENDAR

1111-62-BZ

APPLICANT - Sheldon Lobel. P.C., for 200 East Tenants Corporation, owner; Adonis Parking, LLC, lessee.
SUBJECT - Application September 23, 2004 - Extension of Term of a variance to permit transient parking beyond the Ten year term expiring on March 26, 2003 in the C5-2 portion of the lot.
PREMISES AFFECTED - 201 East 56th Street, a/k/a 935-951 Third Avenue, 201-207 East 56th Street and 200-210 East 57th Street, Manhattan.

COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 10 A.M., for decision, hearing closed.

1129-64-BZ

APPLICANT - Sheldon Lobel. P.C., for 147-36 Brookville Boulevard Corp., owner.
SUBJECT - Application November 10, 2004 - Extension of term filed pursuant to sections 72-01 and 72-22, which was originally granted March 2, 1965, to permit the erection of a one story enlargement to an existing building used for the sale of auto supplies in an R3-2 zoning district.
PREMISES AFFECTED - 147-36 Brookville Boulevard, southwest corner of 147th Road and Brookville Boulevard, Block 13729, Lot 33, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 10 A.M., for decision, hearing closed.

138-68-BZ

APPLICANT - Francis R. Angelino c/o DeCamp Diamond & Ash, for Martin A. Gleason Funeral Home, LLC, owner.
SUBJECT - Application - February 18, 2005 - Request a two-year Extension of Time/Waiver to obtain a Certificate of Occupancy for a funeral home. The premise is located in an R-2 zoning district.
PREMISES AFFECTED - 10-25 150th Street, Block 4515, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Francis R. Angelino and Stephen Katz.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 10 A.M., for decision, hearing closed.

739-76-BZ

APPLICANT -Joseph P. Morsellino, Esq., for Cord Meyer Development, Corp., owner; Peter Pan Games of Bayside, lessee.
SUBJECT - Application January 19, 2005 - reopening for an extension of term of variance for an amusement arcade (Use Group 15) which expired April 10, 2005.

PREMISES AFFECTED - 212-95 26th Avenue, 26th Avenue and Bell Boulevard, Block 5900, Lot 2, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Adam Rothkrug.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to May 24, 2005, at 10 A.M., for decision, hearing closed.

234-98-BZ

APPLICANT - Walter T. Gorman, P.E., for Jose Vasquez, owner; Harlem Hand Carwash, lessee.
SUBJECT - Application November 18, 2003 - reopening for an extension of time to complete construction which expires on November 23, 2003.
PREMISES AFFECTED - 2600-2614 Adam Clayton Powell Jr. Boulevard, a/k/a 2600-2614 7th Avenue, west side of

MINUTES

Adam Clayton Powell Jr. Boulevard, block front from W. 150th Street to W. 151st Street, Block 2036, Lot 29, Borough APPEARANCES -

For Applicant: John Ronan.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 10 A.M., for decision, hearing closed.

309-04-BZY & 310-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Steeplechase Building Corp, owner.

SUBJECT - Application September 13, 2004 - Application to extend time to complete construction for a major development as per Z.R. §11-331.

PREMISES AFFECTED -

65 North Burgher Avenue, east side, 630.42' south of Richmond Terrace, Block 158, Lot 173, Borough of Staten Island.

67 North Burgher Avenue, east side, 655.42' south of Richmond Terrace, Block 158, Lot 171, Borough of Staten Island.

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Laid over to June 14, 2005, at 10 A.M., for continued hearing.

325-04-A

APPLICANT -Rothkrug Rothkrug Weinberg Spector, for Kevin Kane, owner.

SUBJECT - Application October 4, 2004 - Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 91 Wakefield Road, west side, 825.19 north of Woods of Arden Road, Block 5415, Lot 85, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Laid over to June 14, 2005, at 10 A.M., for continued hearing.

347-04-BZY & 348-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Ana Canton Ramirez, owner.

SUBJECT - Application October 28, 2004 - Application to extend time to complete construction for a major development pursuant to Z.R. §11-331.

PREMISES AFFECTED -

3056 Cross Bronx Expressway, west side, 176.54'

of Manhattan.

COMMUNITY BOARD #10M

north of Sampson Avenue, Block 5443, Lot 71, Borough of The Bronx.

3058 Cross Bronx Expressway, west side, 119.70' north of Sampson Avenue, Block 5443, Lot 80, Borough of The Bronx.

COMMUNITY BOARD#10BX

APPEARANCES -

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD - Laid over to June 14, 2005, at 10 A.M., for continued hearing.

54-05-A

APPLICANT -NYC Department of Buildings.

OWNER OF PREMISES: Yeshiva Imrei Chaim Viznitz.

SUBJECT - Application March 4, 2005 - Application to revoke Certificate of Occupancy No. 300131122, on the basis that the Certificate of Occupancy allows conditions at the subject premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED -1824 53rd Street, southeast corner of 18th Avenue, Block 5480, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Brett Beecham.

For Opposition: Joel Steinberg, Joan Blitzer Petito, Caroline Schloss and Israel Steinberg.

ACTION OF THE BOARD - Laid over to July 12, 2005, at 10 A.M., for continued hearing.

55-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; Giacomo & Elizabeth Reneo, lessee.

SUBJECT - Application March 8, 2005 - Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 40 Ocean Avenue, west side, 295.32' north of Rockaway Boulevard, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to May 24, 2005, at 10 A.M., for decision, hearing closed.

MINUTES

56-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; John & Margaret Carr, lessees.

SUBJECT - Application March 8, 2005 - Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 10 Janet Lane, south side, 235.6' west of Beach 201st Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to May 24, 2005, at 10 A.M., for decision, hearing closed.

57-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; James & Bernadette Geissler, lessees.

SUBJECT - Application March 8, 2005 - Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED -667 Highland Place, east side, .10' north of 12th Avenue, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to May 24, 2005, at 10 A.M., for decision, hearing closed.

58-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Muriel Daly, lessee.

SUBJECT - Application March 8, 2005 - Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 15 Ocean Avenue, east side, 295.32' north of Rockaway Point Boulevard, Block 16350,

Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to May 24, 2005, at 10 A.M., for decision, hearing closed.

59-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; Kevin & Maureen Gormley, lessees.

SUBJECT - Application March 8, 2005 - Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, also a proposal to upgrade the private disposal in the bed of an existing service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 5 Courtney Lane, north side, 237.31' east of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to May 24, 2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 11:00 A.M.

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**REGULAR MEETING
TUESDAY AFTERNOON, MAY 17, 2005
2:00 P.M.**

Present: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.

ZONING CALENDAR

381-03-BZ

CEQR #04-BSA-102K

APPLICANT - Moshe M. Friedman, P.E., for Hamilton G.S. Realty, owner.

SUBJECT - Application December 8, 2003 - under Z.R. §72-21 to permit the proposed expansion of existing social security offices, and the addition of school by adding a second floor, to an existing one story building, located in an M1-1 zoning district, which does not comply with the zoning requirements for Use Group and floor area, and is contrary to Z.R. §42-00, §43-12 and §43-122.

PREMISES AFFECTED - 6023 Fort Hamilton Parkway, a/k/a 6013/23 Fort Hamilton Parkway, a/k/a 6012/24 Tenth Avenue, and a/k/a 973/83 61st Street, northeast corner, Block 5715, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Yosef Gottdiener.

ACTION OF THE BOARD - Application granted upon condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 20, 2003, acting on Department of Buildings Application No. 301536620, reads:

“Expansion of existing Social Security Offices and proposed Religious School is contrary to ZR Sec 42-00 Use Group and ZR Sec 43-12 and 43-122 Floor Area and requires a variance from the Board of Standards and Appeals as per Sec 72-21”; and

WHEREAS, a public hearing was held on this application on July 20, 2004 after due notice by publication in the *City Record*, with continued hearings on September 14, 2004, November 16, 2004, December 14, 2004, February 15, 2005, and April 19,

2005, and then to decision on May 17, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioners Miele and Chin; and

WHEREAS, Community Board 12, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an M1-1 zoning district, the proposed enlargement of an existing one-story building to accommodate the expansion of the existing Social Security Office and the occupancy of a new religious school, which is contrary to Z.R. §§ 42-00, 43-12 and 43-122; and

WHEREAS, the subject site is a slightly irregular corner lot, with a lot area of approximately 9,011 sq. ft., bounded by Fort Hamilton Parkway on the north, 61st Street on the west, and 10th Avenue on the south; and

WHEREAS, the site is improved upon with a one-story, 14 ft. high office building, currently occupied by a Social Security Office; and

WHEREAS, the subject application proposes the addition of a second story to the existing building, with the majority of the new floor to be occupied by a religious school (hereinafter, the “School”); a small portion of the second floor will be occupied by the Social Security Office, primarily for storage purposes; and

WHEREAS, the new building will have a total Floor Area Ratio (“F.A.R.”) of 2.0, with a commercial F.A.R. of 1.38 and a community facility F.A.R. of .62; as well as a total height of 25 ft., which is complying; and

WHEREAS, the applicant represents that the use of the second floor by the Social Security Office will be temporary; upon cessation of this use, the entire second floor will be used for occupancy by the School; and

WHEREAS, the applicant also notes that were it not for the presence of the Social Security Office, the introduction of the School at the site would be permitted through a special permit; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance and compliance with underlying district regulations: (1) the existing building is a single-story building converted for use by the Social Security Office, which is obsolete for viable commercial use; (2) a cellar can not be developed on the site due to the presence of sealed underground gasoline storage tanks; and (3) the site is adjacent to a below-grade trench used by the Long Island Rail Road line; and

WHEREAS, the applicant notes that the existing building is one of the only single story commercial buildings in the area which also does not provide a

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cellar for storage; and

WHEREAS, however, the applicant argues that a cellar can not be constructed at the site; and

WHEREAS, specifically, the applicant argues that the presence of the underground tanks and the

WHEREAS, the applicant also notes that disturbing the ground at the site during cellar construction could have a negative impact on the integrity of the soil at the cut, and that any preventative measures taken to avoid this would again add significant additional costs to the development proposal; and

WHEREAS, at the request of the Board, the applicant has shown that other properties along 61st Street opposite the cut have not been built with substantial below grade spaces; this substantiates the claim that below grade construction would be difficult given the proximity of the cut; and

WHEREAS, based upon the above, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict conformance and compliance with applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study that analyzed a conforming and complying building with the addition of a cellar; the study concludes that such a scenario would not be feasible; and

WHEREAS, specifically, this feasibility study shows that tank removal and construction of a cellar on this site would cost over \$700,000, rendering such development infeasible; and

WHEREAS, the Board agrees that construction of a cellar would not generate sufficient revenue to cover the costs incurred for such construction; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance and conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant states that the proposed development will not negatively affect the character of the neighborhood nor impact adjacent uses; and

WHEREAS, the applicant notes that the existing building has historically been occupied by a community service use, and that the School will provide a comparable community service use to the surrounding neighborhood; and

WHEREAS, the applicant also notes that the findings set forth at Z.R. § 73-19, which allows the Board to permit a school in the subject zoning district, have been met; and

WHEREAS, specifically, the applicant states that the proposed School will provide adequate separation from noise, traffic, and other adverse effects of the surrounding zoning district through the use of sound-attenuation exterior wall and window construction or

proximity of the site to the railway cut make the construction of a cellar infeasible; and

WHEREAS, the applicant notes if removal of the tanks were undertaken, significant additional costs would be incurred; and

provision of open space; and

WHEREAS, the applicant also states that the School will apply for a No Parking sign along Tenth Avenue, where all transportation of students to and from the School will take place; and

WHEREAS, the Board notes that the addition of the second floor will not increase the height of the building to such an extent that it will not be compatible with the surrounding context, given the presence of three-story buildings adjacent to it on the same block; and

WHEREAS, accordingly, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that the proposal is the minimum necessary to afford the owner relief; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA-102K, dated November 25, 2003; 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; 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 617.4, the Rules of Procedure for City

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Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, within an M1-1 zoning district, the proposed enlargement of an existing one-story building to accommodate the expansion of the existing Social Security Office and the occupancy of a new religious school, which is contrary to Z.R. §§ 42-00,

THAT the above condition shall appear on the certificate of occupancy;

THAT prior to occupancy of the building by the School, approval for a "No Parking" sign shall be obtained and said sign shall be located along the 10th Avenue side of the building where loading/unloading of students will take place;

THAT the bulk parameters of the proposed building shall be as follows: a total F.A.R. of 2.0, with a commercial F.A.R. of 1.38 and a community facility F.A.R. of .62;

THAT the interior layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 17, 2005.

247-04-BZ

CEQR #05-BSA-003Q

APPLICANT - Sheldon Lobel, P.C., for BC Merrick Storage LP, owner.

SUBJECT - Application July 7, 2004 - under Z.R. §72-21, to permit the proposed enlargement of a two-story storage facility (Use Group 16) in a C8-1 zoning district, which creates non-compliance by exceeding the permitted floor area authorized by Section 33-122 of the Zoning Resolution and creates a second floor within a rear yard equivalent, increasing the degree of non-compliance contrary to Sections 54-31 and 33-283 of the Zoning Resolution.

PREMISES AFFECTED - 22-20 Merrick Boulevard, Northern side of the area bounded by Merrick Boulevard, 125th Avenue, Merrill Street and Baisley Boulevard, Block 12516, Lot 37, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Richard Lobel.

ACTION OF THE BOARD - Application granted upon condition.

THE VOTE TO GRANT -

43-12 and 43-122; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 17, 2005"-(6) sheets; and *on further condition*:

THAT the term of this variance shall be for 10 years, to expire on May 17, 2015;

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated June 7, 2004, acting on Department of Buildings Application No. 401863765, reads:

"For the Board of Standards and Appeals Only

1. The proposed enlargement of the existing storage facility at the premises in a C8-1 zoning district creates a non-compliance by exceeding the permitted floor area authorized by ZR Section 33-122
2. The proposed enlargement of the existing storage facility at the premises in a C8-1 zoning district creates a non-compliance by exceeding the permitted floor area ratio authorized by ZR Section 33-122
3. The proposed enlargement creating a second floor within a required rear yard equivalent increases the degree of non-compliance, contrary to ZR Section 54-31 and 33-283;" and

WHEREAS, a public hearing was held on this application on March 15, 2005 after due notice by publication in The City Record, with a continued hearing on April 19, 2005, and then to decision on May 17, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within a C8-1 zoning district, the proposed enlargement of a two-story storage facility (Use Group 16), which exceeds the permitted floor area and floor area ratio authorized by Z.R. § 33-122, and creates a second floor within a rear yard equivalent contrary to Z.R. §§ 54-31 and 33-283; and

WHEREAS, Community Board 12, Queens, the Queens Borough President, and City Council Member Leroy Comrie recommend approval of this application; and

WHEREAS, the subject site is bounded by Merrick Boulevard, Baisley Boulevard, Merrill Street and 125th Avenue, with a total lot area of 66,572 sq. ft.; and

WHEREAS, the lot has a length of 400 feet on the northerly end (facing Merrick Boulevard) and a length of

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287 feet on the southerly end (facing Merrill Street); and
WHEREAS, the lot's border extends into a triangular area on its easterly end and an "L" shape on its westerly end; and

WHEREAS, the site is currently improved upon with a two-story plus cellar commercial building that operates as a self-storage facility, with a floor area of 66,000 sq. ft.; and

WHEREAS, the applicant proposes to enlarge the second story of the existing building, such that the total floor area of the building will be 82,150 sq. ft.; and

WHEREAS, the applicant represents that the existing building, formerly a food storage warehouse, is inefficient and ill-suited for a self-storage facility; and

WHEREAS, the owner of the facility has submitted a letter in furtherance of the above, which states that storage facilities that are well-designed have multiple points of entry so that customers can easily reach their storage units; the existing building has few points of entry because there are loading docks on one end and a "dog leg" extension at the far end, both of which decrease the desirability of rental units; and

WHEREAS, the applicant represents that the existing cellar is less than 1,500 sq. ft. and contains only mechanical space; and

WHEREAS, the applicant further represents that excavation below the existing slab/floor of the cellar would be cost-prohibitive because facilities under the existing slab would have to be re-routed, the existing slab is not designed to be a structural slab, and there would be extra costs in connection with supporting the existing slab on grade; and

WHEREAS, in support of the above, the applicant has submitted a letter from the project architect that states that in order to excavate the cellar the building must be emptied, the slab on grade must be removed as it was not designed, and is not properly supported, to serve as an intermediate floor between a cellar and a main floor, and the existing foundation would need to be underpinned and extended to adequately take into account the depth of the cellar; and

WHEREAS, the architect also represents that the cost of excavation and underpinning would be over \$2,500,000; the applicant notes that these costs do not include the loss in revenue while construction takes place; and

WHEREAS, the architect further speculates that there may be other unknown soil conditions such as ground or rock; and

WHEREAS, the Board notes that the applicant did not submit any evidence to substantiate the presence of any soil conditions; accordingly, the Board does not find that the alleged soil conditions contribute to the site's uniqueness; and

WHEREAS, the Board finds that certain of the aforementioned unique physical conditions, namely the irregular shape of the lot, the obsolescence of the building, and the difficulty in excavating the cellar, when

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: (1) the lot is irregularly shaped and very large; (2) the existing building is obsolete as it was built for a food storage use; (3) the existing building underutilizes the lot; and (4) below-grade construction is cost-prohibitive because of conditions inherent to the building; and

considered in the aggregate, create unnecessary hardship and practical difficulties in developing the site in compliance with the current zoning; and

WHEREAS, the applicant's letter from the project architect states that the cost of demolishing the building and constructing a new building in compliance with the existing zoning requirements would be cost-prohibitive; and

WHEREAS, the applicant has also submitted a feasibility study that analyzed a community facility option and a commercial retail option, which purports to show that developing the lot in compliance with the existing zoning would not result in a reasonable rate of return; and

WHEREAS, based upon its review of this feasibility study, the Board has determined that because of the subject site's unique physical conditions, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood as it is already an existing use and the surrounding neighborhood is predominantly commercial; and

WHEREAS, the Board acknowledges that the applicant is enlarging the building within the existing envelope; and

WHEREAS, the Board also notes that the applicant is planting street trees and providing an opaque fence around a portion of the site; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21.

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; and

WHEREAS, the Board has conducted an

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environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05-BSA-003Q dated July 6, 2004; 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;

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 the required findings under Z.R. § 72-21, to permit, within a C8-1 zoning district, the proposed enlargement of a two-story storage facility (Use Group 16), which exceeds the permitted floor area and floor area ratio authorized by Z.R. § 33-122, and creates a second floor within a rear yard equivalent contrary to Z.R. §§ 54-31 and 33-283; 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 3, 2005"-(5) sheets; and on further condition:

THAT all interior partitions and exiting shall be as reviewed and approved by DOB;

THAT the sidewalk and curb on Merrill Street shall be refurbished and street trees shall be added as reflected on the BSA-approved plans;

THAT a six foot opaque fence shall be constructed around the site as indicated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 17, 2005.

292-04-BZ

CEQR #05-BSA-033K

APPLICANT - Eric Palatnik, P.C., for Daniel Hirsch, owner.
SUBJECT - Application August 23, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R2 zoning

Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

district, which does not comply with the zoning requirements for floor area ratio, open space ratio, rear and side yards, is contrary to Z.R. 23-141(a), §23-47 and §23-48.

PREMISES AFFECTED - 1340 East 26th Street, between Avenues "M and N", Block 7661, Lot 59, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted upon condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated August 6, 2004, acting on Department of Buildings Application No. 30187372, reads:

- "1. Plans are contrary to Z.R. 23-141(a) in that the proposed Floor Area Ratio (FAR) exceeds the permitted 0.5.
2. Plans are contrary to Z.R. 23-141(a) in that the proposed Open Space Ratio (OSR) is less than the minimum required 150.0.
3. Proposed plans are contrary to Z.R. 23-47 in that the proposed rear yard is less than the minimum required 30'-0".
4. Proposed plans are contrary to Z.R. 23-48 in that the minimum side yard is less than the required 5'-0"."; and

WHEREAS a public hearing was held on this application on March 19, 2005 after due notice by publication in *The City Record*, and then to decision on May 17, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03 to permit, in an R2 zoning district, the proposed enlargement of an existing one-family dwelling (Use Group 1), which does not comply with the

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zoning requirements for floor area, open space ratio, and rear and side yards, contrary to Z.R. §§ 23-141(a), 23-47 and 23-48; and

WHEREAS, the subject lot is located on East 26th Street between Avenues M and N, and has a total lot area of approximately 3,000 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-story residential structure, with a cellar and attic; and

WHEREAS, the applicant seeks an increase in the floor area from 2,120 sq. ft. (0.71 Floor Area Ratio or "FAR") to 2,632 sq. ft. (0.88 FAR); the maximum floor area permitted is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the Open Space Ratio ("OSR") from 65 to 58; the WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing one-family dwelling (Use Group 1), which does not comply with the zoning requirements for floor area, open space ratio, and floor and side yards, contrary to Z.R. §§ 23-141(a), 23-47 and 23-48; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received May 3, 2005" - (6) sheets; and "Received May 17, 2005"-(4) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;
THAT the above condition shall be set forth on the certificate of occupancy;

THAT the total F.A.R. on the premises, including the attic, shall not exceed 0.88;

THAT the total attic floor area shall not exceed 494 sq. ft.;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; no approval has been given by the Board as to the use and layout of the cellar;

minimum OSR required is 150; and

WHEREAS, the proposed enlargement will reduce the rear yard from 27'-9" to 20'-0"; the minimum rear yard required is 30'-0"; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the existing side yards for this lot consist of a legal, non-complying side yard of 2'-9" and a complying side yard of 6'-10"; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

THAT the existing garage shall be converted to storage subject to approval by the Department of Buildings;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 17, 2005.

294-04-BZ

CEQR #05-BSA-035Q

APPLICANT - Petraro & Jones, LLP., by Patrick W. Jones, Esq., for 2478-61 Realty Corp., owner.

SUBJECT - Application August 26, 2004 - under Z.R. §72-21 proposed construction of a three family dwelling, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for front and side yards, is contrary to Z.R. §§23-45 and 23-49.

PREMISES AFFECTED - 103-05 35th Avenue, (a/k/a 34-29 35th Avenue), northeast corner of 103rd Street, Block 1744, Lot 43, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES - None.

ACTION OF THE BOARD - Application granted upon condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner

MINUTES

Chin.....4
Negative:.....
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THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated August 12, 2004, acting on Department of Buildings Application No. 401955602, reads:

1. Objection 1. Required front yard fronting 35th Avenue is contrary to ZR 23-45.
2. Objection 2. Required side yard fronting 103rd Street is contrary to ZR 23-49.”; and

WHEREAS, a public hearing was held on this application on March 5, 2005, after due notice by publication in *The City Record*, with a continued hearing on March 19, 2005, and then to decision on May 17, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan

WHEREAS, the proposal contemplates no side yard on the side of the proposed building facing tax lot 44, a vacant lot; the other side yard will be complying; and

WHEREAS, the proposal also contemplates parking for two cars, one space fronting 103rd Street and one space fronting a three-story building to the east of the site; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties in developing the subject lot in compliance with underlying district regulations: the site is an undeveloped corner lot that is uniquely small and narrow; and

WHEREAS, the applicant represents that the lot has a width of 25 ft. and that the provision of the required 8 ft. side yard with the other required side yards would result in a house with a 6.75 ft. width, which the applicant represents is neither habitable nor marketable; and

WHEREAS, at the request of the Board the applicant also submitted a study of the seven other corner lots within 400 ft. of the premises, and showed that of the four lots that have the same measurements as the subject lot, one is vacant and the other three do not have complying front or side yards; and

WHEREAS, the Board finds that the aforementioned unique physical condition, namely the smallness and narrowness of the subject undeveloped corner lot, creates a practical difficulty in developing the site in compliance with the applicable zoning provision; and

WHEREAS, the Board has determined that because of the subject lot’s unique physical condition, there is no reasonable possibility that development in strict compliance with the applicable zoning requirements will result in a residential development that would be habitable or marketable; and

and Vice-Chair Babbar; and
WHEREAS, Community Board 3, Queens, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed construction of a three-story, three-family dwelling (Use Group 2), located in an R5 zoning district, which does not comply with the zoning requirements for front yard and side yard, contrary to Z.R. §§ 23-45 and 23-49; and

WHEREAS, the subject premises is a vacant corner lot located on the northeast corner of the intersection of 35th Avenue and 103rd Street, and has a total lot area of approximately 2,500 sq. ft., with dimensions of 25 ft. in width and 100.8 ft. in depth; and

WHEREAS, the applicant has submitted documentation that the lot has been in existence with its current dimensions since 1930; and

WHEREAS, the proposal contemplates an 8.5 ft. front yard along the 35th Avenue frontage; the other front yard along 103rd Street will be complying; and

WHEREAS, the applicant states that the bulk of the proposed building is consistent with the surrounding residential uses; and

WHEREAS, the applicant represents that the impact of the zero lot line on the north side of the building next to the vacant lot is offset by the fact that the vacant lot is 30 feet wide and developable under the provisions of R5 zoning; and

WHEREAS, the applicant represents that within a 400-ft. radius of the site, there are 39 dwellings that are built upon the lot line; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 72-21, to permit to permit the proposed construction of a three-story, three-family dwelling (Use Group 2), located in an R5 zoning district, which does not comply with the zoning requirements for front yard and side yard, contrary to Z.R. §§ 23-45 and 23-49; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received May 2, 2005” - (4) sheets; and *on further*

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condition;

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 17, 2005.

371-04-BZ

APPLICANT - Eric Palatnik, P.C., for Hillel Kirschner, owner.

SUBJECT - Application November 22, 2004 - under Z.R.73-622 to permit the proposed enlargement of an existing single family residence, located in an R5 zoning district, which does

2. Plans are contrary to Z.R. 23-141(a) in that the proposed Open Space Ratio (OSR) is less than the minimum required 150.0.
3. Plans are contrary to Z.R. 23-461(a) in that the existing total side yards are less than the required 13'-0"
4. Plans are contrary to Z.R. 23-461(a) in that the existing minimum side yard is less than the required minimum 5'-0"
5. Proposed plans are contrary to Z.R. 23-47 in that the proposed rear yard is less than the minimum required 30'-0"." and

WHEREAS a public hearing was held on this application on March 5, 2005 after due notice by publication in *The City Record*, and then to closure and decision on May 17, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing one-family dwelling (Use Group 1), which does not comply with the zoning requirements for floor area, open space ratio, and rear and side yards, contrary to Z.R. §§ 23-141(a), 23-461(a) and 23-47; and

WHEREAS, the subject lot is located on East 28th Street between Avenues M and L, and has a total area of approximately 4,000 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit

not comply with the zoning requirements for floor area ratio, open space ratio, side and rear yards, is contrary to Z.R. §23-141(a), §23-46 and §23-47.

PREMISES AFFECTED - 1271 East 28th Street, between Avenues "L and M", Block 7646, Lot 16, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted upon condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated October 22, 2004, acting on Department of Buildings Application No. 301858274, reads:

- "1. Plans are contrary to Z.R. 23-141(a) in that the proposed Floor Area Ratio (FAR) exceeds the permitted 0.5.

is available; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-story residential structure, with an attic; and

WHEREAS, the applicant seeks an increase in the floor area from 3,049.31 sq. ft. (0.76 Floor Area Ratio or "FAR") to 3944.21 sq. ft. (0.98 FAR); the maximum floor area permitted is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the Open Space Ratio ("OSR") from 70 to 59; the minimum OSR required is 150; and

WHEREAS, the proposed enlargement will maintain one existing non-complying side yard of 2'-11", which does not comply with the 5 ft. minimum side yard requirement; and

WHEREAS, the enlargement will also maintain the other existing non-complying side yard of 7'-3", which, when aggregated with the other side yard dimension, does not comply with the 13 ft. total side yard requirement; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the proposed enlargement will reduce the rear yard from 32'-4" to 25'-4"; the minimum rear yard required is 30'-0"; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

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WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing one-family dwelling (Use Group 1), which does not comply with the zoning requirements for floor area, open space ratio, and rear and side yards, contrary to Z.R. §§ 23-141(a), 23-461(a) and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received May 3, 2005"-(8) sheets and "Received May 17, 2005"-(1) sheet; and *on further condition*:

THAT there shall be no habitable room in the cellar;

Adopted by the Board of Standards and Appeals, May 17, 2005.

391-04-BZ

CEQR #05-BSA-074M

APPLICANT - Moshe M. Friedman, P.E., for Meilech Fastag, owner.

SUBJECT - Application December 13, 2004 - under Z.R. §73-622 Proposed enlargement to an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio and open space ratio, is contrary to Z.R. §23-141(a).

PREMISES AFFECTED - 2610 Avenue "L", south side, 60' east of the intersection of Avenue "L" and East 26th Street, Block 7644, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Yosef Gottdiener.

ACTION OF THE BOARD - Application granted upon condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated December 6, 2004, acting on

THAT the above condition shall be set forth on the certificate of occupancy;

THAT the total F.A.R. on the premises, including the attic, shall not exceed .98;

THAT the total attic floor area shall not exceed 771.02 sq. ft.;

THAT vaulted ceilings shall be constructed as illustrated on Plan A-10 stamped May 3, 2005;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the existing garage shall be converted to storage subject to approval by the Department of Buildings;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Department of Buildings Application No. 301874032, reads:

"Extension to existing 1 family dwelling is contrary to ZR 23-141(a), Floor Area Ratio, and ZR 23-141(a), Open Space Ratio, and requires a Special Permit from the Board of Standards and Appeals as per Section 73-622" and

WHEREAS a public hearing was held on this application on March 19, 2005 after due notice by publication in *The City Record*, and then to decision on May 17, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03 to permit, in an R2 zoning district, the proposed enlargement of an existing one-family dwelling (Use Group 1), which does not comply with the zoning requirements for floor area and open space ratio, contrary to Z.R. § 23-141(a); and

WHEREAS, the subject lot is located on the south side of Avenue L, between East 26th Street and East 27th Street, and has a total lot area of approximately 4,000 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-story

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plus cellar and attic residential structure; and

WHEREAS, the applicant seeks an increase in the floor area from 3,316 sq. ft. (0.83 Floor Area Ratio or "FAR") to 3918 sq. ft. (0.98 FAR); the maximum floor area permitted is 2,500 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the Open Space Ratio ("OSR") from 78 to 59; the minimum OSR required is 150; and

WHEREAS, the proposed rear yard extension will reduce the rear yard from 30 ft., 1.5 in. to 20 ft., 1.5 in.; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 17, 2005.

16-05-BZ

APPLICANT - James McCormack, Architect, for James McCormack, owner.

SUBJECT - Application January 27, 2005 - under Z.R. § 72-21 to permit the proposed one family residence which does not meet the requirements of Section 23-45 (Front Yard) and Section 23-461 (Side Yards), located in R3A.HS (Hillside Preservation District).

PREMISES AFFECTED - 161 Westervelt Avenue, southeast corner of Curtis Place, Block 30, Lot 11, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES - None.

ACTION OF THE BOARD - Application granted upon condition.

THE VOTE TO GRANT -

N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing one-family dwelling (Use Group 1), which does not comply with the zoning requirements for floor area and open space ratio, contrary to Z.R. § 23-141(a); *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received December 13, 2004"-(4) sheets, "Received March 7, 2005"-(1) sheet, and "Received May 3, 2005"-(5) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth on the certificate of occupancy;

THAT the total F.A.R. on the premises, including the attic, shall not exceed 0.98;

THAT the total attic floor area shall not exceed 818.18 sq. ft.;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT the existing garage shall remain one car accessory parking;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; no approval has been given by the Board as to the use and layout of the cellar;

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Staten Island Borough Commissioner, dated December 30, 2004, acting on Department of Buildings Application No. 500697971, reads, in pertinent part:

"The subject premises is proposed to be developed as a single corner zoning lot with new three story and cellar, one family dwelling with non-complying front and side yards that is contrary to section 23-45 and 23-461 of Zoning Resolution and therefore shall be referred to the Board of Standards and Appeals."; and

WHEREAS, a public hearing was held on this application on April 12, 2005, after due notice by publication in *The City Record*, and then to closure and decision on May 17, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 1, Staten Island, and the St. George Civic Association recommend

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approval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed construction of a three-story with cellar, one-family dwelling, located in an R3A zoning district in the Hillside Preservation Special District, which does not comply with the zoning requirements for front yard and side yards, contrary to Z.R. §§ 23-45 and 23-461; and

WHEREAS, the record indicates that the subject premises is a vacant, corner lot located on the southeast corner of the intersection of Curtis Place and Westervelt Avenue, and has a total lot area of 2,178 sq. ft.; and

WHEREAS, the applicant represents that the lot is 100 ft. in length, and has a width of 25 ft. at the front (facing Westervelt Avenue) and a width of 18.75 ft. at the rear; and

WHEREAS, the applicant purchased the site from the City of New York at an auction in 1989; at the time of the auction it was zoned R4, and it was re-zoned to R3A in 2003; and

WHEREAS, the applicant further represents that there is a slope along the property of approximately 12%; and

WHEREAS, the proposal contemplates a 3 ft., 8 in. front yard along the Curtis Place frontage; the other front yard will be complying; and

WHEREAS, the proposal also contemplates a 4 ft. side yard, which leaves an open area of 5 ft. between the proposed building and the existing detached residence southeast of the site; the other side yard will be complying; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical

WHEREAS, the applicant has provided pictures of the surrounding homes that substantiate the above statement; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 72-21, to permit the proposed construction of a three-story with cellar, one-family dwelling, located in an R3A zoning district in the Hillside

difficulties in developing the subject lot in compliance with underlying district regulations: the site is an undeveloped corner lot that is uniquely small and narrow, and is encumbered with a slope; and

WHEREAS, the applicant represents that the provision of the required 10 ft. front yard along Curtis Place and an 8 ft. side yard would, due to the small lot size, result in a house with a 7 ft. width, which the applicant represents is neither practical to build upon nor marketable; and

WHEREAS, the applicant also notes that the allowable lot coverage under the Hillside Preservation Special District regulations is 22.5%; to accommodate the maximum floor area while complying with the lot coverage requirement, it is necessary to construct a three-story house; and

WHEREAS, the applicant represents that this is the only vacant lot in a 200 ft. radius, aside from a community garden; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, namely the smallness and narrowness of the subject undeveloped corner lot and its slope, create a practical difficulty in developing the site in compliance with the applicable zoning provision; and

WHEREAS, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with the applicable zoning requirements will result in a residential development that would be habitable; and

WHEREAS, the applicant states that the bulk of the proposed building is consistent with the surrounding one and two-family, two to three-story residences; and Preservation district, which does not comply with the zoning requirements for front yard and side yards, contrary to Z.R. §§ 23-45 and 23-461; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 27, 2005"-(4) sheets and "Received May 3, 2005"-(1) sheet; and *on further condition*;

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals,

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May 17, 2005.

36-04-BZ

APPLICANT - Petraro & Jones, LLP, for Jack Randazzo, owner.

SUBJECT - Application February 12, 1004 - under Z.R. §72-21 to permit the proposed construction of an eight family dwelling, on a vacant lot, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 30 Carlton Avenue, west side, 240' south of Flushing Avenue, Block 2030, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Patrick W. Jones, Agnes Im, Jack Randazzo and Vito Randazzo.

ACTION OF THE BOARD - Laid over to June 14, 2005, at 1:30 P.M., for continued hearing.

37-04-BZ

APPLICANT - Petraro & Jones, LLP, for Jack Randazzo, owner.

SUBJECT - Application February 12, 1004 - under Z.R. §72-21 to permit the proposed construction of an eight family dwelling, on a vacant lot, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 32 Carlton Avenue, west side, 264' south of Flushing Avenue, Block 2030, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Patrick W. Jones, Agnes Im, Jack Randazzo and Vito Randazzo.

ACTION OF THE BOARD - Laid over to June 14, THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for decision, hearing closed.

174-04-BZ

APPLICANT - Law Offices of Howard Goldman, PLLC for Harold Milgrim, Trustee.

SUBJECT - Application April 28, 2004 - under Z.R. §72-21 Proposed conversion of floors two through six, to residential use, Use Group 2, in an existing six-story commercial building, located in an M1-6 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 124 West 24th Street, south side, between Sixth and Seventh Avenues, Block 799, Lot 54, Borough of Manhattan.

COMMUNITY BOARD #4M

2005, at 1:30 P.M., for continued hearing.

144-04-BZ

APPLICANT - Eric Palatnik, P.C., for Atlantic Realty Management, Inc., owner.

SUBJECT - Application March 30, 2004 - Under Z.R. §72-21, to permit the proposed development which will contain residential uses at the second through eighth floors (Use Group 2), within an M1-6 zoning district to vary Z.R. §43-10.

PREMISES AFFECTED - 286 Hudson Street, East side of Hudson Street between Dominick and Spring Streets, Block 579, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to May 24, 2005, at 1:30 P.M., for defer decision.

163-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector for MyLaw Realty Corp., owner; Fort Greene Sports Club, LLC, lessee.

SUBJECT - Application April 21, 2004 - under Z.R. §73-36 to permit the proposed physical culture establishment, which will occupy portions of the cellar and first floor of an existing two story building located in C1-3(R6) zoning district, which is contrary to Z.R. §32-00.

PREMISES AFFECTED - 677/91 Fulton Street, north side, 28' east of Ashland Place, Block 2096, Lot 69, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Adam W. Rothkrug.

APPEARANCES -

For Applicant: Chris Wright.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to June 14, 2005, at 1:30 P.M., for decision, hearing closed.

209-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Chilton Paint Co., owner; CPP Development, LLC, lessee.

SUBJECT - Application May 21, 2004 - under Z.R. §72-21 to permit the proposed six story residential building, with 134 dwelling units, Use Group 2, located in an M2-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 109-09 15th Avenue, northwest corner of 110th Street, Block 4044, Lot 60, Borough of Queens.

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COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph P. Morsellino, Anthony Morali and James Cervino.

ACTION OF THE BOARD - Laid over to June 14, 2005, at 1:30 P.M., for continued hearing.

210-04-A

APPLICANT - Joseph P. Morsellino, Esq., for Chilton Paint Co., owner; CPP Development, LLC, lessee.

SUBJECT - Application May 21, 2004 - Proposed six story residential building, with 134 dwelling units, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 109-09 15th Avenue, northwest corner of 110th Street, Block 4044, Lot 60, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph P. Morsellino, Anthony Morali and James Cervino.

ACTION OF THE BOARD - Laid over to June 14, 2005, at 1:30 P.M., for continued hearing.

255-04-BZ

APPLICANT - Eric Palatnik, P.C., for Eli Kafif, owner.

SUBJECT - Application July 15, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, which does not comply with the zoning requirements for floor area and side yard, is contrary to Z.R. §23-141 and §23-461(a), located in an R5 zoning district.

PREMISES AFFECTED - 1924 Homecrest Avenue, between Avenues "S and T", Borough of Brooklyn.

SUBJECT - Application October 4, 2004 - under Z.R. §72-21 to request a variance from the following sections of the Zoning Resolution: 24-11(floor area ratio); 24-34 (front yard requirements); and 24-521 (height and setback regulations). The proposal calls for the enlargement of an existing Community Facility.

PREMISES AFFECTED - 66-35 108th Street, between 66th Road and 67th Avenue, Block 2175, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Dominick Answini and Sandi Hacohen.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 1:30 P.M., for decision, hearing closed.

345-04-BZ

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Eric Palatnik and Antoinette Vasile.

ACTION OF THE BOARD - Laid over to June 7, 2005, at 1:30 P.M., for continued hearing.

297-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Arthur Djal, owner.

SUBJECT - Application January 18, 2005 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family dwelling, Use Group 1, located in an R-2 zoning district, which does not comply with the zoning requirement for floor area ratio, is contrary to Z.R. §23-141.

PREMISES AFFECTED - 1174 East 22nd Street, southwest corner of Avenue "K", Block 7621, Lot 47, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 1:30 P.M., for decision, hearing closed.

327-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Beth Gavriel Bukharian Congregation, owner.

APPLICANT - The Law Office of Fredrick A. Becker, for Yad Yosef, owner.

SUBJECT - Application October 22, 2004 - under Z.R. §72-21 to request a bulk variance to allow the construction of a new synagogue in an R5 district contrary to Z.R. §§23-141, 23-464, 23-47, 113-12, 23-631(d), 113-30, 25-18 and 25-31.

PREMISES AFFECTED - 1030-1044 Ocean Parkway, west side, between Avenues "J and L", Block 5495, Lots 909, 911 and 914, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Lyra Altman, Fredrick Becker and David Ozeici.

For Opposition: Lisa De Santis, Vincent J. DeSantis, Albert Cohen and Michael De Santis.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 1:30 P.M., for decision, hearing closed.

MINUTES

356-04-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for RFD 55th Street, LLC, owner; The Core Club 55th Street, LLC, lessee.

SUBJECT - Application November 16, 2004 - under Z.R. §73-36 approval sought for a proposed physical cultural establishment to be located on a portion of the cellar and first floor, entire third, fourth and sixth floor levels of a 41 story mixed use building currently under construction. The proposed PCE use will contain 19, 249 gross square feet. The site is located in a C5-2.5 Special Midtown District.

PREMISES AFFECTED - 60 East 55th Street, south mid block, East 55th Street, block bounded by Park and Madison Avenues and East 54th and East 55th Streets, Block 1290, Lot # 45, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: James P. Power.

For Opposition: Ju Chan Chen, Leo Y Lee, Barry Zonon, Michael Thmmie and other.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to June 7, 2005, at 1:30 P.M., for decision, hearing closed.

15-05-BZ

APPLICANT - Friedman & Gotbaum, LLP, by Irving J. Gotbaum, for West 20th Street Realty, LLC, owner.

SUBJECT - Application January 27, 2005 - under Z.R. §72-21 to permit the proposed construction of a seven-story 64.5' residential building, located in an R8B zoning district, which exceeds the permitted height of 60', which is contrary to Z.R. §23-692.

63-05-BZ

APPLICANT -Carole S. Slater, Esq., Slater & Beckerman, LLP for Otsar, Inc., owner.

SUBJECT - Application March 15, 2005 - Variance pursuant to Section 72-21 of the Zoning Resolution, to permit a two-story addition to a not for profit educational institution for developmentally disabled children, within R5 and R5/C1-2 Zoning Districts to vary Sections 24-11, 24-34, and 77-28 of the Resolution.

PREMISES AFFECTED -2324 West 13th Street between Avenue W and Avenue X; distance of 150 feet south of Avenue W, Block 7160, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES -

For Applicant: Carol Slater and Ann Brent.

For Opposition: Wang Kit Cheng and Bertina Mo.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and

PREMISES AFFECTED - 209 West 20th Street, north side, 141' west of Seventh Avenue, Block 770, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Irving Gothbaum.

For Opposition: Ju-Chen Chan and Leo Lee.

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for continued hearing.

32-05-BZ

APPLICANT - Law Office of Howard Goldman, for Rivendell School, owner.

SUBJECT - Application February 24, 2005 - under Z.R. §72-21 to permit the proposed relocation and expansion of an existing not-for-profit school, located in an R6B zoning district, which does not comply with the zoning requirements for lot coverage, is contrary to Z.R. §24-11 and §52-31.

PREMISES AFFECTED - 288 7th Street, between Fourth and Fifth Avenues, Block 998, Lot 23, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Emily Simon.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to June 14, 2005, at 1:30 P.M., for decision, hearing closed.

Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair Babbar.....1

ACTION OF THE BOARD - Laid over to June 14, 2005, at 1:30 P.M., for decision, hearing closed.

82-05-BZ

APPLICANT - Adrienne W. Bernard, Esq., Fried, Frank, Harris, Shriver & Jacobson, LLP, for Association to Benefit Children, owner.

SUBJECT - Application April 5, 2005 - pursuant to Z.R. § 73-19, to allow an existing child care facility accessory to a not-for-profit community service organization to operate as a Use Group 3A school, within an M1-2 and R7-2 Zoning

MINUTES

District and to vary Section 42-12 of the Resolution.
PREMISES AFFECTED - 1841 Park Avenue (a/k/a 101 East
126th Street), Northeast corner of Park Avenue and East
126th Street, Block 1775, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #11M

APPEARANCES -

For Applicant: Frank Chaney.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and
Commissioner

Chin.....3

Negative:.....
.....0

Absent: Vice-Chair

Babbar.....1

ACTION OF THE BOARD - Laid over to June 14,
2005, at 1:30 P.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 5:45 P.M.

BULLETIN

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AND APPEALS

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Volume 90, No. 24

June 2, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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114-05-BZY B.Q. 211-03 28TH Avenue, north of the **120-05-A** B.Q. 104-41 103RD Street, between Rockav
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Lot 1, Borough of Queens. Alt.#402025009. Application for an extension of time to complete construction and/or obtain a Certificate of Occupancy for
of time to complete construction and/or obtain a Certificate of Occupancy for
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115-05-BZY B.Q. 50-19 210 Street, east side, 160' south of **121-05-BZ** B.BK. 2470 East 17th Street, bounded by NYCTA
Avenue, Block 7387, Lot 13, Borough of Queens. Alt.#402081697. **Applic.#301760574.** T
Application for and extension of time to complete construction and/or legalization of an expansion to an existing structure (office), Use Group
Certificate of Occupancy for a minor development pursuant to Z.R. §11-332. **Applic.#301760574.** in an R4 zoning district, which does not comply with the zon
requirements for the use, front and side yards and parking spaces, is contr
to Z.R. §32-15, §52-22, §24-34, §24-37 and §25-31.

116-05-BZY B.Q. 43-02 222nd Street, southeast corner of 43rd **COMMUNITY BOARD #15BK**
Avenue, Block 6328, Lot 16, Borough of Queens. N.B.#402114920-01.
Application for an extension of time to complete construction and/or obtain a
Certificate of Occupancy for a minor development pursuant to Z.R. §11-332.

117-05-BZY B.Q. 222-08 43rd Avenue, situated on the corner of
222nd Street and 43rd Avenue, Block 6328, Lot 17, Borough of Queens.
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construction and/or obtain a Certificate of Occupancy for a minor
development pursuant to Z.R. §11-332.

118-05-BZ B.BK. 2072 Ocean Parkway, west side, between
Avenues "T and U", Block 7108, Lot 38, Borough of Brooklyn.
Applic.#301930276. Proposed enlargement of a single family residence,
which does not comply with the zoning requirements for floor area ratio, open
space and side and rear yards, is contrary to Z.R. §23-141, §23-46 and
§23-47.

COMMUNITY BOARD #15BK

119-05-BZ B.BK. 834 Sterling Place, south side, 80' west of
Nostrand Avenue, Block 1247, Lot 30, Borough of Brooklyn.
Applic.#301932425.
Proposed enlargement to an existing one and two story warehouse building,
with an accessory office, Use Group 16, located in a C4-3 and R6 zoning
district, which does not comply with the zoning requirements for floor area,
floor area ratio, perimeter wall height, parking and loading berths, is contrary
to Z.R. §52-41, §33-122, §33-432, §36-21 and §36-62.

CALENDAR

JULY 12, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, July 12, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

614-74-BZ

APPLICANT - Ross F. Moskowitz, Stroock & Stroock & Lavan, LLP, for Sixty East End Owner, Inc., lessee.
SUBJECT - Application February 18, 2005 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired March 11, 2000.
PREMISES AFFECTED - 60 East End Avenue west side a/k/a532-538 East 83rd Street a/k/a 531-537 East 82nd Street, Block 1579, Lot 23, Borough of Manhattan.
COMMUNITY BOARD #8M

234-84-BZ

APPLICANT - Vito J. Fossella, P.E., for Forest Realty Management, LLC, owner.
SUBJECT - Application May 19, 2005 -Extension of Term for commercial UG6 establishment partially located in a R3-2 residential zoning district.
PREMISES AFFECTED - 1976/82 Forest Avenue, Block 1696, Lot 26, Borough of Staten Island
COMMUNITY BOARD #1SI

164-99-BZ

APPLICANT - Guy M. Harding, for Oscar Franco & Ivan Duque, owners.
SUBJECT - Application January 31, 2005 - Extension of Term/Waiver of a Special Permit for and entertainment and dancing establishment (UG 12) located in a C2-3/R6 zoning district.
PREMISES AFFECTED - 79-03 Roosevelt Avenue, north side of Roosevelt Avenue, 22' east from intersection of 79th Street and Roosevelt Avenue, Block 1290, Lot 46, Borough of Queens.
COMMUNITY BOARD #4Q

382-04-BZ

APPLICANT - Eric Palatnik, P.C., for Billy Ades, (Contract Vendee).
SUBJECT - Application December 6, 2004 - under

11-01-BZ

APPLICANT - Vassalotti Associate Architects, LLP, for Joseph Macchia, owner.
SUBJECT - Application May 19, 2005 - Extension of Time to obtain a Certificate of Occupancy, located in a C1-2(R5) zoning district.
PREMISES AFFECTED - 586/606 Conduit Boulevard, Block 4219, Lot 1, Borough of Brooklyn.
COMMUNITY BOARD #5BK

APPEALS CALENDAR

90-05-A

APPLICANT -Zygmunt Staszewski, for Breezy Point Cooperative Inc., owner; Lisa Hogan, lessee.
SUBJECT - Application April 14, 2005 - Proposed alteration of an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law
PREMISES AFFECTED - 15 Roosevelt Walk, east side, 285.27 south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.
COMMUNITY BOARD #14Q

JULY 12, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, July 12, 2005, at 1:30 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

332-04-BZ

APPLICANT - Eric Palatnik, P.C., for Chava Lobel, owner.
SUBJECT - Application April 6, 2005 - under Z.R.§73-622 to permit the proposed to combine two lots and enlarge one residence which is contrary to ZR 23-141(a) floor area, ZR 23-131(a) open space and ZR 23-47 rear yard, located in an R-2 zoning district.
PREMISES AFFECTED - 1410/14 East 24th Street, between Avenues "N and O", Block 7677, Lots 33 and 34 (tentative 33), Borough of Brooklyn.
COMMUNITY BOARD #14BK

Z.R.§73-622 to permit the proposed enlargement of an existing single family dwelling, located in an R4 zoning district, which does not comply with the zoning requirements for floor area, lot coverage, open space and

CALENDAR

side yards, is contrary to Z.R. §23-141(b) and §23-461(a).
PREMISES AFFECTED - 2026 Avenue "T", corner of Avenue "T" and East 21st Street, Block 7325, Lot 8, Borough of Brooklyn.
COMMUNITY BOARD #15BK

382-04-BZ

APPLICANT - Eric Palatnik, P.C., for Billy Ades, (Contract Vendee).
SUBJECT - Application December 6, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family dwelling, located in an R4 zoning district, which does not comply with the zoning requirements for floor area, lot coverage, open space and side yards, is contrary to Z.R. §23-141(b) and §23-461(a).
PREMISES AFFECTED - 2026 Avenue "T", corner of Avenue "T" and East 21st Street, Block 7325, Lot 8, Borough of Brooklyn.
COMMUNITY BOARD #15BK

388-04-BZ

APPLICANT - H. Irving Sigman, for D.R.D. Development Inc., owner.
SUBJECT - Application December 13, 2004 - under Z.R. §72-21 to permit the proposed construction of a one story and cellar commercial building, comprising of four stores, and accessory parking, Use Group 6, located in an R2 and a C8-1 zoning district, is contrary to Z.R. §22-00.
PREMISES AFFECTED - 133-16 Springfield Boulevard, west side, 114.44' north of Merrick Boulevard and 277' south of Lucas Street, Block 12723, Lot 9, Borough of Queens.
COMMUNITY BOARD #12Q

392-04-BZ

APPLICANT - Harold Weinberg, P.E., for Ephraim Nierenberg, owner.
SUBJECT - Application December 14, 2005 - under Z.R. §73-622 to permit a proposed rear enlargement to a single family residence which is contrary to ZR 23-141(a) for floor area and open space, ZR 23-461 for side yards and ZR 23-47 for rear yard. Then premises is located in an R2 zoning district.
PREMISES AFFECTED - 101/21 Central Park North, west side of Lenox Avenue, between Central Park North and West 111th Street, Block 1820, Lot 30, Borough of Manhattan.
COMMUNITY BOARD #10M

101-05-BZ

APPLICANT - Irving J. Gotbaum, Esq., by Friedman &

PREMISES AFFECTED - 966 East 23rd Street, west side, 220.0' north of Avenue "J", between Avenues "I" and "J", Block 7586, Lot 75, Borough of Brooklyn.
COMMUNITY BOARD #14BK

29-05-BZ

APPLICANT - Stephen Rizzo (CR&A), for 350 West Broadway, L.P., owner; Lighthouse Rizzo 350, LLC, lessee.
SUBJECT - Application February 17, 2005 - under Z.R. §72-21 to permit the proposed enlargement and renovation to an existing vacant fifteen story, to contain retail use in the cellar, first and second floor, and residential use on the third through fifteen floors, located in an M1-5A zoning district, is contrary to Z.R. §42-14, §42-00 and §42-10.
PREMISES AFFECTED - 350 West Broadway, 60' north of Grand Street, Block 476, Lot 75, Borough of Manhattan.
COMMUNITY BOARD #2M

67-05-BZ

APPLICANT - Sheldon Lobel, P.C., for 1710 Broadway, LLC, C/O C&K Properties, owners; OPUS Properties LLC, lessees.
SUBJECT - Application March 17, 2005 - under Z.R. §73-36 to permit the proposed physical culture establishment, within the cellar level, with entry on the ground level, of an existing six-story building, located in a C6-6/C6-7 zoning district, which requires a special permit.
PREMISES AFFECTED - 1710 Broadway, northeast corner of West 54th Street, Block 1026, Lot 21, Borough of Manhattan.
COMMUNITY BOARD #5M

79-05-BZ

APPLICANT - Herrick, Feinstein LLP, owner; The Athena Group, LLC, owner.
SUBJECT - Application April 5, 2005 - under Z.R. §72-21 to permit the proposed 20-story mixed use building, with below grade parking spaces, located in an R8/C1-4 and R7-2/C1-4 zoning district, which does not comply with the zoning requirements for floor area, height and setback, is contrary to Z.R. §23-011, §23-145, §35-22, §35-31, §23-633 and §35-24.
Gotbaum, LLP., for 377Greenwich LLC, owner.
SUBJECT - Application April 26, 2005 - under Z.R. §72-21 to permit the proposed development of a seven-story, plus penthouse, transient hotel, located in a C6-2A/TMU(A-1) zoning district, which does not comply with the zoning requirements for floor area ratio, also maximum base height and setback requirements, is contrary to Z.R. §111-104 and §35-24.
PREMISES AFFECTED - 377 Greenwich Street,

CALENDAR

southeast corner of North Moore Street, Block 187, Lot 16,
Borough of Manhattan.
COMMUNITY BOARD #1M

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, MAY 24, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar,
Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, March 8, 2005 and March 16, 2005, as printed in the Bulletin of March 24, 2005, Volume 90, Nos. 13-14.

SPECIAL ORDER CALENDAR

138-68-BZ

APPLICANT - Francis R. Angelino c/o DeCamp Diamond & Ash, for Martin A. Gleason Funeral Home, LLC, owner.

SUBJECT - Application - February 18, 2005 - Request a two-year Extension of Time/Waiver to obtain a Certificate of Occupancy for a funeral home. The premise is located in an R-2 zoning district.

PREMISES AFFECTED - 10-25 150th Street, Block 4515, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Francis R. Angelino.

ACTION OF THE BOARD -Application granted upon condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar and
Commissioner

Chin.....3

Negative:.....
...0

Absent: Commissioner
Miele.....1

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and an extension of time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on May 17, 2005, after due notice by publication in the City Record, and then to decision on May 24, 2005; and

WHEREAS, on June 11, 1968, the Board granted an application under the subject calendar number to permit, within an R2 zoning district, in an existing two-story building, the erection of a one-story enlargement to a funeral establishment, with accessory parking in the open area of the zoning lot; and

WHEREAS, on December 23, 2003, the Board amended the previous resolution to permit the enlargement of the first floor and cellar of the previously-approved funeral home; and

WHEREAS, the resolution for said grant specified that a new certificate of occupancy be obtained with one year of the
Absent: Commissioner Miele.....1

date of the grant; this period of time expired on December 23, 2004; and

WHEREAS, the applicant claims that the need for the extension of time arises from the owners' focus on the purchase and start-up of another funeral home purchased by the owners in December of 2003; and

WHEREAS, based upon the above, the Board has determined that the evidence in record supports the grant of the requested waiver and extension.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, said resolution having been adopted on December 23, 2003, so that as amended this portion of the resolution shall read: "to permit an extension of the time to obtain a certificate of occupancy, for an additional period of two years from the date of this resolution, to expire on May 24, 2006; on condition:

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 401691157)

Adopted by the Board of Standards and Appeals, May 24, 2005.

100-71-BZ

APPLICANT - The Agusta Group, for Maurice Cohen/1065 Eagle, LLC, owner.

SUBJECT - Application July 21, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance to permit the use of an open area for the sale of used cars (U.G. 16) and accessory parking on a lot containing an existing automobile repair shop, located in an R5 zoning district.

PREMISES AFFECTED - 61-03 Northern Boulevard, northeast corner of Northern Boulevard, and 61st Street, Block 1162, lot 53, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Rothkrug, Rothkrug, Weinberg & Spector by Trevis Savage.

ACTION OF THE BOARD -Application granted upon condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar and
Commissioner

Chin.....3

Negative:.....
...0

THE RESOLUTION:

MINUTES

WHEREAS, this application is a request for a re-opening, an extension of the term of the variance, and an amendment; and

WHEREAS, a public hearing was held on this application on December 14, 2004, after due notice by publication in The City Record, with continued hearings on January 25, 2005, March 8, 2005, March 29, 2005, and May 10, 2005, and then to decision on May 24, 2005; and

WHEREAS, Community Board No. 1, Queens, recommends conditional approval of this application; some of these conditions are reflected below; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, on June 1, 1971, the Board granted an application under the subject calendar number to permit the use of the site for the sale of used cars and auto repairs (Use Group 16), with accessory parking; and

WHEREAS, the term of the variance was initially for 10 years, and has been extended at various times since 1971; the most recent term expired on January 10, 2003; and

WHEREAS, as represented by the applicant and as observed by the Board, there were various non-compliances with the Board's prior approval present at the site; and

WHEREAS, specifically, the following non-compliances were noted: the addition of roll-down gates; the addition of sliding wrought iron fences; on the north lot line, the replacement of a wire fence with a 8 ft. chain link fence with opaque vinyl slates; replacement of the storage area within the building by an office; the presence of a trailer on-site; and barbed wire along the existing fencing; and

WHEREAS, the Board expressed concern about these non-compliances and asked the applicant to address them; and

WHEREAS, in response, the applicant has removed the barbed wire, and will remove the trailer within 60 days from the date of this approval; and

WHEREAS, the applicant also committed to reducing the number of cars stored on-site to 16, and reducing the width of the curb-cut along 61st Street to 8 ft.; these changes are reflected on the site plan; and

WHEREAS, in light of the above changes, the Board finds that the requested extension of term and amendment is appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, said resolution having been adopted on June 1, 1971, so that as amended this portion of the resolution shall read: "to permit various site plan changes and to extend the term for five years from January 10, 2003; on condition that all work and site conditions shall substantially conform to drawings filed with this application marked `Received March 24, 2005' - (1) sheet and `Received April 12, 2005' - (2) sheets; and on further condition;

THAT the term of this grant shall be for five years, to

ACTION OF THE BOARD -Application granted upon condition.
THE VOTE TO GRANT-
Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

expire on January 10, 2008;

THAT all exterior lighting shall be directed downward and away from adjacent residential uses;

THAT the curb cut on 61st Street shall be reduced to 8 ft. in width;

THAT no parking or preparation of cars shall be permitted on the sidewalk or any street adjacent to the premises;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT an 8'-0" high, 100 percent opaque fence shall be installed and maintained as illustrated on the BSA-approved plans;

THAT there shall be no barbed wire anywhere at the site;

THAT no more than 16 cars shall be stored on the premises;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT within 60 days from the date of this grant, the trailer present at the site shall be removed, and no trailers shall be located on the site thereafter;

THAT within 180 days from the date of this grant, the shed present at the site shall be removed, and no sheds shall be located on the site thereafter;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 401951448)

Adopted by the Board of Standards and Appeals, May 24, 2005.

739-76-BZ

APPLICANT -Joseph P. Morsellino, Esq., for Cord Meyer Development, Corp., owner; Peter Pan Games of Bayside, lessee.

SUBJECT - Application January 19, 2005 - reopening for an extension of term of variance for an amusement arcade (Use Group 15) which expired April 10, 2005.

PREMISES AFFECTED - 212-95 26th Avenue, 26th Avenue and Bell Boulevard, Block 5900, Lot 2, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES - None.

Negative:.....0

Absent: Commissioner

Miele.....1

THE RESOLUTION-

MINUTES

WHEREAS, this is an application for a reopening and an extension of the term of the special permit; and

WHEREAS, a public hearing was held on this application on May 17, 2004, after due notice by publication in The City Record, and then to May 24, 2005 for decision; and

WHEREAS, both the Queens Borough President and Community Board 7, Queens recommend approval of the subject application; and

WHEREAS, on February 8, 1977, the Board granted an application permitting, in an existing shopping center, the conversion of a retail store to an amusement arcade for a term of one year; and .

WHEREAS, at the time of the initial grant, the location of the arcade was 212-65 26th Avenue; in 1997, the Board permitted the relocation of the arcade to the subject premises; and

WHEREAS, the most recent term expired on April 10, 2005; and

WHEREAS, based upon the submitted evidence, the Board finds that the instant application is appropriate to grant, with conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals, reopens and amends the resolution, said resolution having been adopted on January 6, 1981, as later amended, so that, as amended, this portion of the resolution shall read: "to permit the extension of the term of the special permit for an additional one year from April 10, 2005 expiring on April 10, 2006; on condition that the all work/on-site conditions shall substantially conform to drawings as filed with this application, marked 'January 19, 2005' - (3) sheets; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions shall appear on the certificate of occupancy;

THAT the operation of the arcade subject premises shall comply with the previously approved Board plans, and 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 Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 401710430)

Adopted by the Board of Standards and Appeals, May 24, 2005.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, said resolution having been adopted on March 28, 2000, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete construction of a transient hotel, for one additional

126-99-BZ

APPLICANT - Sheldon Lobel, P.C., for Fortune Hospitality Group LLC, owner.

SUBJECT - Application February 23, 2005 - Extension of Time to Complete Construction of a hotel which was granted on March 28, 2000 under section 72-21 of the zoning resolution for the subject site to be used as a transient hotel located in C1-2 zoning district.

PREMISES AFFECTED - 220-16 Jamaica Avenue, south side of Jamaica Avenue between 220th Street and 221st Street, Block 10789, Lot 268, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD -Application granted upon condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Chin.....3

Negative:.....0

...0

Absent: Commissioner

Miele.....1

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and an extension of time to complete construction of a transient hotel previously approved by the Board; and

WHEREAS, a public hearing was held on this application on May 10, 2005 after due notice by publication in the City Record, and then to decision on May 24, 2005; and

WHEREAS, on March 28, 2000, the Board granted a variance application under the subject calendar number to permit, within a C1-2 zoning district, the proposed transient hotel (Use Group 5); and

WHEREAS, the period in which to complete construction expired on March 28, 2004; and

WHEREAS, the applicant represents that approximately 90 percent of the work has been completed; and

WHEREAS, the applicant states that the reason for the requested extension of time is due to financing problems on the part of the original owner of the property, and then a subsequent sale of the property to the applicant on March 7, 2005; and

WHEREAS, based upon the above, the Board has determined that the evidence in record supports the grant of the requested waiver and extension.

year from the date of this resolution to expire on May 24, 2006; on condition:

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

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DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 400220257)

Adopted by the Board of Standards and Appeals, May 24, 2005.

215-00-BZ

APPLICANT - McDermott Will & Emery LLP, for Parker Jewish Institute for Health Care and Rehabilitation, owner.

SUBJECT - Application January 13, 2005 - Extension of Time to Complete Construction of the Parker Jewish Institute for Health Care and Rehabilitation, authorized by a variance issued by the Board of Standards and Appeals on January 16, 2001, located R3-2 Zoning District.

PREMISES AFFECTED - 271-11 76th Avenue, Block 8489 and the Nassau County line, Block 8520, Lot 175, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES - None.

ACTION OF THE BOARD - Application granted upon condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Chin.....3

Negative:.....0

Absent: Commissioner

Miele.....1

THE RESOLUTION -

WHEREAS, this is an application for an extension of time to complete construction of an enlargement to an existing nursing home previously approved by the Board; and

WHEREAS, a public hearing was held on this application on May 10, 2005 after due notice by publication in the City Record, and then to decision on May 24, 2005; and

WHEREAS, on January 16, 2001, the Board granted a variance application under the subject calendar number to permit the proposed enlargement of an existing nursing home (Use Group 3), located within an R3-2 zoning district; and

WHEREAS, the period in which to complete construction expired on January 16, 2005; and

WHEREAS, the applicant states that the reason for the requested extension of time is due to the economic considerations that have prevented the nursing home from pursuing the enlargement; and

348-82-BZ

APPLICANT - Salvati Architects for George Gong, owner.

SUBJECT - Application December 17, 2004 - Extension of Term/ Waiver/ Amendment, application seeks to legalize the change from three (3) storefronts (U.G. 6) to two (2) storefronts (U.G. 6 & 16D) located in an R5 zoning district.

WHEREAS, therefore, the Board has determined that the evidence in record supports the grant of the requested waiver and extension.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on January 16, 2001, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete construction of the proposed enlargement to an existing nursing home, for an additional four years from the date of this resolution to expire on May 24, 2009; on condition:

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 401114352)

Adopted by the Board of Standards and Appeals, May 24, 2005.

765-50-BZ

APPLICANT - Kenneth H. Koons, for R. G. Ortiz Funeral Home, Inc., owner.

SUBJECT - Application January 24, 2005 - Extension of Term of a Variance for an existing Funeral Establishment Granted by the Board, filed pursuant to section 11-411 of the zoning resolution, located in aC1-2/R6 zoning district. PREMISES AFFECTED - 1430-36 Unionport Road, east side 43' south of Olmstead Avenue, Block 3933, Lot 53, Borough of The Bronx.

COMMUNITY BOARD #9BX

APPEARANCES -

For Applicant: Kenneth Koons.

THE VOTE TO CLOSE HEARING

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Chin.....3

Negative:.....0

Absent: Commissioner

Miele.....1

ACTION OF THE BOARD - Laid over to June 14, 2005, at 10 A.M., for decision, hearing closed.

The application was approved under section 72-21 of the zoning resolution to permit in an R5 zoning district, the establishment of three (U.G. 6) storefronts for a term of 20 years which expired on April 12, 2003.

PREMISES AFFECTED - 204 Avenue S, Avenue S and West 6th Street, Block 7083, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #11BK

MINUTES

APPEARANCES -

For Applicant: Peter Hirshman and Jessica Landis representing Councilman Recchia.

THE VOTE TO CLOSE HEARING

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to June 14, 2005, at 10 A.M., for decision, hearing closed.

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Chin.....3

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to June 14, 2005, at 10 A.M., for decision, hearing closed.

258-90-BZ

APPLICANT - Sheldon Lobel, P.C., for John Isikli, owner.
SUBJECT - Application March 31, 2005 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to obtain a certificate of occupancy for the proposed restaurant and banquet hall.

PREMISES AFFECTED - 2337 Coney Island Avenue, easterly side of Coney Island Avenue between Avenue T and Avenue U, Block 7315, Lot 73, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO CLOSE HEARING

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to June 14, 2005, at 10 A.M., for decision, hearing closed.

35-05-A

APPLICANT - Zygmunt Staszewski, for Breezy Point Co-op Inc., owner; Richard Whalen, lessee.

SUBJECT - Application February 24, 2005 - Proposed alteration to an existing one family dwelling, not fronting on a legally mapped street, also a proposal to upgrade the existing septic system, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings Policy.

PREMISES AFFECTED - 37 Beach 221st Street, east side, 240' south of Fourth Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Michael Harley.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Chin.....3

Negative:.....0

Absent: Commissioner Miele.....1

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Chin.....3

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated January 26, 2005, acting on Department of Buildings Application No. 401997951, reads:

least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code

A-2 The proposed upgraded private disposal system is contrary to the Department of Buildings policy; and

189-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 830 East 233rd Street, Corp., owner.

SUBJECT - Application September 20, 2004 - reopening for an amendment to the resolution to permit the enlargement and conversion of the existing accessory service bays to an accessory convenience store.

PREMISES AFFECTED - 836 East 233rd Street, Bushing Avenue, Block 4857, Lots 44 & 41, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO CLOSE HEARING

A-1 The street giving access to the existing building to be altered is not duly placed on the official map of the City of New York, therefore:

A) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law

B) Existing dwelling to be altered does not have at

MINUTES

WHEREAS, a public hearing was held on this application on May 24, 2005, after due notice by publication in the City Record, and then to decision on May 24, 2005; and

WHEREAS, by letter dated March 28, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated January 26, 2005, acting on Department of Buildings Application No. 401997951, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked "Received February 24, 2005" - one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 24, 2005.

37-05-A

APPLICANT - Zygmunt Staszewski, for Breezy Point Cooperative, Inc., owner; Brian J. Lang, lessee.

SUBJECT - Application February 24, 2005 - Proposed alteration to an existing one family dwelling, not fronting on a legally mapped street, also a proposal to upgrade the existing septic system, which is in the bed of the service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings Policy.

PREMISES AFFECTED -17 Fulton Walk, east side, 185' north of Breezy Point Boulevard, Block 16350, Lot 400,

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated January 26, 2005, acting on Department of Buildings Application No. 402026981, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked "Received February 24, 2005" - one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further

Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Michael Harley.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Chin.....3

Negative:.....0

Absent: Commissioner Miele.....1

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Chin.....3

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated January 26, 2005, acting on Department of Buildings Application No. 402026981, reads:

For Board of Standards & Appeals Only:

A-1 The street giving access to the existing building to be altered is not duly placed on the official map of the City of New York, therefore:

A) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law

B) Existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code

A-2 The proposed upgraded private disposal system is in the bed of the service lane and contrary to the Department of Buildings policy; and

WHEREAS, a public hearing was held on this application on May 24, 2005, after due notice by publication in the City Record, and then to decision on May 24, 2005; and

WHEREAS, by letter dated March 28, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions. condition:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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)

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and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 24, 2005.

51-05-A

APPLICANT -Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; William & Nancy Gorra, lessees.

SUBJECT - Application March 4, 2005 -Proposed enlargement of the first story, and the construction of a partial second story, to an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED -105 Beach 219th Street, east side, 80' South of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Chin.....3

Negative:.....0

Absent: Commissioner Miele.....1

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Chin.....3

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated February 23, 2005, acting on Department of Buildings Application No. 402064733, reads:

A-1 The street giving access to the existing building to be altered is not duly placed on the official map of the City of New York, therefore:

A) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law

B) Existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Chin.....3

Negative:.....0

WHEREAS, a public hearing was held on this application on May 24, 2005, after due notice by publication in the City Record, and then to decision on May 24, 2005; and

WHEREAS, by letter dated March 10, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated February 23, 2005, acting on Department of Buildings Application No. 402064733, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked "Received March 4, 2005" - one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 24, 2005.

55-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; Giacomo & Elizabeth Reneo, lessee.

SUBJECT - Application March 8, 2005 - Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 40 Ocean Avenue, west side, 295.32' north of Rockaway Boulevard, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated February 15, 2005, acting on Department of Buildings Application No. 402074027, reads:

"For Board of Standards & Appeals Only

A-1 The Site and Building is not fronting on an

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official mapped street therefore no permit or a Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law.; Also no permit can be issued since proposed construction does not have at least 8% of total perimeter of building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section C27-291 of the Administrative Code of the City of New York."; and

WHEREAS, a public hearing was held on this application on May 17, 2005, after due notice by publication in the City Record, and then to decision on May 24, 2005; and

WHEREAS, by letter dated March 24, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated February 15, 2005, acting on Department of Buildings Application No. 402074027, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked "Received March 8, 2005" - one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 24, 2005.

56-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated February 15, 2005, acting on Department of Buildings Application No. 402074036, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked "Received March 8, 2005" - one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other

Cooperative, Inc., owner; John & Margaret Carr, lessees. SUBJECT - Application March 8, 2005 - Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 10 Janet Lane, south side, 235.6' west of Beach 201st Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Chin.....3

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated February 15, 2005, acting on Department of Buildings Application No. 402074036, reads:

"For Board of Standards & Appeals Only

A-1 The Site and Building is not fronting on an official mapped street therefore no permit or a Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law.; Also no permit can be issued since proposed construction does not have at least 8% of total perimeter of building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section C27-291 of the Administrative Code of the City of New York."; and

WHEREAS, a public hearing was held on this application on May 17, 2005, after due notice by publication in the City Record, and then to decision on May 24, 2005; and

WHEREAS, by letter dated March 24, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 24, 2005.

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57-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; James & Bernadette Geissler, lessees.

SUBJECT - Application March 8, 2005 - Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED -667 Highland Place, east side, .10' north of 12th Avenue, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Chin.....3

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated February 15, 2005, acting on Department of Buildings Application No. 402059179, reads:

"For Board of Standards & Appeals Only

A-1 The Site and Building is not fronting on an official mapped street therefore no permit or a Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law.; Also no permit can be issued since proposed construction does not have at least 8% of total perimeter of building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section C27-291 of the Administrative Code of the City of New York."; and

WHEREAS, a public hearing was held on this application on May 17, 2005, after due notice by publication in the City Record, and then to decision on May 24, 2005; and

WHEREAS, by letter dated March 24, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated February 15, 2005, acting on Department of Buildings Application No. 402059179, is modified under the power vested in the Board by Section 36 of

WHEREAS, the decision of the Queens Borough Commissioner, dated February 15, 2005, acting on Department of Buildings Application No. 402074018, reads:

"For Board of Standards & Appeals Only

A-1 The Site and Building is not fronting on an official mapped street therefore no permit or a Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law.; Also no permit can be issued since proposed construction does not have at least 8% of total perimeter of building fronting directly upon a

the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked, "Received March 8, 2005" - one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 24, 2005.

58-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Muriel Daly, lessee.

SUBJECT - Application March 8, 2005 - Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 15 Ocean Avenue, east side, 295.32' north of Rockaway Point Boulevard, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Chin.....3

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

legally mapped street or frontage space and therefore contrary to Section C27-291 of the Administrative Code of the City of New York."; and

WHEREAS, a public hearing was held on this application on May 17, 2005, after due notice by publication in the City Record, and then to decision on May 24, 2005; and

WHEREAS, by letter dated March 24, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

MINUTES

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated February 15, 2005, acting on Department of Buildings Application No. 402074018, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked "Received March 8, 2005" - one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 24, 2005.

59-05-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; Kevin & Maureen Gormley, lessees.
SUBJECT - Application March 8, 2005 - Proposed enlargement to an existing one family dwelling not fronting on a legally mapped street, also a proposal to upgrade the private disposal in the bed of an existing service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 5 Courtney Lane, north side, 237.31' east of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT-

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 24, 2005.

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Chin.....3

Negative:.....0

Absent: Commissioner

Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated February 15, 2005, acting on Department of Buildings Application No. 402059160, reads:

"For Board of Standards & Appeals Only

A-1 The Site and Building is not fronting on an official mapped street therefore no permit or a Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law.; Also no permit can be issued since proposed construction does not have at least 8% of total perimeter of building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section C27-291 of the Administrative Code of the City of New York.

A-2 The upgraded private disposal system is in the bed of an existing service road contrary to Department of Buildings Policy.; and

WHEREAS, a public hearing was held on this application on May 17, 2005, after due notice by publication in the City Record, and then to decision on May 24, 2005; and

WHEREAS, by letter dated March 24, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated February 15, 2005, acting on Department of Buildings Application No. 402059160, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked "Received March 8, 2005" - one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

23-05-A

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative, Inc., owner; Richard & Josephine O'Connor.
SUBJECT - Application February 8, 2005 - Proposed enlargement to an existing one family dwelling, located within the bed of a mapped street and not fronting on a legally mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED - 32 Bedford Avenue, south side,

MINUTES

515.07' west of 12th Avenue, Block 16350, Part of Lot 300,
Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: John Ronan.

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Vice-Chair Babbar and
Commissioner

Chin.....3

Negative:.....

...0

Absent: Commissioner

Miele.....1

ACTION OF THE BOARD - Laid over to June 7,
2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 1:45 P.M.

REGULAR MEETING TUESDAY AFTERNOON, MAY 24, 2005 2:00 P.M.

Present: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.

ZONING CALENDAR

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD -Application granted on
condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and
Commissioner

Chin.....3

Negative:.....

.0

Absent: Commissioner Miele

134-04-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for 184
Kent Avenue Associates, owner.

SUBJECT - Application March 19, 2004 - under Z.R. §§72-
22 and 1-05(e) to permit the proposed construction of a
public esplanade between the building and bulkhead line,
also the proposed construction of an additional forty-seven
residential units, located in an M3-1 zoning district, is
contrary to a previous variance granted under Cal. No.
191-00-BZ.

PREMISES AFFECTED - 184 Kent Avenue, northwest
corner of North Third Street, Block 2348, Lot 1, Borough of
Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Howard Hornstein.

ACTION OF THE BOARD - Application withdrawn

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and
Commissioner

Chin.....3

Negative:.....

.....0

Absent: Commissioner Miele

.....1

Adopted by the Board of Standards and Appeals,
May 24, 2005.

144-04-BZ

APPLICANT - Eric Palatnik, P.C., for Atlantic Realty
Management, Inc., owner.

SUBJECT - Application March 30, 2004 - Under Z.R.
§72-21, to permit the proposed development which will
contain residential uses at the second through eighth floors
(Use Group 2), within an M1-6 zoning district to vary Z.R.
§43-10.

PREMISES AFFECTED - 286 Hudson Street, East side of
Hudson Street between Dominick and Spring Streets, Block
579, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #2M

.....1

THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough
Commissioner, dated March 12, 2004, acting on Department
of Buildings Application No. 103694236, reads:

"Proposed residential use from 2nd to 9th floors is not
permitted as of right in M1-6. It is contrary to ZR
43-10"; and

WHEREAS, a public hearing was held on this
application on March 8, 2005 after due notice by publication
in the City Record, with a continued hearing on April 19,

MINUTES

2005 and then to decision on May 17, 2005; the decision was then deferred to May 24, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioners Miele and Chin; and

WHEREAS, Community Board 2, Manhattan, recommends approval of this application, with a condition as reflected below; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an M1-6 zoning district, the proposed construction of a seven-story mixed-use residential/retail building, which is contrary to Z.R. § 43-10; and

WHEREAS, the subject site is a 36 ft. wide by 65 ft. deep vacant lot, with a lot area of approximately 2,035 sq. ft., located on Hudson Street between Dominick and Spring Streets; and

WHEREAS, the subject site is adjacent to an entrance to the Holland Tunnel, located on lot 43 on the same block; and

WHEREAS, the subject application proposes the development of a seven-story building, with ground floor retail use and residential use on floors two through seven, with six dwelling units; and

WHEREAS, the street wall height of the proposed building is 84 ft.; and

WHEREAS, the new building will have a Floor Area Ratio ("F.A.R.") of 5.9, with a commercial F.A.R. of 1.0 and a residential F.A.R. of 4.9; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject lot in conformance with underlying district regulations: the lot is small and shallow; and

WHEREAS, in amplification of the argument that the shallowness and size of the lot causes a hardship, the applicant notes that such a small, shallow lot can not sustain the floor plates necessary for a viable conforming development; and

WHEREAS, additionally, the applicant has submitted a survey showing that the subject site is one of the few undeveloped lots of comparable size in the immediate area; and

WHEREAS, based upon the above, the Board finds that the unique condition mentioned above creates practical difficulties and unnecessary hardship in developing the site in

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA-154M, dated December 27, 2004; 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;

strict conformance with applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study that analyzed a conforming office building; the study concludes that such a scenario would not be feasible due to the sub-standard floor plates that arise from the lot's small size; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant states that the proposed development will not negatively affect the character of the neighborhood nor impact adjacent uses; and

WHEREAS, the applicant notes that the area is mixed-use in nature, being characterized by many large buildings with residential use; and

WHEREAS, the applicant observes that the site is immediately adjacent to buildings that contain residential use; and

WHEREAS, the site is also in close proximity to a C6-2A zoning district, where residential use is allowed as-of-right; and

WHEREAS, the applicant represents that the height and the bulk of the building comply with the bulk and height regulations applicable in the C6-2A district; and

WHEREAS, at the request of the Board, the proposal to have balconies for the residential units was deleted from the plans; and

WHEREAS, the Port Authority of New York & New Jersey submitted a letter stating that at the present time, there is no immediate plan to develop lot 43, where the tunnel entrance is located; and

WHEREAS, accordingly, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that the proposal is the minimum necessary to afford the owner relief; and 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; 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

MINUTES

617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, within an M1-6 zoning district, the proposed construction of a seven-story mixed-use residential/retail building, which is contrary to Z.R. § 43-10; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 19, 2005"-(4) sheets; and on further condition:

THAT the ground floor shall only be used for Use Group 6 uses;

THAT the above condition shall appear on the certificate of occupancy;

THAT the bulk parameters of the proposed building shall be as follows: a total F.A.R. of 5.9, with a commercial F.A.R. of 1.0 and a residential F.A.R. of 4.9, a total building height of 92.5 ft., and a street wall height of 84 ft., as illustrated on the BSA-approved plans;

THAT the interior layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 24, 2005.

152-04-BZ

APPLICANT - James M. Plotkin, Esq., for Frank T. Porco, owner.

SUBJECT - Application April 9, 2004 - under Z.R. §72-21 to permit the proposed addition of a second floor plus attic, to an existing one family dwelling, Use Group 1, located in an R4 zoning district, which does not comply with the zoning requirements for rear and side yards, is contrary to Z.R. §23-461 and §23-47.

Adopted by the Board of Standards and Appeals, May 24, 2005.

276-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Albert J. and Catherine Arredondo, owners.

SUBJECT - Application August 10, 2004 - under Z.R. §72-21 to permit the proposed addition of a second floor plus attic, to an existing one family dwelling, Use Group 1, located in an R4 zoning district, which does not comply with the zoning requirements for rear and side yards, is contrary to Z.R. §23-461 and §23-47.

PREMISES AFFECTED - 657 Logan Avenue, west side, 100' south of Randall Avenue, Block 5436, Lot 48, Borough of The Bronx.

permit in an R5 district, on a site consisting of 11,970SF, the construction of a four one-story warehouses (UG 16). Currently, the site is improved with four buildings: one concrete block building, and three sheds. The proposed warehouse is contrary to residential district use regulations. PREMISES AFFECTED - 3213 Edson Avenue, bounded on the north by East 222nd Street, south by Burke Avenue and west by Grace Avenue, Block 4758, Lot 25, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEARANCES - None.

ACTION OF THE BOARD - Application withdrawn

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3
Negative:.....0
Absent: Commissioner Miele1

Adopted by the Board of Standards and Appeals, May 24, 2005.

225-04-BZ

APPLICANT - Jay A. Segal, Esq., for 201 Berry Street, LLC, c/o Martin Edward, Management, owner.

SUBJECT - Application September 28, 2004 - under Z.R. §72-21 to permit the construction of three four-story residential buildings in an M1-2 zoning district contrary to Z.R. §42-10.

PREMISES AFFECTED - 201 Berry Street (a/k/a 121-157 North 3rd Street; 248-252 Bedford Avenue; 191-205 Berry Street), North 3rd Street from Bedford Avenue to Berry Street (northern part of block bounded by North 4th Street), Block 2351, Lots 1, 28 and 40, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES - None.

ACTION OF THE BOARD - Application withdrawn

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3
Negative:.....0
Absent: Commissioner Miele1

COMMUNITY BOARD #10BX

APPEARANCES -

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3
Negative:.....0

Absent: Commissioner Miele1

THE RESOLUTION -

WHEREAS, the decision of the Bronx Borough Commissioner, dated July 26, 2004, acting on Department of Buildings Application No. 200859936, reads:

"1. Proposed plans are contrary to ZR 23-461 in

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that the proposed straight line enlargement continues with the existing non-complying side yards and is less than the minimum required side yard of 5'-0"

2. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required rear yard of 30 ft."; and

WHEREAS, a public hearing was held on this application on May 10, 2005, after due notice by publication in The City Record, and then to decision on May 24, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 10, Bronx, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed addition of a second floor and attic to an existing one-family dwelling (UG 1), located in an R4 zoning district, which does not comply with the zoning requirements for rear yard and side yards, contrary to Z.R. §§ 23-461 and 23-47; and

WHEREAS, the record indicates that the subject premises is located on the west side of Logan Avenue, south of Randall Avenue, and has a total lot area of 3,000 sq. ft.; and

WHEREAS, the applicant represents that the lot is 100 ft. in length, and has a width of 30 ft.; and

WHEREAS, the applicant states that there is a significant grade change from the front of the property to the rear; and

WHEREAS, the applicant represents that the existing residence was constructed in 1918, and is located at the rear of the property, on the top of the hill; and

WHEREAS, the applicant further represents that the residence contains a total of 895 sq. ft., and uses less than one-third of the floor area permitted on the site; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties in developing the subject lot in compliance with underlying district regulations: the site is encumbered with a significant

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 72-21, to permit the proposed addition of a second floor and attic to an existing one-family dwelling (UG 1), located in an R4 zoning district, which does not comply with the zoning requirements for rear yard and side yards, contrary to Z.R. §§ 23-461 and 23-47; on

slope; and the house is located at the rear of the property, atop a hill; and

WHEREAS, the applicant represents that given the existing topography and grade change, it is not practical to construct an enlargement towards the front of the lot, and that any such enlargement might have a negative impact on the adjacent dwelling to the south since it is constructed on the front of the lot; and

WHEREAS, the applicant represents that to construct a second story and attic in compliance with the required 30 ft. rear yard and 8 ft. side yard, there would only be an additional 269 sq. ft. of floor area on the second floor and 269 sq. ft. of floor area in the attic; construction of an addition to accommodate such limited floor area would not be practical given the costs involved; and

WHEREAS, the applicant has submitted a land use survey/property chart of all of the residentially-occupied zoning lots in the subject R4 district within a 400 ft. radius of the site, which shows that the subject premises is the only single story dwelling located on a hill; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, namely the slope of the site and the location of the residence on the top of the hill, create a practical difficulty in developing the site in compliance with the applicable zoning provisions; and

WHEREAS, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict compliance with the applicable zoning requirements will result in an enlargement that would be habitable or feasible; and

WHEREAS, the applicant states that the bulk of the proposed building is consistent with the surrounding one and two-family, two-story residences; and

WHEREAS, the applicant's survey shows that 85 out of the 102 surrounding residences are two stories; and

WHEREAS, the applicant states that the impact on the surrounding residences' light and air will be minimal; and

condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 21, 2005" - (9) sheets and "Received May 11, 2005" - (2) sheets; and on further condition;

THAT the total attic floor area shall not exceed 569 sq. ft.;

THAT the proposed attic floor area shall be reviewed and confirmed by the Department of Buildings;

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other

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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, May 24, 2005.

319-04-BZ

APPLICANT - Steven Sinacori/Stadtmauer Bailkin, for Joseph De Simone, owner.

SUBJECT - Application September 20, 2004 - under Z.R. §72-21 to permit, in an R5 (Infill) district, approval sought to erect a four-story, 45 foot eight inch high, residential building on a currently unimproved lot consisting of 25,413 SF. There are proposed 39 dwelling units with 28 parking spaces in the cellar. The proposed building is non-compliant to wall height and total height requirements.

PREMISES AFFECTED - 35 McDonald Avenue, a/k/a 25/47 McDonald Avenue, east side, between 20th Street and Terrace Place, Block 895, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Steven Gagliardo.

ACTION OF THE BOARD -Application granted upon condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner

Chin.....3

Negative:.....

..0

Absent: Commissioner Miele

.....1

WHEREAS, the premises is a vacant, triangularly shaped lot located on a block bordered by McDonald Avenue, 20th Street, and Terrace Place, and has approximately 269 ft. of linear frontage on McDonald Avenue; the total lot area is approximately 25,413 sq. ft.; and

WHEREAS, the applicant states that the lot is currently used for the storage of commercial trucks, which is a lawful non-conforming use that will be eliminated upon development of the subject proposal; and

WHEREAS, the applicant also claims that the site is encumbered with a mapped but undeveloped sixty ft. wide portion of 21st Street, which is privately owned and is not dedicated to public use; and

WHEREAS, the area of the portion of the mapped street on the site is approximately 4,735.61 sq. ft., and traverses the lot such that there is a 440.79 sq. ft. portion of the lot isolated from the primary developable portion

THE RESOLUTION -

WHEREAS, the decisions of the Brooklyn Borough Commissioner, dated September 14, 2004 and February 21, 2005, acting on Department of Buildings Application No. 301604299, read, in pertinent part:

"Proposed height and setback is contrary to Zoning Resolution Section 23-631(e)." and

"Proposed front yard is contrary to Z.R. section 23-45."; and

WHEREAS, a public hearing was held on this application on January 11, 2005 after due notice by publication in the City Record, with continued hearings on February 15, 2005, March 29, 2005, and April 19, 2005, and then to decision on May 24, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioners Miele and Chin; and

WHEREAS, Community Board 7, Brooklyn, recommends disapproval of this application; and

WHEREAS, State Senator Carl Andrews recommends approval of this application; and

WHEREAS, certain members of the community appeared in opposition to this application, contending that the height of the proposed building was out of context with the neighborhood; and

WHEREAS, as described in more detail below, the Board asked the applicant to modify the initial proposal in order to minimize the impact that the proposed building would have; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within a R5 zoning district, the proposed development of a four-story residential building on a triangular shaped lot, which does not comply with the zoning regulations for street wall height, total height, and front yard, contrary to Z.R. §§ 23-631(e) and 23-45; and by the street; and

WHEREAS, at the direction of the Board, the applicant filed a companion case under BSA Calendar No. 61-05-A pursuant to General City Law § 35, to allow the proposed building to be erected within the bed of 21st Street; this application was granted the date hereof; and

WHEREAS, the applicant proposes to construct a four-story, 41 ft., 8 inch high building, with approximately 41,900 sq. ft. of floor area, 39 dwelling units, and 27 parking spaces; and

WHEREAS, the proposed development triggers the following waiver requests: (1) a street wall height of 41 ft., 8 inches (30 ft. is the maximum permitted); (2) a total height of 41 ft., 8 inches (33 ft. is the maximum permitted); and (3) a front yard of 10 ft. (15 ft. is the minimum required); and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the

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subject lot in compliance with underlying district regulations: (1) the site is burdened with the afore-mentioned mapped street; and (2) the site is triangularly shaped; and

WHEREAS, as an initial matter, the Board notes that the existence of the mapped street is not necessarily a hardship, given that the Board can allow development to occur within the bed of the street pursuant to a GCL § 35 grant; and

WHEREAS, thus, as noted above, the applicant was directed to make a companion application for a GCL § 35 waiver, so that the street could be developed upon and the isolated portion of the site could be utilized; and

WHEREAS, the applicant states that the triangular shape of the lot, when considered in conjunction with the height limitation, makes it difficult to create a complying building that utilizes available floor area; and

WHEREAS, because of the 15 ft. front yard requirement and the lot's shape, a complying building would have to be sited in the narrower part of the lot; and

WHEREAS, this leads to smaller floor-plates that could only accommodate an F.A.R. of 1.2, which would be insufficient to realize a reasonable return; and

WHEREAS, moreover, the units of a complying development would not meet the applicable light and air requirements; and

WHEREAS, thus, the applicant represents that the requested height and front yard waivers allow the development of a building with floor plates of a size sufficient to accommodate available floor area; and

WHEREAS, the applicant also represents that the front yard waiver minimizes the need for a greater height waiver, thereby creating a building that is more contextual with, and less impactful of, the surrounding residences; specifically, the relocation of the building allows the bulk to be concentrated on McDonald Avenue (a wide street) and away from adjacent residential uses; and

WHEREAS, accordingly, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict

WHEREAS, initially, the applicant proposed a building that fronted on the mapped portion of 21st Street on the site, with a driveway; and

WHEREAS, as noted above, the Board asked the applicant to open up the unmapped portion of 21st Street in order to facilitate the re-siting of the building such that it would front on McDonald Avenue and be situated further away in the rear from adjacent residential buildings, thereby reducing the impact that the height of the building would have; and

WHEREAS, the Board also directed the applicant to consider moving the front of the building towards the lot line, into the required front yard, such that the building could be further pulled away from adjacent residential uses; and

WHEREAS, in response, the applicant abandoned the prior site plan, and repositioned the building on the

compliance with applicable zoning regulations; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed a fully complying building; and

WHEREAS, at the request of the Board, the applicant updated the feasibility study by providing revised comparable land sales for the site valuation, as well as updated comparable sales for the income analysis; and

WHEREAS, additionally, in response to community concerns that certain development projects in the neighborhood had been neglected in the feasibility study, the applicant incorporated into the analysis one certain recent project, and noted that other cited development sites had not resulted in any sales that could be incorporated into the analysis; and

WHEREAS, after making the required adjustments, the applicant concluded that a complying development would not realize a reasonable return due to the site's constraints; specifically, the applicant claimed that a building that complied with both the yard and height requirements would not be able to accommodate sufficient saleable floor area to generate a reasonable return; and

WHEREAS, the Board has reviewed the revised feasibility study and the response to the community objections, and finds them both credible and sufficient; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant states that the proposed building's height and front yard will not negatively affect the character of the neighborhood nor impact adjacent uses; and

WHEREAS, the site is adjacent to many two-and-three story residential buildings to the north, and many two-story residential buildings to the east; and

site such that it fronts on McDonald Avenue, and encroaches into both 21st Street and the required front yard; and

WHEREAS, the Board has reviewed the new site plan and finds that it is superior to that initially proposed in that more open space is created on the northern portion of the site, which will lessen any impact on the adjacent residential uses; and

WHEREAS, the applicant also submitted elevations showing the relationship of the proposed building's envelope to the existing buildings; the Board reviewed these elevations and agrees that the proposed building's envelope is compatible with the existing adjacent residences; and

WHEREAS, in addition, the applicant made the following modifications to the proposal: a reduction in the below-grade parking garage, which lessens

MINUTES

potential construction impacts on adjacent residences, elimination of the balconies on the side and at the rear, and a redesign of the front lobby space; and

WHEREAS, the applicant also reduced the floor-to-floor heights from the initial proposal; and

WHEREAS, the Board finds that these modifications also lead to an improved development proposal; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05-BSA-043K, dated September 20, 2004; 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; Construction Impacts and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

61-05-A

APPLICANT - Steve Sinacori/Stadtmauer Bailkin, for Joseph De Simone, owner.

SUBJECT - Application March 11, 2005 - Proposed erection of a four-story residential building, located partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 35 McDonald Avenue, a/k/a 25/47 McDonald Avenue, east side, between 20th Street and Terrace Place, Block 895, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Steven Gagliardo.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, 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 617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, within a R5 zoning district, the proposed development of a four-story residential building on a triangular shaped lot, which does not comply with the zoning regulations for street wall height, total height, and front yard , contrary to Z.R. §§ 23-631(e) and 23-45; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 11, 2005" - (13) sheets; and on further condition:

THAT the bulk parameters of the proposed building shall be as follows: (1) a street wall height of 41 ft., 8 inch.; (2) a total height of 41 ft., 8 inch.; and (3) a 10 ft. front yard;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 24, 2005.

Commissioner

Chin.....3

Negative:.....0

Absent: Commissioner Miele
.....1

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 21, 2005, acting on Department of Buildings Application No. 301604299, reads, in pertinent part:

"1 The proposed building is in the bed of a mapped street and is contrary to GCL 35"; and

WHEREAS, a public hearing was held on this application on April 19, 2005 after due notice by publication in the City Record, with a continued

MINUTES

hearing on May 24, 2005, and then to decision on May 24, 2005; and

WHEREAS, the premises is the subject of a companion variance application under BSA Calendar Number 319-04-BZ, also decided the date hereof; and

WHEREAS, by letter dated March 29, 2005, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 5, 2005, Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Brooklyn Borough Commissioner, dated February 21, 2005, acting on Department of Buildings Application No. 301604299 as the referenced objection is hereby modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked, "Received May 11, 2005" - one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 24, 2005.

385-03-BZ

APPLICANT - Joseph P. Morsellino, for Fabian Organization II, LLC, owner.

SUBJECT - Application December 12, 2003 - under Z.R. §72-21 to permit the proposed erection of a six-story multiple dwelling with 46 Units, located in an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, dwelling units, and height and setback, is contrary to Z.R. §23-141(c), §23-22 and §23-631(b).

PREMISES AFFECTED - 85-15 and 85-17 120th Street, southeast corner of 85th Avenue, Block 9266, Lots 48 and 53, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and

327-02-BZ

APPLICANT - Harold Weinberg, P.E., for Frank Galeano, owner.

SUBJECT - Application November 4, 2002 - under Z.R. §72-21 to permit the proposed erection of a four story, four family residence, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 82 Union Street, south side, 266'-0" west of Columbia Street, east of Van Brunt Street, Block 341, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Harold Weinberg.

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for deferred decision.

378-03-BZ

APPLICANT - Harold Weinberg, P.E., for The New Way Circus Center by Regina Berenshtein, owner.

SUBJECT - Application December 4, 2003 - under Z.R. §72-21 application seeks to waive sections: 23-141 (Lot Coverage), 23-462 (Side Yards), 23-45 (Front Yard), and 23-631 (Perimeter Wall Height, Sky Exposure Plane and Setback), to allow in a R5 zoning district the construction of a two story building to be used as a non-profit institution without sleeping accommodations for teaching of circus skills.

PREMISES AFFECTED - 2920 Coney Island Avenue, west side, 53.96' north of Shore Parkway, Block 7244, Lot 98, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Harold Weinberg and Regina Berenghtein.

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for continued hearing.

Commissioner

Chin.....3

Negative:.....

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Absent: Commissioner Miele

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ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for decision, hearing closed.

190-04-BZ

APPLICANT - Augusta & Ross, for Ira and Larry Weinstein, LLC, owner.

SUBJECT - Application May 7, 2004 - under Z.R. §72-21

MINUTES

to permit the proposed conversion of a former lead factory, into a multiple dwelling (45 families), with a ground floor waterfront restaurant, and doctor's office, is contrary to Z.R. §22-12, which states that "residential uses" shall be limited to single, two family or semi-detached residences in an R3-1 zoning district.

PREMISES AFFECTED - 2184 Mill Avenue, a/k/a 6001 Strickland Avenue, southwest corner, Block 8470, Lot 1090, Part of Lot 1091, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Mitchell Ross.

For Opposition: Roberta Sherman, Laura Cotrich and Alan Maisel.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner

Chin.....3

Negative:.....

..0

Absent: Commissioner Miele
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THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner

Chin.....3

Negative:.....

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Absent: Commissioner Miele.....1

ACTION OF THE BOARD - Laid over to June 14, 2005, at 1:30 P.M., for decision, hearing closed.

41-04-BZ

APPLICANT - Sheldon Lobel, P.C. for 2113 First Avenue, LLC, owner.

SUBJECT - Application February 23, 2004 - Pursuant to Z.R. SUBJECT - Application June 18, 2004 - under Z.R. §72-21 to permit in a M1-1 and M1-2 district, approval sought to legalize residential occupancy of 73 dwelling units in a four-story and basement industrial building, which was constructed in 1931. The legal use is listed artist loft space for the 73 units. There are proposed 18 parking spaces on the open portion of the lot, which consists of 25,620 SF in its entirety. The use is contrary to district use regulations.

PREMISES AFFECTED - 255 McKibbin Street, between Bushwick Avenue and White Street, Block 3082, Lot 65, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jordan Most and Robert Pauls.

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for continued hearing.

§ 72-21, to permit the proposed legalization of the existing auto laundry, lubritorium, and accessory retail building in a C2-5 overlay within R7-2 Zoning District, and to vary Sections 33-00 and 22-00 of the Resolution.

PREMISES AFFECTED - 338 East 109th Street aka 2113 First Avenue, First Avenue between East 108th and East 109th Streets, Block 1680, Lots 27 & 32, Borough of Manhattan.

COMMUNITY BOARD #11M

APPEARANCES -

For Applicant: Doniminick and Sheldon Lobel.

ACTION OF THE BOARD - Laid over to August 16, 2005, at 1:30 P.M., for continued hearing.

212-04-BZ

APPLICANT - Rampulla Associates Architects, for G.A.C. Caterers, Inc., owner.

SUBJECT - Application May 21, 2004 - under Z.R. §72-21 to permit the proposed erection and maintenance of a cellar and two (2) story photography and video studio, Use Group 6, located in an R3-2 zoning district, which is contrary to Z.R. §22-10.

PREMISES AFFECTED - 2360 Hylan Boulevard, a/k/a 333 Otis Avenue, between Otis and Bryant Avenues, Block 3905, Lot 17, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Philip Rampulla.

For Opposition: Edward Vamero.

ACTION OF THE BOARD - Laid over to July 19, 2005, at 1:30 P.M., for continued hearing.

234-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Zunick Realty Corp., owner.

257-04-BZ

APPLICANT - Patrick W. Jones, Petraro & Jones, LLP, for Boerum Place, LLC, owner.

SUBJECT - Application November 19, 2004 - under Z.R. §72-21, to permit the proposed construction of an eight story mixed-use, retail-residential building, located in an R6A, R6, C2-4 and C2-3 zoning districts which does not comply with the zoning requirements for floor area ratio, lot coverage, building height and loading berth, is contrary to Z.R. §23-145, §33-121, §23-633, §35-25 and §36-22.

PREMISES AFFECTED - 252/60 Atlantic Avenue (a/k/a 83/87 Boerum Place; 239/47 Pacific Street), east side of Boerum Place, between Atlantic Avenue and Pacific Street, Block 181, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Patrick Jones, Daniel P. Lane, Vincent

MINUTES

Ferrandino and Sandy Balboza.

ACTION OF THE BOARD - Laid over to June 14, 2005, at 1:30 P.M., for continued hearing.

267-04-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Kermit Square, LLC, owner.

SUBJECT - Application July 30, 2004 - under Z.R. §72-21, to permit the proposed thirty-two unit multiple dwelling, Use Group 2, located in a C8-2 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 362/64 Coney Island Avenue, northwest corner of Kermit Place, Block 5322, Lot 73, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Peter Geis, Howard Hornstein and Jieming Wang.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner

Chin.....3
Negative:.....0

Absent: Commissioner Miele
.....1

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for decision, hearing closed.

290-04-BZ

APPLICANT - Stuart A. Klein, Esq., for Alex Lokshin - Carroll Gardens, LLC, owner.

SUBJECT - Application August 20, 2004 - under Z.R. §72-21 to permit, in an R4 zoning district, the conversion of an existing one-story warehouse building into a six-story and

SUBJECT - Application November 26, 2004 - Z.R. §72-21, to permit the proposed development of a seven-story residential building with ground floor commercial space in a C6-2A Special Lower Manhattan District and the South Street Seaport Historic District, to vary Sections 23-145, 23-32, 23-533, 23-692, 23-711, and 24-32 of the Resolution. PREMISES AFFECTED - 246 Front Street a/k/a/ 267 1/2 Water Street, Through lot fronting on Front and Water Streets, 126 feet north of the intersection of Peck Slip and Front Street, and 130 feet north of the intersection of Peck Slip and Water Street, Block 107, Lot 34, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: Deirdre A. Carson.

For Opposition: Rosemary Birardi, Rick Liss and Jou Greenberg.

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for continued hearing.

390-04-BZ

penthouse mixed-use residential/commercial building, which is contrary to Z.R. §§22-00, 23-141(b), 23-631(b), 23-222, 25-23, 23-45, and 23-462(a).

PREMISES AFFECTED - 341-349 Troy Avenue (a/k/a 1515 Carroll Street), Northeast corner of intersection of Troy Avenue and Carroll Street, Block 1407, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #9BK

APPEARANCES -

For Applicant: Gregory Chillino for Stuart Klein.

ACTION OF THE BOARD - Laid over to July 19, 2005, at 1:30 P.M., for continued hearing.

299-04-BZ

APPLICANT - Patrick W. Jones, Petraro & Jones, LLP, for Sutphin Boulevard, owner.

SUBJECT - Application September 7, 2004 - under Z.R. §72-21 - Proposed construction of a one-story retail building, Use Group 6, located in an R3-2 zoning district, is contrary to Z.R. §22-11.

PREMISES AFFECTED - 111-02 Sutphin Boulevard, (a/k/a 111-04/12 Sutphin Boulevard), southeast corner of 111th Avenue, Block 11965, Lots 26, 188 and 189 (tentative 26), Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Patrick Jones, Marc Chemtob, Dan Lane, Theom Ven and Vince Ferrandino.

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for continued hearing.

374-04-BZ

APPLICANT - Deirdre A. Carson, Esq., Greenberg Traurig, LLP for Micro Realty Management, LLC c/o Werber Management, owner.

APPLICANT - Walter T. Gorman, P.E., for J R & J Auto Corp., owner.

SUBJECT - Application December 13, 2004 - under Z.R. §72-21, the reestablishment of a gasoline service station, Use Group 16, motor vehicles, located in a C1-3 within an R6 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 2290 Boston Road, southeast corner of Astor Avenue, Block 4343, Lot 31, Borough of The Bronx.

COMMUNITY BOARD #11BX

APPEARANCES -

For Applicant: John Ronan

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner

Chin.....3
Negative:.....0

Absent: Commissioner Miele
.....1

ACTION OF THE BOARD - Laid over to June 14, 2005, at 1:30 P.M., for decision, hearing closed.

MINUTES

401-04-BZ

APPLICANT - Eric Palatnik, P.C., for Masores Bais Yaakov, owner.

SUBJECT - Application December 28, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing yeshiva, Use Group 3, located in an R4 & R6 zoning districts, which does not comply with the zoning requirements for floor area, lot coverage, wall height and the sky exposure, is contrary to Z.R. §24-11 and §24-522.

PREMISES AFFECTED - 1395 Ocean Avenue, northeast corner of Avenue "I", Block 7566, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner

Chin.....3

Negative:.....
.0

Absent: Commissioner Miele
.....1

ACTION OF THE BOARD - Laid over to June 14, 2005, at 1:30 P.M., for decision, hearing closed.

SUBJECT - Application February 25, 2005 - under Z.R. §73-622 to permit an enlargement to the rear of a single family home to vary sections ZR 23-141 floor area and open space, ZR 23-461 side yards and ZR 23-47 for rear yard. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED - 1826 East 28th Street, west side, 200'-0" south of Avenue "R", Block 6833, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Harold Weinberg and Yossi Cohen

For Opposition: John J. Howard, Edward Jacob, Richard C.?, P. Michittar, Widh J. Pharaon, David Gross, Carole Farnum, Antoinette Vasile and Roy Alexander.

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 6:15 P.M.

4-05-BZ

APPLICANT - Sheldon Lobel, P.C., for V.G.F. Property, LLC, owner.

SUBJECT - Application January 12, 2005 - under Z.R. §73-49, to permit parking on the roof of an as-of-right commercial building located in an M1-1 zoning district. The application seeks to create 114 rooftop parking spaces.

PREMISES AFFECTED - 69-02 Garfield Avenue, south side, between 69th Street and 69th Place, Block 2438, Lot 20, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner

Chin.....3

Negative:.....
.0

Absent: Commissioner Miele
.....1

ACTION OF THE BOARD - Laid over to June 14, 2005, at 1:30 P.M., for decision, hearing closed.

43-05-BZ

APPLICANT - Harold Weinberg, P.E., for Yossi Cohen, owner.

BULLETIN

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June 16, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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182-02-BZ	1705 Richmond Avenue, a/k/a 2990 Victory Boulevard, Staten Island
146-03-BZ & 139-02-A	1511 Third Avenue, a/k/a 201 East 85 th Street, Manhattan
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356-04-BZ	60 East 55 th Street, Manhattan
344-03-BZ & 345-03-A	2777 Flatbush Avenue, Brooklyn
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405-04-BZ	1734 East 27 th Street, Brooklyn

DOCKETS

New Case Filed Up to June 7, 2005

122-05-BZ B.BK. 525 Clinton Avenue,
east side, 205.83' south of Fulton Street and 230.83' north of Atlantic Avenue, Block 2011, Lot 12, Borough of Brooklyn. Proposed development of thirteen story residential building, with a community facility on the ground and second floors, and forty-one accessory parking spaces on the site, requires a special permit from the Board as per §73-52.

COMMUNITY BOARD #2BK

123-05-BZ B.BK. 161 Ashland Place,
northeast corner of DeKalb Avenue, Block 2087, Lot 1, Borough of Brooklyn. Applic. #301678940. Proposed development of a tennis bubble and surrounding colonnaded parapet, on the roof of a five story, as-of-right athletic recreation and wellness center, presently under construction, located in an R6 zoning district, requires a special permit from the Board as per § 73-641.

COMMUNITY BOARD #2BK

124-05-BZ B.M. 482 Greenwich Street,
(a/k/a 527 Canal Street), northwest corner, Block 595, Lot 52, Borough of Manhattan. Applic. #104054871. Proposed construction of eleven story building, with residential use on it upper ten floors, located in a C6-2A zoning district, which does not comply with the zoning requirements for mixed use, floor area, lot coverage, side yard, court regulations, parking, residential floor area, wall location, height and setback, also curb cut, is contrary to Z.R. §35-00, §23-145, §35-52, §23-83, §13-143, §35-24 and §36-53.

COMMUNITY BOARD #2M

125-05-BZ B.S.I. 47 Little Clove Road,
corner of Little Clove Road and Cayuga Avenue, Block 662, Lot 29, Borough of Staten Island. Applic. #500507588. Proposed ambulatory diagnostic/treatment care facility (a/k/a medical offices), located in an R3-1 zoning district, with more than 1500 feet of floor area, requires a special permit from the Board as per §73-125.

COMMUNITY BOARD #1SI

126-05-BZ B.BK. 1282 East 27th Street,
northwest corner of Avenue "M", Block 7644, Lot 79,

Borough of Brooklyn. Alt. #301934236. Proposed enlargement and alteration of an existing one family dwelling, located in an R-2 zoning district, which does not comply with the zoning requirements for floor area, open space, also side and rear yards, is contrary to §23-141(a), §23-46 and §23-47.

COMMUNITY BOARD #14BK

127-05-BZ B.BK. 9216 Church Avenue, a/k/a 9220 Church Avenue, southwest corner of East 93rd and Linden Boulevard, Block 4713, lot 42, Borough of Brooklyn. Alt.1 #301933022. The legalization of an accessory drive-through facility, for an as-of-right food restaurant, located in an R5/C1-3 zoning district, requires a special from the Board as per §73-243.

COMMUNITY BOARD #17BK

128-05-BZ B.BK. 1406 East 21st Street,
between Avenues "L and M", Borough of Brooklyn. Alt.1 #301946438. Proposed enlargement of an existing single family residence, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space ratio, also side and rear yard, is contrary to Z.R. §23-141, §23-461 and §23-47.

COMMUNITY BOARD #14BK

129-05-BZ B.BK. 1161 East 21st Street,
between Avenues "J and K", Borough of Brooklyn. Alt.1 #301946447. Proposed enlargement of an existing single family residence, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space ratio, and rear yard, is contrary to Z.R. §23-141, and §23-47.

COMMUNITY BOARD #14BK

130-05-BZ B.M. 74-88 Avenue of the Americas, a/k/a 11-15 Thompson Street and 27-31 Grand Street, east side of Avenue of the Americas, between Grand and Canal Streets, Block 227, Lots 50, 52 and 56, Borough of Manhattan. Applic.#104062648. Proposed development of a mixed-use building(residential and commercial), located in an M1-5B zoning district, is contrary to Z.R. §42-10 and §42-14(D) (2).

COMMUNITY BOARD #2M

131-05-BZ B.Q 72-01/72-11
Roosevelt
Avenue, 37-61/69 72nd Street and 72-18 Broadway,
corner of 72nd Street and Broadway, Block 1283, Lot
72, Borough of Queens. N.B. #402060899. Proposed
construction of a five story mixed-use office and retail
building, located in a C4-3 zoning district, which does

ratio, front wall height, number of parking spaces and
loading berth, is contrary to Z.R. §33-122, §33-432,
§36-21, §33-62 and §32-21.
COMMUNITY BOARD #4Q

DOCKETS

not comply with the zoning requirements for floor area

132-05-BZ B.BK. 220 West End
Avenue,
west side, between Oriental Boulevard and Esplanade,
Block 8724, Lot 158, Borough of Brooklyn. Alt.
#301911992. Proposed enlargement of a single family
dwelling, located in an R3-1 zoning district, which does
not comply with the zoning requirements for floor area,
floor area ratio, lot coverage, rear yard and perimeter
wall, is contrary to Z.R. §23-141, §23-47 and §23-631.
COMMUNITY BOARD #15BK

133-05-BZ B.BK. 1231 East 21st
Street,
southeast corner of Avenue "K", Block 7621, Lot 41,
Borough of Brooklyn. Alt. #301691097. Proposed
enlargement of a single family dwelling, located in an
R2 zoning district, which does not comply with the
zoning requirements for open space ratio and floor
area ratio, is contrary to Z.R. §23-141.
COMMUNITY BOARD #14BK

**DESIGNATIONS: D-Department of Buildings; B.BK.-
Department of Buildings, Brooklyn; B.M.-Department of
Buildings, Manhattan; B.Q.-Department of Buildings,
Queens; B.S.I.-Department of Buildings, Staten Island;
B.BX.-Department of Building, The Bronx; H.D.-Health
Department; F.D.-Fire Department.**

CALENDAR

JULY 19 , 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, July 19, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SUBJECT - Application June 7, 2005 - Extension of Term/Amendment/Waiver for an eating and drinking establishment with no entertainment or dancing and occupancy of less than 200 patrons, UG 6 located in a C-3 (SRD) zoning district.

PREMISES AFFECTED - 227 Mansion Avenue, Block 5206, Lot 26, Borough of Staten Island

COMMUNITY BOARD# 3SI

SPECIAL ORDER CALENDAR

130-59-BZ

APPLICANT - Joseph P. Morsellino, for Doyle B. Shaffer, Inc., owner.

SUBJECT - Application March 18, 2005 - Extension of Term/Waiver of an existing parking area accessory to a funeral home. The premise is located in C1-2 in a R3-2 zoning district.

PREMISES AFFECTED - 45-17 Little Neck Parkway, Pembroke Avenue and Little Neck Parkway, Block 8260, Lot 98, Borough of Queens.

COMMUNITY BOARD#11Q

364-89-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Kellarakos Realty, Inc., owner; Balvinder Bains, lessee.

SUBJECT - Application April 4, 2005 - Extension of Term of a Variance for an automotive service station (UG16). The premise is located in an R-6 zoning district.

PREMISES AFFECTED - 30-75 21st Street, southeast corner of 30th Drive, Block 551, Lot 15, Borough of Queens.

COMMUNITY BOARD# 1Q

169-91-BZ

APPLICANT - Ellen Hay @ Wachtel & Masyr, LLP, for Broadway Wilson Realty, LLC, owner; Crunch Fitness International, Inc., lessee.

SUBJECT - Application March 21, 2005 - Extension of Term for the continued operation of a PCE/Waiver and Amendment to legalize additional floor area. The premise is located in a M1-5B zoning district.

PREMISES AFFECTED - 404 Lafayette Street aka 708 Broadway, Lafayette Street and East 4th Street, Block 545, Lot 6, Borough of Manhattan.

COMMUNITY BOARD 2M

132-97-BZ

APPLICANT - Alan R. Gaines, Esq., for Deti Land, LLC, owner; Fiore Di Mare LLC, lessee.

302-04-BZ

291-04-A

APPLICANT - Eric Palatnik, P.C., acting of Counsel to Charles Foy, Esq., for H & L Miller, A New York Partnership, owner.

SUBJECT - Application December 21, 2004 - Proposed enlargement of a zoning lot, on which an existing eating and drinking establishment rests, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -90-19 Metropolitan Avenue, northwest corner of Trotting Course Lane, Block 3177, Lot 34, Borough of Queens.

21-05-A

APPLICANT -Rampulla Associates Architects, for Geraldo Campitiello, owner.

SUBJECT - Application February 4, 2005 -Proposed addition to an existing banquet hall, which will be located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -2380 Hylan Boulevard, south side of Otis Avenue, Block 3904, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

JULY 19, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, July 19, 2005, at 1:30 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

APPLICANT - Martyn & Don Weston for Regina

CALENDAR

Formisano, owner.

SUBJECT - Application September 10, 2004 - under Z.R.§72-21 to permit the proposed construction of a residential building on a vacant lot, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 40 Woodhull Street, south side, 85' west of Hicks Street, Block 363, Lot 20, Borough of Brooklyn.

COMMUNITY BOARD #6BK

387-04-BZ

APPLICANT - Eric Palatnik, P.C., for Aspinwal Building Corp., (contract vendee).

SUBJECT - Application December 10, 2004 - under Z.R.§72-21 to permit the proposed construction of a one story and cellar building (retail and office), Use Group 6, located in an RS-2(HS) zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 908 Clove Road (formerly 904 and 908 Clove Road), east side, between Bard and Tyler Avenues, Block 323, Lot 42 (previously Lots 42 and 44), Borough of Staten Island.

COMMUNITY BOARD #1SI

31-05-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Larry Warren, owner.

SUBJECT - Application April 28, 2005 - under Z.R.§73-622 to permit the enlargement to a single family home to vary sections ZR 23-141 floor area, ZR 23-461 for side yards and ZR 23-631 for perimeter wall height. The premise is located in an R2X (OP) zoning district.

PREMISES AFFECTED - 1897 East Second Street, between Billings Place and Colin Place, Block 6681, Lot 211, Borough of Brooklyn.

COMMUNITY BOARD #15BK

34-05-BZ

APPLICANT - Sheldon Lobel, P.C., for Robert Hakim, owner.

SUBJECT - Application February 24, 2005 - under Z.R.§73-622 to permit the proposed enlargement fo an existing one family dwelling, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, open space ratio, also side and rear yards, is contrary to Z.R. §23-141, §23-461(a) and §23-47.

PREMISES AFFECTED - 1975 East 24th Street, east side, between Avenues "S" and "T", Block 7303, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #15BK

39-05-BZ

APPLICANT - Eric Palatnik, P.C. for Yeshivas Ahavas

REGULAR MEETING

TUESDAY MORNING, JUNE 7, 2005

10:00 A.M.

Israel Inc., owner.

SUBJECT - Application February 24, 2005 - Under Z.R. §72-21, to permit the enlargement of the existing Use Group 3 Yeshiva, in an R6 Zoning District and to vary Sections 24-11 (Lot coverage), 24-35(b) (Side yard), and 24-522 (Perimeter wall height, setback, and sky exposure plane) of the Resolution.

PREMISES AFFECTED - 6 Lee Avenue, West side of Lee Avenue between Clymer and Taylor Streets, Block 2173, Tentative Lot 35 (Formerly Lots 31 & 35), Borough of Brooklyn.

COMMUNITY BOARD #1BK

64-05-BZ

APPLICANT - Paul F. Bonfilio, for Patrick & Elizabeth O'Connor, owner.

SUBJECT - Application March 16, 2005 - under Z.R.§72-21 to construct a single family detached residence with less than the required lot area ZR 23-32 and less than the required side yard width ZR 23-461. The vacant lot/site is located in a R1-2 zoning district.

PREMISES AFFECTED - 40 Conyngham Avenue, west side, between Springhill and Castleton Avenues, Block 101, Lot 445, Borough of Staten Island.

COMMUNITY BOARD #1SI

71-05-BZ

APPLICANT - Sheldon Lobel, P.C., for Barbara and Marc Tepler, owner.

SUBJECT - Application March 23, 2005 - under Z.R.§ 73-622 to permit the enlargement of a single family residence which exceeds the allowable floor area and less than the minimum required open space per ZR23-241, less than the minimum side yard per ZR23-46 and less than the minimum rear yard per ZR23-47. The premise is located in an R-2 zoning district.

PREMISES AFFECTED - 1226 East 29th Street, west side, between Avenues "L and M", Block 7646, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Pasquale Pacifico, Executive Director

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

MINUTES

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, March 29, 2005, were approved as printed in the Bulletin of April 7, 2005, Volume 90, Nos. 15-16.

SPECIAL ORDER CALENDAR

1111-62-BZ

APPLICANT - Sheldon Lobel. P.C., for 200 East Tenants Corporation, owner; Adonis Parking, LLC, lessee.

SUBJECT - Application September 23, 2004 - Extension of Term of a variance to permit transient parking beyond the Ten year term expiring on March 26, 2003 in the C5-2 portion of the lot.

PREMISES AFFECTED - 201 East 56th Street, a/k/a 935-951 Third Avenue, 201-207 East 56th Street and 200-210 East 57th Street, Manhattan.

COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Application granted on conditions.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair Babbar.....1

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening and, pursuant to Z.R. § 11-411, an extension of the term of the variance, which expired on March 26, 2003; and

WHEREAS, a public hearing was held on this application on May 17, 2005 after due notice by publication in *The City Record*, and then to decision on June 7, 2005; and WHEREAS, Community Board 6, Manhattan, recommends approval of this application; and

WHEREAS, on March 26, 1963, under the above referenced calendar number, the Board granted an application to permit the use of surplus parking spaces in a multiple dwelling for transient parking for a term of 20 years pursuant to Section 60 of the Multiple Dwelling Law; and

WHEREAS, since the original grant, the applicant has obtained subsequent minor amendments and extensions of the term of the variance, the most recent extension being granted on October 14, 1997; and

WHEREAS, the subject garage occupies the first floor, cellar and sub-cellar of the building; and

WHEREAS, the Board finds that this application for an extension of term is appropriate to grant.

Therefore it is Resolved, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure and *reopens and amends* the resolution, said resolution having been adopted on March 26, 1963, and subsequently amended and extended, and extends the term of the variance, which expired on March 26, 2003, so that, as amended, this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional ten years from March 26, 2003, expiring on March 26, 2013; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received May 25, 2005"- (3) sheets; *and on further condition*:

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 shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application #103829699)

Adopted by the Board of Standards and Appeals, June 7, 2005.

1129-64-BZ

APPLICANT - Sheldon Lobel. P.C., for 147-36 Brookville Boulevard Corp., owner.

SUBJECT - Application November 10, 2004 - Extension of term filed pursuant to sections 72-01 and 72-22, which was originally granted March 2, 1965, to permit the erection of a one story enlargement to an existing building used for the sale of auto supplies in an R3-2 zoning district.

PREMISES AFFECTED - 147-36 Brookville Boulevard, southwest corner of 147th Road and Brookville Boulevard, Block 13729, Lot 33, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

MINUTES

Absent: Vice-Chair
Babbar.....1

THE RESOLUTION -

WHEREAS, this is an application for a reopening and, pursuant to Z.R. §§ 72-01 and 72-22, an extension of the term of the variance, which will expire on June 10, 2005; and

WHEREAS, a public hearing was held on this application on May 17, 2005 after due notice by publication in *The City Record*, and then to decision on June 7, 2005; and WHEREAS, Community Board 13, Queens, and the Queens Borough President recommend approval of this application subject to certain conditions listed below; and

WHEREAS, on March 2, 1965, under the above referenced calendar number, the Board granted an application to permit, in an R3-2 district, the erection of a one-story enlargement to an existing building to be used for the sale of auto supplies for a term of ten years; and

WHEREAS, since the original grant, the applicant has obtained subsequent extensions of the term of the variance, the most recent extension being granted on October 16, 1996; and

WHEREAS, the subject building is located on the southwest corner of 14th Road; and

WHEREAS, in a letter dated January 13, 2005 to the Queens Borough President, and in a subsequent letter to the Board dated May 17, 2005, the owner, Melvin Gallub of Rosedale Auto Parts, Inc., agreed to comply with certain conditions requested by the Queens Borough President and Community Board 13, including: posting signs and taking other necessary action to discourage clientele from replacing auto parts or doing mechanical work on the street outside the establishment; removing and permanently banning abandoned vehicles from the parking lot; performing general maintenance and improvements to the property; performing a general clean-up of the property and continuing to maintain the property free of litter; maintaining bushes and shrubs; discouraging motorists from using the parking lot as a public street by keeping one gate closed except when actually in use; and updating, removing and replacing signage affixed to the building in accordance with the Building Code; and

WHEREAS, therefore, the Board finds that this application for an extension of term is appropriate to grant.

Therefore it is Resolved, that the Board of Standards and Appeals, *reopens and amends* the resolution, said resolution having been adopted on March 2, 1965, and subsequently amended and extended, and extends the term of the variance, which will expire on June 10, 2005 so that, as amended, this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional ten years from June 10, 2005 expiring on June 10, 2015; *on condition* that all work shall substantially

conform to drawings as they apply to the objection above-noted, filed with this application marked "Received May 25, 2005"-(3) sheets; *and on further condition*:

THAT all mechanical work and replacement of auto parts shall take place on the site and no work shall be done on the streets surrounding the site; signs shall be posted to that effect;

THAT any and all abandoned vehicles shall be removed from the parking lot;

THAT general maintenance and improvements shall be performed on the property, including trim painting, litter removal, and the clean-up of bushes and shrubs;

THAT the gates to the parking area shall be closed at all times except when in actual use;

THAT the above conditions shall appear on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT the signs affixed to the building shall be updated, removed and replaced in compliance with the Building Code;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application #402017571)

Adopted by the Board of Standards and Appeals, June 7, 2005.

258-90-BZ

APPLICANT - Sheldon Lobel, P.C., for John Isikli, owner.
SUBJECT - Application March 31, 2005 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to obtain a certificate of occupancy for the proposed restaurant and banquet hall.

PREMISES AFFECTED - 2337 Coney Island Avenue, easterly side of Coney Island Avenue between Avenue T and Avenue U, Block 7315, Lot 73, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....

MINUTES

.....0
Absent: Vice-Chair
Babbar.....1

THE RESOLUTION -

WHEREAS, this is an application for waiver of the Rules of Practice and Procedure, and an extension of

WHEREAS, on December 10, 1991, the Board granted a variance application under the subject calendar number to permit the legalization of the conversion of the second floor of a two-story restaurant and residential building to a restaurant and banquet hall, and the extension of the non-conforming eating and drinking use into the rear yard; and

WHEREAS, the grant was subsequently modified to permit new interior layouts on March 2, 1999; and

WHEREAS, pursuant to the resolution issued for this modification, a new certificate of occupancy was to be obtained by March 2, 2000; and

WHEREAS, the applicant states that the reason for the requested extension of time is due to delay in processing the certificate of occupancy application at the Department of Buildings because of a change in ownership; and

WHEREAS, therefore, the Board has determined that the evidence in record supports the grant of the requested waiver and extension.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on December 10, 1991, and subsequently amended on March 2, 1999, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete obtain a certificate of occupancy for the restaurant and banquet hall, for an additional eighteen (18) months from the date of this resolution to expire on December 7, 2006; *on condition:*

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 941/1999)

Adopted by the Board of Standards and Appeals, June 7, 2005.

189-96-BZ

APPLICANT - John C Chen, for Ping Yee, owner; Edith D'Angelo-Cnandonga, lessee.

SUBJECT - Application September 8, 2004 - Extension of

time to obtain a certificate of occupancy for a restaurant and banquet hall previously approved by the Board; and

WHEREAS, a public hearing was held on this application on May 24, 2005 after due notice by publication in the *City Record*, and then to decision on June 7, 2005; and

Term-Waiver- for an eating and drinking establishment with dancing, Located in an C2-3 overlay within an R6 zoning district.

PREMISES AFFECTED - 85-12 Roosevelt Avenue, (85-10 Roosevelt Avenue), south side of Roosevelt Avenue, 58' east side of Forley Street, Block 1502, Lot 3, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES -

For Applicant: John Chen.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

.....0
Absent: Vice-Chair
Babbar.....1

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening and an extension of the term of a special permit previously granted by the Board; and

WHEREAS, a public hearing was held on this application on March 29, 2005, after due notice by publication in the *City Record*, with a continued hearing on May 10, 2005, and then to decision on June 7, 2005; and

WHEREAS, Community Board No. 4, Queens, recommends disapproval of the subject application, and expressed certain concerns related to patrons or employees loitering outside of the rear of the establishment during business hours (until 5AM); and

WHEREAS, the Board directed the applicant to address these concerns; and

WHEREAS, the premises is within a C2-3 (R6) zoning district, is located on the south side of Roosevelt Avenue, west of Forley Street, and is currently improved upon with a two-story building, with an eating and drinking establishment with entertainment and dancing (U.G. 12) on the ground floor; and

WHEREAS, on May 19, 1998, under the subject calendar number, the Board granted a special permit under Z.R. § 73-244, permitting the change in use of an existing eating and drinking establishment (U.G. 6) to an eating and drinking establishment with entertainment and dancing (U.G. 12); and

WHEREAS, the Board granted an extension of the special permit on May 19, 2001; such extension expired on May 19, 2004; and

WHEREAS, the applicant now seeks an extension

MINUTES

of the term of the special permit for three years; and

WHEREAS, in response to the Community Board concerns and at the direction of the Board, the applicant has agreed to install an alarm and panic bar on the door in the rear of the building on Forley Street and indicate

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the resolution for three years from May 19, 2004 expiring May 19, 2007; *on condition* that this use shall substantially conform to drawings for the ground floor and cellar of the building filed with this application marked 'Received May 19, 2005'-(5) sheets; and *on further condition*:

THAT all conditions from prior resolution(s) not specifically waived by the Board remain in effect and shall be listed on the certificate of occupancy if listed previously;

THAT the interior layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 401982075)

Adopted by the Board of Standards and Appeals, June 7, 2005.

234-98-BZ

APPLICANT - Walter T. Gorman, P.E., for Jose Vasquez, owner; Harlem Hand Carwash, lessee.

SUBJECT - Application November 18, 2003 - reopening for an extension of time to complete construction which expires on November 23, 2003.

PREMISES AFFECTED - 2600-2614 Adam Clayton Powell Jr. Boulevard, a/k/a 2600-2614 7th Avenue, west side of Adam Clayton Powell Jr. Boulevard, block front from W. 150th Street to W. 151st Street, Block 2036, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES -

For Applicant: John Ronan.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

that such door is "exit only" to minimize loitering on a residential street; and

WHEREAS, the Board has determined that the evidence in the record supports the grant of the requested extension of term.

Chin.....3

Negative:.....0

Absent: Vice-Chair

Babbar.....1

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, an extension of time to complete construction of, and obtain a certificate of occupancy for, an automotive use previously approved by the Board, and an amendment to the previously approved plans; and

WHEREAS, a public hearing was held on this application on January 13, 2004 after due notice by publication in the *City Record*, with continued hearings on March 9, 2004, April 27, 2004, June 8, 2004, September 21, 2004, November 9, 2004, February 1, 2005, May 17, 2005, and then to decision on June 7, 2005; and

WHEREAS, on November 23, 1999, the Board adopted a resolution under the subject calendar number, authorizing, within an R7-2 zoning district, the reinstatement of a gasoline service stations and the establishment of an automatic auto laundry for a term of twenty years; and

WHEREAS, the period in which to complete construction and obtain a certificate of occupancy expired on November 23, 2003; and

WHEREAS, the applicant represents that negotiations between the property owner and prospective tenants were not successful, and that no construction has been initiated, thus necessitating the request for an extension of time; and

WHEREAS, as to the application for an amendment, the applicant initially proposed the retention of the car wash use and the elimination of the gasoline service station use; and

WHEREAS, the applicant then proposed the creation of a public parking lot and a stand-alone lube oil facility; and

WHEREAS, in response to concerns of the Community Board, the proposal was modified to eliminate the oil lube facility; thus, the final uses approved on the site will be car wash with accessory sales, and public parking lot; and

WHEREAS, again in response to concerns of the Community Board, the applicant has eliminated two curb cuts on Adam Clayton Powell Jr. Blvd., and one curb cut on West 150th Street, as reflected on the BSA-approved plans; and

WHEREAS, at the request of the Board, the applicant also agreed to remove a cashier booth, as

MINUTES

well as relocate the carwash queue closer to the 150th Street lot line; and

WHEREAS, based upon the above, the Board has determined that the evidence in record supports the grant of the requested waiver, extension and amendment, with conditions as reflected below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, said resolution having been adopted on November 23, 1999, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete construction and obtain a certificate of occupancy for two additional years from the date of this

THAT all signage on the site shall conform to the BSA-approved signage plan;

THAT the cashier booth currently at the site shall be removed;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application Nos. 102845398 & 101850757)

Adopted by the Board of Standards and Appeals, June 7, 2005.

182-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Marcello Porcelli, owner; BP Amoco, plc, lessee.

SUBJECT - Application December 20, 2004 - reopening to request an amendment to redesign a gasoline service station previously approved in 2003. Relocation and reduction of floor area of the convenience store, relocate the fuel dispenser islands and canopy, increase the curb cuts from three to five and to modify the landscaping. The premise is located in R3-2/C1-2 and R3-2 zoning district.

PREMISES AFFECTED - 1705 Richmond Avenue, aka 2990 Victory Boulevard, southeast corner of the intersection of Richmond Avenue and Victory Boulevard, Block 2072, Lot 42, Borough of Staten Island.

COMMUNITY BOARD #2S.I.

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

resolution to expire on June 7, 2007, to permit an amendment to the previously approved plans, to permit the elimination of the gasoline sales use, and to permit the public parking use; *on condition* that all work shall substantially conform to drawings as filed with this application, marked 'Received March 31, 2005'-(4) sheets and 'May 19, 2005'-(1) sheet; and *on further condition*:

THAT the existing chain link fence shall be repaired or replaced;

THAT two curb cuts on Adam Clayton Powell Jr. Blvd., and one curb cut on West 150th Street, shall be removed, as illustrated on the BSA-approved plans;

Absent: Vice-Chair Babbar.....1

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair Babbar.....1

THE RESOLUTION -

WHEREAS, this is an application made pursuant to Z.R. §§ 72-02 and 72-22 for a re-opening and an amendment to the resolution of a previously granted Board variance, permitting the reconstruction of an existing gasoline service station; and

WHEREAS, a public hearing was held on this application on May 10, 2005, after due notice by publication in the *City Record*, and then to closure and decision on June 7, 2005; and

WHEREAS, Community Board No. 2, Staten Island, recommends approval of the subject application; and

WHEREAS, on July 25, 1957, under the calendar number 32-57-BZ, the Board granted a variance to permit the reconstruction of an existing automotive station; and

WHEREAS, this grant has been modified and amended at various times, most recently in 2003; and

WHEREAS, the site is currently within an R3-2/C1-2 and R3-2 zoning district; and

WHEREAS, the owner has not yet commenced reconstruction of the gas station as approved by the Board on January 7, 2003; and

WHEREAS, due to a change in the owner's standards, the applicant now seeks an amendment to the resolution to permit: relocation of the convenience store and a reduction in the size of the store; reconfiguration of the proposed six fuel pumps; redesign of the canopy; certain changes with respect to the side yards and front yards due to relocating the store, canopy and dispenser islands; an increase in curb cuts from three to five; relocation of tanks; to increase the trash enclosure; modification of certain landscape and curbing; and increase in signage; and

MINUTES

WHEREAS, at the request of the Board, the applicant agreed to extend the planting area along the northerly side of the lot on Richmond Avenue, create a second door to the convenience store, and reduce the northerly curb cut on Richmond Avenue; and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports a grant of the requested amendment to the prior resolution, pursuant to Z.R. §§ 72-02 and 72-22.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution pursuant to Z.R. §§ 72-02 and 72-22, so that as amended this portion of the resolution shall read: "to permit in an R3-2 zoning district with a C1-2 overlay zoning district, the erection of a new automotive service station, with an accessory convenience store, (Use Group 16b) contrary to Z.R. Section 32-25; on condition **146-03-BZ/139-02-A**

APPLICANT - Jesse Masyr, Wachtel & Masyr, LLP, for 1511 Third Avenue Assoc., owner.

SUBJECT - Application January 19, 2005 - request for a rehearing to permit the filing of a new special permit application pursuant to Z.R. §73-36 to legalize the operation of a physical culture establishment based on substantial new evidence and material changes in the proposed plans. Based on the new evidence, this application requests that the Board permit the filing of a modification to a condition in a previously decided Appeals case under Cal. No. 139-02-A. PREMISES AFFECTED - 1511 Third Avenue, a/ka 201 East 85th Street, southwest corner bounded by Second and Third Avenues and East 85th and 86th Streets, Block 1531, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES - None.

ACTION OF THE BOARD - Application granted in part and dismissed in part.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner

Chin.....3

Negative:.....0

.....0

Absent: Vice-Chair

Babbar.....1

THE RESOLUTION -

WHEREAS, this is an application made pursuant to Section 1-10(e) of the Board's Rules of Practice and Procedure for a re-hearing of a special permit application previously denied by the Board, as well as an application for a potential technical amendment to a condition imposed by the Board in a previously decided appeal; and

WHEREAS, a public hearing was held on this application on April 20, 2005, after due notice by publication in the *City Record*, and then to decision on June 7, 2005; and

WHEREAS, the subject premises is a corner lot with approximately 77 feet, 6 inches of frontage on Third

that all work shall substantially conform to drawings as filed with this application, marked "May 24, 2005"-(6) sheets; and *on further condition*:

THAT all conditions from prior resolution(s) not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 500744992)

Adopted by the Board of Standards and Appeals, June 7, 2005.

Avenue and 125 feet of frontage on East 85th Street, with approximately 100 feet of frontage within a C2-8A zoning district and the remainder within an R8B zoning district; and

WHEREAS, the subject premises is improved upon with a four-story and basement commercial building; and

WHEREAS, this building is currently occupied by a retail clothing store on the first floor, and by the subject Physical Culture Establishment ("PCE") on the second and parts of the third and fourth floors; and

WHEREAS, the site has been the subject of five other applications at the Board; and

WHEREAS, under Calendar No. 34-96-BZ, an application for a special permit pursuant to Z.R. § 73-36 was made in order to legalize the subject PCE; this application was converted to a variance and subsequently denied; and

WHEREAS, under Calendar No. 119-99-A, an administrative appeal, the appellant (an adjacent property owner who is in opposition to the instant application, hereinafter referred to as the "opposition"), sought a revocation of Department of Buildings ("DOB") permits that legalized the construction of a rear yard encroachment on the second, third, and fourth floors of the subject building; this appeal was granted, with the Board finding that the rear yard encroachment could not be considered a permitted rear yard obstruction as defined in Z.R. § 33-23(b); and

WHEREAS, under Calendar No. 332-01-BZ, which was an application for a special permit under Z.R. § 73-36, the applicant proposed to rectify the unlawful enlargement of the PCE on the third and fourth floors through an arrangement that purported to provide separation between a proposed community facility tenant and the subject PCE; this application was denied by the Board; and

WHEREAS, while the public hearing process of Calendar No. 332-01-BZ was proceeding, the Board also heard an application made under Calendar No. 139-02-A, an administrative appeal of an April 17, 2002

MINUTES

Department of Buildings determination declining to seek a revocation or modification of Certificate of Occupancy Number 107549, issued on July 7, 1995 to the subject building; and

WHEREAS, the appellant in 139-02-A (the opposition in the instant matter), contended that the presence of the PCE in the subject building constituted a non-conforming use subject to the lapse provisions of Z.R. § 52-60 et. seq.; and

WHEREAS, upon a review of the record and of the definition of non-conforming use as set forth at Z.R. § 12-10, the Board found that, with the exception of the 4,400 square feet addition constructed after the 1995 Certificate of Occupancy was issued, the subject building's excess commercial floor area did not constitute a non-conforming use, but was rather a non-complying condition with regard to the commercial floor area as per Z.R. § 33-12; and

WHEREAS, after dispensing with the substance of the appeal, the Board also found that the Certificate of Occupancy needed modification to provide an adequate representation of permitted uses; and

WHEREAS, because of this potentially dangerous egress path, the Board determined that the finding set forth at Z.R. § 73-36 (1) - specifically, that there would be no impairment on the use of an adjacent area due to the grant of the special permit - had not been met; and

WHEREAS, also because of this potentially dangerous egress path, the Board determined that one of the general findings applicable to all special permit applications, set forth at Z.R. § 73-03(a) – specifically, that the hazards or disadvantages of the proposed special permit use are outweighed by the advantages to be derived by the community by the grant of the special permit – had not been met; and

WHEREAS, additionally, the Board noted that the applicant appeared to have engaged in a pattern of misrepresentation in the subject application, insofar as it had: supplied the Board with contradictory information concerning the available legal commercial floor area, failed to remove a rear yard obstruction in its entirety as it promised and as it was ordered to do, and failed to adequately address the concerns of the Board as to the creation of a completely separate community facility space; and

WHEREAS, the applicant now applies for a re-hearing of the previously denied special permit application, on the basis that there has been a material change in the plans and that there is substantial new evidence; and

WHEREAS, Section 1-10(e) of the Rules of Practice and Procedure provides: "A request for a rehearing shall not be granted unless substantial new evidence is submitted that was not available at the time of the initial hearing, or there is a material change in plans or circumstances or an application is filed under a different jurisdictional provision of the law."; and

WHEREAS, the applicant states that the following

WHEREAS, in its resolution issued under Calendar No. 139-02-A on December 10, 2002, the Board set forth such modification; and

WHEREAS, certain conditions in this resolution reads as follows: "That commercial usage in the subject building shall be limited to the pre-existing, legally non-complying 30,340 square feet of area; That any additional floor area other than aforementioned 30,340 square feet and in particular, the 4,400 square foot infill addition, shall be built and used in compliance and conformance with all underlying zoning regulations."; and

WHEREAS, in 2003, an application was made under the subject calendar number for a special permit pursuant to Z.R. § 73-36; the application again sought approval to legalize the existing PCE; and

WHEREAS, on December 9, 2004, the Board denied the special permit application; and

WHEREAS, in denying the application, the Board found that the proposed egress path for the occupants of the proposed community facility was not compliant with the Building Code; and

constitutes new evidence and/or a material change in plans or circumstances: (1) a new third and fourth floor plan that consolidates the entire community facility use on the third floor so that there is a logical separation between the PCE and community facility use; (2) the substitution of a Building Code-compliant egress path for the previously proposed egress path; (3) a new co-applicant (the owner of the subject building); and (4) new plans from 1930 that show that the second floor was not a full floor as previously thought, thus decreasing the overall amount of commercial floor area that can be developed at the premises, versus what amount was previously represented to exist in the prior hearing under this calendar number; and

WHEREAS, the Board observes that the new application attempts to address the concerns expressed in the resolution issued under the subject calendar number; and

WHEREAS, therefore, the Board finds that the material changes to the plans and the new evidence, as referenced above, are sufficient to warrant a re-opening of the special permit application for legalization of the subject PCE; and

WHEREAS, opposition to this application for a re-hearing argues that the Board should not entertain it because the proposed PCE, if legalized, will use more commercial floor area than is allowed per the above-mentioned condition, listed in the resolution issued under BSA Cal. No. 139-02-A; and

WHEREAS, the Board disagrees that this prevents the special permit application from being re-opened; and

WHEREAS, the PCE may be legalized through a special permit only if it occupies existing lawful commercial floor area; and

WHEREAS, in the context of the new special permit

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application, the applicant will have to prove that the floor area calculations, based upon the newly discovered evidence, are accurate; and

WHEREAS, however, this showing need not be made during the subject application; the only relief being requested is a re-opening; and

WHEREAS, instead, if it become apparent during the new hearing that the PCE occupies more floor area than what is lawful, then use of Z.R. § 73-36 to legalize the PCE would not be appropriate; and

WHEREAS, the opposition's other arguments concerning the PCE operator's past behavior also appear to be made on the assumption that the Board is granting the special permit through the instant application; and

WHEREAS, again, the only outcome of the Board's decision herein is that the applicant will be afforded the opportunity to convince the Board that the special permit is appropriate to grant; and

WHEREAS, the opposition also argues that the applicant should not be allowed to apply to re-open BSA Cal. No. 139-02-A; and

WHEREAS, the Board recognizes that it has the authority to modify and/or make technical corrections to prior resolutions pursuant to the Charter and its own Rules of Practice and Procedure; however, rather than making such technical correction to the resolution for 139-02-A on its own outside of any formal process or on its own application, the Board felt it made more sense for the applicant to apply for this potential technical correction, which, again, would only be granted if the Board agreed it was appropriate; and

WHEREAS, the opposition argues that since the Board's Rules do not specifically state that a case may be re-opened for only a discrete specific matter related to the case, the appeal must be re-heard in its entirety; and

WHEREAS, however, the opposition cites no authority for such a conclusion; in any event, through this resolution, the Board is plainly establishing the parameters of its procedure as to 139-02-A; and

WHEREAS, thus, the opposition's insistence that they should be allowed to present evidence on the appeal in general is unavailing and will not be honored by the Board; and

WHEREAS, the opposition also argues that only they should be allowed to re-open the matter, since it brought the appeal initially; and

WHEREAS, this argument ignores the Board's authority to direct its own process, as well as the fact that the merits of the appeal are not being revisited; and

WHEREAS, it also ignores the fact that the conditions in the resolution for 139-02-A function as a limitation on the property rights of the building owner; and

WHEREAS, an application for a re-opening of an appeal, the resolution of which contains conditions that limit the property rights of the affected property owner,

WHEREAS, the Board disagrees and notes that 139-02-A – which, as discussed above, was an appeal of a DOB determination not to revoke the certificate of occupancy based on opposition's theory that the PCE was a non-conforming use – is not being re-opened for a full discussion of the merits of the appeal; the Board's decision on the merits stands and will not be revisited; and

WHEREAS, rather, in the interest of administrative convenience, transparency of process and good record keeping, the Board asked the applicant to apply to have this matter re-opened for the sole purpose of amending the floor area limitations set forth in the resolution, assuming, of course, that the applicant successfully convinces the Board during the new hearing on the special permit application that its floor area calculations are accurate; and

WHEREAS, the opposition will be afforded the opportunity to challenge the accuracy of all proffered evidence in the new special permit hearing, including evidence related to available lawful commercial floor area; and

may be appropriately brought by the owner so long as the standards for re-opening are met; and

WHEREAS, the Board concludes that this standard has been met, given the existence of new plans that could potentially affect the floor area calculations for the subject building; and

WHEREAS, nonetheless, the Board, through this resolution, dismisses as moot the application for re-opening of 139-02-A as presented by the applicant, since it is premature; if the represented amount of available commercial floor area is confirmed by the Board, then the floor area conditions set forth in the resolution for 139-02-A can be modified in the interest of good record keeping, on the Board's own authority.

Therefore it is Resolved that, based upon the above, the application for a re-hearing of the special permit application made under BSA Calendar No. 146-03-BZ is granted; a new calendar number will be assigned. The Board also dismisses the application to re-open BSA Cal. No. 139-02-A and asserts its authority to modify conditions in the resolution issued under this calendar number, should the Board deem such modification necessary.

Adopted by the Board of Standards and Appeals, June 7, 2005.

45-65-BZ

APPLICANT - Wachtel & Masyr, LLP, by Jesse Masyr, Esq., for John Catsimatidis c/o Red Apple Group, owner.

SUBJECT - Application March 31, 2005 - for an amendment pursuant to Z.R. §§72-01 and 72-22 to enclose an open area formerly used for an accessory off-street loading berth.

PREMISES AFFECTED - 1526 Grand Concourse aka 1539

MINUTES

Sheridan Avenue, Sheridan Avenue between East 172nd Street and Mount Eden Parkway, Block 2821, Lot 11, Borough of The Bronx.

COMMUNITY BOARD #4BX

APPEARANCES -

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair

Babbar.....1

ACTION OF THE BOARD - Laid over to June 14, 2005, at 10 A.M., for decision, hearing closed.

129-70-BZ

APPLICANT - Sheldon Lobel, P.C., for 10 West 66th Street Corp., owner.; 10 West 66th Street Garage Corp., lessee.

SUBJECT - Application January 28, 2005 - Extension of Term of variance for use of unused and surplus parking spaces for transient parking, limited to 75 spaces, in thirty-two story multiple dwelling located in a C4-7 and R-10 zoning district.

PREMISES AFFECTED - 6/14 West 66th Street, south side of West 66th Street, 125' west of Central Park West, Block 1118, Lot 22, Borough of Manhattan.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair

Babbar.....1

ACTION OF THE BOARD - Laid over to July 12, 2005, at 10 A.M., for decision, hearing closed.

110-95-BZ

APPLICANT - John W. Russell, Esq., for 1845 Realty, Inc., owner; 1845 Cornaga Avenue, lessee.

SUBJECT - Application March 15, 2004 - Extension of Term of a variance, which permitted, within a C2/R5 zoning district, the operation of a auto repair facility (UG16), with accessory uses, including parking and minor repairs using handtools.

PREMISES AFFECTED - 1845 Cornaga Avenue, southwest corner of Cornaga Avenue and B19th Street, Block 15563, Lot 1, Borough of Queens.

COMMUNITY BOARD #14

APPEARANCES -

For Applicant: John W. Russell.

ACTION OF THE BOARD - Laid over to July 19, 2005, at 10 A.M., for continued hearing.

COMMUNITY BOARD #7M

APPEARANCES -

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair

Babbar.....1

ACTION OF THE BOARD - Laid over to July 12, 2005, at 10 A.M., for decision, hearing closed.

70-91-BZ

APPLICANT - Salvadeo Associates by David L. Businelli, for Mid Island Realty Corp., owner.

SUBJECT - Application January 4, 2005 and updated January 18, 2005 for an Extension of Term/Waiver of a variance to allow commercial/retail stores UG6 in an R3-2 zoning district.

PREMISES AFFECTED - 1894/1898 Hylan Boulevard, east side 40.6' north of Seaver Avenue, Block 3657, Lots 1 & 3, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES - None.

91-02-BZ

APPLICANT - Sheldon Lobel, P.C., for David Winiarski, owner.

SUBJECT - Application April 13, 2004 - reopening for an amendment to a previously granted variance under ZR §72-21 to allow minor modification of the approved plans.

PREMISES AFFECTED - 3032-3042 West 22nd Street, West 22nd Street, 180' north of Highland View Avenue, Block 7071, Lot 19 (aka 19, 20, 22), Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Laid over to July 12, 2005, at 10 A.M., for continued hearing.

211-04-A

APPLICANT - Sheldon Lobel, P.C., for Grace Presbyterian Church, owner.

SUBJECT - Application May 21, 2004 - Proposed expansion and renovation of an existing church building, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 216-50/56 28th Avenue, southwest corner of Cross Island Parkway, Block 6019, Lot 108, Borough of Queens.

MINUTES

COMMUNITY BOARD #11

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

.....0

Absent: Vice-Chair

Babbar.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated April 23, 2005, acting on Department of Buildings Application No. 401619664, reads:

“1. Proposed construction of new church building and renovated existing building within a bed of a mapped street is contrary to Section 35 of General City Law”; and

WHEREAS, a public hearing was held on this application on May 10, 2005, after due notice by publication in the *City Record*, and then to decision on June 7, 2005; and

WHEREAS, by letter dated August 16, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated July 12, 2004, the Department of Environmental Protection has reviewed

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated, April 23, 2005, acting on Department of Buildings Application No. 401619664, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received June 6, 2005” - (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT a 35 foot wide “Sewer Corridor” in the bed of Little Neck Boulevard be provided for the future installation, maintenance and /or reconstruction of the drainage plan, and 10”dia. sanitary and 24” dia. storm sewers; and

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any

the above project and has requested that a 35 foot wide “Sewer Corridor” in the bed of Little Neck Boulevard be provided for the future installation, maintenance and /or reconstruction of the drainage plan, and 10”dia. sanitary and 24” dia. storm sewers; and

WHEREAS, by letter dated January 27, 2005, the applicant has agreed to install the corridor which would mostly measure 35 feet in width, with a small portion narrowed to 22 feet, 4inches, due to the location of the existing building; and

WHEREAS, by letter dated March 8, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, certain members of the community appeared in opposition to this project, citing concerns about the expansion of the church in general, and the possibility that not enough parking exists to accommodate the congregation, as well as possible traffic impacts; and

WHEREAS, the Board notes that no parking or bulk requirements applicable to the subject site are being waived; all parking requirements, as well as other zoning and Building Code requirements must be complied with; and

WHEREAS, the Board also notes that the church is already sited within the bed of the mapped street, and that the building was in existence before this street was mapped; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

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, June 7, 2005.

301-04-BZY

APPLICANT - Rothkrug, Rothkrug, Weinberg & Spector, for Medhat M. Hanna, owner.

SUBJECT - Application September 10, 2004 - Application to complete construction for a minor development as per Z.R. §11-331.

PREMISES AFFECTED - 102 Greaves Avenue, corner of Dewey Avenue, Block 4568, Lot 40, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: David Businelli.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....

MINUTES

.....0

Absent: Vice-Chair
Babbar.....1

THE RESOLUTION -

WHEREAS, this is an application under Z.R. § 11-331, to renew a building permit and extend the time for the completion of the foundation of a minor development under construction; and

WHEREAS, a public hearing was held on this application on *** after due notice by publication in *The City Record*, with a continued hearing on May 10, 2005 and then to decision on June 7, 2005; and

WHEREAS, the site was inspected by a committee of the Board, including Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 3, Staten Island, opposed the granting of any relief to the applicant; and

WHEREAS, Council Member Andrew Lanza appeared in opposition to the subject application; and

WHEREAS, the subject premises is located on a triangular piece of land bordered by Greaves Avenue, Dewey Avenue and Dewey Place; and

WHEREAS, the subject premises is located within an R3-1 zoning district; and

WHEREAS, the subject premises is proposed to be developed with a single family home; and

WHEREAS, however, on August 12, 2004 (hereinafter, the "Enactment Date"), at approximately 1:30PM, the City Council voted to enact text changes to

WHEREAS, Z.R. § 11-31(a) reads: "For the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met."; and

WHEREAS, because the proposed development contemplates a single building on one zoning lot, it meets the definition of Minor Development; and

WHEREAS, the Board notes that this application was made on September 10, 2004, which is within 30 days of the Rezoning Date, as required by Z.R. § 11-331; and

WHEREAS, the applicant represents that all of the relevant Department of Buildings permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the record indicates that on July 26, 2004 a new building permit (Permit No. 500695606-01-NB; hereinafter, the "NB Permit") for the new building was lawfully issued to the applicant by the Department

the Zoning Resolution in response to the recommendations of the Staten Island Growth Management Task Force, rendering the proposed development non-complying; and

WHEREAS, Z.R. §11-331 reads: "If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued as set forth in Section 11-31 paragraph (a), to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations."; and of Buildings; and

WHEREAS, the Board has reviewed the record and agrees that the afore-mentioned permit was lawfully issued to the owner of the subject premises; and

WHEREAS, the applicant represents that, as of the Rezoning Date, substantial progress had been made on foundations; and

WHEREAS, the applicant represents that excavation of the site took place on August 5, 6 and 9, 2004; and

WHEREAS, applicant represents that complete footings were put in place on August 9, 2004; and

WHEREAS, in support of the contention that concrete for the footings was poured on August 9, 2004, the applicant has submitted a receipt from a concrete batching company reflecting the pouring of 16 yards of concrete, dated August 9, 2004; and

WHEREAS, the applicant further represents that on August 11 and 12, 2004, the forms for the structure were completed, and on August 12, 2004, 22 yards of concrete was poured in the early afternoon; and

WHEREAS, in support of the contention that concrete for the walls were poured on August 12, the applicant has submitted an additional receipt from a concrete batching company reflecting the pouring of 22 yards of concrete between 4:15PM and 4:50PM, dated August 12, 2004; and

WHEREAS, Community Board 3, in voting against

MINUTES

the application, stated that witnesses saw foundations being poured after the Rezoning Date; and

WHEREAS, the Board accepts the testimony of the Community Board and others in the community that certain work on the walls was performed after the effective time of the rezoning; and

WHEREAS accordingly, the Board will not consider the concrete poured for the foundation walls in its analysis of whether substantial progress has been achieved; and

WHEREAS, in support of the claim that substantial progress had been made on foundations as of the Rezoning Date, the applicant has submitted, among other items, photographs taken on August 13, 2004, by the Department of Buildings at the time the "stop work" order was issued, reflecting that the footings were complete;

WHEREAS, at the request of the Board, the applicant has provided a letter from the Department of Buildings confirming that the photos submitted were in fact taken by the Department of Buildings; and

WHEREAS, the applicant has also submitted an affidavit from the general contractor documenting the work completed on the proposed development as of the Rezoning Date and describing the remaining work necessary to complete the foundations; and

WHEREAS, the Board has reviewed the photos and the affidavit, and agree that they support the conclusion that excavation and the pouring of the footings were complete as of August 12, 2004; and

WHEREAS, the applicant has submitted a cost breakdown of money expended, which states that \$11,120 of the \$17,320 (or 64 percent) of the foundation costs, including the costs for the supplies and labor associated with installing the footings and the walls, and excluding tree removal costs, excavation costs, other PREMISES AFFECTED - 32 Bedford Avenue, south side, 515.07' west of 12th Avenue, Block 16350, Part of Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: John Ronan.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair Babbar.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated January 26, 2005 acting on Department of Buildings Application No. 402077569, reads:

1. Proposal to enlarge the existing second

soft costs associated with development on the site had been incurred as of the Rezoning Date; and

WHEREAS, the Board notes that costs associated with pouring the concrete for the walls are not included in the \$11,120 figure; and

WHEREAS, the Board finds all of above-mentioned submitted evidence sufficient and credible; and

WHEREAS, additionally, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, based upon the above, the Board finds that excavation was complete and that substantial progress had been made on foundations, and additionally, that the applicant has adequately satisfied all the requirements of Z.R. § 11-331.

Therefore it is resolved that this application to renew New Building permit No. 500695606-01-NB pursuant to Z.R. § 11-331 is granted, and the Board hereby extends the time to complete the required foundations for one term of sixth months from the date of this resolution, to expire on December 7, 2005.

Adopted by the Board of Standards and Appeals, June 7, 2005.

23-05-A

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative, Inc., owner; Richard & Josephine O'Connor.

SUBJECT - Application February 8, 2005 - Proposed enlargement to an existing one family dwelling, located within the bed of a mapped street and not fronting on a legally mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

floor on a home which lies within an R4district is contrary to Article 3, Section 36 (2) of the General City Law (GCL) in that the home does not front on a mapped street (Bedford Avenue); contrary to Art 3, Section 35 of the GCL in that the property also lies within the bed of a street which is mapped (Beach 204th Street) and contrary to Section 27-291 of the NYC Building Code and must , therefore , be referred back to the Board of Standards and Appeals for approval .

WHEREAS, a public hearing was held on this application on May 24, 2005 after due notice by publication in the *City Record*, and then to decision on June 7, 2005; and

WHEREAS, by letter dated February 18, 2005 , the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 5, 2005 the Department of Environmental Protection has reviewed the above project and has no objections; and

MINUTES

WHEREAS, by letter dated April 5, 2005, the Department of Transportation has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated January 26, 2005, acting on Department of Buildings Application No. 402077569 is modified under the power vested in the Board by Sections 35 & 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received May 19, 2005" - (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 7, 2005.

85-05-A

APPLICANT -Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc, owner; Pamela & Bruce Kemmlein, lessees. SUBJECT - Application April 8, 2005 - Proposed reconstruction and enlargement of an existing single family dwelling, not fronting on a legally mapped street, and a

A-2 The proposed upgraded private disposal system is in the bed of the service lane contrary to Department of Buildings Policy.; and

WHEREAS, a public hearing was held on this application on June 7, 2005, after due notice by publication in the *City Record*, and then to decision on June 7, 2005; and

WHEREAS, by letter dated April 19, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated March 25, 2005, acting on Department of Buildings Application No.

proposal to upgrade the private disposal system located in the bed of the service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings policy.

PREMISES AFFECTED -8 Jamaica Walk, west side, 93.31' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair

Babbar.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated March 25, 2005, acting on Department of Buildings Application No. 402098779, reads:

A-1 The Street giving access to the existing building to be altered is not duly placed on the official map of the City of New York, Therefore:

- A) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.
- B) Existing dwelling to be altered does not have at least 8% of total perimeter of building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section C27-291 of the Administrative Code of the City of New York.

402098779, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received April 8, 2005"- one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure

MINUTES

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, June 7, 2005.

Pasquale Pacifico, Executive Director.

Adjourned: 10:25 A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, JUNE 7, 2005
2:00 P.M.**

Present: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.

ZONING CALENDAR

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed alteration of a single-family dwelling (Use Group 2) located in an R5 zoning district, which does not comply with the zoning requirements for lot coverage, open space, open space ratio and side yards, contrary to Z.R. §23-146; and

WHEREAS, Community Board No. 12, Brooklyn, and Council Member Felder recommend approval of this application; and

WHEREAS, the site is located on 17th Avenue at the corner of 17th Avenue and 58th Street, and the lot area is 2,337.87 sq. ft; and

WHEREAS, the site is 92 ft., 10 in. in length and 25 ft. in width; and

WHEREAS, the subject premises is currently improved upon with a one-story, single-family,

20-04-BZ

APPLICANT - Eric Palatnik, P.C., for Marcia Dachs, owner.
SUBJECT - Application February 9, 2004 - under Z.R. §72-21 to permit the proposed construction of a single family dwelling, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for side yards, floor area ratio, open space ratio and open space, is contrary to Z.R. §23-141(a), §23-45 and §23-461.

PREMISES AFFECTED - 5723 17th Avenue, corner of 58th Street, Block 5498, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair
Babbar.....1

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated August 27, 2004, acting on Application No. 301550774, reads:

“The proposed enlargement of existing home is contrary to ZR Section 23-146(a) (Lot coverage, open space, open space ratio) and 23-146(d) (Side yards);” and

WHEREAS, a public hearing was held on this application on January 25, 2005 after due notice by publication in *The City Record*, with a continued hearing on March 1, 2005, May 10, 2005, and then to June 7, 2005 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, including Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

“bungalow”-type dwelling, containing 936.77 sq. ft. of floor area; and

WHEREAS, the subject application seeks to alter the existing building to construct a 3,514 sq. ft. one-story plus attic, one-family dwelling; the total allowable residential floor area is approximately 3,858 sq. ft.; and

WHEREAS, the premises is located in an area where the bulk provisions of Z.R. § 23-146 are applicable; and

WHEREAS, the proposed enlargement will reduce the Open Space Ratio (“OSR”) from 59.9 to 25; the minimum OSR required is 45; and

WHEREAS, the proposed enlargement will increase lot coverage from 40.1% to 75%; the maximum lot coverage permitted is 55%; and

WHEREAS, the side yard extensions will decrease

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one side yard from 4.39 ft. to 2.5 ft. and decrease the other side yard from 38.83 ft to 0; the required side yards are 4 ft.; and

WHEREAS, the front yards will remain at 7.77 ft. along 17th Avenue and .85 ft along 58th Street; these are pre-existing non-compliances; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties in developing the subject lot in compliance with underlying district regulations: (1) the site is small and narrow, and (2) the current dwelling occupying the site is obsolete; and

WHEREAS, the applicant represents that the current dwelling was constructed in 1915, and has a floor area ratio (F.A.R.) of .40, well below the permitted 1.65 F.A.R.; and

WHEREAS, the applicant further represents that the home was constructed in a "bungalow" style, and contains one bedroom, a study, a living room, a kitchen and one bathroom; and such space is too small for a family; and

WHEREAS, at the request of the Board, the applicant conducted a survey of lots in the surrounding area of the subject lot, in order to establish that the subject lot's physical conditions, namely the obsolescence of the building, were not so prevailing in the area that the lot could not be considered uniquely afflicted; and

WHEREAS, the survey shows that the subject building is the only bungalow-type structure in the surrounding area, with the exception of one other building; and

WHEREAS, at the request of the Board, the applicant has submitted a plan for an as-of-right building; such plan reflects that an as-of-right building should the bungalow be removed/demolished would not be feasible as the width of the building would be only 12 ft., 2 in.; and

WHEREAS, also at the request of the Board, the applicant has also submitted a plan for a building with complying side yards; such plan reflects that having a dwelling with complying side yards would not be feasible as the width of the building would only be approximately 17 ft.; and

WHEREAS, accordingly, the Board finds that the aforementioned unique physical conditions, namely the narrowness and small size of the subject lot and the obsolescence of the building, create a practical difficulty in developing the site in compliance with the current

THAT there shall be no habitable space in the attic or the cellar;

THAT the proposed attic floor area shall be reviewed and confirmed by the Department of Buildings;

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed

zoning; and

WHEREAS, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict compliance with the applicable zoning requirements will result in a building that would be habitable or feasible; and

WHEREAS, the applicant has submitted a radius map and photos of the blocks immediately surrounding the premises that indicate that the bulk of the subject proposal would be compatible with the surrounding residential buildings as most of the surrounding buildings also have non-compliances with respect to front yards and side yards; and

WHEREAS, the property immediately adjacent to the premises is a three-story building; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, at the request of the Board, the applicant has lowered the attic ceiling height, reduced the total proposed height of the building, and increased one of the side yards; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under §72-21 of the Zoning Resolution; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13, §§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 Z.R. §72-21, to permit the proposed construction of a single-family dwelling (Use Group 2) located in an R5 zoning district, which does not comply with the zoning requirements for lot coverage, open space, open space ratio and side yards, contrary to Z.R. §23-146, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 23, 2005"-(9) sheets and "June 2, 2005"-(2) sheets; and on further condition;

DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

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Adopted by the Board of Standards and Appeals,
June 7, 2005.

127-04-BZ

APPLICANT - Eric Palatnik, P.C., for Abraham Leser, owner; Absolute Power and Fitness, lessee.

SUBJECT - Application March 10, 2004 - under Z.R. §73-36 the legalization of an existing physical culture establishment, located on the fourth floor of a four story building, situated in a C4-3 zoning district.

PREMISES AFFECTED - 5313/23 Fifth Avenue, between 53rd and 54th Streets, Block 816, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Eric Palatnik

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair Babbar.....1

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner dated February 26, 2004, acting on Department of Buildings Application No. 301366590, reads:

“Legalization of existing Physical Culture Establishment requires BSA approval as per ZR 73-36”; and

WHEREAS, a public hearing was held on this application on May 10, 2005 after due notice by publication in *The City Record*, and then to decision on June 7, 2005; and

WHEREAS, Community Board No. 7, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit, within a C4-3 zoning district, a Physical Culture Establishment (“PCE”) on the fourth floor of an existing four-story commercial building; and

WHEREAS, the site was previously the subject of a

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; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction

BSA variance granted under Calendar No. 249-25-BZ, which permitted the erection of a commercial building that was partially within a residence district; and

WHEREAS, the site is currently occupied by a four-story commercial building; and

WHEREAS, the PCE occupies approximately 9,830 square feet of floor area on the fourth floor of the building; and

WHEREAS, the PCE has been in operation since August of 2002; and

WHEREAS, the applicant states that the PCE has facilities for classes, instruction and programs for physical improvement, bodybuilding, weight reduction, martial arts and/or aerobics; and

WHEREAS, the hours of operation are as follow: 5 AM to 12 PM Monday through Thursday, 5 AM to 10 PM on Friday, and 8 AM to 8 PM on Saturday and Sunday; and

WHEREAS, the Board finds that the PCE, given the proposed uses and the hours of operation, will not have any significant impact on the adjacent residential uses; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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 proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-36 and 73-03; 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. 04-BSA-142K, dated August 9, 2004 ; and Impacts; and Public Health; 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.

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91 of 1977, as amended, and makes each and every one of the required findings under Z.R. §§ 73-36 and 73-03, to permit, within a C4-3 zoning district, a Physical Culture Establishment on the fourth floor of an existing four-story commercial building; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 23, 2005"-(1) sheets; and *on further condition*:

THAT this grant shall be limited to a term of eight years from June 7, 2005, expiring June 7, 2013;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT the hours of operation shall be limited to: 5 AM to 12 PM Monday through Thursday, 5 AM to 10 PM on Friday, and 8 AM to 8 PM on Saturday and Sunday;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT all fire safety measures indicated on the BSA-approved plans shall be installed and maintained;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 7, 2005.

187-04-BZ

APPLICANT - Eric Palatnik, P.C., for 182 MXB, LLC owner.

SUBJECT - Application May 4, 2004 - under Z.R. §72-21 to permit the proposed construction of a four story building, with eight dwelling units, Use Group 2, located in an R-5 zoning district, which does not comply with the zoning requirements for lot coverage, floor area, front yards, parking, height and perimeter wall, also the number of dwelling units, is contrary to Z.R. §23-141(c), §23-631(e), §23-45(a), §25-23(a) and §23-22.

PREMISES AFFECTED - 182 Malcolm X Boulevard, north west corner of Madison Street, Block 1642, Lot 48, Borough

WHEREAS, the applicant proposes to construct a four-story, 44 ft. high building, with approximately 8,904 sq. ft. of floor area (a Floor Area Ratio of 2.95), six dwelling units, open space of 657 sq. ft., a setback of 11 ft., 2 inches on the Madison Street side of the site, and no parking; and

of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair

Babbar.....1

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 14, 2004, acting on Department of Buildings Application No. 301663313, reads, in pertinent part:

"Proposed building is contrary to ZR 23-141(c), ZR 23-631(e), ZR 23-22, ZR 23-45(a**) and ZR 25-23(a) and therefore must be referred to the Board of Standards and Appeals."; and

WHEREAS, a public hearing was held on this application on February 15, 2005 after due notice by publication in the *City Record*, with continued hearings on March 29, 2005, May 10, 2005, and then to decision on June 7, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioners Miele and Chin; and

WHEREAS, Community Board 3, Brooklyn, recommends disapproval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within a R5 zoning district, the proposed development of a four-story residential building, which does not comply with the zoning regulations for lot coverage, floor area, front yards, parking, height, and amount of dwelling units, contrary to Z.R. §§ 23-141(c), 23-631(e), 23-22, 23-45(a**) and 25-23(a); and

WHEREAS, the premises is 25' X 100' corner lot, located on the northwest corner of Malcom X Boulevard and Madison Street; the total lot area is approximately 2,500 sq. ft.; and

WHEREAS, the site is currently improved upon with a 1 story-garage structure on a portion of the lot, which will be demolished; and

WHEREAS, the site was formerly developed with a three-story mixed-use building, with residential use on the second and third floors and commercial use on the first floor; and

WHEREAS, the original proposal contemplated a four-story building with an F.A.R. of 3.56, eight dwelling units, open space of 235 sq. ft., and no setback; and

WHEREAS, the proposed development triggers the following waiver requests: (1) an F.A.R. of 2.95 (1.65 is the maximum permitted); (2) an open space ratio of 9

MINUTES

percent (45 percent is the minimum required); (3) lot coverage of 45 percent (55 percent is the maximum permitted); (4) a perimeter wall height of 44 ft. (30 ft. is the maximum permitted); (5) a total height of 44 ft. (33 ft. is the maximum permitted); (6) eight dwelling units (4.58 is the maximum permitted); (7) no front yard (18 ft. is the minimum required); and (8) no parking (six spaces is the minimum required); and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: the site is narrow and small corner lot, with a 25 ft. width; and

WHEREAS, the applicant states that the narrow width of the lot, when considered in conjunction with the yard requirements for a corner lot, makes it difficult to create a complying building that would be marketable and therefore feasible; and

WHEREAS, specifically, the applicant has submitted a plot plan that shows that a complying building would have three stories and a width of only 15 ft., and be incapable of realizing a reasonable return; and

WHEREAS, the Board notes that a complying development would result in an inefficient floor plate for a multiple dwelling, in that due to core and egress path requirements, not enough rentable floor area would be created; and

WHEREAS, the additional F.A.R. requested acts as compensation for this site-related inefficiency, and also results in a building that is compatible with the surrounding area; and

WHEREAS, the applicant conducted a survey of the area and the subject zoning district that revealed that although there were some lots of comparable size to the subject site, they were all developed; and

WHEREAS, accordingly, the Board finds that the unique condition mentioned above creates practical difficulties and unnecessary hardship in developing the site in strict compliance with applicable zoning regulations; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed a fully complying building and well as the above-mentioned original proposal; and

WHEREAS, at the request of the Board, the applicant updated the feasibility study to analyze the current proposal; and

WHEREAS, the Board has reviewed the revised feasibility study, and finds it credible and sufficient; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict compliance with the provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant also submitted a supplemental letter from a financial consultant which

WHEREAS, the applicant states that the proposed building's current bulk, height and lack of parking will not negatively affect the character of the neighborhood nor impact adjacent uses; and

WHEREAS, the applicant has provided a color-coded map, which demonstrates that the proposed height of the building is comparable to that of other buildings in the area; and

WHEREAS, specifically, there are four-story buildings directly adjacent to, across the street from, and diagonally across the street from, the subject site; and

WHEREAS, in fact, the Board notes that the surrounding area, including along Malcom X Boulevard, is characterized by lawful, non-complying three-to-four story buildings with full lot coverage; and

WHEREAS, additionally, the applicant provided another color-coded map, which demonstrates that these same buildings have lot coverage and floor area comparable to the proposed building; and

WHEREAS, the applicant also submitted an elevation showing the relationship of the proposed building's envelope to the existing buildings; the Board reviewed these elevations and agrees that the proposed building's envelope is compatible with the existing adjacent residences and other buildings; and

WHEREAS, the applicant also conducted an informal parking survey of the area, and noted the existence of numerous on-street parking spaces; and

WHEREAS, the Board confirmed the existence of sufficient on-street parking on its site visit; and

WHEREAS, at the request of the Board, the applicant increased the amount of open space on the site and created a setback on the Madison Street side of the proposed building; and

WHEREAS, the Board finds that these modifications lead to an improved development proposal; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, although the applicant modified the proposal from the original version to the current scenario, the Board requested a further investigation of the feasibility of a 2.46 F.A.R., three-story, six unit development scenario; and

WHEREAS, the applicant reviewed such a scenario and concluded that it was not viable because it reduced the size of the apartment units to an unmarketable size with undesirable layouts; and

confirmed this conclusion, and stated that such a scenario would result in a negative return; and

MINUTES

WHEREAS, accordingly, the Board finds that the current proposal is the minimum necessary to afford the owner relief; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA-191K, dated May 4, 2005; 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; 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 Type I Negative Declaration, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, within a R5 zoning district, the proposed development of a four-story residential building, which does not comply with the zoning regulations for lot coverage, floor area, front yards, parking, height, and amount of dwelling units, contrary to Z.R. §§ 23-141(c), 23-631(e), 23-22, 23-45(a**) and 25-23(a); *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 4, 2005"– (7) sheets; and *on further condition*:

THAT the bulk parameters of the proposed building shall be as follows: (1) a street wall height of 41 ft., 8 inch.; (2) a total height of 41 ft., 8 inch.; and (3) a 10 ft. front yard;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 7, 2005.

252-04-BZ

APPLICANT - Jay A. Segal, Esq., Greenberg Traurig, LLP, for MKD Group, LLC, owner.

SUBJECT - Application July 15, 2004 - under Z.R. §72-21 to permit the conversion and enlargement of an existing two-story, vacant industrial building in an M1-2 zoning district contrary to Z.R. §42-10.

PREMISES AFFECTED - 170 North 11th Street, south side of North 11th Street between Bedford Avenue and Driggs Avenue, Block 2298, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES - None.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner

Chin.....3

Negative:.....

.....0

Absent: Vice-Chair

Babbar.....1

Adopted by the Board of Standards and Appeals, June 7, 2005.

297-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Arthur Djmal, owner.

SUBJECT - Application January 18, 2005 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family dwelling, Use Group 1, located in an R-2 zoning district, which does not comply with the zoning requirement for floor area ratio, is contrary to Z.R. §23-141.

PREMISES AFFECTED - 1174 East 22nd Street, southwest corner of Avenue "K", Block 7621, Lot 47, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Sheldon Lobel.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....

.....0

Absent: Vice-Chair

MINUTES

Babbar.....1

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 14, 2005, acting on Department of Buildings Application No. 301825755, reads:

“The proposed enlargement of existing one family residence in R2 zoning district:

1. Causes an increase in floor area exceeding the allowable floor area and is contrary to the allowable floor area ratio allowed by Sect. 23-141 of the Zoning Resolution.
2. Creates non-compliance with respect to open space ratio and is contrary to Sect. 23-141 of the Zoning Resolution.”; and

WHEREAS a public hearing was held on this application on March 15, 2005 after due notice by publication in *The City Record*, with a continued hearing on April 19, 2005, May 17, 2005 and then to decision on June 7, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, including Chair Srinivasan; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing one-family dwelling (Use Group 1), which does not comply with the zoning requirements for floor area and open space ratio, contrary to Z.R. § 23-141(a); and

WHEREAS, the subject lot is located on the southwest corner of East 22nd Street and Avenue K, and has a total lot area of approximately 5,000 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-story plus attic residential structure; and

WHEREAS, the applicant seeks an increase in the floor area from 3,121 sq. ft. (0.63 Floor Area Ratio or “FAR”) to 4,998 sq. ft. (0.99 FAR); the maximum floor area permitted is 2,500 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the Open Space Ratio (“OSR”) from 140 to 115; the minimum OSR required is 150; and

WHEREAS, initially, the applicant proposed removing all of the existing walls, and then rebuilding; and

WHEREAS, in order to comply with the definition of “enlargement,” pursuant to Section 12-10 of the Zoning Resolution, as articulated by the Board, the applicant has revised its proposal to retain the entire western wall of the existing structure, the first floor and portions of the second floor; and

WHEREAS, the Board finds that the proposed

THE RESOLUTION -

enlargement will not alter the essential character of the surrounding neighborhood, nor will it impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing one-family dwelling (Use Group 1), which does not comply with the zoning requirements for floor area and open space ratio, contrary to Z.R. § 23-141(a); *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked “Received May 24, 2005”- (9) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth on the certificate of occupancy;

THAT the entire western wall and first floor of the existing building, and portions of the second floor of the existing building to be determined by DOB, shall be retained;

THAT the total F.A.R. on the premises, including the attic, shall not exceed 0.99;

THAT the total attic floor area shall not exceed 870 sq. ft.;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT the existing garage shall remain one car accessory parking;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, June 7, 2005.

MINUTES

SUBJECT - Application October 4, 2004 - under Z.R. §72-21 to request a variance from the following sections of the Zoning Resolution: 24-11 (floor area ratio); 24-34 (front yard requirements); and 24-521 (height and setback regulations). The proposal calls for the enlargement of an existing Community Facility.

PREMISES AFFECTED - 66-35 108th Street, between 66th Road and 67th Avenue, Block 2175, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Sheldon Lobel.

ACTION OF THE BOARD - Application granted upon condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair
Babbar.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated May 2, 2005, acting on Department of Buildings Application No. 401995828, reads, in pertinent part:

- “1. Proposed floor area exceeds the maximum permitted for an R1-2 zoning district as per Sec. 24-11, thereby increasing the degree of non-compliance in violation of ZR Sec. 54-31.
2. Propose front yard along 66th Road does not comply with the minimum 20 foot front yard requirements pursuant to ZR Sec. 24-34.
3. Proposed height of building along 66th Road and 108th Street penetrates the sky exposure plane and does not comply with ZR Sec. 24-521
4. Proposed setback of building above 35 feet along the side lot line does not comply with ZR Sec. 24-551”; and

WHEREAS, a public hearing was held on this application on April 12, 2005, after due notice by publication in The City Record, with a continued hearing on May 17, 2005, and then to decision on June 7, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, this is an application under Z.R. §72-21, to permit, within an R-12 zoning district, the proposed enlargement of a building occupied by both a synagogue and a religious school, which does not comply with the zoning regulations governing floor area, lot coverage, front yard, and height and setback, contrary to Z.R. §§24-11, 24-34, 24-521 and 24-551; and

327-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Beth Gavriel Bukharian Congregation, owner.

WHEREAS, this application is brought on behalf of Beth Gavriel Bukharian Congregation, a not-for-profit entity (hereinafter, the “Synagogue”); and

WHEREAS, both the Queens Borough President and Community Board 6, Queens, recommend approval of this application; and

WHEREAS, certain neighbors of the subject building appeared in opposition to this application, contending that the bulk of the proposed building was too large and would block their views; and

WHEREAS, the subject site is a rectangular shaped 20,000 sq. ft. lot located at the west end of the subject residential block, and is currently improved upon with a three-story 19,760 sq. ft. building occupied by the Synagogue in primarily the southern portion of the building, and a school for boys primarily in the northern portion (hereinafter, the “School”); and

WHEREAS, the applicant originally proposed to construct an enlargement to the School portion of the building on the northern side, in order to accommodate the growing enrollment and resulting space needs; and

WHEREAS, however, the proposal was modified such that the enlargement will take place on the southern side of the building; and

WHEREAS, the Synagogue will be relocated to the north side of the building on the basement and first floors so that it is perpendicular to the space it formerly occupied, which, in turn, will be converted to an auditorium/lunchroom for the school;

WHEREAS, also in the basement, parts of the new enlarged area along the north side will be used for new offices and a coatroom; and

WHEREAS, on the first floor, the new enlarged area on the north side will be part of the Synagogue, with accessory storage and a coatroom; the former study hall on the south side will be converted to new classrooms; and

WHEREAS, on the second floor, two new classrooms will be added on the south side, with some space devoted to storage and offices; the new enlarged area on the north side will be occupied by a study hall, a larger library and a teachers’ room; and

WHEREAS, the applicant also represents that at both first and second floors, new toilet rooms and new ADA toilet rooms will be added in the new north portion; also, a new elevator and egress stair will be provided; and

WHEREAS, also, a gymnasium is proposed for the cellar; and

WHEREAS, construction of the enlargement as currently proposed will result in the following non-compliances: community facility F.A.R. of 1.39 (27,820 sq. ft. of floor area); (0.5 F.A.R., or 10,000 sq. ft. is the maximum permitted); a wall and total height of 33 ft., 2 inches (25 ft. is the maximum permitted); one non-complying front yard of 10 ft. on the east side at the basement level (a 20 ft. front yard is the minimum required); an eight ft. setback (21 ft. is the

MINUTES

minimum required); and no sky exposure plane; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the existing building has insufficient space to accommodate the increased enrollment of the School, while still providing appropriate space for the Synagogue; and

WHEREAS, the applicant states that the following are the programmatic needs of the School: (1) creation of a lunchroom, so that the Synagogue space need not be utilized for this purpose; (2) creation of resource room, so that the existing science lab need not be utilized for this purpose; (3) expansion of the very small science lab; (4) creation of a computer lab; (5) creation of a library of sufficient size to accommodate the current enrollment and book collection; (6) sufficient office space for the executive staff; (7) creation of a gymnasium; (8) additional classrooms; and (7) proper storage areas for books, school supplies and food containers, which are currently stored in makeshift areas within the building; and

WHEREAS, the Board, while recognizing the programmatic needs of the School, asked the applicant to consider reducing the width of the new Synagogue space, so that it could accommodate a complying setback; and

WHEREAS, the applicant responded that this would decrease the amount of seating available in the Synagogue space; and

WHEREAS, the Board also suggested that the applicant revert back to its original plan to place the lunch room on the north side, which would allow a decrease in the width of the space; and

WHEREAS, the applicant responded that location of the lunchroom on the south side was more practical given that the existing kitchen was also located on this side; and

WHEREAS, the Board agrees that, based upon the submitted evidence, the enlargement is necessary in order to meet the programmatic needs of the School; and

WHEREAS, therefore, the Board finds that the cited unique physical condition, when considered in conjunction with the programmatic needs of the School, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not address Z.R.§72-21(b) since the applicant is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant notes that there are two other larger community facilities on each of the other corners of 66th Road and 67th Avenue; and

WHEREAS, there are also six-story multiple dwellings across 108th Street; and

WHEREAS, after the proposal was modified, the applicant ascertained that the proposed enlargement triggered a parking requirement; the applicant will now provide six

on-site parking spaces, which complies with this requirement; and

WHEREAS, the applicant also notes that many of the students live in the area and either walk or take school buses to the School, thereby minimizing the need for parking; and

WHEREAS, as noted above, the Board, asked the applicant to consider reducing the width of the new Synagogue space, so that it could accommodate a complying setback ; and

WHEREAS, the applicant replied that even though the setback would not be complying, any visual impact would be minimized because the site is sloped; and

WHEREAS, the proposed hours of operation for the School are as follows: 8 AM - 4:30 PM, Monday through Thursday and 8A.M. - 1:30 PM Friday (Grades K-3, K-4); 9AM-12PM Sunday, 8AM - 4:30 PM Monday Through Thursday and 8AM-1:30PM Friday (Grades Pre-1A, 1-8); and 4:30 PM - 6PM Monday through Thursday (After School Program); and

WHEREAS, the proposed hours of operation for the Synagogue are as follows:8 AM-12PM and 6 PM - 7:30 PM Saturday; 7 AM - 8 AM, 6PM - 7PM, and 8PM - 10 PM Sunday through Thursday; and 7 AM - 8 AM and 6 PM - 7 PM Friday; and

WHEREAS, the applicant represents that no increase in the amount of functions is proposed; and

WHEREAS, the applicant represents that the proposed hours of operation and amount of functions will not negatively affect adjacent uses; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the School relief; and

WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the project is classified as an Unlisted Action pursuant to 6 NYCRR, Part 617; 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. 05-BSA-047Q dated October 4, 2004; 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

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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 the required findings under Z.R. §72-21, to permit, within an R-12 zoning district, the proposed enlargement of a building occupied by both a synagogue and a religious school, which does not comply with the zoning regulations governing floor area, lot coverage, front yard, and height and setback, contrary to Z.R. §§24-11, 24-34, 24-521 and 24-551; 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 June 3, 2005"-(8) sheets; and on further condition:

THAT there shall be no commercial catering on the site;

THAT the above condition shall listed on the certificate of occupancy

THAT the bulk parameters of the proposed building, including the dimensions of the interior spaces, shall be as reflected on the BSA-approved plans;

THAT the layout of the required parking spaces shall be as approved by the Department of Buildings;

THAT all exiting 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 approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 7, 2005.

345-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Yad Yosef, owner.

SUBJECT - Application October 22, 2004 - under Z.R. §72-21 to request a bulk variance to allow the construction of a new synagogue in an R5 district contrary to Z.R. §§23-141, 23-464, 23-47, 113-12, 23-631(d), 113-30, 25-18 and 25-31.

PREMISES AFFECTED - 1030-1044 Ocean Parkway, west

side, between Avenues "J and L", Block 5495, Lots 909, 911 and 914, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Lyra Altman, Fredrick A. Becker.

ACTION OF THE BOARD - Application granted upon condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair

Babbar.....1

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 18, 2005, acting on Department of Buildings Application No. 301759372, reads, in pertinent part:

- "1. Proposed plans are contrary to ZR 23-141 in that the proposed open space is less than the minimum required.
2. Proposed plans are contrary to ZR 23-141 in that the proposed lot coverage is greater than the maximum permitted.
3. Proposed plans are contrary to ZR 23-464 in that the proposed side yards are less than the minimum required.
4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required rear yard.
6. Proposed plans are contrary to ZR 23-631(d) in that the proposed wall height is greater than the maximum allowed wall height.
7. Proposed plans are contrary to ZR 23-631(d) in that the proposed front wall encroaches into the required sky exposure plane.
8. Proposed plans are contrary to ZR 113-30 in that the front yard is not fully landscaped.
9. Proposed plans are contrary to ZR 25-18 and ZR 25-31 in that the proposed number of parking spaces is less than the minimum required number of parking spaces."; and

WHEREAS, a public hearing was held on this application on March 1, 2005, after due notice by publication in *The City Record*, with a continued hearing on May 17, 2005, and then to decision on June 7, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar and Commissioner Miele; and

WHEREAS, this is an application under Z.R. § 72-

MINUTES

21, to permit, within an R5 zoning district, the proposed construction of a new synagogue, contrary to Z.R. §§

WHEREAS, this application is brought on behalf of Yad Yosef, a not-for-profit entity (hereinafter, the "Synagogue"); and

WHEREAS, Community Board 12, Brooklyn, recommends approval of this application with certain conditions as stated in their recommendation report, as discussed further below; and

WHEREAS, certain members of the community apart from the Community Board spoke at the hearing with respect to this proposal and voiced concerns about increased traffic in the area, potential catering on the premises, the bulk of the building, including the rear yard encroachment, and potential noise issues; certain of these concerns are addressed below; and

WHEREAS, the subject site is currently improved upon with a two-story synagogue, occupied by the congregation since 1998, and a three-story plus cellar medical facility; and

WHEREAS, the three lots combined have a total lot area of 21,000 sq. ft.; and

WHEREAS, the applicant proposes to construct a 23,228.52 sq. ft. new synagogue in order to accommodate the growing size of the congregation and meet the current needs of the congregation; and

WHEREAS, construction of the addition as currently proposed will result in the following non-compliances: side yards of 8 ft. and 9 ft. (two 18 ft., 5 3/8 in. side yards are required); no rear yard (one 30 ft. rear yard is required); open space of 6,929.37 (open space of 10,452.83 minimum required); open space ratio of 30% (open space ratio of 45% minimum required); wall height of 35 ft. (wall height of 30 ft. maximum permitted); lot coverage of 67% (lot coverage of 55% maximum permitted); no sky exposure plane; and no parking spaces; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the existing building has insufficient space to accommodate the increased enrollment of the Synagogue while still providing separate praying areas for men and women; and the proposed building, which contemplates a floor area ratio below the floor area ratio permitted by the zoning resolution, could not be built in compliance with the existing rear yard, side yard or height requirements while still fulfilling the basic programmatic needs of the congregation, including, among other things, separate praying areas for men and women; and

WHEREAS, the applicant states that the following are the programmatic needs of the Synagogue, which has been driven by an increase in congregation size since 1993 to its present size of 100 families: (1) more worship space than is currently provided, to reduce overcrowded conditions; (2) a private office for the

23-141, 23-464, 23-47, 23-631(d), 113-30, 25-18 and 25-31; and

rabbi; (3) offices for the personnel of the congregation; (4) adequate bathrooms; (5) handicap accessibility; (6) a multi-purpose room for gatherings on the Sabbath and bar and bat mitzvahs; and (7) space for the women's center, the rabbinical seminary and the youth program; and

WHEREAS, the Board agrees that, based upon the submitted evidence, the enlargement is necessary in order to meet the programmatic needs of the Synagogue; and

WHEREAS, the Board also notes that the building cannot be pushed forward, away from the neighbors in the rear, due to a deed restriction that requires a 30 ft. front yard; and

WHEREAS, therefore, the Board finds that the cited unique physical condition, when considered in conjunction with the programmatic needs of the Synagogue, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not address Z.R. § 72-21(b) since the applicant is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant represents that the proposed building was designed to only address the programmatic needs of the Synagogue; and

WHEREAS, the Community Board has requested that the applicant set back the second floor mezzanine 8 ft. in the rear, and ensure that the windows in the rear of the synagogue will be located one-third from the top of the building to obscure any view into the adjacent neighbors' yards; and

WHEREAS, in response to the concerns of the Board, the Community Board and other community members about the bulk of the building, the applicant has modified its proposal to provide: an extension of 8 ft. side yard and 9 ft. side yard to the rear lot line; translucent windows in the back of the building; a refuse room in the cellar; a lesser encroachment in the rear yard through the elimination of the rear mezzanine (reduction from 27 ft to 16 ft.); re-location of the mechanicals from the rear mezzanine to the roof; replacement of originally proposed brick and block parapet on rear lot line with an open metal railing parapet; and a limitation on the use of outdoor space in the back of the building to the eight days of Succoth; and

WHEREAS, the Board asked the applicant to discuss whether there would be adequate parking available for the congregants; and

WHEREAS, in response, the applicant represents

MINUTES

that more than 75% of the members of the congregation live within three-quarters of a mile of the Synagogue,

WHEREAS, in addition, the applicant submitted a parking study that surveyed an area within a 600 ft. radius of the site during a weekday; such survey indicates that the proposed new building will not have any adverse parking impacts on weekdays because the only scheduled weekday activity is a woman's Bible study class for 20-70 women that meets between the hours of 11AM-2PM, and at such time there are well over 100 available on-street parking spaces in the surveyed area; and

WHEREAS, the Board received two letters from certain members of the community dated May 24, 2005 that addressed, among other things, potential impacts from catering on the site and issues that may arise from the expansion of the congregation of the Synagogue; and

WHEREAS, in response, the applicant submitted a letter dated June 3, 2005, in which the applicant stated that: it is not intending to use the multi-purpose room of the Synagogue as a commercial catering facility; the proposed synagogue addresses the programmatic needs of the existing congregation and not those of a larger congregation; and although the applicant considered building a third floor instead of encroaching into the rear yard, such change would not meet the programmatic needs of the congregation; and

WHEREAS, with respect to the catering issue, the Board is conditioning the grant on the prohibition of commercial catering on site; and with respect to comments about the expansion of the congregation, the Board notes that the applicant has represented that the proposal addresses current needs of the congregation and not future needs; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the School relief; and

WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; 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. 05-BSA-054K dated February 8, 2005; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic

and that during peak Synagogue hours (i.e., on the Sabbath), members walk to the Synagogue; and 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, a Parking Survey was conducted by the Applicant's Consultant on March 24, 2005 to document available on-street parking spaces within a 600 foot radius of the subject site; the conclusion of this survey was that no adverse parking impacts are anticipated due to the subject proposal; 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 the required findings under Z.R. § 72-21, to permit, within an R5 zoning district, the proposed construction of a new synagogue, contrary to Z.R. §§ 23-141, 23-464, 23-47, 23-631(d), 113-30, 25-18 and 25-31; *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 23, 2005" – (7) sheets and "Received May 25, 2005" – (3) sheets; and *on further condition*:

THAT the bulk parameters of the proposed building shall be as reflected on the BSA-approved plans;

THAT there shall be no commercial catering on the site;

THAT use of the rear terrace above the first floor shall be limited to the eight days of Succoth;

THAT all rear lot line windows shall be combination fixed and project-in (hoppers swinging in) with obscure glazing, as indicated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

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Adopted by the Board of Standards and Appeals,
June 7, 2005.

354-04-BZ

APPLICANT - Friedman & Gotbaum by Shelly S. Friedman,

COMMUNITY BOARD #2M

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

.....0

Absent: Vice-Chair

Babbar.....1

THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough Commissioner, dated October 27, 2004, acting on Department of Buildings Application No. 102045396, reads:

“Proposed use group two is not permitted as of right in a manufacturing district. This is contrary to section 42-10 ZR.”; and

WHEREAS, a public hearing was held on this application on May 10, 2005 after due notice by publication in the *City Record*, and then to decision on June 7, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an M1-5 zoning district, the conversion of a two-story building with two mezzanines from artist’s studio to single family residence, contrary to Z.R. § 42-10; and WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of Greenwich Street south of Barrow Street, with a total lot area of 2,837.6 sq. ft., and is improved upon with an existing four-story building; and

WHEREAS, the lot has a frontage on Greenwich Street of approximately 25 ft., and a depth of 112 ft. on the northern lot line and 114 ft. on the southern lot line; and

WHEREAS, the applicant represents that the building has been used since 1971 as the owner’s art studio and residence; and

WHEREAS, the applicant states that previously the existing building was occupied by the Metropolitan

Esq., for Greenwich Tower LLC, owner.

SUBJECT - Application November 8, 2004 - under Z.R. §72-21 to permit the proposed conversion of an existing two-story building, from artist’s studio to a single family residence, located in an M1-5 zoning district, is contrary to Z.R. §42-10. PREMISES AFFECTED - 637 Greenwich Street, east side, 75.3’ south of Barrow Street, Block 603, Lot 51, Borough of Manhattan.

Opera and used to house large-scale scene paintings; as a result, the building was fitted with high ceilings and a split-floor interior configuration to accommodate such paintings; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformity with underlying district regulations: (1) the existing building has narrow and irregularly shaped floors resulting in small floor plates; (2) the building lacks elevator service and other modern commercial amenities; and (3) the building has excessive ceiling heights and mezzanines on both the first and second floors; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulties in developing the site in conformity with the current zoning; and

WHEREAS, the applicant submitted a feasibility study that analyzed a conforming “as-is” industrial use at a 2.77 F.A.R., a renovated conforming industrial use at a 5.0 F.A.R., and a renovated conforming commercial office use at a 5.0 F.A.R.; and

WHEREAS, the feasibility study demonstrates that a conforming manufacturing or commercial use would not yield a reasonable return because the existing building’s inherent functional obsolescence is not conducive to commercial or manufacturing uses, and a newly constructed commercial or manufacturing use has an insufficient floor plate because of the small lot size; and

WHEREAS, therefore, the Board has determined that because of the subject lot’s unique physical conditions, namely the small floor plates, the excessively high ceilings and the lack of commercial amenities including an elevator, there is no reasonable possibility that development in strict conformity with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood; and

WHEREAS, the applicant states that the buildings surrounding the property are mixed-use, and that residential lofts are found in within the site’s 400 ft. radius, along with tenement walk-ups, community facilities and parking garages; and

WHEREAS, the applicant states that, specifically, the property to the north of the site is a parking lot, and

MINUTES

the L-shaped lot to the east and south of the site and the lot to the west of the site are community facilities; and

WHEREAS, the Board has conducted a site visit and concludes that residential use of the site is appropriate given the predominance of residential use in the immediate area; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor

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; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; 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, with conditions as stipulated below, 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 Z.R. § 72-21 and grants a variance to permit, within an M1-5 zoning district, the conversion of an two-story building from artist's studio to single family residence, contrary to Z.R. § 42-10; 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 24, 2005" - (7) sheets; and on further condition:

THAT the interior layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 05-BSA-190M dated February 3, 2004; and

Adopted by the Board of Standards and Appeals, June 7, 2005.

356-04-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for RFD 55th Street, LLC, owner; The Core Club 55th Street, LLC, lessee.

SUBJECT - Application November 16, 2004 - under Z.R. §73-36 approval sought for a proposed physical cultural establishment to be located on a portion of the cellar and first floor, entire third, fourth and sixth floor levels of a 41 story mixed use building currently under construction. The proposed PCE use will contain 19, 249 gross square feet. The site is located in a C5-2.5 Special Midtown District.

PREMISES AFFECTED - 60 East 55th Street, south mid block, East 55th Street, block bounded by Park and Madison Avenues and East 54th and East 55th Streets, Block1290, Lot # 45, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: James P. Power.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair
Babbar.....1

THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough Commissioner dated October 18, 2004, acting on Department of Buildings Application No. 103319491, reads:

"Proposed use is a physical culture establishment, which requires a special permit from the Board of Standards and Appeals pursuant to Zoning Resolution Section 73-36."

WHEREAS, a public hearing was held on this application on May 17, 2005 after due notice by

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publication in *The City Record*, and then to decision on June 7, 2005; and

WHEREAS, Community Board No. 5, Manhattan, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 73-36 and 73-03, to permit, within the C5-2.5/C5-3 zoning district in the Special Midtown District, a physical culture establishment ("PCE") to be located in a portion of the cellar and first floor, and the entire third, fourth and sixth floors of a 41-story mixed use building currently under construction; and

WHEREAS, the PCE will occupy approximately 19,249 gross square feet of the building; and

WHEREAS, the first floor of the building will be occupied by a retail use and the remaining floors will be occupied by a residential use; and

WHEREAS, the applicant states that the PCE will include a gym that will have facilities for classes,

WHEREAS, the area where the PCE will be located is predominantly a commercial area with some residential and hotel uses; and

WHEREAS, the PCE will have a separate entrance from the residential use entrance; and

WHEREAS, the Board finds that the PCE, given the proposed uses and the hours of operation, will not have any significant impact on the residential use in the building or adjacent residential uses; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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 proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; 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. 05-BSA-059M, dated February 22, 2005; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on

instruction and programs for physical improvement, body building, weight reduction and aerobics, and facilities for massage treatments; and

WHEREAS, the applicant states that all masseurs and masseuses employed by the facility will be New York State licensed; the applicant anticipates that there will be 10 massage therapists, but has not hired any therapists at this time; and

WHEREAS, the applicant represents that the PCE will have a 500 sq. ft. outdoor lounge on the roof over the fifth floor; and

WHEREAS, the Board has reviewed the evidence submitted by the applicant related to the outdoor lounge and finds that the applicant meets the requirements of § 73-36(b); and

WHEREAS, the PCE will have hours of operation of 7AM – 11PM daily; and

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, 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 Z.R. §§ 73-36 and 73-03, to permit, within the C5-2.5/C5-3 zoning district in the Special Midtown District, a physical culture establishment ("PCE") to be located in a portion of the cellar and first floor, and the entire third, fourth and sixth floors of an 41-story mixed use building currently under construction; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 24, 2005 (6) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years from June 7, 2005, expiring June 7, 2015;

THAT all massages will be performed only by New York State licensed massage therapists;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT the hours of operation shall be limited to: Monday through Sunday][7AM] to 11PM;

THAT the above conditions shall appear on the

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Certificate of Occupancy;

THAT all signage shall comply with signage regulations applicable in C5-2.5 zoning district in the Special Midtown District;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT a full sprinkler system and a Class C fire alarm system shall be installed throughout the PCE, as indicated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Chris Wright.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner

Chin.....3

Negative:.....0

Absent: Vice-Chair

Babbar.....1

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for decision, hearing closed.

357-03-BZ

APPLICANT - Agusta & Ross, for ECROB, LLC., owner.

SUBJECT - Application November 19, 2003 - under Z.R. §72-21 to permit the proposed four-story and penthouse multiple dwelling in an M1-2 district contrary to Z.R. §42-10.

PREMISES AFFECTED - 33 Berry Street, a/k/a 144 North 12th Street, southwest corner of North 12th Street and Berry Street, Block 2290, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to August 23, 2005, at 1:30 P.M., for deferred decision.

397-03-BZ thru 405-03-BZ

APPLICANT - Sheldon Lobel, P.C., for G & G Associates, owner.

SUBJECT - Application December 29, 2003 - under Z.R. §72-21 to permit the proposed three story (3) plus attic building, to contain three residential units, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED -

Adopted by the Board of Standards and Appeals, June 7, 2005.

344-03-BZ/345-03-A

APPLICANT - Law Offices of Howard Goldman, LLC, for City of New York, owner; Nick's Lobster House, lessee.

SUBJECT - Application November 13, 2003 - under Z.R. §73-242, to allow a restaurant in a C3 zoning district.

The restaurant allows eating and drinking, provides outdoor seating and has a seating capacity of 190 people. There is no dancing or musical entertainment. Under BSA Calendar No. 345-03-A the application seeks an appeal pursuant to Art. III, Sec. 35, of the General City Law to permit construction of commercial facility on the bed of a mapped Street.

PREMISES AFFECTED - 2777 Flatbush Avenue, corner of Mill Basin, Block 8591, Part of Lots 980 and 175, Borough of Brooklyn.

1255 60th Street, between 12th and 13th Avenues, Block 5711, Lot 155, Borough of Brooklyn.

1257 60th Street, between 12th and 13th Avenues, Block 5711, Lot 154, Borough of Brooklyn.

1259 60th Street, between 12th and 13th Avenues, Block 5711, Lot 153, Borough of Brooklyn.

1261 60th Street, between 12th and 13th Avenues, Block 5711, Lot 152, Borough of Brooklyn.

1263 60th Street, between 12th and 13th Avenues, Block 5711, Lot 151, Borough of Brooklyn.

1265 60th Street, between 12th and 13th Avenues, Block 5711, Lot 150, Borough of Brooklyn.

1267 60th Street, between 12th and 13th Avenues, Block 5711, Lot 149, Borough of Brooklyn.

1269 60th Street, between 12th and 13th Avenues, Block 5711, Lot 148, Borough of Brooklyn.

1271 60th Street, between 12th and 13th Avenues, Block 5711, Lot 147, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Jordan Most and Sheldon Lobel.

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

3-04-BZ

APPLICANT - Eric Palatnik, P.C., for Rushikesh Trivedi, owner.

SUBJECT - Application January 6, 2004 - under Z.R. §72-21 to permit the proposed dental office, Use Group 6, located in an R-2 zoning district, which does not comply with the zoning requirements for floor area, open space, front and side yards and use, which is contrary to Z.R. §24-111, §22-14, §24-34 and §24-35.

MINUTES

PREMISES AFFECTED - 147-08 46th Avenue, between Parsons Boulevard and 149th Street, Block 5452, Lot 3, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to September 13, 2005, at 1:30 P.M., for continued hearing.

154-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Wavebrook Associates, owner.

SUBJECT - Application April 9, 2004- under Z.R.§72-21 to permit the proposed construction of a four family dwelling, Use Group 2, located in M1-1 zoning district, is contrary to Z.R.§42-10.

PREMISES AFFECTED - 63 Rapeleye Street, north side, 116' east of Hamilton Avenue, Block 363, Lot 48, Borough of Brooklyn.

PREMISES AFFECTED - 1924 Homecrest Avenue, between Avenues "S and T", Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Eric Palatnik

For Opposition: Antoinette Vasile.

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for continued hearing.

272-04-BZ

APPLICANT - Sullivan Chester & Gardner, for Chickie, LLC, owner.

SUBJECT - Application August 5, 2004 - under Z.R.§72-21 to permit the proposed five story, twenty-unit multiple dwelling, Use Group 2, located in an R-5 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, density, side and front yards, height and/or setback and parking spaces, is contrary to Z.R.§23-141, §23-22, §23-45a, §23-461(a and b), §23-462, §23-631d and §25-23.

PREMISES AFFECTED - 14-38/40 31st Drive, East side, between 14th and 21st Streets, Block 531, Lots 50 and 51, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to July 19, 2005, at 1:30 P.M., for postponed hearing.

352-04-BZ

APPLICANT - Eric Palatnik, P.C., for R. Randy Lee, owner.

SUBJECT - Application November 4, 2004 - Under Z.R.§72-21, to modify the previous approval by the BSA (118-01-BZ) by altering the configuration of the subject

COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Adam W. Rothkrug.

For Opposition: Paulette Rigolli and Roger Rigolli.

ACTION OF THE BOARD - Laid over to July 19, 2005, at 1:30 P.M., for continued hearing.

255-04-BZ

APPLICANT - Eric Palatnik, P.C., for Eli Kafif, owner.

SUBJECT - Application July 15, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, which does not comply with the zoning requirements for floor area and side yard, is contrary to Z.R. §23-141 and §23-461(a), located in an R5 zoning district.

building and to permit a change in use from Use Group 6 office use to Use Group 6 retail use, within an R3-1 Zoning District and to vary Section 22-00 of the Resolution.

PREMISES AFFECTED - 1845 Richmond Avenue, East side of Richmond Avenue, 500 feet south of Eaton Place, Block 2030, Lot 57, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Eric Palatnik and Hiram Rothkrug.

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

363-04-BZ

APPLICANT - Herrick Feinstein, LLP, for 6002 Fort Hamilton Parkway Partners, owners.

SUBJECT - Application November 18, 2004 - under Z.R. §§72-01(b) and 72-21 to permit in an M1-1 district, approval sought to convert an existing industrial building to residential use. The proposed development will contain 115,244 SF of residential space containing 90 dwelling units, as well as 9,630 SF of retail space. There will be 90 parking spaces. The development is contrary to district use regulations per Section 42-00.

PREMISES AFFECTED - 6002 Fort Hamilton Parkway, a/k/a 949/59 61st Street, a/k/a 940/66 60th Street, south side of 61st Street, east side, of Fort Hamilton Parkway and north side of 60th Street, Block 5715, Lots 21 and 27, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Mitchell Korbey, Steven Steir and Jack Friedman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner

Chin.....3

MINUTES

Negative:.....
.....0

Absent: Vice-Chair
Babbar.....1

ACTION OF THE BOARD - Laid over to July 19, 2005, at 1:30 P.M., for decision, hearing closed.

402-04-BZ

APPLICANT - Steven Sinacori/Stadtmauer Bailkin LLP for Knapp Street Entertainment Center Inc., owner; Public Storage Inc., lessee.

SUBJECT - Application December 28, 2004 - under Z.R. §72-21, to permit the change of use from an enclosed amusement arcade (Use Group 15) to self-storage facility (Use Group 16) in an R6 Zoning District and to vary Sections 24-11 (Lot coverage), 24-35(b) (Side yard), and 24-522 (Perimeter wall height, setback, and sky exposure plane) of the Resolution.

PREMISES AFFECTED - 1384 East 24th Street, bounded by Avenue "N", East 23rd Street, Avenue "M" and East 24th Street, Block 7659, Lot 81, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Richard Lobel.

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for continued hearing.

405-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Kim Stavrach, owner.

SUBJECT - Application December 30, 2004- under Z.R. §73-622 for an enlargement of a single family residence to vary ZR 23-141 for open space and floor area, ZR 23-461 for side yards and ZR 23-47 for rear yard. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED - 1734 East 27th Street, west side, between Quentin Road and, Avenue "R", Block 6809, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Richard Lobel.

ACTION OF THE BOARD - Laid over to August 16, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 4:10 P.M.

PREMISES AFFECTED - 2461 Knapp Street, east side, between Avenue "X and Y", Block 8833, Lot 200, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Steven Sinacori, Lance I. Michaels and Jack Friedman.

ACTION OF THE BOARD - Laid over to July 19, 2005, at 1:30 P.M., for continued hearing.

404-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Sharokh Rambod, owner.

SUBJECT - Application December 30, 2004 - under Z.R. §73-622 Enlargement of a single family residence to vary ZR 23-141 for open space and floor area, ZR 23-461 for side yards and ZR 23-47 for rear yard. The premise is located in an R2 zoning district.

BULLETIN

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June 2, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

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JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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New Case Filed Up to June 14, 2005

134-05-A B.Q. 67-02 53rd Road, south side of the intersection of 67th Street, 53-31 and 53-33 67th Street, bed of 67th Street, 156.6' south of the intersection of 53rd Road, Block 2403, Lots 17, 117 and 217, Borough of Queens. Applic.#s401389724, 401389706 and 401389715. Proposed construction, located within the bed of mapped street, is contrary to Section 35, Article 3 of the General City Law.

135-05-BZ B.M. 217 West 147th Street, between Adam Clayton Powell, Jr. and Frederick Douglas Boulevards, Block 2033, Lot 12, Borough of Manhattan. Alt.1#104110392. Proposed conversion of a vacant 6-story school building into a 55-unit residential building, which does not comply with the zoning requirements for maximum building and base height, rear yard and required parking, is contrary to Z.R. §23-633, §23-533 and §25-23.
COMMUNITY BOARD #10BK

136-05-BZ B.BX. 1901 Nereid Avenue, northeast corner of Ely Avenue, Block 5092, Lot 10, Borough of the Bronx. N.B.#200918784. Proposed two family dwelling, located in an R4 zoning district, which does not comply with the zoning requirements for front yard, lot area and width, is contrary to Z.R. §23-45 and §23-32.
COMMUNITY BOARD #12BX

137-05-BZ B.Q. 198-61 Foothill Avenue, north side, 230.47' from the corner of Hillside Avenue, Block 10532, Lot 139, Borough of Queens. N.B.#401721277. Proposed construction of a two story one family dwelling, located in an R1-2 zoning district, which does not comply with the zoning requirement for lot width, is contrary to Z.R. §23-32.
COMMUNITY BOARD #8Q

138-05-BZ B.BK. 1227 East 27th Street, east side, between Avenues "L and M", Block 7645, Lot 34, Borough of Brooklyn. Alt.1#301951136. Proposed enlargement of a single family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, also side and rear yards, is contrary to Z.R. §23-141(a), §23-461(a) and §23-47.
COMMUNITY BOARD #14BK

139-05-A B.Q. 977 Bayside Walk, west side of

Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens. Alt.1#402023877. Proposed alteration and enlargement of an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

140-05-A B.Q. 29 Queens Walk, east side, 217.19' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens. Alt.1#402100908. Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has an upgrade existing private disposal system situated partially in the bed of the service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings Policy.

141-05-BZY B.BK. 66 Huron Street, south side, 125' east of West Street, Block 2531, Lot 12, Borough of Brooklyn. Alt.#301046981. Application for an extension of time to complete construction and/or obtain a certificate of occupancy for development pursuant to Z.R.§11-332.

142-05-A B.Q. 43-19 208th Street, east side, between 43rd Avenue and Northern Boulevard, Block 6275, Lot 40, Borough of Queens. Applic.#402076980. An administrative appeal to rescind a Stop Work Order, and re-instate DOB permit #s 402076980-01-AL and 402076980-EQ-FN on the grounds that the owner has acquired a "vested right" to obtain a Certificate of Occupancy.

143-05-A B.Q. 47-05 Bell Boulevard, between 47th and 48th Avenues, Block 7346, Lot 49, Borough of Queens. Applic.#402112487. An administrative appeal to rescind a Stop Work Order, and re-instate DOB permit #402112487-01-AL, on the grounds that the owner has acquired a "vested right" to complete construction and obtain a Certificate of Occupancy.

144-05-BZY B.Q. 143-53/55 Poplar Avenue, northwest corner of Parsons Boulevard, Block 5228, Lots 32 and 34, Borough of Queens. N.B.#s 402096968 and 402096959. Application for an extension of time to complete construction and/or obtain a certificate of occupancy for a major development pursuant to Z.R. §11-331.

DOCKETS

145-05-BZY B.BK. 135 North Ninth Street, north side, 125. 0' east of Berry Street, Block 2304, Lot 36, Borough of Brooklyn. N.B.#301822981. Application for an extension of time to complete construction and/or obtain a certificate of occupancy for a minor development pursuant to Z.R. §11-331.

146-05-BZ B.M. 900 Second Avenue, aka 884/900, 301/03 East 47th Street and 300/06 East 48th Street), Block 1340, Lot 1, Borough of Manhattan. Applic.#104063656. Proposed physical culture establishment, located on the first floor of a twenty-one story building, situated in a C1-9 zoning district, requires a special permit from the Board as per Z.R.§73-36.

COMMUNITY BOARD #6M

147-05-BZ B.BK. 2402 Avenue "P", southeast corner of East 24th Street, Block 6787, Lot 1, Borough of Brooklyn. Applic.#301931694. The legalization of, and the proposed enlargement, of a two-story building, housing a synagogue and Rabbi's apartment, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, side and front yards and front setback, is contrary to Z.R. §23-141, §24-11, §24-34, §24-35, and §24-521.

COMMUNITY BOARD #15BK

148-05-A B.Q. 42-03 222nd Street, east side, 180' north of 43rd Avenue, Block 6326, Lot 10, Borough of Queens. Applic.#401984732. An appeal to permit completion of a second floor enlargement to an existing dwelling, approved, permitted and substantially completed prior to change in zoning (April 12, 2005).

149-05-A B.Q. 32-29 211th Street, East side of 211th Street, Block 6061, Lot 10, Borough of Queens. Applic. # 401867618. An application to rescind a Stop Work Order and to reinstate DOB Permits issued on the grounds that the owner has acquired a common law vested right to complete construction and obtain a Certificate of Occupancy.

150-05-BZ B.BK 1426 Fulton Street, Between Kingston & Brooklyn Avenue, Block 1863, Lot 9, Borough of Brooklyn. Applic. # 301897918. Proposed physical establishment(massage therapy spa) to be located in a three story commercial building, located in C2-3/R6 zoning district requires a special permit from the Board as per Z.R. §73-36.

COMMUNITY BOARD # 3BK

151-05-BZ B.M 100 Varick Street, Easterly

side of Varick Street between Watt and Broome Streets, Block 477, Lots 35, 42, Borough of Manhattan. Applic. # 103625436. Proposed construction of a ten (10) story mixed use building with as-of-right commercial use on the ground floor and residential use on the upper floors, located in an M1-6 zoning district, is contrary to Z.R. §72-21

COMMUNITY BOARD # 2M

152-05-BZ B.BK 255 Butler St., a/k/a 484 Baltic St., a/k/a 224 Nevins Street, Irregular L-shape lot W/S Nevins between Butler & Baltic; extending 200' & 175' W. on Nevins, Block 405, Lot 27, Borough of Brooklyn. Applic. # 301898953. Proposed residential use and a reallocation of an existing warehouse building, located in an M1-2 zoning district, is contrary to Z.R. §72-21.

COMMUNITY BOARD # 6BK

153-05-A B.Q 222-54 141st Avenue, Bed of 114th Avenue, s/e/c with 224th Street, Block 13149, Lot 48, Borough of Queens. Applic. # 402077195. Application to permit construction in the bed of a final mapped street, contrary to Article III, Section 35 of the General City Law.

154-05-BZ B.M 520-528 Broome Street and 530-532 Broome Street and 55 Sullivan Street, North side of Broome Street between Thompson & Sullivan Streets, Block 489, Lots 1 & 41, Borough of Manhattan. Applic. # 104129890. Application is for Zoning Variance to permit construction of 8-story building with ground floor retail, residential on upper floors and 117 space parking garage is contrary to Z.R. 72.21.

COMMUNITY BOARD #2M

155-05-A B.M 81 East 3rd Street, 3rd Street between 1st and 2nd Avenues, Block 445, Lot 45, Borough of Manhattan. Applic. #102579354. Appeals to Department of Building Denial of Final Determination Letter dated March 21, 2005.

DOCKETS

156-05-BZ B.M 1 Seventh Avenue South,
Commences on North-East corner of Seventh Avenue South,
Block 582, Lot 43, Borough of Manhattan. Applic. #
104124190. Variance to permit a new 5 and a half story
building with commercial use on the cellar and first floors
and residential use on the upper floors with 5.5 FAR and
100% lot coverage, contrary to §23-145 and 5 a foot setback
contrary to §35-24 and residential use under 1,700 sq. ft.
contrary to §23-22.

COMMUNITY BOARD # 2M

157-05-A B.Q 39 Kildare Walk, E/S 70' North
of Breezy Point Boulevard, Queens, Block 16350, Lot 400,
Borough of Queens. Applic. # 402152772. Appeals to
Department of Buildings to allow construction of a two
story frame dwelling on a site lying within an R4 district is
contrary to Article 3, Section 35 of the General City Law, in
that the site does not front on a mapped Street (Kildare
Walk) and contrary to Sec. 27-291 of the Building Code.

**DESIGNATIONS: D-Department of Buildings; B.BK.-
Department of Buildings, Brooklyn; B.M.-Department of
Buildings, Manhattan; B.Q.-Department of Buildings,
Queens; B.S.I.-Department of Buildings, Staten Island;
B.BX.-Department of Building, The Bronx; H.D.-Health
Department; F.D.-Fire Department.**

CALENDAR

JULY 26, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, July 26, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

523-58-BZ

APPLICANT -Walter T.Gorman, P.E., for Yehuea, LLC, owner; Farmers Mini Mart Inc., lessee.

SUBJECT - Application March 25, 2005 - Extension of Term/Waiver for a gasoline service station with accessory uses. The premise is located an C1-2/R3-2 and R3-2 zoning district.

PREMISES AFFECTED - 117-30/48 Farmers Boulevard, southwest corner of Baisley Boulevard, Block 12448, Lot 31, Borough of Queens.

COMMUNITY BOARD #12Q

328-82-BZ

APPLICANT - Agusta & Ross, for Parkhouse Hotel, Inc., owner.

SUBJECT - Application February 4, 2005 - Extension of Term/Waiver of a variance to permit a transient hotel (UG 5) which expired on January 18, 2003. The premise is located in an R-6 zoning district.

PREMISES AFFECTED - 1206 48th Street, southwest corner of 48th Street and 12th Avenue, Block 5634, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #12BK

199-97-BZ

APPLICANT - Sheldon Lobel. P.C., for Corey Marcus, owner.

SUBJECT - Extension of Time to Complete Construction and Obtain a Certificate of Occupancy, for a variance, granted on May 27, 1998, allowing an enclosed florist shop in an R3-2 zoning district. A previous extension of time to obtain a Certificate of Occupancy was granted on October 1, 2002.

PREMISES AFFECTED - 130-38 Horace Harding Expressway, south side of Horace Harding Expressway, west of the intersection with Lawrence Avenue, Block 6451, Lots 12 & 16, Borough of Queens.

COMMUNITY BOARD #7Q

SUBJECT - Application March 4, 2005 - Proposed reconstruction and enlargement of an existing one family dwelling also a proposal to upgrade the non-complying private disposal system, located within the bed of a mapped street and not fronting on a legally mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law and

186-00-BZ

APPLICANT -Law Office of Fredrick A. Becker, for Stacey Dana and Murray Dana, owners.

SUBJECT - Application April 14, 2005 - reopening for an extension of time which expired April 17, 2005.

PREMISES AFFECTED - 2301 Avenue L, northeast corner of Avenue L and East 23rd Street, Block 7623, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEALS CALENDAR

36-05-A

APPLICANT -Zygmunt Staszewski, P.E., for Breezy Point Cooperative, Inc., owner; William Mullay, lessee.

SUBJECT - Application February 24, 2005 -Proposed alteration to an existing one family dwelling, located within the bed of a mapped Street, also a proposal to upgrade the existing septic system, is contrary to Section 35, Article 3 of the General City Law and Department of Buildings Policy.

PREMISES AFFECTED -35 Janet Lane, east side, 577.98' north of Beach 203rd Street and Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

49-05-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Joan & Fred Tierney lessees.

SUBJECT - Application March 4, 2005 - Proposed reconstruction and enlargement of an existing one family dwelling, also a proposal to upgrade the non-complying private disposal system, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 8 Atlantic Walk, west side, 38.15' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

50-05-A

APPLICANT -Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Elsa & Vincent Lehner, lessees.

Department of Buildings' Policy.

PREMISES AFFECTED - 412 Seabreeze Avenue, east side, 40.7" north of Beach 183rd Street, Block 16340, Lot 50, Borough of Queens.

COMMUNITY BOARD #14Q

CALENDAR

86-05-A

APPLICANT -Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; George & Christine Donley, lessee.
SUBJECT - Application April 8, 2005 - Proposed enlargement of an existing single family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 103 Oceanside Avenue, east side of Beach 204th Street and north side of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

JULY 26, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, July 26, 2005, at 1:30 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

321-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Blake Lefferts Co., owner; The Montgomery Academy, lessee.

SUBJECT - Application September 23, 2004 - under Z.R.§73-19 to allow the conversion of an existing commercial building (Use Group 6) to School (Use Group 3) which is contrary to section 32-00, located in a C8-2 zoning district.

PREMISES AFFECTED - 842 Lefferts Avenue, south side, 262'-1/2" west of Utica Avenue, Block 1430, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #9BK

326-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Sephardic Center of Mill Basin, owner.

SUBJECT - Application- under Z.R.§72-21 to request a bulk variance to allow the construction of a new synagogue in place of an existing synagogue. The application seeks waivers regarding Floor area ratio (sections 24-111 and APPLICANT - Stuart Klein for GIM Management & Sheepshead Bay Spa Ctr., lessee.

SUBJECT - Application January 25, 2005- under Z.R.§.§73-03 & 73-36 - approval sought for a proposed physical cultural establishments to be located on the first and second of a three story commercial building. The proposed PCEs use will contain 39,505 gross square feet. The site is located in a C8-02 (OP) Special District.

23-141), perimeter wall height (section 24-521), sky exposure plane(section 24-521) and parking (sections 25-18 and 25-31), located in a R2 zoning district.

PREMISES AFFECTED - 6208/16 Strickland Avenue, northeast corner of Mill Avenue, Block 8656, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #18BK

353-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Medident Corp., owner.

SUBJECT - Application November 4, 2004- under Z.R.§§11-411 & 11-412 to permit the reestablishment of an expired approval, previously granted under Cal. No. 612-59-BZ for a professional office building in a residential district, also the legalization of minor changes in the interior layout of the building, in addition the proposed installation of a circular staircase within the existing structure, is contrary to Z.R. §11-411 and §11-412.

PREMISES AFFECTED - 18-15 Francis Lewis Boulevard, a/k/a 157-68/72 18th Avenue and 18-02/8 160th Street, corner of Francis Lewis Boulevard, 18th Avenue and 160th Street, Block 4748, Lot 35, Borough of Queens.

COMMUNITY BOARD #7Q

399-04-BZ

APPLICANT - Greenberg Traurig LLP, by Jay A. Segal, for Hip-Hin Realty Corp., owner.

SUBJECT - Application December 23, 2004- under Z.R.§§72-21 & 73-36 - Proposed use of the subcellar for accessory parking, first floor and cellar for retail, and the construction of partial sixth and seventh stories for residential use, also a special permit to allow a physical culture establishment on the cellar level, of the subject premises, located in an M1-5B zoning district, is contrary to Z.R.§42-14(D), §13-12(a) and §73-36.

PREMISES AFFECTED - 425/27 Broome Street, southeast corner of Crosby Street, Block 473, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #2M

13-05-BZ

PREMISES AFFECTED - 614-626 Sheepshead Bay Road, Sheepshead Bay Road, bound by West 8th & West 6th Street, Block 7279, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #6BK

44-05-BZ

CALENDAR

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for David Murray & Adrienne Berman, owners.

SUBJECT - Application February 25, 2005 - under Z.R.§73-243, to permit an Accessory Drive Through Facility, contrary to Section 32-15, accessory to a proposed as-of-right Eating and Drinking Establishment (Use Group 6) located in a C1-2/R5 zoning district.

PREMISES AFFECTED - 49-01 Beach Channel Drive, between Beach 49th and Beach 50th Streets, Block 15841, Lot 19 (Tentative 50), Borough of Queens.

COMMUNITY BOARD #14Q

69-05-BZ

APPLICANT - Moshe M. Friedman, P.E., for Renee Devor, owner.

SUBJECT - Application March 22, 2005 - under Z.R.§73-622 to permit the enlargement to a single family home to vary sections ZR23-141(b) for FAR, lot coverage, open space and ZR23-47 for rear yard. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED - 1557 East 27th Street, 527.8' north of Avenue "P", Block 7688, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JUNE 14, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, April 5, 2005, as printed in the Bulletin of April 14, 2005, Volume 90, No. 17.

SPECIAL ORDER CALENDAR

765-50-BZ

APPLICANT - Kenneth H. Koons, for R. G. Ortiz Funeral Home, Inc., owner.

SUBJECT - Application January 24, 2005 - Extension of Term of a Variance for an existing Funeral Establishment Granted by the Board, filed pursuant to section 11-411 of the zoning resolution, located in aC1-2/R6 zoning district.

PREMISES AFFECTED - 1430-36 Unionport Road, east side 43' south of Olmstead Avenue, Block 3933, Lot 53, Borough of The Bronx.

COMMUNITY BOARD #9BX

APPEARANCES -

For Applicant: Kenneth Koons.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an extension of the term of the variance; and

WHEREAS, a public hearing was held on this application on May 24, 2005, after due notice by publication in The City Record, and then to decision on June 14, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 9, Bronx, recommends approval of this application; and

WHEREAS, on July 14, 1953, under the subject calendar number, the Board granted an application to permit, in a R6(C1-2) zoning district, the construction of a one story addition to an existing funeral parlor for a term of 20 years, contrary to Z.R. § 32-00; and

WHEREAS, at various times since 1973, the Board has APPEARANCES -None.

ACTION OF THE BOARD -Application granted on condition.

reopened the application to allow for other extensions of term, the last being granted on June 6, 1995; and

WHEREAS, the most recent term of variance expired on November 20, 2003; and

WHEREAS, the applicant now seeks an extension of term of variance pursuant to Z.R. § 11-411; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of an extension of term with the conditions listed below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, adopted on July 14, 1953, so that as amended this portion of the resolution shall read: "to extend the term of the variance for 10 years from November 20, 2003; on condition that all work shall substantially conform to drawings as filed with this application, marked `Received May 27, 2005' - (1) sheet and `June 24, 2005'-(3) sheets; on further condition:

THAT the term of this grant shall be for 10 years, to expire on November 20, 2013;

THAT there shall be 10 parking spaces on-site;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions shall appear on the certificate of occupancy;

THAT conditions from prior resolution(s) 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 objections(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. 200926098)

Adopted by the Board of Standards and Appeals, June 14, 2005.

45-65-BZ

APPLICANT - Wachtel & Masyr, LLP, by Jesse Masyr, Esq., for John Catsimatidis c/o Red Apple Group, ownr.

SUBJECT - Application March 31, 2005 - for an amendment pursuant to Z.R. §§72-01 and 72-22 to enclose an open area formerly used for an accessory off-street loading berth.

PREMISES AFFECTED - 1526 Grand Concourse aka 1539 Sheridan Avenue, Sheridan Avenue between East 172nd Street and Mount Eden Parkway, Block 2821, Lot 11, Borough of The Bronx.

COMMUNITY BOARD #4BX

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner

MINUTES

Chin.....4

Negative:.....
....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on June 7, 2005, after due notice by publication in The City Record, and then to decision on June 14, 2005; and

WHEREAS, Community Board No. 4, Bronx, recommends approval of the subject application; and

WHEREAS, on May 25, 1965, under the subject calendar number, the Board granted an application pursuant to Z.R. § 72.21 to permit, in an R8 zoning district within the Special Grand Concourse Preservation District, the maintenance of an off-street loading berth, accessory to an existing supermarket; and

WHEREAS, also, the Board granted a waiver under BSA Calendar No. 45-65-A, to permit the exit stairs to Sheridan Avenue to be covered with an incombustible roof and side screen, as opposed to partitions or walls; however, this prior "A" case will be rendered moot by the current proposal; and

WHEREAS, the applicant now seeks to amend the prior variance and proposes to enclose the area formerly used as an accessory off-street loading berth, for use as a food storage area on the first floor and as a refuse storage area on the lower level; and

WHEREAS, the applicant explains that the purpose of the enclosure is two-fold: (1) it would provide a much-needed storage area at the rear of the supermarket on the first floor, and (2) by enclosing the refuse staging area on the lower level, the enclosure would serve as a buffer between refuse storage, which is currently exposed, and the neighboring residential property; and

WHEREAS, the applicant states that the proposed enclosure would add approximately 2,850 sq. ft. of new floor area to the supermarket, which is currently approximately 60 ft. wide and between 190 and 260 feet deep; and

WHEREAS, the applicant notes that subsequent to enclosing the loading area, the exit stairs leading to Sheridan Avenue will be enclosed in a structure with 8-12 inch concrete masonry walls, which, as noted above, would moot the appeal mentioned above; and

WHEREAS, the applicant represents that the proposed amendment to the previously-granted variance will improve the supermarket's operations by expanding the first floor storage area; previously, the supermarket's storage space was limited to an area between 30 and 60 feet wide by 60 to 100 feet deep located at the back of the store; and

WHEREAS, the applicant further represents that the proposed amendment will bring into compliance a small mechanical enclosure that could not be housed within the previously-existing structure due to operational constraints

APPEARANCES -

For Applicant: Peter Hirshman.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

within the supermarket; and

WHEREAS, the subject site, now within the Special Grand Concourse Preservation District, is a commercial infill site under the applicable special district regulations, and is therefore treated as a conforming use; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of the requested amendment to the prior resolution, as the increase in floor area is modest, with the conditions listed below.

Therefore it is Resolved that the Board of Standards and Appeals re-opens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit the enclosure of an open-area, formerly used as an accessory off-street loading berth, for use as an accessory storage area; on condition that all work and site conditions shall substantially conform to drawings filed with this application marked `Received March 31, 2005'-(7) sheets; and on further condition;

THAT the premises shall be maintained free of debris and graffiti;

THAT graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions shall appear on the certificate of occupancy;

THAT all conditions from prior resolution(s) 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 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. 200811595)

Adopted by the Board of Standards and Appeals, June 14, 2005.

348-82-BZ

APPLICANT - Salvati Architects for George Gong, owner.
SUBJECT - Application December 17, 2004 - Extension of Term/ Waiver/ Amendment, application seeks to legalize the change from three (3) storefronts (U.G. 6) to two (2) storefronts (U.G. 6 & 16D) located in an R5 zoning district.

The application was approved under section 72-21 of the zoning resolution to permit in an R5 zoning district, the establishment of three (U.G. 6) storefronts for a term of 20 years which expired on April 12, 2003.

PREMISES AFFECTED - 204 Avenue S, Avenue S and West 6th Street, Block 7083, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #11BK

Commissioner Miele and Commissioner Chin.....4

Negative:.....
....0

THE RESOLUTION-

WHEREAS, this is an application for a re-opening and

MINUTES

an extension of the variance for a term of 20 years; and

WHEREAS, a public hearing was held on this application on May 24, 2005, after due notice by publication in The City Record, and then to decision on June 14, 2005; and

WHEREAS, Community Board No. 11, Brooklyn, recommends approval of the subject application; and

WHEREAS, Council Member Domenic M. Recchia, Jr. supports this application; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, on April 12, 1983, under the subject calendar number, the Board granted an application under Z.R. § 72-21, to permit, in an R5 zoning district, the establishment of three retail stores (Use Group 6) for a term of twenty years; and

WHEREAS, at the time of the grant, only one of the storefronts was occupied by a Use Group 6 dry cleaning establishment; and

WHEREAS, the applicant now seeks an extension of the term of the variance and an amendment that would legalize the change from the single storefront that the Use Group 6 dry cleaning establishment previously occupied, to the two storefronts that the dry cleaning establishment currently occupies; this change has led to an increase in the amount of floor area that the dry cleaning establishment occupies to 3,400 sq. ft. and

WHEREAS, a Use Group 6 dry cleaning establishment is limited to 2000 sq. ft.; if a dry cleaning establishment has greater than 2000 sq. ft., it is categorized in Use Group 16D; and

WHEREAS, the now 3400 sq. ft establishment is therefore within Use Group 16D; and

WHEREAS, however, the applicant notes that the use of the facility remains the same even though more space is required to accommodate the new machines associated with the latest dry cleaning technology; and

WHEREAS, the applicant has committed to complying with all regulations applicable to Use Group 6 dry cleaning establishments, including, but not limited to, the conditions set forth below; and

WHEREAS, the applicant also states that: (1) the dry cleaning facility has been operating in the 3400 sq. ft. space for approximately three and a half years; (2) the property has not received any violations; (3) the facility does not use Perchloroethylene and complies with all NYC Department of Environmental Protection rules and regulations, and permitting requirements for NYC dry cleaners; and (4) pursuant to the April 12, 1983 resolution, signage at the dry cleaning facility **189-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for 830 East 233rd Street, Corp., owner.

SUBJECT - Application September 20, 2004 - reopening for an amendment to the resolution to permit the enlargement and conversion of the existing accessory service bays to an accessory convenience store.

PREMISES AFFECTED - 836 East 233rd Street, Bushing Avenue, Block 4857, Lots 44 & 41, Borough of The Bronx.

will comply with the C-1 district regulations; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of an extension of term with the conditions listed below.

Therefore it is Resolved that the Board of Standards and Appeals, reopens and amends the resolution, said resolution having been adopted on April 12, 1983, so that as amended this portion of the resolution shall read: "to extend the term of the variance for twenty years from April 12, 2003; on condition that all work and site conditions shall substantially conform to drawings filed with this application marked 'May 31, 2005' - (2) sheets; and on further condition;

THAT the term of this grant shall be for twenty years, to expire on April 12, 2023;

THAT the dry cleaning facility's hours of operation shall be Monday thru Saturday, 7:30 A.M. to 8:00 P.M.;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT there shall be no connection between the Use Group 16 Dry Cleaning Establishment and the adjacent Use Group 6 use, including in the basement and/or cellar;

THAT the rear yard is not to be used for storage; THAT there shall be no doors in between rooms in the cellar;

THAT the dry cleaning establishment shall be limited to 3400 SF;

THAT only solvents with a flash point of not less than 138.2 degrees shall be used in the facility and total aggregate dry load capacity of machines shall not exceed 60 pounds;

THAT there will be no storage of cans in the rear yard;

THAT the above conditions shall 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; 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. NM 40/82)

Adopted by the Board of Standards and Appeals, June 14, 2005.

COMMUNITY BOARD #12BX

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

MINUTES

Negative:.....
..0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on May 24, 2005, after due notice by publication in The City Record, and then to decision on June 14, 2005; and

WHEREAS, Community Board No.12, Bronx, recommends approval of the subject application; and

WHEREAS, on April 7, 1959, under calendar number 292-58-BZ, the Board granted a variance for Lot 44 for a term of fifteen years, to permit, in an R5(C2-2) zoning district, the erection of a gasoline service station, lubritorium, minor auto repairs, car washing, non-automatic, office, sale and the accessory parking of cars awaiting service; and

WHEREAS, the term of the variance for Lot 44 was initially 15 years, at various times since 1959, under the same calendar number, the Board has reopened the application to allow for other site modifications and term extensions, the last being granted on June 27, 1995; and

WHEREAS, on June 6, 2003, under the subject calendar number, the Board granted a special permit for Lots 44 and 41 to permit the legalization of enlargement of the zoning lot containing the existing automotive service station in order to encompass lot 41; and

WHEREAS, the applicant now seeks an amendment of the previous Board grant to permit the enlargement and conversion of the existing accessory service bays to an accessory convenience store; and

WHEREAS, the applicant states that the enlargement of the existing building will total 92 square feet; and

WHEREAS, the accessory convenience store shall operate twenty-four hours a day, seven days a week; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of the requested amendment to the prior resolution with the conditions listed below.

Therefore it is Resolved that the Board of Standards and Appeals re-opens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit the enlargement and conversion of the existing accessory service bays to an accessory convenience store; on condition that all work and site conditions shall substantially conform to drawings filed with this application marked `Received May 31, 2005'- (5) sheets; and on further condition;

THAT the premises shall be maintained free of debris and graffiti;

THAT graffiti located on the premises shall be removed

ACTION OF THE BOARD - Laid over to July 19, 2005, at 10 A.M., for decision, hearing closed.

793-88-BZ

APPLICANT - Eric Palatnik, P.C., for 164 Willis Avenue Realty Corp., owner; RSV S/S Inc., lessee.

SUBJECT - Application December 1, 2004 and updated May 3, 2005 for an Amendment to a previously approved variance to a gasoline service station to construct a new convenience

within 48 hours;

THAT there shall be no parking of vehicles on the sidewalk or in such a manner as to obstruct pedestrian or vehicular traffic;

THAT plantings are installed along a portion of the lot line of Bussing Avenue, and that such plantings and the site be maintained;

THAT the above conditions shall appear on the certificate of occupancy;

THAT all conditions from prior resolution(s) not specifically waived by the Board remain in effect;

THAT a new certificate of occupancy shall be obtained by October 21, 2005;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and 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. 200869916)

Adopted by the Board of Standards and Appeals, June 14, 2005.

364-87-BZ

APPLICANT - Sheldon Lobel, P.C. for B & V Realty, owner.

SUBJECT - Application January 7, 2005 and updated May 16, 2005 - Extension of Term/Waiver for an Automotive Repair Shop, located in a C2-2 within an R5 zoning district. PREMISES AFFECTED - 1710-1720 Flatbush Avenue, southerly intersection of East 34th Street and Flatbush Avenue, Block 7598, Lots 23,24, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO CLOSE HEARING

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....
.....0

store located in an R6 zoning district.

PREMISES AFFECTED - 164/76 Willis Avenue, north east corner of 135th Street and Willis Avenue, Block 2280, Lots 1, 4, 5, 7, 76, Borough of The Bronx.

COMMUNITY BOARD #1BX

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

MINUTES

Negative:.....
....0

ACTION OF THE BOARD - Laid over to July 19, 2005, at 10 A.M., for decision, hearing closed.

162-93-BZ

APPLICANT - Fredrick A. Becker, Esq., for Chelsea Eighth L. P., owner; TSI West 16th Street dba New York Sports Club, lessee.

SUBJECT - Application December 22, 2004 and updated May 9, 2005 - Extension of Term and to legalize an Amendment to expand the floor area of previously granted special permit for a physical culture establishment, and a waiver of the rules of procedure for a late filing. The premises is located in a C2-5, R8 and C6-2M zoning district.

PREMISES AFFECTED - 270 West 17th Street, aka 124-128 Eighth Avenue, easterly side of Eighth Avenue between West 17th Street and West 16th Street, Block 766, Lots 36-41, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to August 23, 2005, at 10 A.M., for adjournment.

12-00-BZ

APPLICANT - Eric Palatnik, P.C., for Jack Meisels, owner.
SUBJECT - Application November 9, 2004 - Extension of time to complete construction and obtain a C of O permitting the enlargement of a one-family dwelling which was granted on October 17, 2000.

PREMISES AFFECTED - 1045 East 24th Street, east side of 24th Street, approximately 363' south of Avenue "J", Block 7606, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....
..0

WHEREAS, a public hearing was held on this application on March 16, 2005 after due notice by publication in The City Record, with a continued hearings on April 19, 2005, May 17, 2005 and then to decision on June 14, 2005; and

WHEREAS, the site was inspected by a committee of the Board, including Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 1, Staten Island, opposed the granting of any relief to the applicant; and

WHEREAS, the subject premises consists of two lots fronting on North Burgher Avenue; and

WHEREAS, the subject premises is located within an

ACTION OF THE BOARD - Laid over to July 19, 2005, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

309-04-BZY & 310-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Steeplechase Building Corp, owner.

SUBJECT - Application September 13, 2004 - Application to extend time to complete construction for a major development as per Z.R. §11-331.

PREMISES AFFECTED -

65 North Burgher Avenue, east side, 630.42' south of Richmond Terrace, Block 158, Lot 173, Borough of Staten Island.

67 North Burgher Avenue, east side, 655.42' south of Richmond Terrace, Block 158, Lot 171, Borough of Staten Island.

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....
.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....
.....0

THE RESOLUTION -

WHEREAS, this is an application under Z.R. § 11-331, to renew a building permit and extend the time for the completion of the foundation of a major development under construction; and

R3A zoning district; and

WHEREAS, the subject premises is proposed to be developed with two two-story, two-family dwellings with detached basements; and

WHEREAS, however, on August 12, 2004 (hereinafter, the "Rezoning Date"), at approximately 1:30PM, the City Council voted to enact text changes to the Zoning Resolution in response to the recommendations of the Staten Island Growth Management Task Force, rendering the proposed development non-complying; and

WHEREAS, Z.R. §11-331 reads: "If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued as set

MINUTES

forth in Section 11-31 paragraph (a), to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations."; and

WHEREAS, Z.R. § 11-31(a) reads: "For the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met."; and

WHEREAS, because the proposed development contemplates construction of two buildings on contiguous zoning lots, it meets the definition of Major Development; and

WHEREAS, the Board notes that this application was made on September 13, 2004, which is within 30 days of the Rezoning Date because the 12th of September fell on a Sunday, as required by Z.R. § 11-331; and

WHEREAS, the applicant represents that all of the

WHEREAS, the applicant has submitted a cost breakdown of money expended, which states that \$7,300 of the \$12,700 (or 57 percent) of the foundation costs, including the costs for the supplies and labor associated with installing the footings and the walls, and excluding tree removal costs, excavation costs, other soft costs associated with development on the site, had been incurred as of the Rezoning Date; and

WHEREAS, the Board finds all of above-mentioned submitted evidence sufficient and credible; and

WHEREAS, based upon the above, the Board finds that excavation was complete and that substantial progress had been made on foundations, and additionally, that the applicant has adequately satisfied all the requirements of Z.R. § 11-331.

Therefore it is resolved that this application to renew New Building permit No. 500695606-01-NB pursuant to Z.R. § 11-331 is granted, and the Board hereby extends the time to complete the required foundations for one term of sixth months from the date of this resolution, to expire on December 7, 2005.

relevant Department of Buildings' permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the record indicates that on August 10, 2004 a new building permit (Permit No. 500702395-01-NB; hereinafter, the "NB Permit") for one of the new buildings was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the Board has reviewed the record and agrees that the afore-mentioned permit was lawfully issued to the owner of the subject premises; and

WHEREAS, the applicant represents that, as of the Rezoning Date, substantial progress had been made on foundations; and

WHEREAS, the applicant represents that excavation of the site took place on August 10, 2004; and

WHEREAS, applicant represents that forms for the footings were put in on August 10, 2004, and the footings were completed on August 11, 2004; and

WHEREAS, in support of the contention that concrete for the footings was poured on August 11, 2004, the applicant has submitted a receipt from a concrete batching company reflecting the pouring of 12 yards of concrete, dated August 11, 2004; and

WHEREAS, the applicant further represents that forms for the remainder of the foundation were erected on the morning of August 12, 2004, prior to the enactment of the rezoning; and

WHEREAS, the applicant represents that the only remaining work on the foundations as of the Rezoning Date was the pouring of the walls; and

WHEREAS, the applicant has submitted an affidavit from the general contractor documenting the work completed on the proposed development as of the Rezoning Date and describing the remaining work necessary to complete the foundations; and

WHEREAS, the Board has the affidavit and the other evidence submitted, and agrees that they support the conclusion that excavation, the pouring of the footings, and the forms for the foundation walls were complete as of August 12, 2004; and

Adopted by the Board of Standards and Appeals, June 7, 2005.

25-04-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Michael Picciallo, owner.

SUBJECT - Application February 11, 2004 - Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 506 Bradford Avenue, south side, 148' south of Drumgoole Road, Block 6946, Lot 36, Borough of Staten Island.

COMMUNITY BOARD #3SI
APPEARANCES -

MINUTES

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for continued hearing.

26-04-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Michael Picciallo, owner.

SUBJECT - Application February 11, 2004 - Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 510 Bradford Avenue, south side, 108' south of Drumgoole Road, Block 6946, Lot 38, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for continued hearing.

325-04-A

APPLICANT -Rothkrug Rothkrug Weinberg Spector, for Kevin Kane, owner.

SUBJECT - Application October 4, 2004 - Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 91 Wakefield Road, west side, 825.19 north of Woods of Arden Road, Block 5415, Lot 85, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Laid over to July 19, 2005, at 10 A.M., for continued hearing.

For Opposition: Janine A. Gaylard.

THE VOTE TO REOPEN HEARING

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE VOTE TO CLOSE HEARING

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 9, 2005, at 10 A.M., for decision, hearing closed.

347-04-BZY & 348-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Ana Canton Ramirez, owner.

SUBJECT - Application October 28, 2004 - Application to extend time to complete construction for a major development pursuant to Z.R. §11-331.

PREMISES AFFECTED -

3056 Cross Bronx Expressway, west side, 176.54' north of Sampson Avenue, Block 5443, Lot 71, Borough of The Bronx.

3058 Cross Bronx Expressway, west side, 119.70' north of Sampson Avenue, Block 5443, Lot 80, Borough of The Bronx.

COMMUNITY BOARD#10BX

APPEARANCES -

For Applicant: Adam W. Rothkrug.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to July 19, 2005, at 10 A.M., for decision, hearing closed.

397-04-A

APPLICANT - Petraro & Jones, LLP, for Jennifer Walker, owner.

SUBJECT - Application December 23, 2004 - An appeal to request the Board to determine that the apartment house at subject premises, is not a "single room occupancy multiple dwelling" and (2) nullify the Department of Buildings' plan review "objection" that resulted in this appeal application.

PREMISES AFFECTED - 151 West 76th Street, north side, 471' from the intersection of Columbus Avenue, Block 1148, Lot 112, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES -

For Applicant: Steven Simiacich

22-05-A

APPLICANT - Dennis Dell' Angelo, President for Pleasant Plains, Richmond Valley, Civic Association for Joseph Galante, owner.

SUBJECT - Application February 7, 2005 - An appeal challenging the Department of Buildings' ("DOB") decision that approved and permitted the building of two (2) houses on a lot containing less than the required square footage as zoned for in the Special South Richmond District ("SSRD"), also this appeal is seeking to reverse the DOB' decision not to enforce §107-42 of the SSRD within NYC Zoning Resolution.

PREMISES AFFECTED -5728 Amboy Road and 3 Haynes Street, southeast corner, Block 6654, Lot 9, Borough of Staten Island.

COMMUNITY BOARD #3S.I.

APPEARANCES -

For Applicant:.

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THE VOTE TO CLOSE HEARING

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner
Chin.....4

Negative:.....
..0

ACTION OF THE BOARD - Laid over to August 9,
2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 1:45 P.M.

REGULAR MEETING TUESDAY AFTERNOON, JUNE 14, 2005 2:00 P.M.

Present: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.

ZONING CALENDAR

138-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Cong. Machne
Chaim, Inc., owner; Yeshiva Bais Sorah, lessee.

SUBJECT - Application March 24, 2004 - under Z.R. §73-19

WHEREAS, the subject premises is located on 16th
Avenue between 61st and 62nd Street, and is currently
improved upon with a three-story, vacant building;

WHEREAS, the approximately 30,000 sq. ft. site is
owned by Cong. Machne Chaim, Inc., a not-for-profit
organization (the "Congregation"); and

WHEREAS, the Congregation currently runs a girls'
school, Bais Sara (the "School"), at 1353 50th Street,
Brooklyn, and wants to relocate the school to the subject
premises; and

WHEREAS, the applicant represents that the School
currently occupies a two-story building on a 10,000 sq. ft. lot,
and houses 650 kindergarten to eighth grade students; and

WHEREAS, the applicant represents that the subject
special permit, if granted, would allow the School to
accommodate its five-fold growth since its inception in 1995
and provide enough room for a planned high school with an
additional 200 students; and

to request a special permit for a school, Use Group 3, within
an M1-1 Zoning District to vary Z.R. §42-00 so as to permit
the school on the Premises.

PREMISES AFFECTED - 6101-6123 16th Avenue, 16th
Avenue between 61st and 62nd Streets, Block 5524, Lot 1,
Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD -Application granted on
condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner
Chin.....4

Negative:.....
.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough
Commissioner, dated February 24, 2004, acting on
Department of Buildings Application No. 301444168, reads:

"Proposed school, community facility, is not permitted
in a Manufacturing Zoning District, as per ZR 42-00.
Must be referred to the Board of Standards and
Appeals for use and bulk regulations."; and

WHEREAS, a public hearing was held on this
application on *** after due notice by publication in the
City Record; and then to decision on June 14, 2005; and

WHEREAS, the premises and surrounding area had a
site and neighborhood examination by a committee of the
Board, including Chair Srinivasan and Vice-Chair Babbar;
and

WHEREAS, Community Board 11, Brooklyn,
recommends approval of the subject application; and

WHEREAS, this is an application to permit the
proposed non-accessory operation of a school without
sleeping accommodations (Use Group 3), located within an
M1-1 zoning district, which requires a special permit
pursuant to Z.R. §§ 73-19 and 73-03; and

WHEREAS, the proposed new building will
accommodate eight to thirteen classrooms on each floor and
a roof-top activity area; and

WHEREAS, the applicant states that because many of
the students and teachers walk to the School at its current
location, it was necessary to find property that was located
in the same general vicinity as the current School; and

WHEREAS, the applicant represents that it retained a
broker and has searched since 1999 for a new piece of
property in the same area as the current School where the
proposed uses would be allowed; and

WHEREAS, certain sites were ultimately rejected
because the buildings were not large enough to
accommodate the current 550 students and the anticipated
200 additional students, and the programs of the School;

WHEREAS, the applicant states that an
appropriately-sized site in the area was rejected due to
environmental problems with the site that proved the

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building unusable for the required purpose; and

WHEREAS, the applicant maintains that the results of the site search show that there is no practical possibility of obtaining a site of adequate size for the school in a district where it is permitted as of right; and

WHEREAS, the applicant has demonstrated difficulty in obtaining land for the development of a school within the neighborhood to be served and with an adequate size, within districts where the school is permitted as-of-right, sufficient to meet the programmatic needs of the school; and

WHEREAS, therefore, Board finds that the requirements of Z.R. §73-19 (a) are met; and

WHEREAS, evidence in the record indicate that the proposed school is located within 400 feet of an R5 zoning district, where a school is permitted as-of-right; thus the Board finds that the requirements of Z.R. §73-19 (b) are met; and

WHEREAS, the applicant represents that adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district is provided through the use of sound-attenuating exterior wall and window construction, as well as substantial open areas along the street fronts; and

WHEREAS, the applicant has submitted evidence supporting the above representation; and

WHEREAS, the Board agrees that adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district is achieved through the use of sound attenuating exterior wall and window construction; thus, the Board finds that the requirements of Z.R. §73-19 (c) are met; and

WHEREAS, the applicant represents that children arriving and departing from the School will be protected from traffic on adjacent streets by traffic control measures in the area, including drop-off in front of the school, stop signs and painted crosswalks; in addition, the applicant represents that it will apply for a "No Parking" zone in front of the School upon approval of this application; and

WHEREAS, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the Applicant: (1) an Environmental Assessment Statement Form, dated March 24, 2004; (2) a Phase I Environmental Site Assessment Report, dated September 2002; (3) additional air quality and noise studies dated March 23, 2005 and June 9, 2005; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials, air quality and noise impacts; and

WHEREAS, a Restrictive Declaration was executed on April 22, 2005 and recorded April 25, 2005 for the subject property to address hazardous materials concerns; and

WHEREAS, DEP has determined through their letter dated June 13, 2005 that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the Restrictive Declaration and air quality and noise assessments; 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

WHEREAS, therefore, Board finds that the requirements of Z.R. §73-19 (d) are met; and

WHEREAS, at the request of the Board, the applicant has also submitted information addressing the need for a rooftop recreation area based on input from the Department of Education; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §73-19; 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, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 04-BSA-149K dated March 24, 2004; 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 action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §§ 73-19 and 73-03 and grants a special permit to allow the proposed non-accessory operation of a school without sleeping accommodations (Use Group 3), located within an M1-1 zoning district, which requires a special permit pursuant to Z.R. §§73-19 and 73-03; 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 "May 31, 2005" - (8) sheets; and on further condition:

THAT the premises shall comply with all applicable fire safety measures, as required and as illustrated on the BSA approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief

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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, June 14, 2005.

174-04-BZ

APPLICANT - Law Offices of Howard Goldman, PLLC for Harold Milgrim, Trustee.

SUBJECT - Application April 28, 2004 - under Z.R. §72-21 Proposed conversion of floors two through six, to residential use, Use Group 2, in an existing six-story commercial building, located in an M1-6 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 124 West 24th Street, south side, between Sixth and Seventh Avenues, Block 799, Lot 54, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....
..0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....
..0

THE VOTE TO GRANT-

WHEREAS, the applicant represents that eight units of the building are currently occupied by conforming uses and the remaining twelve units are vacant; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the site in strict conformance with underlying zoning regulations: the building is obsolete for modern manufacturing in that it has small floor plates, only one passenger size elevator and no freight elevators, no central lobby to control access and provide security, no service entrance, old mechanical systems, and no loading docks; and

WHEREAS, the applicant concludes that these features combine to create unnecessary hardship and practical difficulties in using the building for a conforming use; and

WHEREAS, the applicant represents that upgrading the entire building to create a central lobby, new freight elevator, reconfiguration of the upper floors, and upgrade

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....
.....0

THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough Commissioner, dated April 23, 2004, acting on DOB Application No. 103766596 reads:

"The proposed residential (Use Group 2) at floors 2 through 6 is not permitted within a manufacturing zoning district (M1-6). It is contrary to Sec 42-00 (ZR)."; and

WHEREAS, a public hearing was held on this application on March 29, 2005 after due notice by publication in The City Record, with a continued hearing on May 17, 2005, and then to decision on June 14, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, Community Board 4, Manhattan, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, in an M1-6 zoning district, the residential conversion of the second through sixth floor of a six-story, commercial building, contrary to Z.R. § 42-00; and

WHEREAS, the subject zoning lot is located on West 24th Street between Sixth and Seventh Avenues, and has a total lot area of approximately 6,606 sq. ft.; and

WHEREAS, the site is improved upon with a six-story building, with a total floor area of 31,763 sq. ft.; and

WHEREAS, the applicant represents that the building was constructed in 1890 and was used primarily in connection with the garment industry; and of the mechanical systems would be cost-prohibitive and would reduce the amount and utility of the ground floor retail space and force the only long-term tenant of the building to move out; and

WHEREAS, the Board asked the applicant to establish that the cited building conditions were in fact unique by submitting a survey of neighboring buildings, showing whether such buildings were conforming and whether they had the same conditions as the subject building; and

WHEREAS, the applicant initially studied the area from West 23rd Street to West 25th Street, from 6th Avenue to 7th Avenue, but at the request of the Board expanded the area to include West 26th Street and West 27th Street; and

WHEREAS, the applicant represents that of the conforming use buildings in the surveyed area, all but four were significantly larger or significantly smaller than the conforming building; and

WHEREAS, in addition, the applicant represents

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that these different-sized conforming buildings contained a combination of necessary commercial amenities including central lobbies, multiple elevators, freight elevators, service entrances and loading docks; and

WHEREAS, of the four similarly sized buildings in the survey, the applicant represents that two contained residential uses and the other two contained commercial tenant amenities; and

WHEREAS, based upon the above, the Board finds that certain of the conditions cited by the applicant, namely the small floor plates, the limited elevator service and the square footage of the building, create unnecessary hardship and practical difficulties in strictly conforming with the applicable provision of the Zoning Resolution; and

WHEREAS, the applicant submitted a feasibility study that contemplates use of the existing building with retail on the ground floor and office units above, which purports to demonstrate that developing the premises in conformance with applicable district use regulations would not yield the owner a reasonable return; and

WHEREAS, at the request of the Board, the applicant analyzed (i) an enlarged office alternative that would include constructing additional floors because the building is currently under-built (4.81 floor area ratio out of potential 10.0 floor area ratio), and (ii) a conforming hotel development; and

WHEREAS, the applicant found that a conforming hotel development would not yield a reasonable return because the current layout of the building is not an efficient hotel layout and costs for renovation are extremely high; and

WHEREAS, the applicant represents that in the enlarged-office scenario only one floor could be added because the building is limited to the lesser of seven stories or 85 ft. in height due to limitations of a "combustible construction" classification, and submitted a letter from an architect to that effect; and

WHEREAS, in support of this representation, the applicant states that the neighborhood is a mixed use neighborhood, and that the premises adjoin a four-story community facility with sleeping accommodations and a rectory to the east, a five-story residential loft building to the west, a 12-story home for the blind, and a church to the south; and

WHEREAS, the rear lot line of the premises abuts a zoning district that allows for residential use; and

WHEREAS, the applicant also submitted a study that shows that in the area bounded by West 23rd Street to West 27th Street, and 6th Avenue to 7th Avenue, there are 54 legal residential uses out of 120 properties; and on 24th Street specifically, 15 out of 31 buildings contain residential uses; and

WHEREAS, the Board also notes that the applicant has submitted a letter from the architect that prepared the applicant's residential proposal that states that the building will comply with the requirements of Article 1, Chapter 5 of the Zoning Resolution and has included the same as a condition to this resolution; and

WHEREAS, the applicant further represents that construction of an additional floor of office space would not result in a reasonable return because costs associated with building only one additional floor would be cost-prohibitive compared to the amount of return that could be yielded from the addition of one floor; and

WHEREAS, the applicant also analyzed the value of the unused development rights as part of its analysis of what the value of the site is; and

WHEREAS, the Board expressed some skepticism as to the value of the unused development rights presented by the applicant; accordingly, at the request of the Board, the applicant further analyzed the unused development rights based on different valuations than those initially presented; and

WHEREAS, although the Board still had concerns about the valuation of the applicant's development rights, the Board did concur that based upon the feasibility study submitted to the Board by the applicant, a conforming development would not yield a reasonable rate of return; and

WHEREAS, additionally, the applicant submitted evidence of failed marketing attempts for conforming uses from 2002, 2003 and 2004; and

WHEREAS, the applicant notes that despite these marketing attempts over the past three years, 50% of the building is still currently vacant; and

WHEREAS, therefore, the Board has determined that because of the subject lot's unique physical conditions there is no reasonable possibility that development in strict conformity with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance will not affect the character of the neighborhood, and that residential use of the existing building is compatible with the uses in the surrounding neighborhood; and

WHEREAS, therefore, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties nor be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, based upon the above, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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 04-BSA-179M dated April 28, 2004; and

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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; 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 Z.R. § 72-21 and grants a variance to permit, in an M1-6 zoning district, the residential conversion of the second through sixth floor of a six-story, commercial building, contrary to Z.R. § 42-00; 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 June 13, 2005- (3) sheets; on further condition;

THAT the there shall be a maximum of 20 units;

THAT the floor area ratio shall not exceed 4.81;

THAT certain provisions of Article I, Chapter 5 of the Zoning Resolution shall be complied with, including §§ 15-11, Bulk Regulations, 15-111, Number of Permitted 7-14 130th Street, west side, Block 3980, Lot 74, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph Morsellino.

ACTION OF THE BOARD -Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Adopted by the Board of Standards and Appeals, June 14, 2005.

190-04-BZ

APPLICANT - Agusta & Ross, for Ira and Larry Weinstein, LLC, owner.

SUBJECT - Application May 7, 2004 - under Z.R. §72-21 to permit the proposed conversion of a former lead factory, into a

Units, and 15-112 Light and Air Provisions;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 14, 2005.

178-04-BZ thru 181-04-BZ

APPLICANT - Joseph P. Morsellino, for 130th Street LLC, owner.

SUBJECT - Application April 29, 2004- under Z.R. §72-21- Proposed erection and maintenance of a two family dwelling, Use Group 2, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage and minimum required open space is contrary to Z.R. §23-141.

PREMISES AFFECTED -

7-04 130th Street, west side, Block 3980, Lot 66, Borough of Queens.

7-06 130th Street, west side, Block 3980, Lot 68, Borough of Queens.

7-12 130th Street, west side, Block 3980, Lot 72, Borough of Queens.

multiple dwelling (45 families), with a ground floor waterfront restaurant, and doctor's office, is contrary to Z.R. §22-12, which states that "residential uses" shall be limited to single, two family or semi-detached residences in an R3-1 zoning district.

PREMISES AFFECTED - 2184 Mill Avenue, a/k/a 6001 Strickland Avenue, southwest corner, Block 8470, Lot 1090, Part of Lot 1091, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Mitchell Ross.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner

Miele.....4

Negative: Commissioner Chin.....1

THE RESOLUTION-

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 22, 2004, acting on

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Department of Buildings Application No. 301660931, reads, in pertinent part:

"Multiple Dwelling, Class A . . . is not permitted in R3-1 districts as per Z.R. 22-12.

Existing height and setback exceeds the allowable height and setback in R3-1 districts as per Z.R. 23-631 . . ."; and

WHEREAS, a public hearing was held on this application on October 19, 2004 after due notice by publication in the City Record, with continued hearings on December 14, 2004, February 1, 2005, March 1, 2005, April 12, 2005, May 24, 2005, and then to decision on June 14, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioners Miele and Chin; and

WHEREAS, Community Board 18, Brooklyn, recommends disapproval of this application; and

WHEREAS, this application was opposed by State Senator Kruger, Assembly Member Seddio, Council Member Fidler, the Mill Island Civic Association, and an assortment of community members; and

WHEREAS, certain other community members provided testimony at hearing in support of the application; and

WHEREAS, this is an application under Z.R. §72-21, to permit, within an R3-1 zoning district, the proposed conversion of a non-conforming and non-complying warehouse/retail building to a multiple dwelling (with a ground floor doctor's office use), which is contrary to Z.R. §§22-12 and 23-631; and

WHEREAS, specifically, due to the proposed amount of units within the building under the current proposal, it meets the definition of a Multiple Dwelling, which is not permitted in the subject zoning district; and

WHEREAS, the premises is located on the northwest side of Strickland Avenue, extending from the

WHEREAS, the applicant currently proposes the creation of 43 single-family luxury residential units within the approximately envelope of the building (which will be reduced by approximately 2,640 sq. ft. due to various modifications undertaken by the developer to adapt the building to residential use); and

WHEREAS, the converted building will also feature a circular drive-up lobby and drop off area, 45 on-site parking spaces, and landscaped areas on the north and south sides of the building; and

WHEREAS, as represented by the applicant, the gross floor area is 60,939 sq. ft.; through a condition set forth below, the total F.A.R. shall be limited to 0.6; and

WHEREAS, the Board notes that the above number includes floor space occupied by mechanicals which would normally be deducted from zoning floor area; and

WHEREAS, the Board notes that with the mechanical deductions, the zoning floor area would be approximately 59,000 sq. ft., which is comparable to the floor area allowed under the R3-1 zoning district regulations (0.6 F.A.R.); and

avenue approximately 400 ft. in depth to the bulkhead line of the Mill Basin Channel; and

WHEREAS, the site has a lot area of 99,340 sq. ft., and is currently improved upon with a four-story, 76 ft., 9 inch high building, currently used as a warehouse and retail showroom, and formerly used a munitions factory (hereinafter, the "building"); and

WHEREAS, four cellular antennas of various sizes are currently installed either on the roof of the building, or on-site; these antennas are proposed to be removed when the building is converted to residential use; and

WHEREAS, additionally, there are certain free-standing, one-story buildings and other building sections located on the site, which are proposed to be removed; and

WHEREAS, tax lot 1090 is occupied by the building, and the open area around the building is part of tax lot 1091; access to the site from Strickland Avenue will be provided through a driveway easement over the adjacent tax lot 1100, which is the in same ownership as the subject site; and

WHEREAS, the applicant states that because of contamination resulting from the former munitions factory, the site is subject to an environmental contamination designation (know as an "e" designation), which requires that sampling and remediation occur prior to Department of Buildings permitting; and

WHEREAS, the Board notes that the "E" designation was not considered a unique hardship because several surrounding sites are also "E" designated; and

WHEREAS, because of this, the costs associated with addressing the "E" designation were disregarded for conforming development and lesser variance scenarios; and

WHEREAS, the applicant originally proposed a 45 unit scenario, with a ground floor restaurant as well as doctor's office space; and

WHEREAS, this original proposal identified an existing available gross square footage of 67,000 sq. ft.; the applicant proposed a renovation which included the demolition of the scattered structures and the reconfiguration of the existing building into a 5 story building; and

WHEREAS, this proposal contemplated the enlargement of the existing building through the allocation of floor area from the out buildings and building segments mentioned above (approximately 8,000 sq. ft. or 0.07 F.A.R.); and

WHEREAS, the original proposal also contemplated the alteration and enlargement of the building, by altering certain areas and reducing the floor area and then reallocating the carved out floor area to other portions of the building; and

WHEREAS, the Board objected to these two discrete instances of recapture of floor area, stating

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that there was no rationale for the recapture of any floor area from any of the buildings and building segments to be removed, nor from the areas within the building proposed to be altered; and

WHEREAS, specifically, the Board noted that the building was over-bulk to begin with, and that any reduction in the floor area in the proposed converted building would be a reduction in the degree of the non-compliance; and

WHEREAS, thus, at the direction of the Board, the floor area of these other buildings and building sections will not be allocated to the floor area within the proposed building upon conversion, nor will the floor area carved out of the building be reallocated to other areas of the building; and

WHEREAS, additionally, the Board asked the applicant to eliminate the fifth floor mezzanines and the restaurant; and

WHEREAS, accordingly, the applicant then modified the application to the current proposal, eliminating the reallocation floor area from the removed out buildings, the reallocation of floor area carved out of the existing building, as well as the proposed restaurant; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance and compliance with underlying district regulations: (1) the building as it exists now is obsolete for commercial or manufacturing purposes; and (2) demolition of the building in preparation of conforming/complying development would be cost-prohibitive; and

WHEREAS, the applicant states the existing building is obsolete because its various portions were constructed at different times, leading to different heights and floor levels, as well poor interconnections that lead to inefficient circulation, all of which render it infeasible for use by a modern manufacturing or commercial

WHEREAS, specifically, the Board questioned the site valuation, which initially was approximately 10.3 million dollars, an amount that appeared to be excessive; and

WHEREAS, over the course of the hearing, the applicant made some reductions in the site valuation, ultimately accepting the Board's direction to use a more appropriate methodology and superior comparable sales, which reduced the site valuation to approximately 6.3 million dollars; and

WHEREAS, the Board also expressed concerns about the sell-out period and valuations utilized in the feasibility studies associated with the various presented scenarios; and

WHEREAS, again, the applicant ultimately modified the sell-out period and valuations to levels considered appropriate by the Board; and

WHEREAS, further, the Board noted that it appeared that real estate taxes and water and sewer costs had been double-counted in the feasibility study;

enterprise; and

WHEREAS, the applicant states demolition of the building would be necessary to create a conforming/complying development of single or two family homes; and

WHEREAS, the applicant has established, through a cost estimate from a demolition company, that the costs associated with such demolition are approximately 2.5 million dollars (although a more conservative figure of 1.2 million was used in the feasibility study, as discussed below); and

WHEREAS, the applicant concludes that the cost of the demolition would render any complying development infeasible; and

WHEREAS, thus, the Board concludes that the applicant has credibly established that: (1) continued use of the building as a lawful non-conforming use is infeasible; and (2) that the costs associated with the demolition of the building would render any complying development infeasible; and

WHEREAS, additionally, the applicant established through an analysis that there are very few similarly constrained sites in the area; and

WHEREAS, accordingly, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict compliance with applicable zoning regulations; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed the original proposal discussed above, an "as-is" residential conversion, a community facility, and new conforming and complying residential development; and

WHEREAS, upon initial review of this study, and over the course of the public hearing process, the Board expressed concerns with certain valuations and methodology used by the applicant's feasibility expert; and

the applicant addressed this problem by making the requested corrections in the feasibility study; and

WHEREAS, near the end of the hearing process, the applicant finally submitted a feasibility study, dated April 6, 2005, that incorporated the above-mentioned Board directions; and

WHEREAS, based upon this feasibility study, the applicant concluded that no conforming/complying development would realized a reasonable return; and

WHEREAS, the Board agrees with this conclusion, noting that the cost of the demolition of the building (conservatively estimated at 1.2 million) coupled with the inherently greater construction costs associated with new conforming/complying development versus those associated with a conversion of the building, render conforming/complying development infeasible; and

WHEREAS, moreover, based upon its own analysis, the Board notes that even when using a more conservative site valuation than that proposed by the

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applicant, each conforming/complying development scenario would still not realize a reasonable return; and

WHEREAS, at the request of the Board, the applicant submitted monthly income amounts from the cellular antennas; and

WHEREAS, the Board has determined that the amount is negligible and does not affect the financial analysis; and

WHEREAS, opposition to this application criticized the applicant's feasibility studies in a letter dated April 7, 2005 (hereinafter, the "opposition letter"); and

WHEREAS, specifically, the opposition letter questioned whether the owner-developer of the building would sell it after receiving a variance; and

WHEREAS, the Board observes that a property owner may sell before or after any BSA action, and it is common for owners to convey properties, after a variance is granted, to contract vendees, and that this does not implicate any of the findings required for a variance, as the acquisition value (the site valuation) is based upon comparables, not actual acquisition cost; and

WHEREAS, the opposition letter also states that the profit on one of the studied scenarios is understated; and

WHEREAS, however, the opposition letter fails to properly fold in base construction costs, demolition costs, and remediation costs; moreover, the opposition does not consider the site valuation of \$6.3 million, or the associated soft costs of 3.1 million; and

WHEREAS, moreover, the opposition letter does not have the total sales proceeds correctly noted, nor does it consider sales expenses of \$1,020,000; and

WHEREAS, in analyzing the proposed scheme, the opposition letter again improperly does not consider soft costs and the site value of as overall development costs; and

WHEREAS, for these reasons, the Board does not find the opposition letter persuasive; and

WHEREAS, finally, opposition to this application suggested that the proposed scenario would be unlikely to realize a reasonable return as the contaminant clean-up costs associated with the building's conversion

WHEREAS, the stated bases of hardship - the obsolescence of the building and the premium demolition costs - are not self-created; and

WHEREAS, therefore, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, at the request of the Board, the applicant analyzed numerous lesser variance alternatives that contemplated the demolition of the building; and

WHEREAS, specifically, the evaluated scenarios were: (1) 17 oversized two-family, semi-attached homes (0.72 F.A.R.); (2) 11 luxury single-family homes (0.33 F.A.R.); (3) 17 three-story, two-family homes (over 1.0 F.A.R.); and (4) 76 units of two-family attached homes (close to 1.5 F.A.R.); and

WHEREAS, in the above-referenced April 6, 2005 feasibility study, the applicant concluded that none of

would be significant, a factor that opposition alleges the applicant failed to consider; and

WHEREAS, the applicant responded by discussing the costs for removal of asbestos, lead or other contaminants as part of the conversion, and included these costs in the feasibility study as construction costs; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant states that subject residential conversion will not adversely affect the character of the neighborhood or the future development of the surrounding area, nor will it affect appropriate use or development of adjacent property, nor will it be detrimental to the public welfare; and

WHEREAS, the applicant also observes the conversion will eliminate a non-conforming use, and rehabilitate a building that is dilapidated in appearance; and

WHEREAS, the applicant further notes that directly across Strickland Avenue is an R5 zoning district, where residential multiple dwellings are permitted as-of-right; and

WHEREAS, the Board has reviewed the submitted land use map and conducted its own site visit, and has determined that the residential conversion of the building will not negatively affect the adjacent uses or the character of the neighborhood, given that the proposed amount of units is not significantly over what is permitted on the site, and given that no enlargement of the building is contemplated; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

these scenarios were feasible, due to the hardship costs associated with the demolition of the existing building; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA-194K, dated July 26, 2004; and

WHEREAS, the EAS documents that the project

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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; 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, with the condition stipulated below and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. §72-21, to permit, within an R3-1 zoning district, the proposed conversion of a non-conforming and non-complying warehouse/retail building to a multiple dwelling (with a ground floor doctor's office use), which is contrary to Z.R. §§ 22-12 and 23-631; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked 'Received May 2, 2005'- (5) sheets; and on further condition:

THAT the total F.A.R. on the site shall be limited to 0.60; and

THAT there shall be a maximum of 43 units in the building;

THAT a total of 45 accessory parking spaces shall be provided in the accessory parking area;

THAT no cellular antennas shall be placed on the roof of the building or elsewhere on the site;

WHEREAS, the decisions of the Bronx Borough Commissioner, dated November 19, 2004, acting on Application Nos. 200920539 and 200920520 read respectively:

"Proposal to re-establish a use group # 16 gasoline service station with accessory auto repairs, accessory parking for cars awaiting service and storage space for not more than eleven (11) motor vehicles on a site previously before the Board of Standards and Appeals and now located in a C1-3 within an R6 zoning district is contrary to section 32-00 Z.R. and contrary to C.O. 53277 and must, therefore, be referred back to the BSA for approval."; and

"Proposal to re-arrange the islands, erect a new canopy over the gasoline dispensers and convert a portion of the existing sales area to an attendant's area in connection with the re-establishment of a use group # 16 gasoline service station with accessory auto repairs, accessory parking for cars awaiting service and storage space for

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 14, 2005.

390-04-BZ

APPLICANT - Walter T. Gorman, P.E., for J R & J Auto Corp., owner.

SUBJECT - Application December 13, 2004 - under Z.R. §72-21, the reestablishment of a gasoline service station, Use Group 16, motor vehicles, located in a C1-3 within an R6 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 2290 Boston Road, southeast corner of Astor Avenue, Block 4343, Lot 31, Borough of The Bronx.

COMMUNITY BOARD #11BX

APPEARANCES -

For Applicant: John Ronan

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

not more than eleven (11) motor vehicles on a site previously before the Board of Standards and Appeals and now located in a C1-3 within an R6 zoning district is contrary to section 32-00 Z.R. and contrary to C.O. 53266 and must, therefore be referred back to the BSA for approval."; and

WHEREAS, a public hearing was held on this application on April 19, 2005 after due notice by publication in the City Record, with a continued hearing on May 24, 2005, and then to decision on June 14, 2005; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Commissioner Miele and Commissioner Chin; and

WHEREAS, this is an application under Z.R. §72-21, to permit, within a C1-3 within an R6 zoning district, the re-establishment of an expired variance, previously granted under Calendar Numbers 331-32-BZ and 783-67-BZ, which permitted a gasoline service station with accessory auto

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repairs and accessory parking for cars awaiting service for not more than eleven (11) motor vehicles, and to amend the prior grant to permit a re-arrangement of the islands, erection of a new canopy over the gasoline dispensers, and conversion of a portion of the existing sales area to an attendant's area, contrary to Z.R. §32-00; and

WHEREAS, the current proposal contemplates the re-establishment of a use group 16 gasoline service station with three (3) new multi-product dispensers on new concrete islands, three (3) new 4,000-gallon capacity double-walled underground storage tanks, accessory auto repairs, accessory parking for cars awaiting service, and a storage area for not more than eleven (11) motor vehicles; and

WHEREAS, under Cal. No. 331-32-BZ Vol. III, the Board initially granted a variance dated September 23, 1932 to permit the erection and maintenance of a gasoline service station; reconstruction of this service station was approved by the Board on December 12, 1967, under Cal. No. 783-67; and

WHEREAS, the most recent Board resolution related to this property was dated June 23, 1981, in which the Board extended the term of the variance for a period of ten (10) years until April 4, 1991, and amended the resolution to permit the accessory parking and storage of motor vehicles for up to eleven (11) spaces in the rear of the property; and

WHEREAS, the applicant represents that through their record search made at the New York City Fire Department, there are three (3) 350-gallon capacity tanks that were installed in April of 1943, three (3) 550-gallon capacity tanks that were installed in October of 1949, two (2) 550-gallon tanks that were installed in April of 1951, and four (4) 550-gallon capacity tanks that were installed in June of 1957; and

WHEREAS, the applicant further indicates that the New York City Fire Department's records establish that ten (10) 550-gallon tanks were temporarily sealed in September of 1984, no tanks were removed from the site, and one (1)

WHEREAS, the applicant represents that residential development is not appropriate for this site because the site is immediately adjacent to an elevated subway line, and because the predominant type of residential buildings in the surrounding neighborhood are high rise buildings and the site is not large enough to accommodate a high rise building; and

WHEREAS, the applicant further represents that retail development at the site would not be feasible because the site is in relative isolation from the other commercial establishments in the area; and

WHEREAS, the Board agrees that developing the site with a conforming development would not yield a reasonable return; and

WHEREAS, the record indicates that the surrounding area is characterized by a mixture of residential high rise buildings and smaller commercial buildings; and

WHEREAS, therefore, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties nor be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that the variance is the

550-gallon waste oil tank was installed at the site and the latest testing occurred at the site in March of 1990; and

WHEREAS, the applicant represents that although the gasoline service station use was discontinued at some point, the auto repair shop is still in active use;

WHEREAS, when initially approved, the site was located in a C1-3 zoning district, and currently, the site is located in a C1-3 within an R6 zoning district; and

WHEREAS, the premises is located on the south side of Boston Road on the southeast corner of Astor Avenue; and

WHEREAS, the site is located at the merger of two major arterials, White Plains Road and Boston Road; and

WHEREAS, the applicant represents that the location of the premises at this location leads to a "sawed-off" frontage, and that unlike the other commercial buildings on White Plains Road, the frontage of the subject property lies along an obtuse angle to the other frontages along White Plains Road; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: (1) the premises is located at the intersection of two major arteries and is not accessible by foot; and (2) the Board has granted variances on this site for automotive uses since the early 1930's; and

WHEREAS, the Board finds that the zoning lot's irregular location and the aforementioned history of use with non-conforming Board approved uses create an unnecessary hardship in developing the zoning lot in conformity with the current zoning regulations; and

WHEREAS, the Board asked the applicant to consider whether a residential use on this site would be feasible; and

minimum variance necessary to afford relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

THEREFORE, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration with specific conditions as noted below, under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within a C1-3 within an R6 zoning district, the re-establishment of an expired variance, previously granted under Calendar Numbers 331-32-BZ and 783-67-BZ, which permitted a gasoline service station with accessory auto repairs, and accessory parking for cars awaiting service for not more

MINUTES

than eleven (11) motor vehicles, and to amend the prior grant to permit a re-arrangement of the islands, erection of a new canopy over the gasoline dispensers, and conversion of a portion of the existing sales area to an attendant's area, contrary to Z.R. §32-00, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 31, 2005"-(6) sheets, and on further condition;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT landscaping shall be provided on the easterly and southerly lot lines, as indicated on the BSA-approved drawings;

THAT there shall be no storage of cars or trucks on the site;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 14, 2005.

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated June 9, 2005, acting on Department of Buildings Application No. 301397771, reads:

"Proposed plans are contrary to 24-11 in that the proposed Lot Coverage exceeds the permitted.

Proposed plans are contrary to Z.R. 24-522 in that the proposed Maximum Height of Front Wall exceeds 60'-0".

Proposed plans are contrary to Z.R. 24-522 in that the sky exposure plane exceeds 5.6:1."; and

WHEREAS, a public hearing was held on this application on May 24, 2005 after due notice by publication in the City Record, and then to decision on June 14, 2005; and

WHEREAS, Community Board 14, Brooklyn, State Assembly Member Jacobs and Council Member Nelson recommend approval of this application; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioners Miele and Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, on a site within both an R4 and R6 zoning district, the proposed enlargement of an existing religious school, which

401-04-BZ

APPLICANT - Eric Palatnik, P.C., for Masores Bais Yaakov, owner.

SUBJECT - Application December 28, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing yeshiva, Use Group 3, located in an R4 & R6 zoning districts, which does not comply with the zoning requirements for floor area, lot coverage, wall height and the sky exposure, is contrary to Z.R. §24-11 and §24-522. PREMISES AFFECTED - 1395 Ocean Avenue, northeast corner of Avenue "I", Block 7566, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

does not comply with the zoning requirements for lot coverage, wall height and sky exposure plane, contrary to Z.R. §§ 24-11 and 24-522; and

WHEREAS, this application is brought on behalf of Masores Bais Yaakov., a not-for-profit entity, (hereinafter, the "School"); and

WHEREAS, the School is an educational institution that serves the educational needs of approximately 750 young woman; and

WHEREAS, the subject site is a 110 ft. by 90 ft. lot located on the northeast corner of Avenue I and Ocean Avenue; and

WHEREAS, the site is currently occupied by a structure that was formerly an approximately 46 ft. high, two-story building with 18,290 sq. ft. of floor area, which is currently being enlarged as-of-right under a valid permit; and

WHEREAS, the applicant proposes to enlarge the building to six stories, with an overall height of 83 ft., 6 inches and a total floor area of 47, 831 sq ft. (4.62 F.A.R.), which complies with the applicable floor area regulations; and

WHEREAS, the size of the lot will also be expanded

MINUTES

by approximately 450 sq. ft., by extending the zoning lot five feet into a lot in the R4 zoning district at the eastern side of the premises to allow for an elevator shaft; the adjacent lot is under the same ownership as the School site; and

WHEREAS, construction of the enlargement will result in the following non-compliances: (1) a lot coverage of 0.85; 0.68 is the maximum permitted; (2) a front wall height of 83' - 6"; 60' is the maximum permitted; and (3) non-compliance with the 5.6:1 sky exposure plane requirement; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: the existing building was too small to accommodate the current and proposed program of the School, lacks appropriate elevators, and is not ADA compliant, and the subject site is one of the only suitable sites in close proximity to where the majority of the student body resides; and

WHEREAS, the applicant also claims that the proposed enlargement is necessary to meet the programmatic needs of the School; and

WHEREAS, specifically, the applicant states that the School formerly operated with just 22 classrooms, no gymnasium, no cafeteria, and negligible office and storage space; and

WHEREAS, the applicant states that the existing auditorium was used for all of the above uses; and

WHEREAS, the proposed enlargement contemplates the creation of teacher and administrative office space, storage space, a larger auditorium, a gymnasium, and increased classroom space; and

WHEREAS, the applicant states that the need to create a

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the School relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 05-BSA-078K dated March 14, 2005 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

gymnasium precipitates the need for the setback waiver as to the R6 portion of the site, as a gym requires certain height dimensions to be usable; and

WHEREAS, the Board agrees that, based upon the submitted evidence, the enlargement is necessary in order to meet the programmatic needs of the School; and

WHEREAS, therefore, the Board finds that the cited unique physical conditions, when considered in conjunction with the programmatic needs of the School, create practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant notes, and the Board's site visit confirms, that the site is near to numerous comparably sized or larger buildings, including a 16 story multiple dwelling across Avenue I and six story multiple dwellings extending in both directions along Ocean Avenue, as ; and

WHEREAS, the applicant also states the 75% of the student arrive and depart by bus and are loaded and offloaded at designated bus loading zones on each of the site's street frontages; the remaining 25% of the students walk to the School; and

WHEREAS, crossing guards are utilized to assist the students who must cross intersections; 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 the required findings under Z.R. § 72-21, to permit, on a site within both an R4 and R6 zoning district, the proposed enlargement of an existing religious school, which does not comply with the zoning requirements for lot coverage, wall height and sky exposure plane, contrary to Z.R. §§ 24-11 and 24-522; 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 June 12, 2005" - twelve (12) sheets; and on further condition:

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered

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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, June 14, 2005.

4-05-BZ

APPLICANT - Sheldon Lobel, P.C., for V.G.F. Property, LLC, owner.

SUBJECT - Application January 12, 2005 - under Z.R.§73-49, to permit parking on the roof of an as-of-right commercial building located in an M1-1 zoning district. The application seeks to create 114 rooftop parking spaces.

PREMISES AFFECTED - 69-02 Garfield Avenue, south side, between 69th Street and 69th Place, Block 2438, Lot 20, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE VOTE TO CLOSE HEARING -

WHEREAS, the subject site is a 22,679 square foot lot located on the south side of Garfield Avenue, fronting on the east side of 69th Street and the west side of 69th Place in the Woodside section of Queens County, and is currently improved upon with a 19,732 two-story vacant building; the building was previously occupied by a school supply wholesale establishment; and

WHEREAS, the proposal is to enlarge the existing building to accommodate a proposed catering establishment (Use Group 12); and

WHEREAS, the applicant states that the area surrounding the site is mixed-use: (1) uses to the north and east of the subject property along 69th Street and Garfield Avenue include several auto body shops, with some storage facilities and wholesale establishments; (2) primary uses north of the site along 69th Avenue are commercial, with an auto body shop directly across the street from the site on Garfield Avenue; and (3) the predominant use along 69th Avenue south of Garfield Avenue is residential; and

WHEREAS, the applicant further represents that because the site is zoned M1-1, uses listed in Use Groups 4-14, 16 and 17 are permitted; the proposed catering hall is permitted as-of-right in this zoning district because it is Use Group 12; and

WHEREAS, the Board notes that the number of allowed

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 6, 2005, acting on Department of Buildings Application No. 402065224, reads, in pertinent part:

"1. Proposed roof parking is not permitted as per section 36-11 and 44-11 of the Zoning Resolution."; and

WHEREAS, a public hearing was held on this application on May 24, 2005, after due notice by publication in The City Record, laid over to June 14, 2005 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Commissioners Miele and Chin; and

WHEREAS, Community Board No. 2, Queens, recommends approval of the subject application; and

WHEREAS, this is an application under Z.R. § 73-49, for a special permit to allow, in an M1-1 zoning district, accessory rooftop parking (102 spaces) for a proposed as-of-right catering facility in a commercial building, contrary to Z.R. § 36.11; and

parking spaces will be calculated as-of-right as approved by the Department of Buildings, assuming the Board grants the special permit; and

WHEREAS, pursuant to Z.R. §73-49, the Board may permit accessory off-street parking spaces on the roof of a building in the subject zoning district, as long as such roof parking is located so as not to impair the essential character or the future use or development of adjacent areas; and

WHEREAS, the applicant represents that the rooftop parking area will not impair the essential character or the future use or development of the adjacent area because the site is zoned for manufacturing and the area surrounding the site is mixed use; and

WHEREAS, the applicant notes that the proposed accessory rooftop parking will benefit the adjacent area by alleviating any potential parking congestion that may otherwise be created by the building's use; and

WHEREAS, the applicant further notes that the amount of traffic brought into the area will not change as a result of the requested special permit; rather, vehicular congestion will be alleviated by reducing the on-street parking congestion; and

WHEREAS, finally, the applicant states that the proposed use will not have an adverse affect on the privacy, quiet, light or air in the neighborhood because: (1) the

MINUTES

building is not taller, nor any larger in bulk, than is permitted as-of-right; (2) lighting on the roof will be directed away from the adjoining properties; and (3) a 4' 11" parapet on the roof will conceal the vehicles on the rooftop from the adjoining properties so as to minimize and headlight impact upon surrounding uses; and

WHEREAS, therefore, the Board finds that the proposed roof parking will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-49 and 73-03.

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 05-BSA-080Q dated January 12, 2005; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land

THAT the parking layout, including the total number of permitted spaces, shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted. (DOB Application No. 402065224)

Adopted by the Board of Standards and Appeals, June 14, 2005.

32-05-BZ

APPLICANT - Law Office of Howard Goldman, for Rivendell School, owner.

SUBJECT - Application February 24, 2005 - under Z.R. §72-21 to permit the proposed relocation and expansion of an existing not-for-profit school, located in an R6B zoning district, which does not comply with the zoning requirements for lot coverage, is contrary to Z.R. §24-11 and §52-31.

PREMISES AFFECTED - 288 7th Street, between Fourth and Fifth Avenues, Block 998, Lot 23, Borough of Brooklyn.

COMMUNITY BOARD #6BK

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 *** 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 Z.R. §§ 73-49 and 73-03, for a special permit to allow, in a M1-1 zoning district, accessory parking on a building to be occupied by a proposed as-of-right catering hall, contrary to Z.R. § 36-11; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received June 6, 2005" -(5) sheets and "Received June 14, 2005" - (1) sheet; and on further condition;

APPEARANCES -

For Applicant: Emily Simon.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 18, 2005, acting on Department of Buildings Application No. 301823668, reads:

"The proposed enlargement of an existing building containing a non-conforming use and conversion to a complying use will result in a lot coverage exceeding 65% contrary to Sections 24-11 and 52-31 of the Zoning Resolution."; and

WHEREAS, a public hearing was held on this application on May 17, 2005 after due notice by publication in the City Record, and then to decision on June 14, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R6B zoning district, a proposed not-for-profit school, which does not comply with the

MINUTES

zoning requirements for lot coverage, contrary to Z.R. §§ 24-11 and 52-31; and

WHEREAS, this application is brought on behalf of the Rivendell School, a not-for-profit entity (hereinafter, the "School"); and

WHEREAS, the School is an educational institution that provides evaluation, teaching and clinical services for young children, including children with special needs (about 15%-20% of the students), and their families; and

WHEREAS, the Community Board 6, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on 7th Street between 4th and 5th Avenues, with a total lot area of 3,175 sq. ft., and is currently improved upon with a two-story vacant building with a total floor area of approximately 2,000 sq. ft.; and

WHEREAS, the existing building was built over 100 years ago to be used as a dairy stable, and then was used to store trucks; and

WHEREAS, the applicant proposes to enlarge the building and construct a third floor resulting in a total building floor area of 6,350 sq. ft., to house additional classrooms, a gymnasium, offices, a kitchen facility and evaluation and therapy rooms; and

WHEREAS, the applicant also proposes a roof-top play

WHEREAS, the applicant states that the following are the programmatic needs of the School, all of which have been driven by an increase in enrollment from the current 55 students to an estimated 75 students, and the special needs of the children with handicaps or learning disabilities: (1) increased classroom space; (2) increased number of resource rooms for students with special needs; (3) space for a library and staff workroom; (4) kitchen facilities; (5) additional office space; (6) a gymnasium/conference room; and (7) an outdoor rooftop playground; and

WHEREAS, the applicant represents that the School requires a unique configuration of classroom space to allow for viewing rooms alongside traditional classrooms so that special education teachers and therapists can observe and evaluate the special needs students in a non-invasive manner; and

WHEREAS, in addition, the applicant represents that the increase in lot coverage will allow for an enlargement along the adjacent portion of the lot that will result in a second means of egress and improved vertical circulation; and

WHEREAS, the applicant further states that the degree of waiver is driven by the requirement to provide a streetwall along 7th Street and the positioning of the core in relation to the existing building and layout of classroom/program space; and

WHEREAS, the applicant also states that the proposed arrangement will allow for a congregation area for students at the entrance of the building on 7th Street; and

WHEREAS, the Board agrees that, based upon the submitted evidence, the enlargement is necessary in order to meet the programmatic needs of the School; and

WHEREAS, therefore, the Board finds that the cited unique physical condition, when considered in conjunction with the programmatic needs of the School, create practical difficulties and unnecessary hardship in developing the site in

area; and

WHEREAS, construction of the addition as currently proposed will result in the following non-compliance: an increase in the lot coverage percentage from 68% to 88% (60% is the maximum permitted); and

WHEREAS, the applicant represents that the proposed enlargement will still be within the allowable floor area ratio for the zoning district; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: the School building has insufficient space and functionality necessary for its programmatic needs as it was built to be a dairy and not designed to accommodate a School and the resulting programmatic needs; and

WHEREAS, the applicant represents that the building has a narrow floor plate width of 21 ft., 9 in., and that there is no heating facility, an obsolete electrical system, and a single bathroom for the entire facility; and

WHEREAS, the applicant further represents that all of the building's walls, floors and roof will have to be replaced, and the building will have to be equipped with sprinklers and made handicap accessible; and

strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not address Z.R. § 72-21(b) since the applicant is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant states that the height of the School building follows the contextual envelope of the neighborhood and will be compatible with the three- and four-story brownstones, row houses and small multiple dwellings that characterize the neighborhood; and

WHEREAS, the applicant states that the Building will keep the existing façade to keep with the historic context of the neighborhood; and

WHEREAS, the applicant represents that traffic impacts will be minimal, as most of the students live within walking distance of the School; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the School relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

Therefore it is Resolved, that the Board of Standards

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and Appeals issues a Type II determination under 6 NYCRR Parts 617.5 and 613 and §§5-02(a), 5-02 (b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §72-21, to permit, within an R6B zoning district, the proposed not-for-profit School, which does not comply with the zoning requirements for lot coverage, contrary to Z.R. §§ 24-11 and 52-31; 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 24, 2005" - eight (8) sheets; and on further condition:

THAT the roof top playground shall meet all legal requirements, as determined by DOB;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 14, 2005.

Negative:.....
..0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 3, 2005, acting on Department of Buildings Application No. 301900833, reads:

"Proposed two story addition for barrier free access elevator in required front yard (10 ft. required) in R-5 District is non-compliant (Z.R. 24-34)

Proposed street wall height of 33.66 ft. (32.5 maximum allowed) is non-compliant (Z.R. 77-28).

Proposed lot coverage of 72% (55% maximum allowed) in R-5 district is non-compliant (Z.R. 24-11)."; and

WHEREAS, a public hearing was held on this application on May 17, 2005 after due notice by publication in the City Record, and then to decision on June 14, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R5 and R5/C1-2 zoning district, the proposed two-story addition to an existing not-for-profit educational institution for developmentally disabled children, which does not comply with the zoning requirements for lot coverage, front yard and street wall height, contrary to Z.R. §§ 24-11, 24-34 and 77-28; and

WHEREAS, this application is brought on behalf of Otsar, Inc., a not-for-profit entity, that established the Early Childhood Center in 1991 (hereinafter, the "School"); and

WHEREAS, the School is an educational institution that serves the special educational needs of 90 developmentally disabled boys and girls, from age 2 to 5-1/2; and

WHEREAS, the Community Board 13, Brooklyn, and

63-05-BZ

APPLICANT -Carole S. Slater, Esq., Slater & Beckerman, LLP for Otsar, Inc., owner.

SUBJECT - Application March 15, 2005 - Variance pursuant to Section 72-21 of the Zoning Resolution, to permit a two-story addition to a not for profit educational institution for developmentally disabled children, within R5 and R5/C1-2 Zoning Districts to vary Sections 24-11, 24-34, and 77-28 of the Resolution.

PREMISES AFFECTED -2324 West 13th Street between Avenue W and Avenue X; distance of 150 feet south of Avenue W, Block 7160, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES -None.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Council Member Recchia recommend approval of this application; and

WHEREAS, the subject site is located on West 13th Street between Avenue W and Avenue X, and is currently improved upon with a two-story house of worship with accessory day care classrooms with a total floor area of approximately 9,135 sq. ft.; and

WHEREAS, the School wishes to expand and become the primary use on the zoning lot; and

WHEREAS, the applicant proposes to enlarge the building and construct a two-story addition in the front yard of the building for a total building floor area of 9,435 sq. ft., to accommodate a barrier free elevator, a therapy room, and a trash room; and

WHEREAS, construction of the addition as currently proposed will result in and/or increase the following non-compliances for the portion of the lot that is located in the R5 zoning district: decrease in front yard from 9 ft. to no front yard (10 ft. is required); a lot coverage percentage increase from 65.4% to 72% (55% is the maximum permitted); and street wall height increase from 31.39 ft. to 33.6 ft. (32.5 ft. is the maximum permitted); and

WHEREAS, the zoning lot is 100 ft. in depth and 79.90 ft. in width; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: the lot is a small zoning lot; and the building on the lot was not created to be handicap accessible, and therefore does not meet the programmatic needs of the School; and

WHEREAS, the applicant represents that the facility is required to be handicap accessible as per New York City

MINUTES

and New York State law; and

WHEREAS, currently, there is no access to vertical circulation from the street; therefore, the School's staff pushes the non-ambulatory students up a 50 ft. ramp to access the main floor program area; in instances where special therapies are required, wheelchair students must be carried up the stairs to the second floor or down to the cellar; and

WHEREAS, the applicant contemplated placing the elevator in the center of the building, but found that based on the school's ongoing operations and the fact that handicap students would not have access to the elevator from the street, the placement of the elevator in the center of the building was infeasible; and

WHEREAS, the applicant represents that in placing the vertical circulation in the front yard, they have proposed matching the street wall to make the building compatible with other buildings on the block; and

WHEREAS, the applicant represents that because of these programmatic needs, the applicant requires a lot coverage waiver and a street wall height waiver for the R5 portion of the zoning lot; and

WHEREAS, the applicant represents that immediately adjacent to the premises are commercial uses including retail stores, and to the north and south of the premises are community facilities owned and operated by Otsar; and

WHEREAS, the applicant further represents that on the West 13th Street frontage immediately south of the premises, the buildings are predominantly three stories, and a mix of two and three-story residential buildings are across from the premises, and accordingly, the height of the School building will be compatible with other buildings that characterize the neighborhood; and

WHEREAS, certain adjoining property owners spoke at the hearing about concerns they had related to the School and other properties owned by Otsar, including noise issues from an air conditioner and traffic issues related to automobile and bus drop-off and pick-up; and

WHEREAS, the applicant represents in a letter dated May 26, 2005 that they have met with the adjoining property owners and discussed issues regarding an air conditioner unit in another building owned by the applicant, and the bus and automobile drop-off and pick up points for students; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the School relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Parts 617.5 and 613 and §§5-02(a), 5-02 (b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 72-21, to permit,

WHEREAS, the Board agrees that, based upon the submitted evidence, the enlargement is necessary in order to meet the programmatic needs of the School; and

WHEREAS, therefore, the Board finds that the cited unique physical condition, when considered in conjunction with the programmatic needs of the School, create practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant is currently replacing a non-complying structure in the rear of the building with an as-of-right one-story structure; and

WHEREAS, the applicant represents that the neighborhood is a mixed-use neighborhood; and within an R5 and R5/C1-2 zoning district, the proposed two-story addition to an existing not-for-profit educational institution for developmentally disabled children, which does not comply with the zoning requirements for lot coverage, front yard and street wall height, contrary to Z.R. §§ 24-11, 24-34 and 77-28; 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 26, 2005" - five (5) sheets and "Received June 3, 2005" - four (4) sheets; and on further condition:

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 14, 2005.

82-05-BZ

APPLICANT - Adrienne W. Bernard, Esq., Fried, Frank, Harris, Shriver & Jacobson, LLP, for Association to Benefit Children, owner.

SUBJECT - Application April 5, 2005 - pursuant to Z.R. § 73-19, to allow an existing child care facility accessory to a not-for-profit community service organization to operate as a Use Group 3A school, within an M1-2 and R7-2 Zoning District and to vary Section 42-12 of the Resolution.

PREMISES AFFECTED - 1841 Park Avenue (a/k/a 101 East 126th Street), Northeast corner of Park Avenue and

MINUTES

East 126th Street, Block 1775, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #11M

APPEARANCES -

For Applicant: Molly Dunham.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....
..0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 6, 2004, acting on Department of Buildings Application No. 200821780, reads:

"Proposed day care center (school) use group 3A is not permitted as of right in an M1-2 zoning district.

WHEREAS, the subject premises is located on the northeast corner of the intersection of Park Avenue and East 126th Street, and is currently improved upon with an approximately 21,000 sq. ft. former warehouse building currently occupied by a community facility, operated by the Association to Benefit Children ("ABC"), a not-for-profit organization; and

WHEREAS, ABC's facility at this location is known as Echo Park, and includes, among many other social services, an accessory day care center for its staff and clients, which is permitted as-of-right; and

WHEREAS, the day care center is currently located on the ground floor of the buildings, and has maximum capacity of 60 children; and

WHEREAS, the applicant represents that the subject special permit, if granted, would allow ABC to offer any vacancies in its day care center that might otherwise remain unfilled to the public, including children of staff and clients who participate in programs at the organization's other facilities and children from the surrounding community; and

WHEREAS, the applicant also represents that there is a serious need for subsidized daycare in the area, and that a survey conducted by ABC of its own clients confirms this representation; and

WHEREAS, the applicant states that because of the specific mix of uses within the Echo Park facility, only certain zoning districts were able to accommodate the programs; and

WHEREAS, additionally, the applicant states that a building with at least 17,000 sq. ft. of floor area was necessary, again in order to accommodate the programs; and

WHEREAS, thus, ABC undertook a three year long search for a property of adequate size in a zoning district where the proposed uses would be allowed; and

WHEREAS, certain sites were ultimately rejected due to cost prohibitions, lack of appropriate size, operational concerns, poor building condition or poor transportation access; and

This is contrary to section 42-12."; and

WHEREAS, a public hearing was held on this application on May 17, 2005 after due notice by publication in the City Record; and then to decision on June 14, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioners Miele and Chin; and

WHEREAS, Community Board 11, Manhattan, recommends approval of the subject application; and

WHEREAS, this is an application to permit the proposed non-accessory operation of a school without sleeping accommodations (Use Group 3), functioning as a day care center, located primarily within an M1-2 zoning district, with a small portion in an R7-2 zoning district, which requires a special permit pursuant to Z.R. §§73-19 and 73-03; and

WHEREAS, the applicant maintains that the results of the site search shows that there is no practical possibility of obtaining a site of adequate size for the school in a district where it is permitted as of right; and

WHEREAS, the applicant has demonstrated difficulty in obtaining land for the development of a school within the neighborhood to be served and with an adequate size, within districts where the school is permitted as-of-right, sufficient to meet the programmatic needs of the school; and

WHEREAS, therefore, Board finds that the requirements of Z.R. § 73-19 (a) are met; and

WHEREAS, evidence in the record indicate that the proposed school is located within 400 feet of an R7-2 zoning district, where a school is permitted as-of-right; thus the Board finds that the requirements of Z.R. §73-19 (b) are met; and

WHEREAS, the applicant represents that adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district is provided through the use of sound-attenuating exterior wall and window construction; and

WHEREAS, the applicant has submitted evidence supporting the above representation; and

WHEREAS, the Board agrees that adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district is achieved through the use of sound attenuating exterior wall and window construction; thus, the Board finds that the requirements of Z.R. § 73-19 (c) are met; and

WHEREAS, the applicant represents that children arriving and departing from Echo Park are protected from traffic on adjacent streets by the traffic control measures currently in place for two nearby public schools; such measures include traffic signage and school crossing guards; and

WHEREAS, therefore, Board finds that the requirements of Z.R. §73-19 (d) are met; and

MINUTES

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 73-19; 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, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §73-03; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Parts 617.5 and 613 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 Z.R. §§ 73-19 and 73-03 and grants a special permit, to allow the

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 14, 2005.

36-04-BZ

APPLICANT - Petraro & Jones, LLP, for Jack Randazzo, owner.

SUBJECT - Application February 12, 1004 - under Z.R. §72-21 to permit the proposed construction of an eight family dwelling, on a vacant lot, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 30 Carlton Avenue, west side, 240' south of Flushing Avenue, Block 2030, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Patrick W. Jones.

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

37-04-BZ

APPLICANT - Petraro & Jones, LLP, for Jack Randazzo, owner.

SUBJECT - Application February 12, 1004 - under Z.R. §72-21 to permit the proposed construction of an eight family dwelling, on a vacant lot, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 32 Carlton Avenue, west side, 264' south of Flushing Avenue, Block 2030, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

proposed non-accessory operation of a school without sleeping accommodations (Use Group 3), functioning as a day care center, located primarily within an M1-2 zoning district, with a small portion in an R7-2 zoning district, which requires a special permit pursuant to Z.R. §§ 73-19 and 73-03; 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 "June 8, 2005" - (3) sheets; and on further condition:

THAT the premises shall comply with all applicable fire safety measures, as required and as illustrated on the BSA approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

For Applicant: Patrick W. Jones.

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

160-04-BZ/161-04-A

APPLICANT - Mitchell S. Ross, Esq., Agusta & Ross, for Daffna, LLC, owner.

SUBJECT - Application April 21, 2004 - under Z.R. §72-21 to permit, in an M1-2 zoning district, the residential conversion of an existing four-story commercial loft building into eight dwelling units, contrary to Z.R. §42-10. PREMISES AFFECTED - 73 Washington Avenue, East side of Washington Avenue 170' north of Park Avenue, Block 1875, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Mitchell Ross.

ACTION OF THE BOARD - Laid over to August 9, 2005, at 1:30 P.M., for continued hearing.

175-04-BZ thru 177-04-BZ

APPLICANT - Joseph P. Morsellino, for 130th Street LLC, owner.

SUBJECT - Application April 29, 2004- under Z.R. §72-21- Proposed erection and maintenance of a two family dwelling, Use Group 2, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, open space, perimeter wall height and rear yard, is contrary to Z.R. §23-141, §23-631 and §23-47.

PREMISES AFFECTED -

7-05 130th Street, east side, Block 3982, Lot 70, Borough of Queens.

7-09 130th Street, east side, Block 3982, Lot 67, Borough of Queens.

MINUTES

7-13 130th Street, east side, Block 3982, Lot 65, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Eric Palatnik and Arnold Montag, R.A.

ACTION OF THE BOARD - Laid over to August 23, 2005, at 1:30 P.M., for continued hearing.

189-04-BZ

APPLICANT - D.E.C. Designs, for City of Faith Church of God, owner.

SUBJECT - Application May 5, 2004 - under Z.R. §73-19 to allow a school (UG3) in a C8-1 zoning district which is not permitted as per section 32-00 of the Zoning Resolution.

PREMISES AFFECTED - 3445 White Plains Road, 445.2' south of Magenta Street, Block 4628, Lot 47, Borough of The
PREMISES AFFECTED - 109-09 15th Avenue, northwest corner of 110th Street, Block 4044, Lot 60, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....
..0

ACTION OF THE BOARD - Laid over to July 19, 2005, at 1:30 P.M., for decision, hearing closed.

210-04-A

APPLICANT - Joseph P. Morsellino, Esq., for Chilton Paint Co., owner; CPP Development, LLC, lessee.

SUBJECT - Application May 21, 2004 - Proposed six story residential building, with 134 dwelling units, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 109-09 15th Avenue, northwest corner of 110th Street, Block 4044, Lot 60, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....
..0

ACTION OF THE BOARD - Laid over to July 19, 2005, at 1:30 P.M., for decision, hearing closed.

245-04-BZ

APPLICANT - Agusta & Ross, for Mark Stern, owner.

SUBJECT - Application July 6, 2004 - under Z.R. §72-21 to

Bronx.

COMMUNITY BOARD #12BX

APPEARANCES -

For Applicant: Peter Hirshman.

ACTION OF THE BOARD - Laid over to July 19, 2005, at 1:30 P.M., for continued hearing.

209-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Chilton Paint Co., owner; CPP Development, LLC, lessee.

SUBJECT - Application May 21, 2004 - under Z.R. §72-21 to permit the proposed six story residential building, with 134 dwelling units, Use Group 2, located in an M2-1 zoning district, which is contrary to Z.R. §42-00.

permit the proposed five-story, nine unit multiple dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 102/04 Franklin Avenue, west side, 182' south of Park Avenue, Block 1898, Lots 45 and 46, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Mitchell Ross

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

257-04-BZ

APPLICANT - Patrick W. Jones, Petraro & Jones, LLP, for Boerum Place, LLC, owner.

SUBJECT - Application November 19, 2004 - under Z.R. §72-21, to permit the proposed construction of an eight story mixed-use, retail-residential building, located in an R6A, R6, C2-4 and C2-3 zoning districts which does not comply with the zoning requirements for floor area ratio, lot coverage, building height and loading berth, is contrary to Z.R. §23-145, §33-121, §23-633, §35-25 and §36-22.

PREMISES AFFECTED - 252/60 Atlantic Avenue (a/k/a 83/87 Boerum Place; 239/47 Pacific Street), east side of Boerum Place, between Atlantic Avenue and Pacific Street, Block 181, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Patrick Jones and Daniel P. Lane.

ACTION OF THE BOARD - Laid over to July 19, 2005, at 1:30 P.M., for continued hearing.

372-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Robert Perretta, contract vendee.

SUBJECT - Application November 23, 2004- under Z.R. §72-21 to permit in a R1-2(NA-1) zoning district the

MINUTES

construction of a single family home on a lot with less than the required lot area and lot width to vary ZR 23-32.
PREMISES AFFECTED - 8 Lawn Avenue, corner of Nugent Street, Block 2249, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Adam W. Rothkrug,

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....4
..0

ACTION OF THE BOARD - Laid over to July 12, 2005, at 1:30 P.M., for decision, hearing closed.

For Applicant: Deirdre A. Carson, Jack Friedman and Caterina Roiath.

For Opposition: Jeffrey Lefcourt, Amy Kaplan, Polly Eustis and Phyllis.

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

5-05-BZ

APPLICANT - Sheldon Lobel, P.C., for S & J Real Estate, LLC, owner.

SUBJECT - Application January 14, 2005 - under Z.R. §73-53, to permit the enlargement of an existing non-conforming manufacturing building located within a district designated for residential use (R3-2). The application seeks to enlarge the subject contractor's establishment (Use Group 16) by 2,499.2 square feet.

PREMISES AFFECTED - 59-25 Fresh Meadow Lane, east side, between Horace Harding Expressway and 59th Avenue, Block 6887, Lot 24, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: Janice Cahalane.

For Opposition: Mavy Halikiopoulos and Lambros Halikiopoulos.

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

6-05-BZ

APPLICANT - Eric Palatnik, P.C., for Isaac and Renee Sasson, owners.

SUBJECT - Application January 14, 2005 - under Z.R. §73-622 an enlargement to a single family home to vary sections ZR 23-141 for open space and floor area, ZR 23-46 for side yards and ZR 23-47 for rear yard. The premise is located in an R-2 zoning district.

PREMISES AFFECTED - 3046 Bedford Avenue, between Avenues "I and J", Block 7588, Lot 52, Borough of Brooklyn.

COMMUNITY BOARD #14BK

394-04-BZ/30-05-A

APPLICANT - Deirdre A. Carson/Greenberg Traurig, LLP, for 33 Mercer Street, LLC, owner.

SUBJECT - Application December 20, 2004 - under Z.R. §72-21 to permit the proposed construction of a seven-story mixed-use building, containing residential and retail uses, whereas such uses are not permitted as right, located within an M1-5B zoning district, is contrary to Z.R. §42-10 and §42-14(D)(2)(B).

PREMISES AFFECTED - 44 Mercer Street, aka 471 Broadway, east side, 107.1/2" north of the intersection of Grand and Mercer Streets, Block 474, Lot 49, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

12-05-BZ

APPLICANT - Eric Palatnik, P.C., for Dina Horowitz, owner.

SUBJECT - Application January 21, 2005 - under Z.R. §73-622 for an enlargement to a single family home to vary sections ZR23-141 for floor area, ZR 23-461 for side yards and ZR 23-47 for rear yard. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED - 1662 East 28th Street, between Quentin Road and Avenue "P", Block 6790, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to July 26, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 5:40 P.M.

BULLETIN

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July 21, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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158-05-A B.Q. 15 Atlantic Walk, E/S
Atlantic Walk 100.17' N/O Breezy Point Boulevard, Block
16350, Lot 400, Borough of Queens. Applic. #402100917.
Appeals to Department of Buildings to reconstruct and
enlarge an existing single family frame dwelling not fronting
on a mapped street contrary to General City Law Article 3,
Section 36 and upgrading an existing private disposal
system located in the bed of the Service Lane contrary to
Building Department Policy.

159-05-BZ B.S.I. 880 Annadale Road,
premises located on the west side of Annadale Road West of
the corner formed by the intersection of Annadale Road and
South Railroad Avenue, Block 6249, Lot 436T, Borough of
Staten Island. Applic. #500779375. Variance to allow
having a one story and a cellar commercial building in C2-
1/R3X district, approximately 10% of proposed building and
its accessory parking lies in R3X district.
COMMUNITY BOARD #3SI

DESIGNATIONS: D-Department of Buildings; B.BK.-
Department of Buildings, Brooklyn; B.M.-Department of
Buildings, B.Q.-Department of Buildings, Queens; B.S.I.-
Department of Buildings, Staten Island; B.BX.-
Department of Buildings, The Bronx; H.D.-Health
Department; F.D.-Fire Department.

CALENDAR

AUGUST 9, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, August 9, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

SPECIAL ORDER CALENDAR

558-51-BZ

APPLICANT – Eric Palatnik, P.C., B.P Products North America, owner.

SUBJECT – Application April 28, 2005 – Extension of Time to obtain a Certificate of Occupancy for a gasoline service station which expires on August 5, 2005. The premise is located in an C2-2/R-5 zoning district.

PREMISES – 68-22 Northern Boulevard, southwest corner of Northern Boulevard and 69th Street, Block 1186, Lot 19, Borough of Queens.

COMMUNITY BOARD #3Q

886-87-BZ

APPLICANT - Stuart Allen Klein, for Rockford R. Chun, owner.

SUBJECT - Application March 22, 2005 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of the special permit.

PREMISES AFFECTED - 11 East 36th Street, aka 10 East 37th Street, 200' east of 5th Avenue, Block 866, Lot 11, Borough of Manhattan.

COMMUNITY BOARD #5M

203-92-BZ

APPLICANT – Sullivan, Chester & Gardner, P.C., for Austin-Forest Assoc., owner; Lucille Roberts Org., d/b/a Lucille Roberts Figure Salon, lessee.

SUBJECT – January 26, 2005 Extension of Term/Amendment/Waiver for a physical culture establishment. The premise is located in an R8-2 zoning district.

PREMISES AFFECTED – 70-20 Austin Street, south side, 333' west of 71st Avenue, Block 3234, Lot 173, Borough of Queens.

COMMUNITY BOARD #6Q

231-04-A

APPLICANT – Joseph P. Morsellino, Esq., for Chri Babatsikos and Andrew Babatsikos, owners.

SUBJECT – Application June 17, 2004 – Proposed one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 240-79 Depew Avenue, corner of 243rd Street, Block 8103, Lot 5, Borough of Queens.

COMMUNITY BOARD#11Q

313-04-A

APPLICANT – Sheldon Lobel, P.C., for Angella Blackwood, owner.

SUBJECT – Application September 16, 2004 – Proposed enlargement of an existing two story, single family residence, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED – 132-02 Hook Creek Boulevard, southwest corner of 132nd Avenue, Block 12981, Lot 117, Borough of Queens.

COMMUNITY BOARD #13Q

365-04-A thru 369-04-A

APPLICANT – Petraro & Jones, LLP, for Sunrise Hospitality, LLC, owner.

SUBJECT – Application November 22, 2004 – Proposed construction, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law

PREMISES AFFECTED – 85-04 56th Avenue, south side, 44.16' east of Long Island Railroad right-of-way, Block 2881, Tentative Lot 9, Borough of Queens.

85-02 56th Avenue, south side, east of and adjacent to Long Island Railroad right-of-way, Block 2881, Tentative Lot 54, Borough of Queens.

85-01 57th Avenue, north side, east of and adjacent to Long Island Railroad right-of-way, Block 2881, Tentative Lot 53, Borough of Queens.

85-03 57th Avenue, north side, 10.62' east of Long Island Railroad right-of-way, Block 2881, Tentative Lot 52, Borough of Queens.

85-03-A 57th Avenue, north side, 30.62' east of Long Island Railroad right-of-way, Block 2881, Tentative Lot 51, Borough of Queens.

COMMUNITY BOARD #4Q

APPEALS CALENDAR

CALENDAR

140-05-A

APPLICANT – Gary Lenhart, R.A., for the Breezy Point Cooperative, owner; Loretta & Tom Kilkenny, owners.

SUBJECT – Application June 7, 2005 – Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has an upgrade existing private disposal system situated partially in the bed of the service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings Policy.

PREMISES AFFECTED – 29 Queens Walk, east side, 217.19’ north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

AUGUST 9, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, August 9, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

ZONING CALENDAR

260-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Leewall Realty by Nathan Indig, owner.

SUBJECT – Application July 20, 2004 – under Z.R. §72-21 to permit the proposed construction of a four story, penthouse and cellar three-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 222 Wallabout Street, 64’ west of Lee Avenue, Block 2263, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #1BK

261-04-BZ

APPLICANT – Moshe M. Friedman, P.E., for Peretz Toiv, owner.

SUBJECT - Application July 22, 2004 – under Z.R. §73-622 to permit the proposed enlargement of an existing one family dwelling, Use Group 1, located in R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space and lot coverage, is contrary to Z.R. §23-141(b).

PREMISES AFFECTED – 2824 Avenue “R”, southwest corner of East 29th Street, Block 6834, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #15BK

262-04-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Tishrey-38 LLC by Malka Silberstein, owner.

SUBJECT – Application July 22, 2004 – under Z.R. §72-21, to permit the proposed construction of a four story, penthouse and cellar four-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 218 Wallabout Street, 94’ west of Lee Avenue, Block 2263, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #1BK

CALENDAR

269-04-BZ

APPLICANT – Law Office of Howard Goldman, LLC, for 37 Bridge Street Realty, Corp., owner.

SUBJECT – Application August 2, 2004 – under Z.R.§72-21 to permit the conversion of a partially vacant, seven-story industrial building located in a M1-2 and M3-1 zoning district into a 60 unit loft style residential dwelling in the Vinegar Hill/DUMBO section of Brooklyn.

PREMISES AFFECTED - 37 Bridge Street, between Water and Plymouth Streets, Block 32, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #1BK.

355-04-BZ

APPLICANT – Slater & Beckerman, LLP, for Trustees under Irr.Trust, Stanley Gurewitsch, owner.

SUBJECT – Application November 10, 2004 and amended on July 26, 2005 to be a bulk variance – under Z.R.§72-21 to permit the proposed residential conversion of a portion of an existing three-story manufacturing building, and the construction of a four story residential enlargement atop said building, located in an M1-2(R6) zoning district within the special mixed-use MX-8 district, is contrary to Z.R. §§23-633, 23-942 and 123-64.

PREMISES AFFECTED – 302/10 North Seventh Street, aka 289 North Sixth Street, bounded on the southwest side, by north sixth street, southeast side by Meeker Avenue and northeast side by North Seventh Street, Block 2331, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #1BK

380-04-BZ

APPLICANT – Sheldon Lobel, P.C., for BK Corporation, owner.

SUBJECT - Application November 29, 2004 – under Z.R. §72-21 to permit the legalization of the conversion of one dwelling unit, in a new building approved exclusively for residential use, to a community facility use, in an R5 zoning district, without two side yards, is contrary to Z.R. §24-35.

PREMISES AFFECTED – 32-12 23rd Street, bounded by 33rd Avenue and Broadway, Block 555, Lot 36, Borough of Queens.

COMMUNITY BOARD #1Q

389-04-BZ

APPLICANT – Francis Angelino, Esq., for 150 East 34th

Street, Co., LLC, owner; Oasis Day Spa, Lessee.

SUBJECT – Application December 13, 2004 – under Z.R. §73-36 to permit the proposed legalization of an existing Physical Cultural Establishment, located on the second floor of the thirty seven story, Affina Hotel. The premise is located in a C1-9 zoning district.

PREMISES AFFECTED – 150 East 34th Street, Manhattan, between Lexington and Third Avenue, Block 889, Lot 55, Borough of Manhattan.

COMMUNITY BOARD#6M

78-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Young Israel of New York Hyde Park, owner.

SUBJECT – Application March 31, 2005 – under Z.R. §72-21 to permit the proposed expansion of an existing one story synagogue building, located in an R2 zoning district, which does not comply with the zoning requirements for lot coverage, also front and side yards, is contrary to Z.R.§24-11, §24-24 and §24-35.

PREMISES AFFECTED – 264-15 77th Avenue, southwest corner of 256th Street, Block 8538, Lots 29 and 31, Borough of Queens.

COMMUNITY BOARD #13Q

107-05-BZ

APPLICANT – Eric Palatnikl, P.C., for Jeff and Jill Adler, owners.

SUBJECT – Application May 11, 2005 – under Z.R. §73-622 to permit the enlargement of a single family home to waive ZR§23-141(b) for floor area, lot coverage, open space, ZR§23-47 for rear yard. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 1823 East 24th Street, east side of 24th Street, off Avenue “R”, Block 6830, Lot 77, Borough of Brooklyn.

COMMUNITY BOARD#15BK

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JULY 12, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, April 12, 2005, were approved as printed in the Bulletin of April 21, 2005, Volume 90, No. 18

SPECIAL ORDER CALENDAR

129-70-BZ

APPLICANT – Sheldon Lobel, P.C., for 10 West 60th Street Corp., owner; 10 West 66th Street Garage Corp., lessee.

SUBJECT – Application January 28, 2005 – Extension of Term of variance for use of unused and surplus parking spaces for transient parking, limited to 75 spaces, in thirty-two story multiple dwelling located in a C4-7 and R-10 zoning district.

PREMISES AFFECTED – 6/14 West 66th Street, south side of West 66th Street, 125’ west of Central Park West, Block 1118, Lot 22, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES –

Applicant: Richard Lobel.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:0

THE RESOLUTION:

WHEREAS, this application is a request for a re-opening and an extension of term of the variance; and

WHEREAS, a public hearing was held on this application on June 7, 2005, after due notice by publication in *The City Record*, and then to decision on July 12, 2005; and

WHEREAS, Community Board No. 7, Manhattan, recommends approval of this application; and

WHEREAS, on July 14, 1970, the Board granted an application pursuant to Section 60(3) of the Multiple Dwelling Law (“MDL”) under the subject calendar number to permit the use of transient parking for the unused and surplus tenant spaces in a multiple dwelling accessory garage for a term of 15 years, on condition that the transient parking spaces shall not exceed 75 in number; and

WHEREAS, the total number of parking spaces in the

garage is 195 as per Certificate of Occupancy No. 110158; the scope of this grant by the Board is limited to the use of 75 spaces for transient parking; and

WHEREAS, the term of the variance was extended for a period of 10 years on October 8, 1985 to expire on July 14, 1995, and an additional 10 years on February 6, 1996, to expire on July 14, 2005; and

WHEREAS, the resolution was re-opened and amended on April 23, 1991 to reflect a change in previously approved entrances and exits, and to reflect the existing signage conditions.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens and amends* the resolution pursuant to Section 60(3) of the MDL, said resolution having been adopted on July 14, 1970, so that as amended this portion of the resolution shall read: “granted for a term of ten (10) years from July 14, 2005 to expire on July 14, 2015; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked ‘Received June 28, 2005’-5 sheets; and *on further condition*;

THAT the number of daily transient parking spaces shall be no greater than 75;

THAT the reservoir spaces shall not be used for parking and the number of reservoir spaces shall be as determined by the Department of Buildings;

THAT all residential leases shall 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 be placed in a conspicuous place within the garage;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT the layout of the parking garage shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed Department of Buildings/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. 103974576)

Adopted by the Board of Standards and Appeals, July 12, 2005.

MINUTES

70-91-BZ

APPLICANT – Salvadeo Associates by David L. Businelli, for Mid Island Realty Corp., owner.

SUBJECT - Application January 4, 2005 and updated January 18, 2005 for an Extension of Term/Waiver of a variance to allow commercial/retail stores UG6 in an R3-2 zoning district.

PREMISES AFFECTED - 1894/1898 Hylan Boulevard, east side 40.6' north of Seaver Avenue, Block 3657, Lots 1 and 3, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES – None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT:

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

WHEREAS, this is an application for a re-opening and an extension of the term of the variance for a term of 10 years; and

WHEREAS, a public hearing was held on this application on June 7, 2005, after due notice by publication in *The City Record*, and then to decision on July 12, 2005; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, on March 2, 1976, under BSA calendar number 267-75-BZ, 1894 Hylan Boulevard and under BSA calendar number 266-75-BZ, 1898 Hylan Boulevard, the Board granted applications to permit, in an R3-2 zoning district, the construction of two adjacent one-story buildings for use as retail stores for a term of 15 years, contrary to Z.R. § 22-10; and

WHEREAS, at various times since 1976, the Board has reopened the application to allow for other site modifications and extensions of term, the last being granted on May 24, 1994; and

WHEREAS, the most recent term of variance expired on May 24, 2004; and

WHEREAS, the applicant now seeks an extension of term of the variance; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of an extension of term with the conditions listed below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, adopted on March 2, 1976, so that as amended this portion of the resolution shall read: “to extend the term of the variance for 10 years from May 24, 2004; *on condition* that all work shall substantially conform to drawings as filed with this application, marked ‘Received April 26, 2005’ –(1) sheet and ‘June 10, 2005’- (1) sheet; *on further condition:*

THAT the term of this grant shall be for 10 years, to expire on May 24, 2014;

THAT the retail store’s hours of operation shall be limited to Monday through Friday 10 A.M. to 9 P.M., Saturday 10 A.M. to 8 P.M. and Sunday 11 A.M. to 6 P.M.; THAT the owners shall receive a certificate of occupancy within 1 year of the current grant of extension of term;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT all signage shall comply with the relevant signage restrictions in a C1 zoning district;

THAT all interior partitions and exits shall be as approved by the Department of Buildings;

THAT the above conditions shall appear on the certificate of occupancy;

THAT conditions from prior resolution(s) 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 objections(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) / configuration(s) not related to the relief granted.”

(DOB Application Nos. 500744304 & 500744313)

Adopted by the Board of Standards and Appeals, July 12, 2005.

614-74-BZ

APPLICANT – Ross F. Moskowitz, Stroock & Stroock & Lavan, LLP, for Sixty East End Owner, Inc., lessee.

SUBJECT - Application February 18, 2005 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired March 11, 2000.

PREMISES AFFECTED - 60 East End Avenue west side a/k/a532-538 East 83rd Street a/k/a 531-537 East 82nd Street, Block 1579, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Ross Moskowitz and Tim Minton.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 9, 2005, at 10 A.M., for decision, hearing closed.

MINUTES

62-83-BZ

APPLICANT – Law Offices of Howard Goldman, LLC, for Shaya B. Pacific, LLC, owner.

SUBJECT - Application June 1, 2004 and updated 3/15/05 - reopening for an amendment to the resolution to allow the redesign of landscaped areas and the elimination of loading docks.

PREMISES AFFECTED - 696 Pacific Street, between Carlton and 6th Avenues, Block 1128, Lot 1002, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Chris Wright.

For Opposition: Paul Sheridan.

ACTION OF THE BOARD - Laid over to September 13, 2005, at 10 A.M., for continued hearing.

234-84-BZ

APPLICANT – Vito J. Fossella, P.E., for Forest Realty Management, LLC, owner.

SUBJECT - Application May 19, 2005 - Extension of Term for commercial UG6 establishment partially located in a R3-2 residential zoning district.

PREMISES AFFECTED - 1976/82 Forest Avenue, Block 1696, Lot 26, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Sam A. Meniawy.

ACTION OF THE BOARD – Laid over to August 23, 2005, at 10 A.M., for continued hearing.

164-99-BZ

APPLICANT – Guy M. Harding, for Oscar Franco & Ivan Duque, owners.

SUBJECT – Application January 31, 2005 – Extension of Term/Waiver of a Special Permit for and entertainment and dancing establishment (UG 12) located in a C2-3/R6 zoning district.

PREMISES AFFECTED – 79-03 Roosevelt Avenue, north side of Roosevelt Avenue, 22' east from intersection of 79th Street and Roosevelt Avenue, Block 1290, Lot 46, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

Applicant: Guy Harding.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to August 9, 2005, at 10 A.M., for decision, hearing closed.

11-01-BZ

APPLICANT – Vassalotti Associate Architects, LLP, for Joseph Macchia, owner.

SUBJECT – Application May 19, 2005 – Extension of Time to obtain a Certificate of Occupancy, located in a C1-2(R5) zoning district.

PREMISES AFFECTED – 586/606 Conduit Boulevard, Block 4219, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

Applicant: Hiram A. Rothkrug.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to July 26, 2005, at 10 A.M., for decision, hearing closed.

91-02-BZ

APPLICANT – Sheldon Lobel, P.C., for David Winiarski, owner.

SUBJECT – Application April 13, 2004 - reopening for an amendment to a previously granted variance under ZR §72-21 to allow minor modification of the approved plans.

PREMISES AFFECTED – 3032-3042 West 22nd Street, West 22nd Street, 180' north of Highland View Avenue, Block 7071, Lot 19 (a/k/a 19, 20, 22), Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to July 26, 2005, at 10 A.M., for decision, hearing closed.

MINUTES

90-05-A

APPLICANT – Zygmunt Staszewski, for Breezy Point Cooperative Inc., owner; Lisa Hogan, lessee.

SUBJECT – Application April 14, 2005 – Proposed alteration of an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law

PREMISES AFFECTED – 15 Roosevelt Walk, east side, 285.27 south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Zygmunt Staszewski and Michael Harley.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated March 18, 2005, acting on Department of Buildings Application No. 401985795, reads:

“For Board of Standards & Appeals Only:

The street giving access to the existing building to be altered is not duly placed on the map of the City of New York.

A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law. Existing dwelling to be altered does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street or frontage is contrary to Section 27-291 of the Administrative Code.,” and

WHEREAS, a public hearing was held on this application on July 12, 2005 after due notice by publication in the City Record, and then to closure and decision on July 12, 2005; and

WHEREAS, by letter dated May 10, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated March 18, 2005, acting on Department of Buildings Application No. 401985795, is hereby modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; on condition that construction shall substantially conform to the drawing filed with the application marked “Received – April 14, 2005” – one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

THAT this approval is limited to the relief granted by the

Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 12, 2005.

53-04-A thru 62-04-A

APPLICANT – New York City Department of Buildings

OWNER OF RECORD: Thomas Huang

SUBJECT – Applications February 26, 2004 – Application to revoke Certificate of Occupancy No. 401223289, on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED –

140-26A 34th Avenue, Block 4994, Lot 24, Borough of Queens

140-28 34th Avenue, Block 4994, Lot 224, Borough of Queens

140-28A 34th Avenue, Block 4994, Lot 224, Borough of Queens

140-30 34th Avenue, Block 4994, Lot 125, Borough of Queens

140-30A 34th Avenue, Block 4994, Lot 225, Borough of Queens

140-32 34th Avenue, Block 4994, Lot 126, Borough of Queens

140-32A 34th Avenue, Block 4994, Lot 27, Borough of Queens

140-34 34th Avenue, Block 4994, Lot 127, Borough of Queens

140-34A 34th Avenue, Block 4994, Lot 227, Borough of Queens

140-36 34th Avenue, Block 4994, Lot 327, Borough of Queens

COMMUNITY BOARD #11Q

APPEARANCES –

For Opposition: Adam W. Rothkrug and Tom Berinato.

For Administration: Lisa Orrantia, DOB.

ACTION OF THE BOARD – Laid over to August 23, 2005, at 10 A.M., for continued hearing.

MINUTES

346-04-BZY

APPLICANT – Sheldon Lobel, P.C., for GRA V LLC, owners.

SUBJECT – Application October 27, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

PREMISES AFFECTED – 3329-3333 Giles Place (a/k/a 3333 Giles Place), west side of Giles Place between Canon Place and Fort Independence Street, Block 3258, Lot 5 and 7, Borough of The Bronx.

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 9, 2005, at 10 A.M., for decision, hearing closed.

17-05-A

APPLICANT – Sheldon Lobel, P.C., for GRA V LLC, owner.

SUBJECT - Application January 27, 2005 - An appeal seeking a determination that the owner of said premises has acquired a common-law vested right to continue a development commenced under R6 Zoning.

PREMISES AFFECTED - 3329/3333 Giles Place, (a/k/a 3333 Giles Place), west side, between Canon Place and Fort Independence Street, Block 8258, Lots 5 and 7, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 9, 2005, at 10 A.M., for decision, hearing closed.

54-05-A

APPLICANT – NYC Department of Buildings.

OWNER OF PREMISES: Yeshiva Imrei Chaim Viznitz.

SUBJECT – Application March 4, 2005 – Application to revoke Certificate of Occupancy No. 300131122, on the basis that the Certificate of Occupancy allows conditions at the subject premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED – 1824 53rd Street, southeast corner of 18th Avenue, Block 5480, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Opposition: Stuart Klein and Irsael Steinberg.

ACTION OF THE BOARD – Laid over to August 23, 2005, at 10 A.M., for continued hearing.

Pasquale Pacifico, Executive Director

Adjourned: A.M.

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**REGULAR MEETING
TUESDAY AFTERNOON, JULY 12, 2005
1:30 P.M.**

Present: Chair Srinivasan, Vice Chair Babbar,
Commissioner Miele and Commissioner Chin.

ZONING CALENDAR

327-02-BZ

APPLICANT – Harold Weinberg, P.E., for Frank Galeano, owner.

SUBJECT – Application November 4, 2002 – under Z.R. §72-21 to permit the proposed erection of a four story, four family residence, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 82 Union Street, south side, 266'-0" west of Columbia Street, east of Van Brunt Street, Block 341, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Harold Weinberg.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar,
Commissioner Miele and Commissioner
Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 17, 2002, acting on Department of Buildings Application No. 301320657, reads:

“1. The proposed construction of a residential building located with an M1-1 zoning district is contrary to Section 42-00 of the Zoning Resolution.”; and

WHEREAS, a public hearing was held on this application on August 17, 2004, after due notice by publication in the City Record, with continued hearings on September 28, 2004, November 23, 2004, January 11, 2005, February 15, 2005, April 19, 2005, May 24, 2005, and then to decision on July 12, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an M1-1 zoning district, the proposed construction of a new three-story, three-family residential building (Use Group 2) on a vacant lot, contrary to Z.R. § 42-00; and

WHEREAS, Community Board 6, Brooklyn, recommends approval of this application with conditions; and

WHEREAS, the current version of this application contemplates a three-story residential building, with floor area of 3,339 sq. ft., a floor area ratio (“F.A.R.”) of 1.59, and a total building height of 33 ft.; and

WHEREAS, the original version of this application contemplated a four-story residential building, with floor area of 5,460 sq. ft., and a total building height of 40 ft.; and

WHEREAS, the Board expressed reservations about this proposal, given the amount of actual hardship on the site, and the character of the community; and

WHEREAS, the subject premises is a 21 ft. by 100 ft. vacant lot, with 2,100 sq. ft. of lot area, located on the south side of Union Street, approximately 266 ft. west of Columbia Street, and east of Van Brunt Street; and

WHEREAS, the applicant represents that the lot is a pre-existing lot, and was formerly developed with a residential building in the early part of the century that was later razed; and

WHEREAS, most recently, the site has been occupied as a used car lot; and

WHEREAS, the applicant initially represented that existing foundation remains from the building previously on the lot as well as the small lot size and its vacant status were unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance with underlying district regulations; and

WHEREAS, however, the Board disagreed that the existing foundations were a unique condition, given that many vacant lots have old foundation rubble on them, and the applicant failed to substantiate that the foundation rubble was in fact a unique condition on the subject lot; and

WHEREAS, consequently, the applicant constructed the variance application based upon the small size of the lot, and the fact that the lot abuts a residential district, thus triggering a requirement of a rear yard, all of which compromise the creation of a conforming floor plate; and

WHEREAS, consequently, the applicant now represents that due to the small size of the lot, a conforming development would only be 70 ft. in depth, and of narrow width, such that the resulting floor plate would not be feasible for a conforming user; and

WHEREAS, moreover, the small size of the lot would not allow for loading berths or off-site parking, which would be required for a conforming development; and

WHEREAS, accordingly, the Board finds that the narrow width and small size of this pre-existing and vacant lot, which abuts a residential district, as well as its prior history of residential development, create practical difficulties and unnecessary hardship in developing the site in strict conformity with current applicable zoning regulations; and

WHEREAS, the applicant initially submitted a feasibility analysis that showed that a 2,000 sq. ft. manufacturing building would not result in a reasonable return, but that the initial four-story proposal would; and

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WHEREAS, the Board found this feasibility study insufficient, and suggested to the applicant that a reduced-bulk scenario might be feasible; and

WHEREAS, the applicant subsequently conducted three other scenarios: a three-story, three-family scenario; a three-story, four-family scenario; and a scenario with a building with a 5 ft. side yard; and

WHEREAS, the applicant represents that a building with a 5 ft. side yard would result in a building width of 16 ft.; such width would result in an inefficient floor plate and an uninhabitable multiple dwelling unit; and

WHEREAS, though the applicant claims that a three-story, three-family scenario will not realize a reasonable return, the Board disagrees, on the basis that if the feasibility study is amended to reflect recent favorable area comparables, then a reasonable return in terms of rental revenue could be realized; and

WHEREAS, consequently, the applicant has assented to a grant on this scenario; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict conformance with the provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the site is in a neighborhood with many lawful non-conforming residential uses, including two on either side of the site; and

WHEREAS, the applicant has submitted a land use map showing these numerous residential uses; the conditions reflected on this map were confirmed by the Board on its site visit; and

WHEREAS, the Board observes that while there are conforming manufacturing and automotive uses across the street from the site, the modest increase in residential presence due to the proposed development (a total of three units) should not negatively impact these uses; and

WHEREAS, therefore, the Board finds that the use change proposed by the applicant is appropriate; and

WHEREAS, the Board found the applicant's initial proposal of a four-story building to be out of character with the neighborhood, including the two adjacent residential structures; and

WHEREAS, the applicant represents that the height currently proposed for the building is consistent with the height of residential buildings in the neighborhood and the buildings on either side; and

WHEREAS, the Board also notes that the current proposal contemplates an increased rear yard, which mitigates the lack of side yards and creates a more compatible development; and

WHEREAS, the Board notes that the significant reduction in floor area, stories and height from the applicant's initial proposal to the applicant's current proposal is more compatible with the built conditions surrounding the site; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after taking direction from the Board as to the proper amount of relief, the applicant modified the development proposal to the current version; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted Action pursuant to 6 NYCRR, Part 617; 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. 03BSA074K dated October 28, 2002; 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, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the Applicant: (1) an Environmental Assessment Statement Form dated October 28, 2002; and (2) a Phase I Environmental Site Assessment Report, dated April 2005; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials impacts; and

WHEREAS, a Restrictive Declaration was executed on May 23, 2005 and submitted for recording on July 8, 2005 for the subject property to address hazardous materials concerns; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the Restrictive Declaration and the applicant's agreement to the conditions noted below; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

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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, with conditions as stipulated below, 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 the required findings under Z.R. § 72-21, to permit, within a M1-1 zoning district, the proposed construction of a new three-story, three-family residential building (Use Group 2) on a vacant lot, contrary to Z.R. § 42-00; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 1, 2005" – (9) sheets and "July 7, 2005"-(2) sheets; and on further condition: THAT the bulk parameters of the proposed buildings shall be as follows: total maximum F.A.R. of 1.59; maximum floor area of 3339 sq. ft.; rear yard of 47 ft.; and maximum total height of 33 ft.;

THAT the street wall of the building shall be aligned with both of the adjacent streetwalls on Union Street;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 12, 2005.

218-03-BZ

APPLICANT – Gerald J. Caliendo, R.A., for TTW Realty LLC, owner.

SUBJECT – Application June 25, 2003 – under Z.R. §72-21 to permit the proposed nine-story mixed use building with residential, commercial and community facility uses, located in an M1-1 zoning district, which does not comply with the zoning requirements for the uses, permitted floor area, total height and perimeter wall, is contrary to Z.R. §42-00, §23-141 and §23-631.

PREMISES AFFECTED – 19-73 38th Street, corner of 20th Avenue, Steinway Street and 38th Street, Block 811, Lot 1, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES – None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated June 20, 2003, acting on Department of Buildings Application No. 401444923, reads, in pertinent part:

1. Proposed U.G. 2 residential multiple dwelling in M1-1 contrary to section 42-00 Z.R.;
2. Proposed U.G. 4A Community Facility in M1-1 contrary to section 42-00 Z.R.;
3. Proposed accessory parking for community facility and residential multiple dwelling in M1-1 contrary to section 42-00 Z.R.;
4. There are no bulk requirements for residential development and community facility in an M1-1 Zoning District FAR of 1.0 as permitted in M1 is exceeded by proposed development refer to Board of Standards and Appeals.”; and

WHEREAS, a public hearing was held on this application on March 30, 2004 after due notice by publication in the City Record; with continued hearings on May 25, 2004, July 20, 2004, September 14, 2004, November 9, 2004, January 25, 2005, April 5, 2005, and then to decision on July 12, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chair Srinivasan and Commissioner Chin; and

WHEREAS, both the Queens Borough President and Community Board 1, Queens, recommend approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit, within an M1-1 zoning district, the proposed development of a four-story mixed-use building with residential, commercial and community facility uses and accessory parking, which does not comply with the zoning requirements for use, contrary to Z.R. §42-00; and

WHEREAS, the premises is a large vacant rectangular site bounded by 20th Avenue on the south, Steinway Street to the east and 38th Street to the west; the total lot area is 60,016 sq. ft.; and

WHEREAS, the applicant’s current proposal contemplates a 99,258 sq. ft. “U” shaped, four-story mixed use building with commercial/community facility uses on the first floor, 84 residential units on the second through fourth floors, and a cellar that would include an accessory gym, storage room, mechanical room and an accessory parking garage with 219 parking spaces; and

WHEREAS, the applicant’s original proposal contemplated a 150,041 sq. ft., ten-story, mixed use building, consisting of 108 dwelling units, an accessory parking garage

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with 195 parking spaces in the cellar, and retail and community facility uses on the ground floor; and

WHEREAS, an interim proposal contemplated a 120,008 sq. ft., four-story, mixed-use building that occupied the entire zoning lot; and

WHEREAS, the applicant has modified its original proposal to the current proposal at the direction of the Board;

WHEREAS, the building will contain 19,738 sq. ft. of retail on the ground floor, 2,521 sq. ft. of a community facility on the ground floor, and 76,986 sq. ft. of residential on floors two through four; and

WHEREAS, the lot is currently used for storage of motor vehicles, and was previously operated as a bus facility for storage, maintenance, and fueling of buses; and

WHEREAS, the applicant states that the bus facility was abandoned in 1988 and was demolished in 1991; a large volume of building and foundation debris has remained onsite; and

WHEREAS, the applicant represents that in 1997 the site was subject to environmental remediation including the removal of ten underground storage tanks, 1,864 tons of petroleum-contaminated soil and debris, 18 hydraulic bus lifts, and an oil/water separator; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance with underlying district regulations: (1) prior uses on the site have resulted in contamination of the soil; and (2) the poor condition of the site's soil will require deep piles for any construction on the site; and

WHEREAS, the applicant submitted Phase I and Phase II environmental reports that document the soil contamination on the site; and

WHEREAS, in further support of the claim that there are substandard soil conditions on the site, the applicant has submitted boring logs and engineer's reports: two of the reports indicate unsuitable materials up to 48 feet and three indicate unsuitable materials up to 28 ft.; and

WHEREAS, the applicant represents that these substandard soil conditions require costly pile foundations with short and long pile tips 30 to 60 feet below ground level; and

WHEREAS, accordingly, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict conformance with applicable zoning regulations; and

WHEREAS, at the Board's request, the applicant submitted a feasibility study analyzing the following development alternatives on the site: (1) conforming one-story manufacturing building; (2) conforming one-story and cellar retail building; (3) 26 three-story, three-family residential buildings; and (4) 84 rental apartments with an enclosed courtyard; and

WHEREAS, the applicant submitted two estimates of the environmental cleanup costs for the site: both estimates

are approximately \$3,000,000; and

WHEREAS, in response to Board concerns that the remediation costs for this site would differ based on the type of development, the applicant submitted a revised financial feasibility analysis including varying remediation costs depending upon the four alternatives listed above; and

WHEREAS, the revised feasibility analysis stated that costs would range from \$712,000 for the manufacturing use to \$1,263,000 for the retail use; such costs made the manufacturing and retail proposals infeasible as the applicant would not be able to realize a reasonable rate of return; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant further states that the subject lot fronts on a major commercial thoroughfare, and is adjacent to and across the street from a C2-2 commercial overlay in an R5 zoning district, and thus will not alter the essential character of the neighborhood; and

WHEREAS, the Board notes that the applicant has reduced the number of stories from the initial proposal from ten to four and has decreased the F.A.R. from 2.5 to 1.65, thus making the proposed building more compatible with the surrounding buildings; and

WHEREAS, the Board notes further that the subject site is located adjacent to R4 and R5 districts; and

WHEREAS, the applicant has submitted a land use map that shows a number of three-story, mixed-use buildings along Steinway Street and four-story, mixed-use buildings along 21st Avenue;

WHEREAS, the applicant represents that given the parking demand in the area, the proposed number of parking spaces is not excessive and will serve only as accessory parking for the building's commercial, community and residential uses; and

WHEREAS, in response to the Board's concerns, the applicant has increased the setback at the rear of the proposed building, from 20 feet to 30 feet, to act as a buffer between the residential portion of the building and the adjacent warehouse building; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after submitting several revised proposals at the direction of the Board, the applicant has reduced its initial proposal from a ten story building to a four story building and lowered the F.A.R. from 2.5 to 1.65; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

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WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 03BSA218Q, dated October 22, 2004; 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, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the Applicant: (1) an Environmental Assessment Statement Form, dated October 22, 2004; (2) April 1997 Limited Phase II Investigation Report; (3) a March 2005 Phase I Environmental Site Assessment (ESA) Report; (4) an April 29, 2005 letter regarding the Phase I ESA Report and DEC records; (5) a May 9, 2005 Revised Parking Garage Air Quality Analysis and Industrial Air Quality Analysis; and (6) a May 6, 2005 Draft Restrictive Declaration; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials, air quality and noise impacts; and

WHEREAS, a Restrictive Declaration was executed and recorded on June 24, 2005 for the subject property to address hazardous materials concerns; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the Restrictive Declaration and the applicant's agreement to the conditions noted below; 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, with conditions as stipulated below, 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 the required findings under Z.R.

§ 72-21, to permit, within an M1-1 zoning district, the proposed development of a four-story mixed-use building with residential, commercial and community facility uses and accessory parking, which does not comply with the zoning requirements for use, contrary to Z.R. § 42-00; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received July 1, 2005" – (9) sheets; and on further condition:

THAT the bulk parameters of the proposed building shall be as follows: a total F.A.R. of 1.65 (99,258 sq. ft. maximum total floor area); maximum residential floor area of 76,986 sq. ft.; maximum community facility floor area of 2,521 sq. ft.; and a maximum building height of 53 ft.;

THAT there shall be a maximum of 84 units;

THAT a maximum of 219 parking spaces shall be provided in the accessory parking levels;

THAT the interior layout, parking layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 12, 2005.

344-03-BZ/345-03-A

APPLICANT – Law Office of Howard Goldman, LLC, for City of New York, owner; Nick's Lobster House, lessee.

SUBJECT – Application November 13, 2003 – Under Z.R. §73-242, to allow a restaurant in a C3 zoning district. The restaurant allows eating and drinking, provides outdoor seating and has a seating capacity of 190 people. There is no dancing or musical entertainment. Under BSA Calendar No. 345-03-A the application seeks an appeal pursuant to Art. III, Sec. 35, of the General City Law to permit construction of commercial facility on the bed of a mapped street.

PREMISES AFFECTED – 2777 Flatbush Avenue, corner of Mill Basin, Block 8591, Part of Lots 980 and 175, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Chris Wright.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

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Negative:.....0
Adopted by the Board of Standards and Appeals, July 12, 2005.

355-03-BZ

APPLICANT – Augusta & Ross, for D’Angelo Properties, Inc., owner.

SUBJECT – Application September 27, 2004 - under Z.R. §72-21 to permit the proposed four story and penthouse mixed-use multiple dwelling, Use Groups 2 and 6, in a C2-2/R4 zoning district, which does not comply with the zoning requirements for residential floor area, building height, number of dwelling units and residential front yard, is contrary to Z.R. §23-141, §23-60, §35-20, §23-22 and §23-45.

PREMISES AFFECTED – 64-01/07 Grand Avenue, northeast corner of 64th Street, Block 2716, Lot 1, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Adopted by the Board of Standards and Appeals, July 12, 2005.

385-03-BZ

APPLICANT – Joseph P. Morsellino, for Fabian Organization II, LLC, owner.

SUBJECT - Application December 12, 2003 - under Z.R. §72-21 to permit the proposed erection of a six-story multiple dwelling with 46 Units, located in an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, dwelling units, and height and setback, is contrary to Z.R. §23-141(c), §23-22 and §23-631(b).

PREMISES AFFECTED – 85-15 and 85-17 120th Street, southeast corner of 85th Avenue, Block 9266, Lots 48 and 53, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Adopted by the Board of Standards and Appeals, July 12, 2005.

9-04-BZ

APPLICANT – Marvin B. Mitzner, Esq., Fischbein Badillo Wagner Harding for Walworth Condominium, Inc., owner.

SUBJECT – Application January 12, 2004 – under Z.R. §72-21 to permit the proposed multiple dwelling, which will contain forty-seven dwelling units, located in an M1-1 zoning district, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED – 114 Walworth Street, northwest corner of Myrtle Avenue, Block 1735, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Marvin Mitzner.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated December 16, 2003, acting on Department of Buildings Application No. 301535177, reads, in pertinent part:

“Proposed multiple dwelling in M1-1 district is contrary to 42-00 and 43-00.”; and

WHEREAS, a public hearing was held on this application on June 8, 2004 after due notice by publication in the City Record, with continued hearings on August 10, 2004, September 28, 2004, October 19, 2004, December 14, 2004, February 15, 2005, March 8, 2005, May 10, 2005 and then to decision on July 12, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioners Miele and Chin; and

WHEREAS, Community Board 3, Brooklyn, recommends disapproval of this application; and

WHEREAS, Council Member Letitia James submitted a letter in support of the application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an M1-1 zoning district, the proposed development of three-story plus cellar multiple dwelling (Use Group 2), which is contrary to Z.R. §§ 42-00 and 43-00; and

WHEREAS, the subject site is a vacant rectangular lot, with a lot area of approximately 17,500 sq. ft. and approximately 175 ft. of frontage on Walworth Street; and

WHEREAS, the applicant represents that Sanborn maps show that the site was formerly developed with residential buildings, but has been vacant since the demolition of said buildings; and

WHEREAS, the proposed building will be a three-story plus cellar structure, with a Floor Area Ratio (F.A.R.) of 2.0, with 27 apartments and 27 accessory parking spaces, and a total height of 35 ft.; and

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WHEREAS, the original version of this application proposed a six-story plus cellar building, with an F.A.R. of 3.19, with 47 apartments and 24 parking spaces; and

WHEREAS, however, during the hearing process, the Board expressed reservations relating to the proposed height and density, and in response, the proposal has been modified multiple times, finally resulting in the current version; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: (1) Walworth Street is a very narrow street along the subject block (50 ft. wide versus the typical 60 ft.) and is burdened with unrestricted on-street parking on both sides, which hinders truck navigation; (2) the site is bounded on both sides by residential buildings; (3) the site is sloped; and (4) the site potentially suffers from environmental contamination; and

WHEREAS, as an initial matter, the Board disagrees that the possible environmental contamination, the clean-up costs of which are only prospective, can be credited as any part of the basis for the hardship affecting the site; and

WHEREAS, moreover, the Board does not find the adjacency of residential uses to be, in and of itself, a hardship; however, as discussed below, the residential uses on the block do contribute to the hardship affecting the site in that the residential occupants use the on-street parking spaces; and

WHEREAS, in amplification of the argument that the 50 ft. width of Walworth Street combined with unrestricted parking on both sides causes a hardship, the applicant notes that the actual paved roadway is only 24 ft. wide, making the movement of the larger trucks, which are crucial to efficient modern manufacturing or warehousing operations, onto the site for loading purposes extraordinarily difficult, if not possible; and

WHEREAS, specifically, the applicant states that the act of backing a trailer into an off-street loading dock requires a significant amount of open and unobstructed street space, neither of which are present on this street, due to the width of the street and the on-street residential parking; and

WHEREAS, the applicant also observes that the on-street parking is necessary and very unlikely to be removed as the site is surrounded by residential uses across the street and in both directions along the blockfront; and

WHEREAS, at the Board's request, the applicant submitted to the Board various alternative designs for a building or buildings which would house a conforming use and potentially address the truck circulation issue; and

WHEREAS, however, it was determined that the alternative designs still presented problems associated with the innate conflict between the need for efficient truck access onto the site and the existence of significant amounts of non-conforming residential uses directly north, south and east of the site, and on-street parking related thereto; and

WHEREAS, in amplification of the argument that the slope on the site hinders conforming development, the

applicant states that for a modern manufacturing building, it is necessary to have one flat floor plate of a consistent elevation; and

WHEREAS, consequently, a combination of excavation and/or decking in order to not only provide an even floor plate, but also provide a usable interior loading area, is required; and

WHEREAS, the applicant states none of the aforementioned alternative designs effectively addressed the problems created by the slope; and

WHEREAS, at the request of the Board, the applicant submitted a survey of the surrounding area that showed other vacant lots comparable to the subject site; and

WHEREAS, the survey revealed that these vacant lots were dissimilar to the subject site in that they were in a different zoning district that allowed greater density, did not suffer the same locational disadvantages, or they were a different size; and

WHEREAS, the applicant claims that no other vacant lot is situated on a block with such a narrow street and adjacent to residential uses with unrestricted parking on both sides of the street; and

WHEREAS, the applicant also established that this convergence of conditions was not present on other streets in the area, in particular on Sanford Street, which is also zoned M1-1; and

WHEREAS, accordingly, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict compliance with applicable zoning regulations; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed a fully conforming and complying building, which was a one-story warehouse with a two loading docks and no parking; and

WHEREAS, however, the Board expressed concerns that this scenario did not reflect the most viable building envelope, and thus asked the applicant to submit other scenarios that reflected a better attempt to address the hardships imposed by the width of the street and the on-street parking regulations; and

WHEREAS, in response the applicant submitted the following two scenarios: (1) a one-story warehouse with a single tenant, without parking restrictions and on-site loading and (2) two one-story warehouses, with two separate tenants, side by side; and

WHEREAS, as to the former scenario, the Board conducted its own internal analysis involving increased rents to make the scenario more comparable to conforming uses at better locations that do not suffer the same site constraints as the subject lot; and

WHEREAS, the applicant concluded that because of the hardships afflicting the site, the site, if developed for conforming use, would realize approximately 25% less income than other comparable sites; and

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WHEREAS, thus, the Board agrees that such a scenario was not viable, and also notes that the scenario presumes that the parking restrictions could be ameliorated somehow, which the applicant alleges was unlikely to occur; and

WHEREAS, as to the two-tenant scenario, the Board asked for this analysis in response to the applicant's contention that the site was too large for a single user; however, the applicant determined that loading issues restrained this scenario from realizing a reasonable return; and

WHEREAS, at the Board's request, the applicant also discussed the feasibility of retail use of the site; and

WHEREAS, the applicant concluded that such use would not be feasible due to the same truck access problems and curbside loading problems that compromise warehouse or manufacturing use; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant states that the proposed development will not negatively affect the character of the neighborhood nor impact adjacent uses; and

WHEREAS, the Board expressed concerns about the initial proposal and the amount of residential units that it contemplated; and

WHEREAS, specifically, the Board was concerned that notwithstanding the existence of residential uses on the block, the introduction of 47 residential apartments could negatively impact the conforming uses on the block, as well as compromise the low-density residential character also found

on the block; and

WHEREAS, the land use map and the Board's site visit confirmed the existence of lawful conforming uses near the subject site that could be impacted by the introduction of residential units, such that the amount of units proposed initially was inappropriate; and

WHEREAS, the Board also notes that although there are residential uses on the block, the proposed development would be the only significant multi-unit multiple dwelling, as the other residential uses are lawful non-conforming two-story dwellings; and

WHEREAS, the Board also expressed concerns about the height of the initially proposed building, finding it inconsistent and incompatible with the surrounding context; and

WHEREAS, as noted above, the applicant responded by reducing the amount of units and the height of the building to the current version, after submitting various intermediate iterations that the Board considered but rejected as not being compatible with the neighborhood; and

WHEREAS, the Board finds that the current version proposes an acceptable amount of residential units, as well as an acceptable height and building form; and

WHEREAS, thus, the Board concludes that the proposed bulk and height of the building will be compatible with the existing conditions in the immediate neighborhood; and

WHEREAS, the applicant responded to the Board's concern regarding the cellar at the rear by proposing to cover this space rather than leave it open; and

WHEREAS, the Board also notes that the provision of parking on-site will preserve the ability of existing residential occupants on the block to use the on-street parking spaces; and

WHEREAS, accordingly, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, as already discussed, the applicant responded to Board concerns regarding the proper amount of relief necessary to address the actual hardship, and reduced the proposal accordingly; and

WHEREAS, the applicant also considered numerous lesser-variance scenarios that contemplated variances for parking, loading, and rear yard, as well as the elimination of unrestricted on-street parking; and

WHEREAS, the applicant concluded, and the Board concurs, that all such scenarios were compromised by the site's hardships, and would not realized the owner a reasonable return; and

WHEREAS, therefore, the Board finds that the current version of the proposal is the minimum necessary to afford the owner relief; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04BSA119K, dated April 2, 2004; 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; Construction Impacts and Public Health; and

MINUTES

WHEREAS, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the Applicant: (1) an Environmental Assessment Statement Form, dated April 2, 2004; (2) a Phase I Environmental Site Assessment Report, dated March 29, 2004; (3) a Phase II Workplan and Health and Safety Plan, dated March 2005; and (4) an Air Quality Analysis submission dated April 2004; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials, air quality and noise impacts; and

WHEREAS, a Restrictive Declaration was executed and recorded on July 12, 2005 for the subject property to address hazardous materials concerns; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the Restrictive Declaration and the Applicant's agreement to the conditions noted below; 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, with conditions as stipulated below, 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 the required findings under Z.R. § 72-21, to permit, within an M1-1 zoning district, the proposed development of three-story plus cellar multiple dwelling (Use Group 2), which is contrary to Z.R. §§ 42-00 and 43-00; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 6, 2005"- (7) sheets; and on further condition:

THAT the bulk parameters of the proposed building shall be as follows: (1) a maximum residential and total F.A.R. of 2.0 (maximum 34,989 sq. ft. of zoning floor area); (2) three stories plus a cellar; (3) a maximum of 27 total units; and (4) a maximum total height of 35 ft., all as reflected on the BSA-approved plans;

THAT a total of 27 parking spaces shall be provided at the accessory parking level;

THAT the interior layout, parking layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved

only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 12, 2005.

135-04-BZ

APPLICANT – Joseph P. Morsellino, for Manuel Minino, owner.

SUBJECT – Application March 19, 2004 - under Z.R. §72-21 to permit the proposed erection and maintenance of an automobile showroom with offices, Use Group 6, located in an R2 and C2-2(R5) zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED – 91-22 199th Street, northeast corner of Jamaica Avenue, Block 9910, Tentative Lot 43 (part of lot 1), Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

Adopted by the Board of Standards and Appeals, July 12, 2005.

163-04-BZ

APPLICANT – Rothkrug Rothkrug Weinberg & Spector for My Law Realty Corp., owner; Fort Greene Sports Club, LLC, lessee.

SUBJECT – Application April 21, 2004 – under Z.R. §73-36 to permit the proposed physical culture establishment, which will occupy portions of the cellar and first floor of an existing two story building located in C1-3(R6) zoning district, which is contrary to Z.R. §32-00.

PREMISES AFFECTED - 677/91 Fulton Street, north side, 28' east of Ashland Place, Block 2096, Lot 69, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin4
Negative:.....0

MINUTES

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated June 13, 2005, acting on Department of Buildings Application No. 301441296, reads:

“Proposed physical culture establishment, in a C2-4(R6) zoning district requires a special permit from the Board of Standards and Appeals, pursuant to section 73-36”; and

WHEREAS, a public hearing was held on this application on May 17, 2005 after due notice by publication in The City Record, and then to decision on July 12, 2005; and

WHEREAS, Community Board 2, Brooklyn, recommends approval of this application; and

WHEREAS, New York City Council Member Letitia James recommends approval of this application; and

WHEREAS, the New York City Fire Department recommends approval of this application; and

WHEREAS, this is an application, under Z.R. § 73-36, to permit, in a C2-4(R6) zoning district, a physical culture establishment (“PCE”) to be located within a portion of an existing two-story commercial building, contrary to Z.R. § 32-00; and

WHEREAS, at the time of application, the subject premises was located in a C1-3(R6) zoning district; however, during the course of the hearing, the premises was rezoned to C2-4(R6), where the special permit being sought is permitted; and

WHEREAS, the City Council passed Resolution No. 1020, approving the decision of the City Planning Commission on ULURP No. C 040509 ZMK to rezone the premises; the Resolution became effective on June 8, 2005; and

WHEREAS, the premises consists of a total of 9,206 sq. ft. and is improved upon with a two-story commercial building that was last occupied as a furniture store, but is currently vacant; an office tenant currently occupies the second floor space; and

WHEREAS, the applicant represents that the proposed PCE, Park Slope Sport Club, will occupy portions of the cellar and first floor, with direct access into the building from Fulton Street, and access to the cellar via: 1) proposed interior stairs, and 2) an existing elevator; and

WHEREAS, the applicant states that the PCE will contain 5,682 sq. ft. of floor area at the cellar level and 9,206 sq. ft. of floor area on the first floor; the cellar level will encompass the men’s and women’s locker rooms, storage area and two massage rooms, while the first floor will contain the reception and training areas, offices and a juice bar; and

WHEREAS, the applicant further states that the PCE will contain facilities for classes, instruction and programs for physical improvement, body building, weight reduction, and aerobics; and

WHEREAS, the applicant represents that all masseurs and masseuses employed by the facility will be New York State licensed; and

WHEREAS, the applicant asserts that the entire facility will be equipped with an automatic wet sprinkler system and a fire alarm system that is connected to a Fire Department-approved central monitor system; and

WHEREAS, the applicant anticipates that the proposed PCE will have approximately 1,000 new members at the outset, with an ultimate final membership of approximately 2,500 persons; the PCE is expected to ultimately employ approximately 30 employees working various shifts related to usage; and

WHEREAS, the applicant further asserts that there are no foreseeable hazards or disadvantages to the community; in fact, the proposed PCE, a substantial commercial investment in the area, is expected to benefit the surrounding community by creating new employment opportunities; and

WHEREAS, the PCE will have hours of operation of 6 a.m. to 11 p.m. Monday through Friday, and 8 a.m. to 11 p.m. Saturday through Sunday; and

WHEREAS, the Board finds that the PCE, given the proposed uses and the hours of operation, will not interrupt the commercial activity along Fulton Street; and

WHEREAS, therefore, 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 proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to Z.R. § 73-36; and

WHEREAS, the Department of City Planning has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

MINUTES

Therefore it is resolved, that the Board of Standards and Appeals has adopted the Negative Declaration issued by the New York City Department of City Planning on December 6, 2004 under CEQR No. 05DCP013K, Fulton Street Rezoning, for several tax lots including the subject site; this application was 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 Z.R. § 73-36, to permit, within a C2-4(R6) zoning district, a physical culture establishment to be located within a portion of an existing two-story commercial building; on condition that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received June 28, 2005"-(1) sheet and on further condition;

THAT this grant shall be limited to a term of ten years from July 12, 2005, expiring July 12, 2015;

THAT all massages will be performed only by New York State licensed massage therapists;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT the hours of operation shall be limited to: 6 a.m. to 11 p.m. Monday through Friday, and 8 a.m. to 11 p.m. Saturday through Sunday;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be as installed and maintained on the Board-approved plans;

THAT an interior fire alarm system shall be provided as set forth on the BSA-approved plans and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all of applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 12, 2005.

255-04-BZ

APPLICANT – Eric Palatnik, P.C., for Eli Kafif, owner.

SUBJECT – Application July 15, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, which does not comply with the zoning requirements for floor area and side yard, is contrary to Z.R. §23-141 and §23-461(a), located in an R5 zoning district.

PREMISES AFFECTED – 1924 Homecrest Avenue, between Avenues "S" and "T", Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik and Kathy Jaworski and Antonette Vasile.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner dated June 15, 2004, acting on Department of Buildings Application No. 301764160, reads:

"Obtain approval from the Board of Standards and Appeals for the following objections:

1. Proposed floor area is contrary to Z.R. 23-141.
2. Proposed side yards are contrary to Z.R. 23-461(a)."; and

WHEREAS, a public hearing was held on this application on March 1, 2005, after due notice by publication in The City Record, with a continued hearing on April 5, 2005, May 17, 2005, June 7, 2005, and then to closure and decision on July 12, 2005; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, certain members of the community appeared in opposition, specifically expressing concern regarding the proposed cellar garage; and

WHEREAS, this is an application under Z.R. § 73-622, to permit, in an R5 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area and side yard, contrary to Z.R. §§ 23-141 and 23-461(a); and

WHEREAS, the subject through lot is located on Homecrest Avenue between Avenues "S" and "T," and extends from Homecrest Avenue to East 12th Street; the lot has a total lot area of approximately 2,529 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

MINUTES

WHEREAS, the applicant states that the premises is improved upon with an existing two-story single-family home, containing 2,218 sq. ft. of floor area; and

WHEREAS, the applicant seeks to enlarge the existing single-family home at the front and the rear; the proposed structure will be two stories with a partial third story; and

WHEREAS, the applicant seeks an increase in the floor area from 2,218 sq. ft. (1.25 Floor Area Ratio or "FAR") to 3,769 sq. ft. (1.49 FAR); the maximum floor area permitted is 3,161 sq. ft. (1.25 FAR); and

WHEREAS, the proposed side yards will be 2'-6 5/8" and 5'-8 3/4"; minimum required side yards are 5' and 8'; and

WHEREAS, at the direction of the Board, the driveway and garage in the cellar were omitted from the proposed plans because the Board determined that they did not comply with Code requirements; and

WHEREAS, instead, the applicant has depicted on the proposed plans that they will retain a parking space on the portion of the lot fronting on East 12th Street; and

WHEREAS, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules and Procedure for the City Environmental Quality Review and makes the required findings under Z.R. § 73-622, to permit, in an R5 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area and side yard, contrary to Z.R. §§ 23-141 and 23-461(a); on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received June 21, 2005"-(6) sheets and "June 30, 2005"-(5) sheets; and on further condition:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth in the certificate of occupancy;

THAT there shall be no garage in the cellar;

THAT any projection into the sidewalk shall be subject to Department of Transportation approval;

THAT there shall be no curb cut on Homecrest Avenue, and the existing curb shall be restored to a sidewalk curb;

THAT there shall be no more than one curb cut along East 12th Street; such curb cut shall not exceed ten feet, including splays;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 12, 2005.

275-04-BZ

APPLICANT - Martyn & Don Weston Architects, for Christodora House Association, owner.

SUBJECT - Application August 9, 2004 - under Z.R. §72-21 to permit the proposed conversion of an existing unused gymnasium (Use Group 4) into four residential units (Use Group 2), within an R7-2 Zoning District and to vary Sections 23-142 and 23-22 of the Resolution.

PREMISES AFFECTED - 601-603 East 9th Street a/k/a 143 Avenue B, Northeast corner of 143 Avenue B, Block 392, Lot 1087, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES - None.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4
Negative:.....0

Adopted by the Board of Standards and Appeals, July 12, 2005.

MINUTES

372-04-BZ

APPLICANT – Rothkrug Rothkrug Weinberg Spector, for Robert Perretta, contract vendee.

SUBJECT – Application November 23, 2004 – under Z.R. §72-21 to permit in a R1-2(NA-1) zoning district the construction of a single family home on a lot with less than the required lot area and lot width to vary ZR §23-32.

PREMISES AFFECTED – 8 Lawn Avenue, corner of Nugent Street, Block 2249, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated November 4, 2004, acting on Department of Buildings Application No. 500736386, reads:

1. The proposed construction of a new one family dwelling, on a lot that was not separately owned on December 15, 1961, does not provide the required minimum lot area and lot width as per Section 23-32 of Zoning Resolution and therefore is referred to the Board of Standards and Appeals;” and

WHEREAS, a public hearing was held on this application on May 10, 2005, after due notice by publication in The City Record, with a continued hearing on June 14, 2005, and then to decision on July 12, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 2, Staten Island, Council Member Oddo, Assembly Member Ignizio, and the Richmondtown & Clarke Avenue Civic Association Inc. recommended disapproval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed construction of a single-family dwelling, located in an R1-2 (NA-1) zoning district, which does not comply with the zoning requirements for minimum lot area and lot width, contrary to Z.R. § 23-32; and

WHEREAS, the record indicates that the subject premises is a corner lot located on the northwest corner of the intersection of Lawn Avenue and Nugent Street, and is currently vacant; and

WHEREAS, the lot has a non-complying total lot area of 5,000 sq. ft. (minimum required lot area is 5,700 sq. ft.) and a non-complying lot width of 50 ft. (minimum required

lot width is 60 ft.); and

WHEREAS, the proposal contemplates a two-story plus attic and cellar that will comply with all floor area, front yard and side yard zoning requirements; and

WHEREAS, the applicant represents that the subject lot (Lot 1) was a separate zoning lot until 1963; and

WHEREAS, the applicant states that New York City owned the subject lot prior to 1961, and on January 26, 1961 the City sold Lot 1 along with former Lot 69 (now Lot 75 and a portion of current Lot 72) to a purchaser; the applicant has provided the Board with a copy of the deed that reflects the sale;

WHEREAS, the applicant further states that on October 16, 1962 the owner at that time sold Lot 1 and a portion of current Lot 72 to a subsequent owner; the applicant has provided the Board with a copy of the deed that reflects the sale; and

WHEREAS, the applicant represents that the New York City Department of Finance combined Lot 1, Lot 75 and a portion of current Lot 72 into one tax lot in 1962; and

WHEREAS, the applicant further represents that in November of 1965, current Lot 1 was then sold to the present-day owners; the applicant has provided the Board with a copy of the deed that reflects the sale; and

WHEREAS, the applicant states that in 1966, the Department of Finance again adjusted the tax map and Lots 1 and 75 were separated into two lots; and

WHEREAS, the Board asked the applicant whether the subject lot was ever used in conjunction with Lot 75; and

WHEREAS, the owners stated in an affidavit that to their knowledge the two lots were never used together; and

WHEREAS, in addition, the applicant submitted excerpts from a site plan and zoning computations filed with the Department of Buildings in connection with the construction of the existing home on Lot 75 that indicates that at the time the application was filed in 1985 the subject lot was not considered to be part of the zoning lot; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties in developing the subject lot in compliance with underlying district regulations: the site is an undeveloped corner lot that has historically been used separate and apart from the contiguous property to the north, and is separated from the contiguous property to the north of the subject lot (Lot 75) by an active stream; and

WHEREAS, the applicant represents that common development with the property to the north of the subject lot (Lot 75) is infeasible because of the separation of the two lots by a stream; and

WHEREAS, the Board finds that the aforementioned unique conditions create a practical difficulty in developing the site in compliance with the applicable zoning provision; and

MINUTES

WHEREAS, the applicant states that without the waivers, no residence could be constructed on the property; and

WHEREAS, the Board inquired as to whether there was any potential for the owners to sell their unused development rights to the owner of Lot 75, the property adjacent to the subject lot on the north side; and

WHEREAS, the applicant responded that the existing building on Lot 75 currently only uses 40% of the floor area permitted under the zoning resolution, and could be expanded an additional 10,000 sq. ft. in area without the need for additional development rights; and

WHEREAS, although the Board recognizes that the subject lot was under common ownership with another lot for a period of three years, the Board notes that the lots were merged by operation of law because the two lots were under common ownership as of 1961; and

WHEREAS, the Board further notes that since 1924, the two lots were only under common ownership for a period of 3 years out of 81 years; and

WHEREAS, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict compliance with the applicable zoning requirements will result in any development of the property; and

WHEREAS, the applicant states that the bulk of the proposed building is consistent with the surrounding residential uses; and

WHEREAS, in furtherance of the above, the applicant represents that it will comply with all other zoning requirements including F.A.R., height and setback requirements; and

WHEREAS, the Board notes that the applicant will comply with the side yard requirements and is not relying on the reduced side yard provisions for narrow lots; and

WHEREAS, the applicant has submitted a diagram of the surrounding area that shows that 88 out of the 200 lots on the diagram (44%) have less than the required 60 ft. frontage; and

WHEREAS, the applicant has also conducted a survey of the surrounding area, and has submitted a map and pictures, which demonstrate that there are 17 houses that have been recently constructed or are currently under construction that are similar in size and design to the proposed dwelling; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, based on the information provided to the Board, the Board finds that the site historically has operated as a separate zoning lot; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 72-21, to permit the proposed construction of a single-family dwelling, located in an R1-2 (NA-1) zoning district, which does not comply with the zoning requirements for minimum lot area and lot width, contrary to Z.R. § 23-32; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 15, 2005" - (5) sheets, "May 31, 2005"-(2) sheets and "June 28, 2005"-(1) sheet; and on further condition;

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 12, 2005.

MINUTES

404-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Sharokh Rambod, owner.

SUBJECT – Application December 30, 2004 – under Z.R. §73-622 – Enlargement of a single family residence to vary Z.R. §23-141 for open space and floor area, Z.R. §23-461 for side yards and Z.R. §23-47 for rear yard. The premises is located in an R2 zoning district.

PREMISES AFFECTED – 1384 East 24th Street, bounded by Avenue “N”, East 23rd Street, Avenue “M” and East 24th Street, Block 7659, Lot 81, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated December 20, 2004, acting on Department of Buildings Application No. 301853297, reads: “Obtain approval from the Board of Standards and Appeals for the following objections:

1. Proposed floor area is contrary to Z.R. 23-141.
2. Proposed open space ratio is contrary to Z.R. 23-141.
3. Proposed rear enlargement of the building into non-complying side yard is contrary to Z.R. 23-461(a).
4. Proposed enlargement of the building does not provide minimum 30’ rear yard and is contrary to Z.R. 23-47.”; and

WHEREAS, a public hearing was held on this application on June 7, 2005 after due notice by publication in The City Record, and then to closure and decision on July 12, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 73-622, to permit, in an R2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area, open space ratio, and side and rear yards, contrary to Z.R. §§ 23-141, 23-461(a) and 23-47; and

WHEREAS, the subject lot is located on East 24th Street, on a block bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue; and

WHEREAS, the subject lot has a total lot area of approximately 4,000 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing single-family home that currently stands partially completed; subsequent to granting an alteration permit, the Department of Buildings issued a stop work order for failure to have perforated plans visible at the construction site; and

WHEREAS, the applicant seeks an increase in the floor area from 2,486 sq. ft. (0.62 Floor Area Ratio or “FAR”) to 4,131.71 sq. ft. (1.02 FAR); the maximum floor area permitted is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the open space ratio (“OSR”) from 121% to 72%; the minimum OSR required is 150%; and

WHEREAS, the proposed enlargement will maintain one existing non-complying side yard of 2’-11”, which does not comply with the 5’ minimum side yard requirement; and

WHEREAS, the proposed enlargement will also maintain the other existing non-complying side yard of 7’-3 1/2”, which, when aggregated with the other side yard dimension, does not comply with the 13’ total side yard requirement; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the proposed enlargement will reduce the rear yard from 30’-1” to 26’-8”; the minimum rear yard required is 30’-0”; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the applicant states that the proposed structure, upon completion, will fall within the average range of dimensions of rear yard and height for other homes within a 400 ft. radius of the subject lot; and

WHEREAS, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §73-622.

MINUTES

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 73-622, to permit, in an R2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area, open space ratio, and side and rear yards, contrary to Z.R. §§ 23-141, 23-461(a) and 23-47; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received June 28, 2005"-(7) sheets and "July 12, 2005"-(2) sheets; and on further condition:

THAT there shall be habitable room in the cellar;

THAT the total FAR on the premises, including the attic, shall not exceed 1.02;

THAT the total attic floor area shall not exceed 969.7 sq. ft., as confirmed by the Department of Buildings;

THAT the above conditions shall be set forth in the certificate of occupancy;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 12, 2005.

378-03-BZ

APPLICANT – Harold Weinberg, P.E., for The New Way Circus Center by Regina Berenschtein, owner.

SUBJECT – Application December 4, 2003 - under Z.R. §72-21 application seeks to waiver sections: 23-141 (Lot Coverage), 23-462 (Side Yards), 23-45 (Front Yard), and 23-631 (Perimeter Wall Height, Sky Exposure Plane and Setback), to allow in a R5 zoning district the construction of a two story building to be used as a non-profit institution without sleeping accommodations for teaching of circus skills.

PREMISES AFFECTED – 2920 Coney Island Avenue, west side 53.96' north of Shore Parkway, Block 7244, Lot 98, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg and Regina Berenschtein.

ACTION OF THE BOARD – Laid over to August 9, 2005, at 1:30 P.M., for continued hearing.

234-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Zunick Realty Corp., owner.

SUBJECT – Application June 18, 2004 - under Z.R. §72-21 to permit in a M1-1 and M1-2 district, approval sought to legalize residential occupancy of 73 dwelling units in a four-story and basement industrial building, which was constructed in 1931. The legal use is listed artist loft space for the 73 units. There are proposed 18 parking spaces on the open portion of the lot, which consists of 25,620 SF in its entirety. The use is contrary to district use regulations.

PREMISES AFFECTED – 255 McKibbin Street, between Bushwick Avenue and White Street, Block 3082, Lot 65, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Jordan Most and Robert Pauls.

ACTION OF THE BOARD – Laid over to August 23, 2005, at 1:30 P.M., for continued hearing.

299-04-BZ

APPLICANT – Patrick W. Jones, Petraro & Jones, LLP, for Sutphin Boulevard, owner.

SUBJECT - Application September 7, 2004 - under Z.R. §72-21 - Proposed construction of a one-story retail building, Use Group 6, located in an R3-2 zoning district, is contrary to Z.R. §22-11.

PREMISES AFFECTED – 111-02 Sutphin Boulevard, (a/k/a 111-04/12 Sutphin Boulevard), southeast corner of 111th Avenue, Block 11965, Lots 26, 188 and 189 (tentative 26), Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Patrick Jones.

ACTION OF THE BOARD – Laid over to August 23, 2005, at 1:30 P.M., for continued hearing.

MINUTES

315-04-BZ and 318-04-BZ

APPLICANT – Steven Sinacori/Stadmauer Bailkin, for Frank Mignone, owner.

SUBJECT – Application September 20, 2004 - under Z.R. §72-21 to permit the proposed development which will contain four three-family homes (Use Group 2), within an M1-1 Zoning District which is contrary to Section 42-00 of the Resolution.

PREMISES AFFECTED –

1732 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 127), Borough of Brooklyn.

1734 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 128), Borough of Brooklyn.

1736 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 129), Borough of Brooklyn.

1738 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 130), Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Steven Sinacori.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to September 13, 2005, at 1:30 P.M., for continued hearing.

374-04-BZ

APPLICANT – Deirdre A. Carson, Esq., Greenberg Traurig, LLP for Micro Realty Management, LLC c/o Werber Management, owner.

SUBJECT – Application November 26, 2004 – under Z.R. §72-21, to permit the proposed development of a seven-story residential building with ground floor commercial space in a C6-2A Special Lower Manhattan District and the South Street Seaport Historic District, to vary Sections 23-145, 23-32, 23-533, 23-692, 23-711 and 24-32 of the Resolution.

PREMISES AFFECTED – 246 Front Street, a/k/a 267½ Water Street, through lot fronting on Front and Water Streets, 126 feet north of the intersection of Peck Slip and Front Street, and 130 feet north of the intersection of Peck Slip and Water Street, Block 107, Lot 34, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Deirdre A. Carson, William A. McQuickin and Arpad Baksa.

For Opposition: Doris Diether, James Nachtwey, Randy Polumbo, Deborah Schneider, Julia Odowd, Laura Starr, Michelle Chasin and Noah Chagih.

ACTION OF THE BOARD – Laid over to August 23, 2005, at 1:30 P.M., for continued hearing.

332-04-BZ

APPLICANT - Eric Palatnik, P.C., for Chava Lobel, owner. SUBJECT – Application April 6, 2005 – under Z.R. §73-622 to permit the proposed to combine two lots and enlarge one residence which is contrary to ZR 23-141(a) floor area, ZR 23-131(a) open space and ZR 23-47 rear yard, located in an R-2 zoning district.

PREMISES AFFECTED – 1410/14 East 24th Street, between Avenues “N and O”, Block 7677, Lots 33 and 34 (tentative 33), Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to August 9, 2005, at 1:30 P.M., for continued hearing.

382-04-BZ

APPLICANT – Eric Palatnik, P.C., for Billy Ades, (Contract Vendee).

SUBJECT – Application December 6, 2004 – under Z.R. §73-622 – to permit the proposed enlargement of an existing single family dwelling, located in an R4 zoning district, which does not comply with the zoning requirements for floor area, lot coverage, open space and side yards, is contrary to Z.R. §23-141(b) and §23-461(a).

PREMISES AFFECTED – 2026 Avenue “T”, corner of Avenue “T” and East 21st Street, Block 7325, Lot 8, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to August 9, 2005, at 1:30 P.M., for continued hearing.

MINUTES

388-04-BZ

APPLICANT - H. Irving Sigman, for D.R.D. Development Inc., owner.

SUBJECT – Application December 13, 2004 – under Z.R. §72-21 to permit the proposed construction of a one story and cellar commercial building, comprising of four stores, and accessory parking, Use Group 6, located in an R2 and a C8-1 zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED – 133-16 Springfield Boulevard, west side, 114.44' north of Merrick Boulevard and 277' south of Lucas Street, Block 12723, Lot 9, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: H. Irving Sigman.

ACTION OF THE BOARD – Laid over to August 23, 2005, at 1:30 P.M., for continued hearing.

392-04-BZ

APPLICANT – Harold Weinberg, P.E., for Ephiraim Nierenberg, owner.

SUBJECT – Application December 14, 2005 – under Z.R. §73-622 to permit a proposed rear enlargement to a single family residence which is contrary to Z.R. §23-141(a) for floor area and open space, Z.R. §23-461 for side yards and Z.R. §23-47 for rear yard. Then premises is located in an R2 zoning district.

PREMISES AFFECTED – 966 East 23rd Street, west side, 220.0' north of Avenue “J”, between Avenues “I” and “J”, Block 7586, Lot 75, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Harold Weinberg.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 26, 2005, at 1:30 P.M., for decision, hearing closed.

15-05-BZ

APPLICANT – Friedman & Gotbaum, LLP, by Irving J. Gotbaum, for West 20th Street Realty, LLC, owner.

SUBJECT - Application January 27, 2005 – under Z.R. §72-21 to permit the proposed construction of a seven-story 64.5' residential building, located in an R8B zoning district, which exceeds the permitted height of 60', which is contrary to Z.R. §23-692.

PREMISES AFFECTED – 209 West 20th Street, north side, 141' west of Seventh Avenue, Block 770, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Opposition: Ju-Chen Chan, B. Zanm and B. Kaelan.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD – Laid over to August 9, 2005, at 1:30 P.M., for decision, hearing closed.

29-05-BZ

APPLICANT – Stephen Rizzo (CR&A), for 350 West Broadway, L.P., owner; Lighthouse Rizzo 350, LLC, lessee.

SUBJECT – Application February 17, 2005 - under Z.R. §72-21 to permit the proposed enlargement and renovation to an existing vacant fifteen story, to contain retail use in the cellar, first and second floor, and residential use on the third through fifteen floors, located in an M1-5A zoning district, is contrary to Z.R. §42-14, §42-00 and §42-10.

PREMISES AFFECTED – 350 West Broadway, 60' north of Grand Street, Block 476, Lot 75, Borough of Manhattan,

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Janice Cahalane, Steve Rizzo, Rob Rogers and Stephen Rizzo.

For Opposition: Ingrid Wiegand and other.

ACTION OF THE BOARD – Laid over to August 23, 2005, at 1:30 P.M., for continued hearing.

43-05-BZ

APPLICANT – Harold Weinberg, P.E., for Yossi Cohen, owner.

SUBJECT - Application February 25, 2005 - under Z.R. §73-622 to permit an enlargement to the rear of a single family home to vary sections Z.R. §23-141 floor area and open space, Z.R. §23-461 side yards and Z.R. §23-47 for rear yard. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 1826 East 28th Street, west side, 200'-0" south of Avenue “R”, Block 6833, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg, Kerl Coden and Alan Arorson.

For Opposition: Ed Jaworski, Antoinette Vasile and Wadih J. Pharam.

ACTION OF THE BOARD – Laid over to August 9, 2005, at 1:30 P.M., for continued hearing.

MINUTES

67-05-BZ

APPLICANT – Sheldon Lobel, P.C., for 1710 Broadway, LLC, C/O C&K Properties, owners; OPUS Properties LLC, lessees.

SUBJECT – Application March 17, 2005 – under Z.R. §73-36 to permit the proposed physical culture establishment, within the cellar level, with entry on the ground level, of an existing six-story building, located in a C6-6/C6-7 zoning district, which requires a special permit.

PREMISES AFFECTED – 1710 Broadway, northeast corner of West 54th Street, Block 1026, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Janice Cahalane.

ACTION OF THE BOARD – Laid over to August 9, 2005, at 1:30 P.M., for decision, hearing closed.

79-05-BZ

APPLICANT – Herrick, Feinstein LLP, owner; The Athena Group, LLC, owner.

SUBJECT – Applicant April 5, 2005 – under Z.R. §72-21 – to permit the proposed 20-story mixed use building, with below grade parking spaces, located in an R8/C1-4 and R7-2/C1-4 zoning district, which does not comply with the zoning requirements for floor area, height and setback, is contrary to Z.R. §23-011, §23-145, §35-22, §35-31, §23-633 and §35-24.

PREMISES AFFECTED – 101/21 Central Park North, west side of Lenox Avenue, between Central Park North and West 111th Street, Block 1820, Lot 30, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES –

For Applicant: Mark Levine, Peter Schuberg, Alan Poepper and Betty Miller.

For Opposition: Council Member Bill Perkins, Valerie West, Rochelle DeRosa, Linda Lees, James I’Augusle, Leah DeRosa, Brian Rory, Karole Dill Barkley, Marion Peng, Karina Abditah, Roger Pauls and Neal

ACTION OF THE BOARD – Laid over to September 20, 2005, at 1:30 P.M., for continued hearing.

101-05-BZ

APPLICANT – Irving J. Gotbaum, Esq., by Friedman & Gotbaum, LLP., for 377Greenwich LLC, owner.

SUBJECT – Application April 26, 2005 - under Z.R. §72-21 to permit the proposed development of a seven-story, plus penthouse, transient hotel, located in a C6-2A/TMU(A-1) zoning district, which does not comply with the zoning requirements for floor area ratio, also maximum base height and setback requirements, is contrary to Z.R. §111-104 and §35-24.

PREMISES AFFECTED – 377 Greenwich Street, southeast corner of North Moore Street, Block 187, Lot 16, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Robert Pauls and other.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD – Laid over to August 16, 2005, at 1:30 P.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director

Adjourned: P.M.

BULLETIN

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July 28, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Tuesday, July 19, 2005**

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793-88-BZ 164/76 Willis Avenue, Bronx
12-00-BZ 1045 East 24th Street, Brooklyn
364-89-BZ 30-75 21st Street, Queens
169-91-BZ 404 Lafayette Street, a/k/a 708 Broadway, Manhattan
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130-95-BZ 45-17 Little Neck Parkway, Queens
132-97-BZ 227 Madison Avenue, Staten Island
325-04-A 91 Wakefield Road, Staten Island
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Afternoon Calendar488

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71-05-BZ 1226 East 29th Street, Brooklyn

DOCKETS

New Case Filed Up to July 19, 2005

160-05-A B.Q. 458½ Hillcrest Walk,
E/S Beach 212th Street, 149.65' S/O Rockaway Blvd. Block
16350, Lot 400, Borough of Queens. Application
#402104842. Reconstruct and enlarge an existing single
family dwelling situated in the bed of a mapped Beach 212th
Street, contrary to General City Law Article 3 Section 35,
and upgrade existing non-conforming private disposal
system within the bed of a mapped Street contrary to
Building Department policy.

COMMUNITY BOARD #14Q

161-05-A B.S.I. 7194-7196 Amboy Road
and 26 Joline Avenue, located on South side of Amboy
Road, 185' East of intersection of Amboy Road & Brehaut
Avenue, Block 7853, Lot(s) 47 and 74, Borough of
Richmond. Applic. #'s 500573300 and 500573319. Appeal
with Department of Building in order to avoid compliance
with ZR107-251(a) DOB allowed applicant to subdivide a
zoning lot formed by documents filed with the Staten Island
County Clerk's Office, reel 15096 Pages 271-296. The
applicant did not have City Planning approval as required in
Z.R. §107-08 and reconfirmed Z.R. §12-10 under the
definition of Special South Richmond Development District.

COMMUNITY BOARD #3SI

162-05-A B.M. 19-21 Beekman Place,
a/k/a 461 East 50th and 51st Streets, East side of Beekman
Place between East 50th and 51st Streets, Block 1361, Lot
117, Borough of Manhattan. Applic, #103981318. Appeal
from DOB determination concerning a brick and masonry
privacy wall in the property. The DOB determined that wall
was too high and that there is "insufficient evidence" of the
wall structural integrity and that, therefore, the wall should
be demolished. There is no basis in the Building Code for
the DOB's order and therefore respectfully request that the
Board overturn the final determination.

COMMUNITY BOARD #6M

163-05-BZ B.BK 1134 East 28th Street,
West Side, 260' South of Avenue K between Avenues K

and J, Block 7627, Lot 59, Borough of Brooklyn. Applic.
#301973112. Proposed to erect a two-story rear enlargement
and a small enlargement over the existing front maintaining
a 15' front yard.

COMMUNITY BOARD #14BK

DESIGNATIONS: D-Department of Buildings; B.BK.-
Department of Buildings, Brooklyn; B.M.-Department of
Buildings, B.Q.-Department of Buildings, Queens; B.S.I.-
Department of Buildings, Staten Island; B.BX.-
Department of Buildings, The Bronx; H.D.-Health
Department; F.D.-Fire Department.

CALENDAR

AUGUST 16, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, August 16, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

SPECIAL ORDER CALENDAR

294-00-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Broadway Partners, LLC, owners.

SUBJECT – Application June 17, 2005 – Extension of time to complete substantial construction on a mixed use, commercial/residential building. The premise is located in an M1-5B zoning district.

PREMISES AFFECTED – 501 Broadway and 72 Mercer Street, west side of Broadway and east side of Mercer Street, 120/ north of Broome Street, Block 484, Lot 22, Borough of Manhattan.

COMMUNITY BOARD #2M

359-02-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Wegweiser & Ehrlich, LLC, owner.

SUBJECT – Application October 18, 2004 – Amendment to a previous variance Z.R. §72-21 that allowed the operation of a school on the first floor and cellar in a six story building; the amendment is to relocate the operation of the school from the cellar floor to the second floor and to maintain the use on the first floor. The premises is located in an M1-5 (TMU) zoning district.

PREMISES AFFECTED – 53-55 Beach Street, North side of Beach Street, west of Collister Street, Block 214, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEALS CALENDAR

95-05-A

APPLICANT – Anderson Kill & Olick, P.C., for 9th & 10th Street, LLC, owner.

SUBJECT – Application April 20, 2005 – An appeal challenging the Department of Buildings’ decision dated March 21, 2005, as to whether they have sufficient documentation to determine the proposed use of said premises as a college student dormitory.

PREMISES AFFECTED – 605 East Ninth Street, between East Ninth and East Tenth Streets, 93’ east of Avenue “B”, Block 392, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #3M

AUGUST 16, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, August 16, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

ZONING CALENDAR

361-04-BZ

APPLICANT – Eric Palatnik, P.C. for Parsons Estates, LLC, owners.

SUBJECT – Application November 17, 2004 – under Z.R. §72-21 to permit a proposed three-story residential building in an R4 district which does not comply with the zoning requirements for floor area, wall height, sky exposure plane, open space, lot coverage and the number of dwelling units; contrary to Z.R. §§23-141c, 23-631 and 23-22.

PREMISES AFFECTED – 75-48 Parsons Boulevard, 168.40’ north of 76th Road, at the intersection of 76th Avenue; Block 6810, Lot 44, Borough of Queens.

COMMUNITY BOARD #8Q

362-04-BZ

APPLICANT – The Agusta Group for South Long Island Realty Management, owner.

SUBJECT – Application November 18, 2004 – under Z.R. §72-21 to permit a proposed conversion of a vacant three-story building to commercial use; contrary to Z.R.32-421 (Limitation on floors occupied by non-residential uses) in an R6/C2-4 district.

PREMISES AFFECTED – 25-84 31st Street, west side, 339’ north of Newton Avenue, Block 598, Lot 60, Borough of Queens.

COMMUNITY BOARD #1Q

395-04-BZ

APPLICANT – Moshe M. Friedman, P.E., for Congregation Imrei Yehudah, owner.

SUBJECT – Application May 24, 2005 – under Z.R. §72-21 to permit the proposed synagogue and rectory, Use Group 4, located in an R4 zoning district, which does not comply with the zoning requirements for front wall, sky exposure, side and front yards, also parking, is contrary to Z.R.§24-521, §24-35(a), §24-34 and §25-31.

PREMISES AFFECTED – 1232 54th Street, southwest side 242’-6” southeast of the intersection formed by 54th Street and 12th Avenue, Block 5676, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #12BK

CALENDAR

46-05-BZ

APPLICANT – Boris Saks, Esq., for 1795 Coney Island, LLC, owner; Women’s Kosher Gym of Brooklyn, Inc., lessee.

SUBJECT – Application February 28, 2005 – under Z.R. §73-36 to permit the proposed physical culture establishment, located in a C8-2 zoning district.

PREMISES AFFECTED – 1797 Coney Island Avenue, east side, 305’ north of Avenue “O”, Block 6749, Lot 69, Borough of Brooklyn.

COMMUNITY BOARD #14BK

88-05-BZ

APPLICANT – Sheldon Lobel, P.C., for David and Margaret Hamm, owners.

SUBJECT – Application April 8, 2005 – under Z.R. §73-622 to permit the enlargement of a single family residence which exceeds allowable floor area ratio, lot coverage and open space ratio pursuant to ZR 23-141 and less than the minimum side yards pursuant to ZR 23-461. The premise is located in an R3-21 zoning district.

PREMISES AFFECTED – 2015 East 22nd Street, east side, between Avenue S and T, Block 7301, Lot 53, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JULY 19, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, April 19, 2005, were approved as printed in the Bulletin of April 28, 2005, Volume 90, Nos. 19-20. If there be no objection, it is so ordered.

SPECIAL ORDER CALENDAR

364-87-BZ

APPLICANT – Sheldon Lobel, P.C., for B & V Realty, owner.

SUBJECT – Application January 7, 2005 and updated May 16, 2005 – Extension of Term/Waiver for an Automotive Repair Shop, located in a C2-2 within an R5 zoning district.

PREMISES AFFECTED – 1710-1720 Flatbush Avenue, southerly intersection of East 34th Street and Flatbush Avenue, Block 7598, Lots 23, 24, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:0

THE RESOLUTION –

WHEREAS, this is an application for a re-opening and an extension of the term of the variance; and

WHEREAS, a public hearing was held on this application on June 14, 2005, after due notice by publication in The City Record, and then to decision on July 19, 2005; and

WHEREAS, Community Board No. 18, Brooklyn, recommends approval of this application on the following conditions: 1) the premises be cleaned and maintained in a debris-free environment, and 2) the use of the premises be limited to repairs and not used for storage or leasing of parking spaces; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, in 1950, the Board granted an application, under calendar number 560-47-BZ, to permit, in

a C2-2(R5) zoning district, an automotive service station; and

WHEREAS, at various times since 1950, under calendar numbers 560-47-BZ and 364-87-BZ, the Board reopened the application to allow for other site modifications and term extensions, the last term extension being granted on March 22, 1993; and

WHEREAS, the most recent term of the variance expired on March 22, 2003; and

WHEREAS, the existing automotive service station contains three automotive service bays, an office, a sales office and a bathroom; and

WHEREAS, the applicant now seeks an extension of the term of the variance pursuant to Z.R. §§ 72-01 and 72-22; and

WHEREAS, the applicant states that since the original approval in 1988, use of the automotive repair facility has been continuous, and the manner of use of the facility will not change; and

WHEREAS, the applicant represents that since the parking lot has been operated since 1988, the neighborhood will not be negatively impacted by the continuation of this parking use at the subject site; and

WHEREAS, as represented by the applicant and observed by the Board, there are non-complying cracks in the sidewalk at the west curb cut; and

WHEREAS, the Board expressed concern about this non-compliance and asked the applicant to address them; and

WHEREAS, the applicant states that other than the aforementioned cracks, the site is in complete compliance with the prior Board plan; and

WHEREAS, in light of the above changes, the Board finds that the requested extension of term is appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, adopted in 1950, so that as amended this portion of the resolution shall read: “to extend the term for ten years from March 22, 2003; on condition that all work and site conditions shall substantially conform to drawings filed with this application marked ‘Received May 16, 2005’-(3) sheets and ‘Received June 22, 2005’- (1) sheet; and on further condition;

THAT the term of this grant shall be for ten years, to expire on March 22, 2013;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the service bays shall operate Monday through Saturday from 8 a.m. to 7 p.m. and Sunday from 8 a.m. to 5 p.m.;

THAT the above conditions shall be listed on the

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certificate of occupancy;

THAT the owner shall obtain a certificate of occupancy by July 19, 2006;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 301875727)

Adopted by the Board of Standards and Appeals, July 19, 2005.

793-88-BZ

APPLICANT – Eric Palatnik, P.C., for 164 Willis Avenue Realty Corp., owner; RSV S/S Inc., lessee.

SUBJECT – Application December 1, 2004 and updated May 3, 2005 for an amendment to a previously approved variance to a gasoline service station to construct a new convenience store located in an R6 zoning district.

PREMISES AFFECTED 164/76 Willis Avenue, Block 2280, Lots 1, 4, 5, 7, 76, Borough of The Bronx.

COMMUNITY BOARD #1BX

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on June 14, 2005, after due notice by publication in *The City Record*, and then to decision on July 19, 2005; and

WHEREAS, Community Board No. 1, Bronx, recommends approval of the subject application; and

WHEREAS, on June 12, 1990, under the subject calendar number, the Board granted a variance to permit, in an R6 zoning district, the construction of an automotive service station (Use Group 16) which did not conform to the district use regulations; and

WHEREAS, at various times since 1990, under the subject calendar number, the Board has reopened the application to allow for other modifications and term

extensions, the last being granted on October 12, 2002; and

WHEREAS, on October 12, 2002, under the subject calendar number, the Board granted an application for an extension of term to expire on October 29, 2012; in the same grant, the Board also approved the addition of an accessory convenience store to the subject property; and

WHEREAS, the applicant now seeks an amendment of the prior Board grant to permit the construction of a new convenience store; the proposed construction constitutes a reduction in the scope of construction previously approved by the Board; and

WHEREAS, specifically, the applicant seeks to construct an accessory convenience store adjacent to the four-story building along the northern perimeter of the subject property; the Board previously approved the construction of an accessory convenience store adjacent to the two-story building along the eastern perimeter of the property; and

WHEREAS, the applicant no longer seeks to terminate use of the diesel pumps or reposition the fuel tanks; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of the requested amendment to the prior resolution with the conditions listed below.

Therefore it is Resolved that the Board of Standards and Appeals re-opens and amends the resolution, so that as amended this portion of the resolution shall read: “to permit the construction of an automotive service station (Use Group 16) which does not conform to the district use regulations; *on condition* that all work and site conditions shall substantially conform to drawings filed with this application marked ‘Received May 3, 2005’-(5) sheets and ‘June 14, 2005’-(1) sheet; and *on further condition*;

THAT the premises shall be maintained free of debris and graffiti;

THAT graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions shall appear on the certificate of occupancy;

THAT street trees shall be provided and landscaping shall be maintained in accordance with the Board-approved plans;

THAT all conditions from prior resolution(s) 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 DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 2P0003472)

Adopted by the Board of Standards and Appeals, July 19, 2005.

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12-00-BZ

APPLICANT – Eric Palatnik, P.C., for Jack Meisels, owner.
SUBJECT – Application November 9, 2004 – Extension of time to complete construction and obtain a Certificate of Occupancy permitting the enlargement of a one-family dwelling which was granted on October 17, 2000.

PREMISES AFFECTED – 1045 East 24th Street, east side of 24th Street, approximately 363’ south of Avenue “J”, Block 7606, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on June 14, 2005, after due notice by publication in the *City Record*, and then to decision on July 19, 2005; and

WHEREAS, on October 17, 2000, under the subject calendar number, the Board granted an application to permit, within an R2 zoning district, the enlargement of a one-family dwelling; and

WHEREAS, the resolution for said grant specified that a new certificate of occupancy be obtained within four years of the date of the grant; this period of time expired on October 17, 2004; and

WHEREAS, the applicant claims that the need for the extension of time arises from a change in architects and general delays in construction; together, these factors have resulted in a delay in the construction of the proposed enlargement; and

WHEREAS, the applicant represents that the construction is 90% complete except for the kitchen area, which remains unfinished, as well as some general painting and stucco work; and

WHEREAS, the applicant states that the owner of the property anticipates that construction will be complete and the required certificate of occupancy will be obtained within five to seven months; and

WHEREAS, based upon the above, the Board has determined that the evidence in the record supports the grant of the requested waiver and extension.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on October 17, 2000, so that as amended

this portion of the resolution shall read: “to permit an extension of time to complete construction and obtain a certificate of occupancy, for an additional period of one (1) year from the date of this resolution, to expire on July 19, 2006; *on condition:*

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.”

(DOB Application No. 300871705)

Adopted by the Board of Standards and Appeals, July 19, 2005.

130-59-BZ

APPLICANT - Joseph P. Morsellino, for Doyle B. Shaffer, Inc., owner.

SUBJECT - Application March 18, 2005 - Extension of Term/Waiver of an existing parking area accessory to a funeral home. The premise is located in C1-2 in a R3-2 zoning district.

PREMISES AFFECTED - 45-17 Little Neck Parkway, Pembroke Avenue and Little Neck Parkway, Block 8260, Lot 98, Borough of Queens.

COMMUNITY BOARD#11Q

APPEARANCES –

For Applicant: Joseph Morsellino.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 16, 2005, at 10 A.M., for decision, hearing closed.

364-89-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Kellarakos Realty, Inc., owner; Balvinder Bains, lessee.

SUBJECT - Application April 4, 2005 - Extension of Term of a Variance for an automotive service station (UG16). The premise is located in an R-6 zoning district.

PREMISES AFFECTED - 30-75 21st Street, southeast corner of 30th Drive, Block 551, Lot 15, Borough of Queens.

COMMUNITY BOARD# 1Q

APPEARANCES –

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For Applicant: Carl A. Sulfaro.

ACTION OF THE BOARD – Laid over to September 13, 2005, at 10 A.M., for continued hearing.

169-91-BZ

APPLICANT - Ellen Hay / Wachtel & Masyr, LLP, for Broadway Wilson Realty, LLC, owner; Crunch Fitness International, Inc., lessee.

SUBJECT - Application March 21, 2005 - Extension of Term for the continued operation of a PCE/Waiver and Amendment to legalize additional floor area. The premise is located in a M1-5B zoning district.

PREMISES AFFECTED - 404 Lafayette Street aka 708 Broadway, Lafayette Street and East 4th Street, Block 545, Lot 6, Borough of Manhattan.

COMMUNITY BOARD 2M

APPEARANCES –

For Applicant: Ellen Hay.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to August 9, 2005, at 10 A.M., for decision, hearing closed.

110-95-BZ

APPLICANT - John W. Russell, Esq., for 1845 Realty, Inc., owner; 1845 Cornaga Avenue, lessee.

SUBJECT - Application March 15, 2004 - Extension of Term of a variance, which permitted, within a C2/R5 zoning district, the operation of a auto repair facility (UG16), with accessory uses, including parking and minor repairs using handtools.

PREMISES AFFECTED - 1845 Cornaga Avenue, southwest corner of Cornaga Avenue and B19th Street, Block 15563, Lot 1, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to September 13, 2005, at 10 A.M., for continued Hearing.

132-97-BZ

APPLICANT - Alan R. Gaines, Esq., for Deti Land, LLC, owner; Fiore Di Mare LLC, lessee.

SUBJECT - Application June 7, 2005 - Extension of Term/Amendment/Waiver for an eating and drinking establishment with no entertainment or dancing and occupancy of less than 200 patrons, UG 6 located in a C-3 (SRD) zoning district.

PREMISES AFFECTED - 227 Mansion Avenue, Block 5206, Lot 26, Borough of Staten Island

COMMUNITY BOARD# 3SI

APPEARANCES –

For Applicant: Joseph D. Manno.

ACTION OF THE BOARD – Laid over to September 13, 2005, at 10 A.M., for continued hearing.

325-04-A

APPLICANT -Rothkrug Rothkrug Weinberg Spector, for Kevin Kane, owner.

SUBJECT - Application October 4, 2004 - Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 91 Wakefield Road, west side, 825.19 north of Woods of Arden Road, Block 5415, Lot 85, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Staten Island Borough Commissioner, dated September 3, 2004, acting on Department of Buildings Application No. 500681390, reads:

“Proposed construction is located within the bed of a mapped street contrary to Section 35 of the General City Law. Refer to the Board of the Standards and Appeals;” and

WHEREAS, a public hearing was held on this application on April 12, 2005, after due notice by publication in the *City Record*, with continued hearings on May 17, 2005 and June 14, 2005, and then to decision on July 19, 2005; and

WHEREAS, by letter dated February 9, 2005, the Department of Transportation states that it has reviewed the above project and has no objections; and

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WHEREAS, Community Board 3, Staten Island, expressed concern that the Department of Parks and Recreation might want to acquire this land and incorporate it as part of the park; and

WHEREAS, in response, the Board has reviewed Department of Parks and Recreation ULURP Application #030089MMR, dated August 3, 2002 and revised January 2, 2003 (the "Application");

WHEREAS, the Board notes that the Application reflects that Hales Avenue (the mapped street) is proposed to be demapped, and that the Department of Parks and Recreation ("Parks Department") does not intend to acquire the subject property; and

WHEREAS, by letter dated February 16, 2005, the Department of Environmental Protection (DEP) has reviewed the above project and has indicated that the latest adopted Drainage Plan #OB -8(13) calls for a future 10" diameter sanitary sewer and a 27" diameter storm sewer to be installed in Hales Avenue between Wakefield Road and Hylan Boulevard;

WHEREAS, DEP has further requested that the applicant amend the latest adopted Drainage Plan to DEP's satisfaction prior to the issuance of a building construction permit; and

WHEREAS, the applicant has requested that the Board not condition its grant on such an amendment as amending the drainage plan is an expensive and time-consuming process; and

WHEREAS, the Board has considered DEP's request and has concluded that it would be an extreme hardship in this particular case to require the applicant to amend the Drainage Plan;

WHEREAS, by letter dated March 8, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Staten Island Commissioner dated September 3, 2004, acting on Department of Buildings Application No. 500681390, is hereby modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked 'October 4, 2004' – one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure

compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 19, 2005.

347-04-BZY & 348-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg Spector, for Ana Canton Ramirez, owner.

SUBJECT - Application October 28, 2004 - Application to extend time to complete construction for a major development pursuant to Z.R. §11-331.

PREMISES AFFECTED -

3056 Cross Bronx Expressway, west side,
176.54' north of Sampson Avenue, Block 5443,
Lot 71, Borough of The Bronx.

3058 Cross Bronx Expressway, west side,
119.70' north of Sampson Avenue, Block 5443,
Lot 80, Borough of The Bronx.

COMMUNITY BOARD#10BX

APPEARANCES -

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application under Z.R. § 11-331, to renew a building permit and extend the time for the completion of the foundation of a minor development under construction; and

WHEREAS, a public hearing was held on this application on March 16, 2005, after due notice by publication in *The City Record*, with a continued hearing on May 17, 2005, and then to decision on July 19, 2005; and

WHEREAS, the site was inspected by a committee of the Board, including Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 10, Bronx, opposed the granting of any relief to the applicant; and WHEREAS, although some of the testimony and submissions from opposition were relevant to the Board's proceedings, the Board notes that arguments were made that suggested that the developer acted in bad faith, sought to "beat the clock" by expediting excavation and foundation work, or attempted to undermine the hard work of the community in effecting a rezoning, which are not arguments that the Board may consider given the statutory framework

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set forth at Z.R. § 11-30 et. Seq.; and

WHEREAS, the subject premises is located on the west side of the Cross Bronx Expressway, north of Sampson Avenue; and

WHEREAS, the subject premises was formerly located within an R4 zoning district; and

WHEREAS, however, on September 28, 2004, the effective date of the rezoning (hereinafter, the "Rezoning Date"), the City Council voted to rezone the area which the subject premises is within to R3A; and

WHEREAS, the subject premises is proposed to be developed with two two-story plus basement, two-family dwellings with 1,670 sq. ft. of floor area and 1,677 sq. ft. of floor area, respectively, which would comply with the zoning regulations applicable to an R4 zoning district, but not those of an R3A zoning district; and

WHEREAS, Z.R. § 11-331 reads: "If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued as set forth in Section 11-31 paragraph (a), to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations."; and

WHEREAS, Z.R. § 11-31(a) reads: "For the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met."; and

WHEREAS, because the proposed development contemplates two buildings on contiguous zoning lots, it meets the definition of Major Development; and

WHEREAS, the Board notes that this application was made on October 27, 2004, which is within 30 days of the Rezoning Date, as required by Z.R. § 11-331; and

WHEREAS, the applicant represents that all of the relevant Department of Buildings permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the record indicates that on September 27, 2004, two new building permits (Permits Nos. 200910416-01-NB and 200910407-01-NB) for the proposed development were lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the Board has reviewed the record and agrees that the afore-mentioned permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the applicant represents that 80% of the tree removal took place on September 26, 2004, and excavation machines were placed on the property on the same day; and

WHEREAS, the applicant represents that excavation and placement of the footings and foundations of one of the buildings on the site took place on September 27, 2004; and

WHEREAS, the applicant represents that excavation and placement of the footings and some of the foundations on the second building took place on September 28, 2004, prior to the City Council vote on the rezoning; and

WHEREAS, in support of these representations the applicant has submitted, among other items, an affidavit from the general contractor, photographs, and a table showing the percentage of work completed on the foundations prior to the Rezoning Date and the amounts of money spent or committed on the project prior to the Rezoning Date; and

WHEREAS, in support of the contention that footings were poured prior to the Rezoning Date, the applicant has submitted three receipts from a concrete batching company reflecting delivery of 11 yards of concrete on September 27, 2004, an additional 22 yards of concrete on September 27, 2004, and 11 yards of concrete in the morning of September 28, 2004; and

WHEREAS, the Board has reviewed the affidavit and receipts, and agree that they support the conclusion that excavation and the pouring of the footings were complete as of the Rezoning Date; and

WHEREAS, in support of the claim that the concrete blocks for the foundations were put in place prior to the Rezoning Date, the applicant has submitted a receipt dated September 27, 2004, noting the delivery of the blocks; and

WHEREAS, the Board notes that the applicant has shown that, as of the Rezoning Date, all of the footings were in place and some of the foundations were installed, and the only remaining work was the foundation walls for the second

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building; and

WHEREAS, the applicant has submitted a schedule of foundation work completed from the general contractor, which states that \$25,000 of the \$35,000 (or 71 percent) of the foundation costs, including the costs for the supplies and labor associated with installing the footings and the walls, but excluding tree removal costs, excavation costs, and other soft costs associated with development on the site, had been incurred as of the Rezoning Date; and

WHEREAS, the Board finds all of above-mentioned submitted evidence sufficient and credible; and

WHEREAS, based upon the above, the Board finds that excavation was complete and that substantial progress had been made on foundations, and additionally, that the applicant has adequately satisfied all the requirements of Z.R. § 11-331.

Therefore it is resolved that this application to renew New Building permit Nos. 200910416-01-NB and 200910407-01-NB pursuant to Z.R. § 11-331 is granted, and the Board hereby extends the time to complete the required foundations for one term of sixth months from the date of this resolution, to expire on January 19, 2006.

Adopted by the Board of Standards and Appeals, July 19, 2005.

291-04-A

APPLICANT - Eric Palatnik, P.C., acting of Counsel to Charles Foy, Esq., for H & L Miller, A New York Partnership, owner.

SUBJECT - Application December 21, 2004 - Proposed enlargement of a zoning lot, on which an existing eating and drinking establishment rests, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 90-19 Metropolitan Avenue, northwest corner of Trotting Course Lane, Block 3177, Lot 34, Borough of Queens.

APPEARANCES –

For Applicant: Eric Palatnik, Ed Szajna, Gregory Meeyenzie and Frank McMahan.

For Opposition: Rodd Ferrara for Assemblyman Andrew Hevesi, Nancy Cohen, Joseph Tiraco, Eugenia Gonzalez-Centeno and other.

ACTION OF THE BOARD – Laid over to September 13, 2005, at 10 A.M., for continued hearing.

21-05-A

APPLICANT -Rampulla Associates Architects, for Geraldo Campitiello, owner.

SUBJECT - Application February 4, 2005 -Proposed addition to an existing banquet hall, which will be located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -2380 Hylan Boulevard, south side of Otis Avenue, Block 3904, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Philip Rampulla.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to August 9, 2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director

Adjourned:

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**REGULAR MEETING
TUESDAY AFTERNOON, JULY 19, 2005
1:30 P.M.**

Present: Chair Srinivasan, Vice Chair Babbar,
Commissioner Miele and Commissioner Chin.

ZONING CALENDAR

209-04-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Chilton Paint Co., owner; CPP Development, LLC, lessee.

SUBJECT - Application May 21, 2004 - under Z.R. §72-21 to permit the proposed six story residential building, with 134 dwelling units, Use Group 2, located in an M2-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 109-09 15th Avenue, northwest corner of 110th Street, Block 4044, Lot 60, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated June 13, 2005, acting on DOB Application No. 401843617 reads in pertinent part:

“1. Section 42-00 Z.R.: Residential Use Group 2 not permitted in an M2-1 Manufacturing District”; and

WHEREAS, a public hearing was held on this application on March 29, 2005 after due notice by publication in *The City Record*, with continued hearings on May 17, 2005, June 14, 2005 and then to decision on July 19, 2005; and

WHEREAS, this application is being filed in connection with Cal. No. 210-04-A, pursuant to which the applicant seeks a waiver of Article III, Section 35 of the General City Law in order to build upon the mapped street present on this site; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, Community Board 7, Queens and the Queens Borough President recommend approval of this application on condition that: 1) 110th Street and 15th Avenue are closed off with bollards; and 2) the decorative pools are no

deeper than 18” for safety reasons; and

WHEREAS, the College Point Board of Trade and the Coastal Preservation Network support the current proposal; and

WHEREAS, this is an application under Z.R. § 72-21 to permit, in an M2-1 zoning district, the conversion and enlargement of an existing obsolete industrial building to residential use, contrary to Z.R. § 42-00; and

WHEREAS, the proposed building will be a six-story residential building with a floor area of 129,512 sq. ft. and a floor area ratio (“FAR”) of 1.29; and

WHEREAS, the subject zoning lot (the “Site”) is located on the northwest corner of 15th Avenue and 110th Street; the total lot area is approximately 100,338 sq. ft.; and

WHEREAS, the Site is a waterfront lot, a portion of which is land under water; the floor area of the land under water is approximately 22,928 sq. ft. and the upland portion is approximately 77,410 sq. ft.; and

WHEREAS, the Site is currently improved upon with a 3-story masonry warehouse building, with a total floor area of approximately 42,000 sq. ft.; and

WHEREAS, the applicant represents that the building was constructed in 1856 and was formerly occupied by the Chilton Paint Company; the open area on the lot was formerly occupied by a contractor’s truck parking lot and a soil/gravel yard; and

WHEREAS, the applicant states that the district in which the Site is located was introduced into this area in order to accommodate a World War II wartime industry that was directly connected to the wartime effort; and

WHEREAS, the applicant further states that Lot 6 (north of the Site) was used for the manufacturing of marine engines for the Navy during the war and needed a waterfront site to accommodate its facility; Lot 80 (south of the Site) is currently being used for the storage of vehicles; and Lot 20 (adjacent to the Site on the north) is currently being developed with a six-story residential apartment house with commercial offices on the lower two floors; and

WHEREAS, the proposed building will have 134 one, two and three-bedroom units; specifically, there will be 52 one-bedrooms, 68 two-bedrooms and 14 three-bedrooms; the sixth floor will consist of the upper portion of the fifth floor duplexes; and

WHEREAS, the first floor of the existing building will include a lobby and amenity room to be used by the residents; and

WHEREAS, there will be 139 parking spaces in a two-level cellar garage, which the applicant represents is almost twice the number of parking spaces required under the Zoning Resolution for such a development; and

WHEREAS, all deliveries and refuse pickups will take place inside the building; and

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WHEREAS, the current proposal includes the following alterations to the existing building: 1) the placement of two additions at the rear and on the roof of the existing building; 2) the demolition of the existing outer buildings in the rear of the Site; 3) the complete remodeling of the first floor of the building to provide a vehicular entrance and exit and a pedestrian entrance with waterfront views through a glass lobby; and 4) the addition of grassy areas, shrubs fountains and sculptures to the areas of the lot not occupied by the proposed building; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the Site in strict conformance with underlying zoning regulations: 1) the existing building is obsolete for modern conforming use; 2) the parcel's poor soil conditions require expensive piles and extraordinary foundations; 3) the soil must be replaced due to environmental concerns; and 6) State DEC restrictions require that the footprint of any potential development on the Site occupy approximately 20% of the open land; and

WHEREAS, the applicant states that many industrial and commercial uses have found it difficult and undesirable to locate in the subject area because of the narrowness of the streets, the poor accessibility to major arterial highways, and the lack of support stores, restaurants and other similar establishments in the area; and

WHEREAS, the applicant concludes that these locational features combine with the site conditions to create unnecessary hardship and practical difficulties in using the building for a conforming use; and

WHEREAS, in support of the contention that poor soil conditions exist at the Site, the applicant has submitted boring tests that show that the soil is such that piles and extraordinary foundation measures must be used; and

WHEREAS, in response to a query of the Board, the applicant has submitted a letter from an engineer that explains the constraints placed on the Site by the DEC restrictions; and

WHEREAS, the applicant represents that the DEC restrictions constrain a viable conforming building; and

WHEREAS, based upon the above, the Board finds that the conditions cited by the applicant, when considered in the aggregate, create unnecessary hardship and practical difficulties in strictly conforming with the applicable use provisions of the Zoning Resolution; and

WHEREAS, the applicant submitted a feasibility study that contemplates a conforming eight-story industrial/commercial building containing 220,000 s.f. of floor area; the study purports to demonstrate that developing the premises in conformance with applicable district use regulations would not yield the owner a reasonable return; and

WHEREAS, the applicant submitted an engineer's report that concluded that current industry standards and practice

would require significant structural alterations to the existing building in order to permit it to function as a conforming use; the report estimates that, at a minimum, the cost of the necessary structural alterations would total \$2,000,000.00; and

WHEREAS, specifically, the engineer's report based its conclusion on the following three characteristics of the existing building: 1) deficient ceiling heights; 2) loading capacity requirements that are barely satisfied; and 3) the structure's inability to be adapted to economically viable storage methods in the receiving and shipping area due to the existing column spacing; and

WHEREAS, therefore, the Board has determined that because of the Site's unique physical conditions there is no reasonable possibility that development in strict conformity with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance will not affect the character of the neighborhood, and that residential use of the existing building is compatible with the uses in the surrounding neighborhood; and

WHEREAS, the applicant states that within the subject M2-1 district, much of the area along the water is developed with commercial and residential uses, and the area across 110th Street is primarily developed with residential uses; and

WHEREAS, the applicant also states that even though the area east of 110th Street is in an M2-1 zoning district, it is entirely residential; similarly, Block 4045, across the street from the Site to the north is zoned M2-1 yet developed with residential uses; and

WHEREAS, additionally, the applicant represents that the block directly across 110th Street from the Site is in an R4 zoning district; and

WHEREAS, the applicant represents that the bulk of the proposed project (1.29 FAR) is lower than the FAR permitted in an R4 infill zoning district (1.35 FAR); and

WHEREAS, the applicant further represents that the bulk of the proposed project is significantly less than the 2.0 FAR that is permitted as-of-right; and

WHEREAS, the applicant further represents that the bulk impact on the street would remain the same or be diminished because the streets are narrow; moreover, the only portion of the building that will be visible from the street is the existing building, which will be completely renovated with an attractive new façade and street presence; and

WHEREAS, the applicant also states that the enlargement of the existing building would be set back by 20 ft.; and

WHEREAS, in addition, the applicant represents that the remodeling of the first floor of the proposed building to include waterfront views through a glass lobby will add depth to the buildings at the street level and greatly improve the street presence for the residential areas across 110th Street; and

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WHEREAS, the Board expressed concern regarding the scale of the proposed six-story building as its height is close to eight stories, and its compatibility with the two to three story buildings in the surrounding area; and

WHEREAS, in response to the Board's concerns the applicant proposed two additional schemes and provided an Urban Design/Streetscape model and study; and

WHEREAS, the applicant also brought the height of the building down by 10 ft. by minimizing the Mansard roof; and

WHEREAS, at the request of the Board, the applicant submitted prospective drawings showing the visual impact of the building from various vantage points; and

WHEREAS, the Board finds that because of the reduction in height, the proposed building will not be out of context with the surrounding neighborhood; and

WHEREAS, therefore, the Board finds that the proposed application will neither alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties, nor be detrimental to the public welfare; and

WHEREAS, the stated bases of hardship – the obsolescence of the building, poor soil conditions and the strict DEC requirements – are not self-created; and

WHEREAS, therefore, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the applicant submitted feasibility studies that analyzed the expected return for three proposed residential schemes, including a six-story condominium and two different versions of a four-story condominium; and

WHEREAS, the applicant represents that the six-story condominium scheme, as compared to the other two proposals, will afford the owner the most reasonable return on his investment; and

WHEREAS, the Board expressed concern regarding the applicant's site valuation and comparable condominium sale prices in the area; and

WHEREAS, the applicant submitted a revised feasibility study in which it provided additional comparables and updated the site valuation; and

WHEREAS, the Board reviewed the revised feasibility analysis associated with each proposed residential scheme and finds that the six-story condominium scheme is the only one of the three proposals that will provide the owner with the necessary financial incentive to develop the Site; and

WHEREAS, accordingly, the Board finds that the current proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 04-BSA-208Q dated May 25, 2004; 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, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the Applicant: (1) an Environmental Assessment Statement Form, dated May 21, 2004; (2) a Phase I Environmental Site Assessment Report, dated September 3, 2004; (3) a Proposed Remedial Action Plan, dated January 26, 2005 and (4) a Health and Safety Plan, dated January 26, 2005; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials, air quality and noise impacts; and

WHEREAS, a Restrictive Declaration was executed and recorded for the subject property to address hazardous materials concerns; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the Restrictive Declaration and the Applicant's agreement to the conditions noted below; 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 Z.R. § 72-21 and grants a variance to permit, in an M2-1 zoning district, the conversion and enlargement of an existing industrial building to residential use, contrary to Z.R. § 42-00; *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

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“Received, July 18, 2005”-(13) sheets; *on further condition*;

THAT the building shall contain a maximum of 134 units;

THAT the total residential floor area ratio shall not exceed 1.29;

THAT there shall be a total of 139 accessory parking spaces located in a two-cellar garage; and;

THAT the total height of the building shall not exceed 67'-4" (with parapet);

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 19, 2005.

210-04-A

APPLICANT - Joseph P. Morsellino, Esq., for Chilton Paint Co., owner; CPP Development, LLC, lessee.

SUBJECT - Application May 21, 2004 - Proposed six story residential building, with 134 dwelling units, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 109-09 15th Avenue, northwest corner of 110th Street, Block 4044, Lot 60, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, acting on Application No. 4018433617 dated May 3, 2004, which reads in pertinent part:

“#2 “Can not build in bed of mapped street as per General City Law 35;” and

WHEREAS, a public hearing was held on this application on March 29, 2005 after due notice by publication in the *City Record*, for continued hearings on May 17, 2005, June 14, 2005 and then to decision on July 19, 2005; and

WHEREAS, this application was filed in conjunction with Cal. No 209-04-BZ, pursuant to which the applicant seeks, under Z.R. §72-21, to permit, in an M1-2 zoning district, the building of residential dwellings which requires a variance pursuant to Z.R. § 42-00; and

WHEREAS, Community Board 7, Brooklyn, recommends approval of this application with conditions;

WHEREAS, by letter dated August 10, 2004, the Department of Environmental Protection has reviewed the above project and has no objections; and

WHEREAS, by letter dated September 2, 2004 the Department of Transportation has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the decision of the Borough Commissioner, acting on Application No. 4018433617 dated May 3, 2004, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received July 18, 2005”- one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed Department of Buildings other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 19, 2005.

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363-04-BZ

APPLICANT - Herrick Feinstein, LLP, for 6002 Fort Hamilton Parkway Partners, owners.

SUBJECT - Application November 18, 2004 - under Z.R. §§72-01(b) and 72-21 to permit in an M1-1 district, approval sought to convert an existing industrial building to residential use. The proposed development will contain 115,244 SF of residential space containing 90 dwelling units, as well as 9,630 SF of retail space. There will be 90 parking spaces. The development is contrary to district use regulations per Section 42-00.

PREMISES AFFECTED - 6002 Fort Hamilton Parkway, a/k/a 949/59 61st Street, a/k/a 940/66 60th Street, south side of 61st Street, east side, of Fort Hamilton Parkway and north side of 60th Street, Block 5715, Lots 21 and 27, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Mitchell Korbey.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 8, 2004, acting on DOB Application No. 301799034 reads:

- “1. Proposed residential use (Use Group 2) is not permitted within the M1-1 District [Z.R. 42-00]. Obtain BSA approval.
2. Proposed building bulk exceeds maximum FAR permitted within the M1-1 District [Z.R. 43-12]. Obtain BSA approval.”; and

WHEREAS, a public hearing was held on this application on January 25, 2004 after due notice by publication in *The City Record*, with continued hearings on March 15, 2005, April 19, 2005, June 7, 2005, and then to decision on July 19, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, Community Board 12, Brooklyn, recommends approval of this application on condition that the cellar-level parking is restricted to residents of the proposed building; and

WHEREAS, this is an application under Z.R. § 72-21 to permit, in an M1-1 zoning district, the conversion of an existing obsolete industrial building to residential use, contrary to Z.R. §§ 42-00 and 43-12; and

WHEREAS, the applicant originally proposed a 90-unit development that would contain a total of 115,244 sq. ft. of residential space and 9,630 sq. ft. of ground-floor retail space with a floor area ratio (“FAR”) of 3.55 and a below-grade parking lot with 90 spaces; and

WHEREAS, the Board requested that the applicant modify the proposal and submit alternative residential development scenarios that would reduce the originally proposed height and FAR; the applicant’s revised proposals, identified as Schemes A through F, are discussed below; and

WHEREAS, the applicant’s current proposal (Scheme E) proposes a 6-story 100-unit, 2.99 FAR residential building that comprises 103,972 sq. ft. of floor area, including 88,510 sq. ft. of rentable residential space and 6,000 sq. ft. of ground floor retail; the proposal includes a significantly recessed 6th floor, as well as 92 cellar-level attended parking spaces reserved exclusively for residents of the building; and

WHEREAS, the Board denied an April 28, 1983 application to permit, in an M1-1 zoning district, an amusement arcade in what was then an existing roller skating rink at the site; at the time, active commercial and manufacturing uses occupied the two floors above the skating rink; and

WHEREAS, the applicant asserts that the 1983 application is not relevant to the current application because the conditions in the building and the surrounding neighborhood have significantly changed since 1983 in the following ways: 1) the first floor has not been used as a roller skating rink in over a decade; 2) the building is currently obsolete for as-of-right manufacturing and warehouse uses; 3) the building’s upper floors no longer contain manufacturing uses and are largely vacant; and 4) the surrounding neighborhood has experienced significant residential development; and

WHEREAS, the subject zoning lot (the “Site”) is located on the intersection of Fort Hamilton Parkway and 60th Street and Fort Hamilton Parkway and 61st Street; the subject lot has a total lot area of approximately 33,486 sq. ft.; and

WHEREAS, the Site is currently improved upon with a 1 to 3-story, mostly vacant commercial/warehouse structure, with a total floor area of 51,474 sq. ft.; the owner of the property runs an office/retail use on the ground floor; and

WHEREAS, the applicant represents that the building was constructed in the early 20th century and has previously been used as a dairy processing center for the Borden Milk Company, an automobile repair facility, a roller skating rink, and a warehouse and parking lot; and

WHEREAS, the applicant further states that the building has been mostly vacant of permanent business uses for several years; and

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WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the site in strict conformance with underlying zoning regulations: 1) the building is obsolete for modern manufacturing as it lacks a passenger elevator and has only one freight elevator that is too small to load a palette from a truck backed up against it; 2) the building has interior level changes that impede the movement of large and/or heavy items throughout the building; and 3) the Site has a disproportionately small parking lot in comparison to the size of the building, which provides virtually no space for the parking and/or maneuvering of large trucks; and

WHEREAS, the applicant represents that because the building was initially designed for a single-user, it would be extremely difficult, inefficient and costly to convert the building into one that could accommodate multiple manufacturing, warehouse or commercial tenants; and

WHEREAS, the applicant further represents that it would be difficult to adapt the building to multiple users because of the level changes on each floor; and

WHEREAS, the applicant also states that the building is unfit for office uses in particular because it lacks a passenger elevator and lobby area, has interior load bearing walls, unusually positioned staircases and an inadequate parking lot; and

WHEREAS, the applicant further states that most of the successful retail and office uses of this size provide substantial parking; however, the high cost of demolishing part of the building to make room for additional parking could not be recovered by a retail or warehousing operation; and

WHEREAS, the applicant concludes that these features combine to create unnecessary hardship and practical difficulties in using the building for a conforming use; and

WHEREAS, the applicant has produced evidence of the building's obsolescence in the form of drawings, floor plans and photographs; and

WHEREAS, specifically, these drawings, floor plans and photographs show the building's inadequate elevators and parking, the interior level changes and the impracticality of subdividing the floors due to the building's original design for single-user; and

WHEREAS, based upon the above, the Board finds that the conditions cited by the applicant, namely the inadequate elevators and parking, the interior level changes, and the single-user design of the building, when considered in the aggregate, create unnecessary hardship and practical difficulties in strictly conforming with the applicable provision of the Zoning Resolution; and

WHEREAS, the applicant submitted a feasibility study that contemplates use of the existing building for commercial and industrial purposes; the study purports to demonstrate that developing the premises in conformance with applicable district use regulations would not yield the owner a reasonable

return; and

WHEREAS, the feasibility study also shows that retrofitting the building to bring it up to standards appropriate for modern manufacturing use would be cost-prohibitive and not realize a reasonable return; and

WHEREAS, the applicant notes that a month-to-month small warehouse distribution use and a wood-working showroom have recently vacated the facility for more centrally located space; and

WHEREAS, therefore, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformity with the Zoning Resolution will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance will not affect the character of the neighborhood, and that residential use of the existing building is compatible with the uses in the surrounding neighborhood; and

WHEREAS, the applicant states that even though the subject area is zoned predominantly for manufacturing, it is characterized by medium-density residential uses; in fact, the majority of other blocks in the area contain significant concentrations of residential uses, with 75% of the lots in the subject area currently being used for housing; and

WHEREAS, the block on which the Site is located includes seven non-conforming residential lots, an auto-related establishment, warehouse, distribution and retail uses, and a textile assembly operation; and

WHEREAS, the only existing industrial-type uses that require a manufacturing zoning (warehouse and distribution) are concentrated in a small area along the rail cut at 62nd Street; however, these uses are not strictly manufacturing in nature and are permitted in a C8 zoning district; and

WHEREAS, a new 6-story residential building that is taller than the proposed building was recently completed one block west of the Site on the southwest corner of 60th Street and 9th Avenue within an R6 zoning district; and

WHEREAS, the applicant represents that the bulk and scale of the proposed building (2.99 FAR) is the same as the bulk and scale of structures that exist in the R6 zoning district across 60th Street; and

WHEREAS, the applicant further represents that Fort Hamilton Parkway is a 100 ft. wide street developed with three to five story buildings, and 60th Street is also a wide street lined with two to three story residential buildings; and

WHEREAS, the applicant further represents that the proposed project will not compromise the streetscape because the proposed sixth story of the building is set back 22 ft. from Fort Hamilton Parkway and 35 ft. from 60th Street; and

WHEREAS, the applicant states that the lower half of the building's façade will be replaced such that it will aesthetically contribute to the neighborhood's character; and

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WHEREAS, finally, the Site will have its own parking garage beneath the building, with a parking space for each apartment such that the existing neighborhood street parking will not be adversely affected by an increase in on-street parking; and

WHEREAS, therefore, the Board finds that the proposed application will neither alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties nor be detrimental to the public welfare; and

WHEREAS, the stated bases of hardship – the obsolescence of the building resulting from its layout, size, shape and condition, and the premium demolition costs – are not self-created; and

WHEREAS, therefore, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, at the request of the Board, the applicant analyzed numerous lesser variance alternatives different from its original proposal; the submitted scenarios, identified as Schemes A-E, are summarized below; and

WHEREAS, Scheme A proposed a 4-story, 3.3 residential FAR building with mezzanines, a lower height on Fort Hamilton Parkway and increased bulk on 61st Street; Scheme B proposed a 90-unit, 3.0 FAR building without mezzanines; Scheme C proposed a straight conversion of the existing structure; Scheme D proposed a 100-unit 3.04 residential FAR building with ground floor retail; Scheme E proposed a 100-unit 2.99 FAR building with 6,000 sq. ft. of retail and 88,518 sq. ft. of rentable residential space; and Scheme F proposed an 85-unit residential building with 88,570 sq. ft. of residential floor area and 6,000 sq. ft. of ground floor retail; and

WHEREAS, the Board has reviewed the feasibility studies associated with each scheme and finds that the current proposal, Scheme E, is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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 05BSA062K dated October 28, 2004; 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; 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, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the Applicant: (1) an Environmental Assessment Statement Form, dated October 28, 2004; (2) a Phase I Environmental Site Assessment Report, dated November 2004; and (3) supporting technical reports including the back-up data for air quality and noise analyses; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials, air quality and noise impacts; and

WHEREAS, an executed Restrictive Declaration was recorded on July 11, 2005 for the subject property to address hazardous materials concerns; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the Restrictive Declaration and the Applicant's agreement to the conditions noted below; 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, with conditions as stipulated below, 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 Z.R. § 72-21 and grants a variance to permit, in an M1-1 zoning district, the conversion of an existing industrial building to residential use, contrary to Z.R. §§ 42-00 and 43-12; *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 "July 15, 2005"–(10) sheets; *on further condition*;

THAT the building shall contain a maximum of 100 units;

THAT the total floor area ratio shall not exceed 3.0;

THAT use of the 92 cellar-level accessory parking spaces shall be used exclusively by residents of the building;

THAT the above conditions shall be listed in the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 19, 2005.

387-04-BZ

APPLICANT - Eric Palatnik, P.C., for Aspinwal Building Corp., (contract vendee).

SUBJECT - Application December 10, 2004 - under Z.R.§72-21 to permit the proposed construction of a one story and cellar building (retail and office), Use Group 6, located in an RS-2(HS) zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 908 Clove Road (formerly 904 and 908 Clove Road), east side, between Bard and Tyler Avenues, Block 323, Lot 42 (previously Lots 42 and 44), Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Adopted by the Board of Standards and Appeals, July 19, 2005.

154-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Wavebrook Associates, owner.

SUBJECT - Application April 9, 2004- under Z.R.§72-21 to permit the proposed construction of a four family dwelling, Use Group 2, located in M1-1 zoning district, is contrary to Z.R.§42-10.

PREMISES AFFECTED - 63 Rapeleye Street, north side, 116' east of Hamilton Avenue, Block 363, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to August 23, 2005, at 1:30 P.M., for continued hearing.

189-04-BZ

APPLICANT - D.E.C. Designs, for City of Faith Church of God, owner.

SUBJECT - Application May 5, 2004 - under Z.R.§73-19 to allow a school (UG3) in a C8-1 zoning district which is not permitted as per section 32-00 of the Zoning Resolution.

PREMISES AFFECTED - 3445 White Plains Road, 445.2' south of Magenta Street, Block 4628, Lot 47, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEARANCES -

For Applicant: Peter Hirshman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 23, 2005, at 1:30 P.M., for decision, hearing closed.

212-04-BZ

APPLICANT - Rampulla Associates Architects, for G.A.C. Caterers, Inc., owner.

SUBJECT - Application May 21, 2004 - under Z.R.§72-21 to permit the proposed erection and maintenance of a cellar and two (2) story photography and video studio, Use Group 6, located in an R3-2 zoning district, which is contrary to Z.R. §22-10.

PREMISES AFFECTED - 2360 Hylan Boulevard, a/k/a 333 Otis Avenue, between Otis and Bryant Avenues, Block 3905, Lot 17, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Philip Rampulla and Ed Vamero.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 9, 2005, at 1:30 P.M., for decision, hearing closed.

257-04-BZ

APPLICANT - Patrick W. Jones, Petraro & Jones, LLP, for Boerum Place, LLC, owner.

SUBJECT - Application November 19, 2004 - under Z.R.§72-21, to permit the proposed construction of an eight story mixed-use, retail-residential building, located in an R6A, R6, C2-4 and C2-3 zoning districts which does not comply with the zoning requirements for floor area ratio, lot coverage, building height and loading berth, is contrary to Z.R. §23-145, §33-121, §23-633, §35-25 and §36-22.

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PREMISES AFFECTED - 252/60 Atlantic Avenue (a/k/a 83/87 Boerum Place; 239/47 Pacific Street), east side of Boerum Place, between Atlantic Avenue and Pacific Street, Block 181, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Patrick Jones and Daniel P. Lane.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 23, 2005, at 1:30 P.M., for decision, hearing closed.

272-04-BZ

APPLICANT - Sullivan Chester & Gardner, for Chickie, LLC, owner.

SUBJECT - Application August 5, 2004 - under Z.R. §72-21 to permit the proposed five story, twenty-unit multiple dwelling, Use Group 2, located in an R-5 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, density, side and front yards, height and/or setback and parking spaces, is contrary to Z.R. §23-141, §23-22, §23-45a, §23-461(a and b), §23-462, §23-631d and §25-23.

PREMISES AFFECTED - 14-38/40 31st Drive, East side, between 14th and 21st Streets, Block 531, Lots 50 and 51, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

For Opposition: Dominic Casamento, Felice Ortiz and Mary L. Rivera Casamento.

ACTION OF THE BOARD - Laid over to August 23, 2005, at 1:30 P.M., for continued hearing.

290-04-BZ

APPLICANT - Stuart A. Klein, Esq., for Alex Lokshin - Carroll Gardens, LLC, owner.

SUBJECT - Application August 20, 2004 - under Z.R. §72-21 to permit, in an R4 zoning district, the conversion of an existing one-story warehouse building into a six-story and penthouse mixed-use residential/commercial building, which is contrary to Z.R. §§22-00, 23-141(b), 23-631(b), 23-222, 25-23, 23-45, and 23-462(a).

PREMISES AFFECTED - 341-349 Troy Avenue (a/k/a 1515 Carroll Street), Northeast corner of intersection of Troy Avenue and Carroll Street, Block 1407, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #9BK

APPEARANCES -

For Applicant: Gregory Chillino.

ACTION OF THE BOARD - Laid over to

September 13, 2005, at 1:30 P.M., for continued hearing.

302-04-BZ

APPLICANT - Martyn & Don Weston for Regina Formisano, owner.

SUBJECT - Application September 10, 2004 - under Z.R. §72-21 to permit the proposed construction of a residential building on a vacant lot, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 40 Woodhull Street, south side, 85' west of Hicks Street, Block 363, Lot 20, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Don Weston and Regina Forasano.

ACTION OF THE BOARD - Laid over to August 16, 2005, at 1:30 P.M., for continued hearing.

402-04-BZ

APPLICANT - Steven Sinacori/Stadtmauer Bailkin LLP for Knapp Street Entertainment Center Inc., owner; Public Storage Inc., lessee.

SUBJECT - Application December 28, 2004 - under Z.R. §72-21 - to permit the change of use from an enclosed amusement arcade (Use Group 15) to self-storage facility (Use Group 16) in an R6 Zoning District and to vary Sections 24-11 (Lot coverage), 24-35(b) (Side Yard), and 24-522 (Perimeter wall height, setback, and sky exposure plane) of the Resolution.

PREMISES AFFECTED - 2461 Knapp Street, east side, between Avenue "X and Y", Block 8833, Lot 200, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: John Pallante and Steve Sinacori.

ACTION OF THE BOARD - Laid over to August 16, 2005, at 1:30 P.M., for continued hearing.

31-05-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Larry Warren, owner.

SUBJECT - Application April 28, 2005 - under Z.R. §73-622 to permit the enlargement to a single family home to vary sections ZR 23-141 floor area, ZR 23-461 for side yards and ZR 23-631 for perimeter wall height. The premise is located in an R2X (OP) zoning district.

PREMISES AFFECTED - 1897 East Second Street, between Billings Place and Colin Place, Block 6681, Lot 211, Borough of Brooklyn.

COMMUNITY BOARD #15BK

MINUTES

APPEARANCES –

For Applicant: Lyra Altman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to August 9,
2005, at 1:30 P.M., for decision, hearing closed.

34-05-BZ

APPLICANT - Sheldon Lobel, P.C., for Robert Hakim,
owner.

SUBJECT - Application February 24, 2005 - under Z.R. §73-
622 to permit the proposed enlargement fo an existing one
family dwelling, Use Group 1, located in an R3-2 zoning
district, which does not comply with the zoning
requirements for floor area, open space ratio, also side and
rear yards, is contrary to Z.R. §23-141, §23-461(a) and
§23-47.

PREMISES AFFECTED - 1975 East 24th Street, east side,
between Avenues "S" and "T", Block 7303, Lot 56, Borough
of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to August
9, 2005, at 1:30 P.M., for continued hearing.

39-05-BZ

APPLICANT - Eric Palatnik, P.C. for Yeshivas Ahavas
Israel Inc., owner.

SUBJECT - Application February 24, 2005 - Under Z.R.
§72-21, to permit the enlargement of the existing Use Group
3 Yeshiva, in an R6 Zoning District and to vary Sections
24-11 (Lot coverage), 24-35(b) (Side yard), and 24-522
(Perimeter wall height, setback, and sky exposure plane) of
the Resolution.

PREMISES AFFECTED - 6 Lee Avenue, West side of Lee
Avenue between Clymer and Taylor Streets, Block 2173,
Tentative Lot 35 (Formerly Lots 31 & 35), Borough of
Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to August
16, 2005, at 1:30 P.M., for decision, hearing closed.

64-05-BZ

APPLICANT - Paul F. Bonfilio, for Patrick & Elizabeth
O'Connor, owner.

SUBJECT - Application March 16, 2005 - under Z.R. §72-11
to construct a single family detached residence with less
than the required lot area ZR 23-32 and less than the
required side yard width ZR 23-461. The vacant lot/site is
located in a R1-2 zoning district.

PREMISES AFFECTED - 40 Conyningham Avenue, west
side, between Springhill and Castleton Avenues, Block 101,
Lot 445, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Paul Bonfilio.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to August 9,
2005, at 1:30 P.M., for decision, hearing closed.

71-05-BZ

APPLICANT - Sheldon Lobel, P.C., for Barbara and Marc
Tepler, owner.

SUBJECT - Application March 23, 2005 - under Z.R. §
73-622 to permit the enlargement of a single family
residence which exceeds the allowable floor area and less
than the minimum required open space per ZR23-241, less
than the minimum side yard per ZR23-46 and less than the
minimum rear yard per ZR23-47. The premise is located in
an R-2 zoning district.

PREMISES AFFECTED - 1226 East 29th Street, west side,
between Avenues "L and M", Block 7646, Lot 56, Borough
of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to August 9,
2005, at 1:30 P.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director

Adjourned: 3:23 P.M.

BULLETIN

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August 4, 2005

DIRECTORY

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JOEL A. MIELE, SR.

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Pasquale Pacifico, *Executive Director*

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John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Tuesday, July 26, 2005**

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164-05-BZ B.BK 1925 East 21st Street, between Avenues R and S, Block 6827, Lot 76, Borough of Brooklyn. Applic. #301973559. Permit to enlarge a single family residence in a residential zoning district (R4) is contrary to Z.R § 73-622.

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COMMUNITY BOARD #8BK

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Buildings, The Bronx; H.D.-Health Department; F.D.-Fire Department.

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168-05-BZY B. BK 6422 Bay Parkway, Northwest side of Bay Parkway between 65th and 64th Streets, Block 5550, Lot 39, Borough of Brooklyn, N.B. # 301827398-01. Extension of Time to complete major or minor development for a period of six months pursuant to Z.R § 11-331.

169-05-BZY B. BK 6210, 6214 and 6218 24th Avenue, North side of 24th Avenue between 62nd and 63rd Streets, Block 6557, Lot(s) 39, 40 41, Borough of Brooklyn,

CALENDAR

AUGUST 23, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, August 23, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

SPECIAL ORDER CALENDAR

990-77-BZ

APPLICANT – Greenberg Traurig, LLP, for 260 West Broadway Condo, Assoc., owner.

SUBJECT – Application May 6, 2005 – reopening for an amendment to an existing variance within the Special Tribeca Mixed Use District that allowed in an M1-5 district, floors 3 through 11 of the Building to be converted to residential use.

The amendment seeks to allow a portion of the first floor to be converted to residential use and to legalize the conversion of the entire second floor to residential use.

PREMISES AFFECTED – 260 Broadway, property bounded by West Broadway, Beach Street and St. John’s Lane, Block 212, Lots 1001-1058 (7501), Borough of Manhattan.

COMMUNITY BOARD #1M

364-82-BZ

APPLICANT – Cozen O’Connor Attorneys, for Little Neck Commons, LLC, owners; Jack LaLanne Fitness Centers, Inc., lessee.

SUBJECT – Application January 14, 2005 -Extension of Term/Waiver for a physical culture establishment located in a C1-2(R3-2) zoning district.

PREMISES AFFECTED – 245-02/34 Horace Harding Expressway, Block 8276, Lot 100, Douglaston, Borough of Queens.

COMMUNITY BOARD #11Q

37-93-BZ

APPLICANT – Cozen O’Connor Attorneys, for Vornado Forest Plaza, LLC, owner; Jack Lalanne Fitness Centers, Inc., lessee.

SUBJECT – Application March 8, 2005 - Extension of Term of a Special Permit-Physical Culture Establishment which is not permitted as of right. The premise is located in a C8-1 zoning district.

PREMISES AFFECTED – 2040 Forest Avenue, south side 100’ west of Van Name Avenue, Block 1696, Lot 8, Borough of Staten Island

COMMUNITY BOARD #1SI

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, August 23, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

ZONING CALENDAR

289-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Judo Associates, Inc., lessee.

SUBJECT – Application August 18, 2004 – under Z.R. §72-21 to permit the proposed construction of a seven story mixed-use building, to contain commercial use on the ground floor, and residential use above, located within an M1-5B zoning district, which does permit residential use, is contrary to Z.R. §42-00 and §42-14.

PREMISES AFFECTED – 341 Canal Street, southeast corner of Greene Street, Block 229, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

375-04-BZ

APPLICANT – Greenberg Traurig LLP, for Designs by FMC, owner.

SUBJECT – Application November 29, 2004 – under Z.R. §72-21 to permit the proposed expansion of an existing jewelry manufacturer and wholesaler establishment, located in an M1-1 zoning district, which does not comply with zoning requirements for floor area ratio, rear yard, street wall height and adequate parking, is contrary to Z.R. §43-12, §43-302, §43-302, §43-43 and §44-21.

PREMISES AFFECTED – 1527, 1529 and 1533 60th Street, north side, between 15th and 16th Avenue, Block 5509, Lots 64, 65 and 68, Borough of Brooklyn.

COMMUNITY BOARD #12BK

68-05-BZ

APPLICANT - Sheldon Lobel, P.C., for Congregation Bais Chaim Yoshu, owner.

SUBJECT - Application March 18, 2005 – under Z.R. §72-21 to permit the proposed enlargement of a three story plus attic building, currently housing a synagogue, with accessory residential on the second, third, and attic floors, which does comply with the zoning requirements for floor area ratio, side and front yards, is contrary to Z.R. §24-11, §24-162, §24-35, and §23-141.

PREMISES AFFECTED – 4911 17th Avenue, east side, between 49th and 50th Streets, Block 5455, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #12BK

AUGUST 23, 2005, 10:00 A.M.

CALENDAR

74-05-BZ

APPLICANT – Snyder & Snyder, LLP, for The Island Swim Club, Inc., owner; Omnipoint Communications, Inc., lessee.
SUBJECT - Application March 29, 2005 – under Z.R. §§73-30 & 22-21 to permit the proposed construction of a non-accessory radio tower for public utility wireless communications (disguised as a 90-foot tall flagpole), located in an R3-2 zoning district.

PREMISES AFFECTED – 1089 Rockland Avenue, northeast side, between Borman and Shirra Avenues, Block 2000, Lot 7, Borough of Staten Island.

COMMUNITY BOARD #2SI

75-05-BZ

APPLICANT – Snyder & Snyder, LLP, for Immanuel Lutheran Church, owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application March 29, 2005 – under Z.R. §§73-30 & 22-21 to permit the proposed construction of a non-accessory radio tower for public utility wireless communications (disguised as a 90-foot tall flagpole), located in an R3-2 zoning district.

PREMISES AFFECTED – 2018 Richmond Avenue, approximately 650' south of Amsterdam Place and Richmond Avenue, Block 2100, Lot 460, Borough of Staten Island.

COMMUNITY BOARD #2SI

77-05-BZ

APPLICANT – Greenberg Traurig, LLP by Deidre Carson, for Jack Ancona, owner.

SUBJECT – Application March 29, 2005 – under Z.R. §72-21 to permit the proposed construction of a twelve-story mixed building, containing residential and retail uses, located within an M1-6 zoning district, in which residential use is not permitted as of right, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 132 West 26th Street, south side, 364.5' west of Sixth Avenue, Block 801, Lot 60, Borough of Manhattan.

COMMUNITY BOARD #4M

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JULY 26, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, April 12, 2005, were approved as printed in the Bulletin of April 21, 2005, Volume 90, No. 18.

SPECIAL ORDER CALENDAR

11-01-BZ

APPLICANT – Vassalotti Associate Architects, LLP, for Joseph Macchia, owner.

SUBJECT – Application May 19, 2005 – Extension of Time to obtain a Certificate of Occupancy, located in a C1-2(R5) zoning district.

PREMISES AFFECTED – 586/606 Conduit Boulevard, Block 4219, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT:

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on July 12, 2005, after due notice by publication in the *City Record*, and then to decision on July 26, 2005; and

WHEREAS, on August 7, 2001, under the subject calendar number, the Board granted an application to permit, within a C1-2(R5) zoning district, the reestablishment of a variance which had expired on May 23, 1991, for an existing gasoline service station with accessory uses, the conversion of the existing automotive repair facility and offices into a convenience store, and the erection of a canopy over five (5) new gasoline pump islands; in addition, the Board granted an extension of the term of the variance for a term of ten (10) years, expiring on August 7, 2011; and

WHEREAS, the resolution for said grant specified that a new certificate of occupancy be obtained within one (1) year of the date of the resolution; this period of time expired on August 7, 2002; and

WHEREAS, the applicant claims that the need for the extension of time is due to a number of factors, the primary

factor being difficulty obtaining sign-offs from the Metropolitan Transit Authority for the removal of twelve sealed-in-place 550 gallon tanks to be replaced with two 10,000 gallon gasoline tanks on a site located partially above a subway line running along Pitkin Avenue; and

WHEREAS, the applicant represents that the construction is currently in progress and 20% complete; and

WHEREAS, the applicant further represents that the owner of the property anticipates that construction will be complete and the required certificate of occupancy will be obtained within eight (8) to nine (9) months; and

WHEREAS, based upon the above, the Board has determined that the evidence in the record supports the grant of the requested waiver and extension.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on August 7, 2001, so that as amended this portion of the resolution shall read: “to permit an extension of time to complete construction and obtain a certificate of occupancy, for an additional period of one (1) year from the date of this resolution, to expire on July 26, 2006; *on condition:*

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.”

(DOB Application No. 301092715)

Adopted by the Board of Standards and Appeals, July 26, 2005.

91-02-BZ

APPLICANT – Sheldon Lobel, P.C., for David Winiarski, owner.

SUBJECT – Application April 13, 2004 - reopening for an amendment to a previously granted variance under ZR §72-21 to allow minor modification of the approved plans.

PREMISES AFFECTED – 3032-3042 West 22nd Street, West 22nd Street, 180' north of Highland View Avenue, Block 7071, Lot 19 (a/k/a 19, 20, 22), Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

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THE RESOLUTION -

WHEREAS, this is an application for a reopening and an amendment to the previously approved plans; and

WHEREAS, a public hearing was held on this application on April 5, 2005 after due notice by publication in the *City Record*, with continued hearings on May 10, 2005, June 7, 2005, July 12, 2005, and then to closure and decision on July 26, 2005; and

WHEREAS, on June 24, 2003, the Board adopted a resolution under the subject calendar number, authorizing, within an R5 zoning district, the construction of a six-story building containing residential uses on the upper floors and community facility uses on the ground floor that included a bulk waiver for a higher floor area and floor area ratio than that permitted; the prior grant permitted 36 units and 23 parking spaces; and

WHEREAS, the applicant's initial proposal contemplated: (1) a bi-level parking area with 27 parking spaces; (2) an increase in dwelling units to 40; (3) a waiver to allow parking in the required open space; and (4) incorporate waivers for non-compliances related to permitted obstructions in required open space, height and setback, sky exposure plane, front yard requirements, and dwelling unit requirements that were not specified in the Board's previous approval but were present in the approved BSA plans; and

WHEREAS, at the hearing, the Board expressed concerns regarding the circulation and functionality of the parking garage as presented by the applicant; in response, the applicant made a submission explaining why the "straight" parking layout was preferable to an "angled" parking layout in terms of simplicity and safety; and

WHEREAS, in response to Board concerns, the applicant modified its proposal to provide roof top recreation for tenants in lieu of open space that would be used for parking, and reduced the number of cars from 42 to 28 to ensure proper circulation; and

WHEREAS, finally, the Board notes that the increase in the number of units from 36 to 40 is acceptable, given the applicant's representations that smaller studio and one-bedroom units are more marketable in the subject area; and

WHEREAS, with respect to the additional DOB objections, the Board has reviewed the plans it approved during the initial variance grant and finds that the non-compliances were approved by the Board initially as set forth in the Board-approved plans; and

WHEREAS, based upon the above, the Board has determined that the evidence in record supports the grant of the requested waiver and amendment, with conditions as reflected below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, said resolution having been adopted on June 24, 2003, so that as amended this portion of the resolution shall read: "to permit an increase in the amount of dwelling units and parking spaces, to allow a rooftop recreation space, and to modify the Board's prior resolution to reflect

additional bulk waivers with respect to permitted obstructions in required open space, height and setback, sky exposure plane, front yard requirements, and dwelling unit requirements; *on condition* that all work shall substantially conform to drawings as filed with this application, marked 'Received July 25, 2005' - (16) sheets; and *on further condition*:

THAT the bulk parameters of the proposed building shall be as follows: a residential F.A.R. of 2.3; a community facility F.A.R. of 0.31; a total F.A.R. of 2.61; a perimeter wall height of 62 ft., 10 inches; a total height of 62 ft., 10 inches; front yards of 5 ft. and 10 ft.; and no setback at 30 ft.; and

THAT there shall be a maximum of 40 residential units;
THAT there shall be a maximum of 27 parking spaces on-site;

THAT a roof-top recreation space shall be provided, as illustrated on the BSA-approved plans;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted."

(DOB Application No. 301111384)

adopted by the Board of Standards and Appeals, July 26, 2005.

523-58-BZ

APPLICANT -Walter T.Gorman, P.E., for Yehuea, LLC, owner; Farmers Mini Mart Inc., lessee.

SUBJECT - Application March 25, 2005 - Extension of Term/Waiver for a gasoline service station with accessory uses. The premise is located an C1-2/R3-2 and R3-2 zoning district.

PREMISES AFFECTED - 117-30/48 Farmers Boulevard, southwest corner of Baisley Boulevard, Block 12448, Lot 31, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: John Ronan.

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for continued hearing.

328-82-BZ

APPLICANT - Agusta & Ross, for Parkhouse Hotel, Inc., owner.

SUBJECT - Application February 4, 2005 - Extension of Term/Waiver of a variance to permit a transient hotel (UG 5) which expired on January 18, 2003. The premise is located in

MINUTES

an R-6 zoning district.

PREMISES AFFECTED - 1206 48th Street, southwest corner of 48th Street and 12th Avenue, Block 5634, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Mitchell Ross.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 9, 2005, at 10 A.M., for decision, hearing closed.

199-97-BZ

APPLICANT - Sheldon Lobel. P.C., for Corey Marcus, owner.

SUBJECT - Extension of Time to Complete Construction and Obtain a Certificate of Occupancy, for a variance, granted on May 27, 1998, allowing an enclosed florist shop in an R3-2 zoning district. A previous extension of time to obtain a Certificate of Occupancy was granted on October 1, 2002.

PREMISES AFFECTED - 130-38 Horace Harding Expressway, south side of Horace Harding Expressway, west of the intersection with Lawrence Avenue, Block 6451, Lots 12 & 16, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 16, 2005, at 10 A.M., for decision, hearing closed.

186-00-BZ

APPLICANT - Law Office of Fredrick A. Becker, for Stacey Dana and Murray Dana, owners.

SUBJECT - Application April 14, 2005 - reopening for an extension of time which expired April 17, 2005.

PREMISES AFFECTED - 2301 Avenue L, northeast corner of Avenue L and East 23rd Street, Block 7623, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra Altman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 9, 2005, at 10 A.M., for decision, hearing closed.

36-05-A

APPLICANT -Zygmunt Staszewski, P.E., for Breezy Point Cooperative, Inc., owner; William Mullay, lessee.

SUBJECT - Application February 24, 2005 -Proposed alteration to an existing one family dwelling, located within the bed of a mapped Street, also a proposal to upgrade the existing septic system, is contrary to Section 35, Article 3 of the General City Law and Department of Buildings Policy. PREMISES AFFECTED -35 Janet Lane, east side, 577.98' north of Beach 203rd Street and Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Magdalys Gonzalez.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated January 26, 2005, acting on Department of Buildings Application No. 402009660, reads:

“A1. The building and lot proposed to be altered is lying in the bed of mapped street as per Article 3 Section 35 of the General City Law

A2. The upgrade of the existing non complying private disposal system;” and

WHEREAS, a public hearing was held on this application on July 26, 2005 after due notice by publication in the *City Record*, and then to decision; and

WHEREAS, by letter dated March 28, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 27, 2005 the Department of Environmental Protection has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 2, 2005, the Department of Transportation has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated January 26, 2005, acting on Department of Buildings Application No. 402009660 is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received July 26, 2005” – one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and

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regulations shall be complied with; and *on further condition:*

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 26, 2005.

49-05-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Joan & Fred Tierney lessees.

SUBJECT – Application March 4, 2005 – Proposed reconstruction and enlargement of an existing one family dwelling, also a proposal to upgrade the non-comply private disposal system, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law and Department of Buildings’ Policy.

PREMISES AFFECTED – 8 Atlantic Walk, east side, 38.15’ south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated February 23, 2005, acting on Department of Buildings Application No. 402002275, which reads:

- “A1. The existing building to be altered lies within in the bed of mapped street contrary to Article 3 Section 35 of the General City Law
 - A2. The proposed upgraded private disposal system is in the bed of a mapped street is contrary to Department of Buildings Policy;”
- and

WHEREAS, a public hearing was held on this application on July 26, 2005 after due notice by publication in the *City Record*, and then to decision; and

WHEREAS, by letter dated March 10, 2005, the Fire Department states that it has reviewed the above project and has

no objections; and

WHEREAS, by letter dated May 2, 2005, the Department of Environmental Protection has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 2, 2005, the Department of Transportation has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated February 23, 2005, acting on Department of Buildings Application No. 402002275 is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received July 26, 2005”– one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition:*

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 26, 2005.

50-05-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Elsa & Vincent Lehner, lessees.

SUBJECT – Application March 4, 2005 – Proposed reconstruction enlargement of an existing one family dwelling also a proposal to upgrade the non-complying private disposal system, located within the bed of a mapped street and not fronting on a legally mapped street, is contrary to Section 35 and 36, Article 3 of the General City Law and Department of Buildings’ Policy.

PREMISES AFFECTED – 412 Seabreeze Avenue, east side, 40.7” north of Beach 183rd Street, Block 16340, Lot 50, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

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Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated February 23, 2005, acting on Department of Buildings Application No. 402013806 which reads:

- “A1. The existing building to be altered lies within in the bed of mapped street contrary to Article 3 Section 35 of the General City Law
- A2. The street giving access to the existing building to be altered is not duly placed on the official map of the City of New York, therefore:
- a) A Certificate of occupancy may not be issued as per Article 3 Section 36 of the General City Law
 - b) Existing Dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code
- A3. The proposed upgraded private disposal system is in the bed of a mapped street and or service lane is contrary to Department of Buildings Policy;” and

WHEREAS, a public hearing was held on this application on July 26, 2005 after due notice by publication in the *City Record*, and then to decision, and

WHEREAS, by letter dated March 10, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 27, 2005 the Department of Environmental Protection has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 2, 2005, the Department of Transportation has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated February 23, 2005, acting on Department of Buildings Application No. 402013806 is modified under the power vested in the Board by Sections 35 and 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received March 4, 2005”—one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure

compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 26, 2005.

86-05-A

APPLICANT -Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; George & Christine Donley, lessee. SUBJECT - Application April 8, 2005 - Proposed enlargement of an existing single family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 103 Oceanside Avenue, east side of Beach 204th Street and north side of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated March 25, 2005, acting on Department of Buildings Application No.402067767, which reads:

- “A1. The existing building to be altered is lies within in the bed of mapped street contrary to Article 3 Section 35 of the General City Law;” and

WHEREAS, a public hearing was held on this application on July 26, 2005 after due notice by publication in the *City Record*, and then to decision, and

WHEREAS, by letter dated April 25, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated May 20, 2005 the Department of Environmental Protection has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 2, 2005, the Department of Transportation has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated February 23, 2005, acting on Department of Buildings Application No 402067767 is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall

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substantially conform to the drawing filed with the application marked "Received July 26, 2005"– one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 26, 2005.

Pasquale Pacifico, Executive Director.

Adjourned: 10:27 A.M

**REGULAR MEETING
TUESDAY AFTERNOON, JULY 26, 2005
1:30 P.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

ZONING CALENDAR

267-04-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Kermit Square, LLC, owner.

SUBJECT - Application July 30, 2004 - under Z.R. §72-21, to permit the proposed thirty-two unit multiple dwelling, Use Group 2, located in a C8-2 zoning district, is contrary to Z.R.

§32-00.

PREMISES AFFECTED - 362/64 Coney Island Avenue, northwest corner of Kermit Place, Block 5322, Lot 73, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Peter Geis.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

Adopted by the Board of Standards and Appeals, July 26, 2005.

392-04-BZ

APPLICANT – Harold Weinberg, P.E., for Ephiraim Nierenberg, owner.

SUBJECT – Application December 14, 2005 – under Z.R. §73-622 to permit a proposed rear enlargement to a single family residence which is contrary to Z.R. §23-141(a) for floor area and open space, Z.R. §23-461 for side yards and Z.R. §23-47 for rear yard. Then premises is located in an R2 zoning district.

PREMISES AFFECTED – 966 East 23rd Street, west side, 220.0' north of Avenue "J", between Avenues "I" and "J", Block 7586, Lot 75, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Harold Weinberg.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 29, 2004, acting on Department of Buildings Application No. 301760912, reads:

"The proposed enlargement of the existing one family residence in an R2 zoning district:

1. Increases the degree of non-compliance with respect to floor area ratio exceeding the allowable floor area ratio and is contrary to sections 23-141 & 54-31 of the Zoning Resolution.
2. Increases the degree of non-compliance with respect to the open space ratio and is contrary to sections 23-141 & 54-31 of the Zoning Resolution.
3. Reduces the rear yard below 30' and is contrary to section 23-47 of the Zoning Resolution.

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4. Increases the degree of non-compliance with respect to side yards and is contrary to sections 23-461 & 54-31 of the Zoning Resolution.”; and

WHEREAS, a public hearing was held on this application on July 12, 2005 after due notice by publication in *The City Record*, and then to decision on July 26, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board No. 14, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 73-622, to permit, in an R2 zoning district, the proposed two-story rear enlargement of an existing one-family dwelling, which does not comply with the zoning requirements for floor area, open space ratio, and side and rear yards, contrary to Z.R. §§ 23-141, 23-461, 23-47 and 54-31; and

WHEREAS, the subject lot is located on 23rd Street, 220 feet north of Avenue J, between Avenues I and J; and

WHEREAS, the subject lot has a total lot area of approximately 4,000 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing one-family home consisting of two stories and a cellar; and

WHEREAS, the applicant seeks an increase in the floor area from 2,161.6 sq. ft. (0.54 Floor Area Ratio or “FAR”) to 2,479.8 sq. ft. (0.69 FAR); the maximum floor area permitted is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the open space ratio (“OSR”) from 132% to 72.2%; the minimum OSR required is 150%; and

WHEREAS, the proposed enlargement will maintain one existing non-complying side yard of 4’-0”, which does not comply with the 5’ minimum side yard requirement; and

WHEREAS, the proposed enlargement will also maintain the other existing non-complying side yard of 7’-7”, which, when aggregated with the other side yard dimension, does not comply with the 13’ total side yard requirement; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the proposed enlargement will reduce the rear yard from 26’-4 1/4” to 20’-0”; the minimum rear yard required is 30’-0”; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20’ of the rear lot line; and

WHEREAS, the applicant states that the perimeter wall of the proposed structure will comply with the 25’ height above the base plane requirement; the perimeter wall also complies with the height of the perimeter walls of the adjacent buildings; and

WHEREAS, the applicant represents that the proposed enlargement will not reduce the light, air or ventilation of the

dwellings to the north or south of the subject residence; and
WHEREAS, the applicant further represents that as of the time of this application, every site within a 200’ radius of the subject site has been developed; and

WHEREAS, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 73-622, to permit, in an R2 zoning district, the proposed two-story rear enlargement of an existing one-family dwelling, which does not comply with the zoning requirements for floor area, open space ratio, and side and rear yards, contrary to Z.R. §§ 23-141, 23-461, 23-47 and 54-31; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked “Received July 18, 2005”-(10) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT there shall be no habitable room in the attic;

THAT the total FAR on the premises, including the attic, shall not exceed 0.69;

THAT the above conditions shall be set forth in the certificate of occupancy;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 26, 2005.

156-03-BZ

APPLICANT - Law Offices of Howard Goldman, PLLC, for

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RKO Plaza LLC & Farrington Street Developers, LLC, owner.

SUBJECT - Application May 20, 2003 - under Z.R. §72-21 – Proposed construction of a eighteen story mixed use building, Use Groups 2, 4 and 6, containing retail, community facility, 200 dwelling units and 200 parking spaces, located in an R6 within a C2-2 overlay zoning district, is contrary to Z.R. §§35-00 and 36-00.

PREMISES AFFECTED - 135-35 Northern Boulevard, northside of Main Street, Block 4958, Lots 48 and 38, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Howard Goldman, Raymond Pepe, Jay Valgora, Jack Friedman and Scott Milsom.

ACTION OF THE BOARD – Laid over to September 27, 2005, at 1:30 P.M., for continued hearing.

397-03-BZ thru 405-03-BZ

APPLICANT – Sheldon Lobel, P.C., for G & G Associates, owner.

SUBJECT – Application December 29, 2003 – under Z.R. §72-21 – to permit the proposed three story (3) plus attic building, to contain three residential units, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED –

1255 60th Street, between 12th and 13th Avenues, Block 5711, Lot 155, Borough of Brooklyn.

1257 60th Street, between 12th and 13th Avenues, Block 5711, Lot 154, Borough of Brooklyn.

1259 60th Street, between 12th and 13th Avenues, Block 5711, Lot 153, Borough of Brooklyn.

1261 60th Street, between 12th and 13th Avenues, Block 5711, Lot 152, Borough of Brooklyn.

1263 60th Street, between 12th and 13th Avenues, Block 5711, Lot 151, Borough of Brooklyn.

1265 60th Street, between 12th and 13th Avenues, Block 5711, Lot 150, Borough of Brooklyn.

1267 60th Street, between 12th and 13th Avenues, Block 5711, Lot 149, Borough of Brooklyn.

1269 60th Street, between 12th and 13th Avenues, Block 5711, Lot 148, Borough of Brooklyn.

1271 60th Street, between 12th and 13th Avenues, Block 5711, Lot 147, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Jordon Most.

ACTION OF THE BOARD – Laid over to September

13, 2005, at 1:30 P.M., for continued hearing.

36-04-BZ

APPLICANT - Petraro & Jones, LLP, for Jack Randazzo, owner.

SUBJECT - Application February 12, 1004 - under Z.R. §72-21 – to permit the proposed construction of an eight family dwelling, on a vacant lot, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 30 Carlton Avenue, west side, 240' south of Flushing Avenue, Block 2030, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Patrick Jones and Vito Rendazzo.

ACTION OF THE BOARD – Laid over to October 18, 2005, at 1:30 P.M., for continued hearing.

37-04-BZ

APPLICANT – Petraro & Jones, LLP, for Jack Randazzo, owner.

SUBJECT – Application February 12, 2004 – under Z.R. §72-21 – to permit the proposed construction of an eight family dwelling, on a vacant lot, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 32 Carlton Avenue, west side, 264' south of Flushing Avenue, Block 2030, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Patrick Jones and Vito Rendazzo.

ACTION OF THE BOARD – Laid over to October 18, 2005, at 1:30 P.M., for continued hearing.

245-04-BZ

APPLICANT – Augusta & Ross, for Mark Stern, owner.

SUBJECT – Application July 6, 2004 – under Z.R. §72-21 – to permit the proposed five-story, nine unit multiple dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED – 102/04 Franklin Avenue, west side, 182' south of Park Avenue, Block 1898, Lots 45 and 46, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to August 16, 2005, at 1:30 P.M., for continued hearing.

MINUTES

321-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Blake Lefferts Co., owner; The Montgomery Academy, lessee.

SUBJECT - Application September 23, 2004 - under Z.R.§73-19 to allow the conversion of an existing commercial building (Use Group 6) to School (Use Group 3) which is contrary to section 32-00, located in a C8-2 zoning district.

PREMISES AFFECTED - 842 Lefferts Avenue, south side, 262'-1/2" west of Utica Avenue, Block 1430, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #9BK

APPEARANCES –

For Applicant: Moshe Friedman and Miram Rothkrug.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 16, 2005, at 1:30 P.M., for decision, hearing closed.

326-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Sephardic Center of Mill Basin, owner.

SUBJECT - Application- under Z.R.§72-21 – to request a bulk variance to allow the construction of a new synagogue in place of an existing synagogue. The application seeks waivers regarding Floor area ratio (sections 24-111 and 23-141), perimeter wall height (section 24-521), sky exposure plane(section 24-521) and parking (sections 25-18 and 25-31), located in a R2 zoning district.

PREMISES AFFECTED - 6208/16 Strickland Avenue, northeast corner of Mill Avenue, Block 8656, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Lyra J. Altman, Fredrick A. Becker, Gary Blond, Frank Nunez and Hiram Rothkrug.

For Opposition: Mel Levy, Carole Hinkelman and Virginia Daidone.

ACTION OF THE BOARD – Laid over to September 13, 2005, at 1:30 P.M., for continued hearing.

352-04-BZ

APPLICANT - Eric Palatnik, P.C., for R. Randy Lee, owner.

SUBJECT - Application November 4, 2004 - Under Z.R.§72-21 – to modify the previous approval by the BSA (118-01-BZ) by altering the configuration of the subject building and to permit a change in use from Use Group 6 office use to Use Group 6 retail use, within an R3-1 Zoning District and to vary Section 22-00 of the Resolution.

PREMISES AFFECTED - 1845 Richmond Avenue, East side

of Richmond Avenue, 500 feet south of Eaton Place, Block 2030, Lot 57, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES – None.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 16, 2005, at 1:30 P.M., for decision, hearing closed.

353-04-BZ

APPLICANT – Rothkrug Rothkrug Weinberg & Spector, for Medident Corp., owner.

SUBJECT – Application November 4, 2004 – under Z.R. §11-411 and §11-412 – to permit the reestablishment of an expired approval, previously granted under Cal. No. 612-59-BZ for a professional office building in a residential district, also the legalization of minor changes in the interior layout of the building, in addition the proposed installation of a circular staircase within the existing structure, is contrary to Z.R. §11-411 and §11-412.

PREMISES AFFECTED – 18-15 Francis Lewis Boulevard, a/k/a 157-68/72 18th Avenue and 18-02/8 160th Street, corner of Francis Lewis Boulevard, 18th Avenue and 160th Street Block 4748, Lot 35, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Adam Rothkrug.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 23, 2005, at 1:30 P.M., for decision, hearing closed.

394-04-BZ/30-05-A

APPLICANT - Deirdre A. Carson/Greenberg Traurig, LLP, for 33 Mercer Street, LLC, owner.

SUBJECT - Application December 20, 2004 - under Z.R.§72-21 – to permit the proposed construction of a seven-story mixed-use building, containing residential and retail uses, whereas such uses are not permitted as right, located within an M1-5B zoning district, is contrary to Z.R. §42-10 and §42-14(D)(2)(B).

PREMISES AFFECTED - 44 Mercer Street, aka 471 Broadway, east side, 107.1/2" north of the intersection of Grand and Mercer Streets, Block 474, Lot 49, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Deirdre A. Carson.

For Opposition: Richard W. Kates and Stuart Klein.

THE VOTE TO CLOSE HEARING -

MINUTES

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to September 13, 2005, at 1:30 P.M., for decision, hearing closed.

399-04-BZ

APPLICANT – Greenberg Traurg LLP, by Jay A. Segal, for Hip-Hin Realty Corp., owner.

SUBJECT – Application December 23, 2004 – under Z.R. §§72-21 and 73-36 – Proposed use of the subcellar for accessory parking, first floor and cellar for retail, and the construction of partial sixth and seventh stories for residential use, also a special permit to allow a physical culture establishment on the cellar level, of the subject premises, located in an M1-5B zoning district, is contrary to Z.R. §42-14(D), §13-12(a) and §73-36.

PREMISES AFFECTED – 425/27 Broome Street, southeast corner of Crosby Street, Block 473, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Jay Segal, Paul Gugliotta, Alex DeMarinis, Anthony Rin, George Richards and Peter Fabry.

ACTION OF THE BOARD – Laid over to September 13, 2005, at 1:30 P.M., for continued hearing.

5-05-BZ

APPLICANT - Sheldon Lobel, P.C., for S & J Real Estate, LLC, owner.

SUBJECT - Application January 14, 2005 - under Z.R. §73-53 – to permit the enlargement of an existing non-conforming manufacturing building located within a district designated for residential use (R3-2). The application seeks to enlarge the subject contractor's establishment (Use Group 16) by 2,499.2 square feet.

PREMISES AFFECTED - 59-25 Fresh Meadow Lane, east side, between Horace Harding Expressway and 59th Avenue, Block 6887, Lot 24, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Janice Cahalane.

For Opposition: Mary Halikiopoulos and Lambros Halikiopoulos.

ACTION OF THE BOARD - Laid over to September 20, 2005, at 1:30 P.M., for continued hearing.

6-05-BZ

APPLICANT – Eric Palatnik, P.C., for Isaac and Renee Sasson, owners.

SUBJECT – Application January 14, 2005 – under Z.R. §73-622 an enlargement to a single family home to vary sections

Z.R. §23-141 for open space and floor area, Z.R. §23-46 for side yards and Z.R. §23-47 for rear yard. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 3046 Bedford Avenue, between Avenues “I and J”, Block 7588, Lot 52, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 16, 2005, at 1:30 P.M., for decision, hearing closed.

12-05-BZ

APPLICANT – Eric Palatnik, P.C., for Dina Horowitz, owner.

SUBJECT – Application January 21, 2005 – under Z.R. §73-622 for an enlargement to a single family home to vary sections Z.R. §23-141 for floor area, Z.R. §23-461 for side yards and Z.R. §23-47 for rear yard. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 1662 East 28th Street, between Quentin Road and Avenue “P”, Block 6790, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 9, 2005, at 1:30 P.M., for decision, hearing closed.

13-05-BZ

APPLICANT – Stuart Klein for GIM Management & Sheepshead Bay Spa Center, lessee.

SUBJECT – Application January 25, 2005 – under Z.R. §§73-03 and 73-36 – approval sought for a proposed physical cultural establishments to be located on the first and second of a three story commercial building. The proposed PCEs use will contain 39,505 gross square feet. The site is located in a C8-02(OP) Special District.

PREMISES AFFECTED – 614-626 Sheepshead Bay Road, bound by West 8th and West 6th Street, Block 7279, Lot 6, Borough of Brooklyn.

MINUTES

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Stuart Klein.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 16,
2005, at 1:30 P.M., for decision, hearing closed.

44-05-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for
David Murray & Adrienne Berman, owners.

SUBJECT - Application February 25, 2005 - under
Z.R.§73-243, to permit an Accessory Drive Through Facility,
contrary to Section 32-15, accessory to a proposed as-of-right
Eating and Drinking Establishment (Use Group 6) located in
a C1-2/R5 zoning district.

PREMISES AFFECTED - 49-01 Beach Channel Drive,
between Beach 49th and Beach 50th Streets, Block 15841,
Lot 19 (Tentative 50), Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Laid over to September
13, 2005, at 1:30 P.M., for continued hearing.

69-05-BZ

APPLICANT - Moshe M. Friedman, P.E., for Renee Devor,
owner.

SUBJECT - Application March 22, 2005 - under
Z.R.§73-622 to permit the enlargement to a single family
home to vary sections ZR23-141(b) for FAR, lot coverage,
open space and ZR23-47 for rear yard. The premise is located
in an R3-2 zoning district.

PREMISES AFFECTED - 1557 East 27th Street, 527.8' north
of Avenue "P", Block 7688, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Moshe M. Friedman.

ACTION OF THE BOARD – Laid over to August 16,
2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 5:55 P.M

BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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Volume 90, Nos. 33-34

August 18, 2005

DIRECTORY

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John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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DOCKETS

New Case Filed Up to August 9, 2005

170-05-BZ B. BK 791 Autumn Avenue,
East side of Autumn Avenue between Dumont Avenue and
Linden Blvd., Block 4465, Lot 44, Borough of Brooklyn.
Applic. # 301940498. Application to permit within an R5
zoning district the erection of a two family home on an
approximately 20' x 100' zoning lot which is contrary to
Z.R § 23-49 and § 23-461.

COMMUNITY BOARD #5BK

171-05-BZ B. M 568 Broadway a/k/a
69-79 Prince Street and 108-112 Crosby Street, Northeast
corner of Broadway and Prince Street, Block 511, Lot 1,
Borough of Manhattan, Applic. # 104165154. This
application seeks special permit under section 73-36 ZR to
permit the operation of a physical culture establishment.

COMMUNITY BOARD #2M

172-05-BZ B. BK 50 Court Street a/k/a
194-204 Joralemon Street, Southwest corner of Court and
Joralemon Streets, Block 265, Lot 43, Borough of Brooklyn,
Applic. # 301981470. This application seeks special permit
under section 73-36 ZR to permit the operation of a physical
culture establishment.

COMMUNITY BOARD #2BK

173-05-A B. Q 85-24 168th Place,
Premises are situated at the West side of 168th Place, 200
feet South of the corner formed by the intersection of 168th
Place and Gothic Drive, Block 9851, Lot 47, Borough of
Queens, Applic. # 401954033. Appeal the Borough
Commissioner's Revocation of Construction permits
following a change in the zoning from R5 to R4.

174-05-A B. M 60 Hudson Street,
between Worth & Thomas Streets, Block 144, Lot 40,
Borough of Manhattan, Applic. # Letter dated July 29,
2005. Neighbors against N.O.I.S.E. is appealing the New
York City Department of Buildings granting variation to the
New York City administrative Code § 27-829(b) (1).

175-05-BZ B. BK 18-24 Luquer Street,
Luquer Street between Hicks and Columbia Streets, Block

520, Lot(s) 13 & 16, Borough of Brooklyn, Applic. #
301973639. To permit the proposed residential
development at the premises which situates in an M1-1
zoning District and is contrary to ZR §42-00.

COMMUNITY BOARD # 6BK

176-05-A B. Q 27 Fulton Walk,
South side 35.32' North of Breezy Point Blvd., Block
16350, Lot 400, Borough of Queens, Applic. # 402103781.
Site and Building not fronting a mapped Street contrary to
Article 3, Section 36 GCL & Sec. 27- 291 Administrative
Code of the City of New York and the private disposal
system in the bed of a private service road is contrary to
Department of Buildings policy.

177-05-A B. Q 5 Arcadia Walk,
East side 24.87' South of mapped Breezy Point Blvd., Block
16350, Lot 400, Borough of Queens, Applic. # 402117311.
Site and Building not fronting a mapped Street contrary to
Article 3, Section 36 GCL & Sec. 27- 291 Administrative
Code of the City of New York, the building is partially in
the bed of a mapped Street contrary to Article 3 Section 35
of the GCL and and the private disposal system in the bed of
a mapped street is contrary to Department of Buildings
policy.

178-05-A B. Q 952 Bayside Walk,
West side 196.33' North of Beach 209th Street, Block
16350, Lot 300, Borough of Queens, Applic. # 402103772.
and Building not fronting a mapped Street contrary to
Article 3, Section 36 GCL & Sec. 27- 291 Administrative
Code of the City of New York.

179-05-BZ B. BK 139 Langham Street,
East side 311'-8 7/8" South of Shore Blvd., Block 8755, Lot
84, Borough of Brooklyn, Applic. # 301981069. A special
permit to erect a two story rear enlargement in the existing
R3-1

COMMUNITY BOARD #15BK

DOCKETS

180-05-BZ B. M 1511 Third Avenue
a/k/a 201 East 85th Street, Northeast corner of 85th Street and
Third Avenue, Block 1531, Lot 1, Borough of Manhattan,
Applic. # 103869182. Legalize the operation of an existing
physical culture establishment pursuant to § 73-63.

COMMUNITY BOARD #8M

181-05-A B. Q 22 Atlantic Walk, West
side 3.59' North of Breezy Point Blvd., Block 16350, Lot
400, Borough of Queens, Applic. # 402182810. Propose to
construct a two (2) story home on a site that lies within an
R4 zone but is contrary to Article 3, Section 36 (2) of the
GCL in that the site does not front on a mapped Street,
contrary to Section 35 of the GCL in that the property also
lies within the bed of a street that is mapped and contrary to
§ 27-291 of the NYC Bldg. Code.

182-05-BZ B. M 4 Park Avenue,
between East 33 rd and East 34th Streets, Block 863, Lot 44,
Borough of Manhattan, Applic. # 104098343. Special
permit to allow the legalization of a physical culture
establishment in a C5-3 Zoning district.

COMMUNITY BOARD #5M

183-04-BZ B.Q 25-09 38th Avenue, North
East corner of the intersection of Crescent Street and 38th
Avenue, Block 368, Lot 1, Borough of Queens, Applic. #
4020251611. Permit the enlargement of the existing two
story building by adding four floors and to permit floors two
through six to be put to residential use, said residential use is
not permitted in the M1-3D zoning district.

COMMUNITY BOARD #1Q

184-05-A B. Q 207-14 43rd Avenue, South
side of 43rd Avenue between 207th and 208th Streets, Block
6274, Lot 7, Borough of Queens, Applic. # 402109972. An
Administrative Appeal pursuant to the common-law doctrine
of vested rights, requesting a determination that the owner of
the premises has completed substantial construction and
incurred substantial financial expenditures prior to a zoning
amendment and therefore should be permitted to complete
construction in accordance with the previously approved
building permits.

185-05-BZ B. Q 62-02 Roosevelt Avenue,
South side of Roosevelt Ave. 101ft from the corner formed
by the intersection of the LIRR tracks with Roosevelt Ave.

and 192' 59" from the corner formed by the intersection of
Roosevelt Ave. & 63rd Street, Block 1294, Lot 58, Borough
of Queens, Applic. # 402105253. This application is to
allow a variance from the use of the permitted uses at the
site. The site, an oddly shaped lot with little relative street
frontage, is located between the LIRR right-of-way and the
elevated # 7 train along Roosevelt Ave. within an R6 district
with a C1-2 commercial overlay. The building currently has
a C.O that allows a ground floor Mexican Restaurant and
offices on the second floor. The applicant is requesting that
a dance floor be permitted approximately 450' of the
restaurant and that would change the applicable use group
on the second floor to use group 12 as of-right in the district.

COMMUNITY BOARD #2Q

186-05-A B. Q 13 Beach 221st Street,
East of Beach 221st Street 247.46' South of Rockaway Point
Blvd., Block 16350, Lot 400, Borough of Queens, Applic. #
letter dated July 14, 2005. The Building is not fronting a
mapped street Art. 3, Sec. 36 of the GCL, and not having at
least 8% of perimeter fronting on a mapped street contrary
to 27-291 A.C & upgrade of existing private disposal system
is contrary to Department policy.

187-05-BZ B. Q 78-20 67th Road,
Southerly side of 67th Road, 170' easterly of 78th Street,
Block 3777, Lot 17, Borough of Queens, Applic. #
402168845. Propose to build a two family dwelling that
will comply with all zoning requirements with the exception
of two non-complying side yards and undersized lot area
due to a pre-existing condition.

COMMUNITY BOARD #5Q

DESIGNATIONS: D-Department of Buildings; B.BK.-
Department of Buildings, Brooklyn; B.M.-Department of
Buildings, B.Q.-Department of Buildings, Queens; B.S.I.-
Department of Buildings, Staten Island; B.BX.-
Department of Buildings, The Bronx; H.D.-Health
Department; F.D.-Fire Department.

CALENDAR

SEPTEMBER 13, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, September 13, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

SPECIAL ORDER CALENDAR

130-39-A

APPLICANT – Greenberg & Traurig, for Ann Rauch, owner.

SUBJECT – Application December 7, 2004 – reopening for an amendment to permit an existing building constructed in the bed of a mapped street, pursuant to Board resolution, and subsequently expanded pursuant to approval from the Department of Buildings, to be further enlarged and that such enlargement include second and third stories that continue a non-complying side yard condition, located in R1-2 zoning district.

PREMISES AFFECTED – 2 Ploughman’s Bush (aka 665 W. 246th Street). Block 5924, Lot 523, Borough of The Bronx.

COMMUNITY BOARD #8BX

878-80-BZ

APPLICANT - Kim Lee Vauss, for Nexus Property Management, LLC, owner.

SUBJECT - Application April 19, 2005 - reopening for an amendment to previous granted variance to convert the existing commercial UG6 on the second and fourth floors to residential/studio UG 2 & 9. The premise is located in an M1-6 zoning district.

PREMISES AFFECTED - 41 West 24th Street, Block 800, Lot 16, Borough of Manhattan

COMMUNITY BOARD #4M

983-83-BZ

APPLICANT - Sullivan, Chester & Gardner P.C., for Sutphin Rochdale Realty, LLC, owner.

SUBJECT - Application January 14, 2005 - Proposed Amendment to a Variance to enlarge a portion of the existing building by 700 sq. ft. and to eliminate the single use on site to house four(4) commercial tenants. The subject premise is located in an R3-2 zoning district.

PREMISES AFFECTED - 34-42/60 Guy R. Brewer Boulevard, northwest corner of 137th Avenue, Block 12300, Lot 30, Borough of Queens

COMMUNITY BOARD #12Q

APPEALS CALENDAR

235-04-A

APPLICANT - Rothkrug, Rothkrug, Weinberg & Spector, LLP for Thomas & Susan Acquafredda, owner.

SUBJECT - Application filed on June 22, 2005 -

Proposed construction in the bed of a privately-owned, final mapped street, is contrary to Article 3, Section 35 of the General City Law.

PREMISES AFFECTED - 3096 Dare Place, north side of Casler Place, 199.6' east of Pennyfield Avenue, Block 5529, Lot 488, Borough of The Bronx.

COMMUNITY BOARD #10BX

236-04-A

APPLICANT - Rothkrug, Rothkrug, Wenig & Spector, LLP for Thomas & Susan Acquafredda, owner.

SUBJECT - Application filed on June 22, 2005 - Proposed construction in the bed of a privately-owned, final mapped street, is contrary to Article 3, Section 35 of the General City Law.

PREMISES AFFECTED - 3094 Dare Place, north side of Casler Place, 192.48' east of Pennyfield Avenue, Block 5529, Lot 487, Borough of The Bronx.

COMMUNITY BOARD #10BX

91-05-A

APPLICANT - The Agusta Group, for Colin Shaughnessy, owner.

SUBJECT - Application filed on April 14, 2005 - Proposed construction of a two family dwelling, which lies partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 60-04 172nd Street, west side, 105.5' from Horace Harding Expressway, Block 6880, Lot 23, Borough of Queens.

COMMUNITY BOARD #7Q

157-05-A

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative, Inc., owner; David & Joan Demm, lessees.

SUBJECT - Application filed on July 6, 2005 - Appeals to Department of Buildings to allow construction of a two story frame dwelling on a site lying within an R4 district is contrary to Article 3, Section 36 of the General City Law, in that the site does not front on a mapped Street (Kildare Walk) and contrary to Sec. 27-291 of the Building Code.

PREMISES AFFECTED - 39 Kildare Walk, E/S 70' North of Breezy Point Boulevard, Queens, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

CALENDAR

158-05-A

APPLICANT - Gary Lenhart, R.A., The Breezy Point Cooperative, Inc., owner; Elizabeth & Richard Graham, lessees.

SUBJECT - Application filed on July 7, 2005 - Appeals to Department of Buildings to reconstruct and enlarge an existing single family frame dwelling not fronting on a mapped street contrary to General City Law Article 3, Section 36 and upgrading an existing private disposal system located in the bed of the service lane contrary to Building Department Policy.

PREMISES AFFECTED - 15 Atlantic Walk, E/S Atlantic Walk 100.17' N/O Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

SEPTEMBER 13 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, September 13, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

ZONING CALENDAR

338-04-BZ

APPLICANT – Martyn & Don Weston, for Hi-Tech Equipment Rental Inc., owner.

SUBJECT – Application October 12, 2004 - under Z.R.§72-21 to permit the proposed construction of a one story and cellar extension to an as-of-right six story hotel, and to permit on grade accessory parking and below grade showroom/retail use, in an R5 zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 806/14 Coney Island Avenue, west side, 300.75' north of Ditmas Avenue, Block 5393, Tentative Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #12BK

357-04-BZ

APPLICANT – Alfonso Duarte, for Charles Howard, owner.

SUBJECT – Application November 12, 2004 - under Z.R.§72-21 to permit the proposed erection of a two story medical facility, located in an R3-2 zoning district, which does not comply with the zoning requirements for second floor occupancy, lot coverage, front yards, side yard, off-street parking spaces and penetration of the exposure plane, is contrary to Z.R. §22-14, §24-11, §24-33, §24-34, §24-35, §25-31 and §24-521; and the proposed use of the site, for off-site accessory parking, for a proposed medical facility across the street, is contrary to §25-51.

PREMISES AFFECTED - 707 Cross Bay Boulevard, southwest corner of 98th Street, Block 15311, Lot 11, Borough of Queens.

COMMUNITY BOARD #14Q

358-04-BZ

APPLICANT – Alfonso Duarte, for Charles Howard, owner. SUBJECT – Application November 12, 2004 - under Z.R.§72-21 to permit the proposed use of the site, for off-site accessory parking, for a proposed medical facility across the street, is contrary to §25-31.

PREMISES AFFECTED - 728 Cross Bay Boulevard, southeast corner of 194th Avenue, Block 15453, Lot 8, Borough of Queens.

COMMUNITY BOARD #14Q

19-05-BZ

APPLICANT – Slater & Beckerman, LLP, for Groff Studios Corporation, owner.

SUBJECT – Application January 31, 2005 – under Z.R. §72-211, to permit, in an M1-6 zoning district, the change of use of portions of a nine-story, mixed-use building to Use Group 2 residential use which is contrary to ZR Section 42-00.

PREMISES AFFECTED – 151 West 28th Street, north side, 101' east of Seventh Avenue, Block 804, Lot 8, Borough of Manhattan.

COMMUNITY BOARD #5M

60-05-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Aslan Azrak, owner.

SUBJECT – Application March 10, 2005 - under Z.R.§ZR73-622 Special Permit - the enlargement of a semi detached single family home. The proposed enlargement to vary ZR sections 23-141(b) for FAR, open space and lot coverage, 23-47 for less than the required rear yard. The premise is located in an R4 zoning district. This proposed enlargement is also seeking to separate from the attached residence thereby creating two detached residences.

PREMISES AFFECTED – 1024 Lancaster Avenue, Lancaster Avenue between East 12th Street and Coney Island Avenue, Block 7394, Lot 50, Borough of Brooklyn.

COMMUNITY BOARD #15BK

97-05-BZ

APPLICANT – Dennis D. Dell'Angelo, R.A., for Abraham Y. Gelb, owner.

CALENDAR

SUBJECT – Application April 22, 2005 - under Z.R.§ZR73-

622 Special Permit - the enlargement of a single family residence to vary zoning section ZR 23-141 for open space and floor area, ZR 23-46 for less than the minimum required side yard and ZR 23-47 for less than the required rear yard. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1107 East 21st Street, east side 153' north of Avenue J, Block 78585, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #14BK

126-05-BZ

APPLICANT – Eric Palatnik, P.C., for Moshe Hirsch, owner.

SUBJECT – Application May 20, 2005 - under Z.R.§ZR73-622 Special Permit - The enlargement of a single family residence to vary ZR sections 23-141 (open space and floor area), 23-46 (side yard) and 23-47 (rear yard). The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1282 East 27th Street, West side of East 27th Street, north of the intersection of E. 27th Street and Avenue M, Block 7644, Lot 79, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, AUGUST 9, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, April 19, 2005, were approved as printed in the Bulletin of April 28, 2005, Volume 90, Nos. 19-20.

SPECIAL ORDER CALENDAR

614-74-BZ

APPLICANT – Ross F. Moskowitz, Stroock & Stroock & Lavan, LLP, for Sixty East End Owner, Inc., lessee.

SUBJECT - Application February 18, 2005 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired March 11, 2000.

PREMISES AFFECTED - 60 East End Avenue west side a/k/a 532-538 East 83rd Street a/k/a 531-537 East 82nd Street, Block 1579, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Susan Shaw.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and for a re-opening and an extension of the term of the variance; and

WHEREAS, a public hearing was held on this application on July 12, 2005, after due notice by publication in *The City Record*, and then to decision on August 9, 2005; and

WHEREAS, Community Board No. 8, Manhattan, recommends approval of this application; and

WHEREAS, the premises is situated on the west side of East End Avenue, at the intersection of East 82nd Street and East End Avenue, extending through to East 83rd Street; and

WHEREAS, on March 11, 1975, the Board granted an

application pursuant to Z.R. §§ 25-412 and 22-10, under the subject calendar number, to permit, in an R10 and R8 zoning district, transient parking within an existing garage accessory to a 42-story multiple dwelling, for a term of 15 years; and

WHEREAS, on February 11, 1992, the Board reopened and amended the original resolution to extend the term of the grant for a period of ten years; and

WHEREAS, the most recent term of the variance expired on March 11, 2000; and

WHEREAS, the applicant now seeks to extend the term of the variance for a term of ten years pursuant to Z.R. § 11-411; and

WHEREAS, the applicant represents that there is still a need for transient parking on the subject premises because the garage currently serves visitors, doctors' offices and residents in the neighborhood; and

WHEREAS, the applicant further represents that the ability to park in the subject garage for short periods of time greatly benefits the community because it significantly decreases the number of cars seeking curbside parking and lessens street congestion; and

WHEREAS, in response to the Board's concerns, recapture signs were posted and are now prominently displayed in the garage and lobby areas of the premises; and

WHEREAS, in light of the above changes, the Board finds that the requested extension of term is appropriate, with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens and amends* the resolution, adopted on March 11, 1975, so that as amended this portion of the resolution shall read: "to extend the term for ten years from March 11, 2000; *on condition* that all work and site conditions shall substantially conform to drawings filed with this application marked 'August 3, 2004' – (2) sheets; and *on further condition*;

THAT the term of this grant shall be for ten years, to expire on March 11, 2010;

THAT all layouts and exits shall be as approved by DOB;

THAT the number of transient parking spaces shall not exceed 50;

THAT the above conditions shall 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; and

MINUTES

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 103996687)

Adopted by the Board of Standards and Appeals, August 9, 2005.

328-82-BZ

APPLICANT - Agusta & Ross, for Parkhouse Hotel, Inc., owner.

SUBJECT - Application February 4, 2005 - Extension of Term/Waiver of a variance to permit a transient hotel (UG 5) which expired on January 18, 2003. The premise is located in an R-6 zoning district.

PREMISES AFFECTED - 1206 48th Street, southwest corner of 48th Street and 12th Avenue, Block 5634, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Mitchell Ross.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening and an extension of the term of the variance; and

WHEREAS, a public hearing was held on this application on July 26, 2005, after due notice by publication in *The City Record*, and then to decision on August 9, 2005; and

WHEREAS, Community Board No. 12, Brooklyn, recommends approval of this application; and

WHEREAS, the premises is located on the southwest corner of 48th Street and 12th Avenue, with a lobby entrance on 48th Street; and

WHEREAS, on January 18, 1983, the Board granted an application, under the subject calendar number, to permit, in an R6 zoning district, a transient hotel (UG 5); and

WHEREAS, on February 7, 1995, the Board reopened and extended the term of the variance for ten years from the date of

the prior expiration; and

WHEREAS, the most recent term of the variance expired on January 18, 2003; and

WHEREAS, the existing transient hotel consists of four stories that contain a total of forty-three transient suites, with ten suites on the first floor and eleven suites on each of the remaining three floors; the hotel cellar contains an accessory superintendent’s unit and an accessory eating and drinking establishment; and

WHEREAS, the applicant now seeks an extension of the term of the variance; and

WHEREAS, the applicant states that the manner of use of the facility has not changed since its original approval in 1983; and

WHEREAS, the applicant represents that the building is equipped with an NFPA No. 72A Fire Alarm System, that all call stations are connected to a central station alarm, and that there is a local audible alarm; additionally, all rooms are equipped with hard wired smoke and CO detectors, and the basement and all public areas are sprinklered; and

WHEREAS, the applicant further represents that the even though the hotel is located in an R6 zoning district, the commercial overlay districts to the south and west of the subject lot and the various other commercial uses on the block combine to create a busy, mixed-use area within which the subject hotel fits; and

WHEREAS, the Board finds that the requested extension of term is appropriate, with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens and amends* the resolution, adopted on January 18, 1983, so that as amended this portion of the resolution shall read: “to extend the term for ten years from January 18, 2003; *on condition*;

THAT the term of this grant shall be for ten years, to expire on January 18, 2013;

THAT the above condition shall 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; 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

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laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 301863142)

Adopted by the Board of Standards and Appeals, August 9, 2005.

169-91-BZ

APPLICANT - Ellen Hay/Wachtel & Masyr, LLP, for Broadway Wilson Realty, LLC, owner; Crunch Fitness International, Inc., lessee.

SUBJECT - Application March 21, 2005 - Extension of Term for the continued operation of a PCE/Waiver and Amendment to legalize additional floor area. The premise is located in a M1-5B zoning district.

PREMISES AFFECTED - 404 Lafayette Street aka 708 Broadway, Lafayette Street and East 4th Street, Block 545, Lot 6, Borough of Manhattan.

COMMUNITY BOARD 2M

APPEARANCES -

For Applicant: Ellen Hay.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening to amend the resolution, and an extension of the term of the previously granted special permit that expired on May 18, 2003; and

WHEREAS, a public hearing was held on this application on July 19, 2005, after due notice by publication in *The City Record*, and then to decision on August 9, 2005; and

WHEREAS, Community Board No. 2, Manhattan, recommends approval of the subject application; and

WHEREAS, the subject premises contains a through block building situated on the west side of Lafayette Street and the east side of Broadway between Astor Place and East 4th Street; and

WHEREAS, the zoning lot on the Lafayette Street portion of the property is developed with an eight story building, and the zoning lot on the Broadway portion of the lot is developed with a ten story building; the property is fully occupied with commercial tenants; and

WHEREAS, on May 18, 1993, the Board granted a

special permit application pursuant to Z.R. § 73-36, to permit, in an M1-5B zoning district, the use of the cellar and first floor of the existing ten story building as a physical culture establishment (“PCE”); such permit expired as of May 18, 2003; and

WHEREAS, the resolution was amended on October 8, 1996 to allow for a change in ownership, an increase of the floor area of the cellar, an extension of time to obtain the Certificate of Occupancy, and a change in the hours of operation; and

WHEREAS, on June 29, 1999, the Landmarks Preservation Commission (the “LPC”) designated the NOHO Historic District which includes the subject property; since the designation, LPC has reviewed and approved several applications and plans filed with the Department of Buildings (the “DOB”) pertaining to the subject PCE; and

WHEREAS, the instant application seeks, pursuant to Z.R. § 73-11, to: 1) extend the term of the special permit for ten years; 2) amend the cellar and first floor plans; and 3) legalize the increase in floor area of the PCE with the addition to the second floor; and

WHEREAS, the applicant represents that the enlargement comprises 10,069 sq. ft. of floor area entirely on the second floor of the PCE; and

WHEREAS, the applicant represents that the owner of the PCE (“Crunch Fitness”) has submitted all of the required plans and applications for the construction permits to DOB and has completed the necessary steps required to obtain the Certificate of Occupancy for the premises; and

WHEREAS, the applicant further represents that Crunch Fitness has successfully pursued the removal of the outstanding construction violations, including the removal of the improperly installed marquee from the entrance of the facility on Lafayette Street; and

WHEREAS, in response to the Board’s concerns, the applicant notes that Crunch Fitness has two legal signs located on the premises which are permitted and have been approved by DOB; and

WHEREAS, the applicant states that the PCE will continue to service approximately 1,000 members per day and will continue to offer classes in aerobics, weight training, fitness and related health and physical development programs; and

WHEREAS, the applicant represents that the days and hours of operation will remain the same: twenty-four hours per day Monday through Friday; 6 A.M. to 10 P.M. Saturday, and 8 A.M. to 10 P.M. Sunday; and

WHEREAS, the Board finds that the applicant continues to meet the requirements of Z.R. § 73-36; and

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WHEREAS, therefore, the Board finds that this application is appropriate to grant, with the conditions set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit an extension of the term of the special permit for a term of ten years and an increase in the facility's floor area of 10,069 sq. ft. at the second floor of the building; *on condition* that the expansion shall substantially conform to drawings as filed with this application, marked 'June 8, 2005'-(2) sheets and 'July 20, 2005' - (4) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years from May 18, 2003, expiring May 18 2013; and

THAT the hours of operation shall be: twenty-four hours per day Monday through Friday; 6 A.M. to 10 P.M. Saturday, and 8 A.M. to 10 P.M. Sunday;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT fire protection measures, including exit signs, emergency lighting, sprinklers and fire extinguishers shall be installed and maintained as indicated on the BSA-approved plans; and

THAT the PCE shall comply with Local Law 58 of 1987, as determined by DOB;

THAT all exits shall be as approved by DOB;

THAT all signage shall comply with signage regulations applicable in M1-5B zoning districts;

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. 102584071)

Adopted by the Board of Standards and Appeals, August 9, 2005.

164-99-BZ

APPLICANT – Guy M. Harding, for Oscar Franco & Ivan Duque, owners.

SUBJECT – Application January 31, 2005 – Extension of Term/Waiver of a Special Permit for and entertainment and dancing establishment (UG 12) located in a C2-3/R6 zoning district.

PREMISES AFFECTED – 79-03 Roosevelt Avenue, north side of Roosevelt Avenue, 22' east from intersection of 79th Street and Roosevelt Avenue, Block 1290, Lot 46, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES – None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, and a re-opening and an extension of the term of a special permit previously granted by the Board; and

WHEREAS, a public hearing was held on this application on July 12, 2005, after due notice by publication in the *City Record*, then to decision on August 9, 2005; and

WHEREAS, Community Board No. 3, Queens, recommends approval of this application subject to the following conditions: 1) that patrons not congregate in front of the establishment and that staff better monitor crowds during satellite sports events; and 2) that the waiting area should not be utilized as an extension of the club by serving drinks or food; and

WHEREAS, the premises is located on the north side of Roosevelt Avenue, east of the intersection of 79th Street and Roosevelt Avenue, and

WHEREAS, the premises is currently improved upon with a two-story building that houses an entertainment and dancing establishment (UG 12) on both floors; and

WHEREAS, on June 6, 1989, under calendar number 873-87-BZ, the Board granted a special permit pursuant to Z.R. § 73-244, to permit, in a C2-3(R6) zoning district, an entertainment and dancing establishment (UG 12); and

WHEREAS, on August 15, 2000, under the subject calendar number, the Board granted an extension of the special permit for a term of three years; such extension expired on August 15, 2003; and

WHEREAS, the applicant now seeks an extension of the term of the special permit for a term of three years; and

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WHEREAS, the applicant represents that no cooking takes place on the premises; and

WHEREAS, the applicant further represents that the establishment is open from 8 p.m. to 4 a.m., during which heavy vehicular traffic is at a minimum; moreover, because there is ample on-street and public parking within the vicinity of the site, as well as a second floor waiting area, the use does not cause any undue vehicular or pedestrian congestion in local streets or at the first floor level; and

WHEREAS, in response to the Community Board's concerns and at the direction of the Board, the applicant has agreed to refrain from serving food or drink on the second floor and to remove the tables and chairs from that area; and

WHEREAS, the Board has determined that the evidence in the record supports the grant of the requested extension of term.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the resolution for three years from August 15, 2003 expiring August 15, 2006; *on condition* that this use shall substantially conform to drawings for the ground floor and cellar of the building filed with this application marked 'Received January 31, 2005'-(2) sheets; and *on further condition*:

THAT the hours of operation shall be from 8 p.m. until 4 a.m.;

THAT there shall be no tables or chairs and no eating or drinking on the second floor;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT all conditions from prior resolution(s) not specifically waived by the Board remain in effect and shall be listed on the certificate of occupancy if listed previously;

THAT the interior layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 401619192)

Adopted by the Board of Standards and Appeals, August 9, 2005.

186-00-BZ

APPLICANT - Law Office of Fredrick A. Becker, for Stacey Dana and Murray Dana, owners.

SUBJECT - Application April 14, 2005 - reopening for an extension of time which expired April 17, 2005.

PREMISES AFFECTED - 2301 Avenue L, northeast corner of Avenue L and East 23rd Street, Block 7623, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Lyra Altman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an extension of time to obtain a new certificate of occupancy; and

WHEREAS, a public hearing was held on this application on July 26, 2005 after due notice by publication in the *City Record*, and then to decision on August 9, 2005; and

WHEREAS, on April 17, 2001, the Board granted a special permit under Z.R.§73-622 to permit an enlargement of a single family home that did not comply with the requirements for floor area ratio, open space ratio and side yards; and

WHEREAS, as a condition of the initial grant, the applicant was to obtain a certificate of occupancy within four years from the date of the grant; and

WHEREAS, the time to obtain a certificate of occupancy expired on April 17, 2005, and the applicant represents that it was unable to obtain a certificate of occupancy as of that date; and

WHEREAS, therefore, the Board has determined that the evidence in record supports the grant of the requested extension.

Therefore it is Resolved, that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on April 17, 2001, so that as amended this portion of the resolution shall read: "to permit an extension of the time to obtain a certificate of occupancy for an additional one year from the date of the earlier expiration, to expire on April 17, 2006; *on condition*:

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

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THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 301025717)

Adopted by the Board of Standards and Appeals, August 9, 2005.

558-51-BZ

APPLICANT – Eric Palatnik, P.C., B.P Products North America, owner.

SUBJECT – Application April 28, 2005 – Extension of Time to obtain a Certificate of Occupancy for a gasoline service station which expires on August 5, 2005. The premise is located in an C2-2/R-5 zoning district.

PREMISES – 68-22 Northern Boulevard, southwest corner of Northern Boulevard and 69th Street, Block 1186, Lot 19, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Eric Palatnik

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 23, 2005, at 10 A.M., for decision, hearing closed.

886-87-BZ

APPLICANT - Stuart Allen Klein, for Rockford R. Chun, owner.

SUBJECT - Application March 22, 2005 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of the special permit.

PREMISES AFFECTED - 11 East 36th Street, aka 10 East 37th Street, 200' east of 5th Avenue, Block 866, Lot 11, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Stuart Klein.

ACTION OF THE BOARD - Laid over to September 13, 2005, at 10 A.M., for continued hearing.

203-92-BZ

APPLICANT – Sullivan, Chester & Gardner, P.C., for Austin-Forest Assoc., owner; Lucille Roberts Org., d/b/a Lucille Roberts Figure Salon, lessee.

SUBJECT – January 26, 2005 Extension of Term/Amendment/Waiver for a physical culture establishment. The premise is located in an R8-2 zoning district.

PREMISES AFFECTED – 70-20 Austin Street, south side, 333' west of 71st Avenue, Block 3234, Lot 173, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES –

For Applicant: Jeffrey Chester.

For Administration: Anthony Scaduto, FDNY

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for continued hearing.

44-99-BZ

APPLICANT - Vito J. Fossella, P.E., for Michael Bottalico, owner.

SUBJECT - Application January 24, 2005 – Extension of Term of a variance for an automotive repair shop, located in an R3A zoning district.

PREMISES AFFECTED – 194 Brighton Avenue, south side of Brighton Avenue, southwest of the corner formed by the intersection of Summers Place and Brighton Avenue, Block 117, Lot 20, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Sameh El-Meniawy and Mike Bohalico.

ACTION OF THE BOARD - Laid over to September 13, 2005, at 10 A.M., for continued hearing.

227-00-BZ

APPLICANT – Sheldon Lobel, P.C., for Moshe Nachum, owner.

SUBJECT – Application April 22, 2005 – reopening for an extension of time to obtain a Certificate of Occupancy which expired April 24, 2005.

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PREMISES AFFECTED – 1869 East 23rd Street between Avenue R & Avenue S, Block 6829, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Zara Fernandes.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 23, 2005, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

397-04-A

APPLICANT – Petraro & Jones, LLP., for Jennifer Walker, owner.

SUBJECT – Application December 23, 2004 – An appeal to request the Board to determine that the apartment house at subject premises, is not a “single room occupancy multiple dwelling” and (2) nullify the Department of Buildings’ plan review “objection” that resulted in this appeal application.

PREMISES AFFECTED - 151 West 76th Street, north side, 471’ from the intersection of Columbus Avenue, Block 1148, Lot 112, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Patrick Jones.

For Administration: Janine A. Gaylard.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the instant appeal comes before the Board in response to a determination made on behalf of the Manhattan Borough Commissioner, dated December 17, 2004; the specific objection states “Provide Letter of No Harassment for SRO”; and

WHEREAS, a public hearing was held on this application on March 29, 2005 after due notice by publication in the City Record, with continued hearings on May 10, 2005 and June 14, 2005, and then to decision on August 9, 2005; and

WHEREAS, this appeal is being brought on behalf of the fee owner of the referenced premises (the “appellant”); the pre-appeal procedural history of this matter is outlined in detail in the March 22, 2005 Department of Buildings (“DOB”) submission; and

WHEREAS, the premises is a five-story building located in and R8 zoning district, and does not have a certificate of occupancy (“CO”); and

WHEREAS, in the mid-1990s and in the early part of this decade, certain residents in the building applied for job permits that would ultimately require issuance of a CO; DOB initially approved the applications without requiring a Certificate of No Harassment (“CNH”) in compliance with Local Law 19 of 1983 (“LL19”), as no indication was made in them that the building may have been an “single room occupancy” (“SRO”) dwelling; and

WHEREAS, LL19 provides, in part, that prior to the authorization by DOB of a conversion of any SRO units to Class A apartments (for permanent residence purposes), the applicant for such conversion must obtain a CNH from the New York City Department of Housing Preservation and Development (“HPD”), the issuance of which indicates, in sum and substance, that the owner of SRO units to be altered or converted did not engage in harassment of the SRO unit occupants over a certain period of time; and

WHEREAS, after further review, DOB determined that the building was an SRO; thus, the above-mentioned application approvals were rescinded; and

WHEREAS, appellant now desires to obtain a CO for the building, legalizing existing conditions within the building (purportedly, the units contain kitchens and bathroom indicative of Class A apartments), and brings the instant appeal of DOB’s decision to apply LL19’s CNH requirement to any application to legalize said conditions; as the pre-appeal procedural history indicates, compliance with the CNH requirement has proven difficult for the appellant; and

WHEREAS, the appeal raises three separate but related issues: (1) whether the legal use of the premises is a SRO; (2) whether the legal use or the actual use of the building is relevant to an exemption from LL19 set forth at Section 27-198(a)(6) of the Administrative Code of the City of New York; and (3) notwithstanding the legal status of the building, is there sufficient evidence that the actual use of the building changed to Class A apartment building at some point prior to enactment of LL19; and

WHEREAS, as to the first issue, DOB contends that according to its Building Information System (“BIS”), as well as records of HPD, the building’s legal use is SRO,

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with 15 individual SRO units; DOB has submitted documentation supporting this contention, including a copy of the HPD I-Card that shows the premises contains Class B units (Class B units may be SRO units); and

WHEREAS, appellant argues that the building is not an SRO but an “apartment house”, with ten Class A apartments having kitchens and bathrooms; and

WHEREAS, appellant states that while the building may have contained SRO units at one time, the majority of the units were converted to Class A apartments well prior to the enactment of LL19; and

WHEREAS, thus, appellant argues that a CNH is not needed as part of the job permitting process; and

WHEREAS, however, the Board observes that appellant has not produced any evidence of a lawful change of use, such as DOB or HPD approvals or a CO; and

WHEREAS, additionally, DOB cites to a recent OATH decision, Department of Housing Preservation and Development v. Rice, OATH Index No. 1838/04 (March 23, 2005), which is factually similar to the instant matter; and

WHEREAS, in this decision, the OATH judge held that absent a CO or signed-off permit reflecting a lawful change in use, an HPD I-card represents the legal use of a building; and

WHEREAS, the Board has reviewed the OATH decision and finds it persuasive, in that the facts are very similar to those presented in the instant appeal and the issue is largely the same; and

WHEREAS, accordingly, the Board finds that in the absence of a CO, the HPD I-Card establishes the legal use of this building; therefore, the legal use of the building is SRO; and

WHEREAS, as to the second issue, appellant argues that the exemption from LL19 set forth at AC § 27-198(a)(6) applies to the subject building; this section lists occupancies that are excluded from the definition of single room occupancy multiple dwelling, including “any multiple dwelling containing fewer than nine class B dwelling units [SRO units] used for single room occupancy.”; and

WHEREAS, appellant contends that the exclusion encompasses any multiple dwelling containing fewer than nine class B dwelling units actually used for single room occupancy, irrespective of established legal use; and

WHEREAS, appellant further contends that notwithstanding the date of the change in the configuration of the use of the building, if actual use has changed in a sufficient amount of units, then the exemption applies; and

WHEREAS, DOB disagrees that the afore-mentioned exemption applies, because the current building configuration does not represent the building’s legal use,

which is established by the I-card; and

WHEREAS, DOB states, and the Board agrees, that interpreting the term “used” in AC §27-198(a)(6) to refer to actual use and not legal use would completely contravene the intent of LL19, one of the goals of which is to prevent the loss of single-room occupancy units from illegal conversion work; and

WHEREAS, DOB also states that if the term “used” is interpreted as referring to actual use, then a landlord could simply convert illegally and then take the position that the building was not subject to the LL19 CNH requirement because the “actual use” of the building was no longer an SRO; and

WHEREAS, the Board agrees, and observes that appellant’s argument, if accepted and extended to the applicability of other code provisions where use of a premises is relevant, would lead to absurd and adverse consequences, compromising the purpose and enforcement of said provisions; and

WHEREAS, appellant nevertheless attempted to support this interpretation by citing to various cases; and

WHEREAS, the Board disagrees that the cases cited by the appellant support the interpretation; and

WHEREAS, as explained by DOB in its various submissions, the cited cases are either distinguishable from the facts at hand and therefore irrelevant, or in fact support DOB’s position, not appellant’s; and

WHEREAS, two of the cited cases (Greene v. Board of Zoning Appeals of City of Ithaca, 267 Ad2d 835 (3d Dept. 1999), and Ponte Equities Inc. v. Chin, 284 AD2d 283 (1st Dept. 2001)) are cases in which the disputed issue was the continuance of a non-conforming use under the Zoning Resolution; and

WHEREAS, as correctly noted by DOB, the issue in the instant matter is not whether the use of the building is a non-conforming use; thus, the cited cases are not relevant; and

WHEREAS, DOB states that two other cases discussed by both the appellant and DOB (Luchetti v. Office of Rent Control, 49 Ad2d 532 (1st Dept. 1975), and Brown v. Roldan, 307 Ad 2d 208 (1st Dept. 2003)), support its position as the court in both held that legal use is determinative where a change in actual use can not be proven (as discussed in more detail below, DOB disagreed that the evidence of a change in actual use submitted by appellant was convincing); and

WHEREAS, the Board has reviewed the cited cases and agrees with DOB as to their meaning and applicability (or lack thereof) to the instant appeal; in sum, the Board concludes that none of the cases mentioned above, or any of

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the other cases cited by appellant, support appellant's interpretation; and

WHEREAS, based upon the above, the Board rejects the argument that actual use trumps legal use for purposes of the exemption set forth at AC §27-198(a) (6); and

WHEREAS, as to the third issue, appellant argues that the actual configuration of the building changed (albeit in the absence of any issued permits or CO) well prior to the enactment of LL19; thus, legalization of this work should be allowed without subjecting the application to the LL19 requirements; and

WHEREAS, DOB responds that appellant has not, either prior to or during the hearing process, submitted compelling evidence that the actual use of the building changed to Class A apartment building prior to enactment of LL19; and

WHEREAS, however, DOB agrees that proof of actual use would have some bearing on whether LL19 should apply to work performed in the building; and

WHEREAS, specifically, in its May 31, 2005 submission, DOB states: "The only way that Local Law 19 of 1983 would not apply to the premises is if Appellant were to submit sufficient evidence to the Department to prove that the actual use of the premises was not a SRO prior to the enactment of the Local Law"; and

WHEREAS, DOB continues: "The proof of actual use must be sufficiently before the Local Law so that the work would not have been done in order to evade its requirements. The legal use would still be a SRO, and the illegal work would need to be legalized and a CO obtained"; and

WHEREAS, appellant has submitted the following documents (among others) to the Board, contending that they support the contention that actual use changed well before the enactment of LL19: (1) affidavits from the current owner and the prior owner, stating that the ten of eleven units were converted as far back as the 1960s, and the remaining unit was converted in 1980; (2) rent rolls filed with the New York State Division of Housing and Community Renewal; (3) a drawing that appellant claimed to have obtained from HPD, dated August 8, 1956, which appears to show the building configured as Class A regular apartments and not SRO units; (4) three affirmations from the former managing agent of the building (the "Former Manager"), who is also an attorney, stating, in part, that he observed that the actual configuration of almost all of the units in the building reflected Class A apartments when he visited the building from 1976 to 1983; and

WHEREAS, as noted above, DOB has reviewed all the evidence submitted to it by the appellant prior to this appeal,

as well as the evidence submitted during the hearing process, and is not persuaded that actual use changed prior to enactment of LL19; and

WHEREAS, DOB states that the affidavits from the owners constitute testimony from interested parties, and therefore should be considered potentially self-serving; and

WHEREAS, DOB also argues that affidavits cannot supersede COs or I-cards to establish the legal use of a building; and

WHEREAS, the Board agrees that the affidavits are not particularly compelling because of the interest the affiants have or had in the building; and

WHEREAS, as to the rent rolls, DOB states that it does not accept them in place of a CO or HPD I-card to establish the legal use of a building, as they are simply reports made by the building's owner, and filed by such owner; and

WHEREAS, the Board has reviewed the rent rolls and agrees that they are not probative of actual use; and

WHEREAS, the next piece of evidence, the 1956 drawing, was the source of much contention and controversy, and the Board and parties expended considerable time investigating its origins and meaning; and

WHEREAS, as noted by DOB, the 1956 drawing has been disclaimed by HPD as an official representation of the legal configuration of the building; DOB states that it is not certain what the drawing represents or who it was produced by; and

WHEREAS, initially, appellant argued that the drawing is comparable to HPD inspector drawings often attached to I-cards of the era, and thus should be viewed as a reflection of existing conditions at the time; and

WHEREAS, however, appellant was unable to support this argument with any proof, and later contended that the 1956 drawing was a required drawing made pursuant to the Rooming House laws in effect at the time; and

WHEREAS, nonetheless, the Board was unable to gain a full and complete understanding from either of the parties as to what the 1956 drawing really was, and, in light of the inconclusive nature of the document, the Board declines to credit the drawing as evidence that actual use of the building in 1956 was as reflected in the drawing; and

WHEREAS, as to the affirmations from the Former Manager, DOB initially stated that the first affirmation was not probative, since it was not corroborated by contemporaneous records; and

WHEREAS, DOB maintained this position even after a second affirmation was submitted from the Former Manager, in which he stated he did not retain records for the apartment house after he was no longer legally required to

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do so, as his involvement with the building ended some time ago; and

WHEREAS, while this second affirmation stated that the basis of the Former Manager's knowledge was his "direct experience" with the building, the Board pressed appellant for some clarification as to how this "direct experience" was obtained; and

WHEREAS, in a third affirmation, the Former Manager specifically affirms that, in the course of at least 100 visits to the building over an approximately seven year period, from 1976 through May 1983, he was in each of the units, and that he observed that ten of the eleven units always were configured as Class A-type apartments, with kitchens with cooking facilities and private bathrooms with toilets sinks and bathing facilities; and

WHEREAS, in this same affirmation, the Former Manager states that he has never had a pecuniary interest in the building; and

WHEREAS, the Board finds the series of affirmations from the Former Manager sufficient evidence that actual use of at least ten of the eleven apartments changed from SRO to Class A apartments at some point well prior to enactment of LL19; and

WHEREAS, thus, based upon DOB's own representations, it appears that appellant may apply to have the above-referenced objection removed by DOB; and

WHEREAS, the Board notes, however, that the affirmations do not supersede the HPD I-card in establishing the legal use of the premises; as stated above, the legal use of the building is still a SRO, until changed through issuance of a CO obtained lawfully through DOB; and

WHEREAS, moreover, the Board also notes that its evidentiary finding is limited to the instant matter and that its decision as set forth herein should not be construed to limit or constrain in any way DOB's authority to set standards for acceptance of evidence submitted to it during either the permitting process or any other exercise of Departmental jurisdiction; and

Therefore it is Resolved, that the subject appeal, inasmuch as the Board has determined both that the legal use of the premises is an SRO and that legal use, not actual use, is relevant to AC § 27-198(a)(6), is hereby denied in part, and, inasmuch as the Board has determined that the record contains sufficient evidence showing that actual use of the subject building changed to Class A apartment well prior to enactment of LL19, is hereby granted in part.

Adopted by the Board of Standards and Appeals, August 9, 2005.

APPLICANT – Sheldon Lobel, P.C., for GRA V LLC, owners.

SUBJECT – Application October 27, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

PREMISES AFFECTED – 3329-3333 Giles Place (a/k/a 3333 Giles Place), west side of Giles Place between Canon Place and Fort Independence Street, Block 3258, Lot 5 and 7, Borough of The Bronx.

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD - Application denied.

THE VOTE TO GRANT -

Affirmative:.....0

Negative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Miele:.....4

THE RESOLUTION -

WHEREAS, this is an application under Z.R. §11-331 to renew a building permit and extend the time for the completion of the foundation of a minor development under construction; and

WHEREAS, a public hearing was held on this application on November 19, 2004, after due notice by publication in *The City Record*, and then to continued hearings on December 7, 2004 and on January 11, 2005, on which date the case was laid over without a date; the case was re-opened and restored to the calendar May 10, 2005 for decision, then deferred to July 12, 2005; on this date, the matter was scheduled for decision on August 9, 2005; and

WHEREAS, the following organizations and elected officials appeared or made submissions in opposition to the subject application: Council Member Koppell, Assembly Member Dinowitz, State Senator Schneiderman, Community Board 8, Bronx, and Fort Independence Park Neighborhood Association; and

WHEREAS, although some of the testimony and submissions from opposition were relevant to the Board's proceedings, the Board notes that arguments were made suggesting that the developer acted in bad faith, sought to "beat the clock" by expediting excavation and foundation work, or attempted to undermine the hard work of the community in effecting a rezoning, which are not arguments that the Board may consider given the statutory framework set forth at Z.R. § 11-30 et. seq.; and

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WHEREAS, the site had a site examination by a committee of the Board, including Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, pursuant to Z.R. §11-331, the Board may renew a building permit that lapsed due to a rezoning for a period of six months, thus allowing construction to continue under the prior rezoning, so long as the Board finds that on the date the permit lapsed, excavation had been completed and substantial progress had been made on foundations; and

WHEREAS, a pre-requisite for a renewal under 11-331 is the issuance of a building permit, lawfully issued as set forth in Z.R. §11-31; and

WHEREAS, Z.R. §11-31 (a) provides: "A lawfully issued building permit shall be a building permit which is based upon an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to the [Zoning Resolution]. In case of dispute as to whether an application includes 'complete plans and specifications' as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met."; and

WHEREAS, during the hearing on this application, the applicant claimed that a full new building permit that complied with 11-31 (the "NB Permit") had been issued on September 28, 2004; and

WHEREAS, also on September 28, 2004, the subject site was rezoned from R6 to R4A (the "Rezoning"); thus, during the hearing, as a threshold matter, the Board sought to ascertain whether the NB Permit had been obtained before or after the effectiveness of the rezoning; and

WHEREAS, further investigation revealed that the NB Permit was issued on or about 3:56 PM on September 28, 2004; and

WHEREAS, this investigation also revealed that the City Council adjourned at 3:20 PM that same day, meaning that the vote on the subject rezoning had taken place prior to issuance of the NB Permit; and

WHEREAS, the Board then sought the opinion of the Department of Buildings as to whether the application for the NB Permit included "complete plans and specifications," and also as to when the rezoning became effective; and

WHEREAS, in a letter dated January 7, 2005, the DOB Bronx Borough Commissioner stated, in sum and substance that: (1) the Legal Counsel Division of the City's Law Department concluded that the effective time of the rezoning is presumed to be 12:01 AM of the date of the City Council vote, but that this presumption can be rebutted with evidence of the actual time of the vote to avoid unfair results, as might occur in

the vesting context; thus, the rezoning was effective prior to the issuance of NB Permit (given the Council adjournment at 3:20 pm); and (2) the NB Permit application had several unresolved objections that prohibited its full approval, leading to the conclusion that the application was "incomplete" as per Z.R. § 11-31; and

WHEREAS, the matter was scheduled for decision on January 11, 2005; and

WHEREAS, at the January 11 hearing, the applicant indicated its intent to file the instant appeal, which would comprise both a challenge to DOB's determination to refuse to both vacate the stop-work order in place and reissue the NB Permit, as well as an application to continue construction under the prior zoning based upon a common law theory of vested rights; and

WHEREAS, the Board agreed to defer the decision on 346-04-BZY, pending the outcome of the appeal; and

WHEREAS, the appeal was filed under Calendar No. 17-05-A, which was decided the date hereof; and

WHEREAS, for the reasons set forth in the resolution issued under 17-05-A, the Board finds that DOB's January 7, 2005 determination regarding the effective time of the Rezoning should be upheld; and

WHEREAS, accordingly, the instant application must be denied, as the applicant failed to obtain a full building permit authorizing the entire proposed development prior to the effective time of the Rezoning.

Therefore it is resolved, that this application to renew New Building permit no. 200859053-NB pursuant to Z.R. § 11-331 is denied.

Adopted by the Board of Standards and Appeals, August 9, 2005.

17-05-A

APPLICANT – Sheldon Lobel, P.C., for GRA V LLC, owner.

SUBJECT - Application January 27, 2005 - An appeal seeking a determination that the owner of said premises has acquired a common-law vested right to continue a development commenced under R6 Zoning.

PREMISES AFFECTED - 3329/3333 Giles Place, (a/k/a 3333 Giles Place), west side, between Canon Place and Fort Independence Street, Block 8258, Lots 5 and 7, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES –

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For Applicant: Jordan Most.

For Administration: Janine A. Gaylard.

ACTION OF THE BOARD - Application denied.

THE VOTE TO GRANT -

Affirmative:.....0

Negative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Chin and Commissioner Miele:.....4

THE RESOLUTION -

WHEREAS, this matter is both an appeal of a final determination, dated December 27, 2004, issued by the Bronx Borough Commissioner of the New York City Department of Buildings (“DOB”) (described in detail below), as well as an application for a Board determination that the owner of the premises has acquired a common-law vested right to continue development under regulations applicable to an R6 zoning district; and

WHEREAS a public hearing was held on this application on March 15, 2005 after due notice by publication in *The City Record*, with continued hearings on May 10, 2005 and July 12, 2005, and then to decision on August 9, 2005; and

WHEREAS, the Fort Independence Park Neighborhood Association appeared in opposition to this application; and

WHEREAS, the subject property is located at 3329-3333 Giles Place in an R4A (previously R6) zoning district; and

WHEREAS, on September 28, 2004, the developer/owner of the subject premises, GRA V, LLC (hereinafter, the “Developer”) filed DOB Permit Application No. 200911754-01-NB (hereinafter, the “NB Permit Application”), for the development of a seven-story, 63 unit residential apartment house (hereinafter, the “Proposed Development”); this application was self-certified by the Developer’s architect and a permit was pulled (the “NB Permit”); and

WHEREAS, on this same date (hereinafter, the “Rezoning Date”), the area in which the premises is located was rezoned from R6 to R4A by the City (CPC Res. C040516 ZMX adopted by the City Planning Commission on September 8, 2004) and approved by the City Council on the Rezoning Date; and

WHEREAS, in an R4A district, only single-or-two-family detached dwellings on zoning lots of specified lot widths are permitted; and

WHEREAS, prior to the Rezoning Date, DOB also issued permits related to the Proposed Development, none of which authorized in full the total construction of the Proposed Development; specifically, on May 24, 2004, DOB issued permits for retaining walls and fences under DOB permit nos. 200858759-01-EW OT, 200858759-01-EQ-FN, 200858740-01 EW OT and 200858740-01 EQ FN; and

WHEREAS, DOB also issued a partial permit under No. 200869024-01-FO for foundation work only (hereinafter, the “Foundation Permit”) on September 7, 2004; and

WHEREAS, as discussed in more detail below, DOB states that the application under which the Foundation Permit was issued had several objections that precluded the full approval of a New Building application and permit at that time; and

WHEREAS, nevertheless, under the Foundation Permit, excavation and some foundation work was performed by the Developer; and

WHEREAS, however, on October 5, 2004, DOB issued a Stop-Work Order for all work under the Foundation Permit based on the Rezoning, for failure to complete foundations prior to the zoning change; and

WHEREAS, because DOB determined that vesting had not occurred under the prior R6 zoning, notwithstanding the foundation work performed, the Developer was compelled to seek a reinstatement of the NB Permit from the Board; and

WHEREAS, thus, prior to the filing of the instant appeal, Sheldon Lobel & Associates, P.C. (hereinafter, the “appellant”), on behalf of the Developer, filed an application to continue construction at the site pursuant to Z.R. § 11-331 (Right to construct if foundations completed) under BSA Cal. No. 346-04-BZY; and

WHEREAS, pursuant to Z.R. § 11-331, the Board may renew a building permit that lapsed due to a rezoning for a period of six months, thus allowing construction to continue under the prior rezoning, so long as the Board finds that on the date the permit lapsed, excavation had been completed and substantial progress had been made on foundations; and

WHEREAS, a pre-requisite for a renewal under 11-331 is the issuance of a building permit, lawfully issued as set forth in Z.R. §11-31; and

WHEREAS, Z.R. §11-31 (a) provides: “A lawfully issued building permit shall be a building permit which is based upon an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to the [Zoning Resolution]. In case of dispute as to whether an application includes ‘complete plans and specifications’ as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met.”; and

WHEREAS, during the hearing on 346-04-BZY, the appellant cited to the NB Permit, claiming that it was a building permit for the entire Proposed Development that complied with 11-31; and

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WHEREAS, as stated above, the subject site was rezoned from R6 to R4A on September 28, 2004; thus, during the hearing, as a threshold matter, the Board sought to ascertain whether the full building permit had been obtained before or after the effectiveness of the rezoning; and

WHEREAS, further investigation revealed that the building permit was issued at or about 3:56 pm on September 28, 2004; and

WHEREAS, this investigation also revealed that the City Council adjourned at 3:20 that same day, meaning that the vote on the subject rezoning had taken place prior to issuance of the NB Permit; and

WHEREAS, the Board then sought the opinion of the Department of Buildings as to whether the application for the full building permit included “complete plans and specifications” and also as to when the rezoning became effective; and

WHEREAS, in a letter dated January 7, 2005, the DOB Bronx Borough Commissioner stated, in sum and substance that: (1) the Legal Counsel Division of the City’s Law Department concluded that the effective time of the rezoning is presumed to be 12:01 AM of the date of the City Council vote, but that this presumption can be rebutted with evidence of the actual time of the vote to avoid unfair results, as might occur in the vesting context; thus, the rezoning was effective prior to the issuance of NB Permit (given the Council adjournment at 3:20 pm); and (2) the NB Permit application had several unresolved objections that prohibited its full approval, leading to the conclusion that the application was “incomplete” as per Z.R. § 11-31; and

WHEREAS, accordingly, the Board set a hearing date on January 11, 2005 so that that 346-04-BZY could be decided; and

WHEREAS, at this hearing, the appellant indicated its intent to file the instant appeal, and asked that decision on 346-04-BZY be adjourned pending outcome of the appeal; and

WHEREAS, the instant appeal was subsequently filed on January 27, 2005; and

WHEREAS, as noted above, the appeal is of a December 27, 2004 decision by the DOB Bronx Borough Commissioner, which is in the form of a “Denied” stamp on a December 13, 2004 letter from the appellant to the Borough Commissioner; the letter asks DOB to vacate the DOB stop work order issued on October 5, 2004 relative to the Foundation Permit, and to reissue the NB Permit and various related permits for fences and equipment; and

WHEREAS, as represented by the appellant, the primary issues in this appeal are: (1) whether the DOB determinations, made in the BZY case, as to the effective time of the Rezoning

and the validity of the Permit, are correct; and (2) whether the appellant has obtained vested rights under the State’s common law; and

WHEREAS, the appellant notes that DOB’s determination that the effectiveness of the Rezoning was the time of the Council vote enacting the Rezoning appears to be contrary to a position articulated by the Board in BSA Cal. Nos. 102-92-A and 102-93-A (hereinafter, collectively referred to as the “Prior Decision”); and

WHEREAS, in the Prior Decision, the Board stated, in sum and substance, that because the zoning change as approved by the Council was subject to a five day Mayoral review period under the City’s Uniform Land Use Review Procedures (“ULURP”), the actual effectiveness of the zoning change was not triggered until this five day period had run out; and

WHEREAS, the record reveals that during the course of the hearings on the Prior Decision, DOB submitted a letter supporting this interpretation, which it appears the Board relied upon in reaching its decision; and

WHEREAS, the appellant states that the Prior Decision reflects an interpretation that is consistent with the purposes of ULURP; specifically, the appellant states that ULURP is intended to establish a predictable, standardized procedure that necessarily involves the review of certain entities, including the Mayor; and

WHEREAS, the appellant argues that the position taken by DOB in the BZY case and in the instant appeal is contrary to the goals of predictability and notice to the public; and

WHEREAS, DOB disagrees on the following basis: under New York State common law, the effective time of legislation is presumed to be 12:01 a.m. of the date of legislative action, but this presumption can be rebutted with concrete evidence of the time of actual adoption in order to avoid an unfair result; and

WHEREAS, thus, DOB argues that the effectiveness of the Rezoning is presumed to begin at the time the Council adjourned for the day (3:20 PM); and

WHEREAS, in support of this contention, DOB provided the Board with an Opinion from the Legal Counsel Division of the Corporation Counsel of the City of New York; and

WHEREAS, DOB also disagrees with appellant’s contentions regarding ULURP: specifically, DOB states that the language of City Charter § 197(e) provides that “Actions of the Council pursuant to this section shall be final unless the Mayor within five days of receiving a filing with respect to such an action of Council files with the Council a written

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disapproval of that action.”; and

WHEREAS, DOB notes that since the Mayor did not file a written disapproval of the zoning change, it was final on September 28, 2004, the date of the City Council vote, at approximately 3:20 PM; and

WHEREAS, DOB states that no public purpose would be served by giving developers a five-day window of opportunity to undermine the intent of the zoning change by completing construction that is meant to be prohibited; a Mayoral override should be irrelevant with respect to permits, since in the event of override there is no zoning change; and

WHEREAS, DOB further states that if one were to determine the effective time of Council action by reading 197-d according to appellant’s logic, fifteen days would be tacked on to the date on which the Council files its action with the Mayor, since 197-d (f) provides that the Mayoral disapproval is still subject to a further two-thirds override by all the Council members within ten days of such filing by the Mayor; and

WHEREAS, DOB contends that a fifteen-day window of opportunity after the date of the Council vote would significantly undermine the intent of any zoning change; and

WHEREAS, thus, DOB maintains that because the Permit was issued more than a half-hour after the Council adjourned, it was not issued prior to the Rezoning; therefore, the Department properly revoked it; and

WHEREAS, the Board agrees with each of the arguments made DOB; and

WHEREAS, the Board observes that if the Mayor doesn’t act, the new zoning is final as of the day of Council action, and if the Mayor does act, the new zoning is invalid, unless the Council overrides; and

WHEREAS, either way, the predictability and public notice imperatives noted by the appellant are preserved: if the Mayor overrides, the permit was never invalid and will remain valid until any further action by the Council, and if the Mayor does not override, then the permit is invalid as of the date of the rezoning, a contemplated and noticed date for which any reasonable developer can anticipate and plan; and

WHEREAS, accordingly, the Board declines to follow the Prior Decision to the extent it sets forth the proposition that the effective date of the rezoning is when the five-day Mayoral review period under ULURP expires; instead, the Board now takes the position that the effectiveness of a rezoning for purposes of determining when vesting occurs, either under the statutory scheme set forth in the Zoning Resolution or under the State’s common law, is at the time of the Council vote; and

WHEREAS, the Board notes that it is not bound to follow

a prior decision where it can be shown that decision was flawed in some respect; specifically, the Board observes that City Charter §666(8) gives it the authority to review and reverse or modify any of its prior decisions, so long as this review does not prejudice the rights of any person who has in good faith acted thereon before it is reversed or modified; and

WHEREAS, the appellant has not produced any evidence of Developer actions made in good faith reliance on the Prior Decision relative to the Proposed Development; and

WHEREAS, instead, the appellant has raised the Prior Decision for the first time in the context of this appeal; and

WHEREAS, moreover, based upon the fact that the Developer attempted to self-certify the NB Permit Application late in the day on September 28, 2004, a reasonable inference is that the Developer considered the effective date of the Rezoning to be that date as well; and

WHEREAS, because the Board has determined that the Rezoning was effective prior to issuance of the Permit, the Board finds that DOB’s decision to revoke the NB Permit as invalidly issued and refuse reinstatement was proper on this basis alone; and

WHEREAS, as stated above, appellant also challenges DOB’s determination that the NB Permit Application was deficient in that it did not show “complete plans and specifications” for the entire Proposed Development; and

WHEREAS, however, because the Board finds that the Permit was not issued prior to the Rezoning, an examination of this challenge is not necessary: even if the Permit did “show complete plans specifications”, it clearly was not timely issued; and

WHEREAS, thus, the Board concludes that the appellant has not met the statutory requirement set forth at Z.R. §11-331, which requires that a full building permit be issued prior to the Rezoning; and

WHEREAS, thus, on the date hereof, the Board, through a separate resolution, is denying the application filed under 346-04-BZY; and

WHEREAS, the only remaining issue is whether the Developer has, under the common-law of the State of New York, vested its rights to proceed with construction under the prior R4 zoning; and

WHEREAS, initially, DOB did not contest appellant’s assertion that it had met the common-law standard for vested rights for work performed under the Foundation Permit; instead, as noted in its March 8, 2005 submission, DOB deferred to the Board regarding appellant’s common law vested rights; and

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WHEREAS, however, subsequent to a recent audit of the Foundation Permit application and the supporting materials submitted therewith, DOB has changed its position and now contests appellant's vested rights claim; and

WHEREAS, at issue is the fact that the appellant submitted a Sanborn map in lieu of a survey in connection with its application for the Foundation Permit; and

WHEREAS, DOB states that the purpose of the survey, in part, is to account for adjacent buildings to establish the application of Quality Housing Requirements in the Zoning Resolution for location of the street wall; and

WHEREAS, DOB also states that though it is not the Department's policy or procedure to accept a Sanborn map in the place of a survey, nonetheless, when the plan examiner reviewed and approved the Foundation Permit on September 7, 2004, he accepted a Sanborn map in lieu of the required initial site survey; and

WHEREAS, during the audit process, after the Foundation Permit had lapsed by operation of law due to the rezoning, DOB asked for an actual survey; and

WHEREAS, DOB states that this survey reveals that the Proposed Development was contrary to the street wall location requirements for setback set forth in Z.R. §23-633; and

WHEREAS, this Z.R. section provides that the street wall location be measured from the nearest adjacent building; the survey shows that the nearest adjacent building is a garage that is 1 ft., 9 inches further from the street line than is shown on the Sanborn Map; this measurement represents the degree of non-compliance with Z.R. § 23-633; and

WHEREAS, DOB argues this renders the Foundation Permit invalidly issued; since a foundation permit undergoes review with respect to zoning and overall structure, it relates to the proposed building in its entirety; thus, street wall location compliance must be shown for the Foundation Permit to be valid, and here there is no compliance; and

WHEREAS, DOB argues that relevant case law stands for the proposition that vested rights may not be found where the work was performed under an invalid permit, even where the work performed was substantial and the reason that the permit was invalid is due to a minor zoning non-compliance; and

WHEREAS, appellant disagrees, and highlights numerous reasons why it believes that the Foundation Permit should not be considered invalid by DOB; and

WHEREAS, specifically, appellant notes that: (1) the Foundation Permit was only issued for the foundation work; (2) the non-complying condition was never built or

permitted; (3) the equities weigh in favor of the appellant; (4) the Developer contracted to purchase the Premises with intention of redeveloping same in good faith well before there was public discussion of rezoning; (5) the discrepancy in original street wall setback is de minimis and could be deemed compliant after due consideration of average setback distance and front yard area (only three small triangular portions of front façade pierce the 1.9' setback area); (6) proper DOB reconsideration resulted in the acceptance of a revised plans showing a completely compliant setback; (7) Section 11-31(b) is instructive as to right to modify plans after zoning change provided no new non-compliance is created; and

WHEREAS, DOB states that its conclusion that the Foundation Permit was invalid is not changed by the fact that no non-complying structure was constructed, nor by the fact that the non-compliance as reflected on the plans may reasonably be viewed as minimal; and

WHEREAS, instead, DOB again represents that the overall building design cannot be separated from the foundation design, and thus the overall structure must comply with zoning for the Foundation Permit to be valid upon issuance; and

WHEREAS, moreover, DOB states that the fact that no structure above-grade has been constructed does not have any relevance to the validity of the permit when issued; a permit is either validly issued because the plans reflect compliance with applicable laws, or it is invalidly issued because it reflects a non-compliance; and

WHEREAS, finally, DOB asserts that Z.R. § 11-31(b), which allows modification to plans approved under a prior zoning so long as no non-compliance is created, only applies to applications for a right to continue construction brought under 11-311 or 11-312, not to applications under the common law; and

WHEREAS, the Board agrees with DOB's position as set forth above; and

WHEREAS, additionally, the Board has reviewed the appellant's argument that the discrepancy in original street wall setback could be deemed compliant after due consideration of average setback distance and front yard area and finds it unpersuasive in that there is no basis in law for accepting an average of setback distances when there is an obvious non-compliance with the setback at some measurements; and

WHEREAS, DOB acknowledges that the plans associated with the Foundation Permit may now be corrected and the permit reinstated; however, any reinstatement must comply with the new zoning, as per

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Building Code Section 27-196; and

WHEREAS, Building Code Section 27-196 provides, in sum and substance, that a DOB Borough Commissioner may reinstate a permit, provided that the work shall comply with all relevant laws in effect at the time the application for reinstatement is made; and

WHEREAS, thus, DOB takes the position that all of the work related to the Proposed Development must comply with all zoning requirements under the new R4 zoning district; and

WHEREAS, the Board agrees that a building permit may properly be determined by DOB to have been invalidly issued if it is based upon plans that show a non-compliance; and

WHEREAS, the Board is aware that under the common law of the State of New York, a claim of vested rights can not be supported by work performed under an invalidly issued permit; and

WHEREAS, specifically, the Board is aware that in *Jayne Estates v. Raynor*, 293 N.Y.S.2d 75 (1968), the Court of Appeals plainly stated that vested rights are not acquired "where one builds in reliance on an invalid permit", citing to two earlier Court of Appeals decisions; and

WHEREAS, other decisions, including *Albert v. Board of Standards and Appeals of the City of New York*, 454 N.Y.S.2d 108 (1982), have applied this principle to determinations of the Board; and

WHEREAS, the Board is bound by the precedent established by these and similar decisions; and

WHEREAS, the Board concludes that, notwithstanding the degree of excavation and foundation work performed under the invalidly issued Foundation Permit, no vested right to continue construction at the site under the R6 zoning has accrued to the Developer; and

WHEREAS, in sum, the Board agrees with DOB that: (1) the effective time of the subject rezoning, or any other rezoning, is the time of the vote of the City Council, which renders the NB Permit untimely and therefore invalid; and (2) the Developer has failed to meet the common-law standard for vested rights, as the Foundation Permit was invalidly issued.

Therefore it is Resolved, that this appeal is hereby denied and the final determination of the New York City Department of Buildings, dated December 27, 2004, is hereby upheld, and the application for the right to continue construction under Foundation Permit No. 200869024-01-FO, under a theory of common law vested rights, is hereby denied.

Adopted by the Board of Standards and Appeals,

August 9, 2005

21-05-A

APPLICANT -Rampulla Associates Architects, for Geraldo Campitiello, owner.

SUBJECT - Application February 4, 2005 - Proposed addition to an existing banquet hall, which will be located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -2380 Hylan Boulevard, south side of Otis Avenue, Block 3904, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Philip Rampulla.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Staten Island Borough Commissioner, dated February 1, 2005, acting on Department of Buildings Application No. 500751411, reads:

"1. The proposed extension of the Banquet Hall on Otis Avenue located in the bed of a mapped street that is contrary to General City Law 35 and therefore shall be referred to the Board of Standards and Appeals; and

WHEREAS, a public hearing was held on this application on July 19, 2005, after due notice by publication in the *City Record*, and then to August 9, 2005 for decision; and

WHEREAS, by letter dated March 10, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 11, 2005 the Department of Environmental Protection has reviewed the above project and has no objections; and

WHEREAS, by letter dated May 4, 2005, the Department of Transportation has reviewed the above project, and has advised the Board that the approval of the applicant's request would place an obstacle to future reconstruction of the street; and

WHEREAS, the applicant contends that the widening of Otis Avenue to its full width would require the removal of sixteen trees which are under the jurisdiction of the Department of Parks; and

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WHEREAS, the applicant has submitted a letter from the Borough Commissioner of Department of Parks dated April 4, 2005 requesting that the trees be preserved and not removed from the site; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the decision of the Staten Island Borough Commissioner, dated February 1, 2005, acting on Department of Buildings Application No. 500751411, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received June 13, 2005"-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 9, 2005.

22-05-A

APPLICANT – Dennis Dell’ Angelo, President for Pleasant Plains, Richmond Valley, Civic Association for Joseph Galante, owner.

SUBJECT – Application February 7, 2005 – An appeal challenging the Department of Buildings’ (“DOB”) decision that approved and permitted the building of two (2) houses on a lot containing less than the required square footage as zoned for in the Special South Richmond District (“SSRD”), also this appeals is seeking to reverse the DOB’s decision not to enforce §107-42 of the SSRD within NYC Zoning Resolution.

PREMISES AFFECTED – 5728 Amboy Road and 3 Haynes Street, southeast corner, Block 6654, Lot 9, Borough of

Staten Island.

COMMUNITY BOARD #3S.I.

APPEARANCES –

For Applicant: Dennis Dell’ Angelo.

For Administration: Janine Gaylard, Department of Buildings.

ACTION OF THE BOARD - Application denied.

THE VOTE TO GRANT -

Affirmative Commissioner Chin:.....1

Negative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Miele:.....3

THE RESOLUTION -

WHEREAS, the instant appeal comes before the Board in response to a determination of the Staten Island Borough Commissioner, dated January 20, 2005, to rescind a notice of intent to revoke an approval and permit for work issued to the subject premises, and lift a Stop Work Order on the premises; and

WHEREAS, a public hearing was held on this appeal on April 19, 2005 after due notice by publication in the *City Record*, with a continued hearing on June 14, 2005, and then to decision on August 9, 2005; and

WHEREAS, the appellant is the Pleasant Plains, Prince’s Bay, Richmond Valley Civic Association, represented by Dennis Dell’ Angelo, the President; and

WHEREAS, Councilmember Andrew J. Lanza and the Staten Island Borough President appeared at hearing and submitted materials supporting the appeal; and

WHEREAS, Community Board 3, Staten Island, recommends approval of this appeal; and

WHEREAS, the Staten Island Chapter of the American Institute of Architects and the Building Industry Association of New York recommend disapproval of this appeal; and

WHEREAS, the appellant contests the decision of the Staten Island Borough Commissioner to allow the construction of two residences on the premises based upon specific language in Z.R. §107-42, which states that “[a]ll residences permitted by the underlying district regulations shall comply with the minimum lot area and lot width requirements which shall vary with the building height as set forth in Table A [of Z.R. §107-42];” and

WHEREAS, the subject premises is located in an R3X zoning district in the Special South Richmond Development District (“SSRDD”); and

WHEREAS, the premises has a lot area of 7,500 sq. ft. and

WHEREAS, the owner of the property intends to construct two, two-story homes on the premises; and

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the addresses assigned to separate tax lots, but are located on one zoning lot; and

WHEREAS, on December 14, 2004, the Department of Buildings (“DOB”) issued a New Building Permit No. 500744885-01-NB for 5728 Amboy Road for the construction of a single-family house, and on December 21, 2004, DOB issued a second New Building Permit No. 500744894-01-NB for 3 Haynes Street for the construction of a single-family house; and

WHEREAS, on December 22, 2004, DOB issued objections in connection with an audit of the applications; one of the objections stated that “the proposed two buildings in a zoning lot is contrary to Section 107-42 ZR and Table A in the South Richmond Special District;” and

WHEREAS, the owner responded to the DOB objections on December 23, 2004, and stated, in relevant part, “There is no restriction and never has been a restriction to multiple buildings on a single zoning lot. The referenced chart is for new subdivisions of zoning lots not tax lots. This proposed project is on an existing zoning lot and (2) new tax lots;” and

WHEREAS, DOB issued a Stop Work Order on January 7, 2005; such Stop Work Order was lifted on January 20, 2005 by the letter that is the subject of this appeal; and

WHEREAS, the appellant argues that the portion of Z.R. §107-42 that states that “[a]ll residences permitted by the underlying district regulations shall comply with the minimum lot area and lot width requirements” set forth in Table A means that each residence built on the premises must comply with the minimum lot area requirements; and

WHEREAS, Table A of Z.R. §107-42 sets forth a minimum lot area of 3,800 sq. ft. for buildings with heights of one-to-two stories in an R3X zoning district; and

WHEREAS, the appellant contends that to build two residences on the premises, the zoning lot would have to be at least 7,600 sq. ft; because the premises has a lot area of 7,500 sq. ft., the appellant believes that only one residence can be constructed on the premises; and

WHEREAS, DOB argues that the owner can build more than one residence on the lot since the zoning lot meets the minimum lot area of 3,800 sq. ft. as set forth in Table A; DOB further states that the appellant is incorrectly interpreting the words “all residences” to mean “each residence;” and

WHEREAS, the Board finds that despite the appellant’s claims to the contrary, the plain meaning of the words “all

WHEREAS, the Board, in interpreting the text of the Zoning Resolution, is guided by New York legislation found in McKinney’s Cons. Laws of N.Y., Book 1, Statutes §97, which states that “[a] statute or legislative act is to be construed as a whole, and all parts of an act are to be read and construed together to determine the legislative intent;” and

WHEREAS, a comment to McKinney’s Statutes §97 clarifies that the intention of the statutory language “is to be found not in the words of a particular section alone but by comparing it with other parts or provisions of the general scheme of which it is part;” and

WHEREAS, the Board is further guided by case law in which New York courts have upheld previous interpretations of the Zoning Resolution by the Board, in part, because the Board viewed the Zoning Resolution as a whole, rather than just relying on the text of the ambiguous section (*see* Matter of Lee v. Chin, 1 Misc. 3d 901(A) at *16 (1st Dept 2003); and

WHEREAS, in reviewing relevant sections of the Zoning Resolution, the Board specifically notes the following provisions:

- (1) 12-10, “Lot Area,” which defines lot Section area as the area of a zoning lot;
- (2) Section 12-10, “Residence, or residential,” which defines residence, in part, as a building or a part of a building containing dwelling units or rooming units, including one-family or two-family houses, multiple dwellings, boarding or rooming houses, or apartment hotels;
- (3) Section 12-10, “Zoning lot,” which defines zoning lot, in part, as a lot of record existing on December 15, 1961;
- (4) Section 23-32, “Minimum Lot Area or Lot Width for Residences,” which provides that “[i]n all districts...no residence is permitted on a zoning lot with a total lot area or lot width less than as set forth in the following table;”
- (5) Section 107-63, “Minimum Distance Between Buildings,” which provides, in part, that “[f]or any residential development, the City Planning Commission may authorize the location of buildings, on a single zoning lot without regard for spacing between buildings regulations, provided [certain conditions are met];” and

WHEREAS, the appellant notes that Z.R. §23-32 states that “no residence is permitted on a zoning lot with a total lot area or lot width” less than that set forth on the attached

table; and

WHEREAS the introduction to Z.R. §107-42 states that “all residences ... shall comply with the minimum lot area

there is a different minimum lot area requirement for buildings with different heights (unlike Z.R. §23-32), each residence must have a different minimum lot area

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and lot width requirements” set forth in Table A; and

WHEREAS, the appellant contends that because of the differences in wording between Z.R. §107-42 and Z.R. §23-32 – specifically the omission of the words “zoning lot” from Z.R. §107-42 – the minimum lot area requirements in Z.R. §107-42 apply only to a portion of the zoning lot, that is, the portion that the residence is being built upon; and

WHEREAS, the Board notes that the appellant’s interpretation is contrary to the definition of lot area found in §12-10 of the Zoning Resolution, which states that lot area is the area of a zoning lot, not the area of a portion of the zoning lot where a residence is being built; and

WHEREAS, the appellant argues that Z.R. §12-10 defines lot area as the area of a zoning lot and not the total area of an entire zoning lot; and

WHEREAS, the Board does not find appellant’s distinction compelling, and concludes that lot area as defined is the area of an entire zoning lot notwithstanding the absence of the word “total” from the definition; in addition, the Board notes that throughout the text of the Zoning Resolution “lot area” is used in reference to the total area of the entire lot; and

WHEREAS, DOB stated at hearing that it is the practice of DOB to interpret lot area as the total area of the entire zoning lot; and

WHEREAS, DOB states that the words “all residences” in Z.R. §107-42 refer to all building types included within the category of residential development that may be built on a minimum-sized zoning lot, including single-family, two-family, general residence, detached, semi-attached or attached; and

WHEREAS, in addition, DOB states that the words “all residences” are intended to show that Z.R. §107-42 regulates residential development and not commercial or community facility buildings; and

WHEREAS, therefore, DOB argues that when Z.R. §107-42 provides that “all residences” must comply with the minimum lot area requirements, this means that all types of residences must comply and not that each residence must comply, as asserted by the appellant; and

WHEREAS, the appellant also argues that because

requirement depending upon the height of the building; and

WHEREAS, DOB states that if only one residence were allowed to be built on a zoning lot meeting the minimum lot area requirement, then there would be no reason for the City Planning Commission (“CPC”) to include Z.R. §107-63, which allows CPC to modify the minimum distance requirements between buildings on single zoning lots in certain cases; and

WHEREAS, the appellant states that more than one building can be built on a zoning lot so long as each residence meets the minimum lot area requirement; and

WHEREAS, the Board notes that Z.R. §107-42 specifically regulates the number of buildings on a zoning lot where the zoning lot has less than the minimum required lot area or lot width as prescribed in Table A and was owned separately and individually from all other adjoining tracts of land on the date of the adoption of the SSRDD regulations and on the date of application for a building permit; and

WHEREAS, the appellant also points to the legislative history of the SSRDD regulations to support its position; the appellant states that the purpose of the regulations was to restrict density and control development in the area, and, accordingly, Z.R. §107-42 is intended to be more restrictive than Z.R. §23-32; and

WHEREAS, DOB states that population and building density is addressed by Z.R. §107-42, which provides, “In all cases, the density regulations of the applicable district shall remain in effect;” therefore, the density allowed at the premises is regulated by the provisions for “lot area per dwelling unit” and “lot area per room” found in Z.R. §23-22; and

WHEREAS, the Board notes that within the SSRDD the minimum lot area requirements in Z.R. §107-42 supersede, and are more restrictive than, those in Z.R. §23-32; for example, generally in an R3X district, the minimum lot area for developing single- or two-family detached residences is 3,325 sq. ft. and the minimum lot width is 35 ft.,

WHEREAS, in an R3X district in the SSRDD, the minimum lot area requirement for developing detached one-to-two story residences is 3,800 sq. ft. and the minimum lot width is 40 ft.; and

WHEREAS, DOB also argues that, based upon its review of the legislative history, the purpose of the SSRDD

regulations was not solely to control development in the area, but to create an open space network consisting of existing parks and a waterfront pedestrian waterway; and

WHEREAS, the Board is further guided by McKinney’s Statutes §179, which states that when judges interpret an ambiguous statute, they are “often aided by the way the statute is interpreted by those administering it, and a long continued course of action by an executive or administrative officer may be entitled to great weight unless

work issued to the subject premises, and to lift a Stop Work Order on the premises, is hereby denied.

Adopted by the Board of Standards and Appeals, August 9, 2005.

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manifestly wrong;” and

WHEREAS, the Board recognizes DOB’s position on the subject appeal, and finds the arguments set forth by DOB to be persuasive and consistent with its past practice and interpretation; and

WHEREAS, the Board further notes that the Department of City Planning, the drafters of the text at issue in this appeal, submitted a letter in support of DOB’s interpretation of the Zoning Resolution, and specifically stated that neither Z.R. §107-42 nor Z.R. §23-32 apply the minimum lot area and lot width requirements to each residence, as appellant contends; and

WHEREAS, the Board has reviewed the aforementioned sections of the Zoning Resolution together with the disputed section, and analyzed the textual and legislative arguments set forth by the appellant and DOB;

WHEREAS, based upon its review of the text of the Zoning Resolution, the Board concludes that Z.R. §107-42 does not require that each residence on a zoning lot meet the minimum lot area requirement; and

WHEREAS, based upon its review of the legislative history, the Board further finds that the legislative material does not speak specifically to the issue of whether Z.R. §107-42 requires the interpretation set forth by the appellant; and

WHEREAS, in conclusion, the Board agrees with DOB and finds that the owner is entitled to construct more than one residence on the lot since the zoning lot meets the minimum lot area requirement of 3,800 sq. ft., so long as DOB determines that the owner complies with other applicable zoning provisions, such as density and minimum distance between buildings; and

Therefore it is Resolved, that the subject application, seeking a reversal of the determination of the Staten Island Deputy Borough Commissioner, dated January 20, 2005, to rescind a notice of intent to revoke an approval and permit for

140-05-A

APPLICANT – Gary Lenhart, R.A., for the Breezy Point Cooperative, owner; Loretta & Tom Kilkenny, owners.

SUBJECT – Application June 7, 2005 – Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has an upgrade existing private disposal system situated partially in the bed of the service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings Policy.

PREMISES AFFECTED – 29 Queens Walk, east side, 217.19’ north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated May 11, 2005, acting on Department of Buildings Application No. 402100908, reads:

“A-1 The Street giving access to the existing building to be altered is not duly placed on the official map of the City of New York, Therefore:

- A) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.

B) Existing dwelling to be altered does not have at least 8% of total perimeter of building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section C27-291 of the Administrative Code of the City of New York.

A-2 The proposed upgraded private disposal system is in the bed of the service lane contrary to Department of Buildings Policy;" and

WHEREAS, a public hearing was held on this application on August 9, 2005, after due notice by publication in the *City Record*, and then to closure and decision on August 9, 2005;

231-04-A

APPLICANT – Joseph P. Morsellino, Esq., for Chri Babatsikos and Andrew Babatsikos, owners.

SUBJECT – Application June 17, 2004 – Proposed one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law. PREMISES AFFECTED - 240-79 Depew Avenue, corner of 243rd Street, Block 8103, Lot 5, Borough of Queens.

COMMUNITY BOARD#11Q

APPEARANCES –

For Applicant: Joseph Morsellino.

For Opposition: William Sievers, Joseph Hellmann and Peter Segel.

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and

WHEREAS, by letter dated June 21, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the decision of the Queens Borough Commissioner, dated May 11, 2005, acting on Department of Buildings Application No. 402100908, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received June 7, 2005"-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 9, 2005.

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for continued hearing.

313-04-A

APPLICANT – Sheldon Lobel, P.C., for Angella Blackwood, owner.

SUBJECT – Application September 16, 2004 – Proposed enlargement of an existing two story, single family residence, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law. PREMISES AFFECTED – 132-02 Hook Creek Boulevard, southwest corner of 132nd Avenue, Block 12981, Lot 117, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Zara Fernandes.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 23, 2005, at 10 A.M., for decision, hearing closed.

365-04-A thru 369-04-A

APPLICANT – Petraro & Jones, LLP, for Sunrise Hospitality, LLC, owner.

SUBJECT – Application November 22, 2004 – Proposed construction, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law PREMISES AFFECTED –

85-04 56th Avenue, south side, 44.16' east of Long Island Railroad right-of-way, Block 2881, Tentative Lot 9, Borough of Queens.

85-02 56th Avenue, south side, east of and adjacent to Long Island Railroad right-of-way, Block 2881, Tentative Lot 54, Borough of Queens.

85-01 57th Avenue, north side, east of and adjacent to Long Island Railroad right-of-way, Block 2881, Tentative Lot 53, Borough of Queens.

85-03 57th Avenue, north side, 10.62' east of Long Island Railroad right-of-way, Block 2881, Tentative Lot 52, Borough of Queens.

85-03-A 57th Avenue, north side, 30.62' east of Long Island Railroad right-of-way, Block 2881, Tentative Lot 51, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

212-04-BZ

APPLICANT - Rampulla Associates Architects, for G.A.C. Caterers, Inc., owner.

SUBJECT - Application May 21, 2004 - under Z.R. §72-21 to permit the proposed erection and maintenance of a cellar and two (2) story photography and video studio, Use Group 6, located in an R3-2 zoning district, which is contrary to Z.R. §22-10.

PREMISES AFFECTED - 2360 Hylan Boulevard, a/k/a 333 Otis Avenue, between Otis and Bryant Avenues, Block 3905, Lot 17, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Philip Rampulla.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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For Applicant: Pat Jones.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to August 23, 2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 11:19 A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, AUGUST 9, 2005
2:00 P.M.**

Present: Chair Srinivasan, Vice Chair Babbr, Commissioner Miele and Commissioner Chin.

ZONING CALENDAR

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated March 22, 2004, acting on DOB Application No. 500680818 reads, in pertinent part:

- “1. The proposed cellar and two story commercial building within an R3-2 Zoning District is not permitted as per Section 22-10 Z.R.”; and

WHEREAS, a public hearing was held on this application on March 15, 2005 after due notice by publication in *The City Record*, with continued hearings on May 24, 2005 and July 19, 2005, and then to decision on August 9, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 2, Staten Island, and the Staten Island Borough President recommend approval of this application; and

WHEREAS, neighbors to the subject premises appeared at the hearing in opposition to this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, in an R3-2 zoning district, the erection and maintenance of a two-story with cellar commercial building for a photography and video studio, contrary to Z.R. §22-10; and

WHEREAS, the subject zoning lot is located on the

southeast side of Hylan Boulevard between Otis Avenue and Bryant Avenue, and has a total lot area of approximately 5,690 sq. ft.; and

WHEREAS, the site is a corner lot with 60 ft. of frontage on Hylan Boulevard and 96 ft., 17 in. of frontage on Otis Avenue; and

WHEREAS, the applicant states that Hylan Boulevard is a six-lane arterial street, mapped at a width of 100 ft; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the site in strict conformance with underlying zoning regulations: (i) location on a six-lane arterial street which is a major commercial thoroughfare; (ii) one of the few residentially-zoned corner lots located on such arterial street in the surrounding area; and (iii) location near many commercial uses, including one across the street; and

WHEREAS, the applicant has submitted a land use map that shows that there is a C2-1 zoning district across from the site on both Hylan Boulevard and Otis Avenue; and

WHEREAS, the land use map also reflects that areas near the site, specifically at the intersection of New Dorp Lane and Hylan Boulevard, are zoned C4-2 and C8-1; and

WHEREAS, the applicant represents that directly across

regulations would not yield the owner a reasonable return, namely because of the size of the parcel and the limited potential for on-site parking after development as well as limited street parking near the site; and

WHEREAS, the Board asked the applicant to revise its analysis of a medical building as a community facility doctor's office, to comply with the recently revised community facility text amendment; the applicant concluded that such proposal would still not result in a reasonable rate of return; and

WHEREAS, at the request of the Board, the applicant analyzed other conforming scenarios, including: (i) two detached, two-family homes; (ii) two one-family semi-detached homes; and (iii) a multiple dwelling; and

WHEREAS, the applicant revised its feasibility study and concluded that the additional conforming scenarios would not result in a reasonable rate of return; and

WHEREAS, the Board inquired as to whether the site had been marketed for conforming uses; and

WHEREAS, the applicant submitted a letter from a real estate broker indicating that the property was unsuccessfully marketed from May 2003 through August 2003; and

WHEREAS, therefore, the Board has determined that because of the subject lot's unique physical conditions there is

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from the site, on Hylan Boulevard, zoning district amendments were made to rezone Blocks 3644 and 3617 from residential to commercial; and

WHEREAS, the applicant has also submitted a land use map that indicates that the site is one of only three residential corner lots with frontage on Hylan Boulevard for a .86-mile radius around the site; and

WHEREAS, the land use map also reflects that out of 30 linear blocks surrounding the site along Hylan Boulevard, 27 of those blocks are fully built out with commercial uses; and

WHEREAS, the applicant states that these factors act together to make the site unmarketable for conforming uses; and

WHEREAS, the Board finds that, when considered in the aggregate, the factors stated above create unnecessary hardship and practical difficulties in strictly conforming with the applicable use provisions of the Zoning Resolution; and

WHEREAS, the applicant submitted a feasibility study that contemplates use of the existing building as a conforming medical building and two conforming semi-detached homes; and

WHEREAS, the study indicates that developing the premises in conformance with applicable district use

no reasonable possibility that development in strict conformity with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance will not affect the character of the neighborhood, and that a commercial use on the site is compatible with the uses in the surrounding neighborhood; and

WHEREAS, the applicant submitted a land use map that reflects that the areas to the northeast, east and southeast of the site are zoned for commercial uses; and

WHEREAS, the applicant represents that directly across from the site on Otis Avenue is a catering hall that is owned by the same owners as the subject site; the proposed use on the site will be used in conjunction with the events held at the catering hall; and

WHEREAS, the applicant notes that the proposed development complies with most of the R3-2 bulk regulations, including F.A.R. and total height; and

WHEREAS, at the request of the Board, the applicant modified the application to include a 10 ft. front yard on Hylan Boulevard and a 10 ft. front yard on Otis Avenue; and

WHEREAS, the initial application included a second floor balcony and an outdoor wedding garden; at the request of the neighbors who live to the rear of the site, the balcony and

garden have been removed; and

WHEREAS, the applicant has also agreed to provide landscaping with trees and buffer planting on the portions of the site that border residential properties; and

WHEREAS, the applicant proposes to have six parking spaces on site, three of which will be used by employees; and

WHEREAS, the Board questioned whether there would be sufficient parking for clients of the studio; and

WHEREAS, the applicant represents that there will only be two appointments scheduled at any one time; and the applicant further represents that any additional clients will be able to utilize the parking lot of the catering hall across the street because the owner of the studio also owns the catering hall; and

WHEREAS, therefore, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties nor be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, based upon the above, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; 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 617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, in an R3-2 zoning district, the erection and maintenance of a two-story plus cellar commercial building for a photography and video studio, contrary to Z.R. § 22-10; *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 28, 2005"—(3) sheets; and *on further condition*:

THAT the hours of operation shall be 9AM to 7 PM, Monday through Thursday, 9 AM to 9 PM, Friday and Saturday, and 9 AM to 5 PM on Sunday;

THAT the use on the site shall be restricted to a video and photography studio;

THAT no photography shall take place outside of the building;

THAT clients of the studio will be told to either park behind the employee cars in the on-site parking lot or park across the street in the Excelsior Grand parking lot when they come in for their appointments;

THAT a sign shall be posted in the studio's parking lot

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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. 04-BSA-209R, dated June 16, 2004; 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; Construction Impacts and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

which will read "Additional Parking is available across the street in the Excelsior Grand parking lot;"

THAT the above conditions shall be listed on the certificate of occupancy;

THAT the maximum floor area ratio for the studio shall be 0.54 and the maximum total building height shall be 22';

THAT all signage shall conform to C1 signage requirements;

THAT landscaping shall be provided as indicated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning

Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 9, 2005.

12-05-BZ

APPLICANT – Eric Palatnik, P.C., for Dina Horowitz, owner.

SUBJECT – Application January 21, 2005 – under Z.R. §73-622 for an enlargement to a single family home to vary sections Z.R. §23-141 for floor area, Z.R. §23-461 for side yards and Z.R. §23-47 for rear yard. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 1662 East 28th Street, between Quentin Road and Avenue “P”, Block 6790, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated December 27, 2004, acting on Department of Buildings Application No. 301874531, reads, in pertinent part:

“Respectfully request denial for Board of Standards and Appeals.

1. ZR 23-461 – In R3-3 two side yards are required with a total width of 13’ and the minimum width of any side yard shall be 5’.
2. ZR 23-141 – The floor area ratio shall not exceed 0.5.
3. ZR 23-47 – The rear yard shall have a minimum depth of 30’ continuous;” and

WHEREAS, a public hearing was held on this application on June 14, 2005 after due notice by publication in *The City Record*, with a continued hearing on July 26, 2005, and then to decision on August 9, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the

proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area, floor area ratio, side yards and rear yard, contrary to Z.R. §§ 23-141, 23-461 and 23-47; and

WHEREAS, the subject lot is located on East 28th Street, between Quentin Road and Avenue P; and

WHEREAS, the subject lot has a total lot area of approximately 5,000 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing single-family home; and

WHEREAS, the applicant seeks an increase in the floor area from 2,354 sq. ft. (0.47 Floor Area Ratio or “FAR”) to 3,368 sq. ft. (0.67 FAR); the maximum floor area permitted is 2,500 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will maintain one existing non-complying side yard of 3’-7”, which does not comply with the 5’ minimum side yard requirement; and

WHEREAS, the proposed enlargement will also maintain the other existing complying side yard of 9’, which, when aggregated with the other side yard dimension, does not comply with the 13’ total side yard requirement; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the proposed enlargement will reduce the existing non-complying rear yard from 29.5’ to 20’; the minimum rear yard required is 30’-0”; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20’ of the rear lot line; and

WHEREAS, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the

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proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area, floor area ratio, side yards and rear yards, contrary to Z.R. §§ 23-141, 23-461 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received July 12, 2005"-(6) sheets and "August 9, 2005" - (1) sheet; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the total FAR on the premises, including the attic, shall not exceed 0.67;

THAT the above conditions shall be set forth in the certificate of occupancy;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 9, 2005.

15-05-BZ

APPLICANT – Friedman & Gotbaum, LLP, by Irving J. Gotbaum, for West 20th Street Realty, LLC, owner.

SUBJECT - Application January 27, 2005 – under Z.R. §72-21 to permit the proposed construction of a seven-story 64.5' residential building, located in an R8B zoning district, which exceeds the permitted height of 60', which is contrary to Z.R. §23-692.

PREMISES AFFECTED – 209 West 20th Street, north side, 141' west of Seventh Avenue, Block 770, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Administration: Lori Cuisiner.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated January 24, 2005, acting on Department of Buildings Application No. 103430529, reads:

“Proposed penthouse penetrates special height limitation of 60’ (width of abutting street) contrary to ZR 23-692;” and

WHEREAS, a public hearing was held on this application on May 17, 2005, after due notice by publication in *The City Record*, and July 12, 2005, and then to decision on August 9, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 4, Manhattan, recommends disapproval of this application; and

WHEREAS, certain neighbors of the site appeared in opposition to this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R8B zoning district, the proposed construction of a seven-story, 64’- 6” high residential building, which exceeds the permitted height of 60’, contrary to Z.R. §23-692; and

WHEREAS, the subject premises is situated on the north side of West 20th Street, 141 feet west of the corner formed by the intersection of Seventh Avenue and West 20th Street; and

WHEREAS, the site has a total lot area of 2,308.5 sq. ft., and is 25 ft. wide and 81 ft. deep; and

WHEREAS, the applicant proposes to develop the site with a seven-story, 64’ – 6” high, 12-unit residential rental building, with 7,990 sq. ft. of floor area and a Floor Area Ratio (FAR) of 4.0, which is the maximum permitted; and

WHEREAS, the seventh story is set back approximately 20 ft. at 55’-6” and the street wall is 59 ft. high; and

WHEREAS, because the height exceeds 60 ft. (the permitted maximum) by approximately four feet, a height waiver is requested; and

WHEREAS, the site had formerly been occupied by an obsolete one-story garage, and was then vacant; construction at the site has already commenced pursuant to a building permit based upon plans showing an as-of-right development; and

WHEREAS, the applicant states that the following is a unique physical condition inherent to the site, which creates practical difficulties and/or unnecessary hardship in developing the subject site in compliance with underlying district regulations: the site is both narrow and shallow, and thus can not accommodate an as-of-right development that uses available floor area in a feasible manner while still

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complying with applicable yard requirements and Building Code requirements for elevator cores; and

WHEREAS, the applicant argues that because of the shallowness of the site and the requirement for a 30' rear yard, the only way to use available floor area and realize a reasonable return is to construct a seven-story building at a height slightly higher than is allowed; and

WHEREAS, however, with only six floors, available floor area could not be fully utilized, resulting in an infeasible development; and

WHEREAS, a six floor development using available floor area would only be feasible if the lot was 100 ft. in depth; and

WHEREAS, the applicant also notes that the size of the lot leads to a complying development that is only 23'-8" in width, with usable floor area further reduced by the application of certain Building Code requirements for new construction; and

WHEREAS, the applicant states that the height waiver allows the development to use available floor area through the addition of one more unit at a setback seventh floor, which, as discussed further below, will increase revenue sufficiently to provide a reasonable return on investment; and

WHEREAS, the Board acknowledges that the shallowness of the lot creates a practical difficulty in developing the site with a building that utilizes available floor area while still complying with rear yard and lot coverage requirements; and

WHEREAS, accordingly, the Board finds that the aforementioned unique condition creates a practical difficulty in developing the site in compliance with the applicable zoning provision; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed a fully complying building, which was a six-story, eleven rental unit, 55'-6" high building, with a total FAR of 3.6; and

WHEREAS, the applicant concluded that such a development would not realize a reasonable return, as the building form, although complying in terms of height, would not allow utilization of available FAR; and

WHEREAS, at hearing, opposition suggested that an as-of-right condominium scenario would be feasible; and

WHEREAS, in response, the applicant submitted a full analysis of a five-story condo building, with a unit per floor and sufficient ceiling heights to make the units attractive to potential purchasers; the applicant stated that the need to provide such ceiling heights reduces a complying building to five stories, with an attendant decrease in sellable floor area; and

WHEREAS, the applicant concluded that a five-story condo building, because of the diminished use of available floor area, would not realize a reasonable return; and

WHEREAS, the applicant also analyzed a six-story condo building scenario, with a unit per floor, but with ceiling heights lower than what would be acceptable for a marketable condo unit; available floor area also could not be fully

accommodated; this scenario was also deemed to be infeasible; and

WHEREAS, the Board agrees that neither scenario is viable; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant states that the height of the proposed building is consistent with the surrounding buildings; and

WHEREAS, the applicant represents that seven-story buildings are located directly north and west of the site, and that the subject block contains residential buildings ranging from three to six stories; and

WHEREAS, the applicant has also submitted elevations of the adjacent buildings, showing the relation between the premises and the neighboring properties; and

WHEREAS, the Board has reviewed the above representations and supporting submissions, and agrees that the proposed height of the building is compatible with the surrounding buildings; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 72-21, to permit, within an R8B zoning district, the proposed construction of a seven-story 64'-6" high residential building, which exceeds the permitted height of 60', contrary to Z.R. §23-692; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "July 25, 2005"- (8) sheets; and *on further condition*;

THAT the total height of the building, and all other height measurements, shall be as indicated herein and on the BSA-approved plans;

THAT the internal floor layouts and exiting on each floor of the proposed building shall be as reviewed and approved by DOB;

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

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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, August 9, 2005.

31-05-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Larry Warren, owner.

SUBJECT - Application April 28, 2005 - under Z.R. §73-622 to permit the enlargement to a single family home to vary sections ZR 23-141 floor area, ZR 23-461 for side yards and ZR 23-631 for perimeter wall height. The premise is located in an R2X (OP) zoning district.

PREMISES AFFECTED - 1897 East Second Street, between Billings Place and Colin Place, Block 6681, Lot 211, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 27, 2005, acting on Department of Buildings Application No. 301874504, reads:

- “1. Proposed plans are contrary to ZR 23-141 in that it exceeds the maximum permitted floor area ratio of 85%.
2. Proposed plans are contrary to ZR 23-461 in that the proposed total side yards are less than the minimum 10’-0”.
3. Proposed plans are contrary to ZR 23-631 in that it exceeds the maximum permitted perimeter wall height of 21’-0”;and

WHEREAS, a public hearing was held on this application on July 19, 2005 after due notice by publication in *The City Record*, and then to decision on August 9, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, including Chair Srinivasan; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R2X zoning district in the Special

Ocean Parkway District, the proposed enlargement of an existing one-family dwelling, which does not comply with the zoning requirements for floor area ratio, side yards and perimeter wall height, contrary to Z.R. §§ 23-141, 23-461 and 23-631; and

WHEREAS, the subject lot is located on East 2nd Street between Billings Place and Colin Place, and has a total lot area of approximately 3,000 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-story residential structure; and

WHEREAS, the applicant seeks an increase in the floor area from 2,480 sq. ft. (0.83 Floor Area Ratio or “FAR”) to 3,492 sq. ft. (1.16 FAR); the maximum floor area permitted is 2,550 sq. ft. (0.85 FAR); and

WHEREAS, the proposed enlargement will maintain the existing side yards of 3’-11” and 5’-0”, which, when aggregated, do not comply with the 10’-0” total side yard requirement; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the proposed enlargement will maintain the existing non-conforming perimeter wall height of 25’-0”; the required maximum wall height is 21’-0”; and

WHEREAS, the applicant believes that because the proposed enlargement does not increase the pre-existing legal non-complying height of the front wall, the objection with respect to perimeter wall height should not have been issued by the Department of Buildings (“DOB”); and

WHEREAS, the Board notes that since the applicant came to the Board with an objection from DOB as to the perimeter wall height of the residence, the applicant must meet the findings set forth in Z.R. §73-622 with respect to perimeter wall height; and

WHEREAS, the applicant represents that the perimeter wall height of the adjacent home is equal to 25’-0”;

WHEREAS, at the request of the Board, the applicant has submitted a letter from an architect verifying the same; and

WHEREAS, the proposed enlargement will reduce the rear yard from 21’-10” to 20’-0”; the minimum rear yard required is 20’-0”; and

WHEREAS, the proposed enlargement will increase the total height of the building from 30’-6” to 35’-0”; the maximum total height is 35’-0”; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood, nor will it impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions

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and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R2X zoning district in the Special Ocean Parkway District, the proposed enlargement of an existing one-family dwelling, which does not comply with the zoning requirements for floor area ratio, side yards and perimeter wall height, contrary to Z.R. § 23-141, 23-461 and 23-631; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received April 28, 2005"- (8) sheets and "June 20, 2005"-(1) sheet; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the total F.A.R. on the premises, including the attic, shall not exceed 1.16;

THAT the total attic floor area shall not exceed 841 sq. ft.;

THAT the above conditions shall be set forth on the certificate of occupancy;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT all interior partitions shall be subject to the approval of the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, August 9, 2005.

34-05-BZ

APPLICANT - Sheldon Lobel, P.C., for Robert Hakim, owner.

SUBJECT - Application February 24, 2005 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family dwelling, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, open space ratio, also side and

rear yards, is contrary to Z.R. §23-141, §23-461(a) and §23-47.

PREMISES AFFECTED - 1975 East 24th Street, east side, between Avenues "S" and "T", Block 7303, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Richard Lobel.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 28, 2005, acting on Department of Buildings Application No. 301900272, reads:

"Obtain approval from the Board of Standards and Appeals for the following objections:

Proposed floor area is contrary to Z.R. 23-141; proposed open space ratio is contrary to Z.R. 23-141; proposed rear enlargement of the building into non-complying side yard is contrary to Z.R. 23-461(a); and proposed enlargement of the building does not provide minimum 30'-0" rear yard and is contrary to Z.R. 23-47";and

WHEREAS a public hearing was held on this application on July 19, 2005 after due notice by publication in *The City Record*, and then to closure and decision on August 9, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing one-family dwelling, which does not comply with the zoning requirements for floor area, open space, side yards and rear yard, contrary to Z.R. §§ 23-141, 23-461 and 23-47; and

WHEREAS, the subject lot is located on East 24th Street between Avenues N and T, and has a total lot area of approximately 2,700 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-story residential structure; and

WHEREAS, the applicant seeks an increase in the floor area from 1,715 sq. ft. (0.63 Floor Area Ratio or "FAR") to 2,860.2 sq. ft. (1.06 FAR); the maximum floor area permitted is 1,620 sq. ft. (0.60 FAR); and

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WHEREAS, the Board notes that at the request of the Board the applicant reduced its FAR to 1.06 from its initial proposal of 1.12; and

WHEREAS, the applicant proposes to decrease the open space ratio ("OSR") from 0.63 to 0.57; the minimum required OSR is 0.65; and

WHEREAS, the proposed enlargement will maintain the existing side yards of 3'-1 1/2" and 6'-10 1/4", which, when aggregated, do not comply with the 13'-0" total side yard requirement; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the proposed enlargement will maintain the existing non-conforming perimeter wall height of 23'-0"; the required maximum wall height is 21'-0"; and

WHEREAS, the applicant represents that the perimeter wall height of the adjacent homes is equal to the proposed perimeter wall height;

WHEREAS, at the request of the Board, the applicant has submitted a letter from an architect verifying the same; and

WHEREAS, the proposed enlargement will reduce the rear yard from 29'-3 1/4" to 20'-0"; the minimum rear yard required is 20'-0"; and

WHEREAS, the proposed enlargement will increase the total height of the building from 31'-0" to 34'-8"; the maximum total height is 35'-0"; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood, nor will it impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing one-family dwelling, which does not comply with the zoning requirements for floor area, open space, side yards and rear yard, contrary to Z.R. §§ 23-141, 23-461 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received July 26, 2005"-(10) sheets; and *on further condition*:

THAT the total F.A.R. on the premises, including the attic, shall not exceed 1.06;

THAT the above condition shall be set forth on the certificate of occupancy;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT all interior partitions shall be subject to the approval of the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, August 9, 2005.

64-05-BZ

APPLICANT - Paul F. Bonfilio, for Patrick & Elizabeth O'Connor, owner.

SUBJECT - Application March 16, 2005 - under Z.R. §72-21 to construct a single family detached residence with less than the required lot area ZR 23-32 and less than the required side yard width ZR 23-461. The vacant lot/site is located in a R1-2 zoning district.

PREMISES AFFECTED - 40 Conyngham Avenue, west side, between Springhill and Castleton Avenues, Block 101, Lot 445, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Paul Bonfilio.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

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Negative:.....0
THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated March 2, 2005, acting on Department of Buildings Application No. 500753749, reads:

- “1. 23-32 Z.R. – The proposed construction of a detached one family residence in an R1-2 Zoning District on a Zoning Lot with a width of 50 feet and an area of 5000 square feet is contrary to section 23-32 Z.R.
2. 23-461 Z.R. – The proposed construction of a detached one family residence in an R1-2 Zoning District on a Zoning Lot with side yards totaling less than 20 feet is contrary to section 23-461 Z.R.
3. Therefore the proposed building is referred to the Board of Standards and Appeals;” and

WHEREAS, a public hearing was held on this application on July 19, 2005, after due notice by publication in *The City Record*, and then to decision on August 9, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 1, Staten Island, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed construction of a single-family detached residence, located in an R1-2 zoning district, which does not comply with the zoning requirements for minimum lot area, lot width, and side yard width, contrary to Z.R. §§ 23-32 and 23-461; and

WHEREAS, the record indicates that the subject premises on the west side of Conyningham Avenue between Springhill and Castleton Avenues, and is currently vacant; and

WHEREAS, the lot has a non-complying total lot area of 5,000 sq. ft. (minimum required lot area is 5,700 sq. ft.) and a non-complying lot width of 50 ft. (minimum required lot width is 60 ft.); and

WHEREAS, the proposal contemplates a non-complying total side yard width of 18 ft. (minimum required is 20 ft.); and

WHEREAS, the proposal contemplates a two-story plus attic and cellar building that will comply with all floor area, front yard and rear yard zoning requirements; and

WHEREAS, the applicant represents that the subject lot (Lot 445) was purchased by James J. Hasson and Mary Lou Hasson together with the adjacent lot (Lot 441) on June 26, 1961; and

WHEREAS, the applicant has submitted a copy of a tax map from 1928 that confirms that Lot 441 and 445 were two separate tax lots as of that date; and

WHEREAS, the applicant also has submitted a copy of the title report issued in connection with the title

insurance policy dated May 4, 1961; the report describes the property as consisting of two separate tax lots, Lot 441 and Lot 445; and

WHEREAS, the applicant represents that the subject lot was conveyed to Mary Lou Hasson on November 7, 1966, wherein she became the sole owner of Lot 445;

WHEREAS, the applicant submitted a deed that reflects that Mary Lou Hasson conveyed Lot 445 to the applicant on January 14, 2005; and

WHEREAS, the applicant represents that when James J. Hasson purchased Lots 441 and 445, Lot 441 was improved with a house and Lot 445 was vacant; and

WHEREAS, the applicant states that Lot 445 has remained vacant since that time and has never been used together with Lot 441; and

WHEREAS, the applicant further represents that Z.R. §23-33, “Special Provisions for Existing Small Lots,” would permit development on the subject narrow lot, except that it contains a condition that states that the narrow lot must have been “owned separately and individually from all other adjoining tracts of land, both on December 15, 1961 and on the date of application for the permit;”

WHEREAS, the applicant represents that Lot 441 and 445 always operated as separate tax lots, and, although the lots were under common ownership on December 15, 1961, the lots have been under separate ownership since November 1966; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties in developing the subject lot in compliance with underlying district regulations: the site is a pre-existing, narrow, undersized, and vacant lot that has historically been used separate and apart from the contiguous property; and

WHEREAS, the Board finds that the aforementioned unique condition creates a practical difficulty in developing the site in compliance with the applicable zoning provision; and

WHEREAS, the applicant states that without the waivers, no residence could be constructed on the property; and

WHEREAS, although the Board recognizes that the subject lot was under common ownership with another lot for a period of five years, the Board notes that the lots have historically been separate tax lots and have never been used together; and

WHEREAS, the Board has determined that because of the subject lot’s unique physical condition, there is no reasonable possibility that development in strict compliance with the applicable zoning requirements will result in any development of the property; and

WHEREAS, the applicant states that the bulk of the proposed building is consistent with the surrounding residential uses; and

WHEREAS, the applicant represents that the rear lot line of the subject property is on the boundary of an R2 zoning district; the applicant notes that the lot width and lot area of the subject property would be complying in an R2

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zoning district; and

WHEREAS, the applicant states that of the 17 lots that face Conyningham Avenue, only 5 lots comply with the R1-2 lot width and lot area requirements; and

WHEREAS, the applicant represents that it will comply with all other zoning requirements including F.A.R., height and setback requirements; and

WHEREAS, the Board questioned whether it was necessary for the applicant to receive a side yard waiver; and

WHEREAS, the applicant explained that if the owner was required to maintain the required side yards, the proposed building would have a floor plate that would be too narrow to accommodate the colonial style house that is prevalent in the neighborhood; and

WHEREAS, the applicant further states that narrowing the house and increasing the size in the rear instead of encroaching into the side yard would not resolve the issue because the proposed building would still be too narrow to support the center hall and staircase; and

WHEREAS, the applicant represents that if the subject lot was recognized as a lawful pre-existing lot, the applicant could utilize the narrow side yard provisions of Z.R. §23-48 that would allow a total side yard width of 16 ft, 8 in. and a minimum side yard of 5 ft.; and

WHEREAS, the applicant notes that the extension into the side yard will be on the side of the house adjacent to the applicant's father-in-law's house; and

WHEREAS, the Board notes that the side yards will each be at least 8 ft., therefore complying with the minimum side yard requirement in an R1-2 zoning district; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, based on the information provided to the Board, the Board finds that the site historically has operated as a separate zoning lot; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 72-21, to permit the proposed construction of a single-family detached residence, located in an R1-2 zoning district, which does not comply with the zoning requirements for minimum lot area, lot width, and side yard width, contrary to Z.R. §§ 23-32 and 23-461; *on condition* that all work shall substantially

conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 16, 2005" - (4) sheets, "May 18, 2005"-(1) sheet and "July 26, 2005"-(2) sheets; and *on further condition*;

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 9, 2005.

67-05-BZ

APPLICANT – Sheldon Lobel, P.C., for 1710 Broadway, LLC, C/O C&K Properties, owners; OPUS Properties LLC, lessees.

SUBJECT – Application March 17, 2005 – under Z.R. §73-36 to permit the proposed physical culture establishment, within the cellar level, with entry on the ground level, of an existing six-story building, located in a C6-6/C6-7 zoning district, which requires a special permit.

PREMISES AFFECTED – 1710 Broadway, northeast corner of West 54th Street, Block 1026, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele

and Commissioner Chin.....3

Negative:.....0

Recused: Vice-Chair Babbar.....1

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated March 16, 2005, acting on Department of Buildings Application No. 104053612, reads:

"Proposed adult physical culture establishment is not permitted in any District (ZR 12-10)"; and

WHEREAS, a public hearing was held on this application on July 12, 2005 after due notice by publication in *The City Record*, and then to decision on August 9, 2005; and

WHEREAS, Community Board 5, Manhattan,

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recommends approval of this application; and

WHEREAS, the New York City Fire Department recommends approval of this application; and

WHEREAS, this is an application, under Z.R. §73-36, to permit, in a C6-6/C6-7 zoning district within the Special Midtown District, a physical culture establishment (“PCE”) to be located on the ground level of an existing six-story building, contrary to Z.R. §32-00; and

WHEREAS, the PCE will occupy a total of 6,450 sq. ft. of the cellar level of a six-story building that is occupied entirely with commercial uses; and

WHEREAS, the applicant represents that the proposed PCE will have direct access into the building from the ground floor via stairs and an elevator; in addition, the PCE will have ingress and egress through the cellar of the adjacent Dream Hotel; and

WHEREAS, the applicant further states that the PCE will contain facilities for meditation instruction, yoga, massage therapy, facials, diet and nutritional counseling, stress management techniques, wellness classes and educational programs; and

WHEREAS, the applicant represents that all masseurs and masseuses employed by the facility will be New York State licensed; and

WHEREAS, the applicant asserts that the entire facility will be equipped with an automatic wet sprinkler system and a fire alarm system that is connected to a Fire Department-approved central monitor system; and

WHEREAS, the applicant anticipates that the proposed PCE will employ approximately 24 employees; and

WHEREAS, the PCE will have hours of operation of 5 a.m. to 11 p.m., seven days a week; and

WHEREAS, the applicant represents that area where the PCE will be located is predominantly a commercial area with some residential and hotel uses; and

WHEREAS, the Board finds that the PCE, given the proposed uses and the hours of operation, will not have any significant impact on the residential use in the building or adjacent residential uses; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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 proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that

the evidence in the record supports the requisite findings pursuant to Z.R. §73-36; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; 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 05-BSA-107M, dated April 19, 2005 ; 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; 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, 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 Z.R. §§73-36 and 73-03, to permit, in a C6-6/C6-7 zoning district within the Special Midtown District, a physical culture establishment to be located on the ground level of an existing six-story building, contrary to Z.R. §32-00; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received July 19, 2005”–(1) sheets; and *on further condition*

THAT this grant shall be limited to a term of ten years from August 9, 2005, expiring August 9, 2015;

THAT all massages will be performed only by New York State licensed massage therapists;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT the hours of operation shall be limited to: 6 a.m. to 11 p.m., Monday through Sunday;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be as installed and maintained on the Board-approved plans;

THAT an interior fire alarm system shall be provided as set forth on the BSA-approved plans and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed

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DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all of applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 9, 2005.

71-05-BZ

APPLICANT - Sheldon Lobel, P.C., for Barbara and Marc Tepler, owner.

SUBJECT - Application March 23, 2005 - under Z.R. § 73-622 to permit the enlargement of a single family residence which exceeds the allowable floor area and less than the minimum required open space per ZR23-241, less than the minimum side yard per ZR23-46 and less than the minimum rear yard per ZR23-47. The premise is located in an R-2 zoning district.

PREMISES AFFECTED - 1226 East 29th Street, west side, between Avenues "L and M", Block 7646, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 17, 2005, acting on Department of Buildings Application No. 301889767, reads, in pertinent part:

“The proposed enlargement of the existing one family residence in a R2 zoning district:

1. Causes an increase in the floor area exceeding the floor area ratio allowed by section 23-141 of the zoning resolution.
2. Causes a decrease in open space resulting in open space ratio less than the required minimum pursuant to section 23-141 of the zoning resolution.
3. Proposes straight line extension resulting in a side yard contrary to section 23-461 of the zoning resolution.
4. Proposed rear yard contrary to ZR 23-47 in that the proposed rear yard is less than the 30’-0” that is required in the zoning resolution”; and

WHEREAS, a public hearing was held on this application on July 19, 2005 after due notice by publication in *The City Record*, and then to decision on August 9, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area, floor area ratio, open space ratio, side yards and rear yard, contrary to Z.R. §§ 23-141, 23-461 and 23-47; and

WHEREAS, the subject lot is located on the west side of East 29th Street, between Avenues L and M; and

WHEREAS, the subject lot has a total lot area of 3,000 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing single-family home; and

WHEREAS, the applicant seeks an increase in the floor area from 2,469 sq. ft. (0.82 Floor Area Ratio or “FAR”) to 3047.3 sq. ft. (1.02 FAR); the maximum floor area permitted is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, the open space ratio will be decreased from 81% to 56%; 150% is the minimum required; and

WHEREAS, the proposed enlargement will maintain one existing non-complying side yard of 2’-6 ½”;

WHEREAS, the proposed enlargement will maintain the other existing non-complying side yard of 6’-10 ½”;

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the proposed enlargement will reduce the existing non-complying rear yard from 30’-2 ¾” to 20’; the minimum rear yard required is 30’-0”;

WHEREAS, the enlargement of the building into the rear yard is not located within 20’ of the rear lot line; and

WHEREAS, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to

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be made under Z.R. §§ 73-622 and 73-03.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area, floor area ratio, open space ratio, side yards and rear yard, contrary to Z.R. §§ 23-141, 23-461 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received July 26, 2005"- (5) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the total F.A.R. on the premises, including the attic, shall not exceed 1.02;

THAT the above conditions shall be set forth in the certificate of occupancy;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 9, 2005.

107-05-BZ

APPLICANT – Eric Palatnikl, P.C., for Jeff and Jill Adler, owners.

SUBJECT – Application May 11, 2005 – under Z.R. §73-622 to permit the enlargement of a single family home to waive ZR§23-141(b) for floor area, lot coverage, open space, ZR§23-47 for rear yard. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 1823 East 24th Street, east side of 24th Street, off Avenue "R", Block 6830, Lot 77, Borough of Brooklyn.

COMMUNITY BOARD#15BK

APPEARANCES –

For Applicant: Eric Palatnik and Jewel Adler.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 26, 2005, acting on Department of Buildings Application No. 301923621, reads, in pertinent part:

"Plans are contrary to Z.R. 23-141(b) in that the proposed Floor Area Ratio exceeds the permitted .5.

Plans are contrary to Z.R. 23-141(b) in that the proposed lot coverage is more than the allowable 35%.

Plans are contrary to Z.R. 23-141(b) in that the proposed open space ratio is less than the required 65%.

Plans are contrary to 23-461(a) in that the proposed side yards are less than the required 13'.

Plans are contrary to Z.R. 23-47 in that the proposed rear yard is less than the minimum required 30'.";

and WHEREAS, a public hearing was held on this application on August 9, 2005 after due notice by publication in *The City Record*, and decided on this same date; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, open space ratio, side yards and rear yard, contrary to Z.R. §§ 23-141(b), 23-461(a) and 23-47; and

WHEREAS, the subject lot is located on the east side of East 24th Street, near Avenue R; and

WHEREAS, the subject lot has a total lot area of approximately 3,000 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing single-family home; and

WHEREAS, the applicant seeks an increase in the floor area from 1,926 sq. ft. (0.64 Floor Area Ratio or "FAR") to 2,494.23 sq. ft. (0.83 FAR); the maximum floor area permitted is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, the open space ratio will be decreased from 64.9% to 56%; 65% is the minimum required; and

WHEREAS, the proposed lot coverage will be increased from 35% to 44%; 35% is the maximum allowed; and

WHEREAS, the proposed enlargement will maintain one existing non-complying side yard of 9 inches; and

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WHEREAS, the proposed enlargement will reduce the other existing non-complying side yard of 9'-2" to 8', which, when aggregated with the other side yard dimension, does not comply with the 13' total side yard requirement; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the proposed enlargement will reduce the existing non-complying rear yard from 29'-7" to 20'; the minimum rear yard required is 30'-0"; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20' of the rear lot line; and

WHEREAS, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-622 and 73-03.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, open space ratio, side yards and rear yard, contrary to Z.R. §§ 23-141(b), 23-461(a) and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received June 13, 2005"-(5) sheets; and June 30, 2005 – four (4) sheets ; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the total F.A.R. on the premises, including the attic, shall not exceed 0.83;

THAT the above conditions shall be set forth in the certificate of occupancy;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 9, 2005.

378-03-BZ

APPLICANT – Harold Weinberg, P.E., for The New Way Circus Center by Regina Berenshtein, owner.

SUBJECT – Application December 4, 2003 - under Z.R. §72-21 application seeks to waiver sections: 23-141 (Lot Coverage), 23-462 (Side Yards), 23-45 (Front Yard), and 23-631 (Perimeter Wall Height, Sky Exposure Plane and Setback), to allow in a R5 zoning district the construction of a two story building to be used as a non-profit institution without sleeping accommodations for teaching of circus skills.

PREMISES AFFECTED – 2920 Coney Island Avenue, west side 53.96' north of Shore Parkway, Block 7244, Lot 98, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to August 23, 2005, at 1:30 P.M., for decision, hearing closed.

160-04-BZ/161-04-A

APPLICANT – Mitchell S. Ross, Esq., Agusta & Ross, for Daffna, LLC, owner.

SUBJECT – Application April 21, 2004 – under Z.R. §72-21 to permit, in an M1-2 zoning district, the residential conversion of an existing four-story commercial loft building into eight dwelling units, contrary to Z.R. §42-10.

PREMISES AFFECTED – 73 Washington Avenue, East side of Washington Avenue 170' north of Park Avenue, Block 1875, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to November 2, 2005, at 1:30 P.M., for adjournment.

219-04-BZ

APPLICANT - Eric Palatnik, P.C., for Cora Realty Co., LLC., owner.

SUBJECT - Application May 28, 2004 – under Z.R. §72-21

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to permit the legalization of a portion of the required open space of the premises, for use as parking spaces (30) spaces, which are to be accessory to the existing 110 unit multiple dwelling, located in an R7-1 zoning district, is contrary to Z.R. §25-64 and §23-142.

PREMISES AFFECTED – 2162/70 University Avenue, aka Dr. Martin Luther King Boulevard, southeast corner of University Avenue and 181st Street, Block 3211, Lots 4 and 9, Borough of The Bronx.

COMMUNITY BOARD #5BX

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for decision, hearing closed.

296-04-BZ

APPLICANT – Sheldon Lobel, P.C., for 135 Orchard Street, Co., LLC, owner.

SUBJECT – Application August 30, 2004 – under Z.R. §72-21 to permit the legalization of the residential uses on floors two through five of an existing five-story mixed use building located in a C6-1 zoning district.

PREMISES AFFECTED – 135 Orchard Street, (a/k/a 134 Allen Street), between Delancey and Rivington Streets, Block 415, Lot 69, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Irv Minkin.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to December 6, 2005, at 1:30 P.M., for decision, hearing closed.

332-04-BZ

APPLICANT - Eric Palatnik, P.C., for Chava Lobel, owner. SUBJECT – Application April 6, 2005 – under Z.R. §73-622 to permit the proposed to combine two lots and enlarge one residence which is contrary to ZR 23-141(a) floor area, ZR 23-131(a) open space and ZR 23-47 rear yard, located in an R-2 zoning district.

PREMISES AFFECTED – 1410/14 East 24th Street, between Avenues “N and O”, Block 7677, Lots 33 and 34 (tentative 33), Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to September 13, 2005, at 1:30 P.M., for decision, hearing closed.

382-04-BZ

APPLICANT – Eric Palatnik, P.C., for Billy Ades, (Contract Vendee).

SUBJECT – Application December 6, 2004 – under Z.R. §73-622 – to permit the proposed enlargement of an existing single family dwelling, located in an R4 zoning district, which does not comply with the zoning requirements for floor area, lot coverage, open space and side yards, is contrary to Z.R. §23-141(b) and §23-461(a).

PREMISES AFFECTED – 2026 Avenue “T”, corner of Avenue “T” and East 21st Street, Block 7325, Lot 8, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to September 13, 2005, at 1:30 P.M., for adjournment.

260-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Leewall Realty by Nathan Indig, owner.

SUBJECT – Application July 20, 2004 – under Z.R. §72-21 to permit the proposed construction of a four story, penthouse and cellar three-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 222 Wallabout Street, 64’ west of Lee Avenue, Block 2263, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to October 18, 2005, at 1:30 P.M., for continued hearing.

262-04-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Tishrey-38 LLC by Malka Silberstein, owner.

SUBJECT – Application July 22, 2004 – under Z.R. §72-21, to permit the proposed construction of a four story, penthouse and cellar four-family dwelling, located in an M1-2 zoning district,

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is contrary to Z.R. §42-00.

PREMISES AFFECTED - 218 Wallabout Street, 94' west of Lee Avenue, Block 2263, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to October 18, 2005, at 1:30 P.M., for continued hearing.

269-04-BZ

APPLICANT – Law Office of Howard Goldman, LLC, for 37 Bridge Street Realty, Corp., owner.

SUBJECT – Application August 2, 2004 – under Z.R. §72-21 to permit the conversion of a partially vacant, seven-story industrial building located in a M1-2 and M3-1 zoning district into a 60 unit loft style residential dwelling in the Vinegar Hill/DUMBO section of Brooklyn.

PREMISES AFFECTED - 37 Bridge Street, between Water and Plymouth Streets, Block 32, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #1BK.

APPEARANCES –

For Applicant: Howard Goldman and Robert Pauls.

ACTION OF THE BOARD – Laid over to October 18, 2005, at 1:30 P.M., for continued hearing.

355-04-BZ

APPLICANT – Slater & Beckerman, LLP, for Trustees under Irr.Trust, Stanley Gurewitsch, owner.

SUBJECT – Application November 10, 2004 and amended on July 26, 2005 to be a bulk variance – under Z.R. §72-21 to permit the proposed residential conversion of a portion of an existing three-story manufacturing building, and the construction of a four story residential enlargement atop said building, located in an M1-2(R6) zoning district within the special mixed-use MX-8 district, is contrary to Z.R. §§23-633, 23-942 and 123-64.

PREMISES AFFECTED – 302/10 North Seventh Street, aka 289 North Sixth Street, bounded on the southwest side, by north sixth street, southeast side by Meeker Avenue and northeast side by North Seventh Street, Block 2331, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Carole Slater, Stuart Beckerman, Robert Pauls, James Heineman, Adam Kushner, Richard Stubbs and Perry Fikelman.

ACTION OF THE BOARD – Laid over to September 27, 2005, at 1:30 P.M., for continued hearing.

380-04-BZ

APPLICANT – Sheldon Lobel, P.C., for BK Corporation, owner.

SUBJECT - Application November 29, 2004 – under Z.R. §72-21 to permit the legalization of the conversion of one dwelling unit, in a new building approved exclusively for residential use, to a community facility use, in an R5 zoning district, without two side yards, is contrary to Z.R. §24-35.

PREMISES AFFECTED – 32-12 23rd Street, bounded by 33rd Avenue and Broadway, Block 555, Lot 36, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Irv Minkin, Sheldon Lobel and Thomas Cusanelli.

ACTION OF THE BOARD – Laid over to September 20, 2005, at 1:30 P.M., for continued hearing closed.

389-04-BZ

APPLICANT – Francis Angelino, Esq., for 150 East 34th Street, Co., LLC, owner; Oasis Day Spa, Lessee.

SUBJECT – Application December 13, 2004 – under Z.R. §73-36 to permit the proposed legalization of an existing Physical Cultural Establishment, located on the second floor of the thirty seven story, Affina Hotel. The premise is located in a C1-9 zoning district.

PREMISES AFFECTED – 150 East 34th Street, Manhattan, between Lexington and Third Avenue, Block 889, Lot 55, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Francis R. Angelino, Suzane Marie Musho and Gauntlett Stewart.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to September 13, 2005, at 1:30 P.M., for decision, hearing closed.

MINUTES

43-05-BZ

APPLICANT – Harold Weinberg, P.E., for Yossi Cohen, owner.

Pasquale Pacifico, Executive Director.

SUBJECT - Application February 25, 2005 - under Z.R. §73-622 to permit an enlargement to the rear of a single family home to vary sections Z.R. §23-141 floor area and open space, Z.R. §23-461 side yards and Z.R. §23-47 for rear yard. The premise is located in an R3-2 zoning district. PREMISES AFFECTED – 1826 East 28th Street, west side, 200'-0" south of Avenue "R", Block 6833, Lot 17, Borough of Brooklyn.

Adjourned: 4:30 P.M

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg.

ACTION OF THE BOARD – Laid over to August 23, 2005, at 1:30 P.M., for continued hearing.

78-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Young Israel of New York Hyde Park, owner.

SUBJECT – Application March 31, 2005 – under Z.R. §72-21 to permit the proposed expansion of an existing one story synagogue building, located in an R2 zoning district, which does not comply with the zoning requirements for lot coverage, also front and side yards, is contrary to Z.R. §24-11, §24-24 and §24-35.

PREMISES AFFECTED – 264-15 77th Avenue, southwest corner of 256th Street, Block 8538, Lots 29 and 31, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Richard Lobel, David Dubinsky and Larry Barth.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to September 20, 2005, at 1:30 P.M., for decision, hearing closed.

BULLETIN

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AND APPEALS

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August 25, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

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JOEL A. MIELE, SR.

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Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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128' West of Park Avenue, Block 1285, Lot 43-46, Borough
of Manhattan. Applic. #N/A. Application pursuant to Ch.
666 of the City Charter and Z.R. §72-21 for an interpretive
appeal of §1266(8) of the NYS Public Authorities Law,
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COMMUNITY BOARD #5M

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COMMUNITY BOARD #7Q

193-05-BZ B.M. 32 East 31st Street,
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**DESIGNATIONS: D-Department of Buildings; B.BK.-
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Buildings, B.Q.-Department of Buildings, Queens; B.S.I.-
Department of Buildings, Staten Island; B.BX.-
Department of Buildings, The Bronx; H.D.-Health
Department; F.D.-Fire Department.**

CALENDAR

SEPTEMBER 20, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, September 20, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

SPECIAL ORDER CALENDAR

163-63-BZ

APPLICANT - Steve Sinacori / Stadtmauer Bailkin, LLP, for 116 Central Park South Condominium, owner.
SUBJECT - Application August 11, 2005 - Extension of Term/Waiver of a variance for the continued use of transient parking of unused spaces located in the garage of a multiple dwelling. The premise is located in a R-10/C5-1 zoning district.

PREMISES AFFECTED - 125/131 West 58th Street, south side of Central Park South and north side of West 58th Street, between 6th and 7th Avenue, Block 1011, Lot 7503, Borough of Manhattan.

COMMUNITY BOARD #5M

272-03-BZ

APPLICANT - Rampulla Associates Architects, for 4102 Hylan Realty, LLC, owner.
SUBJECT - Application June 28, 2005 - Reopening for an amendment to a variance to modify the design of the building and to add a bank teller drive through window. The premise is located in an R3-1 SRD zoning district.

PREMISES AFFECTED - 4106 Hylan Boulevard, south side of Hylan Boulevard and Goodall Street, Block 5307, Lot 6, Borough of Staten Island.

COMMUNITY BOARD #3SI

391-04-BZ

Moshe M. Friedman, for Meilech Fastag, owner.
Application August 2, 2005 - Reopening for an amendment to a Special Permit, ZR 73-622, the proposed plans are contrary to the previously approved BSA plans in that the proposed alteration for the first floor extends further into the rear yard exceeding the previous 20'-0" grant, the second floor and attic will remain as existing. The premise is located 100' from a corner, as per ZR 23-541 no rear yard is required. The premise is located in an R-2 zoning district.
2610 Avenue L, south side of Avenue L 60' east of intersection of Avenue L and East 26th Street, Block 7644, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #14BK

SEPTEMBER 20 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, September 20, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

ZONING CALENDAR

386-04-BZ

APPLICANT – Rothkrug Rothkrug Weinberg & Spector, for PSCH, Inc., owner.

SUBJECT – Application December 9, 2004- under Z.R.§72-21, to permit the proposed enlargement and development of an existing community facility, located in M1-1 zoning district, which does not comply with the zoning requirements for accessory off-street loading berth, waterfront yards, total height and parking, is contrary to Z.R. §44-52, §62-331, §62-34, §62-441 and §44-21.

PREMISES AFFECTED - 22-44 119TH Street, corner of 23rd Avenue, Block 4194, Lot 20, Borough of Queens.

COMMUNITY BOARD #7Q

18-05-BZ

APPLICANT – The Agusta Group, for Monirul Islam & Jong Sohn, owner.

SUBJECT – Application January 28, 2005 - under Z.R.§72-21 to permit the proposed reduction in the requirements for side yard footage and the minimum distance between windows, for a proposed one family dwelling with an accessory garage, is contrary to Z.R.§23-461 and §23-44.

PREMISES AFFECTED - 87-25 Clover Place, east side, between Foothill Avenue and Clover Hill Road, Block 10509, Lot 31, Borough of Queens.

COMMUNITY BOARD #8Q

38-05-BZ

APPLICANT – Eric Palatnik, P.C., for John Genovese, contract vendee.

SUBJECT – Application February 24, 2005- under Z.R.§72-21 to permit the proposed construction of a one story, Use Group 6 drugstore, located in a C1-2/R4 zoning district, which does not comply with the required number of parking spaces, and does not contain the required loading berth, is contrary to Z.R. §36-62 and §36-21.

PREMISES AFFECTED - 80-01 Elliot Avenue, bounded by 80th Street, Eliot and Caldwell Avenues and 81st Street, Block 2921, Lot 40, Borough of Queens.

COMMUNITY BOARD #5Q

CALENDAR

70-05-BZ

APPLICANT – Lewis E. Garfinkel, R.A., for Yaakov Adler, owner.

SUBJECT – Application March 23, 2005 - under Z.R. §73-622 to permit an enlargement of a single family home to vary sections ZR 23-141(a) for open space ratio & floor area, ZR 23-461 for minimum side yard requirement. The premise is located in a R-2 zoning district.

PREMISES AFFECTED – 2905 Avenue M, northside of Avenue M, 25' easterly of intersection of Avenue M and 29th Street, Block 7647, Lot 8, Borough of Brooklyn.

COMMUNITY BOARD #14BK

102-05-BZ

APPLICANT – Rothkrug Rothkrug Weinberg Spector, for Cornerstone Residence, LLC, owner.

SUBJECT – Application May 4, 2005 - under Z.R. §72-21 to permit the proposed construction of a two family dwelling on a corner lot that does not provide one of the required front yards, to vary section ZR 23-45. The vacant lot is located in an R-5 zoning district.

PREMISES AFFECTED – 259 Vermont Street aka 438 Glenmore Avenue, southeast corner of Vermont Street and Glenmore Avenue, Block 3723, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #13BK

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, AUGUST 16, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, May 10, 2005, were approved as printed in the Bulletin of May 19, 2005, Volume 90, Nos. 21-22.

SPECIAL ORDER CALENDAR

130-59-BZ

APPLICANT – Joseph P. Morsellino, for Doyle B. Shaffer, Inc., owner.

SUBJECT – Application March 18, 2005 – Extension of Term/Wavier of an existing parking area accessory to a funeral home. The premises is located in C1-2 in a R3-2 zoning district.

PREMISES AFFECTED – 45-17 Little Neck Parkway, Pembroke Avenue and Little Neck Parkway, Block 8260, Lot 98, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES – None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening and an extension of the term of the variance; and

WHEREAS, a public hearing was held on this application on July 19, 2005, after due notice by publication in *The City Record*, and then to decision on August 16, 2005; and

WHEREAS, Community Board 11, Queens, and the Queens Borough President recommend approval of this application; and

WHEREAS, on October 14, 1959, under the subject calendar number, the Board granted an application to permit an accessory parking lot on the subject site; and

WHEREAS, at various times since 1959, the Board has reopened the application to allow for other extensions of term, the last being granted on August 1, 1995; and

WHEREAS, the most recent term of variance expired on January 28, 2005; and

WHEREAS, the applicant now seeks an extension of term of the variance pursuant to Z.R. § 11-411; and

WHEREAS, the applicant states that the reason for the late filing of its application is due to a change in the zoning district of the subject site to a C1-2 overlay where the use is

permitted; the Department of Buildings, however, determined that the parking lot must remain under the Board's jurisdiction since the parking is accessory to a use that is not permitted in the C1-2 zoning district; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of an extension of term with the conditions listed below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, adopted on October 14, 1959, so that as amended this portion of the resolution shall read: "to extend the term of the variance for 10 years from January 28, 2005; *on condition* that all work shall substantially conform to drawings as filed with this application, marked 'Received July 28, 2005' – (1) sheet; and *on further condition*:

THAT the term of this grant shall be for 10 years, to expire on January 28, 2015;

THAT there shall be a maximum of 17 parking spaces;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions shall appear on the certificate of occupancy;

THAT conditions from prior resolution(s) 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 objections(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. 401839882)

Adopted by the Board of Standards and Appeals, August 16, 2005.

199-97-BZ

APPLICANT - Sheldon Lobel. P.C., for Corey Marcus, owner.

SUBJECT - Extension of Time to Complete Construction and Obtain a Certificate of Occupancy, for a variance, granted on May 27, 1998, allowing an enclosed florist shop in an R3-2 zoning district. A previous extension of time to obtain a Certificate of Occupancy was granted on October 1, 2002.

PREMISES AFFECTED - 130-38 Horace Harding Expressway, south side of Horace Harding Expressway, west of the intersection with Lawrence Avenue, Block 6451, Lots 12 and 16, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Application granted on condition.

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THE VOTE TO GRANT –

Affirmative: Chair Srinivasan Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.....4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening and an extension of time to complete construction; and

WHEREAS, a public hearing was held on this application on July 26, 2005, after due notice by publication in *The City Record*, and then to decision on August 16, 2005; and

WHEREAS, on May 27, 1998, under the subject calendar number, the Board permitted, within an R3-2 zoning district, the legalization of an existing enclosed florist shop, as well as an enlargement of the shop, for a term of 20 years; and

WHEREAS, a previous extension of time to obtain a certificate of occupancy (“CO”) was granted for two year period on October 1, 2002, which expired on October 2, 2004; and

WHEREAS, the applicant states that the reason for the failure to complete construction or secure the CO was due to financial considerations; specifically, an inability to obtain financing; and

WHEREAS, the applicant also states that the site is within a proposed rezoning that would result in the shop conforming with the proposed zoning; the applicant represents that this would aid the owner in obtaining financing, as the termed BSA grant could be surrendered; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of an extension of term with the conditions listed below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, adopted on May 27, 1998, and previously amended on October 1, 2004, so that as amended this portion of the resolution shall read: “to extend the time to complete construction and obtain a certificate of occupancy for two (2) years from the date of this grant, to expire on August 16, 2007; on condition:

THAT all conditions from prior resolution(s) 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 objections(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. 401839882)

Adopted by the Board of Standards and Appeals, August 16, 2005.

294-00-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Broadway Partners, LLC, owners.

SUBJECT – Application June 7, 2005 – Extension of time to complete substantial construction on a mixed use, commercial/residential building. The premise is located in an M1-5B zoning district.

PREMISES AFFECTED – 501 Broadway and 72 Mercer Street, west side of Broadway and east side of Mercer Street, 120’ north of Broome Street, Block 484, Lot 22, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to August 23, 2005, at 10 A.M., for decision, hearing closed.

359-02-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Wegweiser & Enrich, LLC, owner.

SUBJECT – Application October 18, 2004 – Amendment to a previous variance ZR §72-21 that allowed the operation of a school on the first floor and cellar in a six story building; the amendment is to relocate the operation of the school from the cellar floor to the second floor and to maintain the use on the first floor. The premises is located an M1-5 (TMU) zoning district.

PREMISES AFFECTED – 53-55 Beach Street, North side of Beach Street, west of Collister Street, Block 214, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Fredrick Becker, Jan Gould and Eric Wegweiser.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to August 23, 2005, at 10 A.M., for decision, hearing closed.

95-05-A

APPLICANT – Anderson Kill & Olick, P.C., for 9th & 10th Street, LLC, owner.

Subject – Application April 20, 2005 – An appeal challenging the Department of Buildings’ decision dated March 21, 2005, as to whether they have sufficient documentation to determine the proposed use of said premises as a college student dormitory.

PREMISES AFFECTED – 605 East Ninth Street, between

MINUTES

East Ninth and East Tenth Streets, 93' east of Avenue "B",
Block 392, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Jeffrey Clen and Ross Moskowitz.

For Opposition: Susan Stetzer for Congressman Velazquez, Matt Viggiano for Senator Martin Connor, Council Member Margarita Lopez, Gregory Brender for Assembly Member Click, David McWater for Community Board No. 3, Bury Nusbacher for Assembly Member Sanders, Jim Sim, Andrew Berman, Robert Slaughter, Michael Rosen, Elizabeth Ruf-Maldonado, Judith Zaborovoski, Stephen DePiero, Cathy McCandless, Laurel Van Horn, Larry Saltzman, Barbara Cyporale, Roland Legiardi, Howard Zipser, Miguel Maldonado, Frank Morales, Eric Rosi, Gregory Ballard, Carlos Bernales, Rebecca Moore, Bob Ortiz, Bill Jones, Dana Maisel,, Pastor Philip Tynky and others.

For Administration: Felicia Miller, Department of Buildings.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to October 18, 2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 12:20 P.M.

REGULAR MEETING

TUESDAY AFTERNOON, AUGUST 16, 2005

1:30 P.M.

Present: Chair Srinivasan, Vice Chair Babbr, Commissioner Miele and Commissioner Chin.

ZONING CALENDAR

321-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Blake Lefferts Co., owner; The Montgomery Academy, lessee.

SUBJECT - Application September 23, 2004 - under Z.R.§73-19 to allow the conversion of an existing commercial building (Use Group 6) to School (Use Group 3) which is contrary to section 32-00, located in a C8-2 zoning district.

PREMISES AFFECTED - 842 Lefferts Avenue, south side, 262'-1/2" west of Utica Avenue, Block 1430, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #9BK

APPEARANCES –

For Applicant: Moshe Friedman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4
Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated September 20, 2004, acting on Department of Buildings Application No. 301793691, reads:

“Conversion of existing commercial building (Use Group 6) to school (Use Group 3) is contrary to: ZR 32-00 – Use Group; and requires a Special Permit from the Board of Standards and Appeals as per Section 73-19”; and

WHEREAS, a public hearing was held on this application on July 26, 2005 after due notice by publication in the City Record, and then to decision on August 16, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan; and

WHEREAS, Community Board 9, Brooklyn, recommends approval of the subject application; and

WHEREAS, this is an application to permit the operation of a proposed school without sleeping accommodations (Use Group 3), within a C8-2 zoning district, which requires a special permit pursuant to Z.R. §§ 73-19 and 73-03; and

WHEREAS, the subject premises is located on Lefferts Avenue between Schenectady Avenue and Utica Avenue, and is currently improved upon with a three-story building that is vacant; and

WHEREAS, the applicant represents that the site has been used as a dairy, an ice plant, a warehouse, and most recently, offices of the New York City Board of Education; and

WHEREAS, the school, Montgomery Academy (the “School”), currently provides education to children from the surrounding community up to eighth grade; and

WHEREAS, the applicant represents that the School integrates performing arts with music and dance to aid in teaching to help the students feel comfortable functioning in a

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school environment, and notes further that the School serves many recent immigrants from the Caribbean Islands; and

WHEREAS, the School's primary building is presently located at 414 Utica Avenue, around the corner from the subject premises; and

WHEREAS, the applicant represents that the subject special permit, if granted, would allow the School to accommodate the current student body and others who want to attend the School; and

WHEREAS, the applicant states that a building with a floor area of at least 18,000 sq. ft. is necessary in order to meet the anticipate enrollment of 300 students; and

WHEREAS, the applicant further states that a building with floor plates of at least 4,000 sq. ft. and four to five stories is necessary to accommodate the student body; in addition, the new building must be located near the current building because 80% of the School's pupils are located in the surrounding neighborhood; and

WHEREAS, the applicant represents that a search was conducted in the R7-1 zoning district across from the subject premises to find a suitable building; and

WHEREAS, the applicant has submitted a letter from a real estate broker that substantiates that a search was conducted in the surrounding area; and

WHEREAS, the applicant represents that available sites were ultimately rejected due to cost prohibitions, lack of appropriate size, operational concerns, and/or poor building condition; the applicant further states that the current building is in good condition and ready to use; and

WHEREAS, the applicant maintains that the results of the site search shows that there is no practical possibility of obtaining a site of adequate size for the school in a district where it is permitted as of right; and

WHEREAS, the Board agrees that the applicant has demonstrated difficulty in obtaining land for the development of a school within the neighborhood to be served and with an adequate size, within districts where the school is permitted as-of-right, sufficient to meet the programmatic needs of the school; and

WHEREAS, therefore, Board finds that the requirements of Z.R. §73-19 (a) are met; and

WHEREAS, evidence in the record indicates that the proposed school is located within approximately 50'-0" feet from an R7-1 zoning district, where a school is permitted as-of-right; thus the Board finds that the requirements of Z.R. § 73-19 (b) are met; and

WHEREAS, the applicant represents that adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district will be provided through the use of sound-attenuating exterior wall and window construction or by the provision of adequate open areas along lot lines of the zoning lot; and

WHEREAS, the applicant has submitted evidence supporting the above representation; and

WHEREAS, based upon this evidence, the Board finds that the requirements of Z.R. § 73-19 (c) are met; and

WHEREAS, the applicant represents that Lefferts

Avenue is wide enough to allow school buses to load and unload passengers while not impeding the flow of traffic; and

WHEREAS, additionally, the applicant represents that crossing guards will be provided to control the movement of traffic and to ensure the safety of students who walk to and from the School; and

WHEREAS, initially, in a letter dated November 3, 2004, the Department of Transportation ("DOT") expressed concern that the School will be located near two major intersections, including one at Lefferts Avenue/Utica Avenue and one at East New York Avenue/Utica Avenue/Ramsen Avenue; and

WHEREAS, in response to DOT concerns, the applicant submitted a traffic study that recommended that a school crossing guard be present at the western crosswalk of Empire Boulevard/Lefferts Avenue and Utica Avenue intersection during the morning arrival and afternoon departure time of students to and from the School; and

WHEREAS, DOT, in a letter dated May 11, 2005, requested that the applicant provide additional mitigating measures to reduce accidents in the study area, and identify the assigned routes which will be used by students walking to and from the School; and

WHEREAS, the applicant responded by mapping out the walking routes, and noting that in addition to the presence of a crossing guard set forth in an earlier submission, it would be open to any other conditions imposed by DOT or the Board to mitigate accidents; and

WHEREAS, the applicant also noted that the intersections near the school are signalized, thus providing an additional accident mitigation measure; and

WHEREAS, at hearing, the applicant represented that DOT will visit the site if the School is approved by the Board and will implement additional safety measures, if necessary; and

WHEREAS, therefore, Board finds that the requirements of Z.R. §73-19 (d) are met; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 73-19; 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, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §73-03; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Parts 617.5 and 613 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 Z.R. §§ 73-19 and 73-03 and grants a special permit, to allow the operation of a proposed school without sleeping accommodations (Use

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Group 3), within a C8-2 zoning district, which requires a special permit pursuant to Z.R. §§ 73-19 and 73-03; *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 "August 2, 2005"- (10) sheets; and *on further condition*:

THAT school crossing guards shall be present at appropriate nearby intersections as recommended by the applicant's environmental consultant and DOT;

THAT the applicant shall comply with all safety measures recommended by DOT;

THAT all interior partitions and exits shall be as approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 16, 2005.

352-04-BZ

APPLICANT - Eric Palatnik, P.C., for R. Randy Lee, owner.
SUBJECT - Application November 4, 2004 - Under Z.R. §72-21 - to modify the previous approval by the BSA (118-01-BZ) by altering the configuration of the subject building and to permit a change in use from Use Group 6 office use to Use Group 6 retail use, within an R3-1 Zoning District and to vary Section 22-00 of the Resolution.

PREMISES AFFECTED - 1845 Richmond Avenue, East side of Richmond Avenue, 500 feet south of Eaton Place, Block 2030, Lot 57, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Staten Island Borough Commissioner, dated October 12, 2004, acting on Application No. 500531123, reads, in pertinent part:

"1. Proposed construction of a two story retail establishment (Use Group 6) within zoning district R3-1 is contrary to Section 22-00 of the NYC Zoning Resolution and previously approved BSA case (Calendar # 118-01-BZ);"

WHEREAS, a public hearing was held on this application on April 12, 2005 after due notice by publication in *The City Record*, with continued hearings on June 7, 2005 and July 26, 2005, and then to August 16, 2005 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Commissioner Chin; and

WHEREAS, Community Board 1, Staten Island, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, in an R3-1 zoning district, on a site previously before the Board, the proposed reconfiguration of a two-story building and the proposed change in use from UG 6 office to UG 6 retail, contrary to Z.R. § 22-00; and

WHEREAS, the subject site is located on the east side of Richmond Avenue, 500 feet south of Eaton Place, and has a total lot area of 18,875 sq. ft.; and

WHEREAS, on July 17, 2001, under BSA Cal. No. 118-01-BZ, the Board approved a variance under Z.R. § 72-21, permitting the proposed development of a 26-9" high, one and one half story office building, with a cellar and sub-cellar and a total floor area of 3,600 sq. ft., within the subject residential district, to contain UG 6 offices; 27 parking spaces were also proposed; and

WHEREAS, the applicant represents that in the past three years, the owner has been unable to find tenants or a purchaser for the proposed property; thus, in spite of the prior grant, the owner has not been able to make a reasonable return from the property; and

WHEREAS, in support of the contention that the prior grant did not lead to a feasible development opportunity for the owner, the applicant has submitted documentary evidence of marketing efforts to rent or sell the previously approved building; the applicant states that none of these efforts were successful; and

WHEREAS, thus, the applicant now proposes to develop the site with a 30' high, two-story with cellar retail building, with 7200 sq. ft. of total floor area and 27 parking spaces; and

WHEREAS, the applicant states that although the instant application reflects double the zoning floor area of the prior grant, the prior grant actually allowed 10,600 sq. ft. of usable office area, as both the cellar and sub-cellar were proposed to be put to office use; and

WHEREAS, the applicant represents, and the Board agrees, that because the Board previously found in the prior matter that the subject site met the uniqueness finding for a variance, the uniqueness features associated with site that lead to hardship have already been established and may be relied upon in this proceeding to satisfy the finding set forth at Z.R. § 72-21(a); and

WHEREAS, the applicant has submitted a financial analysis which discusses an as-of-right residential development, and concludes that such a development would not realize a reasonable return; and

WHEREAS, the Board has determined that because of the subject lot's unique conditions, there is no reasonable possibility

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that development in strict conformance with zoning will provide a reasonable return; 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 the properties that immediately surround the area contain many commercial uses, including a bank immediately adjacent to the premises, as well as a restaurant under construction two doors away; and

WHEREAS, the Board agrees that the proposed retail use of the premises will not negatively impact the character of the neighborhood; and

WHEREAS, the applicant also notes that the proposed building will occupy substantially the same footprint, height and bulk as that previously approved by the Board under the prior grant; and

WHEREAS, the Board agrees that the bulk of the proposed building is contextual with the surrounding properties; and

WHEREAS, the Board requested that the applicant demonstrate that the proposed 27 parking spaces are sufficient to service the proposed retail uses; and

WHEREAS, in response, the applicant submitted two parking and traffic analyses; and

WHEREAS, these studies, when assessed together, establish that available on-site parking and available on-street parking within a 400 ft. radius can accommodate the anticipated future parking demand to be generated by the proposed retail and restaurant uses; and

WHEREAS, specifically, the second study concludes that there is a minimum of 55 available parking spaces during the evening peak hour time period for weekdays, and maximum of 68 spaces during the midday peak hour time period for weekdays; and

WHEREAS, this same study concludes that there is a minimum of 99 spaces during the later afternoon peak hour time period for weekends, and a maximum of 119 spaces during the midday peak hour time period for weekends; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the applicant submitted a financial analysis of a one-story retail building, which showed that such development was not feasible; and

WHEREAS, thus, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 05BSA057R dated 1/10/05; 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, as noted above, Parking Surveys were conducted on June 21, 2005 and July 2, 2005 which determined that there would be sufficient on-street parking to accommodate the proposed project;

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. § 72-21 and grants a variance to permit, in a R3-1 zoning district, on a site previously before the Board, the proposed reconfiguration of a two-story office building and the proposed change in use from UG 6 office to UG 6 retail, contrary to Z.R. § 22-00, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 15, 2005"– (9) sheets and *on further condition*:

THAT a total of 27 parking spaces shall be provided;

THAT the second floor restaurant shall have a maximum capacity of 100 persons;

THAT the above conditions shall be listed on the Certificate of Occupancy;

THAT all conditions from the prior resolution not waived herein shall remain in effect;

THAT the total floor area shall be a maximum of 7,200 sq. ft.;

THAT all exiting requirements, as well as the layout of the attended parking area, shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/ configuration(s) not

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related to the relief granted.

Adopted by the Board of Standards and Appeals, August 16, 2005.

6-05-BZ

APPLICANT – Eric Palatnik, P.C., for Isaac and Renee Sasson, owners.

SUBJECT – Application January 14, 2005 – under Z.R. §73-622 an enlargement to a single family home to vary sections Z.R. §23-141 for open space and floor area, Z.R. §23-46 for side yards and Z.R. §23-47 for rear yard. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 3046 Bedford Avenue, between Avenues “I and J”, Block 7588, Lot 52, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT:

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated December 27, 2004, acting on Department of Buildings Application No. 301874531, reads, in pertinent part:

1. Proposed plans are contrary to Z.R. 23-141(a) in that the proposed Floor Area Ratio (FAR) exceeds the permitted 50%.
 2. Proposed plans are contrary to Z.R. 23-141(a) in that the proposed Open Space Ratio (OSR) is less than the minimum required 150%.
 3. Proposed plans are contrary to Z.R. 23-461(a) in that the proposed side yards are less than the total of 13’-0”.
 4. Proposed plans are contrary to Z.R. 23-47 in that the proposed rear yard is less than 30’-0”;
- and

WHEREAS, a public hearing was held on this application on June 14, 2005 after due notice by publication in *The City Record*, with a continued hearing on July 26, 2005, and then to decision on August 16, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, open space ratio, side yards and rear yard, contrary to

Z.R. §§ 23-141(a), 23-461(a) and 23-47; and

WHEREAS, the subject lot is located on Bedford Avenue, between Avenues I and J; and

WHEREAS, the subject lot has a total lot area of approximately 4,000 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing single-family home; and

WHEREAS, the applicant seeks an increase in the floor area from 2,408 sq. ft. (0.60 Floor Area Ratio or “FAR”) to 3,347 sq. ft. (0.84 FAR); the maximum floor area permitted is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant seeks to decrease the Open Space Ratio (“OSR”) from 135% to 86% (minimum OSR of 150% is required); and

WHEREAS, the proposed enlargement will maintain one existing non-complying side yard of 3’-0”, which does not comply with the 5’-0” minimum side yard requirement; and

WHEREAS, the proposed enlargement will increase the other side yard from 8’-5” to 8’-9”, which, when aggregated with the other side yard dimension, still does not comply with the 13’-0” total side yard requirement; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the proposed enlargement will reduce the existing non-complying rear yard from 27’-9” to 20’-0”; the minimum rear yard required is 30’-0”; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20’-0” of the rear lot line; and

WHEREAS, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, open space ratio, side yards and rear yard, contrary to Z.R. §§ 23-141(a), 23-461(a) and 23-47; *on*

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condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received July 11, 2005"- (8) sheets and "July 28, 2005"-(2) sheets; and *on further condition:*

THAT there shall be no habitable room in the cellar;

THAT the total FAR on the premises, including the attic, shall not exceed 0.84;

THAT the attic floor area shall not exceed 457 sq. ft., and shall be approved by DOB; and

THAT the above conditions shall be set forth in the certificate of occupancy;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT the existing garage shall be as approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 16, 2005.

13-05-BZ

APPLICANT – Stuart Klein for GIM Management & Sheepshead Bay Spa Center, lessee.

SUBJECT – Application January 25, 2005 – under Z.R. §§73-03 and 73-36 – approval sought for a proposed physical cultural establishments to be located on the first and second of a three story commercial building. The proposed PCEs use will contain 39,505 gross square feet. The site is located in a C8-02(OP) Special District.

PREMISES AFFECTED – 614-626 Sheepshead Bay Road, bound by West 8th and West 6th Street, Block 7279, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Gregory Chillino.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 11, 2005, acting on Department of Buildings Application No. 301566712, reads:

“Proposed adult physical culture establishment

requires BSA special permit per ZR §§ 32-31, 73-36.”; and

WHEREAS, a public hearing was held on this application on July 26, 2005 after due notice by publication in *The City Record*, and then to decision on August 16, 2005; and

WHEREAS, Community Board 13, Brooklyn, recommends approval of this application; and

WHEREAS, the New York City Fire Department has no objection to this application; and

WHEREAS, this is an application, under Z.R. §§ 73-36 and 73-03, to permit, in a C8-2 zoning district within the Special Ocean Parkway District, a physical culture establishment (“PCE”) to be located within a proposed three-story building, contrary to Z.R. § 32-00; and

WHEREAS, the PCE will occupy a total of total of 37,221 sq. ft. of floor area, on the first and second floors, and mezzanine level, of a proposed three-story plus mezzanine building currently under construction; and

WHEREAS, the applicant represents that the spa portion of the PCE will occupy 20,654 sq. ft. of the ground floor and 2,302 sq. ft. of the mezzanine, and that the gym portion of the PCE will occupy 14,625 sq. ft. of the second floor; and

WHEREAS, the applicant states that the spa portion will contain facilities for sauna and massage; and

WHEREAS, the applicant further states that the gym portion will contain facilities for weight machines, and two studios for aerobics and other classes; and

WHEREAS, only this area within the proposed three-story building is subject to the instant grant, and the Board is not approving the bulk of the building, or any other uses therein; and

WHEREAS, specifically, the Board notes that the special permit granted hereunder will cover only the PCE, but that no Board approval is required for the restaurant on the third floor or the garage at the first floor; and

WHEREAS, the applicant represents that all masseurs and masseuses employed within the facility will be New York State licensed; and

WHEREAS, the applicant asserts that the entire facility will be equipped with an automatic wet sprinkler system and a fire alarm system that is connected to a Fire Department-approved central monitor system; and

WHEREAS, the PCE will have hours of operation as follows: health club facility - 6 a.m. to 11 p.m., seven days a week; spa – 8 a.m. to 11 p.m., seven days a week; and

WHEREAS, the applicant represents that the area where the PCE will be located is predominantly a commercial area with some residential and hotel uses; and

WHEREAS, the Board finds that the PCE, given the proposed uses and the hours of operation, will not have any significant impact on the residential use in the building or adjacent residential uses; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor

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will it be detrimental to the public welfare; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner(s) and operators of the establishments and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to Z.R. § 73-36; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; 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 05-BSA- 086K dated March 1, 2005; 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; 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, 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 Z.R. §§ 73-36 and 73-03, to permit, in a C8-2 zoning district within the Special Ocean Parkway District, a physical culture establishment (“PCE”) to be located within a proposed three-story building, contrary to Z.R. § 32-00; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “August 16, 2005” – (3) sheets; and *on further condition*

THAT this grant shall be limited to a term of ten years from August 16, 2005, expiring August 16, 2015;

THAT all massages will be performed only by New York State licensed massage therapists;

THAT there shall be no change in ownership or operating control of any component of the physical culture establishment without prior application to and approval from

the Board;

THAT the hours of operation shall be limited to: health club facility - 6 a.m. to 11 p.m., seven days a week; spa – 8 a.m. to 11 p.m., seven days a week

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be as installed and maintained on the Board-approved plans;

THAT an interior fire alarm system shall be provided as set forth on the BSA-approved plans and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all of applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 16, 2005.

39-05-BZ

APPLICANT – Eric Palatnik, P.C., for Yeshivas Ahavas Israel Inc., owner.

SUBJECT – Application February 24, 2005 – under Z.R. §72-21 – to permit the enlargement of the existing Use Group 3 Yeshiva, in an R6 Zoning District and to vary Sections 24-11 (Lot coverage), 24-35(b) (Side yard), and 24-522 (Perimeter wall height, setback, and sky exposure plane) of the Resolution.

PREMISES AFFECTED – 6 Lee Avenue, West side of Lee Avenue between Clymer and Taylor Streets, Block 2173, Tentative Lot 35 (Formerly Lots 31 and 35), Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 9, 2005, acting on Department of Buildings Application No. 301886911, reads, in pertinent part:

1. Proposed lot coverage is contrary to Z.R. § 24-11.
2. Proposed side yard is contrary to Z.R. § 24-34(B).

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3. Proposed sky exposure plane is contrary to Z.R. § 24-522.
4. Proposed setback is contrary to Z.R. § 24-522.
5. Proposed perimeter wall is contrary to Z.R. § 24-522.”; and

WHEREAS, a public hearing was held on this application on July 19, 2005, after due notice by publication in *The City Record* and then to decision on August 16, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 1, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R6 zoning district, the proposed enlargement of an existing religious school and Synagogue, contrary to Z.R. §§ 24-11, 24-34(B) and 24-522; and

WHEREAS, this application is brought on behalf of Yeshivas Ahavas Israel, Inc., a not-for-profit entity (hereinafter, the “School”); and

WHEREAS, the site is located on the western side of Lee Avenue between Clymer and Taylor Streets, has a total lot area of 10,000 sq. ft., and was formerly comprised of two individual tax lots (lots 31 and 35); and

WHEREAS, the subject site is currently improved upon with two separate structures, each of which is two and three stories in height; the two structures house the existing religious school and Synagogue; and

WHEREAS, the applicant states that the school has an enrollment of 350 students and the Synagogue has a congregation of 200 individuals; the School desires to increase the enrollment to 500 students and the congregation to 500 individuals; and

WHEREAS, the applicant proposes to enlarge both structures to five stories, thereby creating additional space (a total floor area of 41,310 sq. ft.) for both uses; the floor area complies with the district regulations and no parking is required; and

WHEREAS, construction of the enlargement as currently proposed will result in the following non-compliances: side yards of 3’-½” and 5’-0” (no side yards or minimum 8’-0” side yards are required); no setback above 60’-0” (a 20’-0” setback is required); lot coverage of 90% (70% is the maximum); street wall height of 76’-1 ¼” (street wall height of 60 ft. is the maximum permitted); and no sky exposure plane; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the existing building has insufficient space to accommodate the current congregation and student enrollment, or the anticipated increases in both, and the proposed building, which contemplates a floor area below the floor area permitted by the zoning resolution, could not be built in compliance with the existing side yard, lot coverage, setback, wall height, or sky

exposure plane requirements while still fulfilling the basic programmatic needs of the School; and

WHEREAS, the applicant states that the following are the programmatic needs of the School: (1) creation of 24 classrooms, as opposed to the existing 15; (2) creation of a full dining room, and kitchen at the cellar level; (3) more worship space; (4) creation of a multi-purpose room for student use; and (5) creation of administrative offices and mechanical areas; and

WHEREAS, the applicant states that the existing structures can not accommodate the school enrollment or the congregation, which has led to over-crowding and an inability to accept new students or to grow the congregation; and

WHEREAS, the applicant further states that the variances are necessary to accommodate a building large enough to house an efficient interior layout, suitable to address the above-mentioned programmatic needs; and

WHEREAS, specifically, the applicant states that the setback waiver is necessary because without it, the proposed staircase at the upper floors would have to be relocated or split in location, which would result in shifted floor plates, leaving less open floor space and eliminating needed office and recreation space; and

WHEREAS, additionally, the applicant states that the side yard waiver is necessary because the enlargement is being constructed to match existing side yard non-compliances, thereby squaring off the floor plates, which will allow the most efficient and beneficial interior configuration for classroom space; and

WHEREAS, the Board agrees that, based upon the submitted evidence, the enlargement is necessary in order to meet the programmatic needs of the School; and

WHEREAS, therefore, the Board finds that the cited unique physical condition, when considered in conjunction with the programmatic needs of the School, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not address Z.R. § 72-21(b) since the applicant is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant represents that the proposed building was designed to only address the programmatic needs of the School; and

WHEREAS, the Board notes that the proposed building will be located at a major intersection, where the impact of the proposed bulk non-compliances will be negligible; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the

MINUTES

minimum necessary to afford the School relief; and

WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; 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. 05BSA096K dated April 27, 2005; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration 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 the required findings under Z.R. § 72-21, to permit, within an R6 zoning district, the proposed enlargement of an existing religious school and Synagogue, contrary to Z.R. §§ 23-141, 23-464, 23-47, 23-631(d), 113-30, 25-18 and 25-31; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 2, 2005" – (11) sheets; and *on further condition*:

THAT the bulk parameters of the proposed building shall be as reflected on the BSA-approved plans;

THAT the location of handicapped ramps and steps is subject to the review and approval of the Department of Transportation;

THAT compliance with exiting, occupancy, and Local Law 58/87 requirements is subject to the review and approval of DOB;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning

Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 16, 2005.

69-05-BZ

APPLICANT - Moshe M. Friedman, P.E., for Renee Devor, owner.

SUBJECT - Application March 22, 2005 - under Z.R. §73-622 to permit the enlargement to a single family home to vary sections ZR §23-141(b) for FAR, lot coverage, open space and ZR §23-47 for rear yard. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED - 1557 East 27th Street, 527.8' north of Avenue "P", Block 7688, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Moshe M. Friedman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 15, 2005, acting on Department of Buildings Application No. 30198628, reads:

“Extension to existing 1 family dwelling is contrary to:

ZR 23-141(b) Floor Area Ratio,

ZR 23-141(b) Open Space,

ZR 23-141(b) Lot Coverage,

ZR 23-47 Rear Yard

And requires a Special Permit from the Board of Standards and Appeals as per Sec 73-622;” and

WHEREAS, a public hearing was held on this application on July 26, 2005 after due notice by publication in *The City Record*, and then to closure and decision on August 16, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, lot coverage, and side and rear yards, contrary to Z.R. §§ 23-141, 23-461(a) and 23-47; and

WHEREAS, the subject lot is located on East 27th Street, north of Avenue P; and

WHEREAS, the subject lot has a total lot area of approximately 2,667 sq. ft.; and

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WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks an increase in the floor area from 1,840.5 sq. ft. (0.69 Floor Area Ratio or "FAR") to 2,863.7 sq. ft. (1.07 FAR); the maximum floor area permitted is 1,333.3 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will increase the lot coverage from 38% to 46%; the maximum lot coverage permitted is 35%; and

WHEREAS, the proposed enlargement will decrease the Open Space Ratio ("OSR") from 62% to 54%; the maximum permitted OSR is 65%; and

WHEREAS, the proposed enlargement will maintain one existing non-complying side yard of 2'-11", which does not comply with the 5' minimum side yard requirement; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the proposed enlargement will reduce the rear yard from 24'-6 1/2" to 20'-1 1/2"; the minimum rear yard required is 30'-0"; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20'-0" of the rear lot line; and

WHEREAS, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, lot coverage, and side and rear yards, contrary to Z.R. §§ 23-141, 23-461(a) and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received August 2, 2005"-(11) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the total FAR on the premises, including the attic, shall not exceed 1.07;

THAT the total attic floor area shall not exceed 243.6 sq. ft., as confirmed by the Department of Buildings;

THAT the above conditions shall be set forth in the

certificate of occupancy;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 16, 2005.

101-05-BZ

APPLICANT – Irving J. Gotbaum, Esq., by Friedman & Gotbaum, LLP., for 377Greenwich LLC, owner.

SUBJECT – Application April 26, 2005 - under Z.R. §72-21 to permit the proposed development of a seven-story, plus penthouse, transient hotel, located in a C6-2A/TMU(A-1) zoning district, which does not comply with the zoning requirements for floor area ratio, also maximum base height and setback requirements, is contrary to Z.R. §111-104 and §35-24.

PREMISES AFFECTED – 377 Greenwich Street, southeast corner of North Moore Street, Block 187, Lot 16, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Elena Aristova.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough Commissioner, dated April 25, 2005, acting on Application No. 102666394, reads, in pertinent part:

- "1. The proposed building's FAR exceeds that which is allowed and is contrary to ZR 111-104.
2. The proposed building does not comply with ZR 35-24 (proposed building violates requirements for maximum base height and setback of front walls);" and

WHEREAS, a public hearing was held on this application on July 12, 2005 after due notice by publication in *The City Record*, and then to August 16, 2005 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Commissioner Chin; and

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WHEREAS, Community Board 1, Manhattan, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, in a C6-2A/TMU(A-1) zoning district, the proposed development of a seven-story plus penthouse transient hotel, which does not comply with the zoning requirements for floor area ratio, maximum base height and setback, contrary to Z.R. §§ 111-04 and 35-24; and

WHEREAS, the subject site is located on the southeast corner of Greenwich and North Moore Streets, and has a total lot area of 10,085 square feet; and

WHEREAS, the site was previously used as a parking facility; and

WHEREAS, the proposed development contemplates the construction of a seven-story, 94-room, transient hotel, with a floor area of 59,821 sq. ft. and a total height of approximately 108'-0"; and

WHEREAS, the applicant seeks the following waivers: floor area ratio ("FAR") of 5.9 (5.0 FAR maximum permitted); base wall height of 92'-10" (maximum wall height of 85'-0" permitted); and no setbacks on North Moore Street (required setback of 15'-0") or Greenwich Street (required setback of 15'-0"); and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in constructing a complying building: (1) unusual subsurface conditions; (2) contamination on the site from past uses and the existence of underground storage tanks; (3) location adjacent to the 500-year flood zone; and (4) high water table that will require dewatering and sealing of the building's subcellar; and

WHEREAS, the applicant conducted a Phase I Environmental Assessment on the site in July of 2003 which documented that contaminated soil is located throughout the site; and

WHEREAS, the City of New York Department of Environmental Protection ("DEP") issued a Notice to Proceed to the City of New York Department of Buildings ("DOB") on June 29, 2004 with respect to the site's remediation, and the site was remediated in accordance with DEP and other applicable requirements; and

WHEREAS, the applicant submitted a letter from the general contractor that remediated the site that indicates that the total premium costs for site remediation were approximately \$1,700,000; and

WHEREAS, the applicant represents that due to the poor soil conditions, the site had to be excavated and the soil removed; in addition, two sub-surface tanks were removed from the site; and

WHEREAS, the applicant also represents that other premium costs were incurred during the excavation process because of the poor soil conditions on the site, including underpinning and the drilling of soldier piles to prevent damaging ground vibrations; and

WHEREAS, the applicant also represents that the construction of the site's sub-cellar and cellar levels will require

temporary dewatering because of the site's location within a floodplain, and the foundation of the building will require a pressure slab/mat in lieu of conventional spread footings; and

WHEREAS, the Board questioned the applicant as to whether the location of the site in the floodplain is unique since the entire area surrounding the site is subject to the same condition; accordingly, all properties surrounding the subject site would require dewatering prior to construction; and

WHEREAS, the applicant responded that although dewatering would be required for most foundation construction in the vicinity of the site, this particular site is also burdened with other unique environmental and geological factors, including the presence of two underground storage tanks on the site and contaminated soil across the entire depth and breadth of the site; and

WHEREAS, the Board finds that certain of the aforementioned unique physical conditions, specifically, the poor soil conditions and the presence of underground storage tanks on the site, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformity with the current applicable zoning regulations; and

WHEREAS, the applicant has submitted a feasibility study analyzing the following as-of-right alternatives: (1) a 5.0 FAR office building; (2) 5.0 FAR, 80-room, six-story hotel; and (3) a 5.0 FAR, six-story residential building with ground floor retail; and

WHEREAS, the applicant concluded that none of the complying scenarios would yield the owner a reasonable return; and further represents that with the addition of an extra floor and 14 rooms to the proposed hotel scenario, the owner will be able to realize a reasonable rate of return given the \$1,700,000 in premium costs attributable to the unique conditions on the site; and

WHEREAS, the applicant represents that as part of its financing it is receiving tax-free bonds under the Liberty Bond Financing Program, and that it would be unable to receive Liberty Bond Financing if it developed condominiums; and

WHEREAS, the Board questioned the need for the Liberty Bonds and asked why the applicant would be unable to use the bonds in a condominium development scenario; and

WHEREAS, the applicant responded that initially the project was contemplated as an as-of-right hotel, and Liberty Bonds were part of the financing for the project; subsequent to the drawing down of the bonds and excavation of the property, the owner discovered a significant amount of environmental contamination that exceeded what the owner found in prior borings; and

WHEREAS, the applicant further responded that it was at that point that the applicant came before the Board to seek bulk waivers, so that a reasonable return could be realized on the property despite the soil conditions; and

WHEREAS, the applicant further represents that a condition to the receipt of the Liberty Bond Financing is that the bonds must be held for 30 years, and, during that period, the holder must have a unified underlying asset as surety for their

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repayment, thereby precluding a condominium scenario; and

WHEREAS, at the request of the Board, the applicant also prepared a financial analysis of the proposed hotel without the Liberty Bonds, which reflects that the costs savings from using the Liberty Bonds is equal to \$1,800,000 during construction and \$800,000 annually in interest payments; and

WHEREAS, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; 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 notes that it received an initial Certificate of Appropriateness ("COA") from the New York City Landmarks Preservation Commission ("LPC") for a six-story version of the proposed hotel on August 19, 2003, and received an updated COA on November 29, 2004 for the current version of the hotel; and

WHEREAS, the updated COA states that the LPC found that the proposed seven-story hotel related well to the scale of the adjacent building on Greenwich Street, and to the district as a whole; and

WHEREAS, the applicant has submitted a map of the surrounding buildings that indicates that behind the site is an eight-story building, next to the site is a five-story building, and across the street from the site on Greenwich Street is a 39-story building; therefore, the applicant represents that the height of the building will match the character of the neighborhood; and

WHEREAS, the applicant represents that in a sampling of nearby mid-block residential and residential/commercial buildings, FAR ranges from 5.53 to 8.7; and in a sampling of nearby corner block residential and mixed-use buildings, FAR ranges from 6.93 to 13.26; and

WHEREAS, the applicant notes that the proposed building height of 108'-0" is below the maximum permitted total building height in the zoning district of 120'-0"; and

WHEREAS, the Board finds that the bulk and height of the proposed building is compatible with the surrounding built context; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board further finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as a Type I action pursuant to Sections 617.6(h) and 617.2(h) of 6NYCRR; and

WHEREAS, the subject site is located within the Tribeca

West Historic District and as previously noted in this resolution, a COA has been issued for this proposal by the LPC on November 29, 2004; and

WHEREAS, pursuant to CEQR No. 95DCP010M, the City Planning Commission issued an "E" Designation (E-61) for potential hazardous materials and noise impacts for the subject property; and

WHEREAS, the Notice to Proceed issued by DEP, as previously noted in this resolution, states that the applicant has adequately addressed the terms of this "E" Designation; 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. 05BSA137M dated July 6, 2005; 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, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variance to permit, in a C6-2A/TMU(A-1) zoning district, the proposed development of a seven-story plus penthouse transient hotel, which does not comply with the zoning requirements for floor area ratio, maximum base height and setback, contrary to Z.R. §§111-04 and 35-24, *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 27, 2005"- (15) sheets; and *on further condition*:

THAT the FAR shall not exceed 5.9; and the base wall height shall not exceed 92'-10";

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 16, 2005.

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41-04-BZ

APPLICANT – Sheldon Lobel, P.C., for 2113 First Avenue, LLC, owner.

SUBJECT – Application February 23, 2004 – Pursuant to Z.R. §72-21 – to permit the proposed legalization of the existing auto laundry, lubritorium, and accessory retail building in a C2-5 overlay within R7-2 Zoning District, and to vary Sections 33-00 and 22-00 of the Resolution.

PREMISES AFFECTED – 338 East 109th Street, a/k/a 2113 First Avenue, First Avenue between East 108th and East 109th Streets, Block 1680, Lots 27 and 32, Borough of Manhattan.

COMMUNITY BOARD #11M

APPEARANCES –

For Applicant: Sheldon Lobel, Dominick Answini and Michael Lage.

ACTION OF THE BOARD – Laid over to October 18, 2005, at 1:30 P.M., for continued hearing.

245-04-BZ

APPLICANT – Agusta & Ross, for Mark Stern, owner.

SUBJECT – Application July 6, 2004 – under Z.R. §72-21 – to permit the proposed five-story, nine unit multiple dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED – 102/04 Franklin Avenue, west side, 182’ south of Park Avenue, Block 1898, Lots 45 and 46, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Mitchell Ross.

ACTION OF THE BOARD – Laid over to September 27, 2005, at 1:30 P.M., for continued hearing.

302-04-BZ

APPLICANT – Martyn & Don Weston for Regina Formisano, owner.

SUBJECT – Application September 10, 2004 – under Z.R. §72-21 – to permit the proposed construction of a residential building on a vacant lot, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 40 Woodhull Street, south side, 85’ west of Hicks Street, Block 363, Lot 20, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Don Weston.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to September 13, 2005, at 1:30 P.M., for decision, hearing closed.

361-04-BZ

APPLICANT – Eric Palatnik, P.C. for Parsons Estates, LLC, owners.

SUBJECT – Application November 17, 2004 – under Z.R. §72-21 – to permit a proposed three-story residential building in an R4 district which does not comply with the zoning requirements for floor area, wall height, sky exposure plane, open space, lot coverage and the number of dwelling units; contrary to Z.R. §23-141c, 23-631 and 23-22.

PREMISES AFFECTED – 75-48 Parsons Boulevard, 168.40’ north of 75th road, at the intersection of 76th Avenue; Block 6810, Lot 44, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Eric Palatnik, Robert Pauls and David Shteyrenan.

ACTION OF THE BOARD – Laid over to October 18, 2005, at 1:30 P.M., for continued hearing.

362-04-BZ

APPLICANT – The Agusta Group for South Long Island Realty Management, Owner.

SUBJECT – Application November 18, 2004 – under Z.R. §72-21 – to permit the proposed conversion of a vacant three-story building to commercial use; contrary to Z.R. §32-421 (Limitation on floors occupied by non-residential uses) in an R6/C2-4 district.

PREMISES AFFECTED – 25-84 31st Street, west side, 339’ north of Newtown Avenue, Block 598, Lot 60, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Sal Korman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to September 20, 2005, at 1:30 P.M., for decision, hearing closed.

395-04-BZ

APPLICANT – Moshe M. Friedman, P.E., for Congregation Imrei Yehudah, owner.

SUBJECT – Application May 24, 2005 – under Z.R. §72-21 – to permit the proposed synagogue and rectory, Use Group 4, located in an R4 zoning district, which does not comply with the zoning requirements for front wall, sky exposure, side and front yards, also parking, is contrary to Z.R. §24-521; §24-35(a), §24-34 and §25-31.

PREMISES AFFECTED – 1232 54th Street, southwest side, 242’6” southeast of the intersection formed by 54th Street and

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12th Avenue, Block 5676, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Moshe Friedman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 27, 2005, at 1:30 P.M., for decision, hearing closed.

402-04-BZ

APPLICANT – Steven Sinacori/Stadtmauer Bailkin LLP for Knapp Street Entertainment Center Inc., owner; Public Storage Inc., lessee.

SUBJECT – Application December 28, 2004 – under Z.R. §72-21 – to permit the change of use from an enclosed amusement arcade (Use Group 15) to self-storage facility (Use Group 16) in an R6 Zoning District and to vary Sections 24-11 (Lot coverage), 24-35(b) (Side Yard), and 24-522 (Perimeter wall height, setback, and sky exposure plane) of the Resolution.

PREMISES AFFECTED – 2461 Knapp Street, east side, between Avenue “X and Y”, Block 8833, Lot 200, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Steven Sinacori, Jack Friedman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 13, 2005, at 1:30 P.M., for decision, hearing closed.

405-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Kim Stavrach, owner.

SUBJECT – Application December 30, 2004 – under Z.R. §73-622 – for an enlargement of a single family residence to vary Z.R. 23-141 for open space and floor area, Z.R. §23-461 for side yards and Z.R. §23-47 for rear yard. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 1734 East 27th Street, west side, between Quentin Road and, Avenue “R”, Block 6809, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September

13, 2005, at 1:30 P.M., for decision, hearing closed.

46-05-BZ

APPLICANT – Boris Saks, Esq., for 1795 Coney Island, LLC, owner; Women’s Kosher Gym of Brooklyn, Inc., lessee.

SUBJECT – Application February 28, 2005 – under Z.R. §73-36 – to permit the proposed physical culture establishment, located in a C8-2 zoning district.

PREMISES AFFECTED – 1797 Coney Island Avenue, eastside, 305’ north of Avenue “O”, Block 6749, Lot 69, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Boris Saks.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 20, 2005, at 1:30 P.M., for decision, hearing closed.

88-05-BZ

APPLICANT – Sheldon Lobel, P.C., for David and Margaret Hamm, owners.

SUBJECT – Application April 8, 2005 – under Z.R. §73-622 – to permit the enlargement of a single family residence which exceeds allowable floor area ratio, lot coverage and open space ratio pursuant to Z.R. §23-141, and less than the minimum side yards pursuant to Z.R. §23-461. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 2015 East 22nd Street, east side, between Avenue “S and T”, Block 7301, Lot 53, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 13, 2005, at 1:30 P.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

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Adjourned: 3:40 P.M

BULLETIN

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September 1, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Tuesday, August 23, 2005**

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227-00-BZ	1869 East 23 rd Street, Brooklyn
294-00-BZ	501 Broadway, Manhattan
359-02-BZ	53-55 Beach Street, Manhattan
990-77-BZ	260 Broadway, Manhattan
364-82-BZ	245-02/34 Horace Harding Expressway, Queens
234-84-BZ	1976/82 Forest Avenue, Staten Island
37-93-BZ	2040 Forest Avenue, Staten Island
162-93-BZ	270 West 17 th Street, Manhattan
313-04-A	132-02 Hook Creek Boulevard, Queens
53-04-A thru 62-04-A	140-26A/28/28A/30/30A/32/32A/34/34A/36 34 th Avenue, Queens
54-05-A	1824 53 rd Street, Brooklyn

Afternoon Calendar593

Affecting Calendar Numbers:

357-03-BZ	33 Berry Street, Brooklyn
378-03-BZ	2920 Coney Island Avenue, Brooklyn
189-04-BZ	3445 White Plains Road, Bronx
257-04-BZ	252/60 Atlantic Avenue, Brooklyn
353-04-BZ	18-15 Francis Lewis Boulevard, Queens
43-05-BZ	1826 East 28 th Street, Brooklyn
154-04-BZ	63 Rapeleye Street, Brooklyn
175-04-BZ thru 177-04-BZ	7-05/09/13 130 th Street, Queens
234-04-BZ	255 McKibbin Street, Brooklyn
272-04-BZ	14-38/40 31 st Drive, Queens
289-04-BZ	341 Canal Street, Manhattan
299-04-BZ	111-02 Sutphin Boulevard, Queens
374-04-BZ	246 Front Street, Manhattan
375-04-BZ	1527, 1529 and 1533 60 th Street, Brooklyn
388-04-BZ	133-16 Springfield Boulevard, Queens
29-05-BZ	350 West Broadway, Manhattan
68-05-BZ	4911 17 th Avenue, Brooklyn
74-05-BZ	1089 Rockland Avenue, Staten Island
75-05-BZ	2018 Richmond Avenue, Staten Island
77-05-BZ	132 West 26 th Street, Manhattan

DOCKETS

New Case Filed Up to August 23, 2005

195-05-BZ B.BK. 2906 Quentin Road,
Quentin Road between East 29th Street and Nostrand
Avenue (approximately 33' East of East 29th Street), Block
6812, Lot 3, Borough of Brooklyn, Applic. #301968967.
Special Permit to allow the enlargement of a single family
residence located in an R3-2 zoning district.

COMMUNITY BOARD #15BK

196-05-BZ B.BK. 2315 Quentin Road,
Quentin Road between East 23rd and East 24th Streets
(approximately 52' West of East 24th Street), Block 6786,
Lot 41, Borough of Brooklyn, Applic. #301969671. Special
Permit to allow the enlargement of a single family residence
located in an R3-2 zoning district.

COMMUNITY BOARD #15BK

197-05-BZ B.M. 813-815 Broadway,
East 12th Street to the North and East 11th Street to the
South, Block 563, Lot 33 and 34, Borough of Manhattan,
Applic. #104155833. Variance to propose to demolish the
existing building and develop an 11 story mixed use
building (residential and commercial)

COMMUNITY BOARD #2M

198-05-A B.Q. 6 Cornell Lane,
Eastern side of Cornell Lane North of Northern Blvd., Block
8129, Lot 135, Borough of Brooklyn, Applic. # 402142588.

To permit the enlargement of the subject building which
will comply with all zoning and building regulations other
than the requirements that the site fronts an officially
mapped Street. (GCL 36)

199-05-BZ B.M. 299 Seventh Avenue,
South East corner of Seventh Avenue and West 27th Street,
Block 802, Lot 77, Borough of Manhattan, Applic. #
104124626. Application for a Variance under § 72-21 of the
ZR to use the upper floors of proposed mixed use building
in an M1-6 district for residential occupancy.

COMMUNITY BOARD #2M

200-05-A B.Q. 20-17 Clintonville Street,
Clintonville Street between 20th Avenue and 20th Road,

Block 4750, Lot 3, Borough of Queens, Appic. #
402119097. Application to permit the building of two
conforming dwellings in the bed of a mapped 157th Street as
per GCL 35.

201-05-A B.Q. 20-21 Clintonville Street,
Clintonville Street between 20th Avenue and 20th Road,
Block 4750, Lot 6, Borough of Queens, Appic. #
402181134. Application to permit the building of two
conforming dwellings in the bed of a mapped 157th Street as
per GCL 35.

**DESIGNATIONS: D-Department of Buildings; B.BK.-
Department of Buildings, Brooklyn; B.M.-Department of
Buildings, Manhattan; B.Q.-Department of Buildings,
Queens; B.S.I.-Department of Buildings, Staten Island;
B.BX.-Department of Building, The Bronx; H.D.-Health
Department; F.D.-Fire Department.**

CALENDAR

SEPTEMBER 27, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, September 27, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

SPECIAL ORDER CALENDAR

60-82-BZ

APPLICANT – Eric Palatnik, P.C., for BP Products North America, owner.

SUBJECT – Application July 15, 2005 - Reopening for an amendment to the resolution to extend the time to obtain an Certificate of Occupancy for an automotive service station with accessory uses which expired on July 15, 2005.

PREMISES AFFECTED – 60-11 Queens Boulevard, between 60th Street and 61st Street, Block 1338, Lots 1 & 11, Borough of Queens.

COMMUNITY BOARD #2Q

822-87-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for Hudson Tower Housing Company, Inc., owner; The Fitness Company, lessee.

SUBJECT - Application May 2, 2005 - Extension of Term of a Special Permit to allow the use of a Physical Culture Establishment in the Special Battery Park City zoning district.

PREMISES AFFECTED - 375 South End Avenue, between Liberty and Albany Streets, Block 16, Lot 100, Borough of Manhattan.

COMMUNITY BOARD #1M

212-92-BZ

APPLICANT – Felipe Ventegat, for Herbert Kantrowitz, owner.

SUBJECT – Application June 13, 2005 - Extension of Term/Waiver of a Variance to continue the commercial use (UG6) located in the basement of a residential building. The premise is located in an R7-1 zoning district.

PREMISES AFFECTED – 871 East 175th Street, Mohegan Avenue and Waterloo Place, Block 2958, Lot 65, Borough of The Bronx.

COMMUNITY BOARD #6BX

37-93-BZ

APPLICANT – Cozen O'Connor Attorneys, for Vornado Forest Plaza, LLC, owner; Jack Lalanne Fitness Centers,

Inc., lessee.

SUBJECT – Application March 8, 2005 - Extension of Term of a Special Permit-Physical Culture Establishment which is not permitted as of right. The premise is located in a C8-1 zoning district.

PREMISES AFFECTED – 2040 Forest Avenue, south side 100' west of Van Name Avenue, Block 1696, Lot 8, Borough of Staten Island

COMMUNITY BOARD #1SI

126-93-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for Salvatore Purna, owner.

SUBJECT – Application August 23, 2005 - Reopening for an Extension of Term for ten years for a variance of a gasoline service station, located in an R4 zoning district.

PREMISES AFFECTED – 1225 East 233rd Street, north corner lot of East 233rd Street, between Baychester Avenue and Reimer Avenue, Block 4955, Lot 1, Borough of The Bronx.

COMMUNITY BOARD #12BX

323-98-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for 801 Eleventh Avenue, LLC, owner

SUBJECT – Application July 27, 2005 - Reopening for an amendment to the resolution to extend the time to complete construction of an enlargement of an existing two-story non-residential building located in an M3-2/Special Clinton zoning district.

PREMISES AFFECTED – 801 Eleventh Avenue, west side of Eleventh Avenue, between West 55th Street and West of 56th Street, Borough of Manhattan

COMMUNITY BOARD #4M

CALENDAR

APPEALS CALENDAR

176-05-A

APPLICANT – Joseph Sherry, P.E., for The Breezy Point Cooperative, Inc., owner; George Scanlon, lessee.

SUBJECT – Application filed on August 2, 2005 -Appeal to Department of Buildings to reconstruct and enlarge an existing single family frame dwelling not fronting on a mapped street contrary to General City Law Article 3, Section 36 and upgrading an existing private disposal system located in the bed of the service road which serves as a street which is contrary to Department of Buildings policy

PREMISES AFFECTED – 27 Fulton Walk, s/s 35.32 N.O. Breezy Point Blvd.

Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD # 14Q

178-05-A

APPLICANT – Joseph Sherry, P.E., for The Breezy Point Cooperative, Inc., owner; Frank Kelly, lessee.

SUBJECT – Application filed on August 2, 2005 -Appeal to Department of Buildings to reconstruct and enlarge an existing single family frame dwelling not fronting on a mapped street contrary to General City Law Article 3, Section 36.

PREMISES AFFECTED – 952 Bayside Walk, W/S 196.33 N/O/ Beach 209th Street

Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD # 14Q

Tuesday afternoon, September 27, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

ZONING CALENDAR

344-04-BZ

APPLICANT – Alfonso Duarte, for NWRE 202 Corp., owner.

SUBJECT – Application October 20, 2004 - under Z.R. §72-21 - proposed use of an open lot for the sale of new and used automobiles, located in a C2-2 within an R3-2 zoning district, is contrary to Z.R. §32-25.

PREMISES AFFECTED - 202-01 Northern Boulevard, northeast corner of 202nd Street, Block 6263, Lot 29, Borough of Queens.

COMMUNITY BOARD #11Q

83-05-BZ

APPLICANT – Bryan Cave, LLP, for LuRose Realty Corp., owner.

SUBJECT – Application April 6, 2005 - under Z.R. §72-21 to allow construction of a 92-bed, Use Group 3 residential health care facility in an R6 district; contrary to ZR 24-11, 24-382, and 24-522.

PREMISES AFFECTED – 214-218 West Houston Street and 50-56 Downing Street, Block 528, Lot 12, Borough of Manhattan.

COMMUNITY BOARD #2M

98-05-BZ

APPLICANT – Friedman & Gotbaum LLP for dac bon, LLC, contract vendee

SUBJECT – Zoning Variance application filed on April 22, 2005 under ZR 72-21 to construct a 12-story residential building with ground floor retail in an M1-5B district, contrary to ZR 42-00 and ZR 42-14(D)(2)(b) and ZR 43-43.

PREMISES AFFECTED – 46-48 Bond Street, premises located on the north side of Bond Street between Lafayette Street and The Bowery, Block 530, Lot 44 & 31, Borough of Manhattan

COMMUNITY BOARD #2M

104-05-BZ

APPLICANT - Agusta & Ross for Park Avenue Health Club, lessee. Chocolate Factory LLC, owner.

SUBJECT - Application May 6, 2005 - under Z.R. §73-36 -

SEPTEMBER 27 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing,

CALENDAR

approval sought for a proposed physical cultural establishment located on a portion of the first floor of a mixed-use building. The PCE use will contain 9,700 square feet. The site is located in a M1-2 Zoning District.

PREMISES AFFECTED - 255-275 Park Avenue, northerly side of Park Avenue between Waverly and Washington Avenue, Block 1874, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

123-05-BZ

APPLICANT - Bryan Cave LLP for Long Island University, owner.

SUBJECT – Application May 20, 2005 - under Z.R. § 73-641 (Integration of new buildings or enlargements with existing buildings) to facilitate the construction of a tennis bubble and open colonnaded parapet on the roof of a proposed 5-story athletic center located within an R6 district.

PREMISES AFFECTED – 161 Ashland Place, east side of Ashland Place, 199' to the north of DeKalb Avenue, Block 2087, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

Pasquale Pacifico, Executive Director

NOTICE IS HEREBY GIVEN of a public hearing, Wednesday morning, September 28, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

SPECIAL HEARING

38-05-BZ

APPLICANT – Eric Palatnik, P.C., for John Genovese, contract vendee.

SUBJECT – Application April 8, 2005 - under Z.R. §72-21 to reduce the number of required accessory parking spaces pursuant to ZR 36-21 (38 required, 26 proposed) and to eliminate the required loading berth pursuant to ZR 36-62 for a new Use Group 6 drug store (Walgreen's) located within an R4/C1-2 district.

PREMISES AFFECTED – 80-01 Eliot Avenue, bound by 80th Street, Eliot Avenue, Caldwell Avenue and 81st Street, Block 2921, Lot 40, Borough of Queens.

COMMUNITY BOARD #5Q

48-05-BZ

APPLICANT - Wachtel & Masyr, LLP for Bethune West Associates, LLC, contract vendee.

SUBJECT - Application March 2, 2005 - under Z.R. § 72-21 to construct a 16- and 3-story mixed use development with 60 accessory parking spaces in an M1-5 district, contrary to ZR 42-00 and ZR 13-12.

PREMISES AFFECTED - 469 West Street, bounded by Bethune Street and West 12th Street, Block 640, Lot 1, Borough of Manhattan

COMMUNITY BOARD #2M

Pasquale Pacifico, Executive Director

SEPTEMBER 28, 2005, 10:00 A.M.

**REGULAR MEETING
TUESDAY MORNING, AUGUST 23, 2005**

10:00 A.M.

MINUTES

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, May 17, 2005, were approved as printed in the Bulletin of May 26, 2005, Volume 90, No 23.

SPECIAL ORDER CALENDAR

558-51-BZ

APPLICANT – Eric Palatnik, P.C., B.P Products North America, owner.

SUBJECT – Application April 28, 2005 – Extension of Time to obtain a Certificate of Occupancy for a gasoline service station which expires on August 5, 2005. The premise is located in an C2-2/R-5 zoning district.

PREMISES – 68-22 Northern Boulevard, southwest corner of Northern Boulevard and 69th Street, Block 1186, Lot 19, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an extension of time to obtain a new certificate of occupancy; and

WHEREAS, a public hearing was held on this application on August 9, 2005 after due notice by publication in the *City Record*, and then to decision on August 23, 2005; and

WHEREAS, on February 5, 1952, the Board granted an application to permit a gasoline service station in a C2-2/R5 zoning district on the subject site for fifteen years; the term of this grant has been extended by the Board numerous times and through the present date; and

WHEREAS, on August 5, 2003, the Board permitted a change in the signage on the subject premises from a total of 108 sq. ft. of illuminated signage to 66.25 sq. ft. of illuminated signage; and

WHEREAS, the period in which to obtain a certificate of occupancy expired on August 5, 2005; and

WHEREAS, the applicant represents that the owner of the premises, BP Products North America Inc., has been unable to obtain a certificate of occupancy because of internal delay in selecting an engineer to perform the necessary filings with the Department of Buildings; and

WHEREAS, the applicant represents that an engineer has been selected and will attend to the appropriate filings; and

WHEREAS, therefore, the Board has determined that the evidence in record supports the grant of the requested extension.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on August 5, 2003, so that as amended this portion of the resolution shall read: “to permit an extension of the time to obtain a certificate of occupancy for an additional two years from the date of the earlier expiration, to expire on August 5, 2007; *on condition:*

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.”

(DOB Application Nos. 401510842, 401510851, 401407429, 401510860, 401407517 and 401407508)

Adopted by the Board of Standards and Appeals, August 23, 2005.

227-00-BZ

APPLICANT – Sheldon Lobel, P.C., for Moshe Nachum, owner.

SUBJECT – Application April 22, 2005 – reopening for an extension of time to obtain a Certificate of Occupancy which expired April 24, 2005.

PREMISES AFFECTED – 1869 East 23rd Street between Avenue R & Avenue S, Block 6829, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Zara F. Fernandes.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an extension of time to obtain a new certificate of occupancy for a single-family residence; and

WHEREAS, a public hearing was held on this application on August 9, 2005, after due notice by publication in the *City Record*, and then to decision on August 23, 2005; and

WHEREAS, on April 21, 2001, under the subject calendar number, the Board granted an application to permit the enlargement of a single-family dwelling pursuant to Z.R. §73-622; and

MINUTES

WHEREAS, the period in which to obtain a certificate of occupancy expired on April 24, 2005; and

WHEREAS, the applicant represents that all construction is completed, and that only a few outstanding items remain, which should be resolved in three to four months; and

WHEREAS, therefore, the Board has determined that the evidence in record supports the grant of the requested extension.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on April 21, 2004, so that as amended this portion of the resolution shall read: "to permit an extension of the time to obtain a certificate of occupancy for an additional two years from the date of the earlier expiration, to expire on April 24, 2007; *on condition:*

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 301028206)

Adopted by the Board of Standards and Appeals, August 23, 2005.

294-00-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Broadway Partners, LLC, owners.

SUBJECT – Application June 7, 2005 – Extension of time to complete substantial construction on a mixed use, commercial/residential building. The premise is located in an M1-5B zoning district.

PREMISES AFFECTED – 501 Broadway and 72 Mercer Street, west side of Broadway and east side of Mercer Street, 120' north of Broome Street, Block 484, Lot 22, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an extension of time to complete construction of previously approved by the Board; and

WHEREAS, a public hearing was held on this application on August 16, 2003 after due notice by publication

in the *City Record*, and then to decision on August 23, 2005; and

WHEREAS, on July 17, 2001, under the subject calendar number, the Board granted an application to permit the construction of an eight-story mixed-use structure on a vacant site in an M1-5B Zoning District, pursuant to Z.R. § 72-21; and

WHEREAS, this grant was the subject of a minor modification, made by the Board in December of 2002; and

WHEREAS, the period in which to complete substantial construction pursuant to Z.R. § 72-23 expired on July 17, 2005; and

WHEREAS, the applicant represents the prior owner had difficulty in obtaining financing and could not commence construction for this reason; and

WHEREAS, the applicant further represents that the property has been conveyed to a new owner, who has filed plans and received a building permit for the approved construction; and

WHEREAS, therefore, the Board has determined that the evidence in record supports the grant of the requested extension.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on July 17, 2001, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete construction for an additional three years from the date of the earlier expiration, to expire on July 17, 2008; *on condition:*

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 102918498)

Adopted by the Board of Standards and Appeals, August 23, 2005.

359-02-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Wegweiser & Enrich, LLC, owner.

SUBJECT – Application October 18, 2004 – Amendment to a previous variance ZR §72-21 that allowed the operation of a school on the first floor and cellar in a six story building; the amendment is to relocate the operation of the school from the cellar floor to the second floor and to maintain the use on the first floor. The premises is located an M1-5

MINUTES

(TMU) zoning district.

PREMISES AFFECTED – 53-55 Beach Street, North side of Beach Street, west of Collister Street, Block 214, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Fredrick Becker.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on August 16, after due notice by publication in *The City Record*, and then to and decision on August 23, 2005; and

WHEREAS, Community Board No. 1, Manhattan, recommends approval of the subject application; and

WHEREAS, on May 6, 2003, under the subject calendar number, the Board granted a variance to permit, in an M1-5 (TMU) zoning district, the establishment of a pre-school (Use Group 3) on the ground floor and cellar of the subject building, which did not conform to the district use regulations; and

WHEREAS, the applicant seeks an amendment of the prior Board grant to permit the relocation of the school use from the cellar to the second floor, and return the use of the cellar as storage space for a warehouse that is housed in other portions of the building; and

WHEREAS, the site is located on Beach Street between Collister Street and Greenwich Street in Tribeca; and

WHEREAS, the applicant states that it expects an increase in enrollment at the school from 60 to 90 students; and

WHEREAS, the applicant represents that there will not be an increase in prior approved floor area; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of the requested amendment to the prior resolution with the conditions listed below.

Therefore it is Resolved that the Board of Standards and Appeals re-opens and amends the resolution, so that as amended this portion of the resolution shall read: “to permit, in an M1-5 (TMU) zoning district, the establishment of a pre-school (Use Group 3) on the ground floor and second floor of the subject building, contrary to Z.R. §42-31; *on condition* that all work and site conditions shall substantially conform to drawings filed with this application marked ‘Received October 18, 2004’-(4) sheets, ‘July 13, 2005’-(1) sheet and ‘August 17, 2005’-(2) sheets; and *on further condition*;

THAT all conditions from prior resolution(s) 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 DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 103314922)

Adopted by the Board of Standards and Appeals, August 23, 2005.

990-77-BZ

APPLICANT – Greenberg Traurig, LLP, for 260 Broadway Condo, Assoc., owner.

SUBJECT – Application May 6, 2005 – reopening for an amendment to an existing variance within the Special Tribeca Mixed Use District that allowed in an M1-5 district, floors 3 through 11 of the Building to be converted to residential use. The amendment seeks to allow a portion of the first floor to be converted to residential use and to legalize the conversion of the entire second floor to residential use.

PREMISES AFFECTED – 260 Broadway, property bounded West Broadway, Beach Street and St. John’s Lane, Block 212, Lots 1001-1058 (7501), Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Deirdre A. Carson and Meloney McMonoy.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 20, 2005, at 10 A.M., for decision, hearing closed.

364-82-BZ

APPLICANT – Cozen O’Connor Attorneys, for Little Neck Commons, LLC, owners; Jack Lalanne Fitness Centers, Inc., lessee.

SUBJECT – Application January 14, 2005 – Extension of Term/Waiver for a physical culture establishment located in a C1-2(R3-2) zoning district.

PREMISES AFFECTED – 245-02/34 Horace Harding Expressway, Block 8276, Lot 100, Douglaston, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Barbara Hair.

MINUTES

ACTION OF THE BOARD – Laid over to September 13, 2005, at 10 A.M., for continued hearing.

234-84-BZ

APPLICANT – Vito J. Fossella, P.E., for Forest Realty Management, LLC, owner.

SUBJECT - Application May 19, 2005 - Extension of Term for commercial UG6 establishment partially located in a R3-2 residential zoning district.

PREMISES AFFECTED - 1976/82 Forest Avenue, Block 1696, Lot 26, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Sam El. Meniawy.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 13, 2005, at 10 A.M., for decision, hearing closed.

37-93-BZ

APPLICANT – Cozen O’Connor Attorneys, for Vornado Forest Plaza, LLC, owner; Jack Lalanne Fitness Centers, Inc., lessee.

SUBJECT – Application March 8, 2005 – Extension of Term of a Special Permit-Physical Culture Establishment which is not permitted as of right. The premises is located in a C8-1 zoning district.

PREMISES AFFECTED – 2040 Forest Avenue, south side 100’ west of Van Name Avenue, Block 1696, Lot 8, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Barbara Hair.

ACTION OF THE BOARD – Laid over to September 27, 2005, at 10 A.M., for continued hearing.

162-93-BZ

APPLICANT - Fredrick A. Becker, Esq., for Chelsea Eighth L. P., owner; TSI West 16th Street dba New York Sports Club, lessee.

SUBJECT - Application December 22, 2004 and updated May 9, 2005 - Extension of Term and to legalize an Amendment to expand the floor area of previously granted special permit for a physical culture establishment, and a waiver of the rules of procedure for a late filing. The premises is located in a C2-5, R8 and C6-2M zoning district.

PREMISES AFFECTED - 270 West 17th Street, aka 124-128 Eighth Avenue, easterly side of Eighth Avenue between West 17th Street and West 16th Street, Block 766, Lots 36-41, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Fredrick Becker.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 13, 2005, at 10 A.M., for decision, hearing closed.

313-04-A

APPLICANT – Sheldon Lobel, P.C., for Angella Blackwood, owner.

SUBJECT – Application September 16, 2004 – Proposed enlargement of an existing two story, single family residence, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED – 132-02 Hook Creek Boulevard, southwest corner of 132nd Avenue, Block 12981, Lot 117, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Zara F. Fernandes.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated September 15, 2004 acting on Department of Buildings Application No.401874126, which reads:

“Proposed construction of 2nd floor addition within a bed of a mapped street (Hook Creek Boulevard) is contrary to Section 35 of the General City Law;” and

WHEREAS, a public hearing was held on this application on August 9, 2005 after due notice by publication in the *City Record*, and then to decision on August 23, 2005, and

WHEREAS, by letter dated October 4, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated December 23, 2004 the Department of Transportation has reviewed the above project and has no objections; and

WHEREAS, by letter dated December 27, 2004, the Department of Environmental Protection has reviewed the above project and has requested that a minimum 30 foot Sewer Corridor in the bed of Hook Creek Blvd between 132nd Avenue and 132nd Road, and 30foot Sewer Corridor in the bed of 132nd Avenue at the intersection with Hook Creek Boulevard be provided for the purpose of repair, maintenance and /or

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reconstruction of existing sewers and water mains DEP also requests that no permanent structures be built within this "Sewer Corridor"; and

HEREAS, by letter dated, May 17, 2005, the applicant has agreed to the request by the Department of Environmental Protection in its December 27, 2004 letter and has provided a site Plan #A10A indicating the placement of both "Sewer Corridors";

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, September 15, 2004 acting on Department of Buildings Application No.401874126, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received August 12, 2005" – one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT Sewer Corridors be provided in the bed of Hook Creek Boulevard between 132nd Avenue and 132nd Road, in the bed of 132nd Avenue at the intersection with Hook Creek Boulevard, and that no permanent structures be built in these corridors as requested by the Department of Environmental Protection and in compliance with approved Plan #A10A; and

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 23, 2005.

53-04-A thru 62-04-A

APPLICANT – New York City Department of Buildings
OWNER OF RECORD: Thomas Huang
SUBJECT – Applications February 26, 2004 – Application to revoke Certificate of Occupancy No. 401223289, on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative Code.
PREMISES AFFECTED –

- 140-26A 34th Avenue, Block 4994, Lot 24, Borough of Queens
- 140-28 34th Avenue, Block 4994, Lot 224, Borough of Queens
- 140-28A 34th Avenue, Block 4994, Lot 224,

- Borough of Queens
- 140-30 34th Avenue, Block 4994, Lot 125, Borough of Queens
- 140-30A 34th Avenue, Block 4994, Lot 225, Borough of Queens
- 140-32 34th Avenue, Block 4994, Lot 126, Borough of Queens
- 140-32A 34th Avenue, Block 4994, Lot 27, Borough of Queens
- 140-34 34th Avenue, Block 4994, Lot 127, Borough of Queens
- 140-34A 34th Avenue, Block 4994, Lot 227, Borough of Queens
- 140-36 34th Avenue, Block 4994, Lot 327, Borough of Queens

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Lisa Orrantia, DOB.

For Opposition: Eric Palatnik and Thomas E. Berinato.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to December 13, 2005, at 10 A.M., for decision, hearing closed.

54-05-A

APPLICANT -NYC Department of Buildings.
OWNER OF PREMISES: Yeshiva Imrei Chaim Viznitz.
SUBJECT - Application March 4, 2005 - Application to revoke Certificate of Occupancy No. 300131122, on the basis that the Certificate of Occupancy allows conditions at the subject premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED -1824 53rd Street, southeast corner of 18th Avenue, Block 5480, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES – None.

ACTION OF THE BOARD – Removed from Calendar.

Pasquale Pacifico, Executive Director.

Adjourned: 10:20 A.M.

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ACTION OF THE BOARD – Application withdrawn.
THE VOTE TO WITHDRAW -
Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele, and Commissioner
Chin.....4
Negative:.....0
Adopted by the Board of Standards and Appeals,
August 23, 2005.

378-03-BZ
APPLICANT – Harold Weinberg, P.E., for The New Way
Circus Center by Regina Berenshtein, owner.
SUBJECT – Application December 4, 2003 - under Z.R.
§72-21 application seeks to waiver sections: 23-141 (Lot
Coverage), 23-462 (Side Yards), 23-45 (Front Yard), and
23-631 (Perimeter Wall Height, Sky Exposure Plane and
Setback), to allow in a R5 zoning district the construction of
a two story building to be used as a non-profit institution
without sleeping accommodations for teaching of circus
skills.
PREMISES AFFECTED – 2920 Coney Island Avenue, west
side 53.96’ north of Shore Parkway, Block 7244, Lot 98,
Borough of Brooklyn.

COMMUNITY BOARD #15BK
APPEARANCES –
For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD - Application granted on
condition.

THE VOTE TO GRANT -
Affirmative: Chair Srinivasan Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.....4
Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough
Commissioner, issued July 21, 2004 and updated in corrected
form August 17, 2005, acting on Department of Buildings
Application No. 301642097, reads:

“The proposed erection of a community facility structure in use
Group 4 in an R5 zoning district in the Ocean Parkway Special
Zoning District:

1. Creates non-compliances with respect to lot
coverage and is contrary to Section 23-141 of
the Zoning Resolution.
2. Creates non-compliances with respect to side
yards and is contrary to Section 23-462 of the
Zoning Resolution.
3. Creates non-compliances with respect to front
yard and is contrary to Section 23-45 of the
Zoning Resolution.
4. Creates non-compliances with respect to the
perimeter wall height, sky exposure plane and
setback and is contrary to Section 23-631 of the
Zoning Resolution.
5. Creates non-compliance with respect to Floor
Area Ratio and is contrary to Section 23-141.”;

REGULAR MEETING
TUESDAY AFTERNOON, AUGUST 23, 2005
1:30 P.M.

Present: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.

357-03-BZ
APPLICANT - Agusta & Ross, for ECROB, LLC., owner.
SUBJECT - Application November 19, 2003 - under Z.R.
§72-21 to permit the proposed four-story and penthouse
multiple dwelling in an M1-2 district contrary to Z.R. §42-
10.
PREMISES AFFECTED - 33 Berry Street, a/k/a 144 North
12th Street, southwest corner of North 12th Street and Berry
Street, Block 2290, Lot 5, Borough of Brooklyn.
COMMUNITY BOARD #1BK
APPEARANCES - None.

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and

WHEREAS, a public hearing was held on this application on May 24, 2005, after due notice by publication in *The City Record*, with continued hearings on July 12, 2005, August 9, 2005, and then to decision on August 23, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R5 zoning district (within the Ocean Parkway Special District), the proposed construction of a two-story building to be used as a circus school for children, which is categorized as a UG4 non-profit institution without sleeping accommodations, contrary to Z.R. §§ 23-141, 23-462, 23-45, and 23-631; and

WHEREAS, this application is brought on behalf of The New Way Circus Center., a not-for-profit entity, which will operate a circus school for children at the subject site (hereinafter, the "School"); and

WHEREAS, the site is located on the west side of Coney Island Avenue, approximately 54 ft. north of Shore Parkway, between Shore Parkway and Montauk Court, and has a total lot area of 2,160 sq. ft.; and

WHEREAS, the subject site is currently improved upon with a one-story commercial building, which the applicant represents was occupied by a non-conforming use and is non-complying, and which is proposed to be demolished; and

WHEREAS, the applicant states that the School introduces and inculcates youth in the operation of circuses, and will provide education and training related to a full panoply of circus-related activities, including trapeze, juggling, unicycle riding, and tight rope walking; and

WHEREAS, construction of the building as currently proposed will result in the following non-compliances: a floor area ratio ("FAR") of 2.0 (1.65 is the maximum FAR allowed); no front yard (a front yard of 18'-0" is required); no side yards (side yards of 5'-0" and 8'-0" are required); no setback (an 18'-0" setback is required); lot coverage of 100% (55% is the maximum); perimeter wall height of 40'-0" (perimeter wall height of 30'-0" is the maximum permitted); total height of 49'-0" (height of 35'-0" is the maximum permitted); and no sky exposure plane; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: (1) the existing building has insufficient space to accommodate the anticipated programmatic needs of the School, thus necessitating its demolition and replacement with a structure that provides sufficient floor-to-ceiling heights and floor plates for the School's educational mission; and (2) the site is small and shallow, with a depth of 54'-0"; and

WHEREAS, the applicant further states that the requested waivers are necessary to accommodate a building large enough to house an efficient interior layout, suitable to

address the School's programmatic needs of training its students in physically-intensive, high-space demand circus-related activities; and

WHEREAS, the Board observes the floor area waiver is necessary in order to accommodate a second class room, which, according to the applicant, is necessary for proper training space; and

WHEREAS, the Board observes that the circus-related activities (trapeze, tight rope walking, and unicycle riding), require accommodation through the provision of significant floor to ceiling heights and large floor plates, which can only be constructed on the site provided that waivers of FAR, height, perimeter wall height, sky exposure plane, setback, yards and lot coverage are obtained; and

WHEREAS, in particular, trapeze training requires high floor to ceiling heights to accommodate not only the trapeze swing, but also the safety net, which must be placed three to five feet above the floor; this necessitates the height waiver; and

WHEREAS, in addition, the unicycle training requires large floor plates, which necessitates the yard, lot coverage and setback waivers; and

WHEREAS, a building that fully complies with these provisions would not allow for utilization by the School, due to their special programmatic needs; and

WHEREAS, thus, the Board agrees that, based upon the submitted evidence, the waivers are necessary in order to meet the programmatic needs of the School; and

WHEREAS, therefore, the Board finds that the cited unique physical conditions, when considered in conjunction with the programmatic needs of the School, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not address Z.R. § 72-21(b) since the applicant is a not-for-profit organization and the proposed construction will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant represents that the proposed building is designed to only address the programmatic needs of the School; and

WHEREAS, the applicant notes that all existing buildings on the subject street have no front yard or side yards, like the proposal; and

WHEREAS, the applicant also notes that any visual impact arising from the proposed building would be mitigated by the lack of residential uses on the other side of Coney Island Avenue; and

WHEREAS, finally, the applicant states that although there is a three-story residential building to the rear of the site with a lesser total height than the proposed building, this residential building is also adjacent to a six-story building at the rear; and

[WHEREAS, the proposed hours of operation are from 4

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PM to 10 PM, Monday through Friday, and 10 AM to 10 PM on Saturday and Sunday; the Board finds that these hours are reasonable given the proposed use, and will not impact the character of the neighborhood or impact adjacent uses; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the School relief; and

WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; 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. 04-BSA-101K dated 12/04/03; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration 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 the required findings under Z.R. § 72-21, to permit, within an R5 zoning district (within the Ocean Parkway Special District), the proposed construction of a two-story building to be used as a circus school for children, which is categorized as a UG4 non-profit institution without sleeping accommodations, contrary to Z.R. §§ 23-141, 23-462, 23-45, and 23-631; *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 21, 2005"-(9) sheets; and *on further condition*:

THAT the building shall only be used for a "Not-for-profit Circus School, without sleeping accommodations" and shall only be operated by The New Way Circus Center; any change in actual use, Use Group, or ownership or operator shall require BSA approval;

THAT the above condition(s) shall be listed on the certificate of occupancy;

THAT the bulk parameters of the proposed building shall be as reflected on the BSA-approved plans;

THAT compliance with existing, occupancy, and Local Law 58/87 requirements is subject to the review and approval of DOB;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 23, 2005.

189-04-BZ

APPLICANT - D.E.C. Designs, for City of Faith Church of God, owner.

SUBJECT - Application May 5, 2004 - under Z.R. §73-19 to allow a school (UG3) in a C8-1 zoning district which is not permitted as per section 32-00 of the Zoning Resolution.

PREMISES AFFECTED - 3445 White Plains Road, 445.2' south of Magenta Street, Block 4628, Lot 47, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEARANCES -

For Applicant: Peter Hirshman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Bronx Borough Commissioner, dated June 30, 2005, acting on Department of Buildings Application No. 200774475, reads:

"Proposed school and day care, zoning use group 3A, in a C8-1 zoning district is contrary to section 32-00 of the Zoning Resolution. Zoning use group 3A is permitted by Special Permit of the Board of Standards and Appeals per Section 32-30 of the Zoning Resolution and in accordance with standards

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set forth in Article VII, Chapter 3 of the Zoning Resolution;” and

WHEREAS, a public hearing was held on this application on June 14, 2005 after due notice by publication in the City Record, with continued hearings on July 19, 2005; and then to decision on August 23, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 12, Bronx, recommends approval of the subject application; and

WHEREAS, this is an application to permit a school without sleeping accommodations (Use Group 3), within a C8-1 zoning district, which requires a special permit pursuant to Z.R. §§ 73-19 and 73-03; and

WHEREAS, the subject premises is located on White Plains Road south of Magenta Street, and is currently improved upon with a two-story building; and

WHEREAS, the premises is owned by the City of Faith Church of God, which is located next to the premises, and is used as a school for the church (the “School”); and

WHEREAS, the School occupies 9,852 sq. ft.; and

WHEREAS, the applicant represents that the subject special permit, if granted, would allow the School to accommodate the current student body and others who want to attend the school, for a total of 70 students; and

WHEREAS, the applicant represents that a portion of the zoning lot adjacent to the building will be used as an open playground for the students; and

WHEREAS, the applicant represents that a search was conducted for suitable premises in the R6 zoning district located near the site; and

WHEREAS, the applicant has submitted a letter from a real estate broker that substantiates that a search was conducted in the surrounding area; and

WHEREAS, the applicant represents that certain sites were ultimately rejected due to cost prohibitions; the applicant further states that the current building is already owned by the church, thereby making it a monetarily feasible option; and

WHEREAS, the applicant has demonstrated difficulty in obtaining land for the development of a school within the neighborhood to be served and with an adequate size, within districts where the school is permitted as-of-right, sufficient to meet the programmatic needs of the school; and

WHEREAS, therefore, Board finds that the requirements of Z.R. §73-19 (a) are met; and

WHEREAS, evidence in the record indicates that the rear of the proposed School is located adjacent to an R6 zoning district, where a school is permitted as-of-right; thus the Board finds that the requirements of Z.R. §73-19 (b) are met; and

WHEREAS, the applicant represents that adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district will be provided through

the use of sound-attenuating exterior wall and window construction or by the provision of adequate open areas along lot lines of the zoning lot; and

WHEREAS, the applicant represents that to the east of the premises is an auto repair shop which generates little noise, and there is sufficient open area between the School and the auto repair shop; and

WHEREAS, the applicant further represents that the School building is constructed of masonry wall with furred out gypsum interior walls, and the windows are constructed of double pane glass assemblies; both the walls and windows provide sufficient sound insulation to ensure adequate separation from the noises of traffic and surrounding uses; and

WHEREAS, the Board agrees that adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district is achieved through the use of sound attenuating exterior wall and window construction or by the provision of adequate open areas along lot lines of the zoning lot; thus, the Board finds that the requirements of Z.R. §73-19 (c) are met; and

WHEREAS, the applicant represents that students will arrive by either car or bus, and that White Plains Road is wide enough to allow school buses to load and unload passengers while not impeding the flow of traffic; and

WHEREAS, therefore, Board finds that the requirements of Z.R. §73-19 (d) are met; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §73-19; 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, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-19 and 73-03; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Parts 617.5 and 613 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 Z.R. §§73-19 and 73-03 and grants a special permit for the operation of a school without sleeping accommodations (Use Group 3) in a two-story plus cellar building, within a C8-1 zoning district, which requires a special permit pursuant to Z.R. §§73-19 and 73-03; *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 “August 9, 2005”-(4) sheets; and *on further condition*:

THAT all interior partitions and exits shall be as approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other

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jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 23, 2005.

257-04-BZ

APPLICANT - Patrick W. Jones, Petraro & Jones, LLP, for Boerum Place, LLC, owner.

SUBJECT - Application November 19, 2004 - under Z.R. §72-21, to permit the proposed construction of an eight story mixed-use, retail-residential building, located in an R6A, R6, C2-4 and C2-3 zoning districts which does not comply with the zoning requirements for floor area ratio, lot coverage, building height and loading berth, is contrary to Z.R. §23-145, §33-121, §23-633, §35-25 and §36-22.

PREMISES AFFECTED - 252/60 Atlantic Avenue (a/k/a 83/87 Boerum Place; 239/47 Pacific Street), east side of Boerum Place, between Atlantic Avenue and Pacific Street, Block 181, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Patrick Jones.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 8, 2004, acting on Department of Buildings Application No. 301763143, reads, in pertinent part:

“Objection #1 – The proposed floor area ratio exceeds that permitted by ZR 23-145 & 33-121.

Objection #2 – The proposed lot coverage exceeds that permitted by ZR 23-145.

Objection #5 – The proposed loading berth does not comply with that required by ZR 36-62.”; and

WHEREAS, a public hearing was held on this

application on April 19, 2005 after due notice by publication in the *City Record*, with continued hearings on May 24, 2005, June 14, 2005, July 19, 2005, and then to decision on August 23, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioners Miele and Chin; and

WHEREAS, Community Board 2, Brooklyn, recommends approval of this application; and

WHEREAS, the Atlantic Avenue Betterment Association also supports this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit, within a split C2-4 (within an R6A zoning district) and C2-3 in the Special Downtown Brooklyn District and the Atlantic Avenue Subdistrict (within an R6 zoning district), the proposed development of a seven-story mixed-use building, which does not comply with the zoning regulations for lot coverage, floor area, and loading berths, contrary to Z.R. §§ 23-145, 33-121 and 36-62; and

WHEREAS, the premises is approximately 85'-0" by 160'-0", and is located on the east side of Boerum Place between Atlantic Avenue and Pacific Street; the total lot area is approximately 16,225 sq. ft.; and

WHEREAS, the site is currently improved upon with a pre-existing, non-conforming automotive service station; and

WHEREAS, the applicant proposes to construct a seven-story building, with approximately 74,672 sq. ft. of residential floor area, 8,534 sq. ft. of retail floor area, 81,079 sq. ft. total zoning floor area, 4.997 floor area ratio ("FAR"), 59 dwelling units, a street wall height of 50'-0" and a total height of 70'-0" on Atlantic Avenue, a street wall height of 60'-0" and a total height of 70'-0" on the northern portion of Boerum Place, a street wall height of 40'-6" and a total height of 50'-0" on the southern portion of Boerum Place and along Pacific Street, and 24 parking spaces; and

WHEREAS, the original proposal contemplated an eight-story building with 83,030 sq. ft. of residential floor area, 14,160 sq. ft. of retail floor area, 97,190 sq. ft. total zoning floor area, 5.99 FAR, 64 dwelling units, a street wall height of 50'-0" and a total height of 80'-0" on Atlantic Avenue, a street wall height of 60'-0" and a total height of 80'-0" on the northern portion of Boerum Place, a street wall height of 40'-6" and a total height of 80'-0" on the southern portion of Boerum Place and Pacific Street, 36 parking spaces, and other non-compliances as discussed below; and

WHEREAS, the initial proposal also included waivers for building height and off-street parking; such non-compliances were subsequently removed by the applicant at the request of the Board; and

WHEREAS, the proposed development generates the following waiver requests: FAR of 4.997 (maximum 2.69 FAR permitted); lot coverage ratio of 0.89 (maximum of 0.80 permitted); and no loading berth (one loading berth required); and

WHEREAS, the applicant states that the following are

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unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: the presence of an underground storage tank and environmental contamination, due to the history of use as a gas station; and

WHEREAS, the applicant represents that there is an underground storage tank on the premises that was installed in 1987, and the tank is not currently in compliance with regulations of the Environmental Protection Agency (EPA); and

WHEREAS, the applicant has submitted a letter from the prior lessee of the property, ExxonMobil, which states that the underground storage tanks and gasoline product lines need to be replaced as per EPA regulations, and the cost of such work is \$300,000; and

WHEREAS, the applicant has submitted a letter from an environmental remediation firm, dated May 27, 2005, which states that remediation of the site is expected to cost at least \$1,400,000, and that approximately 20% of the remediation work has been completed already; and

WHEREAS, based upon the above, the Board concludes that the increased FAR is justified by the premium costs related to environmental contamination remediation; and

WHEREAS, the Board also observes that the lot coverage waiver is justified due to the short length of the frontage on Boerum Place (160'-0" instead of the typical 200'-0"); and

WHEREAS, specifically, the Board notes that the creation of viable, efficient floor plates with double-loaded corridors for a contextual building form that would comply with the R6A envelope, as well as the Quality Housing envelope within the R6 district, necessitates a higher lot coverage ratio than would be required on a lot with a typical full block frontage of 200 ft.; and

WHEREAS, finally, the Board notes that the loading berth requirement arises from the amount of square footage of the proposed first floor retail space; while this objection would not arise if the proposal included residential over a larger portion of the ground floor, such use is not as viable as retail on the Atlantic Avenue side of the site, as well as along Boerum Place, and its inclusion there would decrease the overall return and likely necessitate the increase of other waivers; and

WHEREAS, accordingly, the Board finds that the unique conditions mentioned above create practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the applicant represents that it has unsuccessfully attempted to find other vendors to operate the gas station, but other operators refused as the volume of gasoline sales was insufficient to overcome the cost of the work to extensively retrofit the underground storage tanks system; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed an as-of-right complying residential/retail scenario and a lesser non-complying residential/retail scenario, and concluded that neither would result in a reasonable rate of

return; and

WHEREAS, the applicant concluded in its feasibility study that the additional premium costs for remediation would not be offset by an as-of-right mixed use commercial and residential development at 2.67 FAR; and

WHEREAS, at the request of the Board, the applicant submitted a further feasibility study of a 4.0 FAR building with residential and retail, and concluded that it would not result in a reasonable rate of return; and

WHEREAS, the Board questioned certain of the applicant's comparables related to the site valuation and condominium sales for this location, and asked the applicant to update and provide additional information about them; and

WHEREAS, the applicant responded by updating the comparables and site valuation, and by providing both a detailed description of the amenities of the comparables used and an explanation as to why the proposed building will sell for less than the comparables; and

WHEREAS, as to the residential retail and condominium schemes, the Board questioned the applicant's use of a sell-out period of three years rather than a shorter period; and

WHEREAS, in response, the applicant submitted additional information reinforcing why a sell-out period of three years is appropriate, including examples of other new residential condominiums within the Downtown Brooklyn and Boerum Hill neighborhoods; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict compliance with the provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant states that the proposed building's current bulk and height will not negatively affect the character of the neighborhood nor impact adjacent uses; and

WHEREAS, the applicant represents that the site is located on the heavily trafficked intersection of Atlantic Avenue and Boerum Place; and

WHEREAS, the Board observes that Atlantic Avenue is a major thoroughfare in Downtown Brooklyn and is also a wide street, and the portion of the site located on Atlantic Avenue is a high density residential district (R6A) with a commercial overlay; and

WHEREAS, the Board also notes that Boerum Place is a narrow street with lower buildings and is in an R6 zoning district with a commercial overlay; and

WHEREAS, the Board further notes that Pacific Street is also a narrow street and is predominantly residential, with four to five story buildings; and

WHEREAS, the applicant further represents that north of Atlantic Avenue the area is characterized by buildings of ten stories or more, and south of Atlantic Avenue, the neighborhood is characterized by buildings between two and eight stories; and

WHEREAS, the Board observes that the initial proposal was significantly over bulk at a height of eight stories, and was particularly out of character with the neighborhood along the

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portions of Boerum Place and Pacific Street; and

WHEREAS, as noted above, the Board found that the initial financial information presented by the applicant did not justify the FAR first requested, the additional commercial floor area that triggered the loading berth waiver, or the increased parking (given that the site is served by mass transit); and

WHEREAS, accordingly, in response to the Board's concerns, the applicant reduced the overall bulk of the building and further complied with the Quality Housing envelope and setback regulations, in order to create a more contextual development; and

WHEREAS, specifically, on Atlantic Avenue and the northern portion of Boerum Place, the applicant initially proposed a building with the following bulk parameters: a 50'-0" street wall height, then a setback of 10'-0" to a height of 60'-0", and a further setback of 10'-0" to a total height of 80'-0"; and

WHEREAS, as-of-right, the zoning allows a street wall height of 50'-0", then a setback of 10'-0" to a height of 60'-0", and then a further setback of 10'-0" to a height of 70'-0"; and

WHEREAS, the applicant now proposes a 50'-0" street wall height, then a setback of 10'-0" to a height of 70'-0"; and

WHEREAS, on Boerum Place, the applicant proposed a 60'-0" street wall height, then a setback of 15'-0" to a height of 80'-0"; and

WHEREAS, as-of-right, the zoning allows a street wall height of 60'-0", then a setback of 15'-0" to a height of 70'-0"; and

WHEREAS, the applicant now proposes a 60'-0" street wall height on Boerum Place, then a setback of 10'-0" to a height of 70'-0"; and

WHEREAS, on Boerum Place/Pacific Street, the applicant proposed a street wall height of 40'-6", then a setback of 15'-0" to a height of 80'-0"; and

WHEREAS, as-of-right, the zoning allows a street wall height of 45'-0", then a setback of 15'-0" to a height of 50'-0"; and

WHEREAS, the applicant now proposes a street wall height of 40'-6", then a setback of 15'-0" to a height of 50'-0"; and

WHEREAS, the Board observes that the due to these changes, the proposed building complies with all street wall and setback requirements; and

WHEREAS, additionally, the Board notes that although the current proposal still requires a loading berth waiver, the applicant significantly reduced the amount of retail floor area along the southern portion of Boerum Place and Pacific Street from 11,203 sq. ft. to 8,534 sq. ft.; and

WHEREAS, the Board further notes that the applicant reduced the number of parking spaces from 36 to 24, thereby removing the parking objection; and

WHEREAS, the Board finds that these modifications to the proposal lead to a development that is more compatible with the context of the surrounding neighborhood; and

WHEREAS, the applicant also represents that the proposal complies with all applicable requirements of the

Special Downtown Brooklyn District and the Atlantic Avenue Subdistrict; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, although the applicant modified the proposal from the original version to the current scenario, the Board requested a further investigation of the feasibility of a 4.0 FAR development scenario with a shorter sell-out period; and

WHEREAS, the applicant reviewed such a scenario and concluded that three years is an appropriate sell-out period based on recent sales in the areas, and that a 4.0 FAR building is not viable; and

WHEREAS, accordingly, the Board finds that the current proposal is the minimum necessary to afford the owner relief; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as a Unlisted Action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05BSA009K, dated October 26, 2004; 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; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts and Public Health; and

WHEREAS, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the Applicant: (1) an Environmental Assessment Statement Form, dated October 26, 2004; (2) a Phase I Environmental Site Assessment Report, dated June 24, 2003; and (3) the Limited Phase II Subsurface Investigation & Partial Remediation Report dated February 11, 2004; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials impacts; and

WHEREAS, a Proof of Submission for Recording of an Executed Restrictive Declaration was submitted to BSA and DEP on August 22, 2005 for the subject property to address hazardous materials concerns; and

WHEREAS, DEP has determined that there would not be

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any impacts from the subject proposal, based on the implementation of the measures cited in the Restrictive Declaration; 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, with conditions as stipulated below, 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 the required findings under Z.R. § 72-21, to permit, within a split C2-4 (within an R6A zoning district) and C2-3 in the Special Downtown Brooklyn District and the Atlantic Avenue Subdistrict (within an R6 zoning district), the proposed development of a seven-story mixed-use building, which does not comply with the zoning regulations for lot coverage, floor area, and loading berths, contrary to Z.R. §§23-145, 33-121 and 36-62; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 1, 2005"–(14) sheets; and *on further condition*:

THAT the bulk parameters of the proposed building shall be as follows: (1) FAR of 4.997; and (2) lot coverage ratio of 0.89;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 23, 2005.

353-04-BZ

APPLICANT – Rothkrug Rothkrug Weinberg & Spector, for Medident Corp., owner.

SUBJECT – Application November 4, 2004 – under Z.R. §11-411 and §11-412 – to permit the reestablishment of an expired approval, previously granted under Cal. No. 612-59-BZ for a professional office building in a residential district, also the legalization of minor changes in the interior layout of the building, in addition the proposed installation of a circular staircase within the existing structure, is contrary to Z.R. §11-411 and §11-412.

PREMISES AFFECTED – 18-15 Francis Lewis Boulevard, a/k/a 157-68/72 18th Avenue and 18-02/8 160th Street, corner of Francis Lewis Boulevard, 18th Avenue and 160th Street Block 4748, Lot 35, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated October 5, 2004, acting on Department of Buildings Application No. 401730926, reads:

“Proposed extension of term and change in interior layout of professional office building (UG6) in an R3-2 zoning district is contrary to Section 22-10 ZR and the resolution under Cal. No. 612-59-BZ and must be referred back to the Board”; and

WHEREAS, this is an application for a reinstatement of a prior Board approval, granted under BSA Cal. No. 612-59-BZ, pursuant to Z.R. § 11-411, and a legalization of minor amendments to the previously approved plans, as well as approval of a proposed minor amendment to the existing conditions, pursuant to Z.R. § 11-412; and

WHEREAS, a public hearing was held on this application on July 26, 2005, after due notice by publication in *The City Record*, and then to August 23, 2005 for decision; and

WHEREAS, the premises and surrounding area had a site visit and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board No. 7, Queens, recommends approval of this application; and

WHEREAS, the premises is located on the corner of Francis Lewis Boulevard, 160th Street and 18th Avenue, within an R3-2 zoning district, and has a total lot area of approximately 1,489 sq. ft.; and

WHEREAS, the premises is improved upon with a 2,978 sq. ft., one-story plus basement building used for UG 6 professional office use; and

WHEREAS, on February 24, 1960, under Calendar No. 612-59-BZ, the Board granted a variance for a term of twenty years, to permit, in a residence use district, the erection and maintenance of the afore-mentioned professional office building; and

WHEREAS, an 10 year extension of term for this variance was granted in 1980; and

WHEREAS, the applicant states that, due to an oversight, no extension of term application was filed upon the expiration of the last term; and

WHEREAS, the applicant states that from the time of the original variance, the site has been continuously occupied as a professional office; and

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WHEREAS, the following non-compliances with the Board's prior grant are proposed to be legalized: (1) the offices have been re-partitioned to facilitate modern medical usage, such that the doctor's offices are smaller, a waiting room and exam rooms are provided, and a stairwell was relocated; and (2) the elevation differs slightly from the approved plans, in that windows were relocated, facing materials are different, and the entrance was relocated; and

WHEREAS, additionally, the applicant proposes the inclusion of a spiral staircase connecting the basement with the first floor; and

WHEREAS, the Board has reviewed the existing non-compliances and the proposed change and finds that they are minor and thus may be approved; and

WHEREAS, pursuant to Z.R. §11-411, the Board may extend the term of an expired variance; and

WHEREAS, additionally, pursuant to Z.R. §11-412, the Board may, in appropriate cases, allow minor alterations on sites subject to a pre-1961 variance; and

WHEREAS, based upon its review of the record, the Board has determined that the evidence supports the requested extension of term and modifications, pursuant to Z.R. §§ 11-411 and 11-412; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Parts 617.5 and 613 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 Z.R. §§ 11-411 and 11-412, on a site previously before the Board, to permit a reinstatement of a prior Board approval, granted under BSA Cal. No. 612-59-BZ, and a legalization of minor amendments to the previously approved plans, as well as approval of a proposed minor amendment to the existing conditions; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 8, 2005" –(2) sheets; and *on further condition*;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT fencing and landscaping shall be installed and maintained in accordance with the BSA-approved plans;

THAT the terms of this grant shall be for ten (10) years from August 23, 2005, to expire on August 23, 2015;

THAT these conditions appear on the Certificate of Occupancy;

THAT all conditions from prior resolution(s) not specifically waived by the Board remain in effect and shall be listed on the certificate of occupancy if listed previously;

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.

Adopted by the Board of Standards and Appeals, August 23, 2005.

43-05-BZ

APPLICANT – Harold Weinberg, P.E., for Yossi Cohen, owner.

SUBJECT - Application February 25, 2005 - under Z.R. §73-622 to permit an enlargement to the rear of a single family home to vary sections Z.R. §23-141 floor area and open space, Z.R. §23-461 side yards and Z.R. §23-47 for rear yard. The premise is located in an R3-2 zoning district. PREMISES AFFECTED – 1826 East 28th Street, west side, 200'-0" south of Avenue "R", Block 6833, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 24, 2005, acting on Department of Buildings Application No. 301896919, reads:

"The proposed enlargement of the existing one family residence in an R3-2 zoning district:

1. Increases the degree of non-compliance with respect to floor area ratio and the maximum permitted floor area by exceeding the allowable floor area ration and is contrary to Sections 23-141 and 54-31 of the Zoning Resolution;
2. Increases the degree of non-compliance with respect to open space to decrease below the allowable open space ratio and is contrary to Section 23-141 and 54-31 ZR;
3. Reduces the rear yard below 30' and is contrary to Section 23-47 ZR;
4. Increases the degree of non-compliance with respect to side yard and is contrary to Sections 23-461 and 54-31;
5. Increases the degree of non-compliance with respect to lot coverage and is contrary to Sections 23-141 and 54-31."; and

WHEREAS, a public hearing was held on this application on May 24, 2005 after due notice by publication in *The City Record*, with continued hearings on July 12, 2005, August 9, 2005, and then to decision on August 23, 2005; and

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WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, certain members of the community appeared in opposition to the application, claiming that the intrusion into the rear yard would negatively impact the character of the neighborhood; as noted below, the Board concluded otherwise; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space and side and rear yards, contrary to Z.R. §§ 23-141, 23-461, 23-47 and 54-31; and

WHEREAS, the subject lot is located on the west side of East 28th Street, 200' south of Avenue R, between Avenues R and S; and

WHEREAS, the subject lot has a total lot area of 3,000 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks an increase in the floor area from 1686.9 sq. ft. (0.56 Floor Area Ratio or "FAR") to 3,000 sq. ft. (1.0 FAR); the maximum floor area permitted (with an attic bonus) is 1,800 sq. ft. (0.60 FAR); and

WHEREAS, at the request of the Board, the FAR was reduced to 1.0 from 1.07; and

WHEREAS, the proposed enlargement will increase the lot coverage from 27.3% to 48.4%; the maximum lot coverage permitted is 35%; and

WHEREAS, the proposed enlargement will decrease the open space from 2,183.3 sq. ft. to 1,547.9 sq. ft.; the minimum required is 1,950 sq. ft.; and

WHEREAS, the proposed enlargement will maintain one existing non-complying side yard of 2'-10", which does not comply with the 5' minimum side yard requirement; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the proposed enlargement will reduce the rear yard from 54'-10" to 21'-0"; the minimum rear yard required is 30'-0"; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20'-0" of the rear lot line; and

WHEREAS, the Board observes that the Z.R. § 73-622 specifically contemplates such a reduction in the rear yard, and also observes that since the intrusion is in the rear yard, the proposed enlargement will not affect the streetscape; and

WHEREAS, accordingly, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere

with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space and side and rear yards, contrary to Z.R. §§ 23-141, 23-461, 23-47 and 54-31; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received February 25, 2005"- (2) sheets, "June 20, 2005"- (1) sheet, "June 21, 2005"- (1) sheet, "July 22, 2005"- (5) sheets and "August 10, 2005"- (2) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the total FAR on the premises, including the attic, shall not exceed 1.0;

THAT the total attic floor area shall not exceed 250.22 sq. ft., as confirmed by the Department of Buildings;

THAT the above conditions shall be set forth in the certificate of occupancy;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 23, 2005.

154-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Wavebrook Associates, owner.

SUBJECT - Application April 9, 2004- under Z.R. §72-21 to permit the proposed construction of a four family dwelling,

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Use Group 2, located in M1-1 zoning district, is contrary to Z.R.§42-10.

PREMISES AFFECTED - 63 Rapeleye Street, north side, 116' east of Hamilton Avenue, Block 363, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Hiram Rothkrug and Eric Palatnik.

For Opposition: Rachael Dubin and Roger Rigolli.

ACTION OF THE BOARD – Laid over to October 18, 2005, at 1:30 P.M., for continued hearing.

175-04-BZ thru 177-04-BZ

APPLICANT - Joseph P. Morsellino, for 130th Street LLC, owner.

SUBJECT - Application April 29, 2004- under Z.R.§72-21- Proposed erection and maintenance of a two family dwelling, Use Group 2, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, open space, perimeter wall height and rear yard, is contrary to Z.R. §23-141, §23-631 and §23-47.

PREMISES AFFECTED -

7-05 130th Street, east side, Block 3982, Lot 70, Borough of Queens.

7-09 130th Street, east side, Block 3982, Lot 67, Borough of Queens.

7-13 130th Street, east side, Block 3982, Lot 65, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph P. Morsellino and Arnold Montag.

For Opposition: Joan Vogt.

ACTION OF THE BOARD - Laid over to September 27, 2005, at 1:30 P.M., for continued hearing.

234-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Zunick Realty Corp., owner.

SUBJECT – Application June 18, 2004 - under Z.R. §72-21 to permit in a M1-1 and M1-2 district, approval sought to legalize residential occupancy of 73 dwelling units in a four-story and basement industrial building, which was constructed in 1931. The legal use is listed artist loft space for the 73 units. There are proposed 18 parking spaces on the open portion of the lot, which consists of 25,620 SF in its entirety. The use is contrary to district use regulations.

PREMISES AFFECTED – 255 McKibbin Street, between Bushwich Avenue and White Street, Block 3082, Lot 65, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Janice Calahane and Sheldon Lobel.

For Opposition: Anthony Parne and David Pritchmara.

ACTION OF THE BOARD – Laid over to

September 27, 2005, at 1:30 P.M., for continued hearing.

272-04-BZ

APPLICANT - Sullivan Chester & Gardner, for Chickie, LLC, owner.

SUBJECT - Application August 5, 2004 - under Z.R.§72-21 to permit the proposed five story, twenty-unit multiple dwelling, Use Group 2, located in an R-5 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, density, side and front yards, height and/or setback and parking spaces, is contrary to Z.R.§23-141, §23-22, §23-45a, §23-461(a and b), §23-462, §23-631d and §25-23.

PREMISES AFFECTED - 14-38/40 31st Drive, East side, between 14th and 21st Streets, Block 531, Lots 50 and 51, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Jeffrey Chester, Daniel Lane and Dominic Casamento.

For Opposition: Anthony Vidiante and Salvatore Pavone.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

Negative:.....0

Absent: Vice-Chair Babbar.....1

ACTION OF THE BOARD - Laid over to September 20, 2005, at 1:30 P.M., for decision, hearing closed.

289-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Judo Associates, Inc., lessee.

SUBJECT – Application August 18, 2004 – under Z.R. §72-21 – to permit the proposed construction of a seven story mixed-use building, to contain commercial use on the ground floor, and residential use above, located within an M1-5B zoning district, which does permit residential use, is contrary to Z.R. §42-00 and §42-14.

PREMISES AFFECTED – 341 Canal Street, southeast corner of Greene Street, Block 229, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Sheldon Lobel and Jack Friedman.

For Opposition: David Reck, Barry Mallin and Pater Z. Pastor.

ACTION OF THE BOARD – Laid over to September 27, 2005, at 1:30 P.M., for continued hearing.

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299-04-BZ

APPLICANT - Patrick W. Jones, Petraro & Jones, LLP, for Sutphin Boulevard, owner.

SUBJECT - Application September 7, 2004 - under Z.R.§72-21 - Proposed construction of a one-story retail building, Use Group 6, located in an R3-2 zoning district, is contrary to Z.R. §22-11.

PREMISES AFFECTED - 111-02 Sutphin Boulevard, (a/k/a 111-04/12 Sutphin Boulevard), southeast corner of 111th Avenue, Block 11965, Lots 26, 188 and 189 (tentative 26), Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Patrick Jones, Marc Chemtob, Dan Lane, Samuel Karrys.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

Negative:.....0

Absent: Vice-Chair Babbar.....1

ACTION OF THE BOARD - Laid over to October 18, 2005, at 1:30 P.M., for decision, hearing closed.

374-04-BZ

APPLICANT – Deirdre A. Carson, Esq., Greenberg Traurig, LLP for Micro Realty Management, LLC c/o Werber Management, owner.

SUBJECT – Application November 26, 2004 – under Z.R. §72-21, to permit the proposed development of a seven-story residential building with ground floor commercial space in a C6-2A Special Lower Manhattan District and the South Street Seaport Historic District, to vary Sections 23-145, 23-32, 23-533, 23-692, 23-711 and 24-32 of the Resolution.

PREMISES AFFECTED – 246 Front Street, a/k/a 267½ Water Street, through lot fronting on Front and Water Streets, 126 feet north of the intersection of Peck Slip and Front Street, and 130 feet north of the intersection of Peck Slip and Water Street, Block 107, Lot 34, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Deirdre A. Carson.

For Opposition: Doris Diether, James Nachtwey, Randy

Polumbo, Sarah Anchiadoss and Rick Liss.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

Negative:.....0

Absent: Vice-Chair Babbar.....1

ACTION OF THE BOARD - Laid over to October 18, 2005, at 1:30 P.M., for decision, hearing closed.

375-04-BZ

APPLICANT – Greenberg Traurig LLP, for Designs by FMC, owner.

SUBJECT – Application November 29, 2004 – under Z.R. §72-21 – to permit the proposed expansion of an existing jewelry manufacturer and wholesaler establishment, located in an M1-1 zoning district, which does not comply with zoning requirements for floor area ratio, rear yard, street wall height and adequate parking, is contrary to Z.R. §43-12, §43-302, §43-43 and §44-21.

PREMISES AFFECTED – 1527, 1529 and 1533 60th Street, north side, between 15th and 16th Avenues, Block 5509, Lots 64, 65 and 68, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Jay Segal, William Nusen and other.

ACTION OF THE BOARD – Laid over to September 27, 2005, at 1:30 P.M., for continued hearing.

388-04-BZ

APPLICANT - H. Irving Sigman, for D.R.D. Development Inc., owner.

SUBJECT – Application December 13, 2004 – under Z.R. §72-21 to permit the proposed construction of a one story and cellar commercial building, comprising of four stores, and accessory parking, Use Group 6, located in an R2 and a C8-1 zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED – 133-16 Springfield Boulevard, west side, 114.44' north of Merrick Boulevard and 277' south of Lucas Street, Block 12723, Lot 9, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: H. Irving Sigman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

Negative:.....0

Absent: Vice-Chair Babbar.....1

ACTION OF THE BOARD - Laid over to September 20, 2005, at 1:30 P.M., for decision, hearing closed.

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29-05-BZ

APPLICANT – Stephen Rizzo (CR&A), for 350 West Broadway, L.P., owner; Lighthouse Rizzo 350, LLC, lessee.
SUBJECT – Application February 17, 2005 - under Z.R. §72-21 to permit the proposed enlargement and renovation to an existing vacant fifteen story, to contain retail use in the cellar, first and second floor, and residential use on the third through fifteen floors, located in an M1-5A zoning district, is contrary to Z.R. §42-14, §42-00 and §42-10.

PREMISES AFFECTED – 350 West Broadway, 60' north of Grand Street, Block 476, Lot 75, Borough of Manhattan,

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Janice Cahalane, Rob Rogers, Stephen Rizzo, Robert Pauls, Ingrid Wiegard, Sean Sweeney and Victor Arbitrio.

ACTION OF THE BOARD – Laid over to September 20, 2005, at 1:30 P.M., for continued hearing.

68-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Congregation Bais Chaim Yoshua, owner.

SUBJECT – Application March 18, 2005 – under Z.R. §72-21 – to permit the proposed enlargement of a three story plus attic building, currently housing a synagogue, with accessory residential on the second, third, and attic floors, which does comply with the zoning requirements for floor area ratio, side and front yards, is contrary to Z.R. §24-11, §24-162, §24-35, §24-34 and §23-141.

PREMISES AFFECTED – 4911 17th Avenue, east side, between 49th and 50th Streets, Block 5455, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Richard Lobel and Lewis Farlinhel.

ACTION OF THE BOARD – Laid over to September 20, 2005, at 1:30 P.M., for continued hearing.

74-05-BZ

APPLICANT – Snyder & Snyder, LLP, for The Island Swim Club, Inc.; Omnipoint Communications, Inc., lessee.

SUBJECT – Application March 29, 2005 – under Z.R. §§73-30 and 22-21 – to permit the proposed construction of a non-accessory radio tower for public utility wireless communications (disguised as a 50-foot tall flagpole), located in an R3-2 zoning district.

PREMISES AFFECTED – 1089 Rockland Avenue, northeast side, between Borman and Shirra Avenues, Block 2000, Lot 7, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Robert Bandiese.

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for postponed hearing.

75-05-BZ

APPLICANT – Snyder & Snyder, LLP, for Immanuel Lutheran Church, owner; Omnipoint Communications, Inc., lessee.

SUBJECT – Application March 29, 2005 – under Z.R. §73-30 and §22-21 – to permit the proposed construction of a non-accessory radio tower for public utility wireless communications (disguised as a 90-foot tall flagpole), located in an R3-2 zoning district.

PREMISES AFFECTED – 2018 Richmond Avenue, approximately 650' south of Amsterdam Place and Richmond Avenue, Block 2100, Lot 460, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Robert Bandiese.

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for postponed hearing.

77-05-BZ

APPLICANT – Greenberg Traurig, LLP by Deirdre Carson, for Jack Ancona, owner.

SUBJECT – Application March 29, 2005 – under Z.R. §72-21 – to permit the proposed construction of a twelve-story mixed building, containing residential and retail uses, located within an M1-6 zoning district, in which residential use is not permitted as of right, is contrary to Z.R. §42-00.
PREMISES AFFECTED – 132 West 26th Street, south side, 364.5' west of Sixth Avenue, Block 801, Lot 60, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Deirdre Carson.

For Opposition: Stuart Klein.

ACTION OF THE BOARD – Laid over to October 25, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

MINUTES

Adjourned: 5:55 P.M.

BULLETIN

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September 22, 2005

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Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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**MINUTES of Regular Meetings,
Tuesday, SEPTEMBER 13, 2005**

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Affecting Calendar Numbers:

234-84-BZ	1976/82 Forest Avenue, Staten Island
162-93-BZ	270 West 17 th Street, Manhattan
130-39-A	2 Ploughman's Bush, a/k/a 665 West 246 th Street, Bronx
878-80-BZ	41 West 24 th Street, Manhattan
364-82-BZ	245-02/34 Horace Harding Expressway, Queens
62-83-BZ	696 Pacific Street, Brooklyn
983-83-BZ	34-42/60 Guy R. Brewerb Boulevard, Queens
886-87-BZ	11 East 36 th Street, a/k/a 10 East 37 th Street, Manhattan
364-89-BZ	30-75 21 st Street, Queens
110-95-BZ	1845 Cornaga Avenue, Queens
132-97-BZ	227 Mansion Avenue, Staten Island
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365-04-A thru 369-04-A	85-04/02 56 th Avenue and 85-01/03/03A 57 th Avenue, Queens
157-05-A	39 Kildare Walk, Queens
158-05-A	15 Atlantic Walk, Queens
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236-04-A	3094 Dare Place, Bronx
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Affecting Calendar Numbers:

302-04-BZ	40 Woodhull Street, Brooklyn
332-04-BZ	1410/14 East 24 th Street, Brooklyn
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402-04-BZ	2461 Knapp Street, Brooklyn
405-04-BZ	1734 East 27 th Street, Brooklyn
88-05-BZ	2015 East 22 nd Street, Brooklyn
397-03-BZ thru 405-03-BZ	1255/1257/1259/1261/1263/1265/1267/1269/1271 60 th Street, Brooklyn
3-04-BZ	147-08 46 th Avenue, Queens
290-04-BZ	341-349 Troy Avenue, a/k/a 1515 Carroll Street, Brooklyn
315-04-BZ & 318-04-BZ	1732/1734/1736/1738 81 st Street, Brooklyn
326-04-BZ	6208/16 Strickland Avenue, Brooklyn
338-04-BZ	806/14 Coney Island Avenue, Brooklyn
357-04-BZ	707 Cross Bay Boulevard, Queens
358-04-BZ	728 Cross Bay Boulevard, Queens
382-04-BZ	2026 Avenue "T", Brooklyn
399-04-BZ	425/27 Broome Street, Manhattan
19-05-BZ	151 West 28 th Street, Manhattan
44-05-BZ	49-01 Beach Channel Drive, Queens
60-05-BZ	1024 Lancaster Avenue, Brooklyn
97-05-BZ	1107 East 21 st Street, Brooklyn
126-05-BZ	1282 East 27 th Street, Brooklyn

DOCKETS

New Case Filed Up to September 13, 2005

202-05-BZ B. Q 11-11 131st Street,
between 11th and 14th Avenues, Block 4011, Lot 24,
Borough of Queens, Applic. #402179664. Special permit to
allow the proposed Physical Culture Establishment in a
Manufacturing (M1-1) zoning district not contrary to §73-
36.

COMMUNITY BOARD #7Q

203-05-A B. Q 39 Ocean Avenue,
East side 294.86 North of Rockaway Point Blvd., Block
16350, Lot 300, Borough of Queens, Applic. # 402166197.
Building not fronting mapped Street contrary to Art 3, Sec.
36 GCL & Sec. 27-291 Admin. Code.

204-05-BZ B. B 2211 Avenue T,
North side 57'-0" East of 22nd Street between East 22 and
East 23rd Streets, Block 7301, Lot 47, Borough of Brooklyn,
Applic. #301480966. To erect a two story rear enlargement
contrary to §73-622.

COMMUNITY BOARD #15BK

205-05-A B. Q 47 Graham Place,
North side of Graham Place 52.50' West of Beach 204th
Street, Block 16350, Lot 400, Borough of Queens, Applic.
#4021205757. Propose legalization of the rear extension.
The building is in the bed of a mapped Street contrary to
GCL 35.

206-05-A B. Q 9 Bayside Drive, in
the bed of Bayside Drive 109.72' North West of Rockaway
Point Blvd., Block 16340, Lot 50, Borough of Queens,
Applic. #402131260. Reconstruct and enlarge an existing
single family dwelling and upgrade existing private disposal
system both lying in the bed of a mapped Street contrary to
GCL 35.

207-05-BZ B. BK 407 Allen Avenue,
Between Knapp and Plumb 1st Streets, Block 8830, Lot 7,
Borough of Brooklyn, Applic. # 301990709. To legalize the
existing enlargement of the home. Said special permit seeks
to vary ZR Section 23-141 (floor area and lot coverage):
§23-461(side yard);§23-47 (rear yard)

COMMUNITY BOARD #15BK

208-05-A B. S.I. 24 Riverside Lane,

Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 102, Borough of Staten Island,
Applic. #500782138. To permit construction of a dwelling
that does not front on a legally mapped Street.

209-05-A B. S.I. 26 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 104, Borough of Staten Island,
Applic. #500774352. To permit construction of a dwelling
that does not front on a legally mapped Street.

210-05-A B. S.I. 28 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block
1116, Lot 106, Borough of Staten Island, Applic.
#50074254. To permit construction of a dwelling that does
not front on a legally mapped Street.

211-05-A B. S.I. 30 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 108, Borough of Staten Island,
Applic. #500773567. To permit construction of a dwelling
that does not front on a legally mapped Street.

212-05-A B. S.I. 32 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 114, Borough of Staten Island,
Applic. #500773852. To permit construction of a dwelling
that does not front on a legally mapped Street.

213-05-A B. S.I. 34 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 116, Borough of Staten Island,
Applic. #500773255. To permit construction of a dwelling
that does not front on a legally mapped Street.

214-05-A B. S.I. 36 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 118, Borough of Staten Island,
Applic. #500773264. To permit construction of a dwelling
that does not front on a legally mapped Street.

DOCKETS

215-05-A B. S.I. 38 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 120, Borough of Staten Island,
Applic. #500773246. To permit construction of a dwelling
that does not front on a legally mapped Street.

216-05-A B. S.I. 40 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 122, Borough of Staten Island,
Applic. #500773415. To permit construction of a dwelling
that does not front on a legally mapped Street.

217-05-A B. S.I. 42 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 124, Borough of Staten Island,
Applic. #500773424. To permit construction of a dwelling
that does not front on a legally mapped Street.

218-05-A B. S.I. 44 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 125, Borough of Staten Island,
Applic. #500773433. To permit construction of a dwelling
that does not front on a legally mapped Street.

219-05-A B. S.I. 46 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 126, Borough of Staten Island,
Applic. #500774290. To permit construction of a dwelling
that does not front on a legally mapped Street.

220-05-A B. S.I. 48 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 127, Borough of Staten Island,
Applic. #500774307. To permit construction of a dwelling
that does not front on a legally mapped Street.

221-05-A B. S.I. 50 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 144, Borough of Staten Island,
Applic. #500773834. To permit construction of a dwelling
that does not front on a legally mapped Street.

222-05-A B. S.I. 52 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 145, Borough of Staten Island,
Applic. #500773585. To permit construction of a dwelling
that does not front on a legally mapped Street.

223-05-A B. S.I. 54 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 146, Borough of Staten Island,
Applic. #500773843. To permit construction of a dwelling
that does not front on a legally mapped Street.

224-05-A B. S.I. 56 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 147, Borough of Staten Island,
Applic. #500773576. To permit construction of a dwelling
that does not front on a legally mapped Street.

225-05-A B. S.I. 58 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 148, Borough of Staten Island,
Applic. #500782147. To permit construction of a dwelling
that does not front on a legally mapped Street.

226-05-A B. S.I. 17 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 96, Borough of Staten Island,
Applic. #500776617. To permit construction of a dwelling
that does not front on a legally mapped Street.

227-05-A B. S.I. 19 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 97, Borough of Staten Island,
Applic. #500776608. To permit construction of a dwelling
that does not front on a legally mapped Street.

228-05-A B. S.I. 21 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 98, Borough of Staten Island,
Applic. #500776591. To permit construction of a dwelling
that does not front on a legally mapped Street.

229-05-A B. S.I. 23 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 99, Borough of Staten Island,
Applic. #500776582. To permit construction of a dwelling
that does not front on a legally mapped Street.

DOCKETS

230-05-A B. S.I. 27 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 103, Borough of Staten Island,
Applic. #500776092. To permit construction of a dwelling
that does not front on a legally mapped Street.

231-05-A B. S.I. 29 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 107, Borough of Staten Island,
Applic. #500776083. To permit construction of a dwelling
that does not front on a legally mapped Street.

232-05-A B. S.I. 31 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 113, Borough of Staten Island,
Applic. #500776029. To permit construction of a dwelling
that does not front on a legally mapped Street.

233-05-A B. S.I. 33 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 115, Borough of Staten Island,
Applic. #500776038. To permit construction of a dwelling
that does not front on a legally mapped Street.

234-05-A B. S.I. 35 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 117, Borough of Staten Island,
Applic. #500776047. To permit construction of a dwelling
that does not front on a legally mapped Street.

235-05-A B. S.I. 37 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 119, Borough of Staten Island,
Applic. #500776074. To permit construction of a dwelling
that does not front on a legally mapped Street.

236-05-A B. S.I. 39 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 121, Borough of Staten Island,
Applic. #500776065. To permit construction of a dwelling
that does not front on a legally mapped Street.

237-05-A B. S.I. 41 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 123, Borough of Staten Island,
Applic. #500776056. To permit construction of a dwelling
that does not front on a legally mapped Street.

238-05-A B. S.I. 57 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 149, Borough of Staten Island,
Applic. #500774218. To permit construction of a dwelling
that does not front on a legally mapped Street.

239-05-A B. S.I. 59 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 150, Borough of Staten Island,
Applic. #500774272. To permit construction of a dwelling
that does not front on a legally mapped Street.

240-05-A B. S.I. 61 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 151, Borough of Staten Island,
Applic. #500774281. To permit construction of a dwelling
that does not front on a legally mapped Street.

241-05-A B. S.I. 63 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 152, Borough of Staten Island,
Applic. #500774263. To permit construction of a dwelling
that does not front on a legally mapped Street.

242-05-A B. S.I. 65 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 153, Borough of Staten Island,
Applic. #500774245. To permit construction of a dwelling
that does not front on a legally mapped Street.

243-05-A B. S.I. 67 Riverside Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 154, Borough of Staten Island,
Applic. #500774325. To permit construction of a dwelling
that does not front on a legally mapped Street.

244-05-A B. S.I. 18 Edgeview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 86, Borough of Staten Island,
Applic. #500776519. To permit construction of a dwelling
that does not front on a legally mapped Street.

245-05-A B. S.I. 20 Edgeview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 87, Borough of Staten Island,
Applic. #500776528. To permit construction of a dwelling
that does not front on a legally mapped Street.

DOCKETS

246-05-A B. S.I. 22 Edgeview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 88, Borough of Staten Island,
Applic. #500776537. To permit construction of a dwelling
that does not front on a legally mapped Street.

247-05-A B. S.I. 24 Edgeview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 89, Borough of Staten Island,
Applic. #500776546. To permit construction of a dwelling
that does not front on a legally mapped Street.

248-05-A B. S.I. 26 Edgeview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 91, Borough of Staten Island,
Applic. #500776555. To permit construction of a dwelling
that does not front on a legally mapped Street.

249-05-A B. S.I. 28 Edgeview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 92, Borough of Staten Island,
Applic. #500776564. To permit construction of a dwelling
that does not front on a legally mapped Street.

250-05-A B. S.I. 30 Edgeview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 93, Borough of Staten Island,
Applic. #500776573. To permit construction of a dwelling
that does not front on a legally mapped Street.

251-05-A B. S.I. 25 Edgeview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 77, Borough of Staten Island,
Applic. #500779936. To permit construction of a dwelling
that does not front on a legally mapped Street.

252-05-A B. S.I. 16 Openview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 61, Borough of Staten Island,
Applic. #500776181. To permit construction of a dwelling
that does not front on a legally mapped Street.

253-05-A B. S.I. 18 Openview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 62, Borough of Staten Island,
Applic. #500776190. To permit construction of a dwelling
that does not front on a legally mapped Street.

254-05-A B. S.I. 20 Openview Lane,

Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 63, Borough of Staten Island,
Applic. #500776172. To permit construction of a dwelling
that does not front on a legally mapped Street.

255-05-A B. S.I. 22 Openview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 64, Borough of Staten Island,
Applic. #500776163. To permit construction of a dwelling
that does not front on a legally mapped Street.

256-05-A B. S.I. 24 Openview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 65, Borough of Staten Island,
Applic. #500776154. To permit construction of a dwelling
that does not front on a legally mapped Street.

257-05-A B. S.I. 26 Openview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 66, Borough of Staten Island,
Applic. #500776145. To permit construction of a dwelling
that does not front on a legally mapped Street.

258-05-A B. S.I. 28 Openview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 67, Borough of Staten Island,
Applic. #500776136. To permit construction of a dwelling
that does not front on a legally mapped Street.

259-05-A B. S.I. 30 Openview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 68, Borough of Staten Island,
Applic. #500776127. To permit construction of a dwelling
that does not front on a legally mapped Street.

260-05-A B. S.I. 32 Openview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 69, Borough of Staten Island,
Applic. #500776118. To permit construction of a dwelling
that does not front on a legally mapped Street.

261-05-A B. S.I. 34 Openview Lane,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 70, Borough of Staten Island,
Applic. #500776109. To permit construction of a dwelling
that does not front on a legally mapped Street.

DOCKETS

262-05-A B. S.I. 17 Openview Lane, Southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lot 72, Borough of Staten Island, Applic. # 500779623. To permit construction of a dwelling that does not front on a legally mapped Street.

263-05-A B. S.I. 19 Openview Lane, Southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lot 73, Borough of Staten Island, Applic. #500779632. To permit construction of a dwelling that does not front on a legally mapped Street.

264-05-A B. S.I. 21 Openview Lane, Southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lot 74, Borough of Staten Island, Applic. #500779467. To permit construction of a dwelling that does not front on a legally mapped Street.

265-05-A B. S.I. 23 Openview Lane, Southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lot 75, Borough of Staten Island, Applic. #500779776. To permit construction of a dwelling that does not front on a legally mapped Street.

266-05-A B. S.I. 25 Openview Lane, Southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lot 76, Borough of Staten Island, Applic. #500779749. To permit construction of a dwelling that does not front on a legally mapped Street.

267-05-A B. S.I. 15 Bayonne Court, Southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lot 137, Borough of Staten Island, Applic. #500779687. To permit construction of a dwelling that does not front on a legally mapped Street.

268-05-A B. S.I. 17 Bayonne Court, Southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lot 136, Borough of Staten Island, Applic. #500779730. To permit construction of a dwelling that does not front on a legally mapped Street.

269-05-A B. S.I. 19 Bayonne Court, Southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lot 135, Borough of Staten Island, Applic. #500779758. To permit construction of a dwelling that does not front on a legally mapped Street.

270-05-A B. S.I. 21 Bayonne Court,

Southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lot 134, Borough of Staten Island, Applic. #500779650. To permit construction of a dwelling that does not front on a legally mapped Street.

271-05-A B. S.I. 23 Bayonne Court, Southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lot 133, Borough of Staten Island, Applic. #500779669. To permit construction of a dwelling that does not front on a legally mapped Street.

272-05-A B. S.I. 25 Bayonne Court, Southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lot 132, Borough of Staten Island, Applic. #500779678. To permit construction of a dwelling that does not front on a legally mapped Street.

273-05-A B. S.I. 27 Bayonne Court, Southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lot 131, Borough of Staten Island, Applic. #500779696. To permit construction of a dwelling that does not front on a legally mapped Street.

274-05-A B. S.I. 29 Bayonne Court, Southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lot 130, Borough of Staten Island, Applic. #500779721. To permit construction of a dwelling that does not front on a legally mapped Street.

275-05-A B. S.I. 31 Bayonne Court, Southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lot 129, Borough of Staten Island, Applic. #500779712. To permit construction of a dwelling that does not front on a legally mapped Street.

276-05-A B. S.I. 33 Bayonne Court, Southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lot 128, Borough of Staten Island, Applic. #500779703. To permit construction of a dwelling that does not front on a legally mapped Street.

277-05-A B. S.I. 18 Bayonne Court, Southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lot 138, Borough of Staten Island, Applic. #500774316. To permit construction of a dwelling that does not front on a legally mapped Street.

DOCKETS

278-05-A B. S.I. 22 Bayonne Court,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 139, Borough of Staten Island,
Applic. #500774361. To permit construction of a dwelling
that does not front on a legally mapped Street.

279-05-A B. S.I. 26 Bayonne Court,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 140, Borough of Staten Island,
Applic. #500774334. To permit construction of a dwelling
that does not front on a legally mapped Street.

280-05-A B. S.I. 28 Bayonne Court,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 141, Borough of Staten Island,
Applic. #500774343. To permit construction of a dwelling
that does not front on a legally mapped Street.

281-05-A B. S.I. 30 Bayonne Court,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 142, Borough of Staten Island,
Applic. #500774236. To permit construction of a dwelling
that does not front on a legally mapped Street.

282-05-A B. S.I. 32 Bayonne Court,
Southwest corner of Nicholas Avenue and Richmond
Terrace, Block 1116, Lot 143, Borough of Staten Island,
Applic. #500774227. To permit construction of a dwelling
that does not front on a legally mapped Street.

283-05-A B. Q 22 Pelham Walk, West
of Pelham Walk 244.78' North of Breezy Point Blvd., Block
16350, Lot 400, Borough of Queens, Applic. #402143355.
The Street giving access to the existing building to be
replaced is not duly placed on the map of the City of NY.
The existing building to be replaced doesn't have at least
8% of the total perimeter of the building fronting directly
upon a legally mapped Street or frontage space is contrary to
§27-291 of the Administrative Code. The proposed upgrade
disposal system is contrary to the DOB policy.

284-05-BZ B. Q 34-29 37th Street, East
side 290.28' South of 37th Avenue, Block 645, Lot 15,
Borough of Queens, Applic. #402034776. Propose to erect
an additional three stories with parking on the roof and
loading berths on each floor with freight elevator.
COMMUNITY BOARD #1Q

285-05-BZ B. S.I 34 Duncan Road, West
side of Duncan Road 163' North of intersection with
Theresa Place, Block 591, Lot 52, Borough of Staten Island,
Applic. #500793331. Proposed enlargement of an existing
one-family dwelling in an R1-2 (HS) district that does not
provide the require front or rear yards.

COMMUNITY BOARD #1SI

**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.**

OCTOBER 18, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing,
Tuesday morning, October 18, 2005, 10:00 A.M., at 40

CALENDAR

Rector Street, 6th Floor, New York, NY 10006, on the following matters:

SPECIAL ORDER CALENDAR

436-53-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for 141-50 Union Turnpike, owner.

SUBJECT – Application September 7, 2005 - Pursuant to ZR 11-411 for the Extension of Term/Waiver for the operation of a gasoline service station which expired in February 24, 2004. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 141-50 Union Turnpike, south side of Union Turnpike, 44.96' west of the corner of Union Turnpike and Main Street, Block 6634, Lot 34, Borough of Queens.

COMMUNITY BOARD #8Q

952-66-BZ

APPLICANT – Gerald J. Caliendo, RA, for Rajnikant Gandhi, owner.

SUBJECT – Application April 4, 2005 - Reopening for an Amendment/Extension of Time/Waiver to a gasoline service station with minor auto repair. The amendment is to convert the auto repair building to a convenience store accessory to the gasoline service station; and the extension of time to obtain a certificate of occupancy which expired in October 31, 2002. The premise is located in a C2-2 in R-5 zoning district.

PREMISES AFFECTED – 88-14 101st Street, northwest corner of 89th Street, Block 9090, Lot 21, Borough of Queens.

COMMUNITY BOARD #9Q

248-78-BZ

APPLICANT – Eric Palatnik, P.C., for BP Products North America, owner.

SUBJECT – Application March 29, 2005 -Extension of Time to obtain a C of O/Amendment to install a new retaining wall, replace underground tanks, pump islands and fuel dispensers. The premise is located in C2-2 in a R-6 zoning district.

PREMISES AFFECTED – 60-50 Woodhaven Boulevard, southwest corner of 60th Road, Block 2885, Lot 12, Borough of Queens

COMMUNITY BOARD #6Q

289-79-BZ

APPLICANT – David L. Businelli, for Patsy Serra, owner.

SUBJECT – Application April 26, 2005 - Extension of Term/Waiver for the continued use of a commercial vehicle and storage establishment (UG 16). The premise is located

in an R3-2 zoning district.

PREMISES AFFECTED – 547 Midland Avenue, north side of Midland Avenue, Block 3799, Lot 1, Staten Island

COMMUNITY BOARD #2SI

165-02-BZ thru 190-02-BZ

APPLICANT – Stuart A. Klein, Esq./Steve Sinacori, Esq., for Park Side Estates, LLC., owner.

SUBJECT – Application March 31, 2005- Reopening for an amendment to BSA resolution granted under calendar numbers 167-02-BZ, 169-02-BZ, 171-02-BZ, 173-02-BZ and 175-02-BZ. The application seeks to add 5 residential units to the overall development (encompassing lots 21 & 28) for a total of 37, increase the maximum wall height by 2'-0", and increase the number of underground parking spaces from 11 to 20, while remaining compliant with the FAR granted under the original variance, located in an M1-1 zoning district.

PREMISES AFFECTED – 143-147 Classon Avenue, aka 380-388 Park Avenue and 149-159 Classon Avenue, southeast corner of Park and Classon Avenues, Block 1896, Lot 21, Borough of Brooklyn

COMMUNITY BOARD #2BK

1-05-A

APPLICANT – Kathleen R. Bradshaw, Esq. for Anthony Ciaramella, owner

SUBJECT – Application filed January 4, 2005 - to construct two one family homes in the bed of a mapped street (Shore Drive) which is contrary Section 35, Article 3 of the General City Law . Premises is located in a C3 within a R4 Zoning District .

PREMISES AFFECTED – 1426 & 1428 Shore Drive, Bronx, located at 643. 08 ft south of the intersection of Layton Avenue and Shore Drive, Block 5467, Lots 37 & 38 (tentative Lot #138 & 139)

COMMUNITY BOARD #10BX

103-05-A

APPLICANT – Rothkrug, Rothkrug, Weinberg & Spector, LLP. for Main Street Makeover 2, Inc. owner.

SUBJECT – Application filed on May 4, 2005 - for an appeal of the Department of Buildings decision dated April 22, 2005 refusing to lift the "Hold " on Application #500584799, and renew a building permit on approved plans for alteration to an existing one -family dwelling, based on a determination by the Department of City Planning dated February 2, 2005 that CPC approval of a restoration plan is required pursuant to Section 105-45 of the Zoning

CALENDAR

Resolution.

PREMISES AFFECTED – 366 Nugent Street, Staten Island, located at the S/W/C of intersection of Nugent Street and Spruce Street (not final mapped), Block 2284, Lot 44.

COMMUNITY BOARD # 2SI

186-05-A

APPLICANT – Zygmunt Staszewski, P.E., for The Breezy Point Cooperative, Inc., owner; Irene Whalen, lessee.

SUBJECT – Application filed on August 8, 2005 - Appeal to Department of Buildings to reconstruct and enlarge an existing single family frame dwelling not fronting on a mapped street contrary to General City Law Article 3, Section 36 and upgrading an existing private disposal system which is contrary to Department of Building's policy. Premises is located within an R4 Zoning district.

PREMISES AFFECTED – 13 Beach 221 Street, east of Beach 221 Street, Breezy Point, 247,46ft South of Rockaway Point Boulevard. Block 16350, part of Lot 400, Borough of Queens.

COMMUNITY BOARD # 14Q

BZY CALENDAR

116-05-BZY

APPLICANT – Frederick A. Becker for John Shik Im, owner.

SUBJECT – Application May 12, 2005 – Proposed extension of time to complete construction for a two family home for a period of six months pursuant to Z.R. 11-331 of the Zoning Resolution under prior R3-2 Zoning District. As of April 12, 2005, the new Zoning District is R3-X.

PREMISES AFFECTED – 22-08 43rd Avenue, corner of 222nd Street and 43rd Avenue, Block 6328, Lot 17, Borough of Queens.

COMMUNITY BOARD #11Q

117-05-BZY

APPLICANT – Fredrick Becker, Esq., for Yohn Shik Im, owner.

SUBJECT – Application May 12, 2005 – Proposed extension of time to complete construction for a period of six months pursuant to Z.R. §11-331 on a two family home under prior R3-2 Zoning District. As of April 12, 2005 the new zoning district is R3-X.

PREMISES AFFECTED – 43-05 222ND Street, south of 43rd Avenue and East 222nd Street, 6328, Lot 16 Borough of Queens.

COMMUNITY BOARD #11Q

OCTOBER 18, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, October 18, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

ZONING CALENDAR

360-04-BZ

APPLICANT – Marcus Marino Architects, for Walter Stojanowski, owner.

SUBJECT – Application November 16, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing one family dwelling, located in an R3X zoning district, which does not comply with the zoning requirements for side yards and lot width, is contrary to Z.R. ' 107-42 and 107-462.

PREMISES AFFECTED - 38 Zephyr Avenue, south side, 75.18= north of Bertram Avenue, Block 6452, Lot 4, Borough of Staten Island.

COMMUNITY BOARD #3S.I.

396-04-BZ

APPLICANT – Stroock & Stroock & Lavan, LLP, by Ross Moskowitz, Esq., for S. Squared, LLC, owner.

SUBJECT – Application December 21, 2004 - under Z.R. §72-21 to permit the Proposed construction of a thirteen story, mixed use building, located in a C6-2A, TMU zoning district, which does not comply with the zoning requirements for floor area, lot coverage, street walls, building height and tree planting, is contrary to Z.R. §111-104, §23-145, §35-24(c)(d) and §28-12.

PREMISES AFFECTED -180 West Broadway, northwest corner, between Leonard and Worth Streets, Block 179, Lots 28 and 32, Borough of Manhattan.

COMMUNITY BOARD #1M

26-05-BZ

APPLICANT – Cozen O'Connor, for Tikvah Realty, LLC, owner.

SUBJECT – Application February 11, 2005 - under Z.R. §72-21 to permit the proposed bulk variance, to facilitate the new construction of an 89 room hotel on floors 4-6, catering facility on floors 1-3, ground floor retail and three levels of underground parking, which creates non-compliance with regards to floor area, rear yard, interior lot, permitted obstructions in the rear yard, setback, sky exposure plane, loading berths and accessory off-street parking spaces, is contrary to Z.R. §33-122, §33-26, §33-432, §36-21, §33-23 and §36-62.

PREMISES AFFECTED -1702/28 East 9th Street, aka 815 Kings Highway, west side, between Kings Highway and Quentin Road, Block 6665, Lots 7, 12 and 15, Borough of Brooklyn.

CALENDAR

COMMUNITY BOARD #15BK

47-05-BZ

APPLICANT – Fischbein Badillo Wagner Harding, LLP, for AMF Machine, owner.

SUBJECT – Application March 1, 2005 - under Z.R. §72-21 to permit the proposed eight story and penthouse mixed-use building, located in an R6B zoning district, with a C2-3 overlay, which exceeds the permitted floor area, wall and building height requirements, is contrary to Z.R. §23-145 and §23-633.

PREMISES AFFECTED - 90-15 Corona Avenue, northeast corner of 90th Street, Block 1586, Lot 10, Borough of Queens.

COMMUNITY BOARD #4Q

80-05-BZ

APPLICANT – The Law Office Frederick A. Becker, Esq. for H & M Holdings, LLC, owner; Nikko Spa & Health Corp. lessee.

SUBJECT – Application April 4, 2005 - under Z.R. §73-36 - approval sought for a proposed physical cultural establishment to be located on a portion of the cellar, first floor, and second floor of a 4 story commercial building. The proposed PCE use will contain 12,955 gross square feet. The site is located in a C6-6 Special Midtown District. **PREMISES AFFECTED** - 49 West 33rd Street, northerly side of West 33rd Street 148'6" west of Broadway, Block 835, Lot # 9, Manhattan

COMMUNITY BOARD #5M

owner.

SUBJECT – Application April 22, 2005 - under Z.R. §72-21 to permit the proposed enlargement of an existing restaurant, which is a legal non-conforming use, located on the first floor of a six-story mixed-use building, situated in an R6 zoning district, is contrary to Z.R. §22-10.

PREMISES AFFECTED - 39 Downing Street, aka 31 Bedford Street, northwest corner, Block 528, Lot 77, Borough of Manhattan.

COMMUNITY BOARD #2M

Pasquale Pacifico, Executive Director

99-05-BZ

APPLICANT – Sheldon Lobel, P.C., for 500 Turtles, LLC,

10:00 A.M.

**REGULAR MEETING
TUESDAY MORNING, SEPTEMBER 13, 2005**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

MINUTES

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, June 14, 2005, were approved as printed in the Bulletin of June 23, 2005, Volume 90, No. 27.

SPECIAL ORDER CALENDAR

234-84-BZ

APPLICANT – Vito J. Fossella, P.E., for Forest Realty Management, LLC, owner.

SUBJECT - Application May 19, 2005 - Reopening for Extension of Term for commercial UG6 establishment partially located in a R3-2 residential zoning district.

PREMISES AFFECTED - 1976/82 Forest Avenue, Block 1696, Lot 26, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Sam El-Meniawy.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening, an amendment, and an extension of the term of the variance; and

WHEREAS, a public hearing was held on this application on July 12, 2005 after due notice by publication in *The City Record*, with continued hearings for August 23, 2005 and then to decision on September 13, 2005; and

WHEREAS, Community Board No. 1, Staten Island, recommends approval of this application; and

WHEREAS, the premises is located on the south side of Forest Avenue, southwest of the corner formed by the intersection formed by Van Name Street and Forest Avenue; and

WHEREAS, on February 13, 1985, the Board granted a variance, under the subject calendar number, to permit, in what was then a site split by a district boundary between M1-1 and R3-2 zoning districts, the development of a one-story plus mezzanine retail store with 13 accessory parking spaces, for a term of 20 years; and

WHEREAS, the M1-1 portion of the site has since been rezoned to C8-1; however, all of the retail store building is located within the R3-2 zoning district; thus, the variance is still necessary; and

WHEREAS, the most recent term of the variance expired on February 12, 2005; and

WHEREAS, the applicant now seeks an extension of the term of the variance; and

WHEREAS, the applicant states that the manner of use of the site has not changed since its original approval in 1985,

except for the following: (1) two of the retail stores were combined into one store; and (2) one Use Group 6 retail store, formerly used by a florist, was converted to UG 6 Eating and Drinking Establishment; and

WHEREAS, currently, a restaurant occupies the portion of the building previously occupied by the florist, and a delicatessen occupies the single store converted from the two prior stores; and

WHEREAS, the applicant seeks the Board's approval for these changes and has submitted plans reflecting them; and

WHEREAS, during the course of the public hearing process, the Board observed that signage at the site did not comply with C1 zoning district regulations, contrary to a condition imposed by the Board when making the original grant; and

WHEREAS, at the request of the Board, the applicant removed all signage on the site that did not comply with C1 zoning district regulations, and submitted photos showing that such signage had been removed; and

WHEREAS, the Board finds that the requested extension of term and amendment 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 adopted on February 12, 1985, so that as amended this portion of the resolution shall read "to extend the term for ten years from February 12, 2005, and to allow both the conversion of two stores into one store and the change of use of one store from UG 6 retail to UG 6 Easting and Drinking Establishment; *on condition* that the expansion shall substantially conform to drawings as filed with this application, marked 'February 7, 2005'-(1) sheet, 'June 14, 2005'-(1) sheet, 'August 9, 2005'-(4) sheet and 'August 18, 2005'-(1) sheet; and *on further condition*:

THAT the term of this grant shall be for ten years, to expire on February 12, 2015;

THAT the above condition shall be listed on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT all signage on the site shall comply with regulations applicable to C1 zoning districts, as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted."

(DOB Application No. 500752278)

Adopted by the Board of Standards and Appeals, September 13, 2005.

MINUTES

162-93-BZ

APPLICANT - Fredrick A. Becker, Esq., for Chelsea Eighth L. P., owner; TSI West 16th Street d/b/a New York Sports Club, lessee.

SUBJECT - Application December 22, 2004 and updated May 9, 2005 - Reopening for Extension of Term and to legalize an Amendment to expand the floor area of previously granted special permit for a physical culture establishment, and a waiver of the rules of procedure for a late filing. The premises is located in a C2-5, R8 and C6-2M zoning district. PREMISES AFFECTED - 270 West 17th Street, aka 124-128 Eighth Avenue, easterly side of Eighth Avenue between West 17th Street and West 16th Street, Block 766, Lots 36-41, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES - None.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

Adopted by the Board of Standards and Appeals, September 13, 2005.

130-39-A

APPLICANT - Greenberg & Traurig, for Ann Rauch, owner. SUBJECT - Application December 7, 2004 - reopening for an amendment to permit an existing building constructed in the bed of a mapped street, pursuant to Board resolution, and subsequently expanded pursuant to approval from the Department of Buildings, to be further enlarged and that such enlargement include second and third stories that continue a non-complying side yard condition, located in R1-2 zoning district.

PREMISES AFFECTED - 2 Ploughman's Bush (aka 665 W. 246th Street). Block 5924, Lot 523, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES -

For Applicant: Jay Segal.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to October 18, 2005, at 10 A.M., for decision, hearing closed.

878-80-BZ

APPLICANT - Kim Lee Vauss, for Nexus Property Management, LLC, owner.

SUBJECT - Application April 19, 2005 - reopening for an amendment to previous granted variance to convert the existing commercial UG6 on the second and fourth floors to residential/studio UG 2 and 9. The premise is located in an M1-6 zoning district.

PREMISES AFFECTED - 41 West 24th Street, Block 800, Lot 16, Borough of Manhattan

COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Kim Vauss and Robert Pauls.

ACTION OF THE BOARD - Laid over to October 18, 2005, at 10 A.M., for continued hearing.

364-82-BZ

APPLICANT - Cozen O'Connor Attorneys, for Little Neck Commons, LLC, owners; Jack Lalanne Fitness Centers, Inc., lessee.

SUBJECT - Application January 14, 2005 - Extension of Term/Waiver for a physical culture establishment located in a C1-2(R3-2) zoning district.

PREMISES AFFECTED - 245-02/34 Horace Harding Expressway, Block 8276, Lot 100, Douglaston, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: Barbara Hair.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for decision, hearing closed.

62-83-BZ

APPLICANT - Law Offices of Howard Goldman, LLC, for Shaya B. Pacific, LLC, owner.

SUBJECT - Application June 1, 2004 and updated 3/15/05 - reopening for an amendment to the resolution to allow the redesign of landscaped areas and the elimination of loading docks.

PREMISES AFFECTED - 696 Pacific Street, between Carlton and 6th Avenues, Block 1128, Lot 1002, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES -

For Applicant: Chris Wright, Regina Cahill and Paul Sheridan.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to October 18, 2005, at 10 A.M., for decision, hearing closed.

983-83-BZ

APPLICANT - Sullivan, Chester & Gardner P.C., for Sutphin Rochdale Realty, LLC, owner.

SUBJECT - Application January 14, 2005 - Proposed Amendment to a Variance to enlarge a portion of the existing building by 700 sq. ft. and to eliminate the single use on site to house four (4) commercial tenants. The subject premise is located in an R3-2 zoning district.

MINUTES

PREMISES AFFECTED - 34-42/60 Guy R. Brewerb Boulevard, northwest corner of 137th Avenue, Block 12300, Lot 30, Borough of Queens

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Jeffrey Chester.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to October 18, 2005, at 10 A.M., for decision, hearing closed.

886-87-BZ

APPLICANT - Stuart Allen Klein, for Rockford R. Chun, owner.

SUBJECT - Application March 22, 2005 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of the special permit.

PREMISES AFFECTED - 11 East 36th Street, aka 10 East 37th Street, 200' east of 5th Avenue, Block 866, Lot 11, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Stuart Klein.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for decision, hearing closed.

364-89-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Kellarakos Realty, Inc., owner; Balvinder Bains, lessee.

SUBJECT - Application April 4, 2005 - Extension of Term of a Variance for an automotive service station (UG16). The premise is located in an R-6 zoning district.

PREMISES AFFECTED - 30-75 21st Street, southeast corner of 30th Drive, Block 551, Lot 15, Borough of Queens.

COMMUNITY BOARD# 1Q

APPEARANCES –

For Applicant: Stuart Klein.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for decision, hearing closed.

110-95-BZ

APPLICANT - John W. Russell, Esq., for 1845 Realty, Inc., owner; 1845 Cornaga Avenue, lessee.

SUBJECT - Application March 15, 2004 - Extension of Term of a variance, which permitted, within a C2/R5 zoning

district, the operation of a auto repair facility (UG16), with accessory uses, including parking and minor repairs using handtools.

PREMISES AFFECTED - 1845 Cornaga Avenue, southwest corner of Cornaga Avenue and B19th Street, Block 15563, Lot 1, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: John W. Russell.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for decision, hearing closed.

132-97-BZ

APPLICANT - Alan R. Gaines, Esq., for Deti Land, LLC, owner; Fiore Di Mare LLC, lessee.

SUBJECT - Application June 7, 2005 - Extension of Term/Amendment/Waiver for an eating and drinking establishment with no entertainment or dancing and occupancy of less than 200 patrons, UG 6 located in a C-3 (SRD) zoning district.

PREMISES AFFECTED - 227 Mansion Avenue, Block 5206, Lot 26, Borough of Staten Island

COMMUNITY BOARD# 3SI

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to October 18, 2005, at 10 A.M., for adjourned hearing.

44-99-BZ

APPLICANT - Vito J. Fossella, P.E., for Michael Bottalico, owner.

SUBJECT - Application January 24, 2005 – Extension of Term of a variance for an automotive repair shop, located in an R3A zoning district.

PREMISES AFFECTED – 194 Brighton Avenue, south side of Brighton Avenue, southwest of the corner formed by the intersection of Summers Place and Brighton Avenue, Block 117, Lot 20, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Sameh El-Meniawy.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for decision, hearing closed.

365-04-A thru 369-04-A

APPLICANT – Petraro & Jones, LLP, for Sunrise Hospitality, LLC, owner.

MINUTES

SUBJECT – Application November 22, 2004 – Proposed construction, 3 and 4 story multiple dwellings, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law. The premise is located in a C2-2/R6B zoning district.

PREMISES AFFECTED –

85-04 56th Avenue, south side, 44.16’ east of Long Island Railroad right-of-way, Block 2881, Tentative Lot 9, Borough of Queens.

85-02 56th Avenue, south side, east of and adjacent to Long Island Railroad right-of-way, Block 2881, Tentative Lot 54, Borough of Queens.

85-01 57th Avenue, north side, east of and adjacent to Long Island Railroad right-of-way, Block 2881, Tentative Lot 53, Borough of Queens.

85-03 57th Avenue, north side, 10.62’ east of Long Island Railroad right-of-way, Block 2881, Tentative Lot 52, Borough of Queens.

85-03-A 57th Avenue, north side, 30.62’ east of Long Island Railroad right-of-way, Block 2881, Tentative Lot 51, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Pat Jones.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated November 19, 2004, acting on Department of Buildings Application Nos. 401971906, 401992929, 401970523, 401970532, and 4019700541, reads, in pertinent part:

“Respectfully request to waive objection #6 – proposed building is within a bed of a mapped street contrary to General City Law 35.”; and

WHEREAS, a public hearing was held on this application on August 9, 2005 after due notice by publication in the *City Record*, and then to decision on September 13, 2005; and

WHEREAS, by letter dated June 27, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated March 16, 2005, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated March 21, 2005, the Department of Transportation states that it has reviewed the above project and has indicated that although it feels that better circulation would result if Haspel Street were improved, such action is not presently included in DOT’s Capital Improvement Program; and

WHEREAS, the applicant has submitted adequate

evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated November 19, 2004 acting on Department of Buildings Application Nos. 401971906, 401992929, 401970523, 401970532, and 4019700541 is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received August 26, 2005” - (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT any subdivision of the premises shall be as reviewed and approved by DOB;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 13, 2005.

157-05-A

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative, Inc., owner; David & Joan Demm, lessees.

SUBJECT - Application filed on July 6, 2005 - Proposal to allow construction of a two story frame dwelling on a site lying within an R4 district is contrary to Article 3, Section 36 of the General City Law, in that the site does not front on a mapped Street (Kildare Walk) and contrary to Sec. 27-291 of the Building Code.

PREMISES AFFECTED - 39 Kildare Walk, E/S 70’ North of Breezy Point Boulevard, Queens, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: John Ronan.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated June 13, 2005, acting on Department of Buildings Application No. 402152772, reads:

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“Proposal to construct a two-story frame dwelling on a site which lies within an R4 district is contrary to Article 3, Section 36 (2) of the General City Law (GCL) in that the site does not front on a mapped street (Kildare Walk) and contrary to Section 27-291 of the NYC Building Code and must, therefore, be referred back to the Board of Standards and Appeals for approval.”; and

WHEREAS, a public hearing was held on this application on September 13, 2005, after due notice by publication in the *City Record*, with closure and decision on this same date; and

WHEREAS, by letter dated July 28, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated June 13, 2005, acting on Department of Buildings Application No. 402152772, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received July 6, 2005” - (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 13, 2005.

158-05-A

APPLICANT - Gary Lenhart, R.A., The Breezy Point Cooperative, Inc., owner; Elizabeth & Richard Graham, lessees.

SUBJECT - Application filed on July 7, 2005 - Proposal to reconstruct and enlarge an existing single family frame dwelling not fronting on a mapped street contrary to General City Law Article 3, Section 36 and upgrading an existing private disposal system located in the bed of the service lane contrary to Building Department Policy. Premises is located within an R4 zoning district.

PREMISES AFFECTED - 15 Atlantic Walk, E/S Atlantic Walk 100.17' N/O Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated June 13, 2005, acting on Department of Buildings Application No. 402100917, reads:

“For Board of Standards & Appeals Only:

A-1 The street giving access to the existing building to be altered is not duly placed on the official map of the City of New York, therefore:

A) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law

B) Existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code

A-2 The proposed upgraded private disposal system is in the bed of the service lane and contrary to the Department of Buildings policy”; and

WHEREAS, a public hearing was held on this application on September 13, 2005 after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated July 25, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated June 13, 2005, acting on Department of Buildings Application No. 402100917, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received July 7, 2005”-(1) one sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure

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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, September 13, 2005.

235-04-A

APPLICANT - Rothkrug, Rothkrug, Weinberg & Spector, LLP for Thomas & Susan Acquafredda, owner.

SUBJECT - Application filed on June 22, 2005 - Proposed construction in the bed of a privately-owned, final mapped street, is contrary to Article 3, Section 35 of the General City Law.

PREMISES AFFECTED - 3096 Dare Place, north side of Casler Place, 199.6' east of Pennyfield Avenue, Block 5529, Lot 488, Borough of The Bronx.

COMMUNITY BOARD #10BX

APPEARANCES -

For Applicant: Adam Rothkrug.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for decision, hearing closed.

236-04-A

APPLICANT - Rothkrug, Rothkrug, Wenig & Spector, LLP for Thomas & Susan Acquafredda, owner.

SUBJECT - Application filed on June 22, 2005 - Proposed construction in the bed of a privately-owned, final mapped street, is contrary to Article 3, Section 35 of the General City Law.

PREMISES AFFECTED - 3094 Dare Place, north side of Casler Place, 192.48' east of Pennyfield Avenue, Block 5529, Lot 487, Borough of The Bronx.

COMMUNITY BOARD #10BX

APPEARANCES -

For Applicant: Adam Rothkrug.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for decision, hearing closed.

291-04-A

APPLICANT - Eric Palatnik, P.C., acting of Counsel to Charles Foy, Esq., for H & L Miller, A New York Partnership, owner.

SUBJECT - Application December 21, 2004 - Proposed enlargement of a zoning lot, on which an existing eating and drinking establishment rests, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the

General City Law.

PREMISES AFFECTED - 90-19 Metropolitan Avenue, northwest corner of Trotting Course Lane, Block 3177, Lot 34, Borough of Queens.

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for decision, hearing closed.

91-05-A

APPLICANT - The Agusta Group, for Colin Shaughnessy, owner.

SUBJECT - Application filed on April 14, 2005 - Proposed construction of a two family dwelling, which lies partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 60-04 172nd Street, west side, 105.5' from Horace Harding Expressway, Block 6880, Lot 23, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Sol Korman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 12:00 P.M.

REGULAR MEETING

TUESDAY AFTERNOON, SEPTEMBER 13, 2005

1:30 P.M.

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

ZONING CALENDAR

302-04-BZ

CEQR #05-BSA-041K

APPLICANT - Martyn & Don Weston for Regina

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Formisano, owner.

SUBJECT – Application September 10, 2004 – under Z.R. §72-21 – To permit the proposed construction of a residential building on a vacant lot, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 40 Woodhull Street, south side, 85’ west of Hicks Street, Block 363, Lot 20, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Don Weston.

THE VOTE TO CLOSE HEARING –

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated August 26, 2004, acting on Department of Buildings Application No. 301683998, reads:

“A residential use in a M1-1 zoning district is contrary to Section 42-00 Z.R.”; and

WHEREAS, a public hearing was held on this application on July 19, 2005, after due notice by publication in the *City Record*, with a continued hearing on August 16, 2005, and then to decision on September 13, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an M1-1 zoning district, the proposed construction of a new three-family, four-story residential building on a vacant lot, contrary to Z.R. § 42-00; and

WHEREAS, Community Board 6, Brooklyn, recommends conditional approval of this application; and

WHEREAS, this application contemplates a four-story residential building plus cellar and garage, with floor area of 5,200 sq. ft., a floor area ratio (“F.A.R.”) of 2.6, and a total building height of 39’-2”; and

WHEREAS, the subject premises is a 20’-0” by 100’-0” vacant lot, with 2,000 sq. ft. of lot area, located on the south side of Woodhull Street, west of Hicks Street; and

WHEREAS, the applicant represents that the site was developed prior to 1915 with four row-houses that were subsequently demolished in 1944, along with thirteen other row-houses; and

WHEREAS, the applicant states that since 1962, the site has been used as a parking lot; and

WHEREAS, the applicant represents that the entire block on the south side of Woodhull Street is developed with residential buildings, with the exception of one building; and

WHEREAS, the applicant represents that the north side of Woodhull Street is in an R6 zoning district, and is characterized

by residential buildings of three to four stories or three stories plus basement; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance with underlying district regulations: the site is small and narrow, vacant, and surrounded by residential uses on both the south and north sides of Woodhull Street; and

WHEREAS, the applicant further represents that the narrow size of the lot would not be conducive to a floor plate for a commercial or industrial building; and

WHEREAS, the Board finds that the narrow width and small size of this pre-existing and vacant lot, which was previously developed with residential uses and abuts a residential district, and, create practical difficulties and unnecessary hardship in developing the site in strict conformity with current applicable zoning regulations; and

WHEREAS, the applicant initially submitted a feasibility analysis that showed that a 1,900 sq. ft. manufacturing building would not result in a reasonable return, but that the four-story proposal would; and

WHEREAS, the Board questioned the applicant’s site valuation, because the applicant included adjusted comparables from the nearby R6 zoning district rather than considering comparables in other manufacturing zones; and

WHEREAS, the applicant subsequently submitted comparables from locations within an M1-1 zoning district; the Board found these comparables to be more acceptable than the comparables included by the applicant in the initial feasibility study; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot’s unique physical condition, there is no reasonable possibility that development in strict conformance with the provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the site is located on a block with many pre-existing non-conforming residential uses, including five row-houses on one side of the site and three row-houses on the other; and

WHEREAS, the north side of the block, where the site is located, is within an R6 zoning district; and

WHEREAS, the applicant has submitted a land use map showing numerous residential uses in the immediate area of the site; and

WHEREAS, therefore, the Board finds that the use change proposed by the applicant is appropriate; and

WHEREAS, the Board notes that although many of the surrounding buildings are only three stories, they have first floors with significant floor to ceiling heights; thus, the proposed overall building height is comparable to the heights of other buildings in the neighborhood; and

WHEREAS, the Board notes further that the proposed 2.6 FAR is consistent with R6 Quality Housing regulations that apply to sites within 100 ft. of a wide street, and that the site is located within 100 ft. of Hicks Street, a wide street; and

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WHEREAS, the initial application contemplated balconies on the front façade of the building;

WHEREAS, at the request of the Board, the applicant has removed the balconies from its proposal; and

WHEREAS, the Board questioned whether it was necessary for the applicant to retain the proposed garage on the ground floor given that the curb cut would result in a removal of a parking space and was not in character with the rest of the block; and

WHEREAS, the applicant responded that the curb cut on Woodhull Street leading to the garage has been in existence for 44 years, and only takes up the space of half the curb length that a parked car would require to park on the street; therefore, restoring the curb cut would not improve on-street parking in the neighborhood; and

WHEREAS, in addition, the applicant submitted pictures of newer buildings in the area that have garages; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted Action pursuant to 6 NYCRR, Part 617; 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. 05-BSA-041K dated June 1, 2005; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, 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 the required findings under Z.R. § 72-21, to permit, within an M1-1 zoning district, the proposed construction of a new three-family, four-story plus cellar, residential building on a vacant lot, contrary to Z.R. § 42-00; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received June 1, 2005”–1 sheet and “August 22, 2005”–8 sheets; and *on further condition*:

THAT the bulk parameters of the proposed buildings shall be as follows: total maximum F.A.R. of 2.6; maximum floor area of 5,200 sq. ft.; and maximum total height of 39’-2”;

THAT the streetwall of the building shall match the adjacent streetwalls;

THAT a minimum rear yard of 30’-0” shall be retained; THAT all interior layouts and exits shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 13, 2005.

332-04-BZ

APPLICANT - Eric Palatnik, P.C., for Chava Lobel, owner.
SUBJECT – Application April 6, 2005 – under Z.R. §73-622 – To permit the proposed to combine two lots and enlarge one residence which is contrary to Z.R. §23-141(a) floor area, Z.R. §23-131(a) open space and Z.R. §23-47 rear yard, located in an R-2 zoning district.

PREMISES AFFECTED – 1410/14 East 24th Street, between Avenues “N and O”, Block 7677, Lots 33 and 34 (tentative 33), Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 24, 2005, acting on Department of Buildings Application No. 301920802, reads:

“Proposed enlargement to existing home is contrary to ZR sections 23-141(A) (Floor Area),

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23-141(A) (Open Space) and 23-47 (Rear Yard) and therefore requires a special permit from the BSA pursuant to ZR Section 73-622.”; and

WHEREAS, a public hearing was held on this application on July 12, 2005 after due notice by publication in *The City Record*, with a continued hearing on August 9, 2005, and then to decision on September 13, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing two story single-family dwelling, which does not comply with the zoning requirements for floor area, open space ratio, and rear yard, contrary to Z.R. §§23-141 and 23-47; and

WHEREAS, the subject lot is located on East 24th Street, between Avenues N and O; and

WHEREAS, the subject lot comprises two tax lots and has a total lot area of approximately 7,500 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant states that the subject premises is improved upon with two single-family homes; the owner seeks to demolish the single-family home at 1414 East 24th Street and expand the structure at 1410 East 24th Street to cover both tax lots; and

WHEREAS, the applicant has submitted a plan that indicates the walls and floors of the subject structure that are to remain as part of the new residence; and

WHEREAS, the applicant seeks an increase in the floor area from 2,548.47 sq. ft. (0.34 Floor Area Ratio or “FAR”) to 6,817.78 sq. ft. (0.91 FAR); the maximum floor area permitted is 3,750 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the open space ratio (“OSR”) from 239% to 66.6%; the minimum OSR required is 150%; and

WHEREAS, the proposed enlargement will increase the rear yard from the current non-conforming depth of 25’-11 7/8” to 26’-1””; the minimum rear yard required is 30’-0””; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the Board raised concerns related to the size and height of the building and its compatibility with the surrounding neighborhood; and

WHEREAS, in response, the applicant has submitted photographs of homes in the surrounding area that are approximately the same size as the proposed structure; four of these homes are contiguous to, or immediately across the street from, the premises; and

WHEREAS, the applicant has also submitted streetscapes of the subject block and surrounding blocks that purport to show that the subject home will fit within the character of the neighborhood; and

WHEREAS, at the request of the Board, the applicant

reduced the size of the building from its initial proposal; specifically, the applicant lowered the height of the house from 40’-6” to 39’-6 ½””, achieved compliance with the sky exposure plane requirements, and reduced the FAR from 0.92 to 0.91; and

WHEREAS, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area, open space ratio, and side and rear yards, contrary to Z.R. §§23-141 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked “Received August 22, 2005”(-12) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth in the certificate of occupancy;

THAT the total FAR on the premises, including the attic, shall not exceed 0.91;

THAT the total attic floor area shall not exceed 980.02 sq. ft., as confirmed by the Department of Buildings; THAT certain portions of the walls and floors shall be retained as highlighted on BSA-approved drawing Nos. 11, 12 and 13;

THAT the use and layout of the cellar and attic shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 13, 2005.

MINUTES

389-04-BZ

CEQR #05-BSA-072M

APPLICANT – Francis Angelino, Esq., for 150 East 34th Street, Co., LLC, owner; Oasis Day Spa, Lessee.

SUBJECT – Application December 13, 2004 – under Z.R. §73-36 – To permit the proposed legalization of an existing Physical Cultural Establishment, located on the second floor of the thirty seven story, Affina Hotel. The premise is located in a C1-9 zoning district.

PREMISES AFFECTED – 150 East 34th Street, Manhattan, between Lexington and Third Avenue, Block 889, Lot 55, Borough of Manhattan.

COMMUNITY BOARD#6M

APPEARANCES –

For Applicant: Francis R. Angelino.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough Commissioner, dated November 15, 2004, acting on Department of Buildings Application No. 103932167, reads:

“Proposed physical culture establishment is not permitted as of right in a C1-9 Zoning District. This is contrary to section 32-10 ZR.”; and

WHEREAS, a public hearing was held on this application on August 9, 2005 after due notice by publication in *The City Record*, and then to decision on September 13, 2005; and

WHEREAS, Community Board 6, Manhattan, recommends approval of this application; and

WHEREAS, the New York City Fire Department has submitted a letter stating that is has no objection to this application; and

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit, within a C1-9 zoning district, the legalization of a physical culture establishment (“PCE”) located on the second floor of a 37-story hotel (the Affinia Dumont), contrary to Z.R. § 32-00; and

WHEREAS, the subject site is approximately midway between Lexington and Third Avenues on 34th Street; and

WHEREAS, the subject PCE opened on May 14, 2004, and occupies 3,564 sq. ft. of floor area; and

WHEREAS, the applicant represents that the PCE contains both a spa portion, offering massage and other spa treatments, and a fitness/gym portion, offering strength and fitness training, as well as yoga; and

WHEREAS, the applicant represents that all masseurs and masseuses employed by the facility will be New York State licensed; and

WHEREAS, the applicant asserts that the entire facility will be equipped with an automatic wet sprinkler system and a fire alarm system that is connected to a Fire Department-

approved central monitor system; and

WHEREAS, the PCE will have the following hours of operation: Spa - 10 AM to 10 PM Monday through Friday, and 9 AM to 9 PM Saturday and Sunday; Fitness Area – 6 AM to 10 PM Monday through Friday, and 8 AM to 9 PM Saturday and Sunday; 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 proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to Z.R. §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; 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 05-BSA-72M, dated May 2, 2005 ; 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; 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, 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 Z.R. §§ 73-36 and 73-03, to permit, within a C1-9 zoning district, the legalization of a physical culture establishment (“PCE”) with 3,564 sq. ft. of floor area, located on the second floor of a 37 story hotel, contrary to Z.R. §32-00; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked

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“Received August 18, 2005 ”-(1) sheet and *on further condition*;

THAT this grant shall be limited to a term of ten years from May 14, 2004, expiring May 14, 2014;

THAT all massages will be performed only by New York State licensed massage therapists;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT the hours of operation shall be limited to: Spa - 10 AM to 10PM Monday through Friday, and 9AM to 9PM Saturday and Sunday; Fitness Area – 6 AM to 10 PM Monday through Friday, and 8 AM to 9 PM Saturday and Sunday;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be as installed and maintained on the Board-approved plans;

THAT an interior fire alarm system shall be provided as set forth on the BSA-approved plans and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all of applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 13, 2005.

394-04-BZ/30-05-A

CEQR #05-BSA-074M

APPLICANT - Deirdre A. Carson/Greenberg Traurig, LLP, for 33 Mercer Street, LLC, owner.

SUBJECT - Application December 20, 2004 - under Z.R. §72-21 – To permit the proposed construction of a seven-story mixed-use building, containing residential and retail uses, whereas such uses are not permitted as right, located within an M1-5B zoning district, is contrary to Z.R. §42-10 and §42-14(D)(2)(B).

PREMISES AFFECTED - 44 Mercer Street, a/k/a 471 Broadway, east side, 107.1/2" north of the intersection of Grand and Mercer Streets, Block 474, Lot 49, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Meloney McMurry.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

Commissioner Miele and Commissioner Chin.....4
Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough Commissioner, dated July 22, 2005, acting on Department of Buildings Application No. 103576024, reads, in pertinent part:

- “1. 42-10 Z.R. Proposed residential use (Use Group 2) is not permitted as of right in an M1-5B district and is contrary to Z.R. Section 42-10. M1-5B Zoning District does not provide bulk regulations for residential use;
2. Proposed retail use (Use Group 6) is not permitted as of right below the level of the 2nd story in an M1-5B as per 42-14(D)(2)(B) Z.R.”; and

WHEREAS, a public hearing was held on this application on June 14, 2005 after due notice by publication in the *City Record*; with a continued hearing on June 26, 2005, and then to decision on September 13, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 2, Manhattan, recommends approval of this application with certain conditions discussed below; and

WHEREAS, this is an application under Z.R. §72-21, to permit, within an M1-5B zoning district, the proposed development of a seven-story mixed-use building with residential uses and retail uses below the level of the second story, which does not comply with the zoning requirements for use, contrary to Z.R. §§42-00 and 42-14(D)(2)(B); and

WHEREAS, the initial application included a request for waivers of §27-366 of the New York City Administrative Code and §102 of the Multiple Dwelling Law, to permit a building in excess of 85’-0” and six stories without two independently enclosed stairs; the applicant has modified the application and no longer seeks such waivers; and

WHEREAS, the proposed building will have the following bulk parameters: a residential floor area ratio (“FAR”) of 3.97; 10,226 sq. ft. of residential use on floors two through seven; five residential units; a commercial FAR of 0.97; 2,323 sq. ft. of retail use on the cellar and ground floor; a total FAR of 4.94; a total floor area of 12,549 sq. ft.; and a total height of 102’-6”; and

WHEREAS, the proposed building will have a 24’-1 1/2” rear yard separating it from the abutting building at the second floor, and a 31’-0” rear yard above the second floor; and

WHEREAS, the premises is located on Mercer Street, and is north of Grand Street; and

WHEREAS, the subject tax lot has a width of 26’-8” and a length of 93’-0”; and

WHEREAS, the existing building on the subject lot is connected with the abutting building fronting on Broadway at the lower floors; the building situated on Broadway is a five-story mixed use building that extends in length 106’-0” from

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Broadway, and the subject building is a two-story, vacant building; and

WHEREAS, the applicant proposes to re-develop the subject building, damaged in a fire in the 1950s, to accommodate residential and commercial uses; and

WHEREAS, the applicant also proposes to separate building services shared between the two buildings; and

WHEREAS, the site is located within the SoHo Cast Iron Historic District; accordingly, the applicant has received a Certificate of Appropriateness ("COA") for the proposed development from the Landmarks Preservation Commission ("LPC") dated April 5, 2004, and intends to incorporate the existing cast iron pilasters and granite piers into the new building to preserve certain architectural features of the building and align the proposed building with the current streetscape; and

WHEREAS, the applicant represents that the subject site is located in a district that has a special permit pursuant to Z.R. §74-712, that would allow the applicant to build the proposed building, except that it does not meet one of the requirements for the special permit; namely, the site is not vacant or substantially undeveloped as of the date of enactment of that section; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance with underlying district regulations: (1) the lot is narrow; (2) there is a 5'-0" change in elevation through the lot; and (3) the abutting building on Broadway extends to a depth of 106'-0"; and

WHEREAS, the applicant states that the presence of the Broadway building and its deep extension makes it difficult for the applicant to provide the required 40'-0" rear yard equivalent for a conforming development; and

WHEREAS, the applicant also states that even if it attempted to provide the required rear yard, the narrowness of the site and the topography of the site, together with the required rear yard, contribute to an inefficient floor plate for a conforming manufacturing building; and

WHEREAS, accordingly, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict conformance with applicable zoning regulations; and

WHEREAS, the applicant initially submitted a feasibility study analyzing the following scenarios: a conforming office use above the level of the ground floor; and a residential building with a 30'-0" rear yard separating it from the Broadway building; and

WHEREAS, the applicant concluded that neither scenario resulted in a reasonable rate of return; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant notes that the nearest Quality Housing district is R7X, and that it has designed its proposal

to fit within that envelope, which has a maximum FAR of 5.0; and

WHEREAS, the applicant notes that the SoHo Cast Iron District is characterized by loft residences, joint living-work quarters for artists in formerly industrial buildings, galleries and retail spaces, and light industrial activity; and

WHEREAS, the applicant states that the building has been approved by LPC and will be compatible with surrounding buildings in terms of height and form, including similar floor to floor heights as the neighboring buildings; and

WHEREAS, as discussed above, the Board asked the applicant to consider a scenario in which the rear yard would be increased to 30'-0"; and

WHEREAS, the applicant states that currently there is no rear yard existing between the buildings at the first and second floors, so the applicant's proposal would improve the existing condition by providing a rear yard at the second floor; and

WHEREAS, the Board also recognizes that Broadway building extends 106'-0" in length, thereby constraining the ability of the applicant to provide a 30'-0" rear yard without compromising the floor plate of the subject building; and

WHEREAS, the Board noted further that the distance between the rear of the Broadway building and the subject building will increase to 31'-0" above the second floor because the Broadway building is set back in the rear; and

WHEREAS, the Board questioned the appropriateness of including balconies in the rear of the building; and

WHEREAS, the applicant represents that the balconies are small and are designed to look like industrial fire escapes found throughout the neighborhood; in addition, the balconies are intended to contribute to the rear façade of the building, which is a visible façade; and

WHEREAS, although the Community Board supports the proposal, they requested that an eating and drinking establishment not be allowed on the cellar and first floor; and

WHEREAS, the Board agrees that, in keeping with the character of the neighborhood, the cellar and first floor should only be used for U.G. 6 retail uses, and has included a condition in this grant to that effect; and

WHEREAS, opposition to the application raised additional concerns at hearing, including failure by the applicant to properly notify neighbors of the hearing, blockage of lot line windows, questions about the separation of services between the Broadway and Mercer Street buildings, and general construction concerns; and

WHEREAS, the Board notes that the applicant has responded to opposition's concerns by letter or at hearing; and with respect to the notice issue, the applicant admitted to a clerical error by which certain addresses were omitted, but the applicant corrected this before the subsequent hearing; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public

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welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as a Type I action pursuant to Sections 617.6(h) and 617.2(h) of 6NYCRR; and

WHEREAS, the subject site is located within the SoHo Cast Iron Historic District and as previously noted in this resolution, a COA has been issued for this proposal by the LPC on April 5, 2004; 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. 05-BSA-074M, dated December 20, 2004; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, 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 the required findings under Z.R. §72-21, to permit, within an M1-5B zoning district, the proposed development of a seven-story mixed-use building with residential uses and retail uses below the level of the second story, which does not comply with the zoning requirements for use, which does not comply with the zoning requirements for use, contrary to Z.R. §§42-00 and 42-14(D)(2)(B); *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 10, 2005"--(7) sheets and "September 12, 2005"--2 sheets; and *on further condition*:

THAT the cellar and first floor shall only be used for U.G. 6 retail uses and shall not be used for any U.G. 6 or U.G.12 eating and drinking establishment of any size;

THAT the above condition shall appear on the

Certificate of Occupancy;

THAT the bulk parameters of the proposed building shall be as follows: a maximum total FAR of 4.94; maximum total floor area of 12,549 sq. ft.; maximum residential FAR of 3.97; maximum residential floor area of 10,226 sq. ft.; maximum commercial FAR of 0.97; maximum commercial floor area of 2,323 sq. ft.; and a maximum building height of 102'-6";

THAT there shall be a maximum of five residential units, and each unit shall have a minimum size of 1200 sq. ft.;

THAT the interior layout, parking layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 13, 2005.

**402-04-BZ
CEQR #05-BSA-079K**

APPLICANT – Steven Sinacori/Stadtmauer Bailkin LLP for Knapp Street Entertainment Center Inc., owner; Public Storage Inc., lessee.

SUBJECT – Application December 28, 2004 – under Z.R. §72-21 – to permit the change of use from an enclosed amusement arcade, Use Group 15, to self-storage facility, Use Group 16, located within C3 and C7 districts and to vary Sections 32-00 (Use Regulations) and 33-122 (Floor Area Ratio).

PREMISES AFFECTED – 2461 Knapp Street, east side, between Avenue "X and Y", Block 8833, Lot 200, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Steven Sinacori.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 30, 2004, acting on Department of Buildings Application No. 301858112, reads, in pertinent part:

"Proposed change of use from enclosed

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amusement establishment (Use Group 15) to storage facility (Use Group 16) in a C7 and C3 zoning district is contrary to NYC Zoning Resolution Section 32-00.

Proposed F.A.R. and floor area in a C7 zoning district is contrary to NYC Zoning Resolution Section 33-122.”; and

WHEREAS, a public hearing was held on this application on June 7, 2005, after due notice by publication in *The City Record*, with continued hearings on July 19, 2005 and August 16, 2005, and then to decision on September 13, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, State Assembly Member Seddio and State Senator Golden also expressed their approval of this application; and

WHEREAS, this is an application made pursuant to Z.R. §72-21, to permit, on a site partially within a C3 zoning district and partially within a C7 zoning district, the proposed conversion and enlargement of a three-story building from Use Group 15 amusement arcade to Use Group 16 self-storage facility, contrary to Z.R. §§ 32-00 and 33-122; and

WHEREAS, the subject premises is located on the east side of Knapp Street between Avenues X and Y, and has a total lot area of 33,774.30 sq. ft.; and

WHEREAS, approximately 97% of the lot is within the C7 zoning district, and the remaining 3% is within the C3 zoning district; and

WHEREAS, the site is currently improved upon with an approximately 51,743 sq. ft., three-story commercial building, with a wall height of 49.33 ft., currently occupied by an amusement arcade and entertainment center, which is about to cease operations due to a decline in business; and

WHEREAS, the existing building has atriums at the second and third floor level; and

WHEREAS, in addition to the change in use to self-storage (UG16), the applicant proposes to enlarge the building to 87,583 sq. ft., through a gut renovation of the existing three floors, and their replacement with four full floors; no change will be made to the height or the exterior of the building, except for signage; and

WHEREAS, nine parking spaces are proposed to be provided for the facility’s anticipated three employees and its patrons; and

WHEREAS, the applicable C7 zoning district permits a Floor Area Ratio (“FAR”) of 2.0; the proposed building will have an FAR of 2.59; and

WHEREAS, when completed, the proposed building will be operated as a retail-type self-storage facility, with limited hours as follows: 7 AM to 7:30 PM Monday through Saturday, and 7 AM to 6 PM on Sundays; and

WHEREAS, the applicant states that the following are

unique physical conditions inherent to the site, which creates practical difficulties and/or unnecessary hardship in developing the subject site in conformance with underlying district regulations: (1) the existing building was specially designed and constructed as an amusement arcade, resulting in high ceilings and an open space/atrium; (2) because the existing building’s footprint occupies a significant portion of the site, there is only space for nine off-street parking spaces, which is insufficient to accommodate the parking generated by any permitted use that could occupy the existing building; and (3) no below-grade parking facility can be feasibly constructed due to costs associated with mitigating high ground water conditions; and

WHEREAS, the applicant states the high ceilings of the building are not conducive to the very limited amount of retail/commercial uses permitted in C7 districts; and

WHEREAS, the applicant further states that in order to utilize the building for alternative conforming uses, significant renovation and upgrading would be required, the costs of which would render such development infeasible; and

WHEREAS, however, at hearing the Board expressed doubts as to whether the high ceilings really constituted a unique hardship compromising the return for C7 uses, since such spaces could be in-filled, and suggested that the claim of hardship be based primarily upon the need to reutilize the existing building coupled with the ground water conditions and the resulting lack of a feasible location to accommodate the amount of parking that would likely be generated by a conforming use; and

WHEREAS, as to the ground water conditions, the applicant has submitted an engineering study which addresses the feasibility of underground parking at the site, and observes that the provision of such parking would require the removal of the existing building and foundation system in order for the water conditions to be addressed; the study concludes that the construction of underground parking would be impractical and cost-prohibitive, since the existing building’s foundation system and envelope could not be re-used; and

WHEREAS, accordingly, the Board finds that certain of the aforementioned unique conditions, when viewed in the aggregate, - namely, the footprint of the building over the entire site, the need to reuse the building, and the ground water conditions, all of which combine to render location of sufficient parking on the site impractical - create a practical difficulty and unnecessary hardship in developing the site in conformance and compliance with the applicable use and bulk provisions; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed a conforming and complying retail and commercial building, which concluded that such a building did not realize a reasonable return; and

WHEREAS, the Board agrees that this scenario is not viable; and

WHEREAS, additionally, the applicant has submitted evidence that the existing building had been unsuccessfully marketed directly to other amusement and entertainment type

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operators of facilities permitted in the C7 zoning district; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant represents that the current development proposal will not negatively impact the character of the community, adjacent conforming uses, or the public welfare; and

WHEREAS, the applicant represents that the immediate area surrounding the site is characterized by commercial and manufacturing uses; specifically, the site is between a fast food restaurant to the south and a vacant building formerly used as a nightclub to the north; and

WHEREAS, the applicant also represents that a large sewage treatment plant is located on Knapp Street on the next block; and

WHEREAS, the applicant states that the although the building is being enlarged, the enlargement is within the existing envelope; and

WHEREAS, the applicant further states that the proposed storage use will draw less traffic into the area than the amusement use currently occupying the building, and that the proposed amount of spaces would be sufficient to accommodate anticipated parking needs; and

WHEREAS, in support of this statement, the applicant has submitted a traffic engineering memorandum; and

WHEREAS, this memorandum is based upon a trip generation study analyzing AM, PM and Saturday peak hour conditions, which revealed modest trips per hour during these peak times (13, 22 and 25 trips, respectively); and

WHEREAS, the memorandum concludes that the proposed conversion and enlargement will improve access to the site and will provide ample on-site parking for both employees and patrons, and will have no perceptible impact on the surrounding roadway network; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, at the request of the Board, the applicant analyzed the following two lesser-variance scenarios: (1) a three-story, non-conforming commercial use, with retail use on the first floor and commercial use on the above floors; and (2) a three-story, self-storage facility with significantly less floor area than the proposal; both of these scenarios assume infill of the existing second and third floor atrium areas (not their total replacement); and

WHEREAS, based upon the applicant's analysis, neither of these alternatives would represent a feasible real estate investment opportunity due to their poor rates of return; and

WHEREAS, the Board observes that the applicant considered the diminished construction costs that would

result from the lesser-variance scenarios, as both scenarios contemplated the construction of one less floor than the proposal; and

WHEREAS, the applicant explained that although the construction costs for the lesser-variance scenarios are less than the proposal, many of the costs exists for both; for instance, the existing building's atrium areas would have to be reinforced, and new elevators, fire protection measures and HVAC equipment would need to be installed; and

WHEREAS, the applicant concludes that only through the addition of a fourth floor of storage space can these costs be offset by potential income; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05-BSA-079K, dated May 5, 2005; 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; 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 617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, on a site partially within a C3 zoning district and partially within a C7 zoning district, the proposed conversion and enlargement of a three-story building from Use Group 15 amusement arcade to Use Group 16 self-storage facility, contrary to Z.R. §§ 32-00 and 33-122; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "September 12, 2005"-(8) sheets; and *on further condition*;

THAT that the building will comply with the following

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bulk parameter: a maximum FAR of 2.59;

THAT the internal floor layouts and exiting on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 13, 2005.

405-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Kim Stavrach, owner.

SUBJECT – Application December 30, 2004 – under Z.R. §73-622 – For an enlargement of a single family residence to vary Z.R. §23-141 for open space and floor area, Z.R. §23-461 for side yards and Z.R. §23-47 for rear yard, located in an R3-2 zoning district.

PREMISES AFFECTED – 1734 East 27th Street, west side, between Quentin Road and, Avenue “R”, Block 6809, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Ron Mandel.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 25, 2005, acting on Department of Buildings Application No. 301865747, reads:

“The proposed enlargement of the existing one family residence in an R3-2 zoning district:

1. Causes an increase in the Floor Area exceeding the allowable Floor Area Ratio and is contrary to the allowable Floor Area Ratio allowed by Section 23-141 of the Zoning Resolution.
2. Causes an increase in the lot coverage exceeding the allowable lot coverage allowed by Section 23-141 of the Zoning Resolution.
3. Proposed side yard is contrary to ZR 23-461A.
4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the 30’-0” that is required.”; and

WHEREAS, a public hearing was held on this application on June 7, 2005 after due notice by publication in

The City Record, with continued hearings on August 16, 2005, and then to decision on September 13, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, lot coverage, and side and rear yards, contrary to Z.R. §§ 23-141, 23-461, and 23-47; and

WHEREAS, the subject lot is located on the west side of East 27th Street between Quentin road and Avenue R; and

WHEREAS, the subject lot has a total lot area of 3,000 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks an increase in the floor area from 1,915 sq. ft. (0.64 Floor Area Ratio or “FAR”) to 3,132 sq. ft. (1.04 FAR); the maximum floor area permitted is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, at the request of the Board, the FAR was reduced to 1.04 from 1.06; and

WHEREAS, the proposed enlargement will increase the lot coverage from 41% to 43%; the maximum lot coverage permitted is 35%; and

WHEREAS, the proposed enlargement will maintain one existing non-complying side yard of 2’-8”, which does not comply with the 5’ minimum side yard requirement; and

WHEREAS, the enlargement into the side yard does not result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the proposed enlargement will reduce the rear yard from 28’-9” to 24’-9”; the minimum rear yard required is 30’-0”; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20’-0” of the rear lot line; and

WHEREAS, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental

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Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, lot coverage, and side and rear yards, contrary to Z.R. §§ 23-141, 23-461, and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received April 13, 2005"- (2) sheets, "August 2, 2005"- (4) sheets and "August 29, 2005"- (4) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth in the certificate of occupancy;

THAT the total FAR on the premises, including the attic, shall not exceed 1.04;

THAT the total attic floor area shall not exceed 668 sq. ft., as confirmed by the Department of Buildings;

THAT no approval of any shed in the rear yard is being granted; approval of any shed at the rear of the site shall be as per DOB;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 13, 2005.

88-05-BZ

APPLICANT – Sheldon Lobel, P.C., for David and Margaret Hamm, owners.

SUBJECT – Application April 8, 2005 – under Z.R. §73-622 – To permit the enlargement of a single family residence which exceeds allowable floor area ratio, lot coverage and open space ratio pursuant to Z.R. §23-141 and less than the minimum side yards pursuant to Z.R. §23-461. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 2015 East 22nd Street, east side, between Avenue "S and T", Block 7301, Lot 53, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Ron Mandel.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 14, 2005, acting on Department of Buildings Application No. 301687422, reads:

1. Floor Area Ratio is contrary to section 23-141b.
2. Lot coverage is contrary to section 23-141b.
3. Open Space Ratio is contrary section 23-141b.
4. Side yard required is contrary to section 23-461a.
5. Height and/or setback requirement is contrary to section 23-631b."; and

WHEREAS, a public hearing was held on this application on August 16, 2005 after due notice by publication in *The City Record*, and then to decision on September 23, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, perimeter wall height, and side yards, contrary to Z.R. §§ 23-141(b), 23-461(a), and 23-631(b); and

WHEREAS, the subject lot is located on the east side of East 22nd Street, between Avenues S and T; and

WHEREAS, the subject lot has a total lot area of 2,076 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks an increase in the floor area from 1,396 sq. ft. (0.67 Floor Area Ratio or "FAR") to 1,809.4 sq. ft. (0.87 FAR); the maximum floor area permitted is 1,038 sq. ft. (0.50 FAR); and

WHEREAS, there is no usable floor area in the attic; and

WHEREAS, the proposed enlargement will increase the lot coverage from 37% to 45.4%; the maximum lot coverage permitted is 35%; and

WHEREAS, the proposed enlargement will decrease the open space from 1,309 sq. ft. to 1,139.9 sq. ft.; the minimum required is 1,349 sq. ft.; and

WHEREAS, the proposed enlargement will maintain one existing non-complying side yard of 1'-2 1/4", which does not comply with the 5' minimum side yard requirement; and

WHEREAS, the other non-complying side yard of 5'-10 1/2" will also be maintained; when this side yard is aggregated with the other non-complying side yard, the total is 6'-6", which is less than the required 13'-0" minimum required; and

WHEREAS, both the perimeter wall height of 22'-10" and the total height of 29'-0" will be maintained; and

WHEREAS, the enlargement into the side yard does not

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result in a decrease in the existing minimum width of open area between the building and the side lot line; and

WHEREAS, the proposed enlargement will reduce the rear yard from 37'-10 3/4" to 25'10 3/4"; the minimum rear yard required is 30'-0"; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20'-0" of the rear lot line; and

WHEREAS, accordingly, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, perimeter wall height, and side yards, contrary to Z.R. §§ 23-141(b), 23-461(a), and 23-631(b); *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received June 28, 2005"- (1) sheet and "August 30, 2005"-(6) sheets, and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth in the certificate of occupancy;

THAT the total FAR on the premises shall not exceed 0.87;

THAT no approval of the garage is being granted; approval of any garage at the rear of the site shall be as per DOB;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals,

September 23, 2005.

397-03-BZ thru 405-03-BZ

APPLICANT – Sheldon Lobel, P.C., for G & G Associates, owner.

SUBJECT – Application December 29, 2003 – under Z.R. §72-21 – to permit the proposed three story (3) plus attic building, to contain three residential units, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED –

1255 60th Street, between 12th and 13th Avenues, Block 5711, Lot 155, Borough of Brooklyn.

1257 60th Street, between 12th and 13th Avenues, Block 5711, Lot 154, Borough of Brooklyn.

1259 60th Street, between 12th and 13th Avenues, Block 5711, Lot 153, Borough of Brooklyn.

1261 60th Street, between 12th and 13th Avenues, Block 5711, Lot 152, Borough of Brooklyn.

1263 60th Street, between 12th and 13th Avenues, Block 5711, Lot 151, Borough of Brooklyn.

1265 60th Street, between 12th and 13th Avenues, Block 5711, Lot 150, Borough of Brooklyn.

1267 60th Street, between 12th and 13th Avenues, Block 5711, Lot 149, Borough of Brooklyn.

1269 60th Street, between 12th and 13th Avenues, Block 5711, Lot 148, Borough of Brooklyn.

1271 60th Street, between 12th and 13th Avenues, Block 5711, Lot 147, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Ron Mandel.

ACTION OF THE BOARD – Laid over to October 18, 2005, at 1:30 P.M., for adjourned hearing.

3-04-BZ

APPLICANT - Eric Palatnik, P.C., for Rushikesh Trivedi, owner.

SUBJECT - Application January 6, 2004 - under Z.R. §72-21 to permit the proposed dental office, Use Group 6, located in an R-2 zoning district, which does not comply with the zoning requirements for floor area, open space, front and side yards and use, which is contrary to Z.R. §24-111, §22-14, §24-34 and §24-35.

PREMISES AFFECTED - 147-08 46th Avenue, between Parsons Boulevard and 149th Street, Block 5452, Lot 3, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to November 22, 2005, at 1:30 P.M., for decision, hearing closed.

290-04-BZ

APPLICANT - Stuart A. Klein, Esq., for Alex Lokshin –

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Carroll Gardens, LLC, owner.

SUBJECT - Application August 20, 2004 - under Z.R. §72-21 to permit, in an R4 zoning district, the conversion of an existing one-story warehouse building into a six-story and penthouse mixed-use residential/commercial building, which is contrary to Z.R. §§22-00, 23-141(b), 23-631(b), 23-222, 25-23, 23-45, and 23-462(a).

PREMISES AFFECTED - 341-349 Troy Avenue (a/k/a 1515 Carroll Street), Northeast corner of intersection of Troy Avenue and Carroll Street, Block 1407, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #9BK

APPEARANCES -

For Applicant: Hiram A. Rothkrug and Gregory Chillino.

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for adjourned hearing.

315-04-BZ and 318-04-BZ

APPLICANT – Steven Sinacori/Stadmauer Bailkin, for Frank Mignone, owner.

SUBJECT – Application September 20, 2004 - under Z.R. §72-21 to permit the proposed development which will contain four three-family homes (Use Group 2), within an M1-1 Zoning District which is contrary to Section 42-00 of the Resolution.

PREMISES AFFECTED –

1732 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 127), Borough of Brooklyn.

1734 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 128), Borough of Brooklyn.

1736 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 129), Borough of Brooklyn.

1738 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 130), Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Steven Sinacori.

ACTION OF THE BOARD – Laid over to October 18, 2005, at 1:30 P.M., for deferred hearing.

326-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Sephardic Center of Mill Basin, owner.

SUBJECT - Application- under Z.R. §72-21 – to request a bulk variance to allow the construction of a new synagogue in place of an existing synagogue. The application seeks waivers regarding Floor area ratio (sections 24-111 and 23-141), perimeter wall height (section 24-521), sky exposure plane (section 24-521) and parking (sections 25-18 and 25-31), located in a R2 zoning district.

PREMISES AFFECTED - 6208/16 Strickland Avenue, northeast corner of Mill Avenue, Block 8656, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Lyra J. Altman, Chaim Ben Simon, Gary Blond.

For Opposition: Doris Usero.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to October 18, 2005, at 1:30P.M., for decision, hearing closed.

338-04-BZ

APPLICANT – Martyn & Don Weston, for Hi-Tech Equipment Rental Inc., owner.

SUBJECT – Application October 12, 2004 - under Z.R. §72-21 to permit the proposed construction of a one story and cellar extension to an as-of-right six story hotel, and to permit on grade accessory parking and below grade showroom/retail use, in an R5 zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 806/14 Coney Island Avenue, west side, 300.75' north of Ditmas Avenue, Block 5393, Tentative Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Don Weston, Jack Freeman and Abdul Sageer.

For Opposition: Peter Levin, Tatyana Rotblat, Serena Breban, A. Smith, S. Pancer, M. Sommers and Lisa L. Gokhulsingh.

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for continued hearing.

357-04-BZ

APPLICANT – Alfonso Duarte, for Charles Howard, owner.

SUBJECT – Application November 12, 2004 - under Z.R. §72-21 to permit the proposed erection of a two story medical facility, located in an R3-2 zoning district, which does not comply with the zoning requirements for second floor occupancy, lot coverage, front yards, side yard, off-street parking spaces and penetration of the exposure plane, is contrary to Z.R. §22-14, §24-11, §24-33, §24-34, §24-35, §25-31 and §24-521; and the proposed use of the site, for off-site accessory parking, for a proposed medical facility across the street, is contrary to §25-51.

PREMISES AFFECTED - 707 Cross Bay Boulevard, southwest corner of 98th Street, Block 15311, Lot 11, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Alfonso Duarte, P.E. and Louis R. Colalillo.

ACTION OF THE BOARD – Laid over to October

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25, 2005, at 1:30 P.M., for continued hearing.

358-04-BZ

APPLICANT – Alfonso Duarte, for Charles Howard, owner.
SUBJECT – Application November 12, 2004 – under Z.R. §72-21 to permit the proposed use of the site, for off-site accessory parking, for a proposed medical facility across the street, is contrary to §25-31.

PREMISES AFFECTED - 728 Cross Bay Boulevard, southeast corner of 194th Avenue, Block 15453, Lot 8, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Alfonso Duarte, P.E. and Louis R. Colalillo.

ACTION OF THE BOARD – Laid over to October 25, 2005, at 1:30 P.M., for continued hearing.

382-04-BZ

APPLICANT – Eric Palatnik, P.C., for Billy Ades, (Contract Vendee).

SUBJECT – Application December 6, 2004 – under Z.R. §73-622 – to permit the proposed enlargement of an existing single family dwelling, located in an R4 zoning district, which does not comply with the zoning requirements for floor area, lot coverage, open space and side yards, is contrary to Z.R. §23-141(b) and §23-461(a).

PREMISES AFFECTED – 2026 Avenue “T”, corner of Avenue “T” and East 21st Street, Block 7325, Lot 8, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to November 22, 2005, at 1:30 P.M., for continued hearing.

399-04-BZ

APPLICANT – Greenberg Traug LLP, by Jay A. Segal, for Hip-Hin Realty Corp., owner.

SUBJECT – Application December 23, 2004 – under Z.R. §§72-21 and 73-36 – Proposed use of the subcellar for accessory parking, first floor and cellar for retail, and the construction of partial sixth and seventh stories for residential use, also a special permit to allow a physical culture establishment on the cellar level, of the subject premises, located in an M1-5B zoning district, is contrary to Z.R. §42-14(D), §13-12(a) and §73-36.

PREMISES AFFECTED – 425/27 Broome Street, southeast corner of Crosby Street, Block 473, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Jay Segal and Peter Fabre.

ACTION OF THE BOARD – Laid over to October 18, 2005, at 1:30 P.M., for continued hearing.

19-05-BZ

APPLICANT – Slater & Beckerman, LLP, for Groff Studios Corporation, owner.

SUBJECT – Application January 31, 2005 – under Z.R. §72-211, to permit, in an M1-6 zoning district, the change of use of portions of a nine-story, mixed-use building to Use Group 2 residential use which is contrary to ZR Section 42-00.

PREMISES AFFECTED – 151 West 28th Street, north side, 101’ east of Seventh Avenue, Block 804, Lot 8, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Stuart Beckerman, Daniel Lane and David Hottenroth.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to October 18, 2005, at 1:30 P.M., for decision, hearing closed.

44-05-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for David Murray & Adrienne Berman, owners.

SUBJECT - Application February 25, 2005 - under Z.R. §73-243, to permit an Accessory Drive Through Facility, contrary to Section 32-15, accessory to a proposed as-of-right Eating and Drinking Establishment (Use Group 6) located in a C1-2/R5 zoning district.

PREMISES AFFECTED - 49-01 Beach Channel Drive, between Beach 49th and Beach 50th Streets, Block 15841, Lot 19 (Tentative 50), Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Adam Rothkrug.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4
Negative:.....0

ACTION OF THE BOARD - Laid over to October 18, 2005, at 1:30 P.M., for decision, hearing closed.

60-05-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Aslan Azrak, owner.

SUBJECT – Application March 10, 2005 - under Z.R. §73-622 Special Permit - the enlargement of a semi detached single family home. The proposed enlargement to vary ZR sections 23-141(b) for FAR, open space and lot coverage, 23-47 for less than the required rear yard. The premise is located in an R4 zoning district. This proposed enlargement is also seeking to separate from the attached residence thereby

MINUTES

creating two detached residences.

PREMISES AFFECTED – 1024 Lancaster Avenue, Lancaster Avenue between East 12th Street and Coney Island Avenue, Block 7394, Lot 50, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 27, 2005, at 1:30 P.M., for decision, hearing closed.

97-05-BZ

APPLICANT – Dennis D. Dell’ Angelo, R.A., for Abraham Y. Gelb, owner.

SUBJECT – Application April 22, 2005 - under Z.R.§73-622 Special Permit - the enlargement of a single family residence to vary zoning section ZR 23-141 for open space and floor area, ZR 23-46 for less than the minimum required side yard and ZR 23-47 for less than the required rear yard. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1107 East 21st Street, east side 153’ north of Avenue J, Block 78585, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Dennis Dell’ Angello.

ACTION OF THE BOARD - Laid over to October 18, 2005, at 1:30 P.M., for continued hearing.

126-05-BZ

APPLICANT – Eric Palatnik, P.C., for Moshe Hirsch, owner. SUBJECT – Application May 20, 2005 - under Z.R.§73-622 Special Permit - The enlargement of a single family residence to vary ZR sections 23-141 (open space and floor area), 23-46 (side yard) and 23-47 (rear yard). The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1282 East 27th Street, West side of East 27th Street, north of the intersection of E. 27th Street and Avenue M, Block 7644, Lot 79, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik and Elliot Berman.

ACTION OF THE BOARD - Laid over to October 18, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 5:00 P.M.

BULLETIN

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Volume 90, No. 39

September 29, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

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Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Tuesday, September 20, 2005**

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MINUTES of Regular Meetings,

Afternoon Calendar

Affecting Calendar Numbers:

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102-05-BZ	259 Vermont Street, Brooklyn

DOCKETS

New Case Filed Up to September 20, 2005

286-05-A B. BX 5260 Sycamore Avenue, East side of Sycamore Avenue between West 252nd & West 254th Streets, Block 5939, Lot 380, Borough of Bronx, Applic. # 200989984. Proposed construction is located in the bed of a mapped Street contrary to GCL Section 35.

287-05-A B. Q 32-42 33rd Street, located between Broadway and 34th Avenue, Block 612, Lot 53, Borough of Queens, Applic. # 401572712. Appealing the issuing of a permit by DOB for the installation of cellular equipment without a Special Permit from the BSA.

288-05-BZ B. BK 1060 82nd Street, South side 197'-3" West of 11th Avenue between 10th Avenue, Block 6012, Lot 30, Borough of Brooklyn, Applic. # 301859781. Legalize vertical enlargement for the attic and utilize attic space for residential living space in conjunction with the lower floors.

COMMUNITY BOARD #10

289-05-BZ B. BK 1106-1108 Utica Avenue, Between Beverly & Clarendon Roads, Block 4760, Lot 15, Borough of Brooklyn, Applic. # 30144183. Application pursuant to §73-50 to waive ZR §33-292 waiving the required 30 foot open area at the rear of premises.

COMMUNITY BOARD #17

290-05-BZ B. BK 1824 53rd Street, South side of the Street 127.95' East of the intersection of 53rd Street and 18th Avenue, Block 5480, Lot 14, Borough of Brooklyn, Applic. # 301984342. Proposed catering use (Use group 9, accessory to Synagogue and School (UG 4 & 3 not permitted in the R5 zoning district).

COMMUNITY BOARD #12

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

OCTOBER 25, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, October 25, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

SPECIAL ORDER CALENDAR

1058-46-BZ

APPLICANT – Petraro & Jones, L. L. P., for Glen Oaks Village Owners, Inc.

SUBJECT – Application May 9, 2005 - Amendment to construct a third floor to multiple existing two family dwellings which is contrary to the ZR 23-631 for minimum perimeter wall height and setback. The premises are located in an R3-2 zoning district.

PREMISES AFFECTED – 254-07 74th Avenue, Borough of Queens.

Block 8401, 8490, 8492, 8496, Lots 2 and 96.

COMMUNITY BOARD #13Q

929-47-BZ

APPLICANT – Petraro & Jones, L. L. P., for Glen Oaks Village Owners, Inc.

SUBJECT – Application May 9, 2005 - Amendment to construct a third floor to multiple existing two family dwellings which is contrary to ZR 23-631 for minimum perimeter wall height and setback. The premises are located in an R3-2 zoning district.

PREMISES AFFECTED – 255-09 & 260-66 73rd Avenue, Queens

74-21&74-66269th Street, Queens

Block 8441, 8446, 8515, 8517, Lot 1 & 2.

COMMUNITY BOARD #13Q

185-48-BZ

APPLICANT – Petraro & Jones, L. L. P., for Glen Oaks Village Owners, Inc.

SUBJECT – Application May 9, 2005 - Amendment to construct a third floor to multiple existing two family dwellings which is contrary to the ZR 23-631 for minimum perimeter wall height and setback. The premises are located in an R3-2 zoning district.

PREMISES AFFECTED – 255-17 73rd Avenue, Queens
254-07 74th Avenue, Queens & 254-18, 254-25, 255-14 & 260-28 75th Avenue, Queens

260-46, 264-27 & 264-52 Langston Avenue, Queens
Block 8535, 8513, 8510, 8511, 8440, 8442, 8450, 8449,

8447, Lots 1, 20, 31, 1,

COMMUNITY BOARD #13Q

16-49-BZ

APPLICANT – Petraro & Jones, L. L. P., for Glen Oaks Village Owners, Inc.

SUBJECT – Amendment to construct a third floor to multiple existing two family dwellings which is contrary to the ZR 23-631 for minimum perimeter wall height and setback. The premises are located in an R3-2 zoning district.
PREMISES AFFECTED – 260-43 & 261-15 Langston Avenue, Queens

Block 8448, 8443, Lot 1.

COMMUNITY BOARD #13Q

109-93-BZ

APPLICANT – H. Irving Sigman, Barone Properties, Inc., owner.

SUBJECT – Application April 18, 2005 - Extension of Term/Amendment/Waiver for the continued UG6 use on the first floor of residential building. Amend to change the use on the first floor from UG6 (Offices) to UG6 eating and drinking establishment with accessory food preparation and storage in the basement. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 189-11 Northern Boulevard, Block 5365, Lot 5, Borough of Queens

COMMUNITY BOARD #11Q

APPEALS CALENDAR

110-05-BZY

APPLICANT – Shing Kong Lam - Owner

SUBJECT – Application May 12, 2005 - Proposed extension of time to complete construction for a minor development (erect extension at first floor rear with minor partition works, one family home for a period of three months pursuant to Z.R. 11-332 .

PREMISES AFFECTED – 56-31 Bell Boulevard , east side of Bell Boulevard, 276.12'south of corner formed by the intersection of 56th Avenue and Bell Boulevard Borough of Queens Block 7445, Lot 47

COMMUNITY BOARD #11Q

120-05-A

APPLICANT – Bickram Singh/Dronmati Singh, for Bickram Singh/Dronmati Singh, owners.

SUBJECT – Application May 18, 2005 - Proposed reconstruction and enlargement of an existing one family dwelling, located within the bed of a mapped street, is

CALENDAR

contrary to Section 35, Article 3 of the General City Law.
PREMISES AFFECTED – 104-41 103RD Street, between
Rockaway Boulevard and Liberty Avenue, Block 9524, Lot
75, Borough of Queens.

COMMUNITY BOARD #10Q

143-05-A

APPLICANT – Eric Palatnik, P.C., for Andrew & Peter
Latos, owner.

SUBJECT – Application June 7, 2005 - An appeal seeking
a determination that that the owner of said premises has
acquired a common -law vested right to continue
development commenced under the prior R3-2 zoning
district. Current Zoning District is R2A.

PREMISES AFFECTED – 47-05-Bell Boulevard, located
between 47th and 48th Avenue ,Borough of Queens.

COMMUNITY BOARD # 11Q

149-05-A

APPLICANT – Eric Palatnik , P.C. for Gregory Broutzas,
owner.

SUBJECT – Application filed on June 14, 2005 -An appeal
seeking a determination that that the owner of said premises
has aquired a common -law vested right to continue
development commenced under the prior R2 zoning district.

Current Zoning District is R2A.

PREMISES AFFECTED – 32-29 211th Street, located at
the east side, of 211th Street, Borough of Queens.

COMMUNITY BOARD # 11Q

OCTOBER 25 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing,
Tuesday afternoon, October 25, 2005, at 1:30 P.M., at 40
Rector Street, 6th Floor, New York, NY 10006, on the
following matters:

ZONING CALENDAR

202-04-BZ

APPLICANT – Einbinder & Dunn, LLP., for 202 Meserole,
LLC, owner.

SUBJECT – Application May 24, 2004 - under Z.R.§72-21
to permit the proposed conversion of a vacant industrial
building, into a 17 unit multiple dwelling, Use Group 2,
located in an M1-1 zoning district, is contrary to Z.R. '42-
10.

PREMISES AFFECTED -100 Jewel Street, southeast corner
of Meserole Street, Block 2626, Lot 1, Borough of
Brooklyn.

COMMUNITY BOARD #1BK

27-05-BZ

APPLICANT – Vassalotti Associates Architects, LLP.,
owner; Cumberland Farms, Inc., lessee.

SUBJECT – Application February 16, 2005 – Special
Permit under Z.R.§11-411 for the re-establishment and
extension of term for an existing gasoline service station,
located in an C1-2/R6 zoning district, which was granted
under BSA Calendar 361-37-BZ and the term lapsed on
December 1, 2001.

PREMISES AFFECTED – 91-11 Roosevelt Avenue, Block
1479, Lot 38, Borough of Queens.

COMMUNITY BOARD #3Q

180-05-BZ

APPLICANT – Wachtel & Masyr for 1511 Third Avenue
Association/Related/ Equinox, owner.

SUBJECT – Application August 4, 2005 – Special Permit
under Z.R.§§73-03 and 73-367 approval sought for the
legalization of a physical cultural establishment located on
the entire second floor portion of the third floor and the
entire fourth floor with a total of 34, 125sq. ft. of floor area.

The site is located in a C2-8 zoning district.

PREMISES AFFECTED – 1511 Third Avenue aka 201 East
85th Street, northeast corner of 85th Street and Third Avenue,
Block 1531, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

Pasquale Pacifico, Executive Director

NOVEMBER 1, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing,
Tuesday morning, November 1, 2005, 10:00 A.M., at 40
Rector Street, 6th Floor, New York, NY 10006, on the
following matters:

723-84-BZ

APPLICANT – Sheldon Lobel, P.C., for Alameda Project
Partners, owner.

SUBJECT – Application May 18, 2005 - Amendment of a
variance ZR 72-21 of the use restriction conditioned in a
prior grant to permit a gastroenterologist's office in a portion
of the ground floor of the existing building. The premise is
located in a R1-2 zoning district.

PREMISES AFFECTED – 241-02 Northern Boulevard,
southeast corner of the intersection between Northern

CALENDAR

Boulevard and Alameda Avenue, Block 8178, Lot 1,
Borough of Queens
COMMUNITY BOARD #11Q

926-86-BZ

APPLICANT – Sheldon Lobel, P.C., for Estate of Morton Manes c/o Steven Rosenblatt, owner; Fred Gangs BMW Dealership, lessee.

SUBJECT – Application June 8, 2005 - Extension of Term of Variance for the continued use of the existing automotive dealership for the sale and service of automobiles with repairs. The premise is located in R6B/C2-2 & R3X zoning districts.

PREMISES AFFECTED – 217-07 Northern Boulevard, north side of Northern Boulevard between 217th Street and 218th Street, Block 6320, Lot 18, Borough of Queens.

COMMUNITY BOARD #11Q

19-94-BZ

APPLICANT – Andrew Schwarwsin, Esq., for Walter R. Schwarwsin, owner.

SUBJECT – Application September 15, 2005 - Extension of Term/Waiver for a Use Group 8 public parking lot of which a portion of the lot lies in a residential zoning district. The premise is located in a C4-3/R-5 zoning district.

PREMISES AFFECTED – 37-18 75th Street, Block 1285, Lot 47, Borough of Queens

COMMUNITY BOARD #3Q

62-96-BZ

APPLICANT – Law Office of Fredrick A. Becker, for 200 Madison Associates, LP, owner; New York Sports Club Inc., lessee.

SUBJECT – Application March 31, 2005 - Amendment to legalize on the first floor the enlargement of a physical culture establishment and to allow the change in ownership. The premise is located in C5-2 zoning district.

PREMISES AFFECTED – 200 Madison Avenue, westerly block of Madison Avenue, between East 35th and East 36th Streets, Block 865, Lot 14, Borough of Manhattan.

COMMUNITY BOARD #5M

213-96-BZIII

APPLICANT – Slater & Beckerman, LLP, for 51 LLC, owner; Cheers of Manhattan, Inc., lessee.

SUBJECT – Application April 18, 2005 - Extension of Term/Waiver for an eating and drinking establishment with entertainment and dancing. The premise is located in an C4-5 zoning district.

PREMISES AFFECTED – 51-53 Christopher Street (a/k/a 113 Seventh Avenue South) Block 610, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEALS CALENDAR

43-04-A

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Joseph C. D'Alessio.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 39-04 Stuart Lane Douglaston, north side of Depew Avenue, 142' West of 243rd Street, Block 8103, Lot 7, Borough of Queens.

COMMUNITY BOARD #11Q

283-05-A

APPLICANT – Zygmunt Staszewski, for Breezy Point Cooperative, Inc., owner.

SUBJECT – Application filed on September 8, 2005 – Street giving access to the existing building to be replaced is not duly placed on the map of the City of NY. The existing building to be replaced does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to §27-291 of the Administrative Code. The proposed upgrade of the private disposal system is contrary to the DOB policy.

PREMISES AFFECTED – 22 Pelham Walk, West of Pelham Walk, 244.78' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14BK

NOVEMBER 1, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, November 1, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

ZONING CALENDAR

373-04-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Brendan McCartan, owner.

SUBJECT – Application November 26, 2004 - under Z.R. §72-21 in an R4 district, permission sought to allow the construction of a two-story one-family dwelling on a 25' x 53.55' lot consisting of 1,338 SF. The structure does not comply with floor area allowed, open space, lot area, front yard.

PREMISES AFFECTED – 57-69 69th Street, north side of 69th Street 24' west of 60th Avenue, Block 2830, Lot 33, Borough of Queens.

CALENDAR

COMMUNITY BOARD #5Q

70-05-BZ

APPLICANT – Lewis E. Garfinkel, R.A., for Yaakov Adler, owner.

SUBJECT – Application March 23, 2005 - under Z.R.§73-622 to permit an enlargement of a single family home to vary sections ZR 23-141(a) for open space ratio & floor area, ZR 23-461 for minimum side yard requirement. The premise is located in a R-2 zoning district.

PREMISES AFFECTED – 2905 Avenue M, northside of Avenue M, 25' easterly of intersection of Avenue M and 29th Street, Block 7647, Lot 8, Borough of Brooklyn.

COMMUNITY BOARD #14BK

72-05-BZ

APPLICANT – Harold Weinberg, P.E., for Cong. Shomlou by Rabbi Marton Ehrenreich, owner.

SUBJECT – Application March 23, 2005 - under Z.R.§72-21 to permit the proposed erection of a synagogue and yeshiva, with accessory residences, Use Groups 2 and 4, located in an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, rear yard and open space ratio, is contrary to Z.R. §§24-11, 23-142, 24-36 and 24-12.

PREMISES AFFECTED - 245 Hooper Street, north side, 205' east of Marcy Avenue, between Marcy and Harrison Avenues, Block 2201, Lot 61, Borough of Brooklyn.

COMMUNITY BOARD #1BK

81-05-BZ

APPLICANT – Bryan Cave LLP (Margery Perlmutter, Esq.) for the Lyon Group, LLC, owner.

SUBJECT – Application April 5, 2005 - under Z.R.§72-21 to construct a 7-story plus mezzanine residential building containing 39 dwelling units and 10 accessory parking spaces in an R6 district, contrary to ZR§§23-145, 23-632, 23-633, 25-23.

PREMISES AFFECTED -1061/71 52nd Street, north side, 229' east of Fort Hamilton Parkway, Block 5653, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #12BK

122-05-BZ

APPLICANT - Bryan Cave, LLP (Margery Perlmutter, Esq.), for Clinton Court Development, LLC, Owner.

SUBJECT - Application filed on May 20, 2005 under ZR§73-52 (Modification for Zoning Lots Divided by

District Boundaries) to facilitate the development of a 13-story residential building containing 30 dwelling units, community facility space, and 41 accessory parking spaces; zoning lot located in an R6 and M1-1 district.

PREMISES AFFECTED - 525 Clinton Avenue, east side, 205.83= south of Fulton Street and 230.83= north of Atlantic Avenue, Block 2011, Lot 12, Borough of Brooklyn.

COMMUNITY BOARD #2BK

127-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Church Avenue Realty, Inc., owner; Popeyes Chicken and Biscuits, lessee.

SUBJECT – Application May 24, 2005 - under Z.R.§73-243 to permit approval for a special permit to legalize an existing accessory drive through window for an eating and drinking establishment. The site is located in a C1-3/R5 zoning district.

PREMISES AFFECTED – 9216 Church Avenue, aka 9220 Church Avenue, southwest corner of the intersection between Church Avenue, East 93rd Street, and Linden Boulevard, Block 4713, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #17BK

130-05-BZ

APPLICANT – Elise Wagner, Esq., Kramer Levin, for Hudson Island, LLC, owner.

SUBJECT – Application May 25, 2005 - under Z.R.§72-21 to permit the development of a mixed-use, nine-story building with ground level retail, and a small amount of community facility space, and approximately 25 residential units on the upper floors within an M1-5B zoning district.

PREMISES AFFECTED – 74-88 Avenue of the Americas, aka 11-15 Thompson Street and 27-31 Grand Street, east side of Avenue of the Americas, between Grand and Canal Streets, Block 227, Lots 50, 52 and 56, Borough of Manhattan.

COMMUNITY BOARD #2M

185-05-BZ

APPLICANT – Manatt, Phelps & Phillips, LLP (Carol E. Rosenthal, Esq.) for 62-02 Roosevelt Avenue Corporation, owner.

SUBJECT – Application August 5, 2005 - under Z.R.§72-21 to allow a dance floor (Use Group 12) to be constructed in an existing eating and drinking establishment located in an R6/C1-2 zoning district, which is contrary to ZR§32-15.

PREMISES AFFECTED - 62-02 Roosevelt Avenue, South side of Roosevelt Ave. 101ft from the corner formed by the intersection of the LIRR tracks with Roosevelt Ave. and 192' 59" from the corner formed by the intersection of Roosevelt Ave. & 63rd Street, Block 1294, Lot 58, Borough of Queens

CALENDAR

COMMUNITY BOARD #2Q

207-05-BZ

APPLICANT – Eric Palatnik, P.C., for Aaron and Lisa Heskins, owner.

SUBJECT – Application September 19, 2005 - under Z.R.§73-622 to legalize the existing enlargement to a single family, semi-detached home which seeks to vary ZR section 23-141 for floor area and lot coverage and ZR section 23-461 for side yard and ZR section 23-47 for less than the minimum rear yard. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 407 Allen Avenue, between Knapp and Plumb 1st Streets, Block 8830, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #5BK

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, SEPTEMBER 20, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar,
Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, July 12, 2005, were approved as printed in the Bulletin of July 21, 2005, Volume 90, Nos. 28 & 29.

SPECIAL ORDER CALENDAR

163-63-BZ

APPLICANT - Steve Sinacori / Stadtmauer Bailkin, LLP, for 116 Central Park South Condominium, owner.

SUBJECT - Application August 11, 2005 - Extension of Term/Waiver of a variance for the continued use of transient parking of unused spaces located in the garage of a multiple dwelling. The premise is located in a R-10/C5-1 zoning district.

PREMISES AFFECTED - 125/131 West 58th Street, south side of Central Park South and north side of West 58th Street, between 6th and 7th Avenue, Block 1011, Lot 7503, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Steve Sinacori.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening and an extension of the term of the waiver; and

WHEREAS, a public hearing was held on this application on September 20, 2005, after due notice by publication in *The City Record*, on which date the matter was closed and decided; and

WHEREAS, Community Board No. 5, Manhattan, recommends approval of this application; and

WHEREAS, the premises is situated on the south side of Central Park South and the north side of West 58th Street, between Sixth and Seventh Avenues, and is within R10 and C5-1 zoning districts; and

WHEREAS, the site is improved upon with an 11-story plus penthouse multiple dwelling, with a two-level parking garage with a total of 58 parking spaces; and

WHEREAS, on May 14, 1963, the Board granted an application permitting the transient use of unused and surplus

tenant parking spaces in the accessory garage of the subject multiple dwelling, for a term of 20 years; and

WHEREAS, at various times since the date of the original grant, the Board has extended the term of this grant; and

WHEREAS, the most recent term of the grant expired on May 14, 2004; and

WHEREAS, the applicant now seeks to extend the term of the grant for another ten years; and

WHEREAS, the Board has reviewed the subject application and finds that the requested extension of term is appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens and amends* the resolution, adopted on May 14, 1963, so that as amended this portion of the resolution shall read: "to extend the term for ten years from May 14, 2004; *on condition* that all work and site conditions shall substantially conform to drawings filed with this application marked 'August 11, 2005'-(2) sheets; and *on further condition*;

THAT the term of this grant shall be for ten years, to expire on May 14, 2014;

THAT the tenants of the multiple dwelling may recapture any of the spaces devoted to transient parking upon 30 days notice to the owner;

THAT a sign setting forth the tenants' recapture rights shall be located in a visible location within the garage;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT all parking layouts and exits shall be as approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted."

(DOB Application No. 104043295)

Adopted by the Board of Standards and Appeals, September 20, 2005.

990-77-BZ

APPLICANT - Greenberg Traurig, LLP, for 260 Broadway Condo, Assoc., owner.

SUBJECT - Application May 6, 2005 - reopening for an amendment to an existing variance within the Special Tribeca Mixed Use District that allowed in an M1-5 district, floors 3 through 11 of the Building to be converted to residential use. The amendment seeks to allow a portion of the first floor to be converted to residential use and to legalize the conversion of the entire second floor to residential use.

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PREMISES AFFECTED – 260 Broadway, property bounded West Broadway, Beach Street and St. John’s Lane, Block 212, Lots 1001-1058 (7501), Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES – None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a reopening and an amendment to a previous variance; and

WHEREAS, a public hearing was held on this application on August 23, 2005 after due notice by publication in the *City Record*, and then to decision on September 20, 2005; and

WHEREAS, Community Board 1, Manhattan, recommends approval of this application; and

WHEREAS, on July 18, 1978, the Board adopted a resolution under the subject calendar number, authorizing, within an M1-5 zoning district within the Lower Manhattan Mixed Use District, the conversion of the third through eleventh floors of an existing eleven-story building from commercial use to loft dwelling and joint living work quarters; and

WHEREAS, the current application seeks approval to convert a portion of the first floor to residential space and legalize the entire second floor to permit residential use; and

WHEREAS, the proposal contemplates the following changes from the prior BSA resolution: an increase in residential floor area from 101,560 s.f. to 113,630 s.f.; an increase in residential floor area ratio (“FAR”) from 7.84 to 8.77; a decrease in commercial floor area from 21,090 s.f. to 9,020 s.f.; a decrease in commercial FAR from 1.63 to 0.70; and an increase in the number of residential dwelling units from 50 to 51; and

WHEREAS, the portion of the first floor to be converted has a floor area of 2,680 s.f., and the second floor has a floor area of 8,150 s.f. (total of 10,830 s.f.); and

WHEREAS, the applicant represents that the proposed new residential space on the first floor was formerly used by a series of restaurants and catering establishments, and has been mostly vacant since 1996; and

WHEREAS, the applicant states that the portion of the first floor that is the subject of this application is not conducive to commercial use because it is accessed through a small interior vestibule which is adjacent to the main residential vestibule, and is concealed behind a gated enclosure; and

WHEREAS, in addition, the applicant represents that the second floor is not conducive to commercial use because it can only be accessed through a residential lobby with shared elevators; and

WHEREAS, the applicant further represents that the second floor has already been converted into lower portions of residential duplex apartments; and

WHEREAS, the applicant has submitted a feasibility study that reflects that commercial use of the portion of the first floor and the entire second floor has not and will not yield the

owners a reasonable rate of return, and therefore can not provide the minimum variance to which the applicant was entitled based upon the original grant; and

WHEREAS, based upon the above, the Board has determined that the evidence in record supports the grant of the requested amendment, with conditions as reflected below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, said resolution having been adopted on July 18, 1978, so that as amended this portion of the resolution shall read: “to permit the conversion of 2,680 s.f. of the first floor and the entire second floor from commercial use to residential use; *on condition* that all work shall substantially conform to drawings as filed with this application, marked ‘Received September 19, 2005’- 3 sheets; and *on further condition*:

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.”

(DOB Application No. 103824499)

Adopted by the Board of Standards and Appeals, September 20, 2005.

272-03-BZ

APPLICANT - Rampulla Associates Architects, for 4102 Hylan Realty, LLC, owner.

SUBJECT - Application June 28, 2005 - Reopening for an amendment to a variance to modify the design of the building and to add a bank teller drive through window. The premise is located in an R3-1 SRD zoning district.

PREMISES AFFECTED - 4106 Hylan Boulevard, south side of Hylan Boulevard and Goodall Street, Block 5307, Lot 6, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Phil Rampulla.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to October 18, 2005, at 10 A.M., for decision, hearing closed.

391-04-BZ

Moshe M. Friedman, for Meilech Fastag, owner.

Application August 2, 2005 - Reopening for an amendment to a Special Permit, ZR 73-622, the proposed plans are contrary to the previously approved BSA plans in that the proposed alteration for the first floor extends further into the rear yard exceeding the previous 20'-0" grant, the second floor and attic will remain as existing. The premise is located

MINUTES

100' from a corner, as per ZR 23-541 no rear yard is required. The premise is located in an R-2 zoning district. 2610 Avenue L, south side of Avenue L 60' east of intersection of Avenue L and East 26th Street, Block 7644, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Moshe Friedman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to September 27, 2005, at 10 A.M., for decision, hearing closed.

166-05-BZY

APPLICANT – Greenberg & Traurig, LLP for Quetin Condos II, LLC, owner.

SUBJECT – Application July 25, 2005 - Proposed extension of time to complete construction pursuant to Z.R. 11-331 for a 5 story building with commercial, community facility and 12 residential units uses under the prior Zoning R6/C1-3. New Zoning District is R5B/C2-3 as June 23, 2005.

PREMISES AFFECTED – 1669-1671 West 10th Street, Brooklyn, east side of West 10th Street , 100' north of intersection of West 10th Street & Quentin Road, Block 6622, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD # 11BK

APPEARANCES –

For Applicant: Deidre A. Carson.

For Opposition: Howard Feuer, Lorraine Lapetina and Assemblyman William Colton.

For Administration: John Yacovone, Fire Department.

ACTION OF THE BOARD - Laid over to October 18, 2005, at 10 A.M., for continued hearing.

167-05-BZY

APPLICANT – Greenberg & Traurig, LLP for Quetin Condos II, LLC, owner.

SUBJECT – Application July 25, 2005 - Proposed extension of time to complete construction of a minor development pursuant to Z.R. 11-331 for a 7 story building containing commercial ,community facility & 20 residential units use with 10 parking spaces at cellar level under the prior Zoning R6/C1-3. New Zoning District is R7A/C2-3 as of June 23, 2005.

PREMISES AFFECTED – 103 Quentin Road, Brooklyn, north side of Quentin Road, 20' east of intersection of Quentin road & West 10th Street, Block 6622 , Lot 45, Borough of Brooklyn.

COMMUNITY BOARD # 11BK

APPEARANCES –

For Applicant: Deirdre Carson.

For Opposition: Assemblyman William Colton and Howard Feuer.

ACTION OF THE BOARD - Laid over to October 18, 2005, at 10 A.M., for continued hearing.

168-05-BZY

APPLICANT – Sheldon Lobel, Esq., for 6422 Holding Corp., owner.

SUBJECT – Application July 26, 2005 - Proposed extension of time to complete construction of a minor development pursuant to Z.R.11-331 for a 6 story-mezzanine building with commercial, community facility and 8 residential units uses under the prior Zoning R6/C1-1. New Zoning District is R6A/C2-3 as of June 23, 2005.

PREMISES AFFECTED – 6422 Bay Parkway, Brooklyn, northwest side of Bay Parkway between 65th & 64 th Streets, Block 5550, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD # 11BK

APPEARANCES –

For Applicant: Jordan Most and Chris Andreani.

For Opposition: LorraineLapetina of Quality of Life, Howard Feuer and Assemblyman William Colton.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to October 18, 2005, at 10 A.M., for decision, hearing closed.

169-05-BZY

APPLICANT – Sheldon Lobel , Esq., for PGLL, LLC., owner.

SUBJECT – Application July 26, 2005 - Proposed extension of time to complete construction of a minor development pursuant to Z.R. 11-331 for a 5 Story building with 20 units and 23 cellar parking under the prior Zoning R6 . New Zoning District is R4-1 as of June 23, 2005.

PREMISES AFFECTED – 6210-6218 24th Avenue, Brooklyn, north side of 24th Avenue between 62th & 63 th Streets, Block 6557, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD # 11BK

APPEARANCES –

For Applicant: Jordan Most.

For Opposition: Assemblyman William Colton, Lorraine Lapetina of Quality of Life, Howard Feuer and Donna Coni.

ACTION OF THE BOARD - Laid over to October 18, 2005, at 10 A.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 11:00 A.M.

REGULAR MEETING

**TUESDAY AFTERNOON, SEPTEMBER 20, 2005
1:30 P.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.

MINUTES

ZONING CALENDAR

272-04-BZ

CEQR #05-BSA-023Q

APPLICANT - Sullivan Chester & Gardner, for Chickie, LLC, owner.

SUBJECT - Application August 5, 2004 – under Z.R. §72-21 to permit the construction of a four-story multiple dwelling with 16 dwelling units. There are proposed 14 parking spaces. The proposed development is non-compliant to FAR, open space, density and yard requirements.

PREMISES AFFECTED - 14-38/40 31st Drive, East side, between 14th and 21st Streets, Block 531, Lots 50 and 51, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Jeffrey Chester.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner dated July 15, 2004, acting on Department of Buildings Application No. 401688214, reads, in pertinent part:

- “2. Floor area ratio (FAR) exceeds that permitted by Section 23-141 ZR . . .
4. Density (rooms or dwelling units) contrary to Section 23-22 ZR . . .
5. Proposed yard (side, front) is contrary to 23-45a, 23-461a,b, 23-462 . . .”; and

WHEREAS, a public hearing was held on this application on April 19, 2005 after due publication in *The City Record*, with continued hearings on June 7, 2005, July 19, 2005, August 23, 2005, and then to decision on September 20, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Miele; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, on a lot within an R5 zoning district, the construction of a four-story residential apartment building, with 15,005 sq. ft. of floor area (2.0 FAR), 16 dwelling units, and non-complying side yards, contrary to Z.R. §§ 23-141, 23-22, 23-45(a), 23-461(a) & (b) and 23-462; and

WHEREAS, in a prior version of this application, the applicant proposed a five-story, 50 ft. high, 20-unit building, with 18,028 sq. ft. of floor area, which needed open space, height, setback and parking waivers as well as FAR and yard waivers; this version was rejected by the community as excessive and the proposal was modified to the current

version; and

WHEREAS, both the Queens Borough President and Community Board No. 1, Queens recommend disapproval of this application; and

WHEREAS, Councilmembers Vallone and Avella also made submissions in opposition to this application; and

WHEREAS, in addition, various individual neighbors opposed the application; and

WHEREAS, the subject premises consists of two adjoining tax lots (Lot Nos. 50 and 51), with a total lot area of 7,525 sq. ft.; the site is situated on the south side of 31st Drive between 14th and 21st Streets; and

WHEREAS, each tax lot is developed with a two-family residential building: Lot 50 is developed with a two-story 2,182 sq. ft. structure with a three ft. side yard and one off-street accessory parking space, and Lot 51 is developed with a two-story 2,636 sq. ft. structure with no side yards and one accessory parking space in the rear of the lot; and

WHEREAS, the applicant proposes to demolish the existing buildings and replace them with the proposed building; and

WHEREAS, the proposed building is a four-story multiple dwelling, with a non-complying total FAR of 2.0 (15,005 sq. ft. of floor area), a non-complying number of dwelling units (16), a non-complying front yard of 3 ft., and one non-complying side yard of 3 ft.; and

WHEREAS, 14 off-street accessory parking spaces are also proposed; and

WHEREAS, the Board also notes that the applicant initially represented that the site was within a Predominantly Built-up Area (“PBA”) and that, consequently, the as of right FAR was 1.65; however, this representation was erroneous, as the site is not within a PBA; the as of right FAR is actually 1.25; and

WHEREAS, when it was ascertained that the site was not within a PBA, the applicant nevertheless continued to propose a 2.0 FAR building, with the same amount of units; and

WHEREAS, the applicant initially alleged that the following was a unique physical condition that leads to practical difficulties and unnecessary hardship in developing the subject lot in strict compliance with underlying district regulations: the existing structures are functionally obsolete, given that the internal configurations do not conform to “modern layout and design”; and

WHEREAS, in support of this allegation, the applicant submitted appraisal reports of both structures, which noted that modern layout and design practice place the private living areas (bedrooms and bathrooms) separate from the social living areas (kitchen and living rooms); and

WHEREAS, the applicant concluded that the structures were obsolete because the existing structures did not provide such a modern layout, but instead provided access to the private bathroom area only through the living room, dining room and kitchen; and

WHEREAS, the Board does not find this argument convincing: no showing has been made by the applicant that the structures may not be used for their intended purpose; and

WHEREAS, the Board observes that a residential

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building may still constitute a viable and livable residence even if it does not possess the optimum interior layout; and

WHEREAS, based upon the Board's review of the submitted existing condition plans and its own site inspection, it is apparent that the structures at hand, while old and perhaps smaller than average, may be suitably used for residential purposes; and

WHEREAS, the applicant also suggests that the structures are uniquely deficient because they have not been upgraded since constructed, and because they have suffered structural damage due to an alleged history of flooding in the basement; and

WHEREAS, the Board does not find this argument convincing either: under most circumstances, a failure to maintain or upgrade a structure, or to address any repairable damage thereto, does not constitute a unique physical condition sufficient to sustain any type of variance; and

WHEREAS, the Board also observes that the submitted appraisal reports of the buildings states that they are in "fair" and "average" condition; and

WHEREAS, finally, the Board notes that the structures may not properly be considered a hardship given that they are proposed to be demolished; and

WHEREAS, Z.R. § 72-21(a) provides that the alleged unique physical conditions must result in practical difficulties or unnecessary hardship in strictly complying with applicable zoning provisions; and

WHEREAS, here, once the buildings are demolished at minimal cost, the applicant is left with a regular site that does not appear to be constrained in any respect; and

WHEREAS, thus, the applicant has not provided sufficient evidence as to the nexus between the alleged physical condition of obsolescence and actual and verifiable financial hardship related to complying residential development, as no premium development costs arise from the condition sufficient to warrant the requested bulk waivers; and

WHEREAS, at hearing, the Board explained the above to the applicant; and

WHEREAS, in response, the applicant modified the application, and claimed a new basis for unique physical conditions and resulting hardship; and

WHEREAS, specifically, the applicant now claims that the site is afflicted with a combination of a high water table depth and poor soil conditions that compromises as of right development; and

WHEREAS, in support of this claim, the applicant submitted boring tests that purported to show that the soil on the site is in the worst soil classification for construction, and that the water table is at a depth of seven ft.; and

WHEREAS, the applicant also submitted a table of the soil classifications and water table depths of seven other residentially developed sites within a 400 ft. radius of the subject site; the table shows that none of these other sites suffer from both poor soil conditions and a high water table depth to the degree that the subject site does; and

WHEREAS, the applicant cites to this table as proof of the uniqueness of the alleged conditions on the site; and

WHEREAS, the applicant claims that any proposed

residential development will now have to be constructed using a piles foundation system; and

WHEREAS, the applicant submitted a letter from an engineering consultant, which states that because of the need to construct the proposed building on piles, an extra \$150,000 to \$200,000 in construction costs would be incurred; and

WHEREAS, the applicant then adjusted its financial report to reflect the alleged extraordinary foundation construction costs of \$200,000; and

WHEREAS, however, the possibility that the site may uniquely suffer from a combination of soil conditions and water table depth was disputed by the testimony of neighbors, who alleged that most of the properties in the area have comparable problems; and

WHEREAS, the Board notes that uniqueness is not established merely by showing that a site is different from only seven other sites within a 400 ft. radius, where such radius includes approximately 60 residentially developed sites; and

WHEREAS, moreover, even assuming again that these alleged physical conditions are unique, the Board finds that the claimed hardship costs do not rise to the level of unnecessary hardship or practical difficulties sufficient to support the requested FAR waiver; and

WHEREAS, the Board observes that total development costs are, by the applicant's own admission, over 2.1 million dollars; and

WHEREAS, the Board does not agree that an additional one-time cost of \$150,000 to \$200,000 in light of this total development cost is so significant that unnecessary hardship or practical difficulties arise; and

WHEREAS, the Board observes that the applicant is asking for an additional 6,144 sq. ft. of floor area over the 9,406 sq. ft. that is permitted, which represents a 65 percent increase in rentable floor area (from 1.25 FAR to 2.0 FAR); and

WHEREAS, the applicant claims that the FAR waiver will allow 13,505 sq. ft. of rentable floor area, which can be leased at \$26.00 per sq. ft.; and

WHEREAS, without the waiver, the applicant claims that 8,466 sq. ft. of rentable floor area could be developed, leasable at the same rate of \$26.00 per sq. ft.; and

WHEREAS, for a one year period, the difference in income between the proposal and as of right development is approximately \$130,000 (or approximately \$101,000 when expenses are considered); and

WHEREAS, therefore, the claimed financial hardship costs would be reclaimed in about two years; and

WHEREAS, the Board observes that any newly constructed building would have a life expectancy of 30 to 40 years; thus, the actual return arising from the amount of floor area requested over what is permitted is significantly disproportionate to the alleged hardship costs; and

WHEREAS, the Board concludes that the extreme amount of floor area waiver proposed by the applicant is not justified by the alleged premium foundation construction costs; and

WHEREAS, accordingly, the Board finds that even if the water table and soil problems are assumed to be unique

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physical conditions, no showing has been made that such problems lead to unnecessary hardship or practical difficulties; and

WHEREAS, for the reasons set forth above, the Board finds that the applicant has failed to meet the finding set forth at Z.R. § 72-21(a); and

WHEREAS, because the finding set forth at Z.R. § 72-21(a) has not been met, it follows that the finding at Z.R. § 72-21 (b) can not be met; and

WHEREAS, even assuming *arguendo* that the soil and water table conditions, and the existing structures, should be considered unique and unnecessary hardships such that the finding set forth at Z.R. § 72-21(a) is met, the applicant has failed to submit credible financial data – specifically, the proffered site valuation – in support of its claim that complying residential development on the site will not realize a reasonable return; and

WHEREAS, the Board observes that the applicant has valued the site at \$890,000; and

WHEREAS, the Board questions this valuation, and observes that of the five vacant land comparables provided by the applicant upon which the valuation is based, the price per sq. ft. averages \$72 for the two sites that are larger than the subject site and the one site that is closest in size to the subject site; and

WHEREAS, the Board notes that these three comparables are the most like the subject site, in that the lot size would support a comparably sized multiple dwelling; the other two comparables, which skew the site valuation, are not analogous to the subject site in that they are significantly smaller and thus reflect a higher unit pricing but lesser development potential; and

WHEREAS, utilizing the three site comparables most like the subject site, the Board concludes that the value of the site can reasonably be estimated at \$725,000, as opposed to the \$890,000 set forth in the applicant's financial report; and

WHEREAS, using this lower site valuation but maintaining all of the other financial assumptions made by an applicant, including the alleged hardship costs, the Board finds that an as of right development, without any additional floor area, would result in an overall rate of return of 7.5 percent; and

WHEREAS, the Board concludes that this is a reasonable rate of return; and

WHEREAS, in sum, the Board finds that the applicant has not shown that any costs associated with the alleged unique features of the site would prevent feasible complying development; and

WHEREAS, for the reasons set forth above, the Board finds that the applicant has failed to meet the finding set forth at Z.R. § 72-21(b); and

WHEREAS, since the application has failed to meet the findings set forth at Z.R. § 72-21 (a) and (b), it must be denied; and

WHEREAS, because the Board finds that the application fails to meet the findings set forth at Z.R. § 72-21(a) and (b), which are the threshold findings that must be met for a grant of a variance, the Board declines to address the remaining findings.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated July 15, 2004, acting on Department of Buildings Application No. 401688214, is sustained and the subject application is hereby denied.

Adopted by the Board of Standards and Appeals, September 20, 2005.

362-04-BZ

APPLICANT – The Agusta Group for South Long Island Realty Management, Owner.

SUBJECT – Application November 18, 2004 – under Z.R. §72-21 – To permit the proposed conversion of a vacant three story building, into commercial use, is contrary to Z.R. §32-421, which limits commercial development to only two stories in R6/C2-4 zoning district.

PREMISES AFFECTED – 25-84 31st Street, west side, 339' north of Newtown Avenue, Block 598, Lot 60, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES – None.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4
Negative:.....0

Adopted by the Board of Standards and Appeals, September 20, 2005.

388-04-BZ

CEQR #05-BSA-071Q

APPLICANT – H. Irving Sigman, for D.R.D. Development Inc., owner.

SUBJECT – Application December 13, 2004 – under Z.R. §72-21 - to permit the proposed construction of a one story and cellar commercial building, comprising of four stores, and accessory parking, Use Group 6, located in an R2 and C8-1 zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED – 133-16 Springfield Boulevard, west side, 114.44' north of Merrick Boulevard and 277' south of Lucas Street, Block 12723, Lot 9, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: H. Irving Sigman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4
Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated November 12, 2004, acting on Department of Buildings Application No. 401867119, reads, in pertinent part:

- “1. The use of the proposed building for retail stores (U.G. 6) with accessory parking in the R2

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portion of the lot is contrary to Section 22-00 of the Zoning Resolution.”; and

WHEREAS, a public hearing was held on this application on July 12, 2005 after due notice by publication in the *City Record*, with a continued hearing on August 23, 2005, and then to decision on September 20, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioners Miele and Chin; and

WHEREAS, Community Board 12, Queens, and the Queens Borough President recommend approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit, within a split R2 and C8-1 zoning district, the proposed construction of a one-story and cellar commercial building with accessory parking, which does not comply with the use restrictions on the R2 portion of the zoning lot, contrary to Z.R. § 22-00; and

WHEREAS, the premises is located on Springfield Boulevard north of Merrick Blvd, and has approximately 232'-0" of frontage on Springfield Blvd, with a range in depth from approximately 80'-0" on the north side of the premises to 45'-0" on the south side; and

WHEREAS, the lot has a total area of 14,113 s.f.; 12,796 s.f. is located in the R2 zoning district and 1,316 s.f. is located in the C8-1 zoning district; and

WHEREAS, the subject lot and the adjoining lot were recently sub-divided from the former Lot 1; the adjoining lot (designated Lot 1) is developed with a one-story plus cellar retail building; and

WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to construct a one-story building with 6,655 s.f. of floor area and 19 accessory parking spaces; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: (1) it is trapezoidal in shape and shallow; (2) it is located next to a major commercial artery; and (3) the lot is split by zoning district boundaries; and

WHEREAS, the applicant represents that at its shallowest point, the site is 45'-0" in length; if the site were to comply with the rear yard requirement of 30'-0" and front yard requirement of 15'-0", there would be insufficient lot depth at certain portions of the site to develop a viable residential building; and

WHEREAS, the applicant represents that the creation of a conforming development, such as three single-family homes, would lead to a site that is significantly underdeveloped as a result of compliance with yard, height and setback regulations; and

WHEREAS, the applicant also states that if the development complied with all yard, height and setback requirements, the resulting development would be undesirable to buyers because of the awkward layout of the residences on the site; and

WHEREAS, the applicant notes that Springfield Boulevard and Merrick Boulevard are both heavily-trafficked retail corridors; and

WHEREAS, the applicant further represents that a conforming development would have reduced marketability because of the commercial location of the surrounding area; and

WHEREAS, accordingly, the Board finds that the unique conditions mentioned above create practical difficulties and unnecessary hardship in developing the site in strict conformance with the applicable zoning regulations; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed an as-of-right complying residential scenario of three one-family dwellings, and a lesser non-complying residential scenario of three two-family dwellings, and concluded that neither would result in a reasonable rate of return; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict compliance with the provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant states that the proposed building's use and envelope will not negatively affect the character of the neighborhood nor impact adjacent uses; and

WHEREAS, the site is partially located within a C8 zoning district that extends along Springfield Blvd. and Merrick Blvd, and is developed with commercial uses; and

WHEREAS, the Board recognizes the commercial nature of the area; and

WHEREAS, directly north of the site is a school that maintains a 50'-0" separation from the subject lot; and

WHEREAS, to the west of the site are two-story residential dwellings; the applicant represents that there will be a minimum of 57'-0" between the proposed building and the residential dwellings; and

WHEREAS, the applicant will maintain a 5'-0" yard along the western side of the property, next to the residential dwellings; and

WHEREAS, the applicant proposes to install a 6'-0" high cyclone fence with 100% opaque perma-hedge infill along the side and rear lot lines; and

WHEREAS, the applicant represents it will have a 6'-0" by 13'-6" refuse area within the enclosure of the building, accessible through the parking lot, with pick-up three times a week between the hours of 9AM and 9PM; and

WHEREAS, the applicant represents that all store hours of operation will be 7AM to 1AM, and all deliveries will be made from Springfield Blvd between the hours of 8AM and 9PM; and

WHEREAS, the applicant states that the gate to the parking lot will be closed and locked after the business hours of the stores; and

WHEREAS, the applicant further represents that all exterior lighting will be directed away from residential windows; and

WHEREAS, the Board expressed concerns related to the parking layout proposed by the applicant, including whether the site could accommodate the number of proposed spaces, and

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whether such layout led to adequate on-site circulation; and

WHEREAS, in response, the applicant moved the proposed building further south and created two parking lots on-site; the Board finds that this layout is more efficient than the initial proposal; and

WHEREAS, in response to the Board's questions regarding consolidating parking on one side of the site, the applicant explained that the entire building could not be shifted even further to the southern portion of the site because the applicant would lose valuable retail space necessary to achieve the appropriate minimum variance; and

WHEREAS, the applicant also conducted a parking survey during business hours and determined that there is adequate off-street parking because there are 34 on-street parking spaces within a 400'-0" radius of the site, and most of the nearby commercial uses have their own parking lots, many of which are under-utilized; and

WHEREAS, the applicant represents that in a C1-2 zoning district, the applicant would be required to provide 22 parking spaces based upon the floor area of the proposed building; therefore, the proposed parking is deficient by only three spaces; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board notes that the recent sub-division does not affect the uniqueness of the lot or the other findings made by the Board herein because the irregular trapezoidal shape constrained the lot both prior to and after the sub-division; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that the current proposal is the minimum necessary to afford the owner relief; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the project is classified as a Unlisted Action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05-BSA-071 Q, dated December 13, 2004; 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; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts and Public Health; 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, with conditions as stipulated below, 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 the required findings under Z.R. § 72-21, to permit, within a split R2 and C8-1 zoning district, the proposed construction of a one-story and cellar commercial building with accessory parking, which does not comply with the use restrictions on the R2 portion of the zoning lot, contrary to Z.R. § 22-00; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 5, 2005"-(3) sheets; and *on further condition*:

THAT there shall be a 6'-0" by 13'-6" refuse area within the enclosure of the building, accessible through the parking lot, with pick-up three times a week between the hours of 9AM and 9PM;

THAT the retail hours of operation shall be no earlier than 7AM and no later than 1AM, and all deliveries will be made from Springfield Blvd. between the hours of 8AM and 9PM;

THAT the gates to the parking lots will be closed and locked after business hours;

THAT all exterior lighting will be directed away from residential windows;

THAT the above-stated conditions shall be listed on the Certificate of Occupancy;

THAT the applicant shall install a 6'-0" high fence with 100% opaque perma-hedge infill along the side and rear lot lines as indicated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 20, 2005.

46-05-BZ
CEQR #05-BSA-101K

APPLICANT – Boris Saks, Esq., for 1795 Coney Island, LLC, owner; Women's Kosher Gym of Brooklyn, Inc., lessee.

SUBJECT – Application February 28, 2005 – under Z.R. §73-36 –To permit the proposed physical culture establishment, located in a C8-2 zoning district.

PREMISES AFFECTED – 1797 Coney Island Avenue,

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eastside, 305' north of Avenue "O", Block 6749, Lot 69, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Boris Saks.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 3, 2005, acting on Department of Buildings Application No. 301567588, reads:

“Proposed use as a physical culture establishment is contrary to Zoning Resolution Section 32-31. Must obtain a Special Permit from Board of Standards and Appeals pursuant to Section 32-31.”; and

WHEREAS, a public hearing was held on this application on August 16, 2005, after due notice by publication in *The City Record*, and then to decision on September 20, 2005; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, the New York City Fire Department has stated that it has no objection to this application; and

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit, within a C8-2 zoning district, the proposed physical culture establishment (“PCE”) located in a three-story plus cellar building, contrary to Z.R. § 32-00; and

WHEREAS, the subject site is located on the east side of Coney Island Avenue, north of Avenue O, and has a lot area of 5,000 s.f.; and

WHEREAS, the subject lot was recently sub-divided from former Lot 69, a parcel that consisted of 8,000 s.f. of lot area; and

WHEREAS, the subject PCE will occupy 9,555 sq. ft. of floor area with 3,494 s.f. on each of the second and third floors and 2,806 s.f. on the first floor; and

WHEREAS, the applicant represents that the PCE will be open to women only, and will provide weight machines and free weights along with classes in yoga, pilates, cardio dance, and aerobics; and

WHEREAS, the applicant states that an automatic wet sprinkler system will be installed throughout the cellar, and an individually coded fire alarm system will be installed throughout the premises; and

WHEREAS, the PCE will have the following hours of operation: 6AM to 10:30PM Sunday through Thursday, 6 AM to 1PM Friday and two hours after sunset to 12 AM on Saturday; 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 proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to Z.R. §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; 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 February 28, 2005 ; 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; 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, 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 Z.R. §§ 73-36 and 73-03, to permit, within a C8-2 zoning district, the proposed physical culture establishment located in a three-story plus cellar building, contrary to Z.R. §32-00; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked “Received August 3, 2005”- (5) sheets and “September 1, 2005”-(1) sheet and *on further condition*:

THAT this grant shall be limited to a term of ten years from September 20, 2005, expiring September 20, 2015;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT the hours of operation shall be limited to 6AM to 10:30PM Sunday through Thursday, 6 AM to 1PM Friday and two hours after sunset to 12 AM on Saturday;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT Local Law 58/87 compliance shall be as

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reviewed and approved by DOB;

THAT fire safety measures, including a sprinkler system, shall be as installed and maintained on the Board-approved plans;

THAT an interior fire alarm system shall be provided as set forth on the BSA-approved plans and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all of applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 20, 2005.

78-05-BZ

CEQR #05-BSA-114Q

APPLICANT – Sheldon Lobel, P.C., for Young Israel of New York Hyde Park, owner.

SUBJECT – Application March 31, 2005 – under Z.R. §72-21 – proposed expansion of an existing one story synagogue building, located in an R2 zoning district, which does not comply with the zoning requirements for lot coverage, also front and side yards, is contrary to Z.R. §24-11, §24-24 and §24-35.

PREMISES AFFECTED – 264-15 77th Avenue, southwest corner of 256th Street, Block 8538, Lots 29 and 31, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 1, 2005, acting on Department of Buildings Application No. 402086372, reads:

“Proposed addition is contrary to ZR 24-111, ZR 24-34 and ZR 24-35 and must be referred to the Board of Standards and Appeals.”; and

WHEREAS, a public hearing was held on this application on August 9, 2005 after due notice by publication in *The City Record* and then to closure and decision on September 20, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, both Community Board 13, Queens and the

Queens Borough President recommend approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit, within an R2 zoning district, the proposed enlargement of an existing one-story synagogue, which does not comply with applicable lot coverage ratio and front and side yard requirements, contrary to Z.R. §§24-111, 24-34 and 24-35; and

WHEREAS, this application is brought on behalf of Young Israel of New Hyde Park, a not-for-profit entity (hereinafter, the “Synagogue.”); and

WHEREAS, the site is a rectangular shaped corner lot located at the southwestern corner of 265th Street and 77th Avenue, has a total lot area of 14,000 sq. ft., and is comprised of two individual tax lots (Lots 29 and 31); and

WHEREAS, the subject site is currently improved upon with a 5,490 sq. ft. one-story building occupied by the Synagogue and a 1,420 sq. ft. one-and-one-half-story residence occupied by the rabbi; and

WHEREAS, the applicant states that the Synagogue has a congregation of approximately 140 individuals, and that there is a need for a mikveh (a religious bath), with waiting, changing and rest rooms; and

WHEREAS, in order to accommodate the mikveh, the applicant proposes to enlarge the Synagogue building by 1,148 sq. ft. in a one-story addition fronting on 77th Avenue; and

WHEREAS, construction of the enlargement as currently proposed will result in the following non-compliances: a front yard of 5.6 ft. (15 ft. is the minimum required); one non-complying side yard of 8 inches (a 15 ft. side yard is required); and a lot coverage ratio of 65% (60% is the maximum); and

WHEREAS, the floor area of the proposed building will comply with applicable requirements; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the existing building has insufficient space to accommodate the current congregation and its needed mikveh, and the proposed building, which contemplates a floor area below the floor area permitted by the zoning resolution, could not be built in compliance with the existing side yard, front yard, and lot coverage requirements while still fulfilling the basic programmatic needs of the Synagogue; and

WHEREAS, the applicant states that the mikveh is an important part of customary practice for religious Jews, and that currently the members of the Synagogue must visit other synagogues further from their homes in order to use a mikveh; and

WHEREAS, the applicant states that the placement of the enlargement such that it encroaches into required yards is necessary, due to the need to locate the mikveh so that it is safely accessible by its proposed female users; location directly on the street provides this safe accessibility; and

WHEREAS, placement of the enlargement at the rear of the Synagogue building would pose a security problem, since the female users of the mikveh would have to walk in the rear yard, which is unmonitored; and

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WHEREAS, the applicant also states that extension of a roof canopy into the side yard would afford the congregants a sheltered entry area, while also providing for privacy for the religious use of the mikveh; and

WHEREAS, finally, the applicant states that the mikveh must be housed in a separate structure; and

WHEREAS, the applicant cites to all of these factors as the reason for the proposed location of the enlargement; and

WHEREAS, the Board agrees that, based upon the submitted evidence, the enlargement at the proposed location is necessary in order to meet the programmatic needs of the Synagogue; and

WHEREAS, therefore, the Board finds that the cited unique physical condition, when considered in conjunction with the programmatic needs of the Synagogue, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not address Z.R. § 72-21(b) since the applicant is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant states that the existing Synagogue building is located in a neighborhood occupied by residences, other community facilities, and some retail stores; and

WHEREAS, the Board observes that the proposed enlargement to the Synagogue building will be located on the 77th Avenue side of the site, fronting on the street, such that any impact on adjacent uses will be negligible; and

WHEREAS, additionally, landscaping will be planted to limit the visual impact of the enlargement; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the Synagogue relief; and

WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; 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. 05-BSA-114Q dated March 30, 2005; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources;

Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration 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 the required findings under Z.R. § 72-21, to permit, within an R2 zoning district, the proposed enlargement of an existing one-story synagogue, which does not comply with applicable lot coverage and front and side yard requirements, contrary to Z.R. §§ 24-111, 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 September 19, 2005”–(5) sheets; and *on further condition*:

THAT the bulk parameters of the proposed building shall be as reflected on the BSA-approved plans;

THAT all landscaping shall be planted and maintained as illustrated on the BSA-approved plans;

THAT compliance with exiting, occupancy, and Local Law 58/87 requirements is subject to the review and approval of DOB;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 20, 2005.

380-04-BZ

APPLICANT – Sheldon Lobel, P.C., for BK Corporation, owner.

SUBJECT - Application November 29, 2004 – under Z.R. §72-21 to permit the legalization of the conversion of one dwelling unit, in a new building approved exclusively for residential use, to a community facility use, in an R5 zoning district, without two side yards, is contrary to Z.R. §24-35.

PREMISES AFFECTED – 32-12 23rd Street, bounded by 33rd Avenue and Broadway, Block 555, Lot 36, Borough of Queens.

COMMUNITY BOARD #1Q

MINUTES

APPEARANCES – None.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to November
22, 2005, at 1:30 P.M., for decision, hearing closed.

5-05-BZ

APPLICANT - Sheldon Lobel, P.C., for S & J Real Estate,
LLC, owner.

SUBJECT – Application January 14, 2005 – under
Z.R.§73-53 – to permit the enlargement of an existing
non-conforming manufacturing building located within a
district designated for residential use (R3-2). The application
seeks to enlarge the subject contractor's establishment (Use
Group 16) by 2,499.2 square feet.

PREMISES AFFECTED – 59-25 Fresh Meadow Lane, east
side, between Horace Harding Expressway and 59th Avenue,
Block 6887, Lot 24, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Irving Minkin.

For Opposition: Mary Halikiopoulos.

ACTION OF THE BOARD – Laid over to November
22, 2005, at 1:30 P.M., for continued hearing.

18-05-BZ

APPLICANT – The Agusta Group, for Monirul Islam & Jong
Sohn, owner.

SUBJECT – Application January 28, 2005 – under Z.R.§72-
21 to permit the proposed reduction in the requirements for
side yard footage and the minimum distance between
windows, for a proposed one family dwelling with an
accessory garage, is contrary to Z.R.§23-461 and §23-44.

PREMISES AFFECTED – 87-25 Clover Place, east side,
between Foothill Avenue and Clover Hill Road, Block
10509, Lot 31, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Sol Korma and Jong Sohn.

For Opposition: Kurt E. Hoppe and Lance Evans.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to October
25, 2005, at 1:30 P.M., for decision, hearing closed.

29-05-BZ

APPLICANT – Stephen Rizzo (CR&A), for 350 West
Broadway, L.P., owner; Lighthouse Rizzo 350, LLC, lessee.

SUBJECT – Application February 17, 2005 - under Z.R. §72-
21 to permit the proposed enlargement and renovation to an

existing vacant fifteen story, to contain retail use in the cellar,
first and second floor, and residential use on the third through
fifteen floors, located in an M1-5A zoning district, is contrary
to Z.R. §42-14, §42-00 and §42-10.

PREMISES AFFECTED – 350 West Broadway, 60' north of
Grand Street, Block 476, Lot 75, Borough of Manhattan,

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Stephen Rizzo.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to October
18, 2005, at 1:30 P.M., for decision, hearing closed.

68-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Congregation Bais
Chaim Joshua, owner.

SUBJECT – Application March 18, 2005 – under Z.R. §72-
21 – to permit the proposed enlargement of a three story plus
attic building, currently housing a synagogue, with accessory
residential on the second, third, and attic floors, which does
comply with the zoning requirements for floor area ratio, side
and front yards, is contrary to Z.R. §24-11, §24-162, §24-35,
§24-34 and §23-141.

PREMISES AFFECTED – 4911 17th Avenue, east side,
between 49th and 50th Streets, Block 5455, Lot 5, Borough of
Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to November
1, 2005, at 1:30 P.M., for decision, hearing closed.

70-05-BZ

APPLICANT – Lewis E. Garfinkel, R.A., for Yaakov Adler,
owner.

SUBJECT – Application March 23, 2005 - under Z.R.§73-
622 to permit an enlargement of a single family home to vary
sections ZR 23-141(a) for open space ratio & floor area, ZR
23-461 for minimum side yard requirement. The premise is
located in a R-2 zoning district.

PREMISES AFFECTED – 2905 Avenue M, northside of
Avenue M, 25' easterly of intersection of Avenue M and 29th
Street, Block 7647, Lot 8, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Laid over to October
25, 2005, at 1:30 P.M., for postponed hearing.

MINUTES

79-05-BZ

APPLICANT – Herrick, Feinstein LLP, owner; The Athena Group, LLC, owner.

SUBJECT – Applicant April 5, 2005 – under Z.R. §72-21 – to permit the proposed 20-story mixed use building, with below grade parking spaces, located in an R8/C1-4 and R7-2/C1-4 zoning district, which does not comply with the zoning requirements for floor area, height and setback, is contrary to Z.R. §23-011, §23-145, §35-22, §35-31, §23-633 and §35-24.

PREMISES AFFECTED – 101/21 Central Park North, west side of Lenox Avenue, between Central Park North and West 111th Street, Block 1820, Lot 30, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES –

For Applicant: Mark Levine, George Leventis, Bob Pauls and Peter Schubert.

For Opposition: Bill Perkins, City Councilmember; Diane Richards, Deirdre Hamlin, Daniel Perez, Valerie Wst, Cynthia Doty, Alicia Koons, Marior Peng, Arlene M. Wilcox, and Courtney O'Melloy ?

ACTION OF THE BOARD – Laid over to October 25, 2005, at 1:30 P.M., for continued hearing.

102-05-BZ

APPLICANT – Rothkrug Rothkrug Weinberg Spector, for Cornerstone Residence, LLC, owner.

SUBJECT – Application May 4, 2005 - under Z.R. §72-21 to permit the proposed construction of a two family dwelling on a corner lot that does not provide one of the required front yards, to vary section ZR 23-45. The vacant lot is located in an R-5 zoning district.

PREMISES AFFECTED – 259 Vermont Street aka 438 Glenmore Avenue, southeast corner of Vermont Street and Glenmore Avenue, Block 3723, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES –

For Applicant: Eric Palatnik, Georgiana Ervin and Ed Erwin.

ACTION OF THE BOARD – Laid over to October 25, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 5:30 P.M.

BULLETIN

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October 6, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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38-05-BZ	80-01 Eliot Avenue, Queens
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DOCKETS

New Case Filed Up to September 27, 2005

291-04-BZ B. Q 10-33 Burton Street,
Burton Street, between 12th Avenue and 12th Road, Block
4607, Lot 26, Borough of Queens. Applic. #402171555.
The instant application is filed pursuant to Z.R. §72-21 to
vary §23-141 (floor area); §23-141 (open space ratio); and
§23-45 (front yard).

COMMUNITY BOARD #7Q

292-05-A B. M 538 West 29th Street,
South side of 20th Street approximately 225 feet East of 11th
Avenue, Block 700, Lot 55, Borough of Manhattan.
Applic. #102680813. The BSA resolution referenced by the
applicant is no longer in effect, the post approval
Amendment approved on August 10, 2005 did not include
any amended plans, egress into the rear yard of 535 West
29th Street is unlawful and the revised schedule A was a
false and misleading statement and the application should be
revoked pursuant to §27-197 of the Administrative Code.

**DESIGNATIONS: D-Department of Buildings; B.BK.-
Department of Buildings, Brooklyn; B.M.-Department of
Buildings, Manhattan; B.Q.-Department of Buildings,
Queens; B.S.I.-Department of Buildings, Staten Island;
B.BX.-Department of Building, The Bronx; H.D.-Health
Department; F.D.-Fire Department.**

CALENDAR

NOVEMBER 15, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, November 15, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

SPECIAL ORDER CALENDAR

595-44-BZ

APPLICANT – Joanne Seminara, Esq., Kurzman Karelsen & Frank, LLP, for Unit Owners of the Central Park South Medical Condominium, owner.

SUBJECT – Application August 3, 2005 - Pursuant to ZR§11-411- Extension of Term of a Variance which expired on July 12, 2005, to permit in a residence use district the change in occupancy of an existing 15 story building from apartment hotel and accessory restaurant, to non-resident doctors' offices and restaurant (cabaret with no dancing). The premise is located in an R-10H zoning district.

PREMISES AFFECTED – 30 Central Park South, southside of Central Park South between Avenue of the Americas and 5th Avenue, Block 1274, Condo Lots 1001-1055, Borough of Manhattan.

COMMUNITY BOARD #5M

212-50-BZ

APPLICANT – Vassalotti Associates Architects, LLP., Cumberland Farms, Inc., owner.

SUBJECT – Application June 29, 2005 - Pursuant to ZR §11-411 to reopen and to extend the term of the variance for an additional ten years for an existing gasoline service station. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 29-16/44 Francis Lewis Boulevard, Cross Street – 172nd Street, Block 4938, Lot 1, Borough of Queens.

COMMUNITY BOARD #8Q

289-79-BZ

APPLICANT – David L. Businelli, for Patsy Serra, owner.
SUBJECT – Application April 26, 2005 – Extension of Term/Waiver for the continued use of a commercial vehicle and storage establishment (UG16). The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 547 Midland Avenue, north side of Midland Avenue, Block 3799, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

886-82-BZ

APPLICANT – Blaise Parascondala, Esq., for Lenox Road Baptist Church, owner.

SUBJECT – Application May 13, 2005 – Reopening for an amendment to a variance ZR§72-21 to increase the floor area for a community use facility which increases the degree of non-compliance into the required rear yard. The premise is located in a C1-3 (R7-1) zoning district.

PREMISES AFFECTED – 1356 Nostrand Avenue, corner of Nostrand Avenue and Lenox Road, Block 5085, Lot 51, Borough of Brooklyn.

COMMUNITY BOARD #8BK

146-02-BZ

APPLICANT – Anthony DiProperzio, R.A., R.A.J. Realty Corp., owner.

SUBJECT – Application September 7, 2005 – Extension of time to obtain a Certificate of Occupancy, to permit within a C1-2/R3-2 zoning district, a two-story addition to an existing retail establishment.

PREMISES AFFECTED – 138-27 247th Street, south side, 250'-0" East of 139th Avenue, Block 13621, Lots 9 & 11, Borough of Queens.

COMMUNITY BOARD #8Q

APPEALS CALENDAR

106-05-A

APPLICANT – Department of Buildings
OWNER OF PREMISES: Rob Rose Place, LLC.

SUBJECT - Application filed on May 10, 2005 -for a Modification of Certificate of Occupancy No. 17004 issued on November 11, 1930 on the basis that a non-conforming restaurant use on the first story of the premises was not in operation for a period of more than two years and the first story was being used illegally as residences . Pursuant to ZR Section 52-61 the non-conforming use was discontinued and the use of the premises must now conform to those permitted in an R7-2 district, therefore the current Certificate of Occupancy improperly authorizes an impermissible use of the premises.

PREMISES AFFECTED – 220-222 Sullivan Street, Block 540, Lot 28, Borough of Manhattan.

COMMUNITY BOARD #2M

208-05-A thru 282-05-A

APPLICANT – Stadtmauer Bailkin, LLP, for Natalie Lyn, LLC, owner.

SUBJECT – Application filed September 8, 2005- Appeal pursuant to Article III, Section 36, of the General City law to permit construction of 75 two family detached dwellings that does not front on a legally mapped street.

PREMISES AFFECTED – Richmond Terrace, Nicholas Avenue Estates, southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lots varies, Borough of Staten Island.

COMMUNITY BOARD #1SI

CALENDAR

NOVEMBER 15, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, November 15, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, NY 10006, on the following matters:

ZONING CALENDAR

386-04-BZ

APPLICANT – Rothkrug, Rothkrug, Weinberg & Spector, for PSCH, Inc., owner.

SUBJECT – Application November 9, 2004 - under Z.R.§72-21 to permit the proposed enlargement and development of an existing community facility, located in M1-1 zoning district, which does not comply with the zoning requirements for accessory off-street loading berth, waterfront yards, total height and parking, is contrary to Z.R. §44-52, §62-331, §62-34, §62-441 and §44-21.

PREMISES AFFECTED - 22-44 119TH Street, corner of 23rd Avenue, Block 4194, Lot 20, Borough of Queens.

COMMUNITY BOARD #7Q

42-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Power Test Realty Company, LP, owner.

SUBJECT – Application February 24, 2005 - under Z.R.§11-411 of the zoning resolution, to request an extension of term of the previously granted variance, which permitted the maintenance of a gasoline service station with accessory uses located in a R3-2 zoning district. The grant expired on April 26, 2004.

PREMISES AFFECTED - 1982 Bronxdale Avenue, east side of the intersection of Neill and Bronxdale Avenues, Block 4261, Lot 60, Borough of The Bronx.

COMMUNITY BOARD #11BX

52-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Coptic Orthodox Church of St. George, owner.

SUBJECT – Application March 4, 2005 - under Z.R.§72-21 Proposed development of a six-story and cellar building, with community use on floors one through three, residential use on floors three through six, and with parking in the cellar, located in a C1-2 within an R5 zoning district.

PREMISES AFFECTED - 6209 11th Avenue, northeast corner of 63rd Street, Block 5731, Lot 2, Borough of Brooklyn.

REGULAR MEETING

**TUESDAY MORNING, SEPTEMBER 27, 2005
10:00 A.M.**

COMMUNITY BOARD #10BK

84-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Exxon Mobil Corp., owner.

SUBJECT – Application April 6, 2005 - under Z.R.§73-211 to authorize the redevelopment of an existing gasoline service station with an accessory convenience store located in an R5/C2-2 zoning district.

PREMISES AFFECTED - 165-15 Hillside Avenue, northeast corner of 165th Street, Block 9837, Lot 10, Borough of Queens.

COMMUNITY BOARD #8Q

122-05-BZ

APPLICANT - Bryan Cave, LLP (Margery Perlmutter, Esq.), for Clinton Court Development, LLC, Owner.

SUBJECT - Application filed on May 20, 2005 under ZR§73-52 (Modification for Zoning Lots Divided by District Boundaries) to facilitate the development of a 13-story residential building containing 30 dwelling units, community facility space, and 41 accessory parking spaces; zoning lot located in an R6 and M1-1 district.

PREMISES AFFECTED - 525 Clinton Avenue, east side, 205.83' south of Fulton Street and 230.83' north of Atlantic Avenue, Block 2011, Lot 12, Borough of Brooklyn.

COMMUNITY BOARD #2BK

156-05-BZ

APPLICANT - Charles Rizzo and Associates (CR&A) for Carmine Partners LLC, owner.

SUBJECT – Application July 5, 2005 - under Z.R.§72-21 to allow a proposed six-story residential building with ground floor retail containing four (4) dwelling units in a C2-6 Zoning District; contrary to ZR 23-145, 23-22, 35-24, and 35-31.

PREMISES AFFECTED – 1 Seventh Avenue South, Block 582, Lot 43, Borough of Manhattan.

COMMUNITY BOARD #2M

Pasquale Pacifico, Executive Director

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on

MINUTES

Tuesday morning and afternoon, July 19, 2005, were approved as printed in the Bulletin of July 28, 2005, Volume 90, No. 30.

SPECIAL ORDER CALENDAR

60-82-BZ

APPLICANT – Eric Palatnik, P.C., for BP Products North America, owner.

SUBJECT – Application July 15, 2005 – Reopening for an amendment to the resolution to extend the time to obtain a Certificate of Occupancy for an automotive service station with accessory uses which expired on July 15, 2005. The PREMISES AFFECTED – 60-11 Queens Boulevard, between 60th Street and 61st Street, Block 1338, Lots 1 and 11, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a re-opening and an extension of time to obtain a new certificate of occupancy; and

WHEREAS, a public hearing was held on this application on September 27, 2005 after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, on July 24, 1952, under BSA Cal. No. 570-52-BZ, the Board granted an application to permit, in a business district, the erection and maintenance of a gasoline service station, lubricatorium, car washing, motor vehicle repairs, storage and sale of accessory items, office and parking of motor vehicles waiting to be serviced for a term of fifteen years; and

WHEREAS, on July 7, 1982, under the subject calendar number, the Board granted an application pursuant to Z.R. § 11-412, to permit the reconstruction of the existing service station with accessory uses into a gasoline station without repair service, for a term of fifteen years; such term has been extended since then; and

WHEREAS, on July 15, 2003, the Board amended the resolution to permit a change in signage from a total of 129 sq. ft. of illuminated signage to 66.25 sq. ft. of illuminated signage and non-illuminated signage; and

WHEREAS, as a condition of the initial grant, the applicant was to obtain a certificate of occupancy within two years from the date of the amendment; and

WHEREAS, the time to obtain a certificate of occupancy expired on July 15, 2005, and the applicant represents that it was unable to obtain a certificate of occupancy as of that date; and

WHEREAS, therefore, the Board has determined that the evidence in record supports the grant of the requested extension.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on July 24, 1952 as amended through July 15, 2003, so that as amended this portion of the resolution shall read: “to permit an extension of the time to obtain a certificate of occupancy for an additional two years from the date of the earlier expiration, to expire on July 15, 2007; *on condition*:

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.”

(DOB Application Nos. 401509783, 401408071, 401509765, 401408062, 401408080 and 401509774)

Adopted by the Board of Standards and Appeals, September 27, 2005.

364-82-BZ

APPLICANT – Cozen O’Connor Attorneys, for Little Neck Commons, LLC, owners; Jack Lalanne Fitness Centers, Inc., lessee.

SUBJECT – Application January 14, 2005 – reopening for a Waiver of Rules and an extension of term for a physical culture establishment located in a C1-2(R3-2) zoning district. PREMISES AFFECTED – 245-02/34 Horace Harding Expressway, Block 8276, Lot 100, Douglaston, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Barbara Hair.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a re-opening and an extension of the term of the variance; and

WHEREAS, a public hearing was held on this application on August 23, 2005 after due notice by publication in *The City Record*, with a continued hearing on September 13, 2005, and then to decision on September 27, 2005; and

WHEREAS, Community Board No. 11, Queens, and Council Member David Weprin recommend disapproval of this application, based on certain concerns, discussed below; and

WHEREAS, on January 18, 1983, the Board re-

MINUTES

established a variance, under the subject calendar number, to permit, in a C1-2 zoning district, the enlargement and maintenance of an extension to an existing physical culture establishment ("PCE"), for a term of ten years; and

WHEREAS, the variance was last extended on June 20, 1995 with certain conditions, including that valet parking shall be provided on-site, and that the premises and the area in the immediate vicinity shall be regularly cleaned and swept; and

WHEREAS, on May 21, 2002, the applicant received an amendment to the variance, to permit the cellar space of the building to be occupied by the PCE; the applicant also agreed to a condition requiring that accessory parking be provided at no cost for the first two hours with a nominal fee charged for any additional time up to five hours; and

WHEREAS, the applicant has not yet commenced work on the extension into the cellar due to a delay caused by negotiations between the applicant and the landlord of the premises; and

WHEREAS, the applicant now seeks an extension of the term of the variance; and

WHEREAS, the Community Board expressed certain concerns related to the operation of the PCE, including the hours of operation of the PCE, the parking lot of the PCE, the condition of the site, open violations on the site, and compliance with previous BSA conditions of the grant;

WHEREAS, at the request of the Board, the applicant addressed the Community Board concerns both at the hearing and in writing, and provided pictures to the Board of the current site conditions; and

WHEREAS, in addition, the applicant posted a sign clarifying that all users of the PCE are entitled to two hours of free parking and a sign cautioning the PCE members not to park illegally, and submitted photographs showing this signage; and

WHEREAS, accordingly, the Board finds that the requested extension of term 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 adopted on January 18, 1983, amended through May 21, 2002, so that as amended this portion of the resolution shall read "to extend the term for ten years from January 18, 2003; *on condition*:

THAT the term of this grant shall be for ten years, to expire on January 18, 2013;

THAT signs shall be posted stating that all users of the PCE are entitled to two hours of free parking and cautioning the PCE members not to park illegally;

THAT the above conditions shall 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; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws

under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted."

(DOB Application No. 402065821)

Adopted by the Board of Standards and Appeals, September 27, 2005.

886-87-BZ

APPLICANT – Stuart Allen Klein, for Rockford R. Chun, owner.

SUBJECT – Application March 22, 2005 – request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of the special permit for a PCE which expired 6/7/2004 and an amendment to allow the hours of operation to extend to 12:00 A.M. The premise is located in C5-2 zoning district.

PREMISES AFFECTED – 11 East 36th Street, a/k/a 10 East 37th Street, 200' east of 5th Avenue, Block 866, Lot 11, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Stuart Klein.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening to amend the resolution, and an extension of the term of the previously granted special permit that expired on June 7, 2004; and

WHEREAS, a public hearing was held on this application on August 9, 2005, after due notice by publication in *The City Record*, with a continued hearing on September 13, 2005, and then to decision on September 27, 2005; and

WHEREAS, Community Board No. 5, Manhattan, waived comment on this application; and

WHEREAS, the subject premises is located on East 36th Street, north of Fifth Avenue; and

WHEREAS, on June 7, 1988, the Board granted a special permit application pursuant to Z.R. § 73-36, to permit, in a C5-2 zoning district, the use of the cellar of the existing 12-story commercial building as a physical culture establishment ("PCE"); and

WHEREAS, the resolution was amended on January 11, 1994 to permit additional massage rooms to be included as part of the PCE, and the Board also approved an extension of the term of the special permit; and

WHEREAS, the Board permitted a further five-year extension of the term of the special permit; such term expired on June 7, 2004; and

WHEREAS, the instant application seeks to: 1) extend the

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term of the special permit for ten years; and 2) amend the resolution to authorize longer hours of operation, from Monday through Saturday, 10AM to 10PM, to Monday through Sunday, 10AM to 12AM; and

WHEREAS, the Board expressed concern with respect to the history of violations levied upon the PCE for unlicensed masseurs/masseuses; and

WHEREAS, the applicant represents that most of the violations were dismissed or fines were paid for the violations, and that the unlicensed masseurs/masseuses were terminated from employment; the applicant has also provided the Board with copies of licenses for the current masseurs/masseuses; and

WHEREAS, the applicant modified its request to a term of five years; and

WHEREAS, the Board concludes that a three year term, rather than the five year term requested by the applicant, is more appropriate given the history of violations and the need for oversight; and

WHEREAS, likewise, the Board does not find that the extended hours are warranted at this time; and

WHEREAS, therefore, the Board finds that a three-year extension 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, and reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit an extension of the term of the special permit for a term of three years; *on condition* that the expansion shall substantially conform to drawings as filed with this application, marked 'Received September 20, 2005'-(3) sheets; and *on further condition*:

THAT this grant shall be limited to a term of three years from June 7, 2004, expiring June 7, 2007; and

THAT the hours of operation shall be Monday through Saturday, 10AM to 10PM;

THAT all massages shall be performed by New York State licensed staff members only;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT fire protection measures, including exit signs, emergency lighting, sprinklers and fire extinguishers shall be installed and maintained as indicated on the BSA-approved plans; and

THAT the PCE shall comply with Local Law 58 of 1987, as determined by DOB;

THAT all exits shall be as approved by DOB;

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. 104048219)

Adopted by the Board of Standards and Appeals, September 27, 2005.

364-89-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Kellarakos Realty, Inc., owner; Balvinder Bains, lessee.

SUBJECT – Application April 4, 2005 – reopening for Extension of Term of a variance for an automotive service station (UG 16). The premise is located in an R-6 zoning district.

PREMISES AFFECTED – 30-75 21st Street, southeast corner of 30th Drive, Block 551, Lot 15, Borough of Queens.

COMMUNITY BOARD# 1Q

APPEARANCES –

For Applicant: Carl A. Sulfaro.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, an extension of the term of the variance and a minor interior reconfiguration; and

WHEREAS, a public hearing was held on this application on July 19, 2005, after due notice by publication in *The City Record*, with a continued hearing on September 13, 2005, and then to decision on September 27, 2005; and

WHEREAS, Community Board No. 1, Queens, recommends approval of this application; and

WHEREAS, the premises is located on the southeast corner of 21st Street and 30th Drive, and is occupied by an automotive service station; and

WHEREAS, in 1961, the Board granted an application, under BSA Calendar No. 296-60-BZ, to permit, in an R6 zoning district, the use of the site as an automotive service station (UG 16), for a term of fifteen years; and

WHEREAS, this variance was extended for a term of ten years in 1976; the variance subsequently lapsed; and

WHEREAS, on March 13, 1990, under the subject calendar number, the Board reestablished the expire variance for a period of five years; the term was extended for 10 years in 1995; and

WHEREAS, in 1992, the Board allowed an amendment to the plans, to reflect the installation of a canopy, among other minor site changes; and

WHEREAS, the most recent term expired on March 13, 2005; and

WHEREAS, in addition to the request for an extension of term, the applicant asked the Board for approval of existing signage that did not comply with C1 zoning district regulations, and also asked for the removal of a previously imposed

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condition requiring concrete planters to be located on the side lot lines; and

WHEREAS, the Board did not consent to such requests, and asked that compliance with the signage regulations and the planter condition be shown; and

WHEREAS, the applicant then modified the submitted plans to show signage that complies with C1 zoning district regulations, and a planter along the side lot line, as well as parking spaces for five cars awaiting service; and

WHEREAS, additionally, the applicant proposes a minor interior reconfiguration of the salesroom and storage space, which is approved herein; and

WHEREAS, accordingly, the Board finds that the requested extension of term and minor modification is appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens and amends* the resolution, adopted on March 13, 1990, as extended and modified on various occasions, so that as amended this portion of the resolution shall read: "to extend the term for ten years from March 13, 2005 and to allow a minor interior reconfiguration; *on condition* that all work shall substantially conform to drawings filed with this application marked 'Received April 4, 2005'-(2) sheets and 'August 29, 2007'-(2) sheets; and *on further condition*:

THAT the term of this grant shall be for ten years, to expire on March 13, 2015;

THAT the site shall be maintained free of debris and graffiti;

THAT any graffiti located on the site shall be removed within 48 hours;

THAT all planters and landscaping shall be installed and/or maintained as per BSA-approved plans;

THAT all signage shall conform to C1 zoning district regulations;

THAT there shall be no parking of vehicles on the sidewalks;

THAT the above conditions shall 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; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted."

(DOB Application No. 402104824)

Adopted by the Board of Standards and Appeals, September 27, 2005.

110-95-BZ

APPLICANT – John W. Russell, Esq., for 1845 Realty, Inc., owner; 1845 Cornaga Avenue, lessee.

SUBJECT – Application March 15, 2004 – reopening for Extension of Term of a variance, which permitted, within a C2/R5 zoning district, the operation of a auto repair facility (UG16), with accessory uses, including parking and minor repairs using handtools.

PREMISES AFFECTED – 1845 Cornaga Avenue, southwest corner of Cornaga Avenue and B19th Street, Block 15563, Lot 1, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term; and

WHEREAS, a public hearing was held on this application on May 10, 2005, after due notice by publication in *The City Record*, with continued hearings on May 10, 2005, June 7, 2005, July 19, 2005, September 13, 2005 and then to decision on September 27, 2005; and

WHEREAS, Community Board No. 14, Queens, recommends approval of this application; and

WHEREAS, the premises is located on the southwest corner of Cornaga Avenue and Beach 19th Street, and is within C2-2(R5) and R5 zoning districts; and

WHEREAS, on February 11, 1958, the Board granted an application, under BSA Calendar No. 684-57, to permit the use of the residential portion of the site as gasoline service station, with accessory uses; and

WHEREAS, on May 27, 1958 the Board granted an amendment to the resolution to permit a new pump arrangement, an accessory building modification, and new curb cut locations; and

WHEREAS, the term of this variance was extended for ten years on December 18, 1973, and again on November 19, 1985; and

WHEREAS, the variance subsequently lapsed; and

WHEREAS, on December 18, 1998, under the subject calendar number, the Board granted an application to reinstate the variance for a term of five years; and

WHEREAS, the term expired on December 18, 2003; and

WHEREAS, the applicant represents that gasoline sales have been discontinued at the site since approximately March of 1982, and that the site is currently used for auto repairs and accessory uses; and

WHEREAS, the Board's review of the application revealed that certain site improvements needed to be made; specifically, the Board observed a trailer on the site, a need for vehicle stops, and a need for the restoration of landscaping in

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certain areas of the premises; and

WHEREAS, subsequently, the Board directed the applicant to have the trailer on the site removed, vehicle stops installed, and landscaping restored at the rear and side of the premises; and

WHEREAS, the applicant submitted photos and plans showing compliance with this direction; and

WHEREAS, accordingly, the Board finds that the requested extension of term is appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens and amends* the resolution, adopted on March 13, 1990, as extended and modified on various occasions, so that as amended this portion of the resolution shall read: "to extend the term for ten years from December 18, 2003; *on condition* that all work/site conditions shall substantially conform to drawings filed with this application marked 'Received March 15, 2004'-(2) sheets and 'September 7, 2005'-(1) sheet; and *on further condition*:

THAT the term of this grant shall be for ten years, to expire on December 18, 2003;

THAT the site shall be maintained free of debris and graffiti;

THAT any graffiti located on the site shall be removed within 48 hours;

THAT all signage shall conform to C1 zoning district regulations;

THAT there shall be no parking of vehicles on the sidewalks;

THAT all repairs and storage shall occur within the building

THAT the above conditions shall 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; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted."

(DOB Application No. 401810395)

Adopted by the Board of Standards and Appeals, September 27, 2005.

323-98-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for 801 Eleventh Avenue, LLC, owner.

SUBJECT – Application July 27, 2005 – reopening for an amendment to the resolution to extend the time to complete construction of an enlargement of an existing two-story non-

residential building located in an M3-2/Special Clinton zoning district.

PREMISES AFFECTED – 801 Eleventh Avenue, west side of Eleventh Avenue, between West 55th Street and West of 56th Street, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Jeremiah Candena.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an extension of time to complete construction pursuant to a previously approved special permit by the Board; and

WHEREAS, a public hearing was held on this application on September 27, 2005 after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, on April 27, 1999, under the subject calendar number, the Board granted a special permit to permit an enlargement of an existing non-residential building in an M2-3 zoning district, pursuant to Z.R. § 73-63; and

WHEREAS, an extension of time to complete construction was granted by the Board on August 12, 2003; and

WHEREAS, the period in which to complete substantial construction pursuant to Z.R. § 72-23 expired on August 12, 2005; and

WHEREAS, the applicant represents that construction has been delayed due to unforeseen structural conditions appurtenant to the existing building, and anticipates that construction can be completed by September 1, 2006; and

WHEREAS, therefore, the Board has determined that the evidence in record supports the grant of the requested extension.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on July 17, 2001, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete construction for an additional two years from the date of the earlier expiration, to expire on August 12, 2007; *on condition*:

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted."

(DOB Application Nos. 104103890, 104086542)

Adopted by the Board of Standards and Appeals,

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September 27, 2005.

44-99-BZ

APPLICANT – Vito J. Fossella, P.E., for Michael Bottalico, owner.

SUBJECT – Application January 24, 2005 – reopening for Extension of Term of a variance for an automotive repair shop, located in an R3A zoning district.

PREMISES AFFECTED – 194 Brighton Avenue, south side of Brighton Avenue, southwest of the corner formed by the intersection of Summers Place and Brighton Avenue, Block 117, Lot 20, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Sameh El-Meniawy.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the variance; and

WHEREAS, a public hearing was held on this application on August 9, 2005, after due notice by publication in *The City Record*, with a continued hearing on September 13, 2005, and then to decision on September 27, 2005; and

WHEREAS, Community Board No. 1, Staten Island, recommends approval of this application subject to conditions, discussed below; and

WHEREAS, the premises is located on the southwest corner of Summers Place and Brighton Avenue, and is within an R3A zoning district; and

WHEREAS, under Calendar No. 455-58-BZ, the Board permitted the subject zoning lot to be used as a gasoline service station and lubricatorium; and

WHEREAS, this variance lapsed on March 30, 1996; and

WHEREAS, on February 1, 2000, under the subject calendar number, the Board granted an application to reinstate this variance for a term of five years; such term expired on February 1, 2005; and

WHEREAS, the Community Board recommended approval of this application upon satisfaction of the following conditions (in addition to the conditions stated in the previous resolution): that there shall be a shrubbery buffer zone placed along the residential side of the property; and that the dumpster shall be hidden at all times; and

WHEREAS, in response, the applicant has agreed to place a shrubbery buffer zone along the residential border at the west side of the property consisting of a 3'-0" wide evergreen planted landscaping strip with a 6" concrete curb; and

WHEREAS, the Board notes that the site has one curb cut

on Summer Place and two curb cuts on Brighton Avenue; and

WHEREAS, the Board requested that the applicant reduce the 40'-0" curb cut on Brighton Avenue to improve access to the service bays, and asked for a further explanation as to the circulation on the site; and

WHEREAS, at the Board's request, the applicant reduced the existing 40'-0" wide curb cut on Brighton Avenue to 30'-0", and provided a parking area for up to five cars waiting to be serviced; and

WHEREAS, accordingly, the Board finds that the requested extension of term is appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, adopted on February 1, 2000, as extended and modified on various occasions, so that as amended this portion of the resolution shall read: "to extend the term for five years from February 1, 2005; *on condition* that all work/site conditions shall substantially conform to drawings filed with this application marked 'Received June 23, 2005'-(1) sheet and 'August 30, 2005'-(1) sheet; and *on further condition*:

THAT the term of this grant shall be for five years, to expire on February 1, 2010;

THAT five (5) parking spaces for cars waiting for service shall be provided;

THAT the dumpster shall be located in a fenced-in area;

THAT there shall be a shrubbery buffer zone placed along the residential border at the west side of the property consisting of a 3'-0" wide evergreen planted landscaping strip with a 6" concrete curb;

THAT the existing 40'-0" wide curb cut at Brighton Avenue shall be reduced to 30'-0";

THAT the above conditions shall 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; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted."

(DOB Application No. 500750582)

Adopted by the Board of Standards and Appeals, September 27, 2005.

391-04-BZ

APPLICANT – Moshe M. Friedman, for Meilech Fastag, owner.

SUBJECT – Application August 2, 2005 – Reopening for an amendment to a Special Permit, ZR 73-622, the proposed plans are contrary to the previously approved BSA plans in

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that the proposed alteration for the first floor extends further into the rear yard exceeding the previous 20'-0" grant, the second floor and attic will remain as existing. The premise is located 100' from a corner, as per ZR 23-541 no rear yard is required. The premise is located in an R-2 zoning district. PREMISES AFFECTED – 2610 Avenue L, south side of Avenue L 60' east of intersection of Avenue L and East 26th Street, Block 7644, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Moshe Friedman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver, a re-opening and an amendment to a previously approved special permit for a home enlargement, granted pursuant to Z.R. § 73-622; and

WHEREAS, a public hearing was held on this application on September 20, 2005 after due notice by publication in *The City Record*, on which date the matter was closed, and then to decision on September 27, 2005; and

WHEREAS, Community Board No. 14, Brooklyn, recommends approval of this application; and

WHEREAS, the premises is located on the south side of Avenue L approximately 60 ft. east of the intersection of Avenue L and East 26th Street, and is within an R2 zoning district; and

WHEREAS, on May 17, 2004, the Board granted a special permit pursuant to Z.R. § 73-622, allowing a proposed single-family home enlargement that did not comply with applicable requirements for floor area ratio and open space ratio; and

WHEREAS, the applicant now seeks an amendment to the plans to allow for additional floor area at the first floor, and a reduction in the approved floor area at the second floor; and

WHEREAS, the total FAR is now 0.94 (versus the 0.98 previously approved) and the total OSR is now 56.46% (versus the 59% previously approved); and

WHEREAS, the Board finds that the requested amendment is appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and *reopens and amends* the resolution, adopted on May 17, 2004, so that as amended this portion of the resolution shall read: “to allow amendment to the approved plans; *on condition* that all work shall substantially conform to drawings filed with this application marked ‘Received August 16, 2005’ –(9) sheets and

‘September 20, 2005’-(1) sheet; and *on further condition*:

THAT the attic floor area shall not exceed 818.18 sq. ft., as reviewed by the Department of Buildings;

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.”

(DOB Application No. 301874032)

Adopted by the Board of Standards and Appeals, September 27, 2005.

523-58-BZ

APPLICANT – Walter T. Gorman, P.E., for Yehuea, LLC, owner; Farmers Mini Mart Inc., lessee.

SUBJECT – Application March 25, 2005 - Extension of Term/Waiver for a gasoline service station with accessory uses. The premise is located an C1-2/R3-2 and R3-2 zoning district.

PREMISES AFFECTED – 117-30/48 Farmers Boulevard, southwest corner of Baisley Boulevard, Block 12448, Lot 31, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: John Ronan.

ACTION OF THE BOARD – Laid over to November 15, 2005, at 10 A.M., for postponed hearing.

822-87-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Hudson Tower Housing Company, Inc., owner; The Fitness Company, lessee.

SUBJECT – Application May 2, 2005 – Extension of Term of a Special Permit to allow the use of a Physical Culture Establishment in the Special Battery Park City zoning district.

PREMISES AFFECTED – 375 South End Avenue, between Liberty and Albany Streets, Block 16, Lot 100, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: James Power.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

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ACTION OF THE BOARD - Laid over to October 25, 2005, at 10 A.M., for decision, hearing closed.

203-92-BZ

APPLICANT – Sullivan, Chester & Gardner, P.C., for Austin-Forest Assoc., owner; Lucille Roberts Org., d/b/a Lucille Roberts Figure Salon, lessee.

SUBJECT – January 26, 2005 Extension of Term/Amendment/Waiver for a physical culture establishment. The premise is located in an R8-2 zoning district.

PREMISES AFFECTED – 70-20 Austin Street, south side, 333’ west of 71st Avenue, Block 3234, Lot 173, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES – None.

ACTION OF THE BOARD - Laid over to November 15, 2005, at 10 A.M., for continued hearing.

212-92-BZ

APPLICANT – Felipe Ventegeat, for Herbert Kantrowitz, owner.

SUBJECT – Application June 13, 2005 – Extension of Term/Waiver of a Variance to continue the commercial use (UG6) located in the basement of a residential building. The premise is located in an R7-1 zoning district.

PREMISES AFFECTED – 871 East 175th Street, Mohegan Avenue and Waterloo Place, Block 2958, Lot 65, Borough of The Bronx.

COMMUNITY BOARD #6BX

APPEARANCES –

For Applicant: Felipe Ventegeat.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to October 25, 2005, at 10 A.M., for decision, hearing closed.

37-93-BZ

APPLICANT – Cozen O’Connor Attorneys, for Vornado Forest Plaza, LLC, owner; Jack Lalanne Fitness Centers, Inc., lessee.

SUBJECT – Application March 8, 2005 – Extension of Term of a Special Permit-Physical Culture Establishment which is not permitted as of right. The premises is located in a C8-1 zoning district.

PREMISES AFFECTED – 2040 Forest Avenue, south side 100’ west of Van Name Avenue, Block 1696, Lot 8, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Barbara Hair.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to October 25, 2005, at 10 A.M., for decision, hearing closed.

126-93-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for Salvatore Purna, owner.

SUBJECT – Application August 23, 2005 – Reopening for an Extension of Term for ten years for a variance of a gasoline service station, located in an R4 zoning district.

PREMISES AFFECTED – 1225 East 233rd Street, north corner lot of East 233rd Street, between Baychester Avenue and Reimer Avenue, Block 4955, Lot 1, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD – Laid over to October 25, 2005, at 10 A.M., for continued hearing.

235-04-A

APPLICANT – Rothkrug, Rothkrug, Weinberg & Spector, LLP for Thomas & Susan Acquafredda, owner.

SUBJECT – Application filed on June 22, 2005 – proposed construction a two story dwelling in the bed of a privately-owned, final mapped street, is contrary to Article 3, Section 35 of the General City Law. Premises is located in R3-1 zoning district.

PREMISES AFFECTED – 3096 Dare Place, north side of Casler Place, 199.6’ east of Pennyfield Avenue, Block 5529, Lot 488, Borough of The Bronx.

COMMUNITY BOARD #10BX

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Bronx Borough Commissioner, dated June 14, 2004, and revised on September 21, 2005 acting on Department of Buildings NB Application Nos. 200852041 and 200852032, reads:

“The Proposed NB construction is located within the bed of a mapped street contrary of section 35 of the General City Law. Therefore, approval from the Board of Standards is required.”; and

MINUTES

WHEREAS, a public hearing was held on this application on September 13, 2005 after due notice by publication in the *City Record*, and then to closure and decision on September 27, 2005; and

WHEREAS, by letter dated August 4, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 6, 2005, the Department of Transportation states it has reviewed the above project and indicates that Dare Place is currently within the area covered by Capital Project HWX421AW, for reconstruction of the Pennyfield Avenue Area; this is set for fiscal year 2008 and DOT has suggested that any proposed building fronting on Dare Place should not be located beyond the Right of Way line of Dare Place; and

WHEREAS, by letter dated July 18, 2005, the applicant has stated that there is no proposed construction within the Dare Place Right of Way and that it will consent to a condition in the Board resolution restricting such construction; and

WHEREAS, by letter dated May 11, 2005, the Department of Environmental Protection has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Bronx Borough Commissioner, dated June 14, 2004 and revised on September 21, 2005, acting on Department of Buildings N.B. Application Nos. 200852041 and 200852032, are modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received September 12, 2005"-(1) one sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT there shall be no construction of any type within the Dare Place Right of Way shown on the BSA-approved site plan;

THAT the above condition shall be placed on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 27, 2005.

236-04-A

APPLICANT – Rothkrug, Rothkrug, Wenig & Spector, LLP for Thomas & Susan Acquafredda, owner.

SUBJECT – Application filed on June 22, 2005 – proposed construction a two story dwelling in the bed of a privately-owned, final mapped street, is contrary to Article 3, Section 35 of the General City Law. Premises is located in R3-1 zoning district.

PREMISES AFFECTED – 3094 Dare Place, north side of Casler Place, 192.48' east of Pennyfield Avenue, Block 5529, Lot 487, Borough of The Bronx.

COMMUNITY BOARD #10BX

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Bronx Borough Commissioner, dated June 14, 2004, and revised on September 21, 2005 acting on Department of Buildings NB Application Nos. 200852041 and 200852032, reads:

“The Proposed NB construction is located within the bed of a mapped street contrary of section 35 of the General City Law. Therefore, approval from the Board of Standards is required.”; and

WHEREAS, a public hearing was held on this application on September 13, 2005 after due notice by publication in the *City Record*, and then to closure and decision on September 27, 2005; and

WHEREAS, by letter dated August 4, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 6, 2005, the Department of Transportation states it has reviewed the above project and indicates that Dare Place is currently within the area covered by Capital Project HWX421AW, for reconstruction of the Pennyfield Avenue Area; this is set for fiscal year 2008 and DOT has suggested that any proposed building fronting on Dare Place should not be located beyond the Right of Way line of Dare Place; and

WHEREAS, by letter dated July 18, 2005, the applicant has stated that there is no proposed construction within the Dare Place Right of Way and that it will consent to a condition in the Board resolution restricting such construction; and

WHEREAS, by letter dated May 11, 2005, the Department of Environmental Protection has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Bronx Borough Commissioner, dated June 14, 2004 and revised on September 21, 2005, acting on Department of Buildings N.B.

MINUTES

Application Nos. 200852041 and 200852032, are modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received September 12, 2005"-(1) one sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT there shall be no construction of any type within the Dare Place Right of Way shown on the BSA-approved site plan;

THAT the above condition shall be placed on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 27, 2005.

291-04-A

APPLICANT – Eric Palatnik, P.C., acting of Counsel to Charles Foy, Esq., for H & L Miller, A New York Partnership, owner.

SUBJECT – Application December 21, 2004 – proposed enlargement of an existing eating and drinking establishment, located within the bed of a mapped street, is contrary of Section 35, Article 3 of the General City Law. The premise is located in a C2-2 zoning district.

PREMISES AFFECTED – 90-19 Metropolitan Avenue, northwest corner of Trotting Course Lane, Block 3177, Lot 34, Borough of Queens.

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated August 12, 2004, acting on Department of Buildings Application No. 401969483, reads:

“Comply with General City Law #35 Proposed enlargement of existing structure into bed of mapped street”; and

WHEREAS, a public hearing was held on this application on July 19, 2005 after due notice by publication in the *City Record*, and then closure and decision on September 27, 2005; and

WHEREAS, this application involves a lot (Lot No. 29) that is subject to a previous GCL § 35 waiver, which is proposed to be combined with other lots (Lots No. 32 and 33) in order to accommodate the as-of-right enlargement of a fast-food restaurant’s accessory parking area and drive-through on an additional lot (Lot No. 34); some of this expanded area will be within the bed of a mapped street (Trotting Course Lane, but not Metropolitan Avenue); and

WHEREAS, the proposed combined lot is within a C2-4 zoning district; and

WHEREAS, certain members of the community appeared in opposition to this project, citing concerns about the ongoing problem related to the restaurant use, particularly, traffic, noise, deliveries and hours of operation; and

WHEREAS, however, the restaurant and its accessory parking and drive-through are as-of-right in the subject zoning district; and

WHEREAS, thus, while cognizant of the community members’ concerns, the Board observes that they are not germane to the Board’s action herein, which is premised on compliance with the underlying zoning; and

WHEREAS, of its own volition, the applicant has submitted into the record a statement indicating that it will install 10 ft. cedar fencing and plant landscaping on the site in order to minimize the impact of the restaurant use thereupon; the applicant will also use sound reducing technology in the drive-through order board, and direct any lighting on the site away from adjacent lots; and

WHEREAS, by letter dated May 3, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated February 28, 2005, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated May 23, 2005, the Department of Environmental Protection states that it has reviewed the above project and has determined that there is enough space between the proposed development and the existing City sewers and water mains that construction will not interfere with these structures; thus, DEP has no objections to this project; and

WHEREAS, accordingly, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, August 12, 2004, acting on Department of Buildings Application No. 401969483, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received September 19, 2005" - (1) sheet; that the proposal

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shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT parking layout and circulation shall be as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 27, 2005.

91-05-A

APPLICANT – The Agusta Group, for Colin Shaughnessy, owner.

SUBJECT – Application filed on April 14, 2005 – proposed construction of a two family dwelling, which lies partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law. Premises is located within a R3-2 zoning district.

PREMISES AFFECTED – 60-04 172nd Street, west side, 105.5' from Horace Harding Expressway, Block 6880, Lot 23, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Sol Korman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated March 15, 2005, acting on Department of Buildings Application No. 402088129, reads:

“Proposed building located partially within the mapped but unimproved portion of 60th Avenue is contrary to General City Law Section 35 and requires approval at the NYC Board of Standards and Appeals.”; and

WHEREAS, a public hearing was held on this application on September 13, 2005 after due notice by publication in the *City Record*, and then to closure and decision on September 20, 2005; and

WHEREAS, by letter dated August 4, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated July 27, 2005, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated May 20, 2005, the Department of Environmental Protection has reviewed the above project and states that it has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated March 15, 2005, acting on Department of Buildings Application No. 402088129, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received September 19, 2005” - (1) one sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 27, 2005.

176-05-A

APPLICANT – Joseph Sherry, P.E., for The Breezy Point Cooperative, Inc., owner; George Scanlon, lessee.

SUBJECT – Application file on August 2, 2005 – appeal to Department of Buildings to reconstruct and enlarge an existing single family frame dwelling not fronting on a mapped street contrary to General City Law Article 3, Section 36 and upgrading an existing private disposal system located in the bed of the service road which is contrary to Department of Buildings policy.

PREMISES AFFECTED – 27 Fulton Walk, s/s 35.32 N.O. Breezy Point Boulevard. Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Loretta Papa.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

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THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated July 25, 2005, acting on Department of Buildings Application No. 402103781, reads:

- “A-1 The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law; also no permit can be issued sine proposed construction does not have at least 8 % of total perimeter of the Building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section 27-291 of the Administrative Code of the City of New York
- A-2 The private disposal system is in the bed of a service road which serves as a street which is contrary to Department of Buildings Policy.”; and

WHEREAS, a public hearing was held on this application on September 27, 2005 after due notice by publication in the *City Record*, on which date the matter was closed and granted; and

WHEREAS, by letter dated August 22, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated July 25, 2005, acting on Department of Buildings Application No. 402103781, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked, “Received September 27, 2005” -(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 27, 2005.

178-05-A

APPLICANT – Joseph Sherry, P.E., for The Breezy Point Cooperative, Inc., owner; Frank Kelly, lessee.

SUBJECT – Application filed on August 2, 2005 – Appeal to Department of Buildings to reconstruct and enlarge an existing single family frame dwelling not fronting on a mapped street contrary to General City Law Article 3, Section 36.

PREMISES AFFECTED – 952 Bayside Walk, W/S 196.33 N.O. Beach 209th Street. Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Loretta Papa.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT–

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated July 25, 2005, acting on Department of Buildings Application No. 402103772, reads:

- “A-1 The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law; also no permit can be issued sine proposed construction does not have at least 8 % of total perimeter of the Building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section 27-291 of the Administrative Code of the City of New York”;

WHEREAS, a public hearing was held on this application on September 27, 2005 after due notice by publication in the *City Record*, and then to closure and decision on this same date, and

WHEREAS, by letter dated August 22, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated July 25, 2005, acting on Department of Buildings Application No. 402103772, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked, “Received August 2, 2005”- (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other

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jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, September 27, 2005.

25-04-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Michael Picciallo, owner.

SUBJECT – Application February 11, 2004 – Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED – 506 Bradford Avenue, south side, 148' south of Drumgoole Road, Block 6946, Lot 36, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD – Laid over to December 6, 2005, at 10 A.M., for continued hearing.

26-04-A

APPLICANT – Rothkrug Rothkrug Weinberg & Spector, for Michael Picciallo, owner.

SUBJECT – Application February 11, 2004 – Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED – 510 Bradford Avenue, south side, 108' south of Drumgoole Road, Block 6946, Lot 38, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD – Laid over to December 6, 2005, at 10 A.M., for continued hearing.

231-04-A

APPLICANT – Joseph P. Morsellino, Esq., for Chri Babatsikos and Andrew Babatsikos, owners.

SUBJECT – Application June 17, 2004 – Proposed one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 240-79 Depew Avenue, corner of 243rd Street, Block 8103, Lot 5, Borough of Queens.

COMMUNITY BOARD#11Q

APPEARANCES –

For Applicant: Joseph Morsellino.

ACTION OF THE BOARD – Laid over to October 25, 2005, at 10 A.M., for adjourned hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 10:27 A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, SEPTEMBER 27, 2005
1:30 P.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

ZONING CALENDAR

60-05-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Aslan Azrak, owner.

SUBJECT – Application March 10, 2005 – under Z.R. §73-622 Special Permit – the enlargement of a semi detached single family home. The proposed enlargement to vary ZR sections 23-141(b) for FAR, open space and lot coverage, 23-47 for less than the required rear yard. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 1024 Lancaster Avenue, Lancaster Avenue between East 12th Street and Coney Island Avenue, Block 7394, Lot 50, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 9, 2005, acting on Department of Buildings Application No. 301898098, reads:

“Proposed FAR residential is contrary to ZR 23-141b.

Proposed open space ratio is contrary to ZR 23-141b.

Proposed lot coverage is contrary to ZR 23-141b.

Proposed rear yard is contrary to ZR 23-47.”; and

WHEREAS, a public hearing was held on this application on September 13, 2005 after due notice by publication in *The City Record*, and then to decision on

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September 27, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R4 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage, and rear yard, contrary to Z.R. §§ 23-141(b) and 23-47; and

WHEREAS, the subject lot is located on Lancaster Avenue between East 12th Street and Coney Island Avenue; and

WHEREAS, the existing dwelling on the lot is currently attached to the dwelling on the adjacent lot; and

WHEREAS, the subject lot has a total lot area of 4,315 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks an increase in the floor area from 1,069.6 sq. ft. (0.24 Floor Area Ratio or "FAR") to 5,758.88 sq. ft. (1.3 FAR); the maximum floor area permitted is 3,323.6 sq. ft. (0.75 FAR); and

WHEREAS, the proposed enlargement will increase the lot coverage from 16.01% to 52.92%; the maximum lot coverage permitted is 45%; and

WHEREAS, the proposed enlargement will decrease the open space ratio from 83.99% to 47.08%; the minimum required open space ratio is 55%; and

WHEREAS, the proposed enlargement will reduce the rear yard from 46'-10 3/4" to 20'-0"; the minimum rear yard required is 30'-0"; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20'-0" of the rear lot line; and

WHEREAS, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R4 zoning district, the proposed enlargement of an existing single-family dwelling,

which does not comply with the zoning requirements for floor area ratio, open space, lot coverage, and rear yard, contrary to Z.R. §§ 23-141(b) and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received August 29, 2005"-(10) sheets; and *on further condition:*

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth in the certificate of occupancy;

THAT the total FAR on the premises, including the attic, shall not exceed 1.3;

THAT the total attic floor area shall not exceed 1192.91 sq. ft., as confirmed by the Department of Buildings;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT there shall be no demolition of that part of the existing structure and foundation designated to remain, as illustrated on BSA-approved Plan Sheet A1.1;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 27, 2005.

156-03-BZ

APPLICANT – Law Offices of Howard Goldman, PLLC, for RKO Plaza LLC & Farrington Street Developers, LLC, owner.

SUBJECT – Application May 20, 2003 – under Z.R. §72-21 – Proposed construction of a eighteen story mixed use building, Use Groups 2, 4 and 6, containing retail, community facility, 200 dwelling units and 200 parking spaces, located in an R6 within a C2-2 overlay zoning district, is contrary to Z.R. §§35-00 and 36-00.

PREMISES AFFECTED – 135-35 Northern Boulevard, northside of Main Street, Block 4958, Lots 48 and 38, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Borough President Helen Marshel, Council Member John Liu, Sandra Vrg; Assembly Member J. Meng's Office, Chames Apeliam – Community Board #7Q, Howard Goldman, Jack Freeman, Jay Valgora and Scott Milsom.

ACTION OF THE BOARD – Laid over to November 2, 2005, at 10 P.M., for special hearing.

MINUTES

175-04-BZ thru 177-04-BZ

APPLICANT – Joseph P. Morsellino, for 130th Street LLC, owner.

SUBJECT – Application April 29, 2004- under Z.R. §72-21- Proposed erection and maintenance of a two family dwelling, Use Group 2, which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, open space, perimeter wall height and rear yard, is contrary to Z.R. §23-141, §23-631 and §23-47.

PREMISES AFFECTED –

7-05 130th Street, east side, Block 3982, Lot 70, Borough of Queens.

7-09 130th Street, east side, Block 3982, Lot 67, Borough of Queens.

7-13 130th Street, east side, Block 3982, Lot 65, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Joseph P. Morsellino.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to November 1, 2005, at 1:30 P.M., for decision, hearing closed.

234-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Zunick Realty Corp., owner.

SUBJECT – Application June 18, 2004 - under Z.R. §72-21 to permit in a M1-1 and M1-2 district, approval sought to legalize residential occupancy of 73 dwelling units in a four-story and basement industrial building, which was constructed in 1931. The legal use is listed artist loft space for the 73 units. There are proposed 18 parking spaces on the open portion of the lot, which consists of 25,620 SF in its entirety. The use is contrary to district use regulations.

PREMISES AFFECTED – 255 McKibbin Street, between Bushwich Avenue and White Street, Block 3082, Lot 65, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to November 1, 2005, at 1:30 P.M., for continued hearing.

245-04-BZ

APPLICANT – Agusta & Ross, for Mark Stern, owner.

SUBJECT – Application July 6, 2004 – under Z.R. §72-21 – to permit the proposed five-story, nine unit multiple dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED – 102/04 Franklin Avenue, west side, 182' south of Park Avenue, Block 1898, Lots 45 and 46, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Mitchell Ross.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to November 15, 2005, at 1:30 P.M., for decision, hearing closed.

289-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Judo Associates, Inc., lessee.

SUBJECT – Application August 18, 2004 – under Z.R. §72-21 – to permit the proposed construction of a seven story mixed-use building, to contain commercial use on the ground floor, and residential use above, located within an M1-5B zoning district, which does permit residential use, is contrary to Z.R. §42-00 and §42-14.

PREMISES AFFECTED – 341 Canal Street, southeast corner of Greene Street, Block 229, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for continued hearing.

344-04-BZ

APPLICANT – Alfonso Duarte, for NWRE 202 Corp., owner.

SUBJECT – Application October 20, 2004 – under Z.R. §72-21 – proposed use of an open lot for the sale of new and used automobiles, located in a C2-2 within an R3-2 zoning district, is contrary to Z.R. §32-25.

PREMISES AFFECTED – 202-01 Northern Boulevard, northeast corner of 202nd Street, Block 6263, Lot 29, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Alfonso Duarte.

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for continued hearing.

355-04-BZ

MINUTES

APPLICANT – Slater & Beckerman, LLP, for Trustees under Irr.Trust, Stanley Gurewitsch, owner.

SUBJECT – Application November 10, 2004 and amended on July 26, 2005 to be a bulk variance – under Z.R.§72-21 to permit the proposed residential conversion of a portion of an existing three-story manufacturing building, and the construction of a four story residential enlargement atop said building, located in an M1-2(R6) zoning district within the special mixed-use MX-8 district, is contrary to Z.R. §§23-633, 23-942 and 123-64.

PREMISES AFFECTED – 302/10 North Seventh Street, aka 289 North Sixth Street, bounded on the southwest side, by north sixth street, southeast side by Meeker Avenue and northeast side by North Seventh Street, Block 2331, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Carole Slater, Robert Pauls, Adam Kushner.

ACTION OF THE BOARD – Laid over to November 1, 2005, at 1:30 P.M., for continued hearing.

375-04-BZ

APPLICANT – Greenberg Traurig LLP, for Designs by FMC, owner.

SUBJECT – Application November 29, 2004 – under Z.R. §72-21 – to permit the proposed expansion of an existing jewelry manufacturer and wholesaler establishment, located in an M1-1 zoning district, which does not comply with zoning requirements for floor area ratio, rear yard, street wall height and adequate parking, is contrary to Z.R. §43-12, §43-302, §43-43 and §44-21.

PREMISES AFFECTED – 1527, 1529 and 1533 60th Street, north side, between 15th and 16th Avenues, Block 5509, Lots 64, 65 and 68, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Jay Segal.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to November 1, 2005, at 1:30 P.M., for decision, hearing closed.

395-04-BZ

APPLICANT – Moshe M. Friedman, P.E., for Congregation Imrei Yehudah, owner.

SUBJECT – Application May 24, 2005 – under Z.R. §72-21 – to permit the proposed synagogue and rectory, Use Group 4, located in an R4 zoning district, which does not comply with the zoning requirements for front wall, sky exposure, side and front yards, also parking, is contrary to Z.R. §24-521; §24-35(a), §24-34 and §25-31.

PREMISES AFFECTED – 1232 54th Street, southwest side, 242’6” southeast of the intersection formed by 54th Street and 12th Avenue, Block 5676, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Moshe Friedman and Joseph Lauto.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to November 1, 2005, at 1:30 P.M., for decision, hearing closed.

83-05-BZ

APPLICANT – Bryan Cave, LLP, for LuRose Realty Corp., owner.

SUBJECT – Application April 6, 2005 – under Z.R. §72-21 to allow construction of a 92-bed, Use Group 3 residential health care facility in an R6 district; contrary to Z.R. §24-11, §24-382, and §24-522.

PREMISES AFFECTED – 214-218 West Houston Street and 50-56 Downing Street, Block 528, Lot 12, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: State Senator Thomas Duane, Judith Gallent, Arthur Webb, Dan Zito, George Janes, Ann Santagata, Liz Green James Rosenthal and Marianne Mataric.

For Opposition: Deborah Zarsky, Melissa Baldock.

ACTION OF THE BOARD – Laid over to November 1, 2005, at 1:30 P.M., for continued hearing.

98-05-BZ

APPLICANT – Friedman & Gotbaum, LLP, for dac bon, LLC, contract vendee.

SUBJECT – Zoning Variance application filed on April 22, 2005 – under Z.R. §72-21 to construct a 12-story residential building with ground floor retail in an M1-5B district, contrary to Z.R. §42-00 and §42-14(D)(2)(b) and Z.R. 43-43.

PREMISES AFFECTED – 46-48 Bond Street, premises located on the north side of Bond Street between Lafayette Street and The Bowery, Block 530, Lot 44 and 32, Borough of Manhattan.

COMMUNITY BOARD #2M

MINUTES

APPEARANCES –

For Applicant: Carlo Gardenalla, Anthony Lauto, Joseph Lauto, Shelly Friedman, Marvin Meltzer, Deborah Berke, Donald Cappoccia, Ellen Stewart and Jordi Arrent.

For Opposition: Zella Janes and Nanci Mullec.

ACTION OF THE BOARD – Laid over to November 1, 2005, at 1:30 P.M., for continued hearing.

104-05-BZ

APPLICANT – Augusta & Ross for Park Avenue Health Club, lessee. Chocolate Factory LLC, owner.

SUBJECT – Application May 6, 2005 – under Z.R. §73-36 – approval sought for a proposed physical cultural establishment located on a portion of the first floor of a mixed-use building. The PCE use will contain 9,700 square feet. The site is located in a M1-2 Zoning District.

PREMISES AFFECTED – 255-275 Park Avenue, northerly side of Park Avenue between Waverly and Washington Avenue, Block 1874, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Mitchell Ross.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to October 25, 2005, at 1:30 P.M., for decision, hearing closed.

118-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Ezra and Alice Tawil, owners.

SUBJECT – Application May 16, 2005 - under Z.R. §73-622 Special Permit – the enlargement of a single family residence to vary Z.R. sections §23-141 (open space and floor area), §23-46 (side yard) and §23-47 (rear yard). The premises is located in an R-5 (OP) zoning district.

PREMISES AFFECTED – 2072 Ocean Parkway, west side of Ocean Parkway between Avenue T and Avenue U, Block 7108, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to November 1, 2005, at 1:30 P.M., for continued hearing.

123-05-BZ

APPLICANT – Bryan Cave, LLP, for Long Island University, owner.

SUBJECT – Application May 20, 2005 – under Z.R. §73-641 (Integration of new buildings or enlargements with existing

buildings) to facilitate the construction of a tennis bubble and open colonnaded parapet on the roof of a proposed 5-story athletic corner center located within an R6 district.

PREMISES AFFECTED – 161 Ashland Place, east side of Ashland Place, 199’ to the north of DeKalb Avenue, Block 2087, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Margery Perlmutter.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

ACTION OF THE BOARD - Laid over to October 25, 2005, at 1:30 P.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 5:45 P.M.

MINUTES

**SPECIAL HEARING
WEDNESDAY MORNING, SEPTEMBER 28, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.

2, 2005, at 10 A.M., for continued special hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 1:30 P.M.

38-05-BZ

APPLICANT – Eric Palatnik, P.C., for John Genovese,
contract vendee.

SUBJECT – Application April 8, 2005 – under Z.R. §72-21
to reduce the number of required accessory parking spaces
pursuant to Z.R. §36-21 (38 required, 26 proposed) and to
eliminate the required loading berth pursuant to Z.R. §36-62
for a new Use Group 6 drug store (Walgreen's) located
within an R4/C1-2 district.

PREMISES AFFECTED – 80-01 Eliot Avenue, bound by
80th Street, Eliot Avenue, Caldwell Avenue and 81st Street,
Block 2921, Lot 40, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Eric Palatnik, Hiram Rothkrug, Robert Pauls
and John Genovese.

For Opposition: Manny Caruana, Walter Sanchez, Edward
Kampermann, Bob Holden, Narty Milne and Michael
Summa.

ACTION OF THE BOARD – Laid over November 15,
2005, at 1:30 P.M., for continued hearing.

48-05-BZ

APPLICANT – Wachtel & Macyr, LLP for Bethune West
Associates, LLC, contract vendee.

SUBJECT – Application March 2, 2005 - under Z.R. §72-21
to construct a 16- and 3-story mixed use development with 60
accessory parking spaces in an M1-5 district, contrary to Z.R.
§42-00 and Z.R. §13-12.

PREMISES AFFECTED – 469 West Street, bounded by
Bethune Street and West 12th Street, Block 640, Lot 1,
Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Jesse Masyr, Jerry Johnson, Jack Freeman and
Charles

For Opposition: Chip Thompson, Michelle Herman, I
Gothaum, Arturo Garcia-Costas, Kate Seely Kirk Jonathan
Prosnit, Gregory Brender, Doris Diether, Valerie Ghent,
Matthew Russas, Melissa Baldock, Mary O'Connor, Carol
Feinman, Albert Bonnett, Jesse Msnab, Jonathan Krik,
George Cominszie, John Dowling, Mae Gamble, Robert
Ludwig, Alexander Kapler, Madeline Lee Gilford, Michael
Clancy, Rosanne Kaplan, Anthony Sorce, Rudy Ludwig,
Suzen, Valerie Gent, Michelle Herman, Matthew Russis,
Melisa Bodirk, Jack Dowling and others.

ACTION OF THE BOARD – Laid over to November

BULLETIN

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AND APPEALS

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October 27, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Tuesday, October 18, 2005**

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436-53-BZ 141-50 Union Turnpike, Queens
952-66-BZ 88-14 101st Street, Queens
248-78-BZ 6050 Woodhaven Boulevard, Queens
289-79-BZ 547 Midland Avenue, Staten Island
878-80-BZ 41 West 24th Street, Manhattan
983-83-BZ 34-42/60 Guy R. Brewer Boulevard, Queens
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1-05-A 1426 & 1428 Shore Drive, The Bronx
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396-04-BZ 180 West Broadway, Manhattan
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DOCKET

New Case Filed Up to October 18, 2005

293-05-BZ B. BK 8751 18th Avenue,
between 18th Avenue and Bay 19th Street approximately 100
feet East of Bath Avenue, Block 6403, Lot 6, Borough of
Brooklyn, Application # 302003506. This application is
filed pursuant to §73-44 of the ZR, to request a Special
Permit to allow a reduction of required parking for an as-of-
right commercial building located within a C8-1 district.
COMMUNITY BOARD #11BK

294-05-A B. Q 146-34 Pleasant Place,
West side of Pleasant Place, 100ft north of intersection with
146th Drive, Block 13351, Lot 100, Borough of Queens,
Application # 402147299. Appeal pursuant to Article III,
Sec. 36 of the General City Law, to permit construction of a
building that does not front a final mapped Street.
COMMUNITY BOARD #13Q

295-05-A B. Q 146-36 Pleasant Place,
West side of Pleasant Place, 100ft north of intersection with
146th Drive, Block 13351, Lot 101, Borough of Queens,
Application # 402147271. Appeal pursuant to Article III,
Sec. 36 of the General City Law, to permit construction of a
building that does not front a final mapped Street.
COMMUNITY BOARD #13Q

296-05-A B. Q 146-38 Pleasant Place,
West side of Pleasant Place, 100ft north of intersection with
146th Drive, Block 13351, Lot 103, Borough of Queens,
Application # 402147280. Appeal pursuant to Article III,
Sec. 36 of the General City Law, to permit construction of a
building that does not front a final mapped Street.
COMMUNITY BOARD #13Q

297-05-BZ B. M 31-33 Vestry Street,
Southerly side of Vestry Street 100 ft. West of Hudson
Street, Block 219, Lot 18, Borough of Manhattan,
Application # 104014781. Propose to construct a nine story
residential structure that will contain seven dwellings and
nine underground parking spaces on the site of a former
parking lot.
COMMUNITY BOARD #1M

298-05-BZ B. S. I. 1390 Richmond
Avenue, Bounded by Richmond Avenue, Lamberts Lane
and Globe Avenue, Block 1612, Lot 2, Borough of Staten
island, Application # 500794349. Construct a new 2-story
building consisting of an eating and drinking establishment
on the 1st floor and offices on the 2nd floor.
COMMUNITY BOARD #2S I

299-05-A B. S. I. 369 Wilson Avenue,
North side of Wilson Avenue between Etingville Boulevard
and Ridgewood, Block 5507, Lot 13, Borough of Staten
Island, Application # 500667904. To permit one, 2-story 1-
family home within the bed of a mapped Street, Getz
Avenue, pursuant to Section 35 of the GCL. There are no
plans to build this portion of Getz Avenue in the foreseeable
future.
COMMUNITY BOARD #3SI

300-05-A B. Q 995 Bayside, East of
Bayside, 0 ft North of West Market Street, Block 16350, Lot
300, Borough of Queens, Application # 402178754. The
building is not fronting on a mapped Street, Art. III Sec. 36
of the General City Law & upgrade private disposal system,
contrary to Department policy.
COMMUNITY BOARD #14Q

301-05-BZ B. M 410 8th Avenue,
located on the East side of 8th Avenue between 30th and 31st
Streets, Block 780, Lot 76, Borough of Manhattan,
Application # 104165653. To permit the operation of a
Physical Culture Eastablishment on the second floor
mezzanine of a building located within a C6-3X.
COMMUNITY BOARD #5M

302-05-BZ B. BK 262-276 Atlantic
Avenue, on the South side of Atlantic Avenue between
Boerum Place and Smith Street, Block 181, Lot 11, Borough
of Brooklyn, Application # 301504272. To permit a
transient hotel with non-complying bulk, height and curb
cut.
COMMUNITY BOARD #2BK

DOCKET

303-05-BZ B. M 428 East 75th Street, between York and First Avenues, Block 1469, Lot 36, Borough of Manhattan, Application # 104086775. To permit the legalization of the second floor of the existing two story commercial structure for use as a Physical Culture Establishment. Said use is not permitted as of right within any zoning district in the City of N.Y and within the underlying R B zoning district, requires a variance from the BSA.

COMMUNITY BOARD #9M

304-05-A B. Q 38 Ocean Avenue, East side 294.86 north of Rockaway Point Blvd, Block 16350, Lot 300, Borough of Queens, Application # 402176015. Building not fronting a mapped Street contrary to Art. III, Sec. 36 GCL and Sec. 27-291 Admin. Code of the City of N. Y.

COMMUNITY BOARD #14Q

305-05-A B. Q 19 Queens Walk, East side 416.39 north of Breezy Point Blvd., Block 16350, Block 400, Borough of Queens, Application # 402176006. Building not fronting a mapped Street contrary to Art. III, Sec. 36 GCL and Sec. 27-291 Admin. Code of the City of N. Y & the private disposal system is in the bed of a private service road contrary to DOB policy.

COMMUNITY BOARD #14Q

306-05-BZY B. Q 206A Beach 3rd Street, Block 15601, Lot 34, Borough of Queens, Application # 402190874. Extend the time to complete construction for a major or minor development pursuant to Z.R §11-331.

COMMUNITY BOARD #14Q

307-05-BZY B. Q 606 Seagirt Avenue, On Siegert Avenue, Block 15604, Lot 292, Borough of Queens, application # 402204011. Extend the time to complete construction for a major or minor development pursuant to Z.R §11-331.

COMMUNITY BOARD #14Q

308-05-BZY B. Q 712/714 Seagirt Avenue, On Seagirt Avenue, Blocks 15604 and 15605, Lots 293 and 45, Borough of Queens, Application #'s 402172246 and 402172251. Extend the time to complete construction for a major or minor development pursuant to Z.R §11-331.

COMMUNITY BOARD #14Q

309-05-BZ B. Q 53-03 Broadway, North side of Broadway on the corner of Broadway and 53rd Place, Block 1155, Lot 36, Borough of Queens, Application #402116884. Proposed construction of a new six story mixed use building consisting of commercial, community facility and residential uses in a C1-2 in an R5 zoning district which does not comply with the bulk regulations.

COMMUNITY BOARD #1Q

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

NOVEMBER 22, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, November 22, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

871-46-BZ

APPLICANT – Joseph P. Morsellino, Esq, for Boulevard Leasing, LLC, owner.

SUBJECT - Application September 9, 2005 - Extension of Time/Waiver to obtain a Certificate of Occupancy which expired December 11, 2002. The premise is located in a C4-2 zoning district.

PREMISES AFFECTED – 97-45 Queens Boulevard, northwest corner of 64th Road, Block 2091, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

7-51-BZ

APPLICANT – Eric Palatnik, P.C., for 6717 4th Avenue, LLC, owner.

SUBJECT – Application December 29, 2004 -Extension of Term/Waiver permitting in a business use district, Use Group 6, using more than the permitted area and to permit the parking of patron's motor vehicles in a residence use portion of the lot. The subject premises is located in an R-6/R7-1(C1-3) zoning districts.

PREMISES AFFECTED – 6717/35 Fourth Avenue, northeast corner of Senator Street, Block 5851, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #8BK

643-60-BZ

APPLICANT – Kenneth H. Koons, for Poplar Street Parking, Inc., owner.

SUBJECT – Application May 24, 2005 – Extension of Term of a variance for an existing public parking lot. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 2443 Poplar Street, aka 2443-49 Poplar Street, north side of Poplar Street, 165' west of Paulding Avenue, The Bronx.

COMMUNITY BOARD #11BX

386-74-BZ

APPLICANT – Stadtmauer Bailkin/Steve Sinacori, for Riverside Radio Dispatcher, Inc., owner.

SUBJECT - Application October 19, 2005 - Reopening for an amendment to ZR 72-21 a Variance application to permit the erection of a one story building for use as an automobile repair shop which is not a permitted use. The proposed amendment pursuant to ZR 52-35 for the change of use from one non-conforming use (Automotive Repair Shop UG16) to another non-conforming use (Auto Laundry UG16) is contrary to the previously approved plans. The premise is located in C4-4 zoning district.

PREMISES AFFECTED – 4184/4186 Park Avenue, east side of Park Avenue, between East Tremont Avenue and 176th Street, Block 2909, Lot 8, Borough of The Bronx.

COMMUNITY BOARD #6BX

122-93-BZ

APPLICANT – Adam Rothkrug, Esq., for Equinox Fitness Club, lessee; 895 Broadway LLC, owner.

SUBJECT - Application - March 31, 2005- Waiver of the rules, extension of term and amendment for a legalization of an enlargement to a physical cultural establishment that added 7, 605 square feet on the second floor and an addition of 743sq.ft on the first floor mezzanine.

PREMISES AFFECTED - 895/99 Broadway, W/S Broadway, 27'6"souht of corner of East 20th Street, Block 648, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #5M

77-99-BZ

APPLICANT – The Augusta Group, for Turnpike Auto Laundry, Inc., owner.

SUBJECT - Application March 8, 2005 - Extension of Term for an auto laundry Extension of Time to obtain a Certificate of Occupancy. The premise is located in a CD8-1 & R-2 zoning district.

PREMISES AFFECTED - 255-39 Jamaica Avenue, aka Jericho Turnpike, north side of Jamaica Avenue, 80' west of 256th Street, Block 8830, Lot 52, Borough of Queens.

COMMUNITY BOARD #13Q

162-05-A

APPLICANT – Jay Segal, Esq., Greenberg & Traurig, LLP, for William R. Rupp, owner.

SUBJECT - Application filed July 15, 2005 - to appeal a final determination from the Department of Buildings dated June 15, 2005 in which they contend that the a privacy wall must be demolished because it exceeds the height limitation set by the Building Code and that the project engineer has failed to show that the Wall has been engineered and built according to code.

PREMISES AFFECTED - 19-21 Beekman Place, a/k/a 461 East 50th Street, located at east side of Beekman Place between East 50th Street and East 51st Street, Block 1361, Lot 117, Borough of Manhattan.

CALENDAR

COMMUNITY BOARD #6BK

191-05-A/192-05-A

APPLICANT – Eric Palatnik, P.C., for Juliana Forbes, owner.

SUBJECT - Application filed on August 15, 2005 - Proposed construction of a two - two story , two family dwellings, which lies partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 12-09 116th Street, and 12-11 116th Street, at the intersection of 116th Street and 12th Avenue, Block 4023, Lots 44 & 45, Borough of Queens.

COMMUNITY BOARD #7Q

200-05-A & 201-05-A

APPLICANT – Joseph P. Morsellino, for Randolph Mastronardi, et al, owners.

SUBJECT – Application August 23, 2005 – to permit the building of two conforming dwellings in the bed of mapped 157th Street as per GCL Section 35.

PREMISES AFFECTED – 20-17 and 20-21 Clintonville Street, Clintonville Street between 20th Avenue and 20th Road, Block 4750, Lots 3 and Tent. 6. Borough of Queens.

COMMUNITY BOARD #8Q

203-05-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Donna Gallagher, lessee.

SUBJECT – Application August 26, 2005 – Appeal to Department of Buildings to enlarge an existing single family frame dwelling not fronting on a mapped street contrary to General City Law Article 3, Section 36. Premises is located within an R4 zoning district.

PREMISES AFFECTED – 39 Ocean Avenue, east/south 294.86 N/O Rockaway Point Boulevard, Block 16350, Part of Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, November 22, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

40-05-BZ

APPLICANT – Petraro & Jones for Rafael Sassouni, owner; Graceful Services, Inc., lessee.

SUBJECT - Application April 21, 2005 - under Z.R. §73-36 to permit a legalization of a physical cultural establishment to be located on the second floor of four story mixed use building. The PCE use will contain 285 square feet to be used in conjunction with an existing physical cultural establishment on the second floor (988 Square feet)located at 1097 Second Avenue, Manhattan.

PREMISES AFFECTED – 1095 Second Avenue, west side of Second Avenue , 60.5 feet south of intersection with East 58th Street, Block 1331, Lot 25, Borough of Manhattan.

COMMUNITY BOARD #6M

94-05-BZ

APPLICANT – Eric Palatnik, P.C., for Abraham Bergman, owner.

SUBJECT – Application April 20, 2005 - under Special Permit ZR §73-622 to permit the enlargement of a single family residence to vary ZR sections 23-141 for the increase in floor area and open space, 23-461 for less than the required side yards and 23-47 for less than the required rear yard. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1283 East 29th Street, East 29th Street, north of Avenue M, Block 7647, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #14BK

96-05-BZ

APPLICANT – Petraro & Jones for Graceful Spa, lessee, 205 LLC, owner.

SUBJECT - Application April 21, 2005 - under Z.R. §73-36 to permit a legalization of physical cultural establishment located on the second floor of a five story mixed-use building. The PCE use will contain 1,465 square feet . The site is located in a C6-3-A Zoning District.

PREMISES AFFECTED – 205 West 14th Street, north side of West 14th Street, 50' west on intersection with 7th Avenue, Block 764, Lot 35, Borough of Manhattan.

COMMUNITY BOARD #4M

119-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Sam Malamud, owner.

NOVEMBER 22, 2005, 1:30 P.M.

CALENDAR

SUBJECT – Application May 16, 2005 - under Z.R.§72-21 to permit the proposed enlargement to an existing one and two story warehouse building, with an accessory office, Use Group 16, located in a C4-3 and R6 zoning district, which does not comply with the zoning requirements for floor area, floor area ratio, perimeter wall height, parking and loading berths, is contrary to Z.R. §52-41, §33-122, §33-432, §36-21 and §36-62.

PREMISES AFFECTED - 834 Sterling Place, south side, 80' west of Nostrand Avenue, Block 1247, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #8BK

138-05-BZ

APPLICANT – Lewis Garfinkel, for Devorah Fuchs, owner.
SUBJECT – Application June 6, 2005 - under Z.R.§ 73-22 to request a special permit to allow the enlargement of a single family residence which exceeds the allowable floor area and open space per ZR23-141(a), the side yard ZR23-461(a) and the rear yard ZR 23-47 is less than the minimum required of the Zoning Resolution. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1227 East 27th Street, east side of 27th Street, Block 7645, Lot 34, Borough of Brooklyn.

COMMUNITY BOARD #14BK

187-05-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Salvatore Porretta and Vincenza Porretto, owners.

SUBJECT – Application August 9, 2005 - under Z.R.§72-21 - Propose to build a two family dwelling that will comply with all zoning requirements with the exception of two non-complying side yards and undersized lot area due to a pre-existing condition.

PREMISES AFFECTED - 78-20 67th Road, Southerly side of 67th Road, 170' easterly of 78th Street, Block 3777, Lot 17, Borough of Queens.

COMMUNITY BOARD #5Q

Pasquale Pacifico, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, OCTOBER 18, 2005 10:00 A.M.

Present: Chair Srinivasan, Vice Chair Babbar, and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, July 26, 2005, were approved as printed in the Bulletin of August 4, 2005, Volume 90, Nos. 31-32.

SPECIAL ORDER CALENDAR

130-39-A

APPLICANT – Greenberg & Traurig, for Ann Rauch, owner.
SUBJECT – Application December 7, 2004 – reopening for an amendment to permit an existing building constructed in the bed of a mapped street, pursuant to Board resolution, and subsequently expanded pursuant to approval from the Department of Buildings, to be further enlarged and that such enlargement include second and third stories that continue a non-complying side yard condition, located in R1-2 zoning district.

PREMISES AFFECTED – 2 Ploughman’s Bush (a/k/a 665 W. 246th Street). Block 5924, Lot 523, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES –

For Applicant: Deidre Carson.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO REOPEN HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Bronx Borough Commissioner, dated December 3, 2004, acting on Department of Buildings Application No. 200849207, reads, in pertinent part:

“1. Proposed enlargement [in] the bed of a mapped street is contrary to General City Law Section 35 Subchapter 2.”; and

WHEREAS, this is an application for a reopening and an amendment to permit an enlargement to a building constructed in the bed of a mapped street pursuant to a prior General City Law §35 grant; and

WHEREAS, Community Board No. 8, Bronx, recommends

approval of this application; and

WHEREAS, a public hearing was held on this application on September 13, 2005 after due notice by publication in *The City Record*, and then to decision on October 18, 2005; and

WHEREAS, the premises is located on the northwest corner of 246th Street and Independence Avenue and is within an R1-2 zoning district and the Special Natural Area District; and

WHEREAS, in 1939, under the subject calendar, the Board granted a General City Law §35 waiver, allowing a proposed single-family home enlargement that did not comply with applicable requirements for floor area ratio and open space ratio; and

WHEREAS, the resolution for this grant included a condition that in the event that land was taken for the construction of Independence Avenue by the City, no claim would be made against the City and the owner would remove the house from the bed of the mapped street; and

WHEREAS, in 1990, the Board amended the resolution to eliminate this condition; and

WHEREAS, in 1997, DOB allowed an attached carport to be enclosed as living space; and

WHEREAS, the applicant now seeks an amendment to the plans to allow for an enlargement that will increase the bulk of the building within the mapped street; and

WHEREAS, the original application also included a request for a waiver of a side yard requirement pursuant to ZR §72-01(g); and

WHEREAS, in order to expedite the application the applicant modified the proposal such that the proposed enlargement has been setback from the western edge of the property so that it does not encroach into the side yard; and

WHEREAS, thus, no zoning waiver is necessary and the Board notes that the proposed enlargement must comply with all applicable zoning provisions; and

WHEREAS, by letter dated April 1, 2005, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated July 25, 2005, the Department of Environmental Protection has reviewed the above project and states that a “Sewer Corridor” should be provided on the applicant’s property for future placement of a sewer; and

WHEREAS, accordingly, the Board finds that the requested amendment is appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and *reopens and amends* the resolution, adopted in 1939, as amended in 1990, so that as amended this portion of the resolution shall read: “to allow amendment to the approved plans; *on condition* that all work shall substantially conform to drawings filed with this application marked ‘Received October 7, 2005’–(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with;

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and on further condition:

THAT a "Sewer Corridor" will be provided as shown on the BSA-approved plan;

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted."

(DOB Application No. 200849207)

Adopted by the Board of Standards and Appeals, October 18, 2005.

62-83-BZ

APPLICANT – Law Offices of Howard Goldman, LLC, for Shaya B. Pacific, LLC, owner.

SUBJECT - Application June 1, 2004 and updated 3/15/05 - reopening for an amendment to the resolution to allow the redesign of landscaped areas and the elimination of loading docks.

PREMISES AFFECTED - 696 Pacific Street, between Carlton and 6th Avenues, Block 1128, Lot 1002, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Chris Wright.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an amendment to the previously issued resolution; and

WHEREAS, a public hearing was held on this application on May 10, 2005, after due notice by publication in the *City Record*, with continued hearings on July 12, 2005 and September 13, 2005, and then to October 18, 2005 for decision; and

WHEREAS, Community Board No. 8, Brooklyn, recommends approval of this application as long as the applicant commits to the reconstruction of the Dean Street Playground; the Community Board stated the same in two resolutions, one dated December 20, 2004 and one dated September 26, 2005; and

WHEREAS, certain community groups, including the Dean Street Block Association and the Friends of Dean Street Playground, have submitted papers and appeared at the hearings in support of the applicant's proposal, but have also voiced certain concerns about the applicant's proposal; and

WHEREAS, on June 14, 1983, under the subject calendar

number, the Board approved a variance to permit, on a site then divided by an M1-1 and R6 district boundary, the enlargement of an existing newspaper establishment extending into the R6 portion (along Dean Street), which encroached into the required rear yard, side yard and rear yard equivalent, penetrated the sky exposure plane, and allowed accessory loading docks in the R6 portion; and

WHEREAS, the applicant represents that subsequent to the construction of the loading docks, the newspaper establishment vacated the building; and

WHEREAS, in 2000, the site was rezoned to R6B/C4-4A; accordingly, the owner proposed to convert the existing structure primarily to residential use, with some office and retail use on the ground floor; and

WHEREAS, on March 27, 2001, the Board approved an amendment to the variance to allow the owner to retain two of the five loading docks that were previously approved by the Board, and to create a lobby, driveway and seating area with modified landscaping on the Dean Street portion of the lot in an area that was previously designated as green space; and

WHEREAS, the Board included certain conditions to the amendment, including that entry to the landscaped, residential entrance was to be open to the public between 7AM and 7PM, and that landscaping was to be provided in certain open spaces on the site; and

WHEREAS, the site is now currently developed with 178 residential condominium units; and

WHEREAS, prior to the filing of this application, the Board scheduled a compliance hearing because it had received complaints that the residential entrance area on Dean Street was not held open to the public as required by the March 27, 2001 resolution; and

WHEREAS, during the compliance hearing, the applicant committed to remedying the situation and the instant amendment application was subsequently filed; and

WHEREAS, this application seeks to eliminate the remaining two loading docks and convert them into an accessory two-car garage, utilize the landscaped areas adjacent to the loading docks as rear yards for the residential tenants, and close the residential entrance area on Dean Street to the public, but maintain it as a private landscaped entrance area; and

WHEREAS, the applicant represents that because the loading docks are being removed there will be no more negative commercial impacts on the residential neighbors; therefore, the owner should be entitled to convert the open space previously accessible to the public to private area for residents of the condominium; and

WHEREAS, the applicant also represents that keeping certain of these areas open to the public creates security issues for the residential tenants; and

WHEREAS, the applicant initially proposed to relocate the public seating area to a portion of the landscaped areas adjacent to the loading docks; and

WHEREAS, the applicant then modified its proposal to retain the entire landscaped area adjacent to the loading docks for private use, and instead make a financial contribution to the NYC Parks Department for the renovation of the nearby Dean Street playground; and

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WHEREAS, the applicant has submitted to the Board a copy of an executed agreement between the owner and the Parks Department, dated September 9, 2005, in which the owner agrees to pay the Parks Department \$1,400,000 as a capital allocation to the reconstruction of the Dean Street Playground; the applicant has also submitted a copy of the check for such sum; and

WHEREAS, certain community groups requested that the following conditions be included in the Board resolution: limit the garage to two cars; place a buffer between the private rear yards and the street at the landscaped areas adjacent to the loading docks; and no sanitation pickup on Dean Street; and

WHEREAS, the applicant has proposed to construct a 6'-0" wrought iron fence on the property's frontage on Dean Street that will match the fence at the residential entrance, has limited the garage to two cars, and has reduced the curb cut in front of the former loading docks to 22'-0"; and

WHEREAS, additionally, at the request of the Board, the applicant has made certain plan corrections to accurately reflect current site conditions; and

WHEREAS, the Board has reviewed the application and has determined that this application is appropriate to grant, with certain conditions.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit the conversion of the remaining two loading docks into a two-car garage, the utilization of the landscaped areas adjacent to the loading docks as rear yards for the residential tenants, and the closure of the residential entrance area on Dean Street; *on condition* that all work shall substantially conform to drawings as filed with this application, marked "Received September 30, 2005"--(1) sheet; and *on further condition*;

THAT the landscaping at the residential entrance area on Dean Street shall continue to be maintained, as indicated on the BSA-approved plans;

THAT fencing shall be installed and maintained as indicated on the BSA-approved plans;

THAT no sanitation pick-up shall occur on the Dean Street side of the premises;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT all conditions from prior resolutions not waived herein by the Board through this resolution or the approved plans remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB App. No. 301092699)

Adopted by the Board of Standards and Appeals, October 18, 2005.

272-03-BZ

APPLICANT - Rampulla Associates Architects, for 4102 Hylan Realty, LLC, owner.

SUBJECT - Application June 28, 2005 - Reopening for an amendment to a variance to modify the design of the building and to add a bank teller drive through window. The premise is located in an R3-1 SRD zoning district.

PREMISES AFFECTED - 4106 Hylan Boulevard, south side of Hylan Boulevard and Goodall Street, Block 5307, Lot 6, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an amendment to the previously issued resolution; and

WHEREAS, a public hearing was held on this application on September 20, 2005, after due notice by publication in the *City Record*, and then to October 18, 2005 for decision; and

WHEREAS, Community Board No. 3, Staten Island, recommends approval of this application; and

WHEREAS, on January 27, 2004, the Board approved an application to permit, in an R3-1 zoning district within the Special South Richmond District, the construction of a two-story plus cellar retail building (Use Group 6) with 25 accessory off-street parking spaces, as well as an addition of a curb cut on Hylan Boulevard; and

WHEREAS, the instant application seeks to revise the BSA-approved plans to: install a drive through teller's window at the rear of the building; install a free standing sign near the parking lot entrance that complies with C1-1 signage regulations; reconfigure the parking lot to accommodate the drive through; add a refuse/garbage area at the rear of the parking lot; and re-design the exterior of the building; and

WHEREAS, the applicant states that the changes are necessitated by the occupancy of the building by a bank; and

WHEREAS, the Board has reviewed the application and has determined that this application is appropriate to grant, with certain conditions.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, so that as amended this portion of the resolution shall read: "to permit the proposed reconfiguration of the site and the addition of a bank teller drive through window; *on condition* that all work shall substantially conform to drawings as filed with this application, marked "Received October 4, 2005"- (6) sheets; and *on further condition*;

THAT all signage shall comply with C1-1 district regulations;

THAT the above condition shall appear on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

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THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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 App. No. 500634619)

Adopted by the Board of Standards and Appeals, October 18, 2005.

436-53-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for 141-50 Union Turnpike, owner.

SUBJECT – Application September 7, 2005 - Pursuant to ZR 11-411 for the Extension of Term/Waiver for the operation of a gasoline service station which expired in February 24, 2004. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 141-50 Union Turnpike, south side of Union Turnpike, 44.96’ west of the corner of Union Turnpike and Main Street, Block 6634, Lot 34, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD – Laid over to November 22, 2005, at 10 A.M., for continued hearing.

952-66-BZ

APPLICANT – Gerald J. Caliendo, RA, for Rajnikant Gandhi, owner.

SUBJECT – Application April 4, 2005 - Reopening for an Amendment/Extension of Time/Waiver to a gasoline service station with minor auto repair. The amendment is to convert the auto repair building to a convenience store accessory to the gasoline service station; and the extension of time to obtain a certificate of occupancy which expired in October 31, 2002. The premise is located in a C2-2 in R-5 zoning district.

PREMISES AFFECTED – 88-14 101st Street, northwest corner of 89th Street, Block 9090, Lot 21, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES –

For Applicant: Sandy Ana.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to November 1, 2005, at 10 A.M., for decision, hearing closed.

248-78-BZ

APPLICANT – Eric Palatnik, P.C., for BP Products North

America, owner.

SUBJECT – Application March 29, 2005 -Extension of Time to obtain a C of O/Amendment to install a new retaining wall, replace underground tanks, pump islands and fuel dispensers.

The premise is located in C2-2 in a R-6 zoning district.

PREMISES AFFECTED – 60-50 Woodhaven Boulevard, southwest corner of 60th Road, Block 2885, Lot 12, Borough of Queens

COMMUNITY BOARD #6Q

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to November 1, 2005, at 10 A.M., for decision, hearing closed.

289-79-BZ

APPLICANT – David L. Businelli, for Patsy Serra, owner.

SUBJECT – Application April 26, 2005 – Extension of Term/Waiver for the continued use of a commercial vehicle and storage establishment (UG 16). The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 547 Midland Avenue, north side of Midland Avenue, Block 3799, Lot 1, Staten Island

COMMUNITY BOARD #2SI

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to November 15, 2005, at 10 A.M., for continued hearing.

878-80-BZ

APPLICANT – Kim Lee Vauss, for Nexus Property Management, LLC, owner.

SUBJECT – Application April 19, 2005 – reopening for an amendment to previous granted variance to convert the existing commercial UG6 on the second and fourth floors to residential/studio UG 2 and 9. The premise is located in an M1-6 zoning district.

PREMISES AFFECTED – 41 West 24th Street, Block 800, Lot 16, Borough of Manhattan

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Kim Vauss.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to November 15, 2005, at 10 A.M., for decision, hearing closed.

983-83-BZ

APPLICANT – Sullivan, Chester & Gardner P.C., for Sutphin Rochdale Realty, LLC, owner.

SUBJECT – Application January 14, 2005 – Proposed

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Amendment to a Variance to enlarge a portion of the existing building by 700 sq. ft. and to eliminate the single use on site to house four (4) commercial tenants. The subject premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 34-42/60 Guy R. Brewer Boulevard, northwest corner of 137th Avenue, Block 12300, Lot 30, Borough of Queens

COMMUNITY BOARD #12Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to November 15, 2005, at 10 A.M., for decision, hearing closed.

132-97-BZ

APPLICANT – Alan R. Gaines, Esq., for Deti Land, LLC, owner; Fiore Di Mare LLC, lessee.

SUBJECT – Application June 7, 2005 – Extension of Term/Amendment/Waiver for an eating and drinking establishment with no entertainment or dancing and occupancy of less than 200 patrons, UG 6 located in a C-3 (SRD) zoning district.

PREMISES AFFECTED – 227 Mansion Avenue, Block 5206, Lot 26, Borough of Staten Island

COMMUNITY BOARD# 3SI

APPEARANCES –

For Applicant: Joseph D. Manno, Esq.

ACTION OF THE BOARD – Laid over to December 6, 2005, at 10 A.M., for continued hearing.

165-02-BZ thru 190-02-BZ

APPLICANT – Stuart A. Klein, Esq./Steve Sinacori, Esq., for Park Side Estates, LLC., owner.

SUBJECT – Application March 31, 2005- Reopening for an amendment to BSA resolution granted under calendar numbers 167-02-BZ, 169-02-BZ, 171-02-BZ, 173-02-BZ and 175-02-BZ. The application seeks to add 5 residential units to the overall development (encompassing lots 21 & 28) for a total of 37, increase the maximum wall height by 2'-0", and increase the number of underground parking spaces from 11 to 20, while remaining compliant with the FAR granted under the original variance, located in an M1-1 zoning district.

PREMISES AFFECTED – 143-147 Classon Avenue, aka 380-388 Park Avenue and 149-159 Classon Avenue, southeast corner of Park and Classon Avenues, Block 1896, Lot 21, Borough of Brooklyn

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Steven Sinacori.

ACTION OF THE BOARD – Laid over to December 6, 2005, at 10 A.M., for continued hearing.

APPEALS CALENDAR

95-05-A

APPLICANT – Anderson Kill & Olick, P.C., for 9th & 10th

Street, LLC, owner.

Subject – Application April 20, 2005 – An appeal challenging the Department of Buildings' decision dated March 21, 2005, as to whether they have sufficient documentation to determine the proposed use of said premises as a college student dormitory.

PREMISES AFFECTED – 605 East Ninth Street, between East Ninth and East Tenth Streets, 93' east of Avenue "B", Block 392, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES – None.

ACTION OF THE BOARD – Appeal denied.

THE VOTE TO GRANT -

Affirmative:0

Negative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

THE RESOLUTION -

WHEREAS, the instant appeal comes before the Board in response to a final determination of the Manhattan Borough Commissioner, dated March 21, 2005 (the "Final Determination"), stating that the Department of Buildings ("DOB") would not reconsider removing an objection to plans submitted with a building permit application to develop the referenced premises with a Use Group 3 "College or School Student Dormitory" ("UG 3 Dormitory") absent the submission of additional information; and

WHEREAS, the subject premises is located between East 9th and 10th Streets, 93 feet east of Avenue B, within an R7-2 zoning district, and is currently improved upon with a former school building; and

WHEREAS, 9th and 10th Street, LLC, the owner of the premises and the appellant in this appeal (hereinafter, the "appellant"), took title of the premises from the City in 1999 after purchasing it at auction; and

WHEREAS, title was transferred subject to a deed with the following restriction: "Use and development of this subject property is restricted and limited to a 'Community Facility Use' as defined in the New York City Zoning Resolution as existing on the date of the auction" (the "Deed Restriction"); and

WHEREAS, the Owner filed an application with DOB under Application No. 103948338 (the "Application") for construction of a 19-story UG 3 "College or School Student Dormitory" building (the "Proposed Dormitory"), which is a Community Facility ("CF") use as defined in the Zoning Resolution ("ZR"); and

WHEREAS, in an R7-2 zoning district, a UG 3 Dormitory, because it is a defined CF use listed in UG 3A (set forth at ZR § 22-13), may be developed with a Floor Area Ratio ("FAR") of 6.5, as opposed to a maximum FAR of 3.44 for a non-CF UG 2 residential building; and

WHEREAS, the DOB objection, noted as objection #4 on the DOB objection sheet for the Application (the "Objection"), was issued on November 29, 2004, and reads: "Substantiate Dormitory Use (UG3). This use is permitted for 'College or School Student' housing only as per Z.R. (Floors 3-19 indicates Res. Apartments layout)"; and

WHEREAS, following the issuance of this objection,

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Anderson Kill & Olick, P.C., representing the appellant, sent a letter to the Manhattan Borough Commissioner dated March 1, 2005, contending, in sum and substance, that: (1) development on the site was subject to the Deed Restriction, and therefore the appellant could not develop the site with anything but a CF use; (2) DOB did not have the authority to condition issuance of a permit based upon speculation that the building will be operated contrary to permitted uses after it is constructed, and consequently could not ask for substantiation of the represented dormitory use; and (3) that DOB's lack of authority to so condition issuance of the permit was settled in *DiMilia v. Bennett*, 149 AD2d 592 (2d Dep't 1989), in which the court held that DOB may not deny a permit based upon speculation that the future use may violate zoning; and

WHEREAS, in response, DOB issued the Final Determination; and

WHEREAS, the Final Determination reads, in pertinent part: "I write in response to your letter dated March 1, 2005 in which you respond to Objection #4, dated November 29, 2004, and request that the proposed use be accepted as a "student dormitory," as that term is used in Section 22-13 of the Zoning Resolution of the City of New York (Use Group 3 uses), notwithstanding that your client has failed to submit the documentation requested by the Department to substantiate a dormitory use.

As you know, the Department requires an institutional nexus in order for construction to be classified as a dormitory. This is necessary to distinguish a "student dormitory" which is a community facility use and entitled to extra floor area, from other types of housing that are classified as Use Group 2, including buildings that house students, and that are not eligible for additional bulk. To reflect the nexus, the Department asks for either a deed or a lease from a school. You respond 1) that the premises is subject to a deed restriction from the City that prohibits residential use, and 2) that the Department must accept the applicant's representation that the premises will be a dormitory, without requiring further substantiation. In support of this latter argument, you cite *DiMilia v. Bennett*, 149 AD2d 592 (2d Dep't 1989). In *DiMilia*, the court held that it was improper to deny an application to amend plans for construction of single-family houses on the theory that the design and arrangement of the proposed amendment would enable the proposed buildings to be readily convertible into illegal, non-conforming, two-family homes.

We disagree with your arguments. Although the premises is subject to a deed restriction that would prohibit residential use, this is not sufficient to establish its use as a dormitory. Where two uses appear very similar on plan, yet result in very different zoning benefits (such as the Use Group 2 residences and Use Group 3 dormitory), it is incumbent upon the Department to ask for documentation to substantiate the particular community facility use. While the deed restriction may be an incentive to the owner to classify the building's use as a student dormitory and not a Use Group 2 residence, it is not sufficient to justify deviating from the Department's general requirement that a dormitory

use be substantiated prior to permit. Moreover, *DiMilia* is not controlling here, as the Department's issue is not whether the proposed dormitory use will easily convert to an unlawful use, but rather whether we have sufficient documentation to determine that the proposed use is a dormitory. Without a deed or lease with an educational institution, the Department is not satisfied that a dormitory use is being established.

As such, your request for reconsideration of the Objection dated November 29, 2004 is denied."; and

WHEREAS, during the Spring of 2005, while this exchange between DOB and the appellant was occurring, DOB announced its intent to adopt a rule setting forth certain pre-permit requirements for construction of UG 3 College or School Student Dormitories (the "Proposed Rule"); and

WHEREAS, the Proposed Rule provided that in order to obtain a permit for construction of a UG 3 Dormitory, a permit applicant must establish institutional control by submitting either: (1) documentary evidence of ownership by an educational institution; (2) documentary evidence of a lease by an educational institution; or (3) documentary evidence of the formation of a non-profit entity to provide dormitory housing for students, the board of directors of which shall be exclusively the representatives of participating educational institutions, plus a copy of a lease for a 10- year period for such non-profit entity; and

WHEREAS, the Proposed Rule also requires the execution and recording of a restrictive declaration, providing, among other things, that the building shall only be used as a UG 3 Dormitory; and

WHEREAS, in a letter to DOB dated March 24, 2005, the appellant commented upon the Proposed Rule, stating, in sum and substance, that the Proposed Rule did not comply with the law applicable to issuance of building permits, as it imposed a pre-permit requirement of establishment of a nexus of control between an education institution and the Proposed Dormitory; and

WHEREAS, however, the appellant also indicated that the Application would nonetheless be amended to comply with the Proposed Rule provisions; and

WHEREAS, the Proposed Rule was ultimately adopted by DOB on May 16, 2005 as Rule 51-01 of the Rules of the City of New York, but only became effective 30 days later on June 15, 2005; and

WHEREAS, accordingly, as discussed more fully before, DOB never applied Rule 51-01 applied to the Application; rather, DOB applied pre-permit conditions consistent with its current practice that would later be incorporated into this Rule; and

WHEREAS, the appellant filed the instant appeal on April 20, 2005, noting in its Statement that it reserved the right to supplement the record of the appeal pending the receipt of additional correspondence from DOB in response to a March 28, 2005 letter it sent to DOB regarding the Final Determination; and

WHEREAS, in the March 28 Letter, the appellant states, in sum and substance, that: (1) the provisions as set forth in the Proposed Rule allow a permit to be issued for a dormitory upon submission of copies of documents evidencing the

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establishment of a not-profit entity chartered for the benefit of participating educational institutions, and that this provision was complied with through the formation of such a non-profit, University House Corp. (“UHC”); and (2) based upon DiMilia, DOB has no authority to require evidence of a institutional nexus between a proposed dormitory and an educational institution; and

WHEREAS, the Manhattan Borough Commissioner subsequently issued a letter dated March 29, 2005, in which DOB again refused to remove the Objection; and

WHEREAS, DOB’s March 29 Letter reads, in pertinent part: “I am responding to your letters dated March 24, 2005 and March 28, 2005, wherein you submit that the proposed dormitory at the referenced premises meets the requirements of the Department’s proposed rule on dormitories and that we should therefore issue a building permit for a student dormitory use.

As set forth in my letter to you dated March 21, 2005, the Department requires a deed or a lease from an acceptable school prior to issuance of a permit to establish a dormitory use. You respond that under Section (c)(1) of the proposed rule the Department will accept “a non-profit entity chartered for the benefit of participating educational institutions...” as proof of the control needed for a Use Group 3 dormitory. However, the proposed rule also requires a copy of the deed or lease of the premises for a minimum ten-year term as evidence of such entity’s control of the premises, prior to issuance of the permit. While you state that the premises will be leased for a ten-year term to an entity that qualifies as a non-profit entity under the terms of the proposed rule, you have failed to provide a lease of the premises by such an entity. It is not sufficient that you intend to enter into a lease with a qualifying entity, or that you intend to enter into a restrictive declaration that would meet the Department’s requirements. Until a satisfactory lease is submitted together with the restrictive declaration, the Department can not issue a permit for a Use Group 3 dormitory use.

In addition, the documentation that you attached regarding the establishment of University Housing Corporation does not require the board members of the non-profit entity to consist of each of the participating educational institutions, as is our intent. We appreciate your comments on the draft rule and will consider clarifying the language.

Moreover, as stated in my letter to you dated March 21, 2005, this matter is distinguished from DiMilia in that the Department is not objecting on the grounds that the use might convert to a Use Group 2 residence. Rather, the Department is seeking documentation necessary to establish that the proposed use is a Use Group 3 dormitory. To the extent the proposed non-profit entity currently lacks control of the premises, you have not established that the premises is a dormitory. Unlike most other uses that can be established by any party, a dormitory use can only be established by controlling educational institutions. Please submit to this office any appropriate documentation you may have to demonstrate that a qualified educational institution(s) has control over the subject premises, so that we may consider issuing the requested building permit.”; and

WHEREAS, in response, the appellant, in a letter dated May 3, 2005, states, in sum and substance, that it would: (1) prepare a lease for a period of not less than 10 years between the appellant and UHC, which would have a board of directors consisting solely of persons appointed by educational institutions which refer students as prospective tenants of UHC within the Proposed Dormitory, and submit a draft of said lease for DOB approval; (2) prepare a restrictive declaration in accordance with the Proposed Rule provision, and submit a draft of said restrictive declaration for DOB approval; and (3) prepare an amendment to the bylaws or certificate of incorporation of UHC providing that, prior to occupancy of the Proposed Dormitory, the UHC board shall consist solely of members appointed by participating educational institutions; and

WHEREAS, in a letter dated May 19, 2005, the Manhattan Borough Commissioner responded to the appellant’s May 3 letter; and

WHEREAS, DOB’s May 19 letter states, in sum and substance, that: (1) the appellant’s proposal provides no assurance that the educational institutions will operate the Proposed Dormitory since no contractual arrangements currently exist; and (2) the proposal is speculative and improper since the board of directors of UHC will only be composed of persons appointed by participating educational institutions prior to occupancy, not prior to issuance of a permit; and

WHEREAS, since DOB did not retreat from its position as set forth in the Final Determination and waive the Objection, the appellant maintained the instant appeal, although it updated its Statement of Facts and Discussion to include a discussion of the additional correspondence and the adoption of the Proposed Rule by DOB, as well as a discussion of additional legal authority in purported support of its position; and

WHEREAS, a public hearing was held on this appeal on August 16, 2005 after due notice by publication in the City Record, on which date the matter was closed and a decision date of October 18, 2005 was set; the record was left open for additional written submissions from both the appellant and DOB; and

WHEREAS, Community Board 3, Manhattan, supports DOB’s denial of a permit for construction of the Proposed Dormitory; and

WHEREAS, the following elected officials and other parties also appeared or made submissions in opposition to the instant appeal: Congresswoman Velazquez, Assembly Member Glick, State Senator Connor, Council Member Lopez, Democratic District Leader Mendez, the Greenwich Village Society for Historic Preservation, representatives of the East Village Community Coalition, the Municipal Art Society, various neighbors to the referenced premises, and other City residents; and

WHEREAS, in its September 16, 2005 submission, the appellant argues that much of the testimony given at the August 16 hearing was either irrelevant to the issue presented in the instant appeal, untimely or inaccurate; and

WHEREAS, the Board agrees that a significant amount

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of the testimony presented at the hearing was not relevant to the instant appeal since it related to tangential matters such as the history of the premises, the intentions of the Owner as to the use of the premises, or the impact of the bulk of the proposed building on the character of the community; and

WHEREAS, the Board further notes that certain of the individuals testifying did not have standing to address the appeal because they were not residents or occupants of property within close proximity to the subject premises; and

WHEREAS, accordingly, the Board bases its decision herein solely on its analysis of the legal arguments made by the appellant and DOB at hearing and in written submissions; and

WHEREAS, as noted above, DOB issued and maintained the Objection in response to the Application after it determined that sufficient evidence of institutional control over the Proposed Dormitory had not been submitted by the appellant; and

WHEREAS, DOB states that if it issued a permit based upon plans showing what could be UG 2 residences – even if identified as a UG 3 Dormitory on the plans and application materials – without some additional evidence of institutional control, it would not have certainty that it was properly permitting a UG 3 Dormitory as opposed to improperly permitting UG 2 residences; and

WHEREAS, DOB asserts that since the plans submitted with the Application reflect an FAR in excess of what is permitted by regulations applicable to UG 2 residences, approval of such plans would be in error; and

WHEREAS, the appellant disagrees, and in its original Statement (submitted in response to the Final Determination, but not the subsequent correspondence between the appellant and DOB), makes the following arguments: (1) DOB does not have the power to require an institutional nexus between a dormitory and an educational institution; (2) DOB does not have the power to require the appellant to substantiate dormitory use as a condition of issuing a construction permit under DOB Job No. 103948338; and (3) in the Final Determination, DOB imposes a documentation requirement on the appellant greater than that generally applied by DOB to applicants for permits to construct dormitories; and

WHEREAS, in its updated Statement of Facts and Discussion, submitted subsequent to the issuance of the above-noted correspondence, the appellant makes the additional argument that DOB's adoption of Rule 51-01, as applied to the Application, is an illegal usurpation of legislative authority; and

WHEREAS, finally, during the course of the hearing process, the appellant made supplemental arguments, which are addressed below; and

WHEREAS, as to the first argument (DOB does not have the power to require an institutional nexus between a UG 3 Dormitory and an educational institution), the appellant argues that there has never been any requirement of an "institutional nexus" anywhere in the Zoning Resolution, and that the imposition of such a requirement as to the Application is tantamount to DOB changing statutory criteria through "administrative fiat"; and

WHEREAS, the appellant states that once a certificate of occupancy ("CO") is issued, then reasonable conditions upon the management and rental structure of a UG 3 Dormitory may be fashioned, and that any such conditions, if lawful for DOB to impose, may be set forth in the CO; and

WHEREAS, in response, DOB first notes that the phrase "college or school student dormitory" as set forth at ZR §22-13 is not a defined phrase in the Z.R., and thus it is appropriate for it to interpret the phrase; and

WHEREAS, the Board agrees, and observes that DOB's authority to engage in such interpretation where necessary to carry out its administrative and enforcement mandates is well-established and evidenced by the Board's own ability to review DOB interpretations as part of its appellate jurisdiction; and

WHEREAS, specifically, the Board notes that ZR §71-00 provides that the Commissioner of DOB shall administer and enforce the ZR, and that this will necessarily require occasional interpretation of its provisions; and

WHEREAS, moreover, the Board notes that ZR §72-01(a) gives it the power to "hear and decide appeals from and to review interpretations" of the ZR made by DOB; and

WHEREAS, in interpreting the phrase "college or school student dormitory", DOB states that some institutional control by an educational institution over the building or space therein is necessary; otherwise, a UG 3 Dormitory would be indistinguishable from UG2 residences for students; and

WHEREAS, in support of its interpretation, DOB submits a letter from the counsel to the Department of City Planning ("DCP"), dated August 9, 2005; and

WHEREAS, in this letter, DCP's counsel states that for UG 3 uses that include sleeping facilities, "it is not merely the identity of the individuals residing within the facility that makes it a 'community facility.' It is also the fact of institutional management and control of the facility."; and

WHEREAS, DCP's counsel also states that for a building to qualify as a UG 3 Dormitory under the ZR, "the dwelling units must be provided by an educational institution in the performance of its educational mission."; and

WHEREAS, DCP's counsel cites both to the plain language of the UG 3 listing for dormitories and to a City Planning Commission report regarding a text amendment to the CF provisions of the ZR (including the subject UG 3 listing), which reads, in pertinent part: "The proposal adds language clarifying that college and school dormitories or fraternity and sorority house are accommodations provided by the educational institution for its students."; and

WHEREAS, thus, DCP supports the interpretation made by DOB and its position in this appeal; and

WHEREAS, the Board agrees with DOB and DCP, for the reasons set forth below; and

WHEREAS, first, other UG 3 CF uses that allow sleeping accommodations are clearly related to, and controlled by, the primary community facility use; and

WHEREAS, for instance, a non-profit hospital controls its facilities for doctor and nurse housing; and

WHEREAS, likewise, a religious institution controls its

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sleeping facilities for its religious officials, such as monks or nuns; and

WHEREAS, without some form of established college or school control of a building occupied by students, a proposed building ceases to be a UG 3 Dormitory and instead is better characterized as UG 2 residences designed for general student occupancy; and

WHEREAS, while plans for such a building might still illustrate features common to a UG 3 Dormitory (e.g. joint kitchens and bathrooms, communal laundry rooms), they would not reflect an actual UG 3 Dormitory because no institutional control would have been established; and

WHEREAS, second, CF uses are presumed to have a benefit for the neighborhood in which they are situated; and

WHEREAS, ZR § 22-13 provides that CF uses are allowed in residential areas “to serve educational needs or to provide other essential services for residents”; and

WHEREAS, accordingly, the ZR allows the development of buildings for such uses with generous bulk increases not afforded to non-community facility development, as set forth in detail in Article 2, Chapter 4 of the ZR “Bulk Regulations for Community Facility Buildings in Residence Districts”; and

WHEREAS, the Board notes that ZR § 24-01 specifically provides that while CF buildings enjoy bulk increases and bonuses, regular residential buildings do not enjoy such increases since the residential bulk regulations apply; and

WHEREAS, if there was no requirement of institutional control, any private party could build UG 2 residences and market them to students from any school, negating the presumed beneficial effect for a specific community-based educational institution and thus for the community as a whole, and resulting in an unjustified financial windfall (in terms of developable floor area) for the private developer; and

WHEREAS, while the appellant may see the current development proposal as the most personally profitable use of a parcel of land restricted to CF use, the Board concludes that not establishing institutional control prior to permitting subverts the public policy of favor towards CF uses as reflected in the ZR’s additional bulk allowances for such uses; and

WHEREAS, the appellant notes that the CPC report cited in the letter from DCP concerns a text amendment to the UG 3 listing for “College or School Student Dormitory”, which clarified that a UG 3 Dormitory must be occupied by students, as opposed to faculty; and

WHEREAS, the appellant argues that this change leads to the conclusion that there is no requirement in the ZR that an educational institution own or control the dorm, only that students occupy it; and

WHEREAS, while the Board agrees that this is an accurate portrayal of the goal of the text amendment, this does not mean that institutional control is not an essential requirement for a UG 3 Dormitory building permit application; and

WHEREAS, if the appellant’s position was accepted,

this would mean that any building where students lived would qualify as a UG 3 Dormitory, which would render this UG designation meaningless; and

WHEREAS, moreover, while the appellant is correct in noting that it is bound by the Deed Restriction to comply with the zoning for CF uses as it existed when the title was transferred, this does not mean that an institutional nexus is not required; it merely raises the possibility that a UG 3 Dormitory that houses faculty could be developed by the appellant if desired, subject to DOB permitting requirements; and

WHEREAS, the appellant also argues that a strict application of DCP’s interpretation of the subject ZR language would not allow for control of the building to be vested in a not-for-profit such as UHC; and

WHEREAS, again, the Board does not agree: the requirement imposed by DOB is that any such non-profit have as its sole purpose the provision of an educational institution-controlled UG 3 Dormitory, and that the participating educational institutions are the sole directors of the non-profit’s board; and

WHEREAS, thus, an institutional nexus, and resulting control over a proposed UG 3 Dormitory, is preserved; and

WHEREAS, for the above reasons, the Board concludes that DOB possesses the authority to interpret the UG 3 language at issue here, and that said interpretation was correct; and

WHEREAS, furthermore, the Board finds appellant’s arguments to the contrary unpersuasive; and

WHEREAS, as to the second argument (DOB has no power to ask for substantiation of dormitory use as a pre-permit condition), the appellant states that DOB is inappropriately imposing the requirement because it fears that the future use of the Proposed Dormitory will be for a use other than a UG 3 Dormitory; and

WHEREAS, the appellant cites to DiMilia for the proposition that DOB cannot deny a permit because it suspects a “possible future illegal use.”; and

WHEREAS, however, the Board agrees with DOB that DiMilia is inapplicable; and

WHEREAS, in DiMilia, DOB refused to issue a permit where the amended plans for a single-family dwelling submitted in the permit application showed the addition of a full bathroom, a private entrance, and a division of a large room into two on the dwelling’s first floor; and

WHEREAS, DOB refused to approve the amended plans because it believed the proposed single-family dwelling would then be readily convertible to two-family dwellings, which were not permitted; and

WHEREAS, the Board upheld DOB in an appeal of DOB’s refusal to approve the amended plans; and

WHEREAS, the Supreme Court annulled the Board determination and the Second Department affirmed, holding that “the standard to be applied herein is the actual use of the building in question, not its possible future use”; and

WHEREAS, the Board disagrees that the basis of DOB’s refusal to permit the construction of the Proposed Dormitory is analogous to its refusal to approve the amended plans in

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DiMilia; and

WHEREAS, here, DOB has not stated that the basis of the pre-permit requirements is fear that the proposed building will be occupied as something besides a UG 3 Dormitory, nor is there any evidence in the record that its stated position is a subterfuge for such fear; and

WHEREAS, instead, DOB claims that it may only approve an application and plans where it can be shown that such application and plans conform to all applicable laws, including the ZR; and

WHEREAS, this requirement is set forth at Building Code §27-191, which provides, in part: “All applications for permits and any accompanying plans and papers, including any amendments thereto, shall be examined promptly after their submission for compliance with the provisions of this code and other applicable laws and regulations.”; and

WHEREAS, the Board agrees with DOB that the submitted application materials related to construction of the Proposed Dormitory do not show compliance with the ZR; and

WHEREAS, the permitted FAR for community facilities reflects the interplay that infrequently occurs between the ZR’s bulk and use regulations; and

WHEREAS, if a developer proposes a CF use in a permit application, it often entitles the developer to a FAR that is greater than the FAR to which a non-CF use is entitled; and

WHEREAS, thus, an appropriate showing of conformance, through plans and related application materials, with the use regulations that trigger the applicable FAR regulations is an indisputable part of DOB’s Building Code-mandated review of permit applications where a CF use is proposed; and

WHEREAS, however, the Board observes that the application review in DiMilia did not require DOB to ascertain whether the proposed use had any bearing on the bulk of the building; the review led to the denial of the permit merely because of DOB’s fear of improper future use; and

WHEREAS, here, DOB’s concern that the appellant show compliance with the pre-permit requirements is not based upon a fear regarding the future use of the Proposed Dormitory – specifically, that it will be used for UG residences for students but not an actual UG 3 Dormitory – but whether it, as the City agency charged with review and approval of permit applications, may lawfully approve an application that does not contain all the requisite information needed to establish conformance with applicable laws; and

WHEREAS, this concern, that DOB would be exceeding its lawful authority in permitting the Proposed Dormitory, is distinguishable from the concern of DOB as reflected in DiMilia; and

WHEREAS, a further distinction between the instant case and DiMilia is evident when comparing the plans for the proposed developments in each matter: in DiMilia, DOB reviewed plans that showed a conforming, complying home; thus, zoning compliance was not an issue; and

WHEREAS, here, DOB reviewed plans that show a residential layout that could be for either UG 2 residences or a UG 3 Dormitory; thus, zoning compliance is an issue; and

WHEREAS, without appropriate materials establishing an institutional nexus between a qualifying educational institution or not-for-profit in the permit application, DOB is unable to determine if it is approving plans that comply with the ZR, given the disparity between UG 2 uses and UG 3 uses in terms of as of right FAR; and

WHEREAS, the Board observes that DOB is bound by 27-191 and may not issue a permit where the plans and papers submitted in support of the permit application do not show conformance with applicable laws; and

WHEREAS, the appellant also argues that certain other uses that enjoy bulk bonuses are not subject to pre-permit documentary evidence requirements comparable to those imposed upon the Application; and

WHEREAS, specifically, the appellant cites to the following examples: (1) FAR bonuses for a mixed-use residential/community facility building where the proposed community facility is a medical office (now referred to in the ZR as ambulatory diagnostic r treatment health care facility); and (2) FAR bonuses for hotel use; and

WHEREAS, the Board agrees that DOB currently may not be imposing the same documentary requirements for plan and permit approvals related to the above-mentioned types of applications; and

WHEREAS, however, this does not mean that DOB lacks the authority to address now applications for UG 3 Dormitories in the manner that it has; and

WHEREAS, in fact, at hearing, DOB identified a viable reason for why it was important to address the UG 3 Dormitory issue as soon as possible: unlike the development scenarios cited by the appellant, if DOB is compelled to revoke a CO based upon issuance of an invalid permit for development presented as UG 3 Dormitory but actually used for UG 2 residences, individuals’ homes could be affected; and

WHEREAS, DOB notes that such a concern is not present with health care facilities: if occupancy of such a space is contrary to the ZR, a new occupant who meets the requirements in terms of licensing can be procured and no individual or family loses a home; and

WHEREAS, the Board further observes that unlike plans for a UG 3 Dormitory and UG 2 residences, plans for a hotel are distinguishable from those for UG 2 residences, given the typical floor plates, room sizes, and amenities present in a hotel; and

WHEREAS, thus, a review of plans, without secondary information supplied by the applicant showing that a hotelier will actually control the hotel, is typically sufficient for DOB to ensure that it is lawfully approving plans for a hotel; and

WHEREAS, in sum, the Board agrees that the need to address the pressing issue of applications for UG 3 Dormitories is an appropriate reason for DOB to impose pre-permit requirements upon the Application, like other applications for UG 3 CF uses that have a residential component, and that there are legitimate reasons why DOB has not addressed the other uses cited by the appellant in a comparable fashion; and

WHEREAS, finally, the appellant suggests two more

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alternative arguments as to why DOB lacks authority to ensure, through the submission of documentary evidence, that the plans for the proposed building reflect a UG 3 Dormitory before issuance of a building permit: (1) DOB enforcement capacity in this regard is limited to its ability to enforce against an issued CO; and (2) the Deed Restriction eliminates the need to impose the pre-permit requirements, since the appellant would risk the investment in the property should this restriction be violated; and

WHEREAS, the Board acknowledges that DOB has the authority to enforce against any CO listing the legal use of the proposed building as a UG 3 Dormitory should there be an occupancy contrary to such a CO; and

WHEREAS, however, contrary to the appellant's assertion, the Board finds that DOB's enforcement capability in this regard does not eliminate or modify the requirement that DOB perform a full plan review and act thereafter in compliance with Building Code § 27-191; and

WHEREAS, likewise, the Board also finds that the existence of the Deed Restriction does not eliminate or modify this requirement; and

WHEREAS, in sum, the Board concludes that the pre-permit requirements imposed by DOB as set forth in its Final Determination and subsequent letters constitute a reasonable exercise of DOB's authority, based upon a reasonable interpretation of a ZR provision; and

WHEREAS, as to the third argument (DOB is imposing a documentation requirement on the Owner greater than that generally applied by DOB to applicants for permits to construct dormitories), the appellant contends that it complies with the language of the Proposed Rule as to submission of documentary evidence; and

WHEREAS, however, as noted by DOB, UHC does not meet the imposed pre-permit requirements; and

WHEREAS, specifically, the certificate of incorporation for UHC does not identify all of its members as representatives of participating educational institutions, nor does it specify that UHC was formed to provide housing for students of participating educational institutions; and

WHEREAS, these requirements have been in place since DOB issued the Final Determination, and, despite the appellant's representations that they would be met, no documentary evidence showing compliance with them has been presented to DOB; and

WHEREAS, in its September 16, 2005 submission, the appellant argues that DOB should be estopped from requiring evidence of institutional control based upon statements made by the City in a prior Article 78 proceeding regarding the premises; and

WHEREAS, the appellant asserts that accepting DOB's position as presented herein would be the equivalent of the City deceiving the appellant into the purchase of the property without any intention of letting the appellant actually develop it, and that if the City had the concerns it is currently expressing about development of a UG 3 Dormitory at the subject premises then these concerns should have been expressed at the time of purchase; and

WHEREAS, the Board observes that the Final

Determination does not address this issue; therefore, the issue is not properly before the Board for its review in the instant appeal; and

WHEREAS, moreover, the Board does not possess the authority to apply principles of equitable estoppel against DOB in the context of the appeal; and

WHEREAS, accordingly, the Board declines to address this argument further; and

WHEREAS, additionally, the appellant argues that DOB's adoption of Rule 51-01 was an improper usurpation of legislative authority, and that the application of this Rule to the permit application for the Proposed Dormitory was a violation of the Owner's due process rights; and

WHEREAS, as noted above, the Board observes that the Objection, the Final Determination, and all the DOB-imposed requirements predate the effectiveness of Rule 51-01; and

WHEREAS, because Rule 51-01 was not effective when the Objection was issued or when this appeal was taken, the argument that the Rule was applied to the Application is erroneous; and

WHEREAS, accordingly, the Board need not pass on DOB's adoption of the Rule nor on the alleged applicability of it to the Application; and

WHEREAS, in its September 16, 2005 submission, the appellant also argues that the Building Code provides that DOB should only review permit applications to ensure "that the plans conform to sound construction engineering requirements, and that the proposal conforms to all existing rules and laws."; and

WHEREAS, the appellant implies that only architectural, structural and mechanical elements of the proposed building require review; and

WHEREAS, however, as noted above, DOB must ensure compliance with all applicable laws pursuant to Building Code §27-191; since ZR provisions as to use and bulk are applicable, they must be evaluated by DOB along with applicable Building Code provisions; and

WHEREAS, thus, the Board finds this argument unpersuasive; and

WHEREAS, in conclusion, the Board finds that: (1) DOB's interpretation of the subject ZR provision is correct; and (2) its refusal to lift the Objection for failure to submit documentary evidence of institutional control over the Proposed Dormitory, as set forth in the Final Determination, is an appropriate exercise of its authority.

Therefore it is Resolved that the instant appeal, seeking a reversal of the determination of the Manhattan Borough Commissioner, dated March 21, 2005, to refuse to remove an objection to DOB Permit Application 103948338, is hereby denied.

Adopted by the Board of Standards and Appeals, October 18, 2005.

166-05-BZY

APPLICANT – Greenberg & Traurig, LLP for Quetin Condos II, LLC, owner.

SUBJECT – Application July 25, 2005 - Proposed extension

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of time to complete construction pursuant to Z.R. §11-331 for a 5 story building with commercial, community facility and 12 residential units uses under the prior Zoning R6/C1-3. New Zoning District is R5B/C2-3 as June 23, 2005. PREMISES AFFECTED – 1669-1671 West 10th Street, Brooklyn, east side of West 10th Street, 100' north of intersection of West 10th Street & Quentin Road, Block 6622, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD # 11BK

APPEARANCES –

For Applicant: Deidre A. Carson.

For Opposition: Assemblyman William Colton.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application under Z.R. §11-331, to renew a building permit and extend the time for the completion of the foundation of a minor development under construction; and

WHEREAS, a public hearing was held on this application on September 20, 2005 after due notice by publication in *The City Record*, and then to closure and decision on October 18, 2005; and

WHEREAS, the site was inspected by a committee of the Board; and

WHEREAS, Community Board 11, Brooklyn, opposed the granting of any relief to the applicant; and

WHEREAS, State Assemblyman Colton also opposed the granting of any relief to the applicant; and

WHEREAS, at hearing, the Assemblyman contended that the subject application, received by the Board on July 25, 2005, was not timely filed, as applications for relief under Z.R. § 11-331 must be filed within 30 days from the date of the rezoning (here, June 23, 2005); and

WHEREAS, however, the Board notes that since the 30th day (July 23, 2005) fell upon Saturday, a non-business day, and under New York state law an application filed on the next business day is considered timely, the application was timely filed; and

WHEREAS, the subject premises is located 100 ft. north of the intersection of West 10th Street and Quentin Road; and

WHEREAS, the subject premises is currently located within an R5B(C2-3) zoning district, but was formerly located within a R6(C1-3) zoning district; and

WHEREAS, the subject premises is proposed to be developed with a five-story mixed-use building with twelve residential units, and commercial and community facility uses; and

WHEREAS, however, on June 23, 2005 (hereinafter, the “Enactment Date”), the City Council voted to enact text changes to the Zoning Resolution rendering the proposed development non-complying; and

WHEREAS, Z.R. §11-331 reads: “If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued as set forth in Section 11-31 paragraph (a), to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations.”; and

WHEREAS, Z.R. § 11-31(a) reads: “For the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met.”; and

WHEREAS, because the proposed development contemplates a single building on one zoning lot, it meets the definition of Minor Development; and

WHEREAS, the applicant represents that all of the relevant Department of Buildings permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the record indicates that on February 1, 2005 a new building permit (Permit No. 301653057-01-NB; hereinafter, the “NB Permit”) for the new building was lawfully issued to the applicant by the Department of Buildings (“DOB”); and

WHEREAS, the Board has reviewed the record and agrees that the afore-mentioned permit was lawfully issued to the owner of the subject premises; and

WHEREAS, the applicant represents that, as of the Enactment Date, substantial progress had been made on foundations; and

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WHEREAS, the applicant represents that excavation of the site was completed by the end of May, 2005; and

WHEREAS, the Board notes that in order to complete the foundations, the applicant would need to construct all footings, grade beams and perimeter walls, including all necessary concrete pours; and

WHEREAS, the applicant further represents that the footings and grade beams were approximately 100% complete as of the Enactment Date; and

WHEREAS, in support of the contention that concrete for the footings and grade beams were poured, the applicant has submitted several pour receipts from a concrete batching company that reflect that, on various dates prior to the Enactment Date, a total of 240 cubic yards were poured; and

WHEREAS, the applicant represents that approximately 390 cubic yards were necessary to complete the foundations; accordingly, as of the Enactment Date, 240 cubic yards (or 62%) of the concrete necessary for the foundation had been poured; and

WHEREAS, the applicant also represents that waterproofing, rebar and sheeting for two out of the four perimeter walls were completed prior to the Enactment Date, and waterproofing and sheeting for an additional perimeter wall were also completed prior to the Enactment Date; and

WHEREAS, in further support of the claim that substantial progress had been made on foundations as of the Enactment Date, the applicant has submitted, among other items, photographs taken on June 14, 2005, and a foundation plan indicating the amount of foundation work that was complete as of the Enactment Date; and

WHEREAS, the applicant has also submitted affidavits from the project manager and the president of one of the contractors documenting the work completed on the proposed development as of the Enactment Date; and

WHEREAS, the Board has reviewed the photos and the affidavits, and agree that they support the conclusion that excavation, waterproofing, installation of grade beams and the pouring of the footings were substantially complete as of Enactment Date; and

WHEREAS, the applicant has submitted a cost breakdown of money expended, which states that \$93,625 of the approximately \$161,000 (or 58%) of the foundation costs, including the costs for the supplies and labor associated with installing the footings and the walls, and excluding excavation costs and other soft costs associated with development on the site had been incurred as of the Rezoning Date; and

WHEREAS, in support of these costs, the applicant has submitted receipts documenting the cost of the concrete and other construction-related costs; and

WHEREAS, the Board finds all of above-mentioned submitted evidence sufficient and credible; and

WHEREAS, additionally, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, based upon the above, the Board finds that excavation was complete and that substantial progress had been

made on foundations, and additionally, that the applicant has adequately satisfied all the requirements of Z.R. § 11-331.

Therefore it is Resolved that this application to renew New Building permit No. 301653057-01-NB pursuant to Z.R. §11-331 is granted, and the Board hereby extends the time to complete the required foundations for one term of sixth months from the date of this resolution, to expire on April 18, 2006.

Adopted by the Board of Standards and Appeals, October 18, 2005.

167-05-BZY

APPLICANT – Greenberg & Traurig, LLP for Quetin Condos II, LLC, owner.

SUBJECT – Application July 25, 2005 - Proposed extension of time to complete construction of a minor development pursuant to Z.R. §11-331 for a 7 story building containing commercial community facility & 20 residential units use with 10 parking spaces at cellar level under the prior Zoning R6/C1-3. New Zoning District is R7A/C2-3 as of June 23, 2005.

PREMISES AFFECTED – 103 Quentin Road, Brooklyn, north side of Quentin Road, 20' east of intersection of Quentin road & West 10th Street, Block 6622, Lot 45, Borough of Brooklyn.

COMMUNITY BOARD # 11BK

APPEARANCES –

For Applicant: Deirdre Carson.

For Opposition: Assemblyman William Colton.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application under Z.R. § 11-331, to renew a building permit and extend the time for the completion of the foundation of a minor development under construction; and

WHEREAS, a public hearing was held on this application on September 20, 2005 after due notice by publication in *The City Record*, and then to closure and decision on October 18, 2005; and

WHEREAS, the site was inspected by a committee of the Board; and

WHEREAS, Community Board 11, Brooklyn, opposed the granting of any relief to the applicant; and

WHEREAS, State Assemblyman Colton also opposed the granting of any relief to the applicant; and

WHEREAS, at hearing, the Assemblyman contended that the subject application, received by the Board on July 25, 2005, was not timely filed, as applications for relief under Z.R. § 11-

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331 must be filed within 30 days from the date of the rezoning (here, June 23, 2005); and

WHEREAS, however, the Board notes that since the 30th day (July 23, 2005) fell upon Saturday, a non-business day, and under New York state law an application filed on the next business day is considered timely, the application was timely filed; and

WHEREAS, the subject premises is located 20 ft. east of the intersection of the intersection of West 10th Street and Quentin Road; and

WHEREAS, the subject premises is currently located within an R7A(C2-3) zoning district, but was formerly located within a R6(C1-3) zoning district; and

WHEREAS, the subject premises is proposed to be developed with a seven-story mixed-use building with 20 residential units, and commercial and community facility uses; and

WHEREAS, however, on June 23, 2005 (hereinafter, the "Enactment Date"), the City Council voted to enact text changes to the Zoning Resolution rendering the proposed development non-complying; and

WHEREAS, Z.R. §11-331 reads: "If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued as set forth in Section 11-31 paragraph (a), to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations."; and

WHEREAS, Z.R. § 11-31(a) reads: "For the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met."; and

WHEREAS, because the proposed development contemplates a single building on one zoning lot, it meets the definition of Minor Development; and

WHEREAS, the applicant represents that all of the relevant Department of Buildings permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the record indicates that on February 16, 2005 a new building permit (Permit No. 301658187-01-NB; hereinafter, the "NB Permit") for the new building was lawfully issued to the applicant by the Department of Buildings ("DOB"); and

WHEREAS, the Board has reviewed the record and agrees that the afore-mentioned permit was lawfully issued to the owner of the subject premises; and

WHEREAS, the applicant represents that, as of the Enactment Date, substantial progress had been made on foundations; and

WHEREAS, the applicant represents that excavation of the site was completed by the end of August, 2004; and

WHEREAS, the Board notes that in order to complete the foundations, the applicant would need to construct all footings, grade beams and perimeter walls, including all necessary concrete pours; and

WHEREAS, the applicant states that the 30 of 32 required footings and 12 of 14 required grade beams were installed as of the Enactment Date; and

WHEREAS, the applicant represents that approximately 450 cubic yards of concrete were necessary to complete the foundations, and that 270 cubic yards were poured prior to the Enactment Date; accordingly, as of the Enactment Date, 60% of the concrete necessary for the foundation had been poured; and

WHEREAS, in support of the contention that the concrete for the footings and grade beams was poured, the applicant has submitted several pour receipts from a concrete batching company that reflect that, on various dates prior to the Enactment Date, a total of 270 cubic yards were poured; and

WHEREAS, the applicant also represents that construction of two out of the four perimeter walls was completed prior to the Enactment Date; and

WHEREAS, in further support of the claim that substantial progress had been made on foundations as of the Enactment Date, the applicant has submitted, among other items, photographs taken on June 21, 2005, and a foundation plan indicating the amount of foundation work that was complete as of the Enactment Date; and

WHEREAS, the applicant has also submitted an affidavit from the president of one of the contractors documenting the work completed on the proposed development as of the Enactment Date; and

WHEREAS, the Board has reviewed the photos and the affidavits, and agree that they support the conclusion that excavation, waterproofing, installation of grade beams and the pouring of the footings were substantially complete as of Enactment Date; and

WHEREAS, the applicant has submitted a cost breakdown of money expended, which states that \$143,500 of

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the approximately \$222,833 (or 64%) of the foundation costs, including the costs for the supplies and labor associated with installing the footings and the walls, and excluding excavation costs and other soft costs associated with development on the site had been incurred as of the Rezoning Date; and

WHEREAS, in support of these costs, the applicant has submitted receipts documenting the cost of the concrete and other construction-related costs; and

WHEREAS, the Board finds all of above-mentioned submitted evidence sufficient and credible; and

WHEREAS, additionally, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, based upon the above, the Board finds that excavation was complete and that substantial progress had been made on foundations, and additionally, that the applicant has adequately satisfied all the requirements of Z.R. § 11-331.

Therefore it is Resolved that this application to renew New Building permit No. 301658187-01-NB pursuant to Z.R. § 11-331 is granted, and the Board hereby extends the time to complete the required foundations for one term of sixth months from the date of this resolution, to expire on April 18, 2006.

Adopted by the Board of Standards and Appeals, October 18, 2005.

168-05-BZY

APPLICANT – Sheldon Lobel, Esq., for 6422 Holding Corp., owner.

SUBJECT – Application July 26, 2005 – Proposed extension of time to complete construction of a minor development pursuant to Z.R. §11-331 for a 6 story+mezzanine building with commercial, community facility and 8 residential units uses under the prior Zoning R6/C1-1. New Zoning District is R6A/C2-3 as of June 23, 2005.

PREMISES AFFECTED – 6422 Bay Parkway, Brooklyn, northwest side of Bay Parkway between 65th and 64th Streets, Block 5550, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD # 11BK

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application under Z.R. §11-331, to renew a building permit and extend the time for the completion of the foundation of a minor development under construction; and

WHEREAS, a public hearing was held on this application on September 20, 2005 after due notice by publication in *The City Record*, and then to decision on October 18, 2005; and

WHEREAS, the site was inspected by a committee of the Board; and

WHEREAS, Community Board 11, Brooklyn, opposed the granting of any relief to the applicant; and

WHEREAS, State Assemblyman Colton also opposed the granting of any relief to the applicant; and

WHEREAS, the subject premises is located on Bay Parkway between 64th and 65th Streets; and

WHEREAS, the subject premises is currently located within an R6A/C2-3 zoning district; prior to the rezoning, it was in an R6/C1-1 zoning district; and

WHEREAS, the subject premises is proposed to be developed with a six-story, mixed-use building with eight residential units, and commercial and community facility uses; and

WHEREAS, however, on June 23, 2005 (hereinafter, the “Enactment Date”), the City Council voted to enact text changes to the Zoning Resolution rendering the proposed development non-complying; and

WHEREAS, Z.R. §11-331 reads: “If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued as set forth in Section 11-31 paragraph (a), to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations.”; and

WHEREAS, Z.R. § 11-31(a) reads: “For the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall

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determine whether such requirement has been met.”; and

WHEREAS, because the proposed development contemplates a single building on one zoning lot, it meets the definition of Minor Development; and

WHEREAS, the applicant represents that all of the relevant Department of Buildings permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the record indicates that on February 11, 2005 a new building permit (Permit No. 301827398-01-NB; hereinafter, the “NB Permit”) for the new building was lawfully issued to the applicant by the Department of Buildings (“DOB”); the NB permit was renewed by DOB on June 3, 2005; and

WHEREAS, the Board has reviewed the record and agrees that the afore-mentioned permit was lawfully issued to the owner of the subject premises; and

WHEREAS, the applicant represents that, as of the Enactment Date, substantial progress had been made on foundations; and

WHEREAS, the applicant represents that excavation of the site was completed on April 1, 2005; and

WHEREAS, the applicant represents that 100% of the underpinning for the foundations was completed as of the Enactment Date; and

WHEREAS, the Board notes that in order to complete the foundations, the applicant would need to construct all footings, grade beams and perimeter walls, including all necessary concrete pours; and

WHEREAS, the applicant further represents that the footings and grade scale or strap beams were approximately 88% complete as of the Enactment Date; and

WHEREAS, in support of the contention that concrete for the footings and strap beams were poured, the applicant has submitted several receipts from a concrete batching company that reflect that 63 cubic yards were poured in April, 56 cubic yards were poured on May 20, 2005, and 59 cubic yards were poured in June; and

WHEREAS, the applicant represents that a total of 178 cubic yards of concrete were poured as of the Enactment Date and approximately 117 cubic yards are required to be poured to complete the foundations; accordingly, as of the Enactment Date, 60% of the concrete necessary to complete the foundation had been poured; and

WHEREAS, in support of the claim that substantial progress had been made on foundations as of the Enactment Date, the applicant has submitted, among other items, photographs taken on December 31, 2004, March 22, 2005, June 16, 2005 and June 21, 2005, and a foundation plan indicating the amount of foundation work that was complete as of the Enactment Date; and

WHEREAS, the applicant has also submitted an affidavit from the general contractor documenting the work completed on the proposed development as of the Enactment Date; and

WHEREAS, the Board has reviewed the photos and the affidavit, and agree that they support the conclusion that excavation and the pouring of the footings were substantially

complete as of June 23, 2005; and

WHEREAS, the applicant has submitted a cost breakdown of money expended, which states that \$25,550 of the approximately \$38,000 (or 67%) of the foundation costs, including the costs for the supplies and labor associated with installing the footings and forms, and excluding excavation costs and other soft costs associated with development on the site had been incurred as of the Enactment Date; and

WHEREAS, in addition, the applicant represents that \$114,000 out of a total of \$130,000 (or 87%) of foundation costs (including soft costs) has been paid by the applicant as of the Enactment Date; and

WHEREAS, in support of these costs, the applicant has submitted receipts documenting the cost of the concrete and other construction-related costs; and

WHEREAS, the Board finds all of above-mentioned submitted evidence sufficient and credible; and

WHEREAS, additionally, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, based upon the above, the Board finds that excavation was complete and that substantial progress had been made on foundations, and additionally, that the applicant has adequately satisfied all the requirements of Z.R. § 11-331.

Therefore it is resolved that this application to renew New Building permit No. 301827398-01-NB pursuant to Z.R. § 11-331 is granted, and the Board hereby extends the time to complete the required foundations for one term of sixth months from the date of this resolution, to expire on April 18, 2006.

Adopted by the Board of Standards and Appeals, October 18, 2005.

169-05-BZY

APPLICANT – Sheldon Lobel , Esq., for PGLL, LLC., owner.

SUBJECT – Application July 26, 2005 - Proposed extension of time to complete construction of a minor development pursuant to Z.R. §11-331 for a 5 Story building with 20 units and 23 cellar parking under the prior Zoning R6. New Zoning District is R4-1 as of June 23, 2005.

PREMISES AFFECTED – 6210-6218 24th Avenue, Brooklyn, north side of 24th Avenue between 62th and 63rd Streets, Block 6557, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD # 11BK

APPEARANCES –

For Applicant: Jordan Most.

For Opposition: Assemblyman William Colton.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

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THE RESOLUTION -

WHEREAS, this is an application under Z.R. § 11-331, to renew a building permit and extend the time for the completion of the foundation of a minor development under construction; and

WHEREAS, a public hearing was held on this application on September 20, 2005 after due notice by publication in *The City Record*, and then to closure and decision on October 18, 2005; and

WHEREAS, the site was inspected by a committee of the Board; and

WHEREAS, Community Board 11, Brooklyn, opposed the granting of any relief to the applicant; and

WHEREAS, State Assemblyman Colton also opposed the granting of any relief to the applicant; and

WHEREAS, the subject premises is located on the north side of 24th Avenue between 62nd and 63rd Street; and

WHEREAS, the subject premises is currently located within an R4-1 zoning district; prior to the re-zoning, it was located in an R6 zoning district; and

WHEREAS, the subject premises is proposed to be developed with a five-story residential building with 20 units, and 23 cellar level parking spaces; and

WHEREAS, however, on June 23, 2005 (hereinafter, the "Enactment Date"), the City Council voted to enact text changes to the Zoning Resolution re-zoning the property from an R6 zoning district to an R4-1 zoning district, rendering the proposed development non-complying; and

WHEREAS, Z.R. §11-331 reads: "If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued as set forth in Section 11-31 paragraph (a), to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations."; and

WHEREAS, Z.R. § 11-31(a) reads: "For the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an

approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met."; and

WHEREAS, because the proposed development contemplates a single building on one zoning lot, it meets the definition of Minor Development; and

WHEREAS, the applicant represents that all of the relevant Department of Buildings permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the record indicates that on March 25, 2005 a new building permit (Permit No. 301917442-01-NB; hereinafter, the "NB Permit") for the new building was lawfully issued to the applicant by the Department of Buildings ("DOB"); the NB permit was renewed by DOB on May 27, 2005; and

WHEREAS, the Board has reviewed the record and agrees that the afore-mentioned permit was lawfully issued to the owner of the subject premises; and

WHEREAS, the record reflects that a Stop Work Order was issued by the Department of Buildings on June 7, 2005 pertaining to underpinning that was performed on the western wall that did not conform to the approved plans; the Stop Work Order, pertaining solely to work performed on the western wall, was lifted on June 21, 2005; and

WHEREAS, the Department of Buildings has confirmed, at the Board's request, that the Stop Work Order was limited to work performed at the western wall related to underpinning, and not to all work on the site; and

WHEREAS, accordingly, for the purpose of its analysis, the Board will disregard the amount of work performed on the western wall during the stop work order period; and

WHEREAS, the applicant represents that, as of the Enactment Date, substantial progress had been made on foundations; and

WHEREAS, the applicant represents that excavation of the site was completed on May 20, 2005; and

WHEREAS, the Board notes that in order to complete the foundations, the applicant would need to construct all footings and perimeter walls, including all necessary concrete pours; and

WHEREAS, the applicant represents that shoring for all foundation walls was complete as of the Enactment Date; and

WHEREAS, the applicant further represents that 83% of the foundation walls were complete as of the Enactment Date; and

WHEREAS, in support of the contention that the foundations are substantially completed, the applicant has submitted several receipts from a concrete batching company that reflect that 218 cubic yards were poured between April 20, 2005 and June 10, 2005; this total does not include concrete poured in connection with the western wall underpinning during the duration of the Stop Work Order; and

WHEREAS, the applicant represents that a total of 218

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cubic yards of concrete were poured as of the Enactment Date and approximately 110.5 cubic yards were necessary to complete the foundations (including amounts poured during the Stop Work Order and amounts poured after the Enactment Date); accordingly, as of the Enactment Date, 66% of the concrete necessary for the foundation walls had been poured; and

WHEREAS, in support of the claim that substantial progress had been made on foundations as of the Enactment Date, the applicant has submitted, among other items, photographs taken on July 9, 2005; and

WHEREAS, the Board notes that these photographs are not conclusive since they were taken after the Enactment Date; and

WHEREAS, the applicant has also submitted a foundation plan indicating the amount of foundation work that was complete as of the Enactment Date, and an affidavit from the general contractor documenting the work completed on the proposed development as of the Enactment Date; and

WHEREAS, the Board has reviewed the affidavit, and agree that they support the conclusion that excavation and the pouring of the footings were substantially complete as of June 23, 2005; and

WHEREAS, the applicant has submitted a cost breakdown of money expended, which states that \$52,000 of the approximately \$81,000 (or 64%) of the foundation costs, including the costs for the supplies and labor associated with installing the foundation walls, and excluding excavation costs and other soft costs associated with development on the site had been incurred as of the Enactment Date; and

WHEREAS, in support of these costs, the applicant has submitted receipts documenting the cost of the concrete and other construction-related costs; and

WHEREAS, the Board finds all of above-mentioned submitted evidence sufficient and credible; and

WHEREAS, additionally, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, based upon the above, the Board finds that excavation was complete and that substantial progress had been made on foundations, and additionally, that the applicant has adequately satisfied all the requirements of Z.R. § 11-331.

Therefore it is resolved that this application to renew New Building permit No. 301917442-01-NB pursuant to Z.R. § 11-331 is granted, and the Board hereby extends the time to complete the required foundations for one term of sixth months from the date of this resolution, to expire on April 18, 2006.

Adopted by the Board of Standards and Appeals, October 18, 2005.

186-05-A

APPLICANT – Zygmunt Staszewski, P.E., for The Breezy Point Cooperative, Inc., owner; Irene Whalen, lessee.

SUBJECT – Application filed on August 8, 2005 - Application for an Appeal to Department of Buildings to

reconstruct and enlarge an existing single family frame dwelling not fronting on a mapped street contrary to General City Law Article 3, Section 36 and upgrading an existing private disposal system which is contrary to Department of Buildings policy. Premises is located within an R4 zoning district.

PREMISES AFFECTED – 13 Beach 221st Street, east of Beach 221 Street, Breezy Point, 247,46ft South of Rockaway Point Boulevard. Block 16350, part of Lot 400, Borough of Queens.

COMMUNITY BOARD # 14Q

APPEARANCES –

For Applicant: Magdalys Gonzalez.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

WHEREAS, the decision of the Queens Borough Commissioner dated July 14, 2005 acting on Department of Buildings Application No. 402088058, reads:

“A-1 The Street giving access to the existing building to be altered is not duly placed on the official map of the City of New York, Therefore:

A) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.

B) Existing dwelling to be altered does not have at least 8% of total perimeter of building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section C27-291 of the Administrative Code of the City of New York.

A-2 The proposed upgraded private disposal system is contrary to Department of Buildings Policy;” and

WHEREAS, a public hearing was held on this application on October 18, 2005 after due notice by publication in the *City Record*, on which date the matter was closed and granted; and

WHEREAS, by letter dated August 29, 2005 the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated July 14, 2005, acting on Department of Buildings Application No.402088058, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall

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substantially conform to the drawing filed with the application marked "Received August 8, 2005"-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 18, 2005.

1-05-A

APPLICANT – Kathleen R. Bradshaw, Esq. for Anthony Ciaramella, owner

SUBJECT – Application filed January 4, 2005 - to construct two one family homes in the bed of a mapped street (Shore Drive) which is contrary Section 35, Article 3 of the General City Law . Premises is located in a C3 within a R4 Zoning District .

PREMISES AFFECTED – 1426 & 1428 Shore Drive, Bronx, located at 643. 08 ft south of the intersection of Layton Avenue and Shore Drive, Block 5467 , Lots 37 & 38 (tentative Lot #138 & 139)

COMMUNITY BOARD #10BX

APPEARANCES –

For Applicant: Kathleen Bradshaw and Mike DePasquale.

ACTION OF THE BOARD - Laid over to December 6, 2005, at 10 A.M., for continued hearing.

103-05-A

APPLICANT – Rothkrug, Rothkrug ,Weinberg & Spector, LLP. for Main Street Makeover 2, Inc.,owner.

SUBJECT – Application filed on May 4, 2005 – for an appeal of the Department of Buildings decision dated April 22, 2005 refusing to lift the "Hold" on Application #500584799, and renew a building permit on approved plans for alteration to an existing one -family dwelling, based on a determination by the Department of City Planning dated February 2, 2005 that CPC approval of a restoration plan is required pursuant to Section 105-45 of the Zoning Resolution.

PREMISES AFFECTED – 366 Nugent Street, Staten Island, located at the S/W/C of intersection of Nugent Street and Spruce Street (not final mapped), Block 2284, Lot 44.

COMMUNITY BOARD # 2SI

APPEARANCES –

For Applicant: Adam W. Rothkrug and Marcus Marino.

For Administration: Lisa M. Orrantia, Department of

Buildings.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to December 13, 2005, at 10 A.M., for decision, hearing closed.

116-05-BZY

APPLICANT – Frederick A. Becker for John Shik Im, owner.

SUBJECT – Application May 12, 2005 – Proposed extension of time to complete construction for a two family home for a period of six months pursuant to Z.R. 11-331 of the Zoning Resolution under prior R3-2 Zoning District. As of April 12, 2005, the new Zoning District is R3-X.

PREMISES AFFECTED – 22-08 43rd Avenue, corner of 222nd Street and 43rd Avenue, Block 6328, Lot 17, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Fred Becker.

ACTION OF THE BOARD - Laid over to November 15, 2005, at 10 A.M., for continued hearing.

117-05-BZY

APPLICANT – Fredrick Becker, Esq., for Yohn Shik Im, owner.

SUBJECT – Application May 12, 2005 – Proposed extension of time to complete construction for a period of six months pursuant to Z.R. §11-331 on a two family home under prior R3-2 Zoning District. As of April 12, 2005 the new zoning district is R3-X.

PREMISES AFFECTED – 43-05 222ND Street, south of 43rd Avenue and East 222nd Street, 6328, Lot 16 Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Fred Becker.

ACTION OF THE BOARD - Laid over to November 15, 2005, at 10 A.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 11:45 A.M.

MINUTES

Commissioner Chin.....3
Negative:.....0
Adopted by the Board of Standards and Appeals,
October 18, 2005.

299-04-BZ

CEQR #05-BSA-039Q

APPLICANT - Patrick W. Jones, Petraro & Jones, LLP, for Sutphin Boulevard, owner.

SUBJECT - Application September 7, 2004 - under Z.R. §72-21 – to permit the proposed construction of a one-story retail building, Use Group 6, located in an R3-2 zoning district.

PREMISES AFFECTED - 111-02 Sutphin Boulevard, (a/k/a 111-04/12 Sutphin Boulevard), southeast corner of 111th Avenue, Block 11965, Lots 26, 188 and 189 (tentative 26), Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES – None.

ACTION OF THE BOARD – Application denied.

THE VOTE TO GRANT -

Affirmative:0

Negative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner dated August 12, 2004, acting on Department of Buildings Application No. 401955595, reads:

“Proposed use is a non-conforming use in a residential district as per ZR 22-11”; and

WHEREAS, a public hearing was held on this application on April 19, 2005 after due publication in *The City Record*, with continued hearings on May 24, 2005, August 23, 2005 and then to decision on October 18, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, on a lot within an R3-2 zoning district, the construction of a one-story retail building, contrary to Z.R. § 22-11; and

WHEREAS, Community Board No. 12, Queens and the Queens Borough President recommend conditional approval of this application; and

WHEREAS, the subject premises consists of three adjoining tax lots (Lots 26, 188 and 189), with a total lot area of 24,649 sq. ft.; the site is situated on the southeast corner of the intersection of 111th Avenue and Sutphin Boulevard; and

WHEREAS, Lot 26 is currently developed with four separate buildings, with a total floor area of 4,133 sq. ft., and is occupied by automotive service and automotive storage uses (the “Existing Buildings”); and

WHEREAS, the other two lots (Lots 188 and 189) are unimproved; and

WHEREAS, these three lots are proposed to be merged into one zoning lot (Tentative Lot 26); and

REGULAR MEETING TUESDAY AFTERNOON, OCTOBER 18, 2005 1:30 P.M.

Present: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.

ZONING CALENDAR

41-04-BZ

CEQR #04-BSA-134M

APPLICANT – Sheldon Lobel, P.C., for 2113 First Avenue, LLC, owner.

SUBJECT – Application February 23, 2004 – Pursuant to Z.R. §72-21 – to permit the proposed legalization of the existing auto laundry, lubricatorium, and accessory retail building. The site is located in a C2-5 overlay within R7-2 Zoning District. The proposal is contrary to Z.R. §§33-00 and 22-00 and to vary Section 33-00 and 22-00.

PREMISES AFFECTED – 338 East 109th Street, a/k/a 2113 First Avenue, First Avenue between East 108th and East 109th Streets, Block 1680, Lots 27 and 32, Borough of Manhattan.

COMMUNITY BOARD #11M

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and

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WHEREAS, Lot 26, but not the other two lots, has been subject to Board jurisdiction since 1931 under BSA Cal. No. 619-31-BZ; and

WHEREAS, under this calendar number, the Board granted an application for a use variance within a residence district, allowing a gasoline service station on Lot 26 for a two year term; and

WHEREAS, this grant was extended by the Board at various times since 1931, the most recent extension of term was granted in May of 1980, for a term of ten years; and

WHEREAS, this grant has been expired for over 14 years, and is no longer valid; and

WHEREAS, in spite of the expired grant, as noted above, the Existing Buildings are currently being used for automotive service and automotive storage; and

WHEREAS, in light of the fact that the past grant has expired and the owner of the premises now proposes a new retail development on a zoning lot that was only partially covered by the past grant, the applicant submitted a new application pursuant to Z.R. § 72-21; and

WHEREAS, the applicant proposes to demolish the Existing Buildings and replace them with the proposed building; and

WHEREAS, the proposed building is a one-story, 18 ft. high, Use Group 6 retail building, with a total FAR of 0.5 (12,005 sq. ft. of floor area); and

WHEREAS, 22 off-street accessory parking spaces are also proposed; and

WHEREAS, the applicant initially alleged that the following were unique physical conditions that lead to practical difficulties and unnecessary hardship in developing the subject lot in strict conformance with underlying district use regulations: (1) the Existing Buildings are obsolete and must be demolished; and (2) the existence of an underground storage tank system has led to environmental contamination that must be remediated; and

WHEREAS, as to the Existing Buildings and the tanks, the applicant contends that they were “established in a different era” that has long since passed, and therefore may now properly be considered unique physical conditions that warrant a variance; and

WHEREAS, the Board notes that the alleged obsolescence of the Existing Buildings has not been proven by the applicant; and

WHEREAS, by the applicant’s own admission, the buildings may have been constructed around 1950, and currently are occupied by automotive service/storage uses; and

WHEREAS, accordingly, the Board is unable to conclude that they are obsolete for their intended purpose; and

WHEREAS, even if the Existing Buildings were assumed to be obsolete, the applicant proposes their demolition; and

WHEREAS, once they are demolished, the site will be a normally-sized and shaped developable lot, with no visible burden preventing conforming development; and

WHEREAS, thus, in alignment with many of its previous decisions, the Board finds that the structures may not properly be considered a hardship given that they are proposed to be demolished; and

WHEREAS, also, while the buildings are occupied by non-conforming uses, the Board can not conclude that this fact alone renders the site uniquely afflicted; and

WHEREAS, the Board is unaware of any precedent that holds that a site with a non-conforming use is presumptively uniquely burdened such that the use may form the basis of a variance; and

WHEREAS, nor are the demolition costs of the Existing Buildings so extraordinary as to impose a true hardship upon the owner; here, the stated demolition cost is \$32,000; and

WHEREAS, the Board finds that such minimal demolition costs represent the normal price of site-clearance in order to make a zoning lot developable; and

WHEREAS, in sum, the Board rejects the applicant’s claim that the Existing Buildings constitute a unique physical hardship that leads to practical difficulties and unnecessary hardship; and

WHEREAS, the Board acknowledges that the underground storage tank system and related contamination may be a unique physical condition on the lot that results in additional development costs; and

WHEREAS, the applicant represents that the costs associated with the tanks and their remediation will total \$340,000, approximately half of which relates to remediation on Lot 26 and half of which relates to remediation on the other two lots; and

WHEREAS, however, Z.R. § 72-21(a) provides that the alleged unique physical conditions must result in practical difficulties or unnecessary hardship in strictly complying with applicable zoning provisions; and

WHEREAS, the Board observes that total development costs for a conforming development of eight two-family homes are, by the applicant’s own admission, over 3.7 million dollars; and

WHEREAS, the Board does not agree that an additional one-time cost of \$340,000 in light of this total development cost is so significant that unnecessary hardship or practical difficulties arise, especially when considering that such cost will amortized over the useful life of the conforming residential buildings, which would have a life expectancy of 30 to 40 years; and

WHEREAS, thus, even assuming that the tank system and related contamination is a unique physical condition, the Board finds that the claimed hardship cost does not rise to the level of unnecessary hardship or practical difficulties such that the requested use waiver is necessary; and

WHEREAS, for the reasons set forth above, the Board finds that the applicant has failed to meet the finding set forth at Z.R. § 72-21(a); and

WHEREAS, because the finding set forth at Z.R. § 72-21(a) has not been met, it follows that the finding at Z.R. § 72-21 (b) can not be met; and

WHEREAS, even assuming *arguendo* that the Existing Buildings and the tank system should be considered unique

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and unnecessary hardships such that the finding set forth at Z.R. § 72-21(a) is met, the applicant has failed to submit credible financial data – specifically, the proffered site valuation – in support of its claim that conforming residential development on the site will not realize a reasonable return; and

WHEREAS, the Board notes that an accurate site valuation that may be properly relied upon is essential in order for the finding set forth at Z.R. § 72-21(b) to be met; and

WHEREAS, the Board observes that the applicant has valued the site at \$1,110,000, which reflects a market valuation based upon comparable sales; and

WHEREAS, the Board questions this valuation, and observes that the comparables provided to support the valuation are almost all significantly smaller than the subject site, and don't conclusively support the claimed value of \$1,110,000; and

WHEREAS, specifically, in March of 2005, the site valuation was based on four comparables, three of which ranged from 4,220 sq. ft. to 6,462 sq. ft.; in September of 2005, the site valuation was based on eight comparables, ranging from 2,075 sq. ft. to 6,462 sq. ft.; the subject site is 24,649 sq. ft.; and

WHEREAS, additionally, six of the eight comparables from September are improved sites, which detracts from their utility as a means of determining the value of the subject site, since the site will be vacant subsequent to the demolition of the Existing Buildings, which, based upon the representations of the applicant, have no value due to their functional obsolescence; and

WHEREAS, moreover, the September comparables are significantly varied in per sq. ft. values, ranging from \$51.02 per sq. ft. to \$242.89 per sq. ft., and therefore using them to ascribe value to the much larger subject site is problematic because no appropriate methodology exists to ascertain the appropriate value when such a wide range of per sq. ft. values is presented; and

WHEREAS, given its reservations with the applicant's claim of alleged hardship at the site, the Board asked the applicant to analyze a conforming residential scenario as if no unique physical hardships and resulting costs existed in order to assess the viability of conforming development on the site; and

WHEREAS, such an analysis would allow the Board to ascertain how much of the applicant's claimed poor return for conforming development is due to generally applicable poor market conditions; and

WHEREAS, the applicant responded that, assuming there is no hardship, the return on investment for a conforming residential proposal at the subject site is 1.09 percent over two years; and

WHEREAS, based upon this analysis, the Board concludes that the site valuation proposed by the applicant is overstated, as applicant's valuation presumes that a rational developer would pay \$1,110,000 for a site where only 1.09 percent is achievable through as-of-right development; this is a presumption that the Board finds illogical and

unsupportable; and

WHEREAS, the Board finds that a more accurate site valuation would be based upon a comparable that is similarly sized to the subject premises; and

WHEREAS, the Board observes that only one submitted comparable, with a lot area of 23,280 sq. ft., is similar in size to the subject premises (24,649 sq. ft.) and is within the same zoning district (R3-2); and

WHEREAS, the record indicates that this comparable was sold at \$410,000, or \$35.22 per buildable sq. ft., as opposed to the \$90.00 per sq. ft. ascribed to the subject site by the applicant in its September 2005 submission; and

WHEREAS, the Board notes that it is not uncommon for larger sites to be valued lower on a per sq. ft. basis than smaller sites in the same zoning district, as the above comparable illustrates; and

WHEREAS, while the Board could legitimately use a \$35.00 per sq. ft. amount as the most appropriate site value, based upon the above comparable, in order to be conservative, a per sq. ft. site valuation reflecting this amount plus an additional \$15.00 per sq. ft. may be reasonably used for purposes of analyzing return, even though the true value of the subject site is likely to be lower; and

WHEREAS, using this lower per sq. ft. site valuation of \$50.00, but maintaining all of the other financial assumptions made by the applicant, including the alleged hardship costs, the Board finds that an as of right development would result in an overall rate of return of approximately 3.47 percent; and

WHEREAS, the Board concludes that this is a reasonable rate of return for an area where as of right residential development can not be expected to result in higher percentage returns; and

WHEREAS, the Board notes that the applicant's proposal of a commercial development will realize a return of 3.31 percent, which applicant contends is the minimum variance necessary to alleviate the purported hardship; and

WHEREAS, it follows that a 3.47 percent return from a conforming development should also overcome any purported hardship; thus, logically, this return is reasonable and the finding set forth at Z.R. § 72-21(b) can not be met; and

WHEREAS, in sum, the Board finds that the applicant has not shown that any costs associated with the alleged unique features of the site would prevent feasible conforming residential development; and

WHEREAS, for the reasons set forth above, the Board finds that the applicant has failed to meet the finding set forth at Z.R. § 72-21(b); and

WHEREAS, since the application fails to meet the findings set forth at Z.R. § 72-21 (a) and (b), it must be denied; and

WHEREAS, because the Board finds that the application fails to meet the findings set forth at Z.R. §§ 72-21(a), and (b), which are the threshold findings that must be met for a grant of a variance, the Board declines to address the other findings.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, August 12, 2004, acting on

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Department of Buildings Application No. 401955595, is sustained and the subject application is hereby denied.

Adopted by the Board of Standards and Appeals, October 18, 2005.

326-04-BZ

CEQR #05-BSA-046K

APPLICANT - The Law Office of Fredrick A. Becker, for Sephardic Center of Mill Basin, owner.

SUBJECT – Application - under Z.R. §72-21 – to request a bulk variance to allow the construction of a new synagogue in place of an existing synagogue. The application seeks waivers regarding Floor Area Ratio (§§24-111 and 24-141), perimeter wall height (§24-521), sky exposure plane (§24-521) and parking (§§25-18 and 25-31), located in a R2 zoning district.

PREMISES AFFECTED - 6208/16 Strickland Avenue, northeast corner of Mill Avenue, Block 8656, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated September 14, 2004, acting on Department of Buildings Application No. 301780874, reads:

- “1. Proposed plans are contrary to ZR 24-111 and ZR 23-141 in that the proposed floor area ratio is greater than the maximum permitted floor area ratio of 0.5.
2. Proposed plans are contrary to ZR 24-521 in that the proposed perimeter wall height is greater than the maximum permitted perimeter wall height of 25 feet.
3. Proposed plans are contrary to ZR 24-521 in that the proposed building penetrates the sky exposure plane.
4. Proposed plans are contrary to ZR 25-18 and ZR 25-31 in that the proposed number of parking spaces is less than the minimum required number of parking spaces.”; and

WHEREAS, a public hearing was held on this application on July 26, 2005, after due notice by publication in *The City Record*, with a continued hearing on September 13, 2005, and then to decision on October 18, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R2 zoning district, the proposed construction of a new two-story plus cellar synagogue, which requires

various bulk waivers related to floor area ratio, perimeter wall height, sky exposure plane, and required parking, contrary to Z.R. §§ 24-111, 23-141, 24-521, 25-18, and 25-31; and

WHEREAS, this application is brought on behalf of the Sephardic Center of Mill Basin, a not-for-profit entity (hereinafter, the “Synagogue”); and

WHEREAS, Community Board 18, Brooklyn, opposes approval of this application for reasons stated in their recommendation report, as discussed below; and

WHEREAS, certain members of Mill Island Civic Association and the community spoke at the hearing with respect to this proposal and voiced concerns as noted below; and

WHEREAS, the site is located on the northeast corner of the intersection of Strickland Avenue and Mill Avenue; and

WHEREAS, the subject site is currently improved upon with a two-story synagogue, occupied by the congregation since 1986; and

WHEREAS, the lot has a total lot area of approximately 10,883 sq. ft.; the existing synagogue building has a floor area of approximately 6,800 sq. ft.; and

WHEREAS, the applicant proposes to construct a new 10,800 sq. ft. synagogue building in order to accommodate the current size and resulting programmatic needs of the congregation; and

WHEREAS, the applicant states that the following are the programmatic needs of the Synagogue, which are driven by an increase in congregation size since 1986 to its present size of 300 families: (1) more worship space than is currently provided, to reduce overcrowded conditions and include separate praying areas for men and women; (2) a private office for the rabbi; (3) men’s and women’s mikvahs; (4) a dairy kitchen and a meat kitchen; (5) adequate bathrooms; (6) handicapped accessibility; (7) a multi-purpose room for gatherings on the Sabbath and bar and bat mitzvahs; (8) space for educational programs; and (9) roof access so that the congregation can celebrate the holiday of Sukkot outside; and

WHEREAS, construction of the new synagogue building as currently proposed will result in the following non-compliances: a floor area ratio (“FAR”) of 1.0 (FAR of 0.5 is the maximum permitted); perimeter wall height of 32’-6” (a perimeter wall height of 25’-0” is the maximum permitted); encroachment into the sky exposure plane (a sky exposure plane of 1:1 is required); and no parking spaces (27 spaces are required); and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: (1) the shape of the lot; (2) the existing building has insufficient space to accommodate the current size and programmatic needs of the Synagogue; and (3) poor soil and water conditions; and

WHEREAS, the applicant notes that the shape of the lot would result in an as of right structure that would only be one-story in height, and thus incapable of accommodating the Synagogue’s programmatic needs; and

WHEREAS, specifically, the applicant states that the noncomplying wall height and the encroachment into the sky exposure plane along the front yards, which allow for a second

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story, are necessary due to the need for a large double height space in the front of the women's gallery, which will permit the women to view the rabbi from their seats and not deprive them of a proper space in which to pray; and

WHEREAS, the applicant further states that these variances, along with the variance for FAR, are necessary in order to have enough floor area and height to accommodate the afore-mentioned programmatic needs; and

WHEREAS, in support of the above, the applicant has submitted a chart that reflects the additional square footage requested and to what use such square footage is allocated; and

WHEREAS, additionally, the Board observes that the provision of required parking would diminish the amount of site area available for accommodation of the Synagogue's programmatic needs; and

WHEREAS, the Board asked the applicant to consider whether it could lower the cellar of the building to reduce the overall height of the building; and

WHEREAS, the applicant submitted borings that show that the water table is at 17'-0" below grade with perched water at 10'-0"; accordingly, the applicant represents that the building cannot be lowered due to the prohibitive cost of constructing a deeper foundation in moist soil caused by the water table; and

WHEREAS, in sum, the Board agrees that, based upon the submitted evidence, the new building is necessary in order to meet the programmatic needs of the Synagogue, since the existing building does not possess the square footage necessary to accommodate these needs; and

WHEREAS, therefore, the Board finds that the cited unique physical conditions, when considered in conjunction with the programmatic needs of the Synagogue, create practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, in concluding that the site is burdened and that hardship exists when considering the programmatic needs of the Synagogue, the Board is cognizant of the fact that under New York state case law, religious institutions are presumed to contribute to the public welfare, and the accommodation of such uses is established State policy; and

WHEREAS, the applicant need not address Z.R. § 72-21(b) since it is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the Board expressed concern related to the maximum occupancy of the Synagogue at any given time; and

WHEREAS, the applicant represents that although the proposed occupancy of the men's sanctuary is 459 people and the women's sanctuary is 247 people, and the proposed occupancy of the multi-purpose room is 438 people, the sanctuaries and the multi-purpose room will not be used simultaneously; and

WHEREAS, the Board also asked for an explanation of uses on the site and when the maximum number of congregants would attend the Synagogue; and

WHEREAS, in response, the applicant provided a

description of all of the uses on the site, and explained that the Synagogue would be most heavily attended from Friday night through Saturday night; and

WHEREAS, the Board asked the applicant to discuss whether there would be adequate parking available for the congregants; and

WHEREAS, in response, the applicant represents that more than 61% of the members of the congregation live within three-quarters of a mile of the Synagogue and that 78% of the congregants live within one mile, and that during peak Synagogue hours (i.e., on the Sabbath), members walk to the Synagogue; and

WHEREAS, the applicant submitted a parking study that purported to show that there was adequate on-street parking to meet the needs of the congregation; and

WHEREAS, the Board expressed concern that the parking study was limited to one weekday; and

WHEREAS, in response to the Board's concern, the applicant submitted a parking study that surveyed an area within a 400 ft. radius of the site during another weekday and on the Sabbath; such survey indicates that the proposed new building will not have any adverse parking impacts on weekdays or on the Sabbath; and

WHEREAS, in response to community concerns about parking at events such as weddings, the applicant states that it is likely that the maximum occupancy for the multi-purpose room for events with tables and chairs will be 290 people; given that an average vehicle trip for such events is three to four people, a maximum number of 83 parking spaces would be required; and

WHEREAS, the applicant further represents that the parking study reflects that at all times there were at least 91 parking spaces available, and most times there were more than 100 spaces available; and

WHEREAS, the Community Board and other opposition has certain concerns with the proposed building, including that: dewatering during construction may cause problems for the surrounding area; the weight of the building may endanger structures surrounding the building; weddings and other special events may have traffic impacts on the neighborhood; catering uses on the site could create noise and garbage impacts; and the size and height of the building are out of context with the surrounding neighborhood; and

WHEREAS, in response, the applicant has stated that: it is not proposing to construct a basement below the water table; it has submitted parking studies that reflect that adequate parking is available in the neighborhood for Synagogue uses; that there will be no commercial catering on the site; and the proposed height and size of the building directly relate to the programmatic needs of the Synagogue; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the Synagogue relief; and

WHEREAS, thus, the Board has determined that the

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evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; 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. 05-BSA-046K dated September 30, 2004; 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, a Parking Survey was conducted by the Applicant's consultant on July 1, 2005, August 11, 2005 and August 13, 2005 to document available on-street parking spaces within a 400 foot radius of the subject site; the conclusion of this survey was that no adverse parking impacts are anticipated due to the subject proposal; 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 the required findings under Z.R. § 72-21, to permit, within an R2 zoning district, the proposed construction of a new synagogue, contrary to Z.R. §§ 24-111, 23-141, 24-521, 25-18, and 25-31; *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 October 4, 2004"– (4) sheets and "October 3, 2005"–(4) sheets; and *on further condition*:

THAT the sanctuary spaces and the multi-purpose room shall not be used simultaneously, as indicated on the BSA-approved plans;

THAT the above condition shall be listed on the certificate of occupancy;

THAT the bulk parameters of the proposed building shall be as reflected on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning

Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 18, 2005.

374-04-BZ

CEQR #05-BSA-064M

APPLICANT – Deirdre A. Carson, Esq., Greenberg Traurig, LLP for Micro Realty Management, LLC c/o Werber Management, owner.

SUBJECT – Application November 26, 2004 – under Z.R. §72-21 – to permit the proposed development of a seven-story residential building with ground floor commercial space in a C6-2A Special Lower Manhattan District and the South Street Seaport Historic District, to vary Sections 23-145, 23-32, 23-533, 23-692, 23-711, and 24-32 of the Resolution.

PREMISES AFFECTED – 246 Front Street, a/k/a 267½ Water Street, through lot fronting on Front and Water Streets, 126 feet north of the intersection of Peck Slip and Front Street, and 130 feet north of the intersection of Peck Slip and Water Street, Block 107, Lot 34, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Meloney McMurry.

For Opposition: Doris Diether.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough Commissioner, dated November 17, 2004, acting on Department of Buildings Application No. 103582785, reads, in pertinent part:

1. Proposed 12 foot lot width is contrary to Sec. 23-32 ZR.
2. Failure to provide required rear yard equivalent of 60 feet for through lot is contrary to Sec 23-553 ZR.
3. Failure to provide adequate rear yard for interior lot is contrary to Sec 23-52 ZR
4. Required rooftop recreation space is not accessible as required per Sec. 28-32 ZR.
5. Proposed building height in excess of lowest abutting building street wall is contrary to Sec. 23-692 ZR.

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6. Minimum distance of 20 feet between legally required windows or between windows and wall is contrary to Secs. 23-711 and 23-861 ZR.
7. Proposed lot coverage exceeds 70% maximum permitted under Sec. 23-145 ZR.”; and

WHEREAS, a public hearing was held on this application on May 24, 2005 after due notice by publication in the *City Record*, with continued hearings on July 12, 2005 and August 23, 2005, and then to decision on October 18, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chair Srinivasan, Vice Chair Babbar, former Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 1, Manhattan, recommends approval of this application; and

WHEREAS, residents of 265-267 Water Street appeared in opposition to this application and stated that they were not given proper notice of the first hearing on this application; and

WHEREAS, the applicant responded that after checking their records, a notice was sent to 265 Water Street prior to the May 24th hearing, but no notice was posted in the lobby as the applicant did not believe that 265 Water Street was a condominium or a cooperative; the applicant agreed to post notice for any subsequent hearings; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within a C6-2A zoning district within the South Street Seaport Historic District, the proposed development of a mixed-use building with residential use and ground floor retail, rising to seven stories on Front Street and five stories on Water Street, which does not comply with certain bulk regulations set forth at Z.R. §§ 23-32, 23-145, 23-533, 23-692, 23-711 and 28-32; and

WHEREAS, the initial application proposed a mixed-use building with a total of 11,733 s.f. of floor area including 10,149 s.f. of residential floor area and 1,584 s.f. of commercial floor area, a floor area ratio (“FAR”) of 5.25 including 4.54 of residential FAR and 0.71 of commercial FAR, a total height of 72’-10” on the Front Street side and 55’-1” on the Water Street side, a 20’-0” rear yard equivalent, lot coverage ratio of 88%; and

WHEREAS, the current application proposes a mixed-use building with a total of 11,158 s.f. of floor area including 9,571 s.f. of residential floor area and 1,587 s.f. of commercial floor area, an FAR of 4.99 including a 4.28 residential FAR and 0.71 commercial FAR, a total height of 71’-10” on the Front Street side and 55’-1” on the Water Street side, a 30’-0” rear yard equivalent, and a lot coverage ratio of 83%; and

WHEREAS, the premises is a partial through lot running from Water Street to Front Street, between Peck Slip and Dover Street; and

WHEREAS, the portion of the lot bordering Front Street has a width of approximately 20 feet, and the portion of the lot bordering Water Street has a width of

approximately 12 feet; and

WHEREAS, the portion of the lot that is 12 feet wide is a through lot and extends 145 feet from Water Street to Front Street; the portion facing Front Street is 63 feet deep and qualifies as a shallow interior lot; and

WHEREAS, the site has a lot area of 2,235 s.f. and is currently vacant; and

WHEREAS, because the site is located within the South Street Seaport Historic District and Extension District, the applicant applied for and received a Certificate of Appropriateness for the proposed development from the Landmarks Preservation Commission (“LPC”), dated November 19, 2003; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: (1) the lot is long and narrow; (2) a portion of the lot is shallow; (3) the site is burdened with a high water table; (4) the site is located in a historic district; and (5) the landfill underlying the site is unique to the area; and

WHEREAS, the applicant states that because of the unusual configuration of the lot, including differing widths from one side of the lot to the other, and the combination of a through lot and an interior lot, development on the site is constrained; and

WHEREAS, specifically, the applicant states that if it complied with the 60 foot rear yard equivalent requirement and the additional 23 foot rear yard requirement (measured from the lot line on the shallow interior portion of the lot), the applicant would be unable to construct units on the Water Street portion of the lot because such units would be less than 40 feet deep and unable to accommodate required circulation elements; and

WHEREAS, in addition, the applicant explains that because of the narrowness of the lot, the building’s circulation components, including the mechanical core, stairs and elevators, must be placed along one wall of the building; the applicant represents that, as a result, the living room and bedrooms can only be placed at the front and back of the building, thus limiting the amount of units that can be constructed on the site; and

WHEREAS, the applicant represents that because of the high water table underlying the site, the applicant will need to de-water during construction, seal the cellar of the new building, and add an inverted bathtub structure to the foundation to keep the groundwater out of the basement of the building; and

WHEREAS, the applicant further represents that the unique landfill at the site creates structural and archeological issues not faced by other sites; and

WHEREAS, the applicant represents that the location of the site in the South Street Seaport Historic District requires additional monitoring and protective construction measures because many of the surrounding buildings are from the early nineteenth century; such measures require smaller, lighter equipment that will increase construction costs; and

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WHEREAS, the Board notes that although there are few vacant sites in the area, the constraints related to the site's presence in a historic district, the high water table and the quality of landfill on the site are not unique to the site and are conditions generally faced by sites in the surrounding area; and

WHEREAS, however, the Board finds that certain of the unique conditions mentioned above, namely the narrowness of the lot and the shallowness of certain portions of the lot, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict compliance with applicable zoning regulations; and

WHEREAS, the applicant initially submitted a feasibility study analyzing the following scenarios: a complying retail and residential building, a lesser non-complying retail and residential building with a 30 foot rear yard equivalent, and the initial proposal (non-complying retail and residential building with 20 foot rear yard equivalent); and

WHEREAS, the applicant concluded that only the initial proposal resulted in a reasonable rate of return; and

WHEREAS, the Board questioned the applicant about the disparity in construction costs per square foot between the complying scheme and the proposed scheme; and

WHEREAS, the applicant, in response, explained that when constructing a low rise building such as the proposed building, certain costs are constant regardless of the square footage of the building; accordingly, when these costs are spread out over a larger building, the cost per square foot is less; and

WHEREAS, the Board requested that the applicant analyze an alternative developing the proposed building on the Front Street portion of the lot, but not the building on the Water Street portion of the lot; and

WHEREAS, the applicant analyzed this scenario and concluded that the return would not be feasible; and

WHEREAS, the Board also asked the applicant to consider a scheme with the proposed building on the Front Street portion of the lot and a one-story building on the Water Street portion of the lot; and

WHEREAS, the applicant submitted a revised feasibility analysis showing that such a project would not generate a reasonable return; and

WHEREAS, at the request of the Board, the applicant was asked to re-examine whether a 30 foot rear yard equivalent could be provided; and

WHEREAS, initially, the applicant concluded that a 30 foot rear yard would not be feasible, even if the applicant increased the height of the building on Water Street, because an increase in building height would require a second means of egress on Water Street, which could not be accommodated due to the narrow size of the lot; and

WHEREAS, after additional examination, the applicant submitted a revised feasibility analysis, with a proposal that includes a 30 foot rear yard equivalent and a decrease in the overall FAR, which reflected a reasonable rate of return for the proposed building; the applicant explained that contrary to the previously submitted 30 foot rear yard equivalent

proposal, the revised proposal reconfigured the interior layout of the apartments and achieved a greater return despite the loss of floor area; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with the bulk provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant represents that a new mixed-use building will be compatible with the immediately surrounding residential uses; and

WHEREAS, the Board notes that the applicant's proposed residential FAR of 4.28 is within the allowable residential FAR of 6.02; and

WHEREAS, the applicant notes that the building will comply with all applicable Quality Housing requirements with the exception of the standards for recreation space; and

WHEREAS, the Board asked whether the applicant could provide recreational open space on the roof of the ground floor accessible by all tenants; and

WHEREAS, the applicant responded that due to the narrowness and shape of the lot, the applicant would be unable to provide an additional access stair to make the space accessible to all tenants in the building, but would make it accessible to tenants on the second floor; the applicant further states that it will provide rooftop space on each of the roofs of the Front Street and Water Street buildings; and

WHEREAS, the applicant states that the building has been approved by LPC and will be compatible with surrounding buildings in terms of height, form, and massing; and

WHEREAS, the applicant notes that the building's streetwall matches that of the neighboring property to the south, and mirrors the height of the new hotel addition starting one lot to the south of the site; and

WHEREAS, opposition to the application raised additional concerns at hearing and through submissions to the Board, specifically related to the alleged failure of the applicant to address the five findings required by Z.R. § 72-21; and

WHEREAS, the applicant responds that with respect to uniqueness, contrary to the opposition's contention that the cited factors for uniqueness are endemic to all properties in the surrounding area, the combination of factors on this site, including the narrowness of the lot, make this site unique; and

WHEREAS, the Board notes that the narrowness and shallowness of portions of the lot constitute uniqueness on the site; and

WHEREAS, the applicant also states that in response to claims that the applicant did not consider additional uses of the property or evidence that lesser variance uses would not yield a reasonable return, it did consider alternatives as suggested by the Board and provided financial analyses documenting the infeasibility of such alternatives; and

WHEREAS, with respect to the opposition's claims that the proposal does not meet the neighborhood character finding, the applicant points out that the opposition agreed

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that the proposal would not alter the essential character of the neighborhood; and

WHEREAS, in response to claims by the opposition that the applicant joined together two lots and such merger created the hardship on the site, the applicant has submitted a title insurance report that indicates that both lots were under common ownership prior to 1961 and continue to be under common ownership through today;

WHEREAS, the Board notes that it finds this evidence compelling and agrees with the applicant's representations; and

WHEREAS, with respect to the minimum variance finding, the applicant again states that their financial analyses submitted to the Board address the lesser variance schemes proposed by the Board; and

WHEREAS, in addition, the opposition raised claims about the protection of surrounding buildings during construction; and

WHEREAS, the Board notes that all construction must comply with applicable Building Code requirements and DOB rules and policies related to the protection of adjacent structures during construction; and

WHEREAS, the Board questioned the viability of providing a second means of egress from the subject building through the adjacent building to the north; and

WHEREAS, the applicant has submitted a pre-consideration from the Department of Buildings that states that the second means of egress granted by easement through the adjacent property satisfies the requirements under the Building Code; and

WHEREAS, the Board notes that, in any event, the Department of Buildings will approve all means of egress for compliance prior to plan approval; and

WHEREAS, at the request of certain neighbors, the applicant has lowered the roofline on Front Street from approximately 77'-0" to approximately 76'-0" and reduced the bulkhead height by approximately 2'-0", and provided a sloped roof over the bulkhead stair to reduce the overall bulk of the structure; and; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board notes that the applicant reviewed various lesser-variance schemes at the Board's request, and concluded that they were not financially feasible; and

WHEREAS, as discussed above, the Board asked the applicant to consider a scenario in which the rear yard would be increased to 30'-0"; and

WHEREAS, the applicant included this modification in its current proposal; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence

in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as a Type I action pursuant to Sections 617.6(h) and 617.2(h) of 6NYCRR; and

WHEREAS, the subject site is located within the South Street Seaport Historic District and as previously noted in this resolution, a COA has been issued for this proposal by the LPC on November 19, 2003; 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. 05BSA064M, dated April 2, 2004; 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, the New York City Landmarks Preservation Commission ("LPC") has reviewed the following submissions from the applicant: (1) an Environmental Assessment Statement Form, dated April 2, 2004; and (2) a Stage IA Archaeological Assessment Report, dated August 8, 2005, in response to comments of LPC that indicated the potential presence of archaeological resources on the site, including the potential for the recovery of remains from 18th and 19th Century occupation of the Site; and

WHEREAS, these submissions specifically examined the proposed action for potential archaeological impacts; and

WHEREAS, a Restrictive Declaration was executed on October 18, 2005 and recorded for the subject property to address archaeological concerns; and

WHEREAS, LPC has determined that there will not be any impacts from the subject proposal, based on the implementation of the measures cited in the Restrictive Declaration and the applicant's compliance with the conditions noted below; 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 Type I Negative Declaration, with conditions as stipulated below, 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 the required findings under Z.R. §72-21, to permit, within a C6-2A zoning district within the

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South Street Seaport Historic District, the proposed development of a mixed-use building with residential use and ground floor retail, rising to seven stories on Front Street and five stories on Water Street, which does not comply with certain bulk regulations set forth at Z.R. §§ 23-32, 23-145, 23-533, 23-692, 23-711 and 28-32; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received August 31, 2005”–(2)sheets; and *on further condition*:

THAT the applicant or any successor in title will adhere to all requirements for archaeological identification, investigation, and mitigation as set forth in the CEQR Technical Manual and LPC’s Guidelines for Archaeological Work in NYC, including without limitation, the completion of an archaeological documentary study, archaeological field testing, excavation, mitigation, curation of archaeological resources, and a final archeological report, as required by the LPC, and as memorialized in the Restrictive Declaration executed on October 18, 2005 (collectively, the “Archaeological Work”);

THAT prior to the issuance of any DOB permit for any work on the site that would result in soil disturbance (such as site preparation, grading or excavation), the applicant or any successor will perform all of the Archaeological Work to the satisfaction of LPC and submit a written report that must be approved by LPC; the only exception to this condition shall be those soil disturbing activities necessitated by the applicant’s performance of the Archaeological Work required for LPC’s approval (such as archaeological “pits”) that may require a DOB permit;

THAT any DOB permit issued for soil disturbing activities pursuant to this exception shall clearly state on its face that such soil disturbance is limited to that necessary to perform the mandated archaeological work;

THAT no temporary or permanent Certificate of Occupancy shall be issued by DOB or accepted by the applicant or successor until the Chairperson of LPC shall have issued a Final Notice of Satisfaction or a Notice of No Objection indicating that the Archaeological Work has been completed to the satisfaction of LPC;

THAT the bulk parameters of the proposed building shall be as follows: a maximum total FAR of 4.99; maximum total floor area of 11,158 sq. ft.; maximum residential FAR of 4.28; maximum residential floor area of 9,571 sq. ft.; maximum commercial FAR of 0.71; maximum commercial floor area of 1,584 sq. ft.; maximum building height on Front Street of 72’-10”; maximum building height on Water Street of 55’-1”; and maximum lot coverage ratio of 83%;

THAT there shall be a maximum of nine residential units, and each unit shall have a minimum size of 585 sq. ft., and all other bulk parameters shall be as indicated on the BSA-approved plans;

THAT the interior layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed

DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 18, 2005.

19-05-BZ
CEQR #05-BSA-089M

APPLICANT – Slater & Beckerman, LLP, for Groff Studios Corporation, owner.

SUBJECT – Application January 31, 2005 – under Z.R. §72-211, to permit the proposed change of use of portions of a nine-story, mixed-use building to Use Group 2 residential use (16 residential units). No parking is proposed. The proposal is contrary to Z.R. §42-00.

PREMISES AFFECTED – 151 West 28th Street, north side, 101’ east of Seventh Avenue, Block 804, Lot 8, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Stuart Beckerman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated January 4, 2005, acting on Department of Buildings Application No. 103993270, reads:

“1. Proposed change of use at 2nd, 3rd, 5th and 7th floors from factory to UG2 apartments is not permitted as of right in M1-6 District.”; and

WHEREAS, a public hearing was held on this application on September 13, 2005, after due notice by publication in the *City Record*, and then to decision on October 18, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, former Commissioner Miele and Commissioner Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an M1-6 zoning district, the change in use of portions of an existing nine-story, mixed-use building to residential use (Use Group 2), contrary to Z.R. § 42-00; and

WHEREAS, Community Board 5, Manhattan, recommends approval of this application; and

WHEREAS, the subject premises is located on 28th Street, east of 7th Avenue; and

WHEREAS, the existing building contains 39,950 s.f. of floor area, 26,250 s.f. of which is residential floor area and

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13,700 s.f. of which is commercial floor area; and

WHEREAS, the applicant proposes to convert an additional 8,750 s.f. of commercial floor area to residential floor area, including Units 2W, 3W, 5W and 7W; and

WHEREAS, on November 24, 1981, the board granted an application, pursuant to Z.R. § 15-021, to permit the conversion of 24,776 s.f. of commercial floor area on the second through ninth floors of the subject building to residential floor area; and

WHEREAS, the applicant initially represented that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance with underlying district regulations: (1) the history of development of the premises; (2) one “keyed passenger elevator” that opens onto all units, both residential and commercial occupied; (3) the lack of a separate freight entrance; and (4) an inadequate freight elevator; and

WHEREAS, the applicant notes that the earlier conversion of several of the units in 1980 created a juxtaposition of commercial and residential uses in the building; specifically, four half-floor commercial units were located adjacent to residential units on the 2nd, 3rd, 5th and 7th floors; and

WHEREAS, the applicant represents that the sharing of one elevator between the residential and commercial tenants creates security risks for the residential tenants of the building; and

WHEREAS, the applicant further represents that the existing building is not conducive to commercial uses because there is only a single street entrance that serves both residential and commercial occupants, and the freight elevator is only accessible through the cellar thereby making deliveries to the commercial units difficult; and

WHEREAS, the applicant states that the commercial tenants suffer other negative consequences from the earlier conversion that make it difficult for them to conduct business, including noise complaints from other tenants, limits on the hours of operation for commercial uses, a building policy against subletting units, and high maintenance fees that mainly benefit the residential tenants (i.e., fees pay for 24-hour heat and a roof deck); and

WHEREAS, the Board finds that the aforementioned unique conditions, in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict conformity with current applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility analysis that showed that the existing mixed-use conforming building does not result in a reasonable return, but that the proposal, a nine-story residential building with ground floor retail, would; and

WHEREAS, the Board found the feasibility study to be sufficient and credible; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot’s unique physical conditions, there is no reasonable possibility that development in strict conformance with the provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant represents that the change in

use will have no perceptible impact on the essential character of the neighborhood since twelve out of the sixteen units of the existing building are already being used for residential tenants; and

WHEREAS, the applicant further represents that the site is less than 200 ft. from a C6-2 zoning district, where residential uses are permitted as-of-right; and

WHEREAS, the applicant states that directly across from the site is a 21-story residential building; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted Action pursuant to 6 NYCRR, Part 617; 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. 05BSA089M dated December 2, 2004; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, 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 the required findings under Z.R. § 72-21, to permit, within an M1-6 zoning district, the change in use of portions of an existing nine-story, mixed-use building to residential use (Use Group 2), contrary to Z.R. § 42-00; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this

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application marked "Received January 31, 2005 – six (6) sheets and "Received October 3, 2005" – one (1) sheet; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 18, 2005.

29-05-BZ

CEQR #05-BSA-093M

APPLICANT – Stephen Rizzo (CR&A), for 350 West Broadway, L.P., owner; Lighthouse Rizzo 350, LLC, lessee. SUBJECT – Application February 17, 2005 - under Z.R. §72-21 – to permit the construction of a thirteen story residential building with retail uses located on the cellar and ground floor levels, located in an M1-5A zoning district, is contrary to Z.R. §42-14, §42-00 and §42-10.

PREMISES AFFECTED – 350 West Broadway, 60' north of Grand Street, Block 476, Lot 75, Borough of Manhattan,

COMMUNITY BOARD #2M

APPEARANCES – None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough Commissioner, dated February 14, 2005, acting on Department of Buildings Application No. 103976592, reads, in pertinent part:

- “1. Proposed residential use (Use Group 2) is not permitted as of right in an M1-5A district and is contrary to Z.R. Section 42-10. M1-5A zoning district does not provide bulk regulations for residential use.
2. Proposed retail use (Use Group 6) is not permitted as of right below the level of the 2nd story in an M1-5A zoning district as per 42-14(D)(2)(A) Z.R. Building coverage is >3600 sq. ft.”; and

WHEREAS, a public hearing was held on this application on July 12, 2005 after due notice by publication in the *City Record*; with continued hearings on August 23, 2005 and September 20, 2005, and then to decision on October 18, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chair Srinivasan, Vice Chair Babbar, and Commissioner Chin; and

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit, within an M1-5A zoning district, the proposed development of an eleven-story mixed-use building with residential uses on the upper ten floors and Use Group 6 retail uses on the first floor and cellar level, which is contrary to Z.R. §§ 42-10 and 42-14; and

WHEREAS, the initial application proposed a mixed-use building with a total of 41,320 s.f. of floor area including 36,585 s.f. of residential floor area and 4,734 s.f. of commercial floor area, a floor area ratio (“FAR”) of 5.0 including 4.4 of residential FAR and 0.6 of commercial FAR, a total height of 155’-0” and 13 stories; and

WHEREAS, the current application proposes a mixed-use commercial/residential building with a total of 41,320 s.f. of floor area including 34,767 s.f. of residential floor area and 6,553 s.f. of commercial floor area, an FAR of 5.0 including 4.3 of residential FAR and 0.7 of commercial FAR, a total height of 125’-5” and 11 stories; and

WHEREAS, the premises is located on West Broadway between Grand Street and Broome Street; and

WHEREAS, the site has a lot area of 8,264 s.f., with 120’-8 ½” of frontage on West Broadway and a depth of 68’-4”; and

WHEREAS, the site is currently occupied by a 22,687 s.f. two-story building; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance with underlying district regulations: (1) the lot is shallow; and (2) the site has unique soil and bedrock conditions; and

WHEREAS, the applicant states that because of the shallowness of the lot, a typical floor built over the existing building that complied with the zoning district requirements for a commercial building would result in an inefficient and impractical floor plate that could not accommodate commercial uses; and

WHEREAS, the applicant represents that although the typical bedrock levels for the area are between 60 ft. and 80 ft., the bedrock underlying the site extends to a depth of 114 ft.; and

WHEREAS, the applicant has submitted a letter from a geotechnical engineer documenting borings conducted on this site and comparing such borings with historic maps of Manhattan that contain rock data; the engineer determined that the bedrock below this site was substantially deeper than surrounding sites; and

WHEREAS, the applicant states that the existing building has been marketed continuously throughout that period unsuccessfully, and thus has been vacant for a long period of time; and

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WHEREAS, the applicant has submitted a letter from a broker substantiating the marketing attempts; and

WHEREAS, the Board finds that certain of the unique conditions mentioned above, namely the shallowness of the lot and the unique soil and bedrock conditions, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict conformance with applicable zoning regulations; and

WHEREAS, the applicant asserts that there are premium costs associated with building on the site because of special piles that are required due to the deep bedrock; and

WHEREAS, the Board asked the applicant whether the applicant could demolish the building and re-build rather than reinforcing the existing structure; and

WHEREAS, the applicant's engineer explained at hearing that because of the poor soil conditions, the cost of piles in connection with new construction on the site (not including demolition costs) would be more expensive than reinforcing the existing structure; and

WHEREAS, the applicant initially submitted a feasibility study analyzing the following scenarios: a conforming commercial building with additional office space constructed over the existing two-story building; a conforming mixed-use building with retail uses, community facility uses, and a hotel; a lesser variance scheme of a seven-story, mixed-use development; and the initial proposal; and

WHEREAS, the feasibility study showed that only the initial proposal would generate a reasonable return; and

WHEREAS, the Board requested that the applicant consider a hotel scenario without the community facility and retail uses; and

WHEREAS, the applicant responded that a hotel would not be feasible on this site because there are certain fixed costs associated with providing the amenities necessary for operation of a hotel, and such costs would outweigh any return given the amount of rooms that this site can accommodate; and

WHEREAS, the Board requested that the applicant analyze an alternative scenario which enlarged the floor plates and reduced the amount of stories to eleven floors plus a penthouse, and another scheme with further enlarged floor plates and reduced the building to ten floors; and

WHEREAS, the applicant analyzed these scenarios and concluded that the revenue gained from the increase in the size of the floor plates in the first alternative would not outweigh the premium costs associated with the poor soil conditions present on the site; as to the second alternative, the applicant represents that the enlarged floor plates would require additional piles, and would add additional construction costs that further negatively affect the return; and

WHEREAS, the Board further requested that the applicant analyze a scheme with enlarged floor plates and a reduction in height to 11 floors without a penthouse, and a scheme with a ten-story building at 4.64 FAR; and

WHEREAS, the applicant submitted a financial analysis that concluded that neither scheme results in a financially feasible return; and

WHEREAS, at the direction of the Board, the applicant submitted a revised feasibility analysis with adjustments to the residential sales figures, and concluded that an 11-story alternative without a penthouse generates a reasonable return; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will be compatible with the immediately surrounding residential uses; and

WHEREAS, the applicant represents that the proposed FAR is consistent with surrounding buildings, and contains significantly less bulk than some of the neighboring buildings, including 27 Thompson Street (10+ FAR) and 306 West Broadway (6.25 FAR); and

WHEREAS, the Board initially expressed concern with the height of the building, finding it out of scale with the surrounding buildings; and

WHEREAS, the Board suggested that the applicant lower the building and consider constructing a larger base; and

WHEREAS, the applicant represents that it could not construct a larger base because if the building extended any further it would not be within 100 ft. of the corner, and it would thus be required to provide a 30 ft. rear yard which would further compromise the floor plate and decrease the feasibility of the proposal; and

WHEREAS, the applicant presented several interim schemes, including a reduced height of 129'-11" plus penthouse, and a further reduced height of 125'-0" plus penthouse; and

WHEREAS, the applicant then proposed the current scheme; the Board finds that the current proposal is more in context with the surrounding neighborhood; and

WHEREAS, the applicant also represents that the residential structure will be placed on the south portion of the site, and the northerly portion will remain a two-story structure; in addition, the building will be set back after five stories on West Broadway; and

WHEREAS, the Community Board requested that the first floor not be occupied by a bar or a restaurant, a condition to which the applicant agreed; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board notes that the applicant reviewed various lesser-variance schemes at the Board's request, and concluded that they were not financially feasible; and

WHEREAS, thus, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the

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evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; 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. 05BSA093M, dated July 1, 2005; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, 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 the required findings under Z.R. §72-21, to permit, within an M1-5A zoning district, the proposed development of an eleven-story mixed-use building with residential uses on the upper ten floors and Use Group 6 retail uses on the first and cellar levels, which is contrary to Z.R. §§ 42-00 and 42-14; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 4, 2005"–(12) sheets; and *on further condition*:

THAT the first floor shall not be occupied by a Use Group 6 eating and drinking establishment;

THAT the above condition shall be listed on the certificate of occupancy; and

THAT the bulk parameters of the proposed building shall be as follows: a maximum total FAR of 5.00; maximum total floor area of 41,320 s.f.; maximum residential FAR of 4.3; maximum residential floor area of 34,767 s.f.; maximum commercial FAR of 0.7; maximum commercial floor area of 6,553 s.f.; maximum building height of 125'-5"; and a maximum of 11 stories;

THAT the interior layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed

DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 18, 2005.

**44-05-BZ
CEQR #05-BSA-099Q**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for David Murray & Adrienne Berman, owners.

SUBJECT – Application February 25, 2005 – under Z.R. §73-243 – to permit an Accessory Drive Through Facility, contrary to §32-15, accessory to a proposed as-of-right Eating and Drinking Establishment (Use Group 6) located in a C1-2/R5 zoning district.

PREMISES AFFECTED – 49-01 Beach Channel Drive, between Beach 49th and Beach 50th Streets, Block 15841, Lot 19 (Tentative 50), Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated January 26, 2005, acting on Department of Buildings Application No. 401873683 reads:

“Respectfully requested a reconsideration of objection 6 ‘Drive thru in a C1-2 District requires Board of Standards and Appeals approval’– Reconsideration denied;” and

WHEREAS, a public hearing was held on this application on July 26, 2005, with a continued hearing on September 13, 2005, and then to decision on October 18, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, this application is for the issuance of a special permit for an accessory drive-through facility at a proposed eating and drinking establishment (Use Group 6) which, in a C1-2 zoning district, requires a special permit pursuant to Z.R. §§ 73-243 and 73-03; and

WHEREAS, the subject site is located on the southwest corner of Beach 49th Street and Beach Channel Drive, on a proposed lot containing 10,000 square feet, with approximately 100 feet of frontage on both Beach 49th Street and Beach Channel Drive; and

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WHEREAS, the applicant represents that the subject lot (Lot 50) is currently being subdivided from Lot 19, an oversized lot that contains approximately 96,000 s.f.; and

WHEREAS, the subject lot is improved upon with an existing building that contains 2,358 s.f. of floor area; and

WHEREAS, the applicant represents that the site and drive-thru facility: (1) provides reservoir space for a ten-car queue; (2) will cause minimal interference with traffic flow in the immediate vicinity because the drive-thru related activities will take place at the rear of the site, away from pedestrian and unrelated vehicular traffic, and because curb cuts on both Beach Channel Drive and Beach 49th Street shall continue to be utilized; (3) is in compliance with off-street parking requirements, (4) conforms to the character of the commercially zoned street frontage within 500 feet of the subject premises, which reflects substantial orientation toward the motor vehicle, as evidenced by a street map, photographs of the area, and the width of the surrounding streets; (5) will not have an undue adverse impact on residences within the immediate vicinity of the subject premises because it is sited away from residential uses; and (6) provides adequate buffering between the drive-through facility and adjacent residential uses; and

WHEREAS, after reviewing the submitted site plan, which shows circulation, parking and reservoir spaces, the Board questioned whether the site plans could be improved; and

WHEREAS, specifically, the Board expressed concern that the parking layout for the site did not appear feasible and that the reservoir spaces were located such that they could conflict with certain of the parking spaces; and

WHEREAS, in response, the applicant modified its plans so that all of the required parking spaces except for two handicapped spaces will be provided on the adjacent tax lot (Lot 19) through an easement, thereby improving the on-site parking; the applicant has submitted a draft of an agreement granting such an easement; and

WHEREAS, the applicant also revised its site plan to correctly illustrate the reservoir spaces; and

WHEREAS, the Board finds that the applicant submitted sufficient evidence to support a conclusion that the grant of a special permit under Z.R. § 72-243 is warranted; and

WHEREAS, the Board finds that under the conditions and safeguards imposed, the hazards or disadvantages to the community at large of such special permit use at the particular site are outweighed by the advantages to be derived by the community by the grant of such special permit; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, therefore, the Board finds that the application meets the general findings required for special permits set forth at Z.R. § 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 05-BSA-099Q dated

February 20, 2005; 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

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 the required findings and grants a special permit under Z.R. §§ 73-03 and 73-242, to permit an accessory drive-through facility at a proposed eating and drinking establishment (Use Group 6) in a C1-2 zoning district; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 4, 2005"-(1) sheet; and *on further condition*:

THAT this permit shall be issued for a term of five years, to expire on October 18, 2009;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT all signage shall conform with the underlying C1-2 district regulations;

THAT the above conditions shall appear on the certificate of occupancy;

THAT the easement agreement shall be as reviewed and approved by DOB;

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, October 18, 2005.

97-05-BZ

APPLICANT – Dennis D. Dell'Angelo, R.A., for Abraham Y. Gelb, owner.

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SUBJECT – Application April 22, 2005 – under Z.R. §73-622 – the enlargement of a single family residence to vary zoning section Z.R. §23-141 for open space and floor area, Z.R. §23-46 for less than the minimum required side yard and Z.R. §23-47 for less than the required rear yard. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1107 East 21st Street, east side 153’ north of Avenue J, Block 78585, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Dennis Dell’Angello.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 24, 2005, acting on Department of Buildings Application No. 301892717, reads:

- “1. Proposed F.A.R. and O.S.R. constitutes an increase in the degree of existing non compliance contrary to sec. 23-14 of the N.Y.C. Zoning Resolution.
2. Proposed horizontal enlargement provides less than the required side yards contrary to sec. 23-46 Z.R. and less than the required rear yard contrary to sec. 23-47 Z.R.”; and

WHEREAS, a public hearing was held on this application on September 13, 2005 after due notice by publication in *The City Record*, and then to closure and decision on October 18, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, open space, side yard, and rear yard, contrary to Z.R. §§ 23-141(a), 23-46 and 23-47; and

WHEREAS, the subject lot is located on East 21st Street, north of Avenue J; and

WHEREAS, the subject lot has a total lot area of 4,700 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks an increase in the floor area from 2216.15 sq. ft. (0.47 Floor Area Ratio or “FAR”) to

4643.77 sq. ft. (0.98 FAR); the maximum floor area permitted is 1,880 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will decrease the open space ratio from 1.56 to .58; the minimum required open space ratio is 1.50; and

WHEREAS, the proposed enlargement will reduce the rear yard from 29’-9” to 20’-3””; the minimum rear yard required is 30’-0””; and

WHEREAS, the proposed enlargement at the rear of the existing building will extend the non-complying side yard; however, the width of the side yard will be maintained; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20’-0” of the rear lot line; and

WHEREAS, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, open space, side yard, and rear yard, contrary to Z.R. §§ 23-141(a) and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received April 22, 2005”-(2) sheets, “August 25, 2005”-(8) sheets and “October 3, 2005”-(3) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth in the certificate of occupancy;

THAT the total FAR on the premises, including the attic, shall not exceed 0.98;

THAT the total attic floor area shall not exceed 910.53 sq. ft., as confirmed by the Department of Buildings;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT no portion of the existing building highlighted on BSA-approved plan sheets numbered 4, 5, 1 6, 16a, 17, and 17a shall be demolished;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has

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been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 18, 2005.

397-03-BZ thru 405-03-BZ

APPLICANT – Sheldon Lobel, P.C., for G & G Associates, owner.

SUBJECT – Application December 29, 2003 – under Z.R. §72-21 – to permit the proposed three story (3) plus attic building, to contain three residential units, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED –

1255 60th Street, between 12th and 13th Avenues, Block 5711, Lot 155, Borough of Brooklyn.

1257 60th Street, between 12th and 13th Avenues, Block 5711, Lot 154, Borough of Brooklyn.

1259 60th Street, between 12th and 13th Avenues, Block 5711, Lot 153, Borough of Brooklyn.

1261 60th Street, between 12th and 13th Avenues, Block 5711, Lot 152, Borough of Brooklyn.

1263 60th Street, between 12th and 13th Avenues, Block 5711, Lot 151, Borough of Brooklyn.

1265 60th Street, between 12th and 13th Avenues, Block 5711, Lot 150, Borough of Brooklyn.

1267 60th Street, between 12th and 13th Avenues, Block 5711, Lot 149, Borough of Brooklyn.

1269 60th Street, between 12th and 13th Avenues, Block 5711, Lot 148, Borough of Brooklyn.

1271 60th Street, between 12th and 13th Avenues, Block 5711, Lot 147, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Laid over to December 6, 2005, at 1:30 P.M., for continued hearing.

36-04-BZ

APPLICANT - Petraro & Jones, LLP, for Jack Randazzo, owner.

SUBJECT - Application February 12, 1004 - under Z.R. §72-21 – to permit the proposed construction of an eight family dwelling, on a vacant lot, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 30 Carlton Avenue, west side, 240' south of Flushing Avenue, Block 2030, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Patrick Jones.

ACTION OF THE BOARD – Laid over to November 1, 2005, at 1:30 P.M., for continued hearing.

37-04-BZ

APPLICANT – Petraro & Jones, LLP, for Jack Randazzo, owner.

SUBJECT – Application February 12, 2004 – under Z.R. §72-21 – to permit the proposed construction of an eight family dwelling, on a vacant lot, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 32 Carlton Avenue, west side, 264' south of Flushing Avenue, Block 2030, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Patrick Jones.

ACTION OF THE BOARD – Laid over to November 1, 2005, at 1:30 P.M., for continued hearing.

154-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Wavebrook Associates, owner.

SUBJECT - Application April 9, 2004- under Z.R. §72-21 to permit the proposed construction of a four family dwelling, Use Group 2, located in M1-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 63 Rapeleye Street, north side, 116' east of Hamilton Avenue, Block 363, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Adam W. Rothkrug.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to November 22, 2005, at 1:30 P.M., for decision, hearing closed.

260-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Leewall Realty by Nathan Indig, owner.

SUBJECT – Application July 20, 2004 – under Z.R. §72-21 to permit the proposed construction of a four story, penthouse and cellar three-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 222 Wallabout Street, 64' west of Lee Avenue, Block 2263, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for continued hearing.

262-04-BZ

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APPLICANT – The Law Office of Fredrick A. Becker, for Tishrey-38 LLC by Malka Silberstein, owner.

SUBJECT – Application July 22, 2004 – under Z.R.§72-21, to permit the proposed construction of a four story, penthouse and cellar four-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 218 Wallabout Street, 94' west of Lee Avenue, Block 2263, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for continued hearing.

269-04-BZ

APPLICANT – Law Office of Howard Goldman, LLC, for 37 Bridge Street Realty, Corp., owner.

SUBJECT – Application August 2, 2004 – under Z.R.§72-21 to permit the conversion of a partially vacant, seven-story industrial building located in a M1-2 and M3-1 zoning district into a 60 unit loft style residential dwelling in the Vinegar Hill/DUMBO section of Brooklyn.

PREMISES AFFECTED - 37 Bridge Street, between Water and Plymouth Streets, Block 32, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #1BK.

APPEARANCES –

For Applicant: Chris Wright and Robert Pauls.

ACTION OF THE BOARD – Laid over to November 22, 2005, at 1:30 P.M., for continued hearing.

315-04-BZ and 318-04-BZ

APPLICANT – Steven Sinacori/Stadmauer Bailkin, for Frank Mignone, owner.

SUBJECT – Application September 20, 2004 - under Z.R. §72-21 to permit the proposed development which will contain four three-family homes (Use Group 2), within an M1-1 Zoning District which is contrary to Section 42-00 of the Resolution.

PREMISES AFFECTED –

1732 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 127), Borough of Brooklyn.

1734 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 128), Borough of Brooklyn.

1736 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 129), Borough of Brooklyn.

1738 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 130), Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Neil Weisbard.

ACTION OF THE BOARD – Laid over to December 6, 2005, at 1:30 P.M., for deferred decision.

360-04-BZ

APPLICANT – Marcus Marino Architects, for Walter Stojanowski, owner.

SUBJECT – Application November 16, 2004 - under Z.R.§72-21 to permit the proposed enlargement of an existing one family dwelling, located in an R3X zoning district, which does not comply with the zoning requirements for side yards and lot width, is contrary to Z.R. §§107-42 and 107-462.

PREMISES AFFECTED - 38 Zephyr Avenue, south side, 75.18" north of Bertram Avenue, Block 6452, Lot 4, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Marcus Marino.

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for continued hearing.

361-04-BZ

APPLICANT – Eric Palatnik, P.C. for Parsons Estates, LLC, owners.

SUBJECT – Application November 17, 2004 – under Z.R. §72-21 – to permit a proposed three-story residential building in an R4 district which does not comply with the zoning requirements for floor area, wall height, sky exposure plane, open space, lot coverage and the number of dwelling units; contrary to Z.R. §23-141c, 23-631 and 23-22.

PREMISES AFFECTED – 75-48 Parsons Boulevard, 168.40' north of 75th road, at the intersection of 76th Avenue; Block 6810, Lot 44, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for continued hearing.

396-04-BZ

APPLICANT – Stroock & Stroock & Lavan, LLP, by Ross Moskowitz, Esq., for S. Squared, LLC, owner.

SUBJECT – Application December 21, 2004 - under Z.R.§72-21 to permit the Proposed construction of a thirteen story, mixed use building, located in a C6-2A, TMU zoning district, which does not comply with the zoning requirements for floor area, lot coverage, street walls, building height and tree planting, is contrary to Z.R. §111-104, §23-145,§35-24(c)(d) and §28-12.

PREMISES AFFECTED -180 West Broadway, northwest corner, between Leonard and Worth Streets, Block 179, Lots 28 and 32, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Ross Moskowitz, Richard Metsky and Gregg Reschler.

For Opposition: Michael Cappi.

ACTION OF THE BOARD – Laid over to November 22, 2005, at 1:30 P.M., for continued hearing.

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399-04-BZ

APPLICANT – Greenberg Traurg LLP, by Jay A. Segal, for Hip-Hin Realty Corp., owner.

SUBJECT – Application December 23, 2004 – under Z.R. §§72-21 and 73-36 – Proposed use of the subcellar for accessory parking, first floor and cellar for retail, and the construction of partial sixth and seventh stories for residential use, also a special permit to allow a physical culture establishment on the cellar level, of the subject premises, located in an M1-5B zoning district, is contrary to Z.R. §42-14(D), §13-12(a) and §73-36.

PREMISES AFFECTED – 425/27 Broome Street, southeast corner of Crosby Street, Block 473, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Jay Segal, Jack Friedman and Carol Blum.

ACTION OF THE BOARD – Laid over to November 22, 2005, at 1:30 P.M., for continued hearing.

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26-05-BZ

APPLICANT – Cozen O’Connor, for Tikvah Realty, LLC, owner.

SUBJECT – Application February 11, 2005 - under Z.R.§72-21 to permit the proposed bulk variance, to facilitate the new construction of an 89 room hotel on floors 4-6, catering facility on floors 1-3, ground floor retail and three levels of underground parking, which creates non-compliance with regards to floor area, rear yard, interior lot, permitted obstructions in the rear yard, setback, sky exposure plane, loading berths and accessory off-street parking spaces, is contrary to Z.R.§33-122, §33-26, §33-432, §36-21, §33-23 and §36-62.

PREMISES AFFECTED -1702/28 East 9th Street, aka 815 Kings Highway, west side, between Kings Highway and Quentin Road, Block 6665, Lots 7, 12 and 15, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Howard Hornstein, Karl Fischer and Jack Freeman.

ACTION OF THE BOARD – Laid over to December 6, 2005, at 1:30 P.M., for continued hearing.

47-05-BZ

APPLICANT – Fischbein Badillo Wagner Harding, LLP, for AMF Machine, owner.

SUBJECT – Application March 1, 2005 - under Z.R.§72-21 to permit the proposed eight story and penthouse mixed-use building, located in an R6B zoning district, with a C2-3 overlay, which exceeds the permitted floor area, wall and building height requirements, is contrary to Z.R. §23-145 and §23-633.

PREMISES AFFECTED - 90-15 Corona Avenue, northeast corner of 90th Street, Block 1586, Lot 10, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Peter Geis and Howard Hornstein.

For Opposition: Jacques Catafaso.

ACTION OF THE BOARD – Laid over to December 13, 2005, at 1:30 P.M., for continued hearing.

80-05-BZ

APPLICANT – The Law Office Frederick A. Becker, Esq. for H & M Holdings, LLC, owner; Nikko Spa & Health Corp. lessee.

SUBJECT – Application April 4, 2005 - under Z.R.§73-36 - approval sought for a proposed physical cultural establishment to be located on a portion of the cellar, first floor, and second floor of a 4 story commercial building. The proposed PCE use will contain 12, 955 gross square feet. The site is located in a C6-6 Special Midtown District.

PREMISES AFFECTED - 49 West 33rd Street, northerly side of West 33rd Street 148'6" west of Broadway, Block 835, Lot

9, Manhattan

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Frederick A. Becker, Esq.

For Opposition: Rachael Dubin and Roger Rigolli.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for decision, hearing closed.

99-05-BZ

APPLICANT – Sheldon Lobel, P.C., for 500 Turtles, LLC, owner.

SUBJECT – Application April 22, 2005 - under Z.R.§72-21 to permit the proposed enlargement of an existing restaurant, which is a legal non-conforming use, located on the first floor of a six-story mixed-use building, situated in an R6 zoning district, is contrary to Z.R. §22-10.

PREMISES AFFECTED - 39 Downing Street, a/k/a 31 Bedford Street, northwest corner, Block 528, Lot 77, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to November 22, 2005, at 1:30 P.M., for continued hearing.

126-05-BZ

APPLICANT – Eric Palatnik, P.C., for Moshe Hirsch, owner.

SUBJECT – Application May 20, 2005 - under Z.R.§73-622 Special Permit - The enlargement of a single family residence to vary ZR sections 23-141 (open space and floor area), 23-46 (side yard) and 23-47 (rear yard). The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1282 East 27th Street, West side of East 27th Street, north of the intersection of E. 27th Street and Avenue M, Block 7644, Lot 79, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES – None.

ACTION OF THE BOARD - Laid over to November 1, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 5:45 P.M.

BULLETIN

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AND APPEALS

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Volume 90, No. 44

November 3, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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**MINUTES of Regular Meetings,
Tuesday, October 25, 2005**

Morning Calendar735

Affecting Calendar Numbers:

822-87-BZ	375 South End Avenue, Manhattan
212-92-BZ	871 East 175 th Street, Bronx
37-93-BZ	2040 Forest Avenue, Staten Island
126-93-BZ	1225 East 233 rd Street, Bronx
1058-46-BZ	254-07 74 th Avenue, Queens
929-47-BZ	255-09 and 260-66 73 rd Avenue, Queens
185-48-BZ	255-17 73 rd Avenue, 254-07 74 th Avenue, 254-18, 254-25, 255-14 and 260-28 75 th Avenue and 260-46, 264-27 and 264-52 Langston Avenue, Queens
16-49-BZ	260-43 and 261-15 Langston Avenue, Queens
109-93-BZ	189-11 Northern Boulevard, Queens
110-05-BZY	56-31 Bell Boulevard, Queens
120-05-A	104-41 103 rd Street, Queens
231-04-A	240-79 Depew Avenue, Queens
143-05-A	47-05 Bell Boulevard, Queens
149-05-A	32-29 211 th Street, Queens

Afternoon Calendar 741

Affecting Calendar Numbers:

18-05-BZ	87-25 Clover Place, Queens
79-05-BZ	101/21 Central Park North, Manhattan
104-05-BZ	255-275 Park Avenue, Brooklyn
123-05-BZ	161 Ashland Place, Brooklyn
202-04-BZ	100 Jewel Street, Brooklyn
357-04-BZ	707 Cross Bay Boulevard, Queens
358-04-BZ	728 Cross Bay Boulevard, Queens
27-05-BZ	91-11 Roosevelt Avenue, Queens
70-05-BZ	2905 Avenue M, Brooklyn
77-05-BZ	132 West 26 th Street, Manhattan
102-05-BZ	259 Vermont Street, a/k/a 438 Glenmore Avenue, Brooklyn
180-05-BZ	1511 Third Avenue, a/k/a 201 East 85 th Street, Manhattan

DOCKETS

New Case Filed Up to October 25, 2005

310-05-A B. Q 165-18/28 Hillside Avenue,
Northeast corner Hillside Avenue and Merrick Boulevard,
Block 9816, Lot 41, Borough of Queens, Application #
402082376. The Board of Standards and Appeals previously
granted this application under Calendar # 232-52-A for the
proposed change in use from dwelling to Funeral Parlor for
a term which was granted periodically until it expired
January 6, 1978.

311-05-BZ B. Q 165-18/28 Hillside Avenue,
Northeast corner Hillside Avenue and Merrick Boulevard,
Block 9816, Lot 41, Borough of Queens, Application #
402082376. To legalize a portion of the 2nd floor for use in
connection with the existing funeral parlor.

COMMUNITY BOARD #12Q

312-05-BZ B. Q 82-24 Northern Boulevard,
located on the southern side of Northern Boulevard in
between 82nd and 83rd Streets, Block 1430, Lot 6, Borough
of Queens, Application # 401583087. To legalize the use of
a Physical Culture Establishment which is not permitted "as
of right" and is not permitted by obtaining a special permit
in a C1-2 district.

COMMUNITY BOARD #7Q

313-05-BZ B. M 26 East 2nd Street,
North side of East 2nd Street between 2nd Avenue and
Bowery, Block 458, Lot 36, Borough of Manhattan,
Application # 102185993. This application is filed pursuant
to §72-21 of the ZR, as amended for a variance to permit the
enlargement of a residential building in a C6-1/R7-2 zone
which proposes a rear yard less than the minimum as per
§23-47.

COMMUNITY BOARD #3M

DESIGNATIONS: D-Department of Buildings; B.BK.-
Department of Buildings, Brooklyn; B.M.-Department of
Buildings, Manhattan; B.Q.-Department of Buildings,
Queens; B.S.I.-Department of Buildings, Staten Island;
B.BX.-Department of Building, The Bronx; H.D.-Health
Department; F.D.-Fire Department.

CALENDAR

DECEMBER 6, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, December 6, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

364-36-BZ, Vol. II

APPLICANT – Joseph P. Morsellino, for Dominick Tricarico & Est. of P. Tricarico, owner.
SUBJECT – July 13, 2005 - Extension of Term/Waiver of a Variance which expired on February 11, 2005 for an additional 15 year term of an automotive service station. The premise is located in a C1-4 & R6B zoning district.
PREMISES AFFECTED –31-70 31st Street, 31st Street and Broadway, Block 589, Lot 67, Borough of Queens.
COMMUNITY BOARD #1Q

871-46-BZ

APPLICANT – Joseph P. Morsellino, Esq, for Boulevard Leasing, LLC, owner.
SUBJECT - Application September 9, 2005 - Extension of Time/Waiver to obtain a Certificate of Occupancy which expired December 11, 2002. The premise is located in a C4-2 zoning district.
PREMISES AFFECTED – 97-45 Queens Boulevard, northwest corner of 64th Road, Block 2091, Lot 1, Borough of Queens.
COMMUNITY BOARD #6Q

7-51-BZ

APPLICANT – Eric Palatnik, P.C., for 6717 4th Avenue, LLC, owner.
SUBJECT – Application December 29, 2004 -Extension of Term/Waiver permitting in a business use district, Use Group 6, using more than the permitted area and to permit the parking of patron's motor vehicles in a residence use portion of the lot. The subject premises is located in an R-6/R7-1(C1-3) zoning districts.
PREMISES AFFECTED – 6717/35 Fourth Avenue, northeast corner of Senator Street, Block 5851, Lot 1, Borough of Brooklyn.
COMMUNITY BOARD #8BK

643-60-BZ

APPLICANT – Kenneth H. Koons, for Poplar Street Parking, Inc., owner.

SUBJECT – Application May 24, 2005 – Extension of Term of a variance for an existing public parking lot. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 2443 Poplar Street, aka 2443-49 Poplar Street, north side of Poplar Street, 165' west of Paulding Avenue, The Bronx.

COMMUNITY BOARD #11BX

384-74-BZ

APPLICANT – Sheldon Lobel, P.C., for R. M. Property Management, Inc., owner.

SUBJECT – Application May 18, 2005 - Extension of Term of a public parking lot and an Amendment of a Variance ZR72-21to increase the number of parking spaces and to change the parking layout on site. The premise is located in an R4A zoning district.

PREMISES AFFECTED –3120 Heath Avenue, southwest corner of Shrady Place, Block 3257, Lot 39, Borough of The Bronx.

COMMUNITY BOARD #8BX

386-74-BZ

APPLICANT – Stadtmauer Bailkin/Steve Sinacori, for Riverside Radio Dispatcher, Inc., owner.

SUBJECT - Application October 19, 2005 - Reopening for an amendment to ZR 72-21 a Variance application to permit the erection of a one story building for use as an automobile repair shop which is not a permitted use. The proposed amendment pursuant to ZR 52-35 for the change of use from one non-conforming use (Automotive Repair Shop UG16) to another non-conforming use (Auto Laundry UG16) is contrary to the previously approved plans. The premise is located in C4-4 zoning district.

PREMISES AFFECTED – 4184/4186 Park Avenue, east side of Park Avenue, between East Tremont Avenue and 176th Street, Block 2909, Lot 8, Borough of The Bronx.

COMMUNITY BOARD #6BX

122-93-BZ

APPLICANT – Adam Rothkrug, Esq., for Equinox Fitness Club, lessee; 895 Broadway LLC, owner.

SUBJECT - Application - March 31, 2005- Waiver of the rules, extension of term and amendment for a legalization of an enlargement to a physical cultural establishment that added 7, 605 square feet on the second floor and an addition of 743sq.ft on the first floor mezzanine.

PREMISES AFFECTED - 895/99 Broadway, W/S Broadway, 27'6" souht of corner of East 20th Street, Block 648, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #5M

77-99-BZ

APPLICANT – The Agusta Group, for Turnpike Auto

CALENDAR

Laundry, Inc., owner.

SUBJECT - Application March 8, 2005 - Extension of Term of the Special Permit for the operation of an existing auto laundry which expired on February 8, 2005 and an extension of time to obtain a Certificate of Occupancy which expired on July 22, 2005. The premise is located in C8-1 & R-2 zoning district.

PREMISES AFFECTED - 255-39 Jamaica Avenue, aka Jericho Turnpike, north side of Jamaica Avenue, 80' west of 256th Street, Block 8830, Lot 52, Borough of Queens.

COMMUNITY BOARD #13Q

APPEALS CALENDAR

155-05-A

APPLICANT – Richard Kusack, neighbor; 81 East Third Street Realty, LLC., owner.

SUBJECT – Application filed on June 30, 2005 – for an appeal of the Department of Buildings decision dated May 27, 2005 rescinding its Notice of Intent to revoke the approvals and permit for Application No. 102579354 for a community facility (New York Law School) in that it allows violations of the Zoning Resolution and Building Code regarding bulk, light, air, and unpermitted obstructions in rear yards.

PREMISES AFFECTED – 81 East 3rd Street, Manhattan, Block 445, Lot 45, Borough of Manhattan.

COMMUNITY BOARD #8M

162-05-A

APPLICANT – Jay Segal, Esq., Greenberg & Traurig, LLP, for William R. Rupp, owner.

SUBJECT - Application filed July 15, 2005 - to appeal a final determination from the Department of Buildings dated June 15, 2005 in which they contend that the a privacy wall must be demolished because it exceeds the height limitation set by the Building Code and that the project engineer has failed to show that the Wall has been engineered and built according to code.

PREMISES AFFECTED - 19-21 Beekman Place, a/k/a 461 East 50th Street, located at east side of Beekman Place between East 50th Street and East 51st Street, Block 1361, Lot 117, Borough of Manhattan.

COMMUNITY BOARD #6BK

191-05-A/192-05-A

APPLICANT – Eric Palatnik, P.C., for Juliana Forbes, owner.

SUBJECT - Application filed on August 15, 2005 - Proposed construction of a two - two story , two family dwellings, which lies partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General

City Law.

PREMISES AFFECTED - 12-09 116th Street, and 12-11 116th Street, at the intersection of 116th Street and 12th Avenue, Block 4023, Lots 44 & 45, Borough of Queens.

COMMUNITY BOARD #7Q

200-05-A & 201-05-A

APPLICANT – Joseph P. Morsellino, for Randolph Mastronardi, et al, owners.

SUBJECT – Application August 23, 2005 – to permit the building of two conforming dwellings in the bed of mapped 157th Street as per GCL Section 35.

PREMISES AFFECTED – 20-17 and 20-21 Clintonville Street, Clintonville Street between 20th Avenue and 20th Road, Block 4750, Lots 3 and Tent. 6. Borough of Queens.

COMMUNITY BOARD #8Q

203-05-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Donna Gallagher, lessee.

SUBJECT – Application August 26, 2005 – Appeal to Department of Buildings to enlarge an existing single family frame dwelling not fronting on a mapped street contrary to General City Law Article 3, Section 36. Premises is located within an R4 zoning district.

PREMISES AFFECTED – 39 Ocean Avenue, east/south 294.86 N/O Rockaway Point Boulevard, Block 16350, Part of Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

DECEMBER 6, 2005, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, December 6, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

40-05-BZ

APPLICANT – Petraro & Jones for Rafael Sassouni, owner; Graceful Services, Inc., lessee.

SUBJECT - Application April 21, 2005 - under Z.R. §73-36 to permit a legalization of a physical cultural establishment to be located on the second floor of four story mixed use building. The PCE use will contain 285 square feet to be used in conjunction with an existing physical cultural establishment on the second floor (988 Square feet)located at 1097 Second Avenue, Manhattan.

PREMISES AFFECTED – 1095 Second Avenue, west side of Second Avenue , 60.5 feet south of intersection with East 58th Street, Block 1331, Lot 25, Borough of Manhattan.

CALENDAR

COMMUNITY BOARD #6M

94-05-BZ

APPLICANT – Eric Palatnik, P.C., for Abraham Bergman, owner.

SUBJECT – Application April 20, 2005 - under Special Permit ZR §73-622 to permit the enlargement of a single family residence to vary ZR sections 23-141 for the increase in floor area and open space, 23-461 for less than the required side yards and 23-47 for less than the required rear yard. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1283 East 29th Street, East 29th Street, north of Avenue M, Block 7647, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #14BK

96-05-BZ

APPLICANT – Petraro & Jones for Graceful Spa, lessee, 205 LLC, owner.

SUBJECT - Application April 21, 2005 - under Z.R. §73-36 to permit a legalization of physical cultural establishment located on the second floor of a five story mixed-use building. The PCE use will contain 1,465 square feet . The site is located in a C6-3-A Zoning District.

PREMISES AFFECTED – 205 West 14th Street, north side of West 14th Street, 50’ west on intersection with 7th Avenue, Block 764, Lot 35, Borough of Manhattan.

COMMUNITY BOARD #4M

119-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Sam Malamud, owner.

SUBJECT – Application May 16, 2005 - under Z.R. §72-21 to permit the proposed enlargement to an existing one and two story warehouse building, with an accessory office, Use Group 16, located in a C4-3 and R6 zoning district, which does not comply with the zoning requirements for floor area, floor area ratio, perimeter wall height, parking and loading berths, is contrary to Z.R. §52-41, §33-122, §33-432, §36-21 and §36-62.

PREMISES AFFECTED - 834 Sterling Place, south side, 80’ west of Nostrand Avenue, Block 1247, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #8BK

138-05-BZ

APPLICANT – Lewis Garfinkel, for Devorah Fuchs, owner.

SUBJECT – Application June 6, 2005 - under Z.R. § 73-22 to request a special permit to allow the enlargement of a single family residence which exceeds the allowable floor area and open space per ZR23-141(a), the side yard ZR23-461(a) and the rear yard ZR 23-47 is less than the minimum required of the Zoning Resolution. The premise is located in

an R-2 zoning district.

PREMISES AFFECTED – 1227 East 27th Street, east side of 27th Street, Block 7645, Lot 34, Borough of Brooklyn.

COMMUNITY BOARD #14BK

150-05-BZ

APPLICANT – Henry & Dooley Architects, P.C., for Doris Porter, owner; Cynthia Small, lessee.

SUBJECT – Application June 16, 2005 - under Z.R. §73-36 approval sought for a proposed physical cultural establishment located on the second and third floor in a mixed- use building. The PCE use will contain 2, 006 square feet. The site is located in a C2-3 /R-6 Zoning District.

PREMISES AFFECTED - 1426 Fulton Street, Between Kingston & Brooklyn Avenue, Block 1863, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #3BK

187-05-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Salvatore Porretta and Vincenza Porretto, owners.

SUBJECT – Application August 9, 2005 - under Z.R. §72-21 - Propose to build a two family dwelling that will comply with all zoning requirements with the exception of two non-complying side yards and undersized lot area due to a pre-existing condition.

PREMISES AFFECTED - 78-20 67th Road, Southerly side of 67th Road, 170’ easterly of 78th Street, Block 3777, Lot 17, Borough of Queens.

COMMUNITY BOARD #5Q

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, OCTOBER 25, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, August 9, 2005, were approved as printed in the Bulletin of August 18, 2005, Volume 90, Nos. 33 and 34.

SPECIAL ORDER CALENDAR

822-87-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Hudson Tower Housing Company, Inc., owner; The Fitness Company, lessee.

SUBJECT – Application May 2, 2005 – Extension of Term of a Special Permit to allow the use of a Physical Culture Establishment in the Special Battery Park City zoning district.

PREMISES AFFECTED – 375 South End Avenue, between Liberty and Albany Streets, Block 16, Lot 100, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: James Power.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, an amendment, and an extension of the term of the special permit; and

WHEREAS, a public hearing was held on this application on September 27, 2005, after due notice by publication in *The City Record*, and then to decision on October 25, 2005; and

WHEREAS, Community Board No. 1, Manhattan, recommends approval of this application with certain conditions as discussed further below; and

WHEREAS, this is an application filed pursuant to Z.R. § 73-11 to permit an extension of term of a special permit for a previously approved physical culture establishment (“PCE”), and an amendment to a condition of such permit related to access by non-resident members; and

WHEREAS, the premises is located at South End Avenue between Liberty and Albany Streets; and

WHEREAS, on October 11, 1988, the Board granted an application for a special permit pursuant to Z.R. § 73-36, under

BSA Calendar No. 822-87-BZ, to permit the use of the site as a PCE for a term of five years; and

WHEREAS, this special permit was extended for a term of five years on June 7, 1994; and

WHEREAS, on May 20, 1997, the Board amended the resolution to require that non-residents shall access the club from the new entrance adjacent to the pool and that the new management of the club shall issue security access cards to the new entrance patrons who are non-residents of Gateway Plaza Limited; and

WHEREAS, on January 12, 1999, under the subject calendar number, the Board reestablished the expired variance for a period of five years; and

WHEREAS, the most recent term expired on January 12, 2004; and

WHEREAS, the applicant now seeks an extension of the term of the special permit for a period of ten years; and

WHEREAS, in addition to the request for an extension of term, the applicant seeks to revise the condition regarding entry to the center by non-residents to state that “non-resident members shall enter the Center by way of the entrance courtyard, as shown on drawing R-2, using an intercom/buzzer system with remote camera control;” and

WHEREAS, the Board finds such request reasonable; and

WHEREAS, the Community Board requests that the applicant only be granted a three year term to ensure that the landlord make certain repairs to the PCE and resolve certain maintenance and cleanliness issues discussed at the Community Board meeting; and

WHEREAS, the applicant represents that the owner has several capital upgrade projects underway and/or planned for the PCE, including, among other things, upgrade of the air conditioner, replacement of the roof enclosure in the pool area, and sandblasting and resurfacing of the pool interior; the applicant represents that upgrade of the air conditioner is underway and the renovations to the pool are scheduled to take place in the spring of 2006; and

WHEREAS, the Board believes that a ten year extension is reasonable as the PCE is an independent, small health club that serves primarily as an amenity to residents of Gateway Plaza, and has few non-resident members; and

WHEREAS, accordingly, the Board finds that the requested extension of term and minor modification is appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens and amends* the resolution, adopted on October 11, 1988, as extended and last modified on January 12, 1999, so that as amended this portion of the resolution shall read: “to extend the term for ten years from October 11, 2003, to expire on October 11, 2013, and to modify the previous condition related to access by non-resident members as set forth below; *on condition* that all work/site conditions shall substantially conform to drawings as filed with this application, marked “Received August 19, 2005”- three (3) sheets; and *on further condition*:

THAT the term of this grant shall be for ten years, to

MINUTES

expire on October 11, 2013;

THAT non-resident members shall enter the PCE by way of the entrance courtyard, as shown on drawing R-2, using an intercom/buzzer system with remote camera control;

THAT the above conditions shall 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; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.”

(DOB Application No. 101816420)

Adopted by the Board of Standards and Appeals, October 25, 2005.

212-92-BZ

APPLICANT – Felipe Ventegeat, for Herbert Kantrowitz, owner.

SUBJECT – Application June 13, 2005 – Extension of Term/Waiver of a Variance to continue the commercial use (UG6) located in the basement of a residential building. The premise is located in an R7-1 zoning district.

PREMISES AFFECTED – 871 East 175th Street, Mohegan Avenue and Waterloo Place, Block 2958, Lot 65, Borough of The Bronx.

COMMUNITY BOARD #6BX

APPEARANCES –

For Applicant: Felipe Ventegeat.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the previously granted variance pursuant to Z.R. § 11-411; and

WHEREAS, a public hearing was held on this application on September 27, 2005, after due notice by publication in *The City Record*, and then to decision on October 25, 2005; and

WHEREAS, Community Board No. 6, Bronx, recommends approval of this application with certain conditions as discussed further below; and

WHEREAS, the premises is located on East 175th Street east of Mohegan Street; and

WHEREAS, the site is located in an R7-1 zoning district, on a site previously before the Board; and

WHEREAS, on December 11, 1923, under Cal. No. 445-23-BZ, the Board granted an application to convert the basement of the premises from residence use to business use for a two-year term; and

WHEREAS, an application to renew such variance was denied on June 8, 1926; and

WHEREAS, on October 14, 1941, the Board granted an application to permit the continued occupancy of the basement of the premises as a tailor shop for a term of two years; and

WHEREAS, the term was subsequently extended through 1979, and the use was re-established under the subject calendar number on November 23, 1993; and

WHEREAS, the term of the variance expired on November 23, 2003; and

WHEREAS, accordingly, the Board finds that the requested extension of term and minor modification is appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens and amends* the resolution, adopted on November 23, 1993, so that as amended this portion of the resolution shall read: “to extend the term for ten years from November 23, 2003, to expire on November 23, 2013; *on condition* that all work/site conditions shall substantially conform to drawings as filed with this application, marked “Received October 11, 2005”- one (1) sheet; and *on further condition*:

THAT the term of this grant shall be for ten years, to expire on November 23, 2013;

THAT the above condition shall be listed on the certificate of occupancy;

THAT all interior partitions and exits shall be as approved by the Department of Buildings;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.”

(DOB Application No. 200222730)

Adopted by the Board of Standards and Appeals, October 25, 2005.

37-93-BZ

APPLICANT – Cozen O’Connor Attorneys, for Vornado

MINUTES

Forest Plaza, LLC, owner; Jack Lalanne Fitness Centers, Inc., lessee.

SUBJECT – Application March 8, 2005 – Extension of Term of a Special Permit-Physical Culture Establishment which is not permitted as of right. The premises is located in a C8-1 zoning district.

PREMISES AFFECTED – 2040 Forest Avenue, south side 100’ west of Van Name Avenue, Block 1696, Lot 8, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Barbara Hair.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for waiver of the Rules of Practice and Procedure, a re-opening and an extension of the term of the special permit; and

WHEREAS, a public hearing was held on this application on August 23, 2005, after due notice by publication in *The City Record*, with a continued hearing on September 27, 2005, and then to decision on October 25, 2005; and

WHEREAS, Community Board No. 1, Staten Island, recommends approval of this application; and

WHEREAS, this is an application filed pursuant to Z.R. §73-11 to permit an extension of term of a special permit for a previously approved physical culture establishment; and

WHEREAS, the premises is located on the south side of Forest Avenue west of Van Name Avenue; and

WHEREAS, on November 9, 1993, the Board granted an application under BSA Calendar No. 37-93-BZ, to permit the use of the site as a physical culture establishment (UG 9) in a C8-1 zoning district, for a term of ten years; and

WHEREAS, the term of the special permit expired on November 9, 2003; and

WHEREAS, the instant application seeks to extend the term of the special permit for an additional ten years, and make certain modifications to the plans, including a change in signage from “Bally’s Jack Lalanne” to Bally’s Totally Fitness” and minor layout changes; and

WHEREAS, accordingly, the Board finds that the requested extension of term and minor modification 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, adopted on November 9, 1993, so that as amended this portion of the resolution shall read: “to extend the term for ten years from November 9, 2003, to expire on November 9, 2013; on condition that all work/site conditions shall substantially conform to drawings as filed with this application, marked ‘Received October 11, 2005’-3 sheets; and *on further condition*:

THAT the term of this grant shall be for ten years, to

expire on November 9, 2013;

THAT the above conditions shall 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; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.”

(DOB Application No. 500751876)

Adopted by the Board of Standards and Appeals, October 25, 2005.

126-93-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for Salvatore Purna, owner.

SUBJECT – Application August 23, 2005 – Reopening for an Extension of Term for ten years for a variance of a gasoline service station, located in an R4 zoning district.

PREMISES AFFECTED – 1225 East 233rd Street, north corner lot of East 233rd Street, between Baychester Avenue and Reimer Avenue, Block 4955, Lot 1, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening, an extension of time to obtain a certificate of occupancy, and an extension of the term of the variance pursuant to Z.R. § 11-411; and

WHEREAS, a public hearing was held on this application on September 27, 2005, after due notice by publication in *The City Record*, and then to decision on October 25, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 12, Bronx, recommends approval of this application with certain conditions as discussed below; and

WHEREAS, on June 13, 1933, under BSA Calendar No.

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67-33-BZ, the Board granted a variance application to permit a gasoline service station on the site; and

WHEREAS, at various times since 1933, the Board has reopened this matter to allow amendments and other extensions of term; and

WHEREAS, however, this grant subsequently expired; and

WHEREAS, on January 18, 1995, under the subject calendar number, the Board granted the re-establishment of this expired grant for a ten year term; and

WHEREAS, the term expired on January 18, 2005, along with the Certificate of Occupancy for the site; and

WHEREAS, the applicant now seeks a ten-year extension of term of the variance pursuant to Z.R. § 11-411, and an extension of time to obtain the Certificate of Occupancy; and

WHEREAS, in addition, the applicant represents that there have been certain changes to the layout of the site since the Board's last action, including removal of the pump island along the Baychester Avenue frontage, and the replacement of the long pump island with four gasoline dispensers with three short pump islands and one dispenser on each island; and

WHEREAS, the Community Board has requested that the applicant erect appropriate fencing along the eastern and northern property lines of the site to reduce noise impacts on adjacent residents and to erect appropriate signage as suggested by the 47th Precinct of the City of New York Police Department to reduce the congregation of youth at the site; and

WHEREAS, the applicant has agreed install a 5'-0" high chain link fence with 100% slats on the portion of the property adjacent to the three-story dwelling, and to install a 5'-0" high white fence on the retaining wall adjacent to the two-story brick dwelling; and

WHEREAS, the applicant represents that it has posted the requested signage; and

WHEREAS, the applicant initially requested two curb cuts on East 233rd Street instead of one, since this would eliminate some on-street parking spaces and increase visibility to and from the site; and

WHEREAS, the Board was not convinced by the applicant's explanation, and accordingly the applicant modified the proposal to one curb cut; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of an extension of term with the conditions listed below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, adopted on January 18, 1995, so that as amended this portion of the resolution shall read: "to extend the term of the variance for 10 years from January 18, 2005 to January 18, 2015, and to permit an extension of the time to obtain a certificate of occupancy for an additional period of one year from the date of this resolution, to expire on October 25, 2006; *on condition* that all work shall substantially conform to drawings as filed with this application, marked 'October 18, 2005' – 2 sheets; *on further condition*:

THAT the term of this grant shall be for 10 years, to expire on January 18, 2005;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the applicant shall install a 5'-0" high fence as indicated on the BSA-approved plans;

THAT the above conditions shall appear on the certificate of occupancy;

THAT conditions from prior resolution(s) not specifically waived by the Board remain in effect;

THAT a new certificate of occupancy be obtained within one year from the date of this grant;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; 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. 200925552)

Adopted by the Board of Standards and Appeals, October 25, 2005.

1058-46-BZ

APPLICANT – Petraro & Jones, LLP, for Glen Oaks Village Owners, Inc.

SUBJECT – Application May 9, 2005 – Amendment to construct a third floor to multiple existing two family dwellings which is contrary to the Z.R. §23-631 for minimum perimeter wall height and setback. The premises are located in an R3-2 zoning district.

PREMISES AFFECTED – 254-07 74th Avenue, Blocks 8401, 8490, 8492, Lots 2 and 96, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Patrick Jones, Tom Curro and Robert Friedrich.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to November 15, 2005, at 10 A.M., for decision, hearing closed.

929-47-BZ

APPLICANT – Petraro & Jones, LLP, for Glen Oaks Village Owners, Inc.

SUBJECT – Application May 9, 2005 – Amendment to construct a third floor to multiple existing two family

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dwellings which is contrary to Z.R. §23-631 for minimum perimeter wall height and setback. The premises are located in an R3-2 zoning district.

PREMISES AFFECTED – 255-09 and 260-66 73rd Avenue, Blocks 8441, 8446, 8515, 8517, Lots 1 and 2.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Patrick Jones, Tom Curro and Robert Friedrich.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to November 15, 2005, at 10 A.M., for decision, hearing closed.

185-48-BZ

APPLICANT – Petraro & Jones, LLP, for Glen Oaks Village Owners, Inc.

SUBJECT – Application May 9, 2005 – Amendment to construct a third floor to multiple existing two family dwellings which is contrary to the Z.R. §23-631 for minimum perimeter wall height and setback. The premises are located in an R3-2 zoning district.

PREMISES AFFECTED – 255-17 73rd Avenue, 254-07 74th Avenue, 254-18, 254-25, 255-14 and 260-28 75th Avenue, and 260-46, 264-27 and 264-52 Langston Avenue, Blocks 8535, 8513, 8510, 8511, 8440, 8450, 8449, 8447, Lots 1, 20 and 31, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Patrick Jones, Tom Curro and Robert Friedrich.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to November 15, 2005, at 10 A.M., for decision, hearing closed.

16-49-BZ

APPLICANT – Petraro & Jones, LLP, for Glen Oaks Village Owners, Inc.

SUBJECT – Application May 9, 2005 – Amendment to construct a third floor to multiple existing two family dwellings which is contrary to the Z.R. §23-631 for minimum perimeter wall height and setback. The premises are located in an R3-2 zoning district.

PREMISES AFFECTED – 260-43 and 261-15 Langston Avenue, Block 8448, 8443, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Patrick Jones, Tom Curro and Robert Friedrich.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and

Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to November 15, 2005, at 10 A.M., for decision, hearing closed.

109-93-BZ

APPLICANT – H. Irving Sigman, Barone Properties, Inc., owner.

SUBJECT – Application April 18, 2005 – Extension of Term/Amendment/Wavier for the continued UG 6 use on the first floor of residential building, Amendment to change the use on the first floor from UG 6 (Offices) to UG6 eating and drinking establishment with accessory food preparation and storage in the basement. The premises is located in an R3-2 zoning district.

PREMISES AFFECTED – 189-11 Northern Boulevard, Block 5365, Lot 5, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: H.I. Sigman and John Milonas.

ACTION OF THE BOARD – Laid over to December 6, 2005, at 10 A.M., for continued hearing.

110-05-BZY

APPLICANT – Shing Kong Lam – Owner

SUBJECT – Application May 12, 2005 – Proposed extension of time to complete construction for a minor development (erect extension at first floor rear with minor partition works, one family home for a period of three months pursuant to Z.R. 11-332.

PREMISES AFFECTED – 56-31 Bell Boulevard, east side of Bell Boulevard, 276.12' south of corner formed by the intersection of 56th Avenue and Bell Boulevard, Block 7445, Lot 47, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

Adopted by the Board of Standards and Appeals, October 25, 2005.

120-05-A

APPLICANT – Bickram Singh/Dronmati Singh, for Bickram Singh/Dronmati Singh, owner.

SUBJECT – Application May 18, 2005 – Proposed reconstruction and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

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PREMISES AFFECTED – 104-41 103rd Street, between Rockaway Boulevard and Liberty Avenue, Block 9524, Lot 75, Borough of Queens.

COMMUNITY BOARD #10Q

APPEARANCES –

For Applicant: Dronmati Singh.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated May 3, 2005, acting on Department of Buildings Application No. 401769209, reads:

“Building Contrary to GCL 35 – Bed of Mapped Street “; and

WHEREAS, a public hearing was held on this application on October 25, 2005, after due notice by publication in the *City Record*, and then to closure and decision on October 25, 2005; and

WHEREAS, by letter dated September 6, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated September 13, 2005, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated August 22, 2005, the Department of Environmental Protection has reviewed the above project and states that it has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated May 3, 2005, acting on Department of Buildings Application No. 401769209, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received May 18, 2005”-(1) one sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws

under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 25, 2005.

231-04-A

APPLICANT – Joseph P. Morsellino, Esq., for Chri Babatsikos and Andrew Babatsikos, owners.

SUBJECT – Application June 17, 2004 – Proposed one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 240-79 Depew Avenue, corner of 243rd Street, Block 8103, Lot 5, Borough of Queens.

COMMUNITY BOARD#11Q

APPEARANCES –

For Applicant: Joseph Morsellino.

For Opposition: Peter Segal, Walter Mugdan, Lyda Zissimatos, Natelie Packer.

APPEARANCES –

For Applicant: Patrick Jones, Tom Curro and Robert Friedrich.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to December 6, 2005, at 10 A.M., for decision, hearing closed.

143-05-A

APPLICANT – Eric Palatnik, P.C., for Andrew & Peter Latos, owner.

SUBJECT – Application June 7, 2005 – An appeal seeking a determination that the owner of said premises has acquired a common-law vested right to continue development commenced under the prior R3-2 zoning district. Current Zoning District is R2A.

PREMISES AFFECTED – 47-05 Bell Boulevard, located between 47th and 48th Avenue, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Eric Palatnik and Emanuel Kambanis.

ACTION OF THE BOARD – Laid over to November 22, 2005, at 10 A.M., for continued hearing.

149-05-A

APPLICANT – Eric Palatnik, P.C., for Gregory Broutzas, owner.

SUBJECT – Application filed on June 14, 2005 – An appeal seeking a determination that the owner of said premises has acquired a common-law vested right to continue development

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commenced under the prior R2 zoning district. Current Zoning District is R2A.

PREMISES AFFECTED – 32-29 211th Street, located at the east side, of 211th Street, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Eric Palatnik and Anna Kril.

ACTION OF THE BOARD – Laid over to November 1, 2005, at 10 A.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 12:00P.M.

**REGULAR MEETING
TUESDAY AFTERNOON, OCTOBER 25, 2005
1:30 P.M.**

Present: Chair Srinivasan, Vice Chair Babbar, and Commissioner Chin.

ZONING CALENDAR

18-05-BZ

APPLICANT – The Agusta Group, for Monirul Islam & Jong Sohn, owner.

SUBJECT – Application January 28, 2005 – under Z.R. §72-21 to permit the proposed reduction in the requirements for side yard footage and the minimum distance between windows, for a proposed one family dwelling with an accessory garage, is contrary to Z.R. §23-461 and §23-44.

PREMISES AFFECTED – 87-25 Clover Place, east side, between Foothill Avenue and Clover Hill Road, Block 10509, Lot 31, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Sol Korman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated June 3, 2005, acting on Department of Buildings Application No. 401754482, reads, in pertinent part:

“A 45 feet lot width in an R1-2 Zone does not comply with section 23-32.” and

WHEREAS, a public hearing was held on this application on September 20, 2005, after due notice by publication in *The City Record*, and then to decision on October 25, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, former Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 8, Queens, recommends disapproval of this application; and

WHEREAS, the Queens Borough President recommends disapproval of this application and requests that the applicant comply with all R1-2 zoning district requirements to help preserve the character of the neighborhood; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed construction of a single-family residence with a garage, located in an R1-2 zoning district, which does not comply with the zoning requirements for minimum lot width, contrary to Z.R. § 23-32; and

WHEREAS, initially, the applicant also requested waiver of the side yard requirements, specifically, to reduce the side yards from a combined 20’-0” to 13’-6”; in addition, the applicant requested a reduction in the distance between the garage and side lot line from the required 5’-0” to 3’-0”; and

WHEREAS, after direction from the Board, the applicant amended the initial proposal to the current proposal; and

WHEREAS, the record indicates that the subject premises is located on the east side of Clover Place Avenue between Foothill Avenue and Clover Hill Road, and is currently vacant; and

WHEREAS, the subject lot has a non-complying lot width of 45’-0” (minimum required lot width is 60’-0”); and

WHEREAS, the applicant represents that the subject lot was created on November 13, 2001 as a result of a subdivision followed by a partial merger between former Lot 31 and former Lot 32 (resulting in tentative lot 131); and

WHEREAS, in support of the merger approval, the applicant submitted a plan reflecting the current configuration as approved by the Department of Buildings on November 13, 2001; and

WHEREAS, the applicant represents that the subject lot was purchased by the applicant on April 17, 2002; a recorded indenture was submitted to the Board evidencing such purchase; and

WHEREAS, at the time the applicant purchased the lot, the lot was zoned R2; under R2 zoning, the lot had a complying lot width as the required minimum lot width is 40’-0”; and

WHEREAS, on June 17, 2003, the lot was rezoned to

MINUTES

R1-2, which requires a lot width of 60'-0"; and

WHEREAS, the applicant represents that the zoning lot is an irregularly-shaped lot, with one side lot line measuring 146'-0" and the other side lot line measuring 106'-0" with an additional indentation measuring 29'-0"; and

WHEREAS, the applicant further represents that the rear portion of the lot is wedge shaped, and only 31'-6" feet wide; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties in developing the subject lot in compliance with underlying district regulations: the site is a narrow, irregularly-shaped and vacant lot; and

WHEREAS, the applicant has submitted a 200'-0" radius diagram that indicates that the subject lot is the only vacant lot in the surrounding area; and

WHEREAS, the Board finds that the aforementioned unique conditions create practical difficulty in developing the site in compliance with the applicable zoning provision; and

WHEREAS, the applicant states that without the requested waiver, no residence could be constructed on the property; and

WHEREAS, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict compliance with the applicable zoning requirements will result in any development of the property; and

WHEREAS, the applicant states that the building will comply with all R1-2 zoning regulations in all other respects other than minimum lot width, including floor area ratio, side yards and height requirements; and

WHEREAS, the applicant has submitted photographs of other residences in the area, along with a 200'-0" radius map; such documentation reflects that the surrounding neighborhood is characterized by residences ranging from one to two and one-half stories; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board notes that the owner's predecessor created the subject lot prior to the rezoning in 2003, and at the time of such subdivision, the lot complied with the lot width requirements; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the initial application included requests for waivers of the R1-2 side yard requirements and the minimum distance between the garage and side lot line; and

WHEREAS, the Board notes that the applicant submitted a proposal with its initial application that reflected compliance with the side yard requirements, and that such proposal resulted in a feasible residence with a 25'-0" wide floor plate; and

WHEREAS, the Board also noted that the applicant could comply with the minimum distance between the garage

and side lot line requirement and still maintain the garage; and

WHEREAS, the applicant subsequently amended its application and removed the request for the side yards waiver and the garage waiver, thereby complying with all R1-2 zoning district requirements other than minimum lot width; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 72-21, to permit the proposed construction of a single-family residence with a garage, located in an R1-2 zoning district, which does not comply with the zoning requirements for minimum lot width, contrary to Z.R. § 23-32; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 19, 2005" - 12 sheets; and *on further condition*;

THAT there shall be a maximum F.A.R. of 0.5;

THAT the above-stated condition shall appear on the Certificate of Occupancy;

THAT except for minimum lot width, the subject lot shall comply with all R1-2 zoning district requirements, as reviewed and approved by DOB;

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 25, 2005.

79-05-BZ

APPLICANT – Herrick, Feinstein LLP, owner; The Athena Group, LLC, owner.

SUBJECT – Applicant April 5, 2005 – under Z.R. §72-21 – to permit the proposed 20-story mixed use building, with below grade parking spaces, located in an R8/C1-4 and R7-2/C1-4 zoning district, which does not comply with the zoning requirements for floor area, height and setback, is

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contrary to Z.R. §23-011, §23-145, §35-22, §35-31, §23-633 and §35-24.

PREMISES AFFECTED – 101/21 Central Park North, west side of Lenox Avenue, between Central Park North and West 111th Street, Block 1820, Lot 30, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

Adopted by the Board of Standards and Appeals, October 25, 2005.

104-05-BZ

CEQR #05-BSA-126K

APPLICANT – Augusta & Ross for Park Avenue Health Club, lessee. Chocolate Factory LLC, owner.

SUBJECT – Application May 6, 2005 – under Z.R. §73-36 – approval sought for a proposed physical cultural establishment located on a portion of the first floor of a mixed-use building. The PCE use will contain 9,700 square feet. The site is located in a M1-2 Zoning District.

PREMISES AFFECTED – 255-275 Park Avenue, northerly side of Park Avenue between Waverly and Washington Avenue, Block 1874, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Sol Korman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated August 6, 2005, acting on Department of Buildings Application No. 301797223, reads:

“Proposed physical culture establishment requires BSA Special Permit”; and

WHEREAS, a public hearing was held on this application on September 27, 2005, after due notice by publication in *The City Record*, and then to decision on October 25, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 2, Brooklyn, recommends approval of this application; and

WHEREAS, the New York City Fire Department has stated that it has no objection to this application; and

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit, within a M1-2 zoning district, the

proposed physical culture establishment (“PCE”), to be located in a residential building subject to a prior Board grant; and

WHEREAS, the subject site is located on the northerly side of Park Avenue, between Waverly and Washington Avenues, and has a total lot area of approximately 36,720 sq. ft.; and

WHEREAS, the subject lot is occupied by a seven-story mixed-use residential/commercial building, converted from manufacturing pursuant to a Board grant made in 1983 under Cal. No. 482-02-BZ; and

WHEREAS, the subject PCE will occupy 9,700 sq. ft. of floor area, to be located on the first floor of the subject building; and

WHEREAS, the applicant represents that the PCE has not opened yet, but will be an eastern style health spa and club, with exercise training, hot and cold tubs, hydrotherapy, and massage; and

WHEREAS, the applicant states that an automatic wet sprinkler system will be installed throughout the first floor area occupied by the PCE, and an individually coded fire alarm system will be installed throughout the premises; and

WHEREAS, the PCE will have the following hours of operation: 6AM to Midnight, seven days a week; 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 proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to Z.R. §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; 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 05-BSA-126K, dated May 6, 2005; 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; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and

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Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; 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 Z.R. §§73-36 and 73-03, to permit, within a M1-2 zoning district, the proposed physical culture establishment ("PCE"), to be located in a residential building subject to a prior Board grant; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received October 12, 2005"- (5) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years from October 25, 2005, expiring October 25, 2015;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT the hours of operation shall be limited to 6AM to Midnight, seven days a week;

THAT all massages shall be performed only by New York State licensed masseurs/masseuses;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT fire safety measures, including a sprinkler system, shall be as installed and maintained on the Board-approved plans;

THAT an interior fire alarm system shall be provided as set forth on the BSA-approved plans and as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all of applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 25, 2005.

123-05-BZ

APPLICANT – Bryan Cave, LLP, for Long Island University, owner.

SUBJECT – Application May 20, 2005 – under Z.R. §73-641 (Integration of new buildings or enlargements with existing buildings) to facilitate the construction of a tennis bubble and open colonnaded parapet on the roof of a proposed 5-story athletic corner center located within an R6 district.

PREMISES AFFECTED – 161 Ashland Place, east side of Ashland Place, 199' to the north of DeKalb Avenue, Block 2087, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES – None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated May 16, 2005, acting on Department of Buildings Application No. 301678940, reads:

"Respectfully request acceptance of colonnade parapet and fabric enclosure for rooftop tennis courts/athletic area. Please note that said items encroach upon permitted height, setback and sky exposure plane requirements as prescribed in section 24-522 of the NYC Zoning Resolution. Denied for appeal to the Board of Standards and Appeals."; and

WHEREAS, a public hearing was held on this application on September 27, 2005 after due notice by publication in *The City Record*, and then to decision on October 25, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 2, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-641 and 73-03, to permit, on a site split by an R6 and C6-4 district boundary and within the Special Downtown Brooklyn District, the proposed construction of a tennis bubble and surrounding colonnading parapet atop a five-story building currently under construction, which does not comply with the zoning requirements for height, setback and sky exposure plane, contrary to Z.R. § 24-522; and

WHEREAS, the owner of the property is Long Island University ("LIU"), a non-profit entity; and

WHEREAS, the subject lot is part of a 420,000 sq. ft. "superblock" zoning lot that houses the Long Island University Campus ("LIU Superblock"); and

WHEREAS, the lot is located on the southeast portion of the LIU Superblock and fronts on Ashland Place, and has an area of 43,694 sq. ft.; and

WHEREAS, the applicant filed plans with the Department of Buildings in 2004 and received approval to construct an as-of-right five story building on the site that will include a swimming pool, basketball gymnasium, tennis courts and a running track; and

MINUTES

WHEREAS, the applicant represents that construction on the building is 40% complete; and

WHEREAS, the applicant proposes to construct an 18,199 sq. ft. tennis bubble and surrounding colonnaded parapet above the DOB approved as-of-right building; and

WHEREAS, as a result of the addition of the tennis bubble and parapet to the building, the applicant requests the following waivers: streetwall height of 74'-0" (60'-0" is the maximum permitted); no setback (a setback of 15'-0" required at 60'-0"); and penetration of the sky exposure plane; and

WHEREAS, the applicant represents that it has owned the LIU superblock since 1959; and

WHEREAS, in support of the above representation, the applicant has submitted a copy of an agreement between LIU and Consolidated Edison, dated July 30, 1949, which refers to a prior approval by the City of New York to establish the LIU Superblock; and

WHEREAS, the applicant represents that LIU purchased the subject lot in 1995 from the City of New York, and has merged the site into the LIU Superblock; and

WHEREAS, the Board finds that since the applicant has owned a portion of the zoning lot, and continuously occupied and used one or more buildings located thereon for a specified community facility use from December 15, 1961 until the time of application, the applicant meets the threshold finding under Z.R. §73-641; and

WHEREAS, the applicant represents that the proposed waivers are required in order to allow for the above-mentioned recreational uses, which are an essential service to the community, as per Z.R. §73-641(a); and

WHEREAS, the applicant states that the proposed development is designed to give the students and faculty of LIU and neighborhood residents the finest facilities for competitive and recreational sports and fitness; and

WHEREAS, specifically, the applicant represents that the tennis bubble is necessary so that members can utilize the tennis courts year-round, and the parapet is necessary to support building lighting and to conceal the tennis bubble; and

WHEREAS, the applicant further represents that the programmatic requirements of the swimming pool, basketball court, tennis bubble and parapet dictate the overall height of the building: a height of 23'-7" is required to accommodate the pool; a height of 25'-0" is required to accommodate the basketball court; a height of 39'-2" is required to accommodate the basketball court; and the parapet requires an additional 14'-0"; and

WHEREAS, the applicant states that as a result of these required minimum heights, the building will rise to a total height of 74'-0", and will not setback at 60'-0"; and

WHEREAS, the applicant states that because of subsurface conditions, including ground water at depths of 28 feet to 31 feet below curb level, the applicant is unable to lower the building any further without requiring extensive waterproofing and installing a pump system; and

WHEREAS, the applicant further represents that waterproofing and installing a pump below grade will

compromise the mechanical plant space and equipment of the building and will be cost-prohibitive; and

WHEREAS, the applicant has provided the Board with a letter from the project architect that documents the results of the subsurface investigation; and

WHEREAS, the applicant states that although the finding under Z.R. § 73-641(b) is not applicable to the subject application because the applicant is only seeking modification of the height and setback requirements, without the requested modification there is no way to design and construct the new building; and

WHEREAS, the applicant represents that such modification is the minimum modification necessary to permit the proposed development as required by Z.R. § 73-641(c) because of the sub-surface conditions and programmatic needs of the facility; and

WHEREAS, the applicant further represents that the colonnade is largely open to the sky and that the tennis bubble slopes back from the front façade, so that it is concealed from most surrounding views; therefore, the project creates the least detriment to the character of the neighborhood; and

WHEREAS, in addition, the applicant states that the additional height will have no adverse effects on the surrounding neighborhood because it is surrounded on all sides by LIU buildings ranging in height from three to 16 stories, athletic fields, a parking lot, and large buildings owned by the Brooklyn Hospital Center ranging in height from three to 20 stories; and

WHEREAS, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-641 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-641 and 73-03, to permit, in an R6 and C6-4 zoning district within the Special Downtown Brooklyn District, the proposed construction of a tennis bubble and surrounding colonnading parapet atop a five-story building currently under construction, which does not comply with the zoning requirements for height, setback and sky exposure plane, contrary to Z.R. § 24-522; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received May 20, 2005"-(5) sheets; and *on further*

MINUTES

condition

THAT the bulk parameters of the building shall be as follows: streetwall height of 74'-0"; and no setback of 15'-0" at 60'-0"; and

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 25, 2005.

202-04-BZ

APPLICANT – Einbinder & Dunn, LLP, for 202 Meserole, LLC, owner.

SUBJECT – Application May 24, 2004 – under Z.R. §72-21 to permit the proposed conversion of a vacant industrial building, into a 17 unit multiple dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED – 100 Jewel Street, southeast corner of Meserole Street, Block 2626, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Jeffrey Chester and other.

ACTION OF THE BOARD – Laid over to December 6, 2005, at 1:30 P.M., for continued hearing.

357-04-BZ

APPLICANT – Alfonso Duarte, for Charles Howard, owner.

SUBJECT – Application November 12, 2004 - under Z.R. §72-21 to permit the proposed erection of a two story medical facility, located in an R3-2 zoning district, which does not comply with the zoning requirements for second floor occupancy, lot coverage, front yards, side yard, off-street parking spaces and penetration of the exposure plane, is

contrary to Z.R. §22-14, §24-11, §24-33, §24-34, §24-35, §25-31 and §24-521; and the proposed use of the site, for off-site accessory parking, for a proposed medical facility across the street, is contrary to §25-51.

PREMISES AFFECTED - 707 Cross Bay Boulevard, southwest corner of 98th Street, Block 15311, Lot 11, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Alfonso Duarte, P.E. and Louis R. Colalillo.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to November 22, 2005, at 1:30 P.M., for decision, hearing closed.

358-04-BZ

APPLICANT – Alfonso Duarte, for Charles Howard, owner.

SUBJECT – Application November 12, 2004 – under Z.R. §72-21 to permit the proposed use of the site, for off-site accessory parking, for a proposed medical facility across the street, is contrary to §25-31.

PREMISES AFFECTED – 728 Cross Bay Boulevard, southeast corner of 194th Avenue, Block 15453, Lot 8, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Alfonso Duarte, P.E. and Louis R. Colalillo.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to November 22, 2005, at 1:30 P.M., for decision, hearing closed.

27-05-BZ

APPLICANT – Vassalotti Associates Architects, LLP., owner; Cumberland Farms, Inc., lessee.

SUBJECT – Application February 16, 2005 – Special Permit under Z.R. §11-411 for the re-establishment and extension of term for an existing gasoline service station, located in an C1-2/R6 zoning district, which was granted under BSA Calendar 361-37-BZ and the term lapsed on December 1, 2001.

PREMISES AFFECTED – 91-11 Roosevelt Avenue, Block 1479, Lot 38, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to November 22, 2005, at 1:30 P.M., for decision, hearing closed.

70-05-BZ

APPLICANT – Lewis E. Garfinkel, R.A., for Yaakov Adler, owner.

SUBJECT – Application March 23, 2005 - under Z.R. §73-622 to permit an enlargement of a single family home to vary sections ZR 23-141(a) for open space ratio & floor area, ZR 23-461 for minimum side yard requirement. The premise is located in a R-2 zoning district.

PREMISES AFFECTED – 2905 Avenue M, northside of Avenue M, 25' easterly of intersection of Avenue M and 29th

MINUTES

Street, Block 7647, Lot 8, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES – None.

ACTION OF THE BOARD - Laid over to November 1, 2005, at 1:30 P.M., for postponed hearing.

77-05-BZ

APPLICANT – Greenberg Traurig, LLP by Deirdre Carson, for Jack Ancona, owner.

SUBJECT – Application March 29, 2005 – under Z.R. §72-21 – to permit the proposed construction of a twelve-story mixed building, containing residential and retail uses, located within an M1-6 zoning district, in which residential use is not permitted as of right, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 132 West 26th Street, south side, 364.5’ west of Sixth Avenue, Block 801, Lot 60, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Deirdre Carson.

For Opposition: Stuart Klein.

ACTION OF THE BOARD – Laid over to November 22, 2005, at 1:30 P.M., for continued hearing.

102-05-BZ

APPLICANT – Rothkrug Rothkrug Weinberg Spector, for Cornerstone Residence, LLC, owner.

SUBJECT – Application May 4, 2005 - under Z.R. §72-21 to permit the proposed construction of a two family dwelling on a corner lot that does not provide one of the required front yards, to vary section ZR 23-45. The vacant lot is located in an R-5 zoning district.

PREMISES AFFECTED – 259 Vermont Street aka 438 Glenmore Avenue, southeast corner of Vermont Street and Glenmore Avenue, Block 3723, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD – Laid over to November 22, 2005, at 1:30 P.M., for continued hearing.

180-05-BZ

APPLICANT – Wachuset & Masyr for 1511 Third Avenue Association/Related/Equinox, owner.

SUBJECT – Application August 4, 2005 – Special Permit under Z.R. §§73-03 and 73-367 – approval sought for the legalization of a physical cultural establishment located on the entire second floor portion of the third floor and the entire fourth floor with a total of 34,125 sq. ft. of floor area. The site is located in a C2-8 zoning district.

PREMISES AFFECTED – 1511 Third Avenue, a/k/a 201 East 85th Street, northeast corner of 85th Street and Third Avenue, Block 1531, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Ellen Hay.

ACTION OF THE BOARD – Laid over to January 10, 2006, at 1:30 P.M., for adjourned hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 2:45 P.M.

BULLETIN

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November 10, 2005

DIRECTORY

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JOEL A. MIELE, SR.

JAMES CHIN

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Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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COMMUNITY BOARD #14Q

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COMMUNITY BOARD #3M

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COMMUNITY BOARD #5BX

DESIGNATIONS: D-Department of Buildings; B.BK.-
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Buildings, Manhattan; B.Q.-Department of Buildings,
Queens; B.S.I.-Department of Buildings, Staten Island;
B.BX.-Department of Building, The Bronx; H.D.-Health
Department; F.D.-Fire Department.

CALENDAR

DECEMBER 13, 2005, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, December 13, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

1016-84-BZ

APPLICANT – Martyn & Don Weston, for Livia Liberace, owner; Ultramotive, lessee.

SUBJECT – Application August 8, 2005 - Pursuant to ZR §11-411 for the Extension of Term of a previously approved Variance for the operation of an auto repair shop (UG12) with accessory uses and an Amendment to reestablish and legalize auto body and fender work on site. The premise is located in a C8-2 & R-5 OP zoning district.

PREMISES AFFECTED – 790-798 Coney Island Avenue, west side 260'-0 3/8 south of Cortelyou Road, Block 5393, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #12BK

4-95-BZ

APPLICANT – Harry Meltzer, R.A., for 21 Hillside LLC/Allan Goldman, owner.

SUBJECT – Application June 27, 2005 - Pursuant to ZR §11-411 for the extension of term of a Use Group 8public parking lot for 48 cars. The premise is located in an R7-2 zoning district.

PREMISES AFFECTED – 21/23 Hillside Avenue, south side of Hillside Avenue, 252'-2" east of Broadway, Block 2170, Lot 110, Borough of Manhattan.

COMMUNITY BOARD #12M

337-03-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for 340 Madison Owner, LLC, owner.

SUBJECT – Application September 1, 2005 – Reopening for an amendment to a previously approved variance which permitted the enlargement of the 21-story office, retail and church building. The applicant is requesting a proposed modifications of plans. The site is located in a C5-3 zoning district.

PREMISES AFFECTED – 340 Madison Avenue a/k/a 16 East 44th Street, west blockfront of Madison Avenue, between East 43rd and 44th Streets, Block 1278, Lots 8, 14, 15, 17, 62, 63, 65, Borough of Manhattan.

COMMUNITY BOARD #5M

206-04-BZ

APPLICANT – Steven M. Sinacori/Stadtmauer Bailkin, LLP, for Sephardic Community Youth Center, Inc., owners. SUBJECT – Application September 27, 2005 – Reopening for an amendment to reflect the installation of additional security measures, the relocation of an outdoor play area, waiver of required parking and loading berths, changes to landscaping and a building projection. The premise is located in an R5 within Ocean Parkway Special District.

PREMISES AFFECTED – 1901 Ocean Parkway, fronting on Ocean Parkway, Avenue S and East 7th Street, Block 7088, Lots 1, 14, 15, 16 and 89, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEALS CALENDAR

53-05-A

APPLICANT – The Agusta Group, for Tom George, owner. SUBJECT – Application filed on March 4, 2005 – Proposed construction of a three story residential and a four story mixed use building fronting Forest Avenue, which lies partially in the bed of a mapped street (Greene Avenue) which is contrary to Section 35 of the General City Law.

PREMISES AFFECTED – 62-41 Forest Avenue, East Side of Forest Avenue, 216' of Metropolitan Avenue, Block 3492, Lot 25, 28, 55, 58, (tentative, Lot 25), Borough of Queens.

COMMUNITY BOARD#5Q

160-05-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Melissa & Mark Gaudioso, lessee.

SUBJECT – Application filed on July 14, 2005 – Appeal to Department of Buildings to reconstruct and enlarge an existing single family frame dwelling situated in the bed of a mapped street contrary to General City Law Article 3, Section 35 and upgrading an existing non-conforming private disposal system which is contrary to Department of Buildings policy. Premises is located within an R4 zoning district.

PREMISES AFFECTED – 458 ½ Hillcrest Walk, east of Beach 212th Street, 149.65' s/o Rockaway Point Boulevard, Block 16350, part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

CALENDAR

144-05-BZY

APPLICANT – Alfonso Duarte, for Bel Homes, LLC, owner.

SUBJECT – Application June 9, 2005 - Proposed extension of time to complete construction pursuant to Z.R. 11-331 for two-two family attached dwellings.

PREMISES AFFECTED – 143-53/55 Poplar Avenue, northwest corner of Parsons Boulevard, and Poplar Avenue, Block 5228, Lots 32 & 34, Flushing, Borough of Queens

COMMUNITY BOARD #7Q

145-05-BZY

APPLICANT – Krzysztof Rostek, for Belvedere III, LLC, owner.

SUBJECT – Application June 9, 2005 – Proposed extension of time to complete construction to Z.R. §11-331 for a six family house.

PREMISES AFFECTED – 135 North 9th Street, north side, 125' from northeast corner of Berry Street, Block 2304, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #1BK

324-05-BZY

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Perry Street Development Corp., c/o Richard Born, Hotel Wellington, owners.

SUBJECT – Application November 10, 2005 - Proposed extension of time to complete construction pursuant to Z.R. 11-332 for 2-story residential addition to an existing 6-story commercial building.

PREMISES AFFECTED – 164-172 Perry Street, midblock portion of block bounded by Perry, Washington and West Streets and Charles Lane, Block 637, Lots 13 & 17, Borough of Manhattan.

COMMUNITY BOARD #2M

326-05-BZY

APPLICANT – Greenberg Traurig, LLP by Deirdre Carson, for 163 Charles St. Realty, LLC, owner.

SUBJECT – Application November 10, 2005 - Proposed extension of time to complete construction pursuant to Z.R. 11-331 for the alteration and enlargement of the building.

PREMISES AFFECTED – 163 Charles Street, lot fronting on Charles Lane between West and Washington Streets, Block 637, Lot 42, Borough of Manhattan.

COMMUNITY BOARD #2M

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, December 13, 2005, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

280-04-BZ/281-04-A &

282-04-BZ/283-04-A

APPLICANT - Gerald Caliendo, RA. for the North Shore Tennis & Racquet Club, owner.

SUBJECT - Application August 10, 2004 - pursuant to Section Z.R. §72-21 to permit the proposed two temporary air supported structures to cover 10 tennis courts accessory to non-commercial club contrary to Section 52-22ZR and also located in the bed of a mapped street contrary to General City Law Section 35 in an R-2A zoning district.

PREMISES AFFECTED - 34-28 214th Place west side of 214th Place distant 104.27 feet south of corner formed by intersection of 214th Place and 33rd Road, Block 6118, Lots: 1& 32, Block 6119, Lot 21, Borough of Queens.

COMMUNITY BOARD #11Q

89-05-BZ

APPLICANT – Stadtmauer Bailkin, LLP (Steven M. Sinacori, Esq.) for 18 Heyward Realty, Inc., owner.

SUBJECT – Application April 12, 2005- under Z.R. §72-21 to allow an enlargement of the rear portion of an existing five-story community facility/commercial building; site is located in an R6 district; contrary to ZR§24-11, 24-37 and 24-33.

PREMISES AFFECTED – 18 Heyward Street, Heyward Street, between Bedford and Wythe Avenues, Block 2230, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #1BK

135-05-BZ

APPLICANT – Bryan Cave, LLP (Judith Gallent, Esq.) for L & M Equity Participants Ltd. And Harlem Congregations for Community Improvement, Inc. contract vendees.

SUBJECT – Application June 3, 2005 - under Z.R. §72-21 to allow the residential conversion of an existing non-complying building previously used as a school (former PS 90) located in an R7-2 district. The proposed conversion is contrary to ZR §§23-142, 23-533 & 23-633.

PREMISES AFFECTED – 217 West 147th Street, located on block bounded by West 147th and West 148th Streets and Adam Clayton Powell, Jr. and Frederick Douglas Boulevards, Block 2033, Lot 12, Borough of Manhattan.

COMMUNITY BOARD #10M

147-05-BZ

DECEMBER 13, 2005, 1:30 P.M.

CALENDAR

APPLICANT – Sheldon Lobel, P.C., for Kollel Bnei Yeshivas, owner.

SUBJECT - Application June 13, 2005 - under Z.R. §72-21 the proposed enlargement, of a two-story building, housing a synagogue and Rabbi's apartment, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, side and front yards and front setback, is contrary to Z.R. §23-141, §24-11, §24-34, §24-35, and §24-521.

PREMISES AFFECTED - 2402 Avenue "P", southeast corner of East 24th Street, Block 6787, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, NOVEMBER 1, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The motion is to approve the minutes of regular meeting of the Board held on Tuesday morning and afternoon, November 1, 2005, as printed in the bulletin of the Board, Vol. 90, No. 1. If there be no objection, it is so ordered.

SPECIAL ORDER CALENDAR

952-66-BZ

APPLICANT – Gerald J. Caliendo, RA, for Rajnikant Gandhi, owner.

SUBJECT – Application April 4, 2005 - Reopening for an Amendment/Extension of Time/Waiver to a gasoline service station with minor auto repair. The amendment is to convert the auto repair building to a convenience store accessory to the gasoline service station; and the extension of time to obtain a certificate of occupancy which expired in October 31, 2002. The premise is located in a C2-2 in R-5 zoning district.

PREMISES AFFECTED – 88-14 101st Street, northwest corner of 89th Street, Block 9090, Lot 21, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening to amend the resolution, and an extension of time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on October 18, 2005, after due notice by publication in *The City Record*, and then to decision on November 1, 2005; and

WHEREAS, Community Board No. 9, Queens, recommends conditional approval of this application; said conditions are reflected below; and

WHEREAS, the subject premises is located on the northwest corner of 89th Street and 101st Street, within a R5/C2-2 zoning district, and is improved upon with an automotive service station with the following accessory uses: lubritorium, minor repairs with hand tools only, office, storage, and sales of auto accessories; and

WHEREAS, this service station was established on the

site through a Board grant dated January 31, 1967, made under the subject calendar number; and

WHEREAS, at various times since the initial grant, the Board has permitted amendments to the approved plans, most recently on October 31, 2000; and

WHEREAS, the resolution for the October 31, 2000 amendment contained a condition that a new certificate of occupancy (“CO”) be obtained within two years from the date of the amendment; and

WHEREAS, however, the applicant represents that due to a change on ownership, no CO was ever obtained; and

WHEREAS, accordingly, the applicant now requests an additional two years in which to obtain a CO; and

WHEREAS, the applicant also requests that the Board approve an accessory convenience store in an area of the subject lot previously devoted to automotive repair and lubritorium uses; and

WHEREAS, the applicant represents that the lubritorium use will be discontinued; and

WHEREAS, the Board has reviewed the submitted application materials, including new plans showing the convenience store, and concludes that the requested amendment, as well as the requested extension of time to obtain a CO, are appropriate to grant, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, so that as amended this portion of the resolution shall read: “to permit an extension of time to obtain a certificate of occupancy and to allow a portion of the lot to be used for an accessory convenience store; *on condition* that all work shall substantially conform to drawings as filed with this application, marked ‘Received October 3, 2005’– (4) sheets and ‘October 24, 2005’-(1) sheet; and *on further condition*:

THAT the site shall be kept graffiti free and any graffiti shall be removed immediately;

THAT all lighting on the site shall be directed downward and away from adjacent residential uses;

THAT there shall be no lubritorium use on the site;

THAT the above conditions shall be listed on the certificate of occupancy

THAT a new certificate of occupancy shall be obtained within two years from the date of this grant;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect, and shall be listed on the new certificate of occupancy as specified in said resolutions;

THAT all landscaping/tree plantings shall be installed and maintained as per the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction 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

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laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

(DOB Application No. 402077676)

Adopted by the Board of Standards and Appeals, November 1, 2005.

248-78-BZ

APPLICANT – Eric Palatnik, P.C., for BP Products North America, owner.

SUBJECT – Application March 29, 2005 -Extension of Time to obtain a C of O/Amendment to install a new retaining wall, replace underground tanks, pump islands and fuel dispensers.

The premise is located in C2-2 in a R-6 zoning district.

PREMISES AFFECTED – 60-50 Woodhaven Boulevard, southwest corner of 60th Road, Block 2885, Lot 12, Borough of Queens

COMMUNITY BOARD #6Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD –

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a reopening, an extension of time to obtain a certificate of occupancy, and an amendment to the prior Board grant; and

WHEREAS, a public hearing was held on this application on October 18, 2005, after due notice by publication in the City Record, and then to decision on November 1, 2005; and

WHEREAS, on May 10, 1921, under BSA Cal. No. 284-21-BZ, the Board granted an application to permit, in a business district, the erection of a garage for more than five motor vehicles; and

WHEREAS, at some point in time subsequent to the issuance of this grant, the use of the site was changed to gasoline service station; and

WHEREAS, on July 18, 1978, under the subject calendar number, the Board granted an application pursuant to Z.R. §§ 11-412 and 72-21 to permit, in an R6 zoning district, an enlargement and rehabilitation of this gasoline service station with accessory uses; a minor amendment to the approved plans was granted by the Board on April 10, 1979; and

WHEREAS, most recently, on August 10, 1999, the Board approved an amendment to the approved plans to permit the installation of a small security building, new gasoline pumps and a new canopy; and

WHEREAS, the resolution for said grant specified that a new certificate of occupancy (“CO”) be obtained within one year of the date of the grant; this period of time expired on August 10, 2000; and

WHEREAS, the applicant represents that as a result of corporate restructuring of the owner of the property, and a

decision to re-design the layout of the property, the applicant has not yet obtained a CO; and

WHEREAS, in the instant application, the applicant proposes the following changes to the BSA-approved plans: install a new retaining wall along the southern and western perimeter of the premises; replace the underground storage tanks; replace the multi-product fuel dispensers; maintain the existing kiosk instead of constructing the previously approved security building; and pave over the landscaping along the rear property line; and

WHEREAS, the applicant represents that as a result of excavation performed at the adjacent property, damage was done to the retaining wall on the site; as a result of the damage, the Department of Buildings issued two violations on the premises; and

WHEREAS, subsequently, because of the nature of the damage and the proximity to the underground storage tanks, the owner of the property removed the damaged wall as evidenced by photos submitted to the Board; and

WHEREAS, based upon the above, the Board has determined that the evidence in the record supports the grant of the requested waiver and extension.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on July 18, 1978, as amended through August 10, 1999, so that as further amended this portion of the resolution shall read: “to permit the installation of a new retaining wall along the southern and western perimeter of the premises, replacement of the underground storage tanks and multi-product fuel dispensers, maintenance of the existing kiosk, paving over the landscaping along the rear property line, as well as an extension of time to obtain a CO for an additional period of one (1) year from the date of this resolution, to expire on November 1, 2006; on condition that all work/site conditions shall substantially conform to drawings as filed with this application, marked ‘Received August 24, 2005’-(1) sheet; and on further condition:

THAT a new certificate of occupancy shall be obtained within one year from the date of this grant;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect, and shall be listed on the new certificate of occupancy as specified in said resolutions;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.”

(DOB Application No. 400940176)

Adopted by the Board of Standards and Appeals, November 1, 2005.

723-84-BZ

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APPLICANT – Sheldon Lobel, P.C., for Alameda Project Partners, owner.

SUBJECT – Application May 18, 2005 - Amendment of a variance ZR 72-21 of the use restriction conditioned in a prior grant to permit a gastroenterologist's office in a portion of the ground floor of the existing building. The premise is located in a R1-2 zoning district.

PREMISES AFFECTED – 241-02 Northern Boulevard, southeast corner of the intersection between Northern Boulevard and Alameda Avenue, Block 8178, Lot 1, Borough of Queens

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to November 22, 2005, at 10 A.M., for decision, hearing closed.

926-86-BZ

APPLICANT – Sheldon Lobel, P.C., for Estate of Morton Manes c/o Steven Rosenblatt, owner; Fred Gangs BMW Dealership, lessee.

SUBJECT – Application June 8, 2005 - Extension of Term of Variance for the continued use of the existing automotive dealership for the sale and service of automobiles with repairs. The premise is located in R6B/C2-2 & R3X zoning districts.

PREMISES AFFECTED – 217-07 Northern Boulevard, north side of Northern Boulevard between 217th Street and 218th Street, Block 6320, Lot 18, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Chris Tartaglia.

ACTION OF THE BOARD – Laid over to November 22, 2005, at 10 A.M., for continued hearing.

19-94-BZ

APPLICANT – Andrew Schwarsin, Esq., for Walter R. Schwarsin, owner.

SUBJECT – Application September 15, 2005 - Extension of Term/Waiver for a Use Group 8 public parking lot of which a portion of the lot lies in a residential zoning district. The premise is located in a C4-3/R-5 zoning district.

PREMISES AFFECTED – 37-18 75th Street, Block 1285, Lot 47, Borough of Queens

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Andrew Schwarsin.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to November 22, 2005, at 10 A.M., for decision, hearing closed.

62-96-BZ

APPLICANT – Law Office of Fredrick A. Becker, for 200 Madison Associates, LP, owner; New York Sports Club Inc., lessee.

SUBJECT – Application March 31, 2005 - Amendment to legalize on the first floor the enlargement of a physical culture establishment and to allow the change in ownership. The premise is located in C5-2 zoning district.

PREMISES AFFECTED – 200 Madison Avenue, westerly block of Madison Avenue, between East 35th and East 36th Streets, Block 865, Lot 14, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to December 6, 2005, at 10 A.M., for postponed hearing.

213-96-BZ, Vol. III

APPLICANT – Slater & Beckerman, LLP, for 51 LLC, owner; Cheers of Manhattan, Inc., lessee.

SUBJECT – Application April 18, 2005 - Extension of Term/Waiver for an eating and drinking establishment with entertainment and dancing. The premise is located in an C4-5 zoning district.

PREMISES AFFECTED – 51-53 Christopher Street (a/k/a 113 Seventh Avenue South) Block 610, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Stuart Beckerman.

ACTION OF THE BOARD – Laid over to December 6, 2005, at 10 A.M., for continued hearing.

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APPEALS CALENDAR

43-04-A

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Joseph C. D'Alessio.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 39-04 Stuart Lane Douglaston, north side of Depew Avenue, 142' West of 243rd Street, Block 8103, Lot 7, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES – None.

ACTION OF THE BOARD – Application dismissed

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for: (1) a determination that the owner of the subject premises has obtained a vested right to continue construction under three related permits (one for an alteration, one for related plumbing work, and one for related equipment and fencing) issued under Department of Buildings (“DOB”) Permit No. 401867618 (collectively, the “Permits”) and (2) a rescindment of a Stop Work Order (“SWO”) issued by DOB relative to construction being performed under the Permits (described in more detail below); and

WHEREAS, a public hearing was held on this application on October 25, 2005, after due notice by publication in the *City Record*, and then to closure and decision on November 1, 2005; and

WHEREAS, the site was inspected by a committee of the Board; and

WHEREAS, the subject premises is a 4500 sq. ft. lot located on the east side of 211th Street in Queens; and

WHEREAS, the subject premises is occupied by an existing one-family dwelling that was proposed to be enlarged under the Permits; and

WHEREAS, the subject premises is currently located within an R2A zoning district; prior to the rezoning, it was in an R2 zoning district; and

WHEREAS, on April 12, 2005, the City Council voted to enact text changes to the Zoning Resolution rendering the proposed development non-complying; and

WHEREAS, because of the rezoning, DOB issued the SWO on May 13, 2005 (served May 16, 2005), which stopped work on the enlargement; and

WHEREAS, the applicant subsequently filed the instant application, stating that vested rights to proceed under the Permits had been acquired based upon the amount of work

performed and the amount of expenditures made; and

WHEREAS, as a threshold issue, the Board must determine that valid permits for the performed work were obtained prior to the date of the rezoning and that the work proceeded under these permits; and

WHEREAS, Permit No. 401867618-01-AL, for the alteration (the “Alteration Permit”), was issued on May 4, 2004, to expire on July 29, 2004; said permit was renewed on September 3, 2004, to expire on July 29, 2005; and

WHEREAS, Permit No. 401867618-01-EQ FN, for the equipment and fencing, was issued on April 1, 2005, to expire on December 31, 2005; and

WHEREAS, Permit No. 401867618-01-PL, for the plumbing, was issued on November 12, 2004, to expire on November 12, 2005; and

WHEREAS, the Board observes that the Alteration Permit was obtained and then renewed well in advance of the rezoning; and

WHEREAS, accordingly, the Board finds that the work cited by the applicant in furtherance of the vested rights claim was performed pursuant to a valid DOB permit; and

WHEREAS, the remaining determination is whether the work performed and the expenditures made prior to the rezoning were of a substantial nature such that vesting occurred; and

WHEREAS, the applicant represents that the exterior work for the proposed enlargement is approximately 85 percent completed, and that only bricking and window installation remains; and

WHEREAS, in addition, the applicant states that 65 percent of the total expenditures toward the proposed enlargement were made prior to the rezoning; and

WHEREAS, the applicant submitted photos of the amount of construction performed, which show that the majority of the structure has been constructed; and

WHEREAS, the applicant also submitted invoices and a construction log, which show that significant expenditures were made; and

WHEREAS, at the request of the Board, the applicant submitted credit card statements that further prove that the owner expended large sums of cash in furtherance of the construction; and

WHEREAS, these credit card statements were substantiated by an affidavit from the owner; and

WHEREAS, additionally, this affidavit states that the pictures of the work performed were taken, and the construction log was prepared, prior to the date of the rezoning; and

WHEREAS, based upon the evidence submitted and its site visit, the Board concludes that substantial construction of the proposed enlargement authorized by the Permits had been completed by the date of the rezoning; and

WHEREAS, likewise, the Board concludes that the expenditures made were substantial; and

WHEREAS, thus, the owner has obtained vested rights to continue construction under the Permits because of the amount

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of work performed and the amount of expenditures made.

Therefore it is Resolved that the Board determines that the owner of the premises has obtained a vested right to continue construction under DOB Permit No. 401867618, lifts the Stop Work Order issued by DOB, dated May 13, 2005, and reinstates said permit for a period of six months from the date of this decision, to expire on May 1, 2006, subject to DOB review and approval of plans associated with the permit.

Adopted by the Board of Standards and Appeals, November 1, 2005.

149-05-A

APPLICANT – Eric Palatnik, P.C., for Gregory Broutzas, owner.

SUBJECT – Application filed on June 14, 2005 – An appeal seeking a determination that the owner of said premises has acquired a common-law vested right to continue development commenced under the prior R2 zoning district. Current Zoning District is R2A.

PREMISES AFFECTED – 32-29 211th Street, located at the east side, of 211th Street, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for: (1) a determination that the owner of the subject premises has obtained a vested right to continue construction under three related permits (one for an alteration, one for related plumbing work, and one for related equipment and fencing) issued under Department of Buildings (“DOB”) Permit No. 401867618 (collectively, the “Permits”) and (2) a rescindment of a Stop Work Order (“SWO”) issued by DOB relative to construction being performed under the Permits (described in more detail below); and

WHEREAS, a public hearing was held on this application on October 25, 2005, after due notice by publication in the *City Record*, and then to closure and decision on November 1, 2005; and

WHEREAS, the site was inspected by a committee of the Board; and

WHEREAS, the subject premises is a 4500 sq. ft. lot located on the east side of 211th Street in Queens; and

WHEREAS, the subject premises is occupied by an existing one-family dwelling that was proposed to be enlarged under the Permits; and

WHEREAS, the subject premises is currently located within an R2A zoning district; prior to the rezoning, it was in an R2 zoning district; and

WHEREAS, on April 12, 2005, the City Council voted to enact text changes to the Zoning Resolution rendering the proposed development non-complying; and

WHEREAS, because of the rezoning, DOB issued the SWO on May 13, 2005 (served May 16, 2005), which stopped work on the enlargement; and

WHEREAS, the applicant subsequently filed the instant application, stating that vested rights to proceed under the Permits had been acquired based upon the amount of work performed and the amount of expenditures made; and

WHEREAS, as a threshold issue, the Board must determine that valid permits for the performed work were obtained prior to the date of the rezoning and that the work proceeded under these permits; and

WHEREAS, Permit No. 401867618-01-AL, for the alteration (the “Alteration Permit”), was issued on May 4, 2004, to expire on July 29, 2004; said permit was renewed on September 3, 2004, to expire on July 29, 2005; and

WHEREAS, Permit No. 401867618-01-EQ FN, for the equipment and fencing, was issued on April 1, 2005, to expire on December 31, 2005; and

WHEREAS, Permit No. 401867618-01-PL, for the plumbing, was issued on November 12, 2004, to expire on November 12, 2005; and

WHEREAS, the Board observes that the Alteration Permit was obtained and then renewed well in advance of the rezoning; and

WHEREAS, accordingly, the Board finds that the work cited by the applicant in furtherance of the vested rights claim was performed pursuant to a valid DOB permit; and

WHEREAS, the remaining determination is whether the work performed and the expenditures made prior to the rezoning were of a substantial nature such that vesting occurred; and

WHEREAS, the applicant represents that the exterior work for the proposed enlargement is approximately 85 percent completed, and that only bricking and window installation remains; and

WHEREAS, in addition, the applicant states that 65 percent of the total expenditures toward the proposed enlargement were made prior to the rezoning; and

WHEREAS, the applicant submitted photos of the amount of construction performed, which show that the majority of the structure has been constructed; and

WHEREAS, the applicant also submitted invoices and a construction log, which show that significant expenditures were made; and

WHEREAS, at the request of the Board, the applicant submitted credit card statements that further prove that the owner expended large sums of cash in furtherance of the construction; and

WHEREAS, these credit card statements were substantiated by an affidavit from the owner; and

WHEREAS, additionally, this affidavit states that the pictures of the work performed were taken, and the construction log was prepared, prior to the date of the rezoning;

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and

WHEREAS, based upon the evidence submitted and its site visit, the Board concludes that substantial construction of the proposed enlargement authorized by the Permits had been completed by the date of the rezoning; and

WHEREAS, likewise, the Board concludes that the expenditures made were substantial; and

WHEREAS, thus, the owner has obtained vested rights to continue construction under the Permits because of the amount of work performed and the amount of expenditures made.

Therefore it is Resolved that the Board determines that the owner of the premises has obtained a vested right to continue construction under DOB Permit No. 401867618, lifts the Stop Work Order issued by DOB, dated May 13, 2005, and reinstates said permit for a period of six months from the date of this decision, to expire on May 1, 2006, subject to DOB review and approval of plans associated with the permit.

Adopted by the Board of Standards and Appeals, November 1, 2005.

283-05-A

APPLICANT – Zygmunt Staszewski, for Breezy Point Cooperative, Inc., owner.

SUBJECT – Application filed on September 8, 2005 – Street giving access to the existing building to be replaced is not duly placed on the map of the City of NY. The existing building to be replaced does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to §27-291 of the Administrative Code. The proposed upgrade of the private disposal system is contrary to the DOB policy.

PREMISES AFFECTED – 22 Pelham Walk, West of Pelham Walk, 244.78’ north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14BK

For Applicant: Michele Harley.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated August 24, 2005, acting on Department of Buildings Application No. 402143355, reads:

“For Board of Standards and Appeals Only:

A2 – The street giving access to the existing building to be replaced is not duly placed on the map of the City of New York.

A) A Certificate of Occupancy may not be issued

as per Article 3, Section 36 of the General City Law.

B) Existing dwelling to be replaced does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Sect. 27-291 of the Administrative Code.

A3 – The proposed upgrade of the private disposal system is contrary to the Department of Buildings policy.”; and

WHEREAS, a public hearing was held on this application on November 1, 2005, after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated October 24, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, thus, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the decision of the Queens Borough Commissioner dated August 24, 2005, acting on Department of Buildings Application No. 402143355, is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received September 9, 2005”-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 1, 2005.

Pasquale Pacifico, Executive Director.

Adjourned: 11:30 A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, NOVEMBER 1, 2005
1:30 P.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.

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ZONING CALENDAR

36-04-BZ

APPLICANT - Petraro & Jones, LLP, for Jack Randazzo, owner.

SUBJECT - Application February 12, 1004 - under Z.R. §72-21 – to permit the proposed construction of an eight family dwelling, on a vacant lot, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 30 Carlton Avenue, west side, 240' south of Flushing Avenue, Block 2030, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn
THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

Adopted by the Board of Standards and Appeals, November 1, 2005.

37-04-BZ

APPLICANT – Petraro & Jones, LLP, for Jack Randazzo, owner.

SUBJECT – Application February 12, 2004 – under Z.R. §72-21 – to permit the proposed construction of an eight family dwelling, on a vacant lot, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 32 Carlton Avenue, west side, 264' south of Flushing Avenue, Block 2030, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn
THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

Adopted by the Board of Standards and Appeals, November 1, 2005.

175-04-BZ thru 177-04-BZ

APPLICANT – Joseph P. Morsellino, for 130th Street LLC, owner.

SUBJECT – Application April 29, 2004- under Z.R. §72-21- Proposed erection and maintenance of a two family dwelling, Use Group 2, which does not comply with the zoning

requirements for floor area, floor area ratio, lot coverage, open space, perimeter wall height and rear yard, is contrary to Z.R. §23-141, §23-631 and §23-47.

PREMISES AFFECTED –

7-05 130th Street, east side, Block 3982, Lot 70, Borough of Queens.

7-09 130th Street, east side, Block 3982, Lot 67, Borough of Queens.

7-13 130th Street, east side, Block 3982, Lot 65, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application withdrawn
THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

Adopted by the Board of Standards and Appeals, November 1, 2005.

395-04-BZ

APPLICANT – Moshe M. Friedman, P.E., for Congregation Imrei Yehudah, owner.

SUBJECT – Application May 24, 2005 – under Z.R. §72-21 to permit the proposed synagogue and rectory, Use Group 4, located in an R4 zoning district, which does not comply with the zoning requirements for front wall, sky exposure, side and front yards, also parking, is contrary to Z.R. §24-521; §24-35(a), §24-34 and §25-31.

PREMISES AFFECTED – 1232 54th Street, southwest side, 242'6" southeast of the intersection formed by 54th Street and 12th Avenue, Block 5676, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated September 13, 2005, acting on Department of Buildings Application No. 301860706, reads:

“Proposed Synagogue and Rectory are contrary to:

ZR 24-11 Floor Area and FAR

ZR 24-11 Lot Coverage

ZR 24-521 Front Wall and Sky Exposure

ZR 24-35(a) Side Yard

ZR 24-34 Front Yard

ZR 25-31 Parking

and requires a variance from the Board of Standards and Appeals as per Section 72-21.”; and

WHEREAS, a public hearing was held on this

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application on August 16, 2005, after due notice by publication in The City Record, deferred on September 27, 2005, and then to decision on November 1, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R5 zoning district, the proposed construction of a new synagogue and rectory (UG 4), including a rabbi's apartment and a sexton's apartment, contrary to Z.R. §§ 24-11, 24-521, 24-35(a), 24-34 and 25-31; and

WHEREAS, this application is brought on behalf of Congregation Imrei Yehudah, a not-for-profit entity (hereinafter, the "Congregation"); and

WHEREAS, Community Board 12, Brooklyn, recommends approval of this application with a condition as stated in their recommendation report, as discussed further below; and

WHEREAS, the site is located on 54th Street, southeast of 12th Avenue; and

WHEREAS, the subject site is currently improved upon with a semi-detached, two-story, two-family dwelling; and

WHEREAS, the Congregation, consisting of 40 members, currently worships in the Rabbi's home located near the subject site; and

WHEREAS, the applicant proposes to demolish the current building and construct a 5,326 sq. ft. new synagogue and rectory in order to accommodate the growing size and current needs of the Congregation; and

WHEREAS, the Congregation anticipates that its membership will increase to 113 members; and

WHEREAS, construction of the synagogue and rectory as proposed will result in the following non-compliances: floor area of 5,326.44 (floor area of 4,758.42 is the maximum permitted); floor area ratio ("F.A.R.") of 2.24 (F.A.R. of 2.0 is the maximum permitted); lot coverage of 65% (lot coverage of 55% is the maximum permitted); perimeter wall height of 40'-4" (perimeter wall height of 35'-0" is the maximum permitted); front yard of 6'-3 1/8" (front yard of 10'-0" is the minimum required); no side yards (two 8'-0" side yards are required); no sky exposure plane; and no parking spaces (8 spaces are required); and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the existing narrow lot cannot accommodate both a synagogue and rectory on a single lot and meet the requirements to have separate entrances for men and women without receiving certain waivers from the Zoning Resolution; and

WHEREAS, the applicant notes that if complying 8'-0" side yards were provided, the building would have a width of 7'-9"; such width could not accommodate a sanctuary or other usable space for the Congregation; and

WHEREAS, the applicant states that the following are

the programmatic needs of the Congregation, which are driven by its religious needs and growth: (1) more worship space than is currently provided, to reduce overcrowded conditions; (2) a mikvah (ritual bath) for the women; (3) living space for the rabbi and the sexton; (4) a multi-purpose room for gatherings on the Sabbath and bar and bat mitzvahs; and (5) separate entrances for men and women; and

WHEREAS, the Board agrees that, based upon the submitted evidence, construction of the new synagogue/rectory as proposed is necessary in order to meet the programmatic needs of the Congregation; and

WHEREAS, therefore, the Board finds that the cited unique physical condition, namely the narrowness of the lot, when considered in conjunction with the programmatic needs of the Congregation, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not address Z.R. § 72-21(b) since the applicant is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant represents that the proposed building was designed to only address the programmatic needs of the Congregation; and

WHEREAS, the Community Board has requested that the applicant route the water exhaust vent in the rear of the building to the roof rather than to the house at the rear of the subject property; the applicant has agreed to this condition; and

WHEREAS, an issue was also raised at the hearing related to the windows at the rear of the building on the first floor; and

WHEREAS, the applicant has agreed to install opaque windows at the rear of the building at the first floor to maintain the privacy of the residents to the rear of the property; and

WHEREAS, the Board asked the applicant to discuss whether there would be adequate parking available for the congregants; and

WHEREAS, in response, the applicant represents that 100% of the members of the Congregation live within three-quarters of a mile of the synagogue, and that during peak synagogue hours (i.e., on the Sabbath), members walk to the synagogue; and

WHEREAS, the applicant further represents that during the week, and on special occasions that do not fall on the Sabbath, only 5% to 10% of the attendees will drive to the synagogue; the applicant also states that the site is accessible by subway and bus service; and

WHEREAS, the applicant also represents that there will be no commercial catering on the premises; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent

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properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the Congregation relief; and

WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; 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. 05BSA075K dated December 20, 2004 as amended May 24, 2005; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration 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 the required findings under Z.R. § 72-21, to permit, within an R5 zoning district, the proposed construction of a new synagogue and rectory, including a rabbi's apartment and a sexton's apartment (UG 4), contrary to Z.R. §§ 24-11, 24-521, 24-35(a), 24-34 and 25-31; 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 September 13, 2005"--8 sheets and "Received September 16, 2005"--2 sheets; and on further condition:

THAT use of the second and third floors shall be restricted to Rabbi's apartments – rectory (Use Group 4), as indicated on the BSA-approved plans;

THAT the above condition shall be reflected on the Certificate of Occupancy;

THAT the bulk parameters of the proposed building shall be as reflected on the BSA-approved plans;

THAT the exhaust vent shall be routed to the roof and not to the rear yard, as indicated on the BSA-approved plans;

THAT the windows at the rear of the first floor shall be opaque, as indicated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 1, 2005.

68-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Congregation Bais Chaim YOSHUA, owner.

SUBJECT – Application March 18, 2005 – under Z.R. §72-21 – to permit the proposed enlargement of a three story plus attic building, currently housing a synagogue, with accessory residential on the second, third, and attic floors, which does comply with the zoning requirements for floor area ratio, side and front yards, is contrary to Z.R. §24-11, §24-162, §24-35, §24-34 and §23-141.

PREMISES AFFECTED – 4911 17th Avenue, east side, between 49th and 50th Streets, Block 5455, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated October 31, 2005, acting on Department of Buildings Application No. 301108450, reads:

- “1. Proposed plans for Use Group 4 Synagogue and Parish House are contrary to Z.R. 24-11 in that the proposed total Floor Area Ratio (FAR) exceeds the permitted 2.
2. Proposed plans for Use Group 4 Synagogue and Parish House are contrary to Z.R. 24-35 in that side yards are not provided.
3. Proposed plans for Use Group 4 Synagogue and Parish House are contrary to Z.R. 24-34 in that a front yard of 10'-0" is not provided;” and

WHEREAS, a public hearing was held on this

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application on August 23, 2005, after due notice by publication in The City Record, with a continued hearing on September 20, 2005, and then to decision on November 1, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R5 zoning district, the proposed expansion of an existing synagogue and parish house (UG 4), contrary to Z.R. §§ 24-11, 24-35 and 23-34; and

WHEREAS, the applicant also seeks to legalize work performed on the attic of the building in 2001; and

WHEREAS, this application is brought on behalf of Congregation Bais Chaim Yoshua, a not-for-profit entity (hereinafter, the "Congregation"); and

WHEREAS, Community Board 12, Brooklyn, recommends approval of this application with respect to the expansion of the synagogue, but disapproves the portion of the application related to the community facility residences ; and

WHEREAS, Council Member Simcha Felder recommends approval of this application; and

WHEREAS, the Board notes that the applicant has amended its application since its initial filing; as per the site's Certificate of Occupancy, the second and third floors were considered Use Group 2 residential uses; and

WHEREAS, the applicant has submitted a letter from its architect that states that the Department of Buildings has approved the designation of the second floor, third floor and attic as Use Group 4 uses for a parish house and sexton's apartment; and

WHEREAS, the site is located on the eastern side of 17th Avenue, between 49th and 50th Streets; and

WHEREAS, the site is 42'-0" wide on the portion of the lot fronting on 17th Avenue, narrowing to 29'-0" on the interior portion of the site; and

WHEREAS, the subject site is currently improved upon with a three story plus attic that houses the synagogue on the first floor, the parish house on the second floor and the sexton's apartment on the third floor; and

WHEREAS, the Congregation, consisting of approximately 130 members, currently worships at the site; and

WHEREAS, the applicant proposes to enlarge the existing building in order to accommodate the growing size and current needs of the Congregation; and

WHEREAS, the Congregation anticipates that its membership will increase to 180 members if the application is approved; and

WHEREAS, construction of the synagogue and rectory as currently proposed will result in the following non-compliances: floor area of 8,811.3 sq. ft. (floor area of 7,910 sq. ft. is the maximum permitted); floor area ratio ("F.A.R.") of 2.22 (F.A.R. of 2.0 is maximum permitted); no front yard (front yard of 10'-0" minimum required); and no side yards

(two 8'-0" side yards are required); and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the existing building is not accommodating the needs of the growing Congregation; and because of the narrowness of the lot, expansion of the building is not feasible without receiving certain waivers from the Zoning Resolution; and

WHEREAS, the applicant states that the following are the programmatic needs of the Congregation, which are driven by its religious needs and growth: (1) more worship space than is currently provided, to reduce overcrowded conditions; and (2) a larger living space for the rabbi and the sexton; and

WHEREAS, the Board agrees that, based upon the submitted evidence, expansion of the synagogue/rectory as proposed is necessary in order to meet the programmatic needs of the Congregation; and

WHEREAS, therefore, the Board finds that the cited unique physical condition, namely the narrowness of the lot, when considered in conjunction with the programmatic needs of the Congregation, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not address Z.R. § 72-21(b) since the applicant is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant represents that the proposed building was designed to only address the programmatic needs of the Congregation; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the Congregation relief; and

WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; 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. 05-BSA-108K dated July 28, 2005; 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;

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Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration 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 the required findings under Z.R. § 72-21, to permit, within an R5 zoning district, the proposed expansion of an existing synagogue and parish house (UG 4), contrary to Z.R. §§ 24-11, 24-35 and 23-34; 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 October 18, 2005" – (11) sheets; and on further condition:

THAT use of the second floor shall be restricted to Parish House – Rectory (Use Group 4) and use of the third floor and attic shall be restricted to Sexton Apartment (Use Group 4), as indicated on the BSA-approved plans;

THAT the above condition shall be reflected on the Certificate of Occupancy;

THAT the bulk parameters of the proposed building shall be as reflected on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 1, 2005.

126-05-BZ

APPLICANT – Eric Palatnik, P.C., for Moshe Hirsch, owner.
SUBJECT – Application May 20, 2005 - under Z.R. §73-622 Special Permit - The enlargement of a single family residence to vary ZR sections 23-141 (open space and floor area), 23-46 (side yard) and 23-47 (rear yard). The premise is located in an R-2 zoning district.
PREMISES AFFECTED – 1282 East 27th Street, West side

of East 27th Street, north of the intersection of E. 27th Street and Avenue M, Block 7644, Lot 79, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 21, 2005, acting on Department of Buildings Application No. 301934236, reads:

“Proposed enlargement requires a Special Permit from the NYC BSA as same is contrary to:

1. Proposed floor area is contrary to ZR section 23-141(A)
2. Proposed open space is contrary to ZR section 23-141(A)
3. Proposed side yard is contrary to ZR section 23-46
4. Proposed rear yard is contrary to ZR section 23-47;” and

WHEREAS, a public hearing was held on this application on September 13, 2005 after due notice by publication in *The City Record*, and laid over to October 8, 2005 and then to decision on November 1, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 14, Brooklyn, recommends disapproval of this application, as further discussed below; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area, open space, side yard, and rear yard, contrary to Z.R. §§ 23-141(a), 23-46 and 23-47; and

WHEREAS, the subject lot is located on East 27th Street, north of Avenue M; and

WHEREAS, the subject lot has a total lot area of 3,750 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks an increase in the floor area from 1,744.8 sq. ft. (0.464 Floor Area Ratio or “FAR”) to 3,725.04 sq. ft. (0.993 FAR); the maximum floor area permitted is 1,880 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will decrease the open space ratio from 1.64 to 0.562; the minimum required open space ratio is 1.50; and

WHEREAS, the proposed enlargement will reduce the rear yard from 34’-10” to 20’-0”;

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required is 30'-0"; and

WHEREAS, the proposed enlargement will decrease one side yard from 17'-1" to 7'-4"; the minimum required side yard is 8'-0"; and

WHEREAS, the proposed enlargement at the rear of the existing building will extend the non-complying side yard; however, the width of the side yard will be maintained at 4'-0"; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20'-0" of the rear lot line; and

WHEREAS, at hearing, the Board expressed concern with the total height of the building; and

WHEREAS, at the request of the Board, the applicant submitted photos of properties surrounding the subject premises as evidence that the proposed height of the residence will match the heights of surrounding residences; and

WHEREAS, in addition, the applicant subsequently reduced the height of the building from 40'-8 3/4" to 39'-11"; and

WHEREAS, the Community Board opposes this application because it believes that the FAR is too high and that the proposed residence does not fit in with the character of the neighborhood; and

WHEREAS, the Board notes that the applicant has reduced the FAR from the initial proposed FAR of 1.09 to the current proposed FAR of 0.993; and

WHEREAS, thus, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area, open space, side yard, and rear yard, contrary to Z.R. §§ 23-141(a), 23-46 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received October 25, 2005"-(9) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth in the

certificate of occupancy;

THAT the total FAR on the premises, including the attic, shall not exceed 0.993;

THAT the total attic floor area shall not exceed 572.7 sq. ft., as confirmed by the Department of Buildings;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT no portion of the existing building highlighted on BSA-approved plan sheets numbered 11, 12, 13, and 18 shall be demolished without further approval from the Board;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 1, 2005.

160-04-BZ/161-04-A

APPLICANT – Mitchell S. Ross, Esq., Augusta & Ross, for Daffna, LLC, owner.

SUBJECT – Application April 21, 2004 – under Z.R. §72-21 to permit, in an M1-2 zoning district, the residential conversion of an existing four-story commercial loft building into eight dwelling units, contrary to Z.R. §42-10.

PREMISES AFFECTED – 73 Washington Avenue, East side of Washington Avenue 170' north of Park Avenue, Block 1875, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES – None.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to December 13, 2005, at 1:30 P.M., for decision, hearing closed.

234-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Zunick Realty Corp., owner.

SUBJECT – Application June 18, 2004 – under Z.R. §72-21 to permit in a M1-1 and M1-2 district, approval sought to legalize residential occupancy of 73 dwelling units in a four-story and basement industrial building, which was constructed in 1931. The legal use is listed artist loft space for the 73 units. There are proposed 18 parking spaces on the open portion of the lot, which consists of 25,620 SF in its entirety. The use is contrary to district use regulations.

PREMISES AFFECTED – 255 McKibbin Street, between

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Bushwich Avenue and White Street, Block 3082, Lot 65, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to November 22, 2005, at 1:30 P.M., for decision, hearing closed.

355-04-BZ

APPLICANT – Slater & Beckerman, LLP, for Trustees under Irr.Trust, Stanley Gurewitsch, owner.

SUBJECT – Application November 10, 2004 and amended on July 26, 2005 to be a bulk variance – under Z.R.§72-21 to permit the proposed residential conversion of a portion of an existing three-story manufacturing building, and the construction of a four story residential enlargement atop said building, located in an M1-2(R6) zoning district within the special mixed-use MX-8 district, is contrary to Z.R. §§23-633, 23-942 and 123-64.

PREMISES AFFECTED – 302/10 North Seventh Street, aka 289 North Sixth Street, bounded on the southwest side, by north sixth street, southeast side by Meeker Avenue and northeast side by North Seventh Street, Block 2331, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Carole Slater, Perry Finkelman, Robert Pauls, Adam Kushner and Richard Stubbs.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for decision, hearing closed.

373-04-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Brendan McCartan, owner.

SUBJECT – Application November 26, 2004 - under Z.R.§72-21 in an R4 district, permission sought to allow the construction of a two-story one-family dwelling on a 25' x 53.55' lot consisting of 1,338 SF. The structure does not comply with floor area allowed, open space, lot area, front yard.

PREMISES AFFECTED – 57-69 69th Street, north side of 69th Street 24' west of 60th Avenue, Block 2830, Lot 33, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Laid over to December 6, 2005, at 1:30 P.M., for continued hearing.

375-04-BZ

APPLICANT – Greenberg Traurig LLP, for Designs by FMC, owner.

SUBJECT – Application November 29, 2004 – under Z.R. §72-21 – to permit the proposed expansion of an existing jewelry manufacturer and wholesaler establishment, located in an M1-1 zoning district, which does not comply with zoning requirements for floor area ratio, rear yard, street wall height and adequate parking, is contrary to Z.R. §43-12, §43-302, §43-43 and §44-21.

PREMISES AFFECTED – 1527, 1529 and 1533 60th Street, north side, between 15th and 16th Avenues, Block 5509, Lots 64, 65 and 68, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES – None.

ACTION OF THE BOARD - Laid over to November 22, 2005, at 1:30 P.M., for deferred decision.

70-05-BZ

APPLICANT – Lewis E. Garfinkel, R.A., for Yaakov Adler, owner.

SUBJECT – Application March 23, 2005 - under Z.R.§73-622 to permit an enlargement of a single family home to vary sections ZR 23-141(a) for open space ratio & floor area, ZR 23-461 for minimum side yard requirement. The premise is located in a R-2 zoning district.

PREMISES AFFECTED – 2905 Avenue M, northside of Avenue M, 25' easterly of intersection of Avenue M and 29th Street, Block 7647, Lot 8, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to December 6, 2005, at 1:30 P.M., for decision, hearing closed.

72-05-BZ

APPLICANT – Harold Weinberg, P.E., for Cong. Shomlou by Rabbi Marton Ehrenreich, owner.

SUBJECT – Application March 23, 2005 - under Z.R.§72-21 to permit the proposed erection of a synagogue and yeshiva, with accessory residences, Use Groups 2 and 4, located in an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, rear yard and open space ratio, is contrary to Z.R. §§§24-11, 23-142, 24-36 and 24-12.

PREMISES AFFECTED - 245 Hooper Street, north side, 205' east of Marcy Avenue, between Marcy and Harrison

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Avenues, Block 2201, Lot 61, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Harold Weinberg.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to December 6, 2005, at 1:30 P.M., for decision, hearing closed.

81-05-BZ

APPLICANT – Bryan Cave LLP (Margery Perlmutter, Esq.) for the Lyon Group, LLC, owner.

SUBJECT – Application April 5, 2005 - under Z.R.§72-21 to construct a 7-story plus mezzanine residential building containing 39 dwelling units and 10 accessory parking spaces in an R6 district, contrary to ZR§§23-145, 23-632, 23-633, 25-23.

PREMISES AFFECTED -1061/71 52nd Street, north side, 229' east of Fort Hamilton Parkway, Block 5653, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Margery Perlmutter, Simon Fouladian and Jack Friedman.

ACTION OF THE BOARD – Laid over to January 10, 2006, at 1:30 P.M., for continued hearing.

83-05-BZ

APPLICANT – Bryan Cave, LLP, for LuRose Realty Corp., owner.

SUBJECT – Application April 6, 2005 – under Z.R. §72-21 to allow construction of a 92-bed, Use Group 3 residential health care facility in an R6 district; contrary to Z.R. §24-11, §24-382, and §24-522.

PREMISES AFFECTED – 214-218 West Houston Street and 50-56 Downing Street, Block 528, Lot 12, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Judith Gallent, Eric Cohen and George Janes.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for decision, hearing closed.

98-05-BZ

APPLICANT – Friedman & Gotbaum, LLP, for dac bon, LLC, contract vendee.

SUBJECT – Zoning Variance application filed on April 22, 2005 – under Z.R. §72-21 to construct a 12-story residential

building with ground floor retail in an M1-5B district, contrary to Z.R. §42-00 and §42-14(D)(2)(b) and Z.R. 43-43. PREMISES AFFECTED – 46-48 Bond Street, premises located on the north side of Bond Street between Lafayette Street and The Bowery, Block 530, Lot 44 and 32, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Shelly Friedman and Dan Cappoccia.

ACTION OF THE BOARD – Laid over to November 1, 2005, at 1:30 P.M., for continued hearing.

118-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Ezra and Alice Tawil, owners.

SUBJECT – Application May 16, 2005 - under Z.R. §73-622 Special Permit – the enlargement of a single family residence to vary Z.R. sections §23-141 (open space and floor area), §23-46 (side yard) and §23-47 (rear yard). The premises is located in an R-5 (OP) zoning district.

PREMISES AFFECTED – 2072 Ocean Parkway, west side of Ocean Parkway between Avenue T and Avenue U, Block 7108, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to November 1, 2005, at 1:30 P.M., for continued hearing.

127-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Church Avenue Realty, Inc., owner; Popeyes Chicken and Biscuits, lessee.

SUBJECT – Application May 24, 2005 - under Z.R.§73-243 to permit approval for a special permit to legalize an existing accessory drive through window for an eating and drinking establishment. The site is located in a C1-3/R5 zoning district.

PREMISES AFFECTED – 9216 Church Avenue, aka 9220 Church Avenue, southwest corner of the intersection between Church Avenue, East 93rd Street, and Linden Boulevard, Block 4713, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #17BK

APPEARANCES –

For Applicant: Joshua Rinesmith and Richard Lobel.

ACTION OF THE BOARD - Laid over to November 1, 2005, at 1:30 P.M., for continued hearing.

130-05-BZ

APPLICANT – Elise Wagner, Esq., Kramer Levin, for Hudson Island, LLC, owner.

SUBJECT – Application May 25, 2005 - under Z.R.§72-21 to permit the development of a mixed-use, nine-story building with ground level retail, and a small amount of community facility space, and approximately 25 residential units on the

MINUTES

upper floors within an M1-5B zoning district.
PREMISES AFFECTED – 74-88 Avenue of the Americas, aka 11-15 Thompson Street and 27-31 Grand Street, east side of Avenue of the Americas, between Grand and Canal Streets, Block 227, Lots 50, 52 and 56, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Paul Selver, Richard Cook, Jerome Haims, Dennis Freed, Lela Goren, Elise Wagner, Scott Thompson, Alison Ruddock and Elliott Meisel.

ACTION OF THE BOARD - Laid over to November 1, 2005, at 1:30 P.M., for continued hearing.

For Opposition: Anthony Gula

ACTION OF THE BOARD - Laid over to November 1, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: P.M.

185-05-BZ

APPLICANT – Manatt, Phelps & Phillips, LLP (Carol E. Rosenthal, Esq.) for 62-02 Roosevelt Avenue Corporation, owner.

SUBJECT – Application August 5, 2005 - under Z.R.§72-21 to allow a dance floor (Use Group 12) to be constructed in an existing eating and drinking establishment located in an R6/C1-2 zoning district, which is contrary to ZR§32-15.

PREMISES AFFECTED - 62-02 Roosevelt Avenue, South side of Roosevelt Ave. 101ft from the corner formed by the intersection of the LIRR tracks with Roosevelt Ave. and 192' 59" from the corner formed by the intersection of Roosevelt Ave. & 63rd Street, Block 1294, Lot 58, Borough of Queens

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Carol E. Rosenthal and Alfredo Carosau, CMA Design Studio.

For Opposition: Pat O'Brien, CB#2.

ACTION OF THE BOARD - Laid over to November 1, 2005, at 1:30 P.M., for continued hearing.

207-05-BZ

APPLICANT – Eric Palatnik, P.C., for Aaron and Lisa Heskins, owner.

SUBJECT – Application September 19, 2005 - under Z.R.§73-622 to legalize the existing enlargement to a single family, semi-detached home which seeks to vary ZR section 23-141 for floor area and lot coverage and ZR section 23-461 for side yard and ZR section 23-47 for less than the minimum rear yard. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 407 Allen Avenue, between Knapp and Plumb 1st Streets, Block 8830, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Eric Palatnik and David Sateierman.

MINUTES

**SPECIAL HEARING
WEDNESDAY MORNING, NOVEMBER 2, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Miele and Commissioner Chin.

156-03-BZ

APPLICANT – Law Offices of Howard Goldman, PLLC, for RKO Plaza LLC & Farrington Street Developers, LLC, owner.

SUBJECT – Application May 20, 2003 – under Z.R. §72-21 – Proposed construction of a eighteen story mixed use building, Use Groups 2, 4 and 6, containing retail, community facility, 200 dwelling units and 200 parking spaces, located in an R6 within a C2-2 overlay zoning district, is contrary to Z.R. §§35-00 and 36-00.

PREMISES AFFECTED – 135-35 Northern Boulevard, northside of Main Street, Block 4958, Lots 48 and 38, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Borough President Helen Marshal, Council Member John Liu, Sandra Vrg; Assembly Member J. Meng's Office, Chames Apeliam – Community Board #7Q, Howard Goldman, Jack Freeman, Jay Valgora and Scott Milsom.

ACTION OF THE BOARD – Laid over to December 13, 2005, at 2:00 P.M., for decision, hearing closed.

48-05-BZ

APPLICANT – Wachtel & Macyr, LLP for Bethune West Associates, LLC, contract vendee.

SUBJECT – Application March 2, 2005 - under Z.R. §72-21 to construct a 16- and 3-story mixed use development with 60 accessory parking spaces in an M1-5 district, contrary to Z.R. §42-00 and Z.R. §13-12.

PREMISES AFFECTED – 469 West Street, bounded by Bethune Street and West 12th Street, Block 640, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Jerry Johnson.

For Opposition: Councilmember Christine C. Quinn, Chip Thompson, George Cominskie, Remy Kothe, Jon Prosait, Alexander Kaplan, Michele Harman, Jessie McNab, Matthew Russas, Sach Winestine, Andrew Berman, Don Huber, Fred Hanson and Michael Clancy.

ACTION OF THE BOARD – Laid over to November 22, 2005, at 2:00 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 11:10 A.M.

BULLETIN

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Volume 90, Nos. 47-48

November 24, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Tuesday, November 15, 2005**

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929-47-BZ	255-09 and 260-66 73 rd Avenue, Queens
185-48-BZ	255-17 73 rd Avenue, 253-07 74 th Avenue, 254-18, 254-25, 255-14 and 260-28 75 th Avenue, and 260-46, 264-27 and 264-52 Langston Avenue, Queens
.....	
16-49-BZ	260-43 and 261-15 Langston Avenue, Queens
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219-04-BZ	2162-70 University Avenue, a/k/a Dr. Martin Luther King Boulevard, Bronx
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83-05-BZ	214-218 West Houston Street and 50-56 Downing Street, Manhattan
84-05-BZ	165-15 Hillside Avenue, Queens
98-05-BZ	46-48 Bond Street, Manhattan
207-05-BZ	407 Allen Street, Brooklyn
245-04-BZ	102/04 Franklin Avenue, Brooklyn
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52-05-BZ	6209 11 th Avenue, Brooklyn
122-05-BZ	525 Clinton Avenue, Brooklyn
156-05-BZ	1 Seventh Avenue South, Manhattan

DOCKETS

New Case Filed Up to November 15, 2005

319-04-A B. Q 5 Kildare Walk,
East side Kildare Walk 64.67' South of Oceanside Avenue,
Block 16350, Lot 400, Borough of Queens, Application #
402147823. Propose to reconstruct and enlarge an existing
single family frame dwelling not fronting a mapped Street
contrary to GCL 36 and upgrade an existing private disposal
system located in the bed of the service lane contrary to
Building Department policy.

COMMUNITY BOARD #14Q

320-05-BZ B. M 113/9 Fourth Avenue
a/k/a 101/7 East 12th Street, Northeast corner of Fourth
Avenue and East 12th Street, Block 558, Lot 7502, Borough
of Manhattan. Application #104218311. To permit a
Physical Culture Establishment within portions of the cellar
and first floor of existing mix-use building.

COMMUNITY BOARD #3M

321-05-BZ B. Q 245-02 Horace Harding
Expressway, South side of Horace Harding Expressway,
west of the intersection with Marathon Parkway, Block
8276, Lot 100, Borough of Queens, Application
#402143621. This application is filed pursuant to §73-243
of the ZR requesting a Special Permit in order to legalize an
existing accessory drive-through window in an as-of-right
eating and drinking establishment.

COMMUNITY BOARD #11Q

322-05-BZ B. Q 69-69 Main Street,
Northeast corner of Main Street and 70th Avenue, Block
6642, Lot 1, Borough of Queens, Application #402213993.
Enlarge the existing single family home and to change the
use from residential to community facility. The enlargement
is contrary to ZR §24-34 (rear yard) 24-35 (side yard) and
24-521 (sky exposure plane).

COMMUNITY BOARD #8Q

323-05-BZ B. BK 488 Logan Street,
West side of Logan Street, 190ft south of intersection with
Pitkin Avenue, Block 4227, Lot 33, Borough of Brooklyn.
Application #301932942. Propose construction of a two
family dwelling without a required side yard.

COMMUNITY BOARD #5BK

324-05-BZY B. M 164-172 Perry Street,

Mid-block portion of block bounded by Perry, Washington
and West Streets and Charles Lane, Block 637, Lot 13 & 17,
Borough of Manhattan, Application #104214814-01-AL,
104214814-01-EQ-FN 104243506-01-EQ. §11-332 of the
Zoning Resolution to extend the time of construction and/or
obtain Certificate of Occupancy for a period of 3 months.

COMMUNITY BOARD #2M

325-05-BZY B. M 360 West 11th Street,
Premises is situated on the South side of West 11th Street,
124' West of Washington Street, Block 637, Lot 60,
Borough of Manhattan, Application #100962638-01-AL.
§11-331 of the Zoning Resolution to extend the time of
construction for a Major/Minor development for a period of
6 months.

COMMUNITY BOARD #2M

326-05-BZY B. M 63 Charles Street,
Through lot fronting on Charles Street and Charles Lane
between West and Washington Streets, Block 637, Lot 42,
Borough of Manhattan. Application #103972550-01-AL;CN
551/05 After Hours for 103972550. §11-331 of the Zoning
Resolution to extend the time of construction for a
Major/Minor development for a period of 6 months.

COMMUNITY BOARD #2M

327-05-BZ B. SI 5135 Hylan Boulevard,
Hylan Boulevard between Wendy Drive and Bertram
Avenue, Block 6499, Lot 95, Borough of Staten Island,
Application #500750225. To permit the ambulatory /
diagnostic treatment care facility limited to less than
10,000sf in a §73-125.

COMMUNITY BOARD #3SI

328-05-A B. M 163 Charles Street,
Through lot fronting on Charles Street and Charles Lane
between West and Washington Streets, Block 637, Lot 42,
Borough of Manhattan, Application #103972550. Appeal
DOB's Stop Work Order.

COMMUNITY BOARD #2M

329-05-BZ B. SI 460 Brielle Avenue,
Between Brielle Avenue and Rockland Avenue, Block 955,
Lot 1, Borough of Staten Island, Application # 500786955.
Multiple Carrier Monopoles.

DOCKET

COMMUNITY BOARD #2SI

**DESIGNATIONS: D-Department of Buildings; B.BK.-
Department of Buildings, Brooklyn; B.M.-Department of
Buildings, Manhattan; B.Q.-Department of Buildings,
Queens; B.S.I.-Department of Buildings, Staten Island;
B.BX.-Department of Building, The Bronx; H.D.-Health
Department; F.D.-Fire Department.**

CALENDAR

JANUARY 10, 2006, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, January 10, 2006, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

780-45-BZ

APPLICANT – Anthony G. Mango, for Guiseppe Rapisardi & Ann Rapisardi, owners.

SUBJECT – Application June 23, 2005 – Pursuant to ZR§11-413 the legalization of the existing/proposed change of use within the same Use Group 16 from a beer storage of trucks to a plumbing contractor's establishment with storage of plumbing tools, equipment, supplies and the storage of equipment vans. The premise is located in an R6B zoning district.

PREMISES AFFECTED – 1818-1820 Bleecker Street, east side of Bleecker Street, 155' north of Seneca Avenue, Block 3435, Lots 21 & 22, Borough of Queens.

COMMUNITY BOARD #5Q

1005-66-BZ

APPLICANT – Moshe M. Friedman, P.E., for Chelsea Town Company, owner.

SUBJECT – Application November 22, 2005 – Request for a waiver of Rules of Procedure and reopening for the Extension of Term of a variance previously granted under Section 60(1b) of the Multiple Dwelling Law, which expired May 2, 2002, for transient parking of unused and surplus tenant spaces within the accessory garage. Transient parking is limited to twenty-two cars. The premise is located in an R8B zoning district.

PREMISES AFFECTED – 320 West 30th Street, aka 314-322 West 30th Street, south side of West 30th Street, 202' west of 8th Avenue, Block 753, Lot 51, Borough of Manhattan.

COMMUNITY BOARD #4M

43-99-BZ

APPLICANT – Windels Marx Lane & MittenDorf, LLP., for White Castle Systems, Inc., owner.

SUBJECT – Application November 22, 2005 - Extension of Term/Waiver/

Amendment to a previously granted special permit for a drive-through facility accessory to an eating and drinking establishment for an additional term of five years. The amendment is to install and electronic amplification menu board. The premise is located in a C1-2 in an R-4 zoning district.

PREMISES AFFECTED – 38-02 Northern Boulevard,

southwest corner formed by the intersection of Northern Boulevard, Block 1436, Lot 1, Flushing, Borough of Queens.

COMMUNITY BOARD #3Q

APPEALS CALENDAR

319-05-A

APPLICANT – Gary Lenhart for Breezy Point Cooperative, owner Judith & Michael Scotko, lessee.

SUBJECT – Application November 2, 2005 - Proposed reconstruction and enlargement of an existing one family dwelling, not fronting on mapped street, is contrary to Section 36, Article 3 of the General City Law and the upgrade of an existing private disposal system located in the bed of a service lane is contrary to the Buildings Department Policy.

PREMISES AFFECTED – 5 Kildare Walk, E/S Kildare Walk 64.67 S/O Oceanside Avenue, Block 16350 part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

376-04-A & 377-04-A

APPLICANT – Robert A. Caneco, R.A. for Al Sala Owner

SUBJECT – Application filed November 29, 2004 - to construct two one family homes with built in two car garage not fronting a legally mapped street is contrary Section 36, Article 3 of the General City Law.

PREMISES AFFECTED – 238 & 240 Billiou Street, s/s Billiou Street, 280.00' west of Billiou Street & Arbutus Avenue, Block 6559, Lots 130 & 133, Borough of Staten Island.

COMMUNITY BOARD #3SI

CALENDAR

JANUARY 10, 2006, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, January 10, 2006, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

164-04-BZ

APPLICANT – Moshe M. Friedman, P.E., for 2241 Westchester Avenue Realty Corp., owner; Gotham City Fitness LLC, lessee.

SUBJECT – Application April 22, 2004 - under Z.R. §73-36 to permit the proposed physical culture establishment, located on the second floor of an existing two story commercial building, located in C2-6 within an R6 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 2241 Westchester Avenue, aka 2101 Glebe Avenue, Block 3963, Lot 57, Borough of The Bronx.

COMMUNITY BOARD #10BX

398-04-BZ

APPLICANT – Eric Palatnik, P.C., for Babavof Avi, owner. SUBJECT – Application December 23, 2004 - under Special Permit ZR 73-622 proposed legalization of an enlargement of a single family residence which causes non-compliance to ZR 23-14 for open space and floor area. The premise is located in R2 zoning district.

PREMISES AFFECTED – 2103 Avenue M, northeast corner of East 21st Street, Block 7639, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #14BK

74-05-BZ

APPLICANT – Snyder & Snyder, LLP, for The Island Swim Club, Inc., owner; Omnipoint Communications, Inc., lessee.

SUBJECT – Application March 29, 2005 – under Z.R. §73-30 & 22-21 to permit the proposed construction of a non-accessory radio tower for public utility wireless communications (disguised as a 50-foot tall flagpole), located in an R3-2 zoning district.

PREMISES AFFECTED – 1089 Rockland Avenue, northeast side, between Borman and Shirra Avenues, Block 2000, Lot 7, Borough of Staten Island.

COMMUNITY BOARD #2SI

75-05-BZ

APPLICANT – Snyder & Snyder, LLP, for Immanuel

Lutheran Church, owner; Omnipoint Communications, Inc., lessee.

SUBJECT – Application March 29, 2005 – under Z.R. §73-30 & 22-21 to permit the proposed construction of a non-accessory radio tower for public utility wireless communications (disguised as a 90-foot tall flagpole), located in an R3-2 zoning district.

PREMISES AFFECTED – 2018 Richmond Avenue, approximately 650' south of Amsterdam Place and Richmond Avenue, Block 2100, Lot 460, Borough of Staten Island.

COMMUNITY BOARD #2SI

93-05-BZ

APPLICANT – Eric Palatnik, P.C., for Esther Cynamon, owner.

SUBJECT – Application November 4, 2005 - under Special Permit Z.R. §73-36 Enlargement of a single family home to vary section ZR 23-141 for floor area and open space. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 2621 Avenue M, corner of Avenue M and East 27th Street, Block 7644, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

180-05-BZ

APPLICANT – Wachtel & Masyr for 1511 Third Avenue Association/Related/Equinox, owner.

SUBJECT – Application August 4, 2005 – Special Permit under Z.R. §§73-03 and 73-367 approval sought for the legalization of a physical cultural establishment located on the entire second floor portion of the third floor and the entire fourth floor with a total of 34, 125sq. ft. of floor area. The site is located in a C2-8 zoning district.

PREMISES AFFECTED – 1511 Third Avenue aka 201 East 85th Street, northeast corner of 85th Street and Third Avenue, Block 1521, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, NOVEMBER 15, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, November 15, 2005, were approved as printed in the Bulletin of November 24, 2005, Volume 90, Nos. 47-48.

SPECIAL ORDER CALENDAR

1058-46-BZ

APPLICANT – Petraro & Jones, LLP, for Glen Oaks Village Owners, Inc.

SUBJECT – Application May 9, 2005 – Reopening for amendment to construct a third floor to multiple existing two family dwellings which is contrary to the Z.R. §23-631 for minimum perimeter wall height and setback. The premises are located in an R3-2 zoning district.

PREMISES AFFECTED – 254-07 74th Avenue, Blocks 8401, 8490, 8492, Lots 2 and 96, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Robert Friedrich.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a previously-granted variance, pursuant to ZR § 11-412; and

WHEREAS, a public hearing was held on this application on October 25, 2005, after due notice by publication in the *City Record*, and then to decision on November 15, 2005; and

WHEREAS, Community Board 13, Queens, recommends approval of this application with the recommendation that there be no increase in density at the subject premises; and

WHEREAS, this is an amendment to a prior Board grant, to permit the proposed and prospective enlargements of second-floor units in a large residential development within an R3-2 zoning district, which do not comply with applicable perimeter wall and ridge height limitations; and

WHEREAS, the subject blocks and lots are part of the larger Glen Oaks Village residential development in Queens (the “Village”), a 110 acre, 2,904 unit, 134 building (consisting of adjoining two-story, two-family homes) major residential development, divided into two primary sections; and

WHEREAS, the first section, with 24 buildings, is bordered by 249th Street, Union Turnpike, Commonwealth

Boulevard and Creedmoor Park; the second section, with 110 buildings, is northeast of the first, bordered by Little Neck Parkway, Langston Avenue and the Royal Ranch community, the North Shore Towers Golf Course, and Union Turnpike; and

WHEREAS, the applicant represents that although the 134 total buildings in the Village are all part of the same development, they are not all of the same design, having been developed at various times; therefore, they are not uniform in perimeter wall or ridge height; and

WHEREAS, the Village was developed pursuant to four separate BSA variances with the following calendar numbers: the subject calendar number, granted July 25, 1947; 929-47-BZ, granted November 1, 1947; 185-48-BZ, granted May 7, 1948; and 16-49-BZ, granted March 29, 1949; and

WHEREAS, the variances allowed for more than one building on a lot, yard and setback relief, and the construction of non-complying accessory parking facilities; and

WHEREAS, the Board notes that the applicant is also concurrently bringing three other amendment applications under the three other calendar numbers, requesting the same perimeter wall and ridge height relief; and

WHEREAS, the applicant represents that each of the four prior grants and amendment applications correspond to a particular section of the Village (1058-46-BZ applies to the first section, and the other resolutions apply to the second), though each amendment application requests the same relief; and

WHEREAS, the applicant also represents that the four prior grants relate to the following Blocks and Lots, issued Certificate of Occupancies (“CO”) (where available), and pending DOB application numbers:

(1) 1058-46-BZ:

	<u>CO Nos.</u>	<u>DOB application nos.</u>
Block 8401, Lot 96	56537	402115616
Block 8490, Lot 2	56537	402114975
Block 8492, Lot 2	56537	402114993
Block 8496, Lot 2	56537	402114984

(2) 929-47-BZ:

	<u>CO Nos.</u>	<u>DOB application nos.</u>
Block 8441, Lot 1	No CO of record	402115616
Block 8446, Lot 1	56167	402114975
Block 8515, Lot 2	52919	402114993
Block 8517, Lot 2	No CO of record	402114984

(3) 185-48-BZ:

	<u>CO Nos.</u>	<u>DOB application nos.</u>
Block 8535, Lot 2	No CO of record	402115607
Block 8513, Lot 20	No CO of record	402115000
Block 8510, Lot 31	No CO of record	402115581
Block 8511, Lot 2	No CO of record	402115019
Block 8440, Lot 1	57884	402115028
Block 8442, Lot 1	No CO of record	402115064
Block 8450, Lot 1	No CO of record	402116367
Block 8449, Lot 1	No CO of record	402115625
Block 8447, Lot 1	No CO of record	402115055

(4) 16-49-BZ: (supersedes part of 185-48-BZ)

	<u>CO Nos.</u>	<u>DOB application nos.</u>
Block 8448, Lot 1	59987	402115634

MINUTES

Block 8443, Lot 1 205471 402116376

WHEREAS, as noted above, the applicant represents that the amendment is requested in order to accommodate the proposed and prospective enlargements of the attics of the second floor units into actual third floors; and

WHEREAS, new attics will also be created, but they will not be habitable; and

WHEREAS, the applicant represents that the Village desires the ability to construct such enlargements in order to modernize the second floor units, thereby creating incentive for Village residents with larger families to remain; and

WHEREAS, the applicant notes that the enlargements will create additional floor area usable for living space in a newly created third floor, but will not result in the creation of any additional units; and

WHEREAS, the applicant proposes that the heights be limited to 30 feet at the top of the perimeter walls (the eaves) and 40 feet to the top of ridge of the pitched roofs, as illustrated in submitted plans; the maximum permitted heights are 21 ft. and 35 ft., respectively; and

WHEREAS, the Board notes the perimeter wall and ridge heights approved herein are the absolute maximum heights, though lesser heights are acceptable depending upon the particular Village building type proposed to be enlarged; and

WHEREAS, the applicant represents that aside from the requested height waivers, no waivers of other zoning provisions, including density and floor area requirements, are required or granted herein; and

WHEREAS, the Board notes that this resolution will contain conditions that no floor area or density parameters shall be exceeded, subject to the confirmation of the Department of Buildings; and

WHEREAS, the applicant requests that individual unit owners who have not yet filed plans at DOB for the relief granted herein may nevertheless proceed under this resolution and the BSA-approved plans at a future time without the need to return to the Board for a further reopening; and

WHEREAS, the Board has no objection to this request, and, through the provision of conditions set forth below, will allow for the applicable resolution to cover such applications, subject to the review and approval of DOB for compliance with the plans approved herein as well as other zoning requirements; and

WHEREAS, based upon the above, the Board has determined the requested amendment is appropriate to grant, with certain conditions as set forth below.

Therefore it is Resolved that, pursuant to ZR § 11-412, the Board of Standards and Appeals *reopens and amends* the resolution, adopted on July 25, 1947, so that as amended this portion of the resolution shall read: “to permit the proposed and prospective enlargements of second-floor units in a large residential development within an R3-2 zoning district, which do not comply with applicable perimeter wall and ridge height limitations; on condition that all work shall substantially conform to drawings as filed with this application, marked “Received November 1, 2005”-(10) sheets; and *on further condition:*

THAT there shall be no zoning floor area/habitable space located in the attics of any second floor unit;

THAT current and future owners of second floor units within Blocks and Lots subject to this resolution may apply to DOB for approval of enlargements that comply with the BSA-approved plans and this resolution without further BSA approval;

THAT the proposed enlargements approved herein, as well as all prospective enlargements, shall not result in any increase in the amount of units, nor in any floor area non-compliance, as reviewed by DOB;

THAT the need to obtain a new certificate of occupancy as a result of completion of any approved enlargement shall be as determined by the Department of Buildings;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT all interior partitions, exits, and light and ventilation requirements shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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, November 15, 2005.

929-47-BZ

APPLICANT – Petraro & Jones, LLP, for Glen Oaks Village Owners, Inc.

SUBJECT – Application May 9, 2005 – Reopening for Amendment to construct a third floor to multiple existing two family dwellings which is contrary to the Z.R. §23-631 for minimum perimeter wall height and setback. The premises are located in an R3-2 zoning district.

PREMISES AFFECTED – 255-09 and 260-66 73rd Avenue, Blocks 8441, 8446, 8515, 8517, Lots 1 and 2.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Robert Friedrich.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a previously-granted variance, pursuant to ZR § 11-412; and

WHEREAS, a public hearing was held on this application on October 25, 2005, after due notice by publication in the *City Record*, and then to decision on November 15, 2005; and

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WHEREAS, Community Board 13, Queens, recommends approval of this application with the recommendation that there be no increase in density at the subject premises; and

WHEREAS, this is an amendment to a prior Board grant, to permit the proposed and prospective enlargements of second-floor units in a large residential development within an R3-2 zoning district, which do not comply with applicable perimeter wall and ridge height limitations; and

WHEREAS, the subject blocks and lots are part of the larger Glen Oaks Village residential development in Queens (the "Village"), a 110 acre, 2,904 unit, 134 building major residential development (consisting of adjoining two-story, two-family homes), divided into two primary sections; and

WHEREAS, the first section, with 24 buildings, is bordered by 249th Street, Union Turnpike, Commonwealth Boulevard and Creedmoor Park; the second section, with 110 buildings, is northeast of the first, bordered by Little Neck Parkway, Langston Avenue and the Royal Ranch community, the North Shore Towers Golf Course, and Union Turnpike; and

WHEREAS, the applicant represents that although the 134 total buildings in the Village are all part of the same development, they are not all of the same design, having been developed at various times; therefore, they are not uniform in perimeter wall or ridge height; and

WHEREAS, the Village was developed pursuant to four separate BSA variances with the following calendar numbers: the subject calendar number, granted November 1, 1947; 1058-46-BZ, granted July 25, 1947; 185-48-BZ, granted May 7, 1948; and 16-49-BZ, granted March 29, 1949; and

WHEREAS, the variances allowed for more than one building on a lot, yard and setback relief, and the construction of non-complying accessory parking facilities; and

WHEREAS, the Board notes that the applicant is also concurrently bringing three other amendment applications under the three other calendar numbers, requesting the same perimeter wall and ridge height relief; and

WHEREAS, the applicant represents that each of the four prior grants and amendment applications correspond to a particular section of the Village (1058-46-BZ applies to the first section, and the other resolutions apply to the second), though each amendment application requests the same relief; and

WHEREAS, the applicant also represents that the four grants relate to the following Blocks and Lots, issued Certificate of Occupancies ("CO") (where available), and pending DOB application numbers:

(1) 1058-46-BZ:		
	<u>CO Nos.</u>	<u>DOB application nos.</u>
Block 8401, Lot 96	56537	402115616
Block 8490, Lot 2	56537	402114975
Block 8492, Lot 2	56537	402114993
Block 8496, Lot 2	56537	402114984
(2) 929-47-BZ:		
	<u>CO Nos.</u>	<u>DOB application nos.</u>
Block 8441, Lot 1	No CO of record	402115037
Block 8446, Lot 1	56167	402115046
Block 8515, Lot 2	52919	402115572

Block 8517, Lot 2	No CO of record	402115590
(3) 185-48-BZ:		

	<u>CO Nos.</u>	<u>DOB application nos.</u>
Block 8535, Lot 2	No CO of record	402115607
Block 8513, Lot 20	No CO of record	402115000
Block 8510, Lot 31	No CO of record	402115581
Block 8511, Lot 2	No CO of record	402115019
Block 8440, Lot 1	57884	402115028
Block 8442, Lot 1	No CO of record	402115064
Block 8450, Lot 1	No CO of record	402116367
Block 8449, Lot 1	No CO of record	402115625
Block 8447, Lot 1	No CO of record	402115055
(4) 16-49-BZ: (supersedes part of 185-48-BZ)		

	<u>CO Nos.</u>	<u>DOB application nos.</u>
Block 8448, Lot 1	59987	402115634
Block 8443, Lot 1	205471	402116376

WHEREAS, as noted above, the applicant represents that the amendment is requested in order to accommodate the proposed and prospective enlargements of the attics of the second floor units into actual third floors; and

WHEREAS, new attics will also be created, but they will not be habitable; and

WHEREAS, the applicant represents that the Village desires the ability to construct such enlargements in order to modernize the second floor units, thereby creating incentive for Village residents with larger families to remain; and

WHEREAS, the applicant notes that the enlargements will create additional floor area usable for living space in a newly created third floor, but will not result in the creation of any additional units; and

WHEREAS, the applicant proposes that the heights be limited to 30 feet at the top of the perimeter walls (the eaves) and 40 feet to the top of ridge of the pitched roofs, as illustrated in submitted plans; the maximum permitted heights are 21 ft. and 35 ft., respectively; and

WHEREAS, the Board notes the perimeter wall and ridge heights approved herein are the absolute maximum heights, though lesser heights are acceptable depending upon the particular Village building type proposed to be enlarged; and

WHEREAS, the applicant represents that aside from the requested height waivers, no waivers of other zoning provisions, including density and floor area requirements, are required or granted herein; and

WHEREAS, the Board notes that this resolution will contain conditions that no floor area or density parameters shall be exceeded, subject to the confirmation of the Department of Buildings; and

WHEREAS, the applicant requests that individual unit owners within the Village who have not yet filed plans at DOB for the relief granted herein may nevertheless proceed under this resolution and the BSA-approved plans at a future time without the need to return to the Board for a further reopening; and

WHEREAS, the Board has no objection to this request, and, through the provision of conditions set forth below, will allow for the applicable resolution to cover such applications, subject to the review and approval of DOB for compliance with

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the plans approved herein as well as other zoning requirements; and

WHEREAS, based upon the above, the Board has determined the requested amendment is appropriate to grant, with certain conditions as set forth below.

Therefore it is Resolved that, pursuant to ZR § 11-412, the Board of Standards and Appeals *reopens and amends* the resolution, adopted on November 1, 1947, so that as amended this portion of the resolution shall read: "to permit the proposed and prospective enlargements of second-floor units in a large residential development within an R3-2 zoning district, which do not comply with applicable perimeter wall and ridge height limitations; on condition that all work shall substantially conform to drawings as filed with this application, marked "Received November 1, 2005"-10 sheets; and *on further condition:*

THAT there shall be no zoning floor area/habitable space located in the attics of any second floor unit;

THAT current and future owners of second floor units within Blocks and Lots subject to this resolution may apply to DOB for approval of enlargements that comply with the BSA-approved plans and this resolution without further BSA approval;

THAT the proposed enlargements approved herein, as well as all prospective enlargements, shall not result in any increase in the amount of units, nor in any floor area non-compliance, as reviewed by DOB;

THAT the need to obtain a new certificate of occupancy as a result of completion of any approved enlargement shall be as determined by the Department of Buildings;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT all interior partitions, exits, and light and ventilation requirements shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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, November 15, 2005.

185-48-BZ

APPLICANT – Petraro & Jones, LLP, for Glen Oaks Village Owners, Inc.

SUBJECT – Application May 9, 2005 – Reopening for Amendment to construct a third floor to multiple existing two family dwellings which is contrary to the Z.R. §23-631 for minimum perimeter wall height and setback. The premises are located in an R3-2 zoning district.

PREMISES AFFECTED – 255-17 73rd Avenue, 254-07 74th Avenue, 254-18, 254-25, 255-14 and 260-28 75th Avenue, and 260-46, 264-27 and 264-52 Langston Avenue, Blocks 8535, 8513, 8510, 8511, 8440, 8450, 8449, 8447, Lots 1, 20 and 31, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Robert Friedrich.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a reopening and an amendment to a previously-granted variance, pursuant to ZR § 11-412; and

WHEREAS, a public hearing was held on this application on October 25, 2005, after due notice by publication in the *City Record*, and then to decision on November 15, 2005; and

WHEREAS, Community Board 13, Queens, recommends approval of this application with the recommendation that there be no increase in density at the subject premises; and

WHEREAS, this is an amendment to a prior Board grant, to permit the proposed and prospective enlargements of second-floor units in a large residential development within an R3-2 zoning district, which do not comply with applicable perimeter wall and ridge height limitations; and

WHEREAS, the subject blocks and lots are part of the larger Glen Oaks Village residential development in Queens (the "Village"), a 110 acre, 2,904 unit, 134 building major residential development (consisting of adjoining two-story, two-family homes), divided into two primary sections; and

WHEREAS, the first section, with 24 buildings, is bordered by 249th Street, Union Turnpike, Commonwealth Boulevard and Creedmoor Park; the second section, with 110 buildings, is northeast of the first, bordered by Little Neck Parkway, Langston Avenue and the Royal Ranch community, the North Shore Towers Golf Course, and Union Turnpike; and

WHEREAS, the applicant represents that although the 134 total buildings in the Village are all part of the same development, they are not all of the same design, having been developed at various times; therefore, they are not uniform in perimeter wall or ridge height; and

WHEREAS, the Village was developed pursuant to four separate BSA variances with the following calendar numbers: the subject calendar number, granted May 7, 1948; 1058-46-BZ, granted July 25, 1947; 929-47-BZ, granted November 1,

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1947; and 16-49-BZ, granted March 29, 1949; and

WHEREAS, the variances allowed for more than one building on a lot, yard and setback relief, and the construction of non-complying accessory parking facilities; and

WHEREAS, the Board notes that the applicant is also concurrently bringing three other amendment applications under the three other calendar numbers, requesting the same perimeter wall and ridge height relief; and

WHEREAS, the applicant represents that each of the four prior grants and amendment applications correspond to a particular section of the Village (1058-46-BZ applies to the first section, and the other resolutions apply to the second), though each amendment application requests the same relief; and

WHEREAS, the applicant also represents that the prior grants relate to the following Blocks and Lots, issued Certificate of Occupancies ("CO") (where available), and pending DOB application numbers:

(1) 1058-46-BZ:

	<u>CO Nos.</u>	<u>DOB application nos.</u>
Block 8401, Lot 96	56537	402115616
Block 8490, Lot 2	56537	402114975
Block 8492, Lot 2	56537	402114993
Block 8496, Lot 2	56537	402114984

(2) 929-47-BZ:

	<u>CO Nos.</u>	<u>DOB application nos.</u>
Block 8441, Lot 1	No CO of record	402115037
Block 8446, Lot 1	56167	402115046
Block 8515, Lot 2	52919	402115572
Block 8517, Lot 2	No CO of record	402115590

(3) 185-48-BZ:

	<u>CO Nos.</u>	<u>DOB application nos.</u>
Block 8535, Lot 2	No CO of record	402115607
Block 8513, Lot 20	No CO of record	402115000
Block 8510, Lot 31	No CO of record	402115581
Block 8511, Lot 2	No CO of record	402115019
Block 8440, Lot 1	57884	402115028
Block 8442, Lot 1	No CO of record	402115064
Block 8450, Lot 1	No CO of record	402116367
Block 8449, Lot 1	No CO of record	402115625
Block 8447, Lot 1	No CO of record	402115055

(4) 16-49-BZ: (supersedes part of 185-48-BZ)

	<u>CO Nos.</u>	<u>DOB application nos.</u>
Block 8448, Lot 1	59987	402115634
Block 8443, Lot 1	205471	402116376

WHEREAS, as noted above, the applicant represents that the amendment is requested in order to accommodate the proposed and prospective enlargements of the attics of the second floor units into actual third floors; and

WHEREAS, new attics will also be created, but they will not be habitable; and

WHEREAS, the applicant represents that the Village desires the ability to construct such enlargements in order to modernize the second floor units, thereby creating incentive for Village residents with larger families to remain; and

WHEREAS, the applicant notes that the enlargements will create additional floor area usable for living space in a

newly created third floor, but will not result in the creation of any additional units; and

WHEREAS, the applicant proposes that the heights be limited to 30 feet at the top of the perimeter walls (the eaves) and 40 feet to the top of ridge of the pitched roofs, as illustrated in submitted plans; the maximum permitted heights are 21 ft. and 35 ft., respectively; and

WHEREAS, the Board notes the perimeter wall and ridge heights approved herein are the absolute maximum heights, though lesser heights are acceptable depending upon the particular Village building type proposed to be enlarged; and

WHEREAS, the applicant represents that aside from the requested height waivers, no waivers of other zoning provisions, including density and floor area requirements, are required or granted herein; and

WHEREAS, the Board notes that this resolution will contain conditions that no floor area or density parameters shall be exceeded, subject to the confirmation of the Department of Buildings; and

WHEREAS, the applicant requests that individual unit owners within the Village who have not yet filed plans at DOB for the relief granted herein may nevertheless proceed under this resolution and the BSA-approved plans at a future time without the need to return to the Board for a further reopening; and

WHEREAS, the Board has no objection to this request, and, through the provision of conditions set forth below, will allow for the applicable resolution to cover such applications, subject to the review and approval of DOB for compliance with the plans approved herein as well as other zoning requirements; and

WHEREAS, based upon the above, the Board has determined the requested amendment is appropriate to grant, with certain conditions as set forth below.

Therefore it is Resolved that, pursuant to ZR § 11-412, the Board of Standards and Appeals *reopens and amends* the resolution, adopted on May 7, 1948, so that as amended this portion of the resolution shall read: "to permit the proposed and prospective enlargements of second-floor units in a large residential development within an R3-2 zoning district, which do not comply with applicable perimeter wall and ridge height limitations; on condition that all work shall substantially conform to drawings as filed with this application, marked "Received November 1, 2005"- (13) sheets; and *on further condition*:

THAT there shall be no zoning floor area/habitable space located in the attics of any second floor unit;

THAT current and future owners of second floor units within Blocks and Lots subject to this resolution may apply to DOB for approval of enlargements that comply with the BSA-approved plans and this resolution without further BSA approval;

THAT the proposed enlargements approved herein, as well as all prospective enlargements, shall not result in any increase in the amount of units, nor in any floor area non-compliance, as reviewed by DOB;

THAT the need to obtain a new certificate of occupancy

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as a result of completion of any approved enlargement shall be as determined by the Department of Buildings;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT all interior partitions, exits, and light and ventilation requirements shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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, November 15, 2005.

16-49-BZ

APPLICANT – Petraro & Jones, LLP, for Glen Oaks Village Owners, Inc.

SUBJECT – Application May 9, 2005 – Reopening for Amendment to construct a third floor to multiple existing two family dwellings which is contrary to the Z.R. §23-631 for minimum perimeter wall height and setback. The premises are located in an R3-2 zoning district.

PREMISES AFFECTED – 260-43 and 261-15 Langston Avenue, Block 8448, 8443, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Robert Friedrich.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a reopening and an amendment to a previously-granted variance, pursuant to ZR § 11-412; and

WHEREAS, a public hearing was held on this application on October 25, 2005, after due notice by publication in the *City Record*, and then to decision on November 15, 2005; and

WHEREAS, Community Board 13, Queens, recommends approval of this application with the recommendation that there be no increase in density at the subject premises; and

WHEREAS, this is an amendment to a prior Board grant, to permit the proposed and prospective enlargements of second-floor units in a large residential development within an R3-2 zoning district, which do not comply with applicable perimeter wall and ridge height limitations; and

WHEREAS, the subject blocks and lots are part of the larger Glen Oaks Village residential development in Queens (the “Village”), a 110 acre, 2,904 unit, 134 building major residential development (consisting of adjoining two-story,

two-family homes), divided into two primary sections; and

WHEREAS, the first section, with 24 buildings, is bordered by 249th Street, Union Turnpike, Commonwealth Boulevard and Creedmoor Park; the second section, with 110 buildings, is northeast of the first, bordered by Little Neck Parkway, Langston Avenue and the Royal Ranch community, the North Shore Towers Golf Course, and Union Turnpike; and

WHEREAS, the applicant represents that although the 134 total buildings in the Village are all part of the same development, they are not all of the same design, having been developed at various times; therefore, they are not uniform in perimeter wall or ridge height; and

WHEREAS, the Village was developed pursuant to four separate BSA variances with the following calendar numbers: the subject calendar number, granted March 29, 1949; 1058-46-BZ, granted July 25, 1947; 929-47-BZ, granted November 1, 1947; and 185-48-BZ, granted May 7, 1948; and

WHEREAS, the variances allowed for more than one building on a lot, yard and setback relief, and the construction of non-complying accessory parking facilities; and

WHEREAS, the Board notes that the applicant is also concurrently bringing three other amendment applications under the three other calendar numbers, requesting the same perimeter wall and ridge height relief; and

WHEREAS, the applicant represents that each of the four prior grants and amendment applications correspond to a particular section of the Village (1058-46-BZ applies to the first section, and the other resolutions apply to the second), though each amendment application requests the same relief; and

WHEREAS, the applicant also represents that the prior grants relate to the following Blocks and Lots, issued Certificate of Occupancies (“CO”) (where available), and pending DOB application numbers:

(1) 1058-46-BZ:

	<u>CO Nos.</u>	<u>DOB application nos.</u>
Block 8401, Lot 96	56537	402115616
Block 8490, Lot 2	56537	402114975
Block 8492, Lot 2	56537	402114993
Block 8496, Lot 2	56537	402114984

(2) 929-47-BZ:

	<u>CO Nos.</u>	<u>DOB application nos.</u>
Block 8441, Lot 1	No CO of record	402115037
Block 8446, Lot 1	56167	402115046
Block 8515, Lot 2	52919	402115572
Block 8517, Lot 2	No CO of record	402115590

(3) 185-48-BZ:

	<u>CO Nos.</u>	<u>DOB application nos.</u>
Block 8535, Lot 2	No CO of record	402115607
Block 8513, Lot 20	No CO of record	402115000
Block 8510, Lot 31	No CO of record	402115581
Block 8511, Lot 2	No CO of record	402115019
Block 8440, Lot 1	57884	402115028
Block 8442, Lot 1	No CO of record	402115064
Block 8450, Lot 1	No CO of record	402116367
Block 8449, Lot 1	No CO of record	402115625
Block 8447, Lot 1	No CO of record	402115055

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(4) 16-49-BZ: (supersedes part of 185-48-BZ)

	<u>CO Nos.</u>	<u>DOB application nos.</u>
Block 8448, Lot 1	59987	402115634
Block 8443, Lot 1	205471	402116376

WHEREAS, as noted above, the applicant represents that the amendment is requested in order to accommodate the proposed and prospective enlargements of the attics of the second floor units into actual third floors; and

WHEREAS, new attics will also be created, but they will not be habitable; and

WHEREAS, the applicant represents that the Village desires the ability to construct such enlargements in order to modernize the second floor units, thereby creating incentive for Village residents with larger families to remain; and

WHEREAS, the applicant notes that the enlargements will create additional floor area usable for living space in a newly created third floor, but will not result in the creation of any additional units; and

WHEREAS, the applicant proposes that the heights be limited to 30 feet at the top of the perimeter walls (the eaves) and 40 feet to the top of ridge of the pitched roofs, as illustrated in submitted plans; the maximum permitted heights are 21 ft. and 35 ft., respectively; and

WHEREAS, the Board notes the perimeter wall and ridge heights approved herein are the absolute maximum heights, though lesser heights are acceptable depending upon the particular Village building type proposed to be enlarged; and

WHEREAS, the applicant represents that aside from the requested height waivers, no waivers of other zoning provisions, including density and floor area requirements, are required or granted herein; and

WHEREAS, the Board notes that this resolution will contain conditions that no floor area or density parameters shall be exceeded, subject to the confirmation of the Department of Buildings; and

WHEREAS, the applicant requests that individual unit owners within the Village who have not yet filed plans at DOB for the relief granted herein may nevertheless proceed under this resolution and the BSA-approved plans at a future time without the need to return to the Board for a further reopening; and

WHEREAS, the Board has no objection to this request, and, through the provision of conditions set forth below, will allow for the applicable resolution to cover such applications, subject to the review and approval of DOB for compliance with the plans approved herein as well as other zoning requirements; and

WHEREAS, based upon the above, the Board has determined the requested amendment is appropriate to grant, with certain conditions as set forth below.

Therefore it is Resolved that, pursuant to ZR § 11-412, the Board of Standards and Appeals *reopens and amends* the resolution, adopted on March 29, 1949, so that as amended this portion of the resolution shall read: “to permit the proposed and prospective enlargements of second-floor units in a large residential development within an R3-2 zoning district, which do not comply with applicable perimeter wall and ridge height

limitations; on condition that all work shall substantially conform to drawings as filed with this application, marked “Received November 1, 2005”-9 sheets; and *on further condition:*

THAT there shall be no zoning floor area/habitable space located in the attics of any second floor unit;

THAT current and future owners of second floor units within Blocks and Lots subject to this resolution may apply to DOB for approval of enlargements that comply with the BSA-approved plans and this resolution without further BSA approval;

THAT the proposed enlargements approved herein, as well as all prospective enlargements, shall not result in any increase in the amount of units, nor in any floor area non-compliance, as reviewed by DOB;

THAT the need to obtain a new certificate of occupancy as a result of completion of any approved enlargement shall be as determined by the Department of Buildings;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT all interior partitions, exits, and light and ventilation requirements shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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, November 15, 2005.

878-80-BZ

APPLICANT – Kim Lee Vauss, for Nexus Property Management, LLC, owner.

SUBJECT – Application April 19, 2005 – Reopening for an amendment to previous granted variance to convert the existing commercial UG6 on the second and fourth floors to residential/studio UG 2 and 9. The premise is located in an M1-6 zoning district.

PREMISES AFFECTED – 41 West 24th Street, Block 800, Lot 16, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Kim Vauss.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a reopening and an amendment to a previously-granted variance; and

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WHEREAS, a public hearing was held on this application on September 13, 2005, after due notice by publication in the *City Record*, with a continued hearing on October 18, 2005, and then to decision on November 15, 2005; and

WHEREAS, Community Board 4, Manhattan, recommends approval of this application; and

WHEREAS, this is an application to permit, on a site previously before the Board, the conversion of existing commercial offices (U.G. 6) to residential and studio use (U.G. 2 and 9) on the 2nd and 4th floors of a building located in an M1-6 zoning district; and

WHEREAS, the subject premises is located on West 24th Street, between the Avenue of the Americas and Seventh Avenue; and

WHEREAS, on March 10, 1981, the Board granted a variance for the subject premises to permit the conversion of the 3rd, 5th, 6th and 7th floors of a commercial building to residential and studio use (U.G. 2 and 9); and

WHEREAS, on October 16, 2002, the Board approved by letter a change to the proposed plans to allow the swapping of uses on the 3rd and 4th floors such that the 3rd floor would be occupied by commercial uses and the 4th floor would be occupied by residential uses; and

WHEREAS, the applicant represents that this swap was never effected; and

WHEREAS, the existing building contains 18,247 s.f. of floor area, 10,244 s.f. of which is residential floor area and 8,003 s.f. of which is commercial floor area; and

WHEREAS, the applicant proposes to convert an additional 5,122 s.f. of commercial floor area to residential, such that the total residential floor area would be 15,366 s.f. and the total commercial floor area would be 2,881 s.f.; and

WHEREAS, the applicant represents that the owner has constructed a penthouse above the existing 7th floor for an art studio (U.G. 9A) and that such penthouse complies with height and setback regulations; and

WHEREAS, the Board notes that any approval is solely limited to conversion of the 2nd and 4th floors and is not intended to legalize any construction on the penthouse level; the applicant represents that such construction was permitted pursuant to a reconsideration by the Department of Buildings; and

WHEREAS, the applicant represents that the first floor was recently leased to a tenant and will continue to operate as a manufacturing use; and

WHEREAS, the applicant represents that only the 5th and 7th floors are currently occupied by residential uses, but that the 3rd and 6th floors are undergoing conversion; and

WHEREAS, the applicant represents that conversion of the additional two floors is necessary to achieve a reasonable minimum return on the property as it has been unable to lease the remaining commercial floors in the building; and

WHEREAS, the applicant submitted a feasibility analysis that showed that the existing mixed-use building as originally approved by the Board does not result in a reasonable return, but that the proposed residential development would; and

WHEREAS, the Board questioned the applicant's

methodology in this analysis and asked the applicant to revise it so that the entire building was considered as a residential building except for the two commercial floors, and assess return gained from the conversion of the two additional floors; and

WHEREAS, the Board also asked that any renovation costs associated with converting the residential units that already received a variance from the Board be excluded from the analysis; and

WHEREAS, the applicant followed the Board's suggestions and, in a revised study, analyzed a scenario in which both floors were converted and a scenario in which only one floor was converted; the applicant determined that under the revised feasibility analysis the conversion of both floors was necessary to achieve a reasonable return on the property; and

WHEREAS, however, the Board noticed that the revised study showed an increased site valuation from that presented in the initial feasibility study; and

WHEREAS, the applicant explained that the value increased because the Board asked the applicant to analyze the current building differently, viewing it as a residential building (with the exception of the two floors), which inherently has more value than a predominantly commercial building; and

WHEREAS, the Board found this explanation, and thus the revised feasibility study, to be sufficient and credible; and

WHEREAS, based upon the above, the Board has determined that initial variance granted by the Board was not the minimum necessary to afford the owner relief, but that the current proposal is the minimum necessary to afford the owner relief; and

WHEREAS, accordingly, the Board finds that the amendment 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, adopted on March 10, 1981, as amended on February 15, 1983, so that as amended this portion of the resolution shall read: "to permit the conversion of existing commercial offices (U.G. 6) to residential and studio use (U.G. 2 and 9) on the 2nd and 4th floors of the building located in an M1-6 zoning district; on condition that all work/site conditions shall substantially conform to drawings as filed with this application, marked 'Received August 9, 2005'-1 sheet and "October 18, 2005"-9 sheets; and *on further condition:*

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT all interior partitions, exits, and light and ventilation requirements shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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."

MINUTES

(DOB Application No. 104080940)

Adopted by the Board of Standards and Appeals,
November 15, 2005.

983-83-BZ

APPLICANT – Sullivan, Chester & Gardner P.C., for
Sutphin Rochdale Realty, LLC, owner.

SUBJECT – Application January 14, 2005 – Reopening for
an amendment to a variance to enlarge a portion of the
existing building by 700 sq. ft. and eliminate the single use on
site to house four (4) commercial tenants. The subject
premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 34-42/60 Guy R. Brewer
Boulevard, northwest corner of 137th Avenue, Block 12300,
Lot 30, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Julie Nimmicht.

ACTION OF THE BOARD – Application granted on
condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and
Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an
amendment to a previously granted variance; and

WHEREAS, a public hearing was held on this application
on September 13, 2005, after due notice by publication in the
City Record, with a continued hearing on October 18, 2005,
and then to November 15, 2005 for decision; and

WHEREAS, Community Board No. 12, Queens, and the
Queens Borough President recommend conditional approval of
this application; and

WHEREAS, the Board has exercised jurisdiction over the
subject premises since October 31, 1961, when, under Calendar
Number 880-61-BZ, the Board granted an application to permit
a gasoline service station, lubricatorium, auto wash, office and
sales of accessories; and

WHEREAS, on March 5, 1985, under Calendar Number
983-83-BZ, the Board approved an enlargement and change in
use from an automotive service station to an automotive supply
store for a term of 15 years; and

WHEREAS, the variance was extended on February 5,
2002, for an additional term of fifteen years, to expire on
March 5, 2015; and

WHEREAS, the instant application seeks an amendment
to the resolution to eliminate the remaining automotive use on
the site and to legalize the change in use to four Use Group 6
commercial tenants, as well as to approve an expansion of 700
s.f.; and

WHEREAS, the applicant states that the site was
purchased by the current owner in November of 2004, and that
the owner found it necessary to rent out the space prior to
attaining BSA approval in order to stay financially solvent; and

WHEREAS, the Community Board requested that the site
not be occupied by a liquor store, bar or nightclub; in addition,
they requested that sufficient lighting be placed on the property;
and

WHEREAS, the Board agrees that these limitations on
the use of the property are appropriate; and

WHEREAS, the applicant also maintains that all signage
will continue to conform to C1 district regulations and that 14
parking spaces will be retained; and

WHEREAS, the Board has reviewed the application and
has determined that this application is appropriate to grant, with
certain conditions.

Therefore it is Resolved that the Board of Standards and
Appeals *reopens* and *amends* the resolution, so that as amended
this portion of the resolution shall read: “to permit the change
in use from an automotive service station to Use Group 6
retail/commercial uses, as well as the enlargement of the
existing building by 700 s.f.; *on condition* that all work shall
substantially conform to drawings as filed with this application,
marked “Received August 3, 2005”-(2) sheets and “October
20, 2005”-(1) sheet; and *on further condition*:

THAT the no store on the site shall not be occupied by a
bar, nightclub, or liquor store;

THAT the premises shall be maintained free of debris
and graffiti;

THAT all signage shall comply with C1 regulations;

THAT the parking lot shall be paved;

THAT all lighting on the property shall be directed away
from the adjacent residences;

THAT the above conditions shall appear 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; 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 App. No. 401982440)

Adopted by the Board of Standards and Appeals,
November 15, 2005.

MINUTES

19-94-BZ

APPLICANT – Andrew Schwarsin, Esq., for Walter R. Schwarsin, owner.

SUBJECT – Application September 15, 2005 – Extension of Term/Waiver for a Use Group 8 public parking lot of which a portion of the lot lies in a residential zoning district. The premise is located in a C4-3/R-5 zoning district.

PREMISES AFFECTED – 37-18 75th Street, Block 1285, Lot 47, Borough of Queens

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Andrew Schwarsin.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the previously granted variance; and

WHEREAS, a public hearing was held on this application on November 1, 2005, after due notice by publication in *The City Record*, and then to decision on November 15, 2005; and

WHEREAS, no community board recommendation was received; and

WHEREAS, on July 25, 1995, under the subject calendar number, the Board granted an application to permit a public parking lot (Use Group 8) within the residential portion of the site pursuant to Z.R. § 72-21 for a term of ten years, to expire on July 18, 2005; and

WHEREAS, the premises is located on the west side of 75th Street, south of 37th Avenue; and

WHEREAS, the site is located in a C4-3 and R5 zoning district; and

WHEREAS, an application to amend the variance to expand the parking lot was denied on September 15, 1998; and

WHEREAS, a letter of substantial compliance was issued by the Board for the subject premises on October 9, 1998, to allow minor changes on the site plans; and

WHEREAS, the applicant now seeks to extend the term of the variance for a term of ten years, and make additional minor changes to the layout of the parking lot; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of term and minor modifications are appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens and amends* the resolution, adopted on July 25, 1995, so that as amended this portion of the resolution shall read: “to extend the term for ten years from July 18, 2005, to expire on July 18, 2015; *on condition* that all work/site conditions shall substantially conform to drawings as filed with this application, marked “Received September 15, 2005”-4 sheets; and *on further condition*:

THAT the term of this grant shall be for ten years, to expire on July 18, 2015;

THAT the above condition shall 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; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 402193540)

Adopted by the Board of Standards and Appeals, November 15, 2005.

523-58-BZ

APPLICANT – Walter T. Gorman, P.E., for Yehuea, LLC, owner; Farmers Mini Mart Inc., lessee.

SUBJECT – Application March 25, 2005 – Reopening for Extension of Term/Waiver for a gasoline service station with accessory uses. The premise is located an C1-2/R3-2 and R3-2 zoning district.

PREMISES AFFECTED – 117-30/48 Farmers Boulevard, southwest corner of Baisley Boulevard, Block 12448, Lot 31, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: John Ronan.

THE VOTE TO REOPEN HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to November 29, 2005, at 10 A.M., for decision, hearing closed.

203-92-BZ

APPLICANT – Sullivan, Chester & Gardner, P.C., for Austin-Forest Assoc., owner; Lucille Roberts Org., d/b/a Lucille Roberts Figure Salon, lessee.

SUBJECT – January 26, 2005 Extension of Term/Amendment/Waiver for a physical culture establishment. The premise is located in an R8-2 zoning district.

PREMISES AFFECTED – 70-20 Austin Street, south side, 333’ west of 71st Avenue, Block 3234, Lot 173, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES –

MINUTES

For Applicant: Julie Nimnicht.

ACTION OF THE BOARD - Laid over to January 24, 2006, at 10 A.M., for continued hearing.

595-44-BZ

APPLICANT – Joanne Seminara, Esq., Kurzman Karelsen & Frank, LLP, for Unit Owners of the Central Park South Medical Condominium, owner.

SUBJECT – Application August 3, 2005 – Pursuant to ZR §11-411 – Extension of Term of a Variance which expired on July 12, 2005, to permit in a residence use district the change in occupancy of an existing 15 story building from apartment hotel and accessory restaurant, to non-resident doctors' offices and restaurant (cabaret with no dancing). The premise is located in an R-10H zoning district.

PREMISES AFFECTED – 30 Central Park South, southside of Central Park South between Avenue of the Americas and 5th Avenue, Block 1274, Condo Lots 1001-1055, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Joanne Seminara.

For Opposition: Caroline G. Harris.

VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to December 6, 2005, at 10 A.M., for decision, hearing closed.

212-50-BZ

APPLICANT – Vassalotti Associates Architects, LLP., Cumberland Farms, Inc., owner.

SUBJECT – Application June 29, 2005 - Pursuant to ZR §11-411 to reopen and to extend the term of the variance for an additional ten years for an existing gasoline service station. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 29-16/44 Francis Lewis Boulevard, Cross Street – 172nd Street, Block 4938, Lot 1, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to November 29, 2005, at 10 A.M., for decision, hearing closed.

289-79-BZ

APPLICANT – David L. Businelli, for Patsy Serra, owner.
SUBJECT – Application April 26, 2005 – Extension of Term/Waiver for the continued use of a commercial vehicle and storage establishment (UG16). The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 547 Midland Avenue, north side of Midland Avenue, Block 3799, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: David Businelli.

VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to November 29, 2005, at 10 A.M., for decision, hearing closed.

886-82-BZ

APPLICANT – Blaise Parascondala, Esq., for Lenox Road Baptist Church, owner.

SUBJECT – Application May 13, 2005 – Reopening for an amendment to a variance ZR§72-21 to increase the floor area for a community use facility which increases the degree of non-compliance into the required rear yard. The premise is located in a C1-3 (R7-1) zoning district.

PREMISES AFFECTED – 1356 Nostrand Avenue, corner of Nostrand Avenue and Lenox Road, Block 5085, Lot 51, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: John Roselrans and Blaise Parachondala.

VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to December 6, 2005, at 10 A.M., for decision, hearing closed.

146-02-BZ

APPLICANT – Anthony DiProperzio, R.A., R.A.J. Realty Corp., owner.

SUBJECT – Application September 7, 2005 – Extension of time to obtain a Certificate of Occupancy, to permit within a C1-2/R3-2 zoning district, a two-story addition to an existing retail establishment.

PREMISES AFFECTED – 138-27 247th Street, south side, 250'-0" East of 139th Avenue, Block 13621, Lots 9 & 11, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Anthony DiProperzio.

VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and

MINUTES

Commissioner Chin.....3
Negative:.....0
ACTION OF THE BOARD - Laid over to December 6, 2005, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

106-05-A

APPLICANT – New York City Department of Buildings
OWNER OF PREMISES: Rob Rose Place, LLC.
SUBJECT – Application filed on May 10, 2005 – For a Modification of Certificate of Occupancy No. 17004 issued on November 11, 1930 on the basis that a non-conforming restaurant use on the first story of the premises was not in operation for a period of more than two years and the first story was being used illegally as residences. Pursuant to ZR Section 52-61 the non-conforming use was discontinued and the use of the premises must now conform to those permitted in an R7-2 district, therefore the current Certificate of Occupancy improperly authorizes an impermissible use of the premises.
PREMISES AFFECTED – 220-222 Sullivan Street, Block 540, Lot 28, Borough of Manhattan.
COMMUNITY BOARD #2M
APPEARANCES –
For Applicant: Deborah Glikin and Carole Slater.
VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3
Negative:.....0
ACTION OF THE BOARD - Laid over to December 6, 2005, at 10 A.M., for decision, hearing closed.

116-05-BZY

APPLICANT – Frederick A. Becker for John Shik Im, owner.
SUBJECT – Application May 12, 2005 – Proposed extension of time to complete construction for a two family home for a period of six months pursuant to Z.R. 11-331 of the Zoning Resolution under prior R3-2 Zoning District. As of April 12, 2005, the new Zoning District is R3-X.
PREMISES AFFECTED – 22-08 43rd Avenue, corner of 222nd Street and 43rd Avenue, Block 6328, Lot 17, Borough of Queens.
COMMUNITY BOARD #11Q
APPEARANCES –
For Applicant: Fred Becker.
ACTION OF THE BOARD - Laid over to November 29, 2005, at 10 A.M., for continued hearing.

117-05-BZY

APPLICANT – Fredrick Becker, Esq., for Yohn Shik Im, owner.
SUBJECT – Application May 12, 2005 – Proposed extension of time to complete construction for a period of six months pursuant to Z.R. §11-331 on a two family home under prior R3-2 Zoning District. As of April 12, 2005 the new zoning district is R3-X.
PREMISES AFFECTED – 43-05 222ND Street, south of 43rd Avenue and East 222nd Street, 6328, Lot 16 Borough of Queens.
COMMUNITY BOARD #11Q
APPEARANCES –
For Applicant: Fred Becker.
ACTION OF THE BOARD - Laid over to November 29, 2005, at 10 A.M., for continued hearing.

208-05-A thru 282-05-A

APPLICANT – Stadtmauer Bailkin, LLP, for Natalie Lyn, LLC, owner.
SUBJECT – Application filed September 8, 2005 – Appeal pursuant to Article III, Section 36, of the General City law to permit construction of 75 two family detached dwellings that does not front on a legally mapped street.
PREMISES AFFECTED – Richmond Terrace, Nicholas Avenue Estates, southwest corner of Nicholas Avenue and Richmond Terrace, Block 1116, Lots varies, Borough of Staten Island.
COMMUNITY BOARD #1SI
APPEARANCES –
For Applicant: Steve Sinacori.
VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3
Negative:.....0
ACTION OF THE BOARD - Laid over to December 6, 2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 11:00 A.M.

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**REGULAR MEETING
TUESDAY AFTERNOON, NOVEMBER 15, 2005
1:30 P.M.**

Present: Chair Srinivasan, Vice Chair Babbar, and Commissioner Chin.

ZONING CALENDAR

219-04-BZ

CEQR #04-BSA-210X

APPLICANT - Eric Palatnik, P.C., for Cora Realty Co., LLC., owner.

SUBJECT - Application May 28, 2004 – under Z.R. §72-21 to permit the legalization of a portion of the required open space of the premises, for use as parking spaces (30 spaces), which are to be accessory to the existing 110 unit multiple dwelling, located in an R7-1 zoning district, is contrary to Z.R. §25-64 and §23-142.

PREMISES AFFECTED – 2162/70 University Avenue, a/k/a Dr. Martin Luther King Boulevard, southeast corner of University Avenue and 181st Street, Block 3211, Lots 4 and 9, Borough of The Bronx.

COMMUNITY BOARD #5BX

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

Adopted by the Board of Standards and Appeals, November 15, 2005.

355-04-BZ

CEQR #05-BSA-058K

APPLICANT – Slater & Beckerman, LLP, for Trustees under Irr.Trust, Stanley Gurewitsch, owner.

SUBJECT – Application November 10, 2004 and amended on July 26, 2005 to be a bulk variance – under Z.R. §72-21 a variance application to approve the proposed residential conversion of a portion of an existing three-story manufacturing building, and the construction of a four-story residential enlargement atop said building. There are 58 residential units and 35 parking spaces. The site is located in an M1-2(R6) zoning district within the special mixed-use MX-8 district. The proposal is contrary to Z.R. §23-633, §23-942 and §123-64.

PREMISES AFFECTED – 302/10 North Seventh Street, a/k/a 289 North Sixth Street, bounded on the southwest side, by north Sixth Street, southeast side by Meeker Avenue and northeast side by North Seventh Street, Block 2331, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Carole Slater.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated July 19, 2005, acting on Department of Buildings Application No. 301830400, reads:

“The proposed enlargement, in an M1-2/R6 within the Special MX District, exceeds the permitted FAR for residential use and a mixed building contrary to ZR Section 23-942 and 123-64. The proposed enlargement, in an M1-2/R6 within the Special MX District, exceeds the permitted total building height and setback requirements for residential use and a mixed building contrary ZR Section 23-633.”; and

WHEREAS, a public hearing was held on this application on August 9, 2005, after due notice by publication in the *City Record*; with continued hearings on September 27, 2005, and November 1, 2005, and then to decision on November 15, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chair Srinivasan, Vice Chair Babbar and Commissioner Chin; and

WHEREAS, Community Board 1, Brooklyn, recommended disapproval of a prior version of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an M1-2(R6)(Special Mixed Use MX-8) zoning district, the proposed three-story residential enlargement to an existing three-story manufacturing building that will be converted to residential as of right, which will exceed applicable maximum floor area, height and setback regulations, contrary to Z.R. §§ 23-942, 123-64 and 23-633; and

WHEREAS, at the time of the initial filing, the premises was within an M1-2(R6)(Special Northside District, or “SND”); and

WHEREAS, initially, the applicant noted that although the SND allowed residential development, no as of right or special permit conversion option existed because the existing building was not vacant for more than two years, no residential uses existed within the building, and the lot size was over 6,000 sq. ft. in size; hence, a use variance was

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necessitated; and

WHEREAS, however, on May 11, 2005, the site was rezoned to allow for as of right conversion and the applicant revised its application to request only bulk waivers; and

WHEREAS, after the adoption of the rezoning, the applicant initially proposed a seven-story building with the following bulk parameters: a residential floor area ratio ("FAR") of 3.12; a commercial FAR of 0.28; a total FAR of 3.4; street wall heights of 41'-0" (North Seventh side) and 70'-0" (Meeker Avenue side); a total height of 80'-0"; and only one of two required setbacks; and

WHEREAS, the Board instructed the applicant to consider a building envelope with a lesser FAR and a lower height; and

WHEREAS, the applicant now proposes a building with the following bulk parameters: a residential floor area ratio ("FAR") of 2.72; a commercial FAR of 0.28; a total FAR of 3.0; street wall heights of 41'-0" (North Seventh side) and 80'-0" (Meeker Avenue side); building heights of 55'-0" (North Seventh side) and 80'-0" (Meeker Avenue side); and one setback of 15'-0" on North Seventh; and

WHEREAS, the total FAR for a mixed building is non-complying (2.51 is the maximum permitted); the total residential FAR is non-complying; the total height and wall height of 80'-0" is non-complying for a portion of the building fronting on Meeker Avenue; and the lack of a setback on Meeker Avenue is non-complying; and

WHEREAS, the premises is an L-shaped lot with frontages on North 6th Street (35.1 ft.), North 7th Street (187.6 ft.) and Meeker Avenue (200.2 ft.); and

WHEREAS, the premises has a total lot area of 22,700 sq. ft. and is developed with a one and three story building formerly occupied by a soap and candle factory but most recently used for storage; and

WHEREAS, the applicant represents that the proposed building will contain Use Group 6 retail uses on a portion of the first floor and mezzanine, and UG 2 residential uses in the remainder of the building; there will be 58 dwelling units, with 35 attended accessory parking spaces (using triple-height stackers) within an enclosed garage on the first floor; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: (1) the existing building is functionally obsolete, in that it was designed for a specialty use (candle making) that can not be readily re-adapted; and (2) the soil at the site is contaminated with elevated levels of lead, mercury and arsenic, which requires remediation; and

WHEREAS, the Board notes that the first claimed unique hardship – the alleged obsolescence of the existing buildings – could potentially be an actual hardship were the application still for a use change; however, since the residential conversion of the building is now as of right, the condition of the building is less relevant than the soil contamination; and

WHEREAS, as to the environmental contamination, the applicant represents that a Phase I analysis of the site revealed significant contaminant levels in the soil, which are the result of a long history of industrial uses on the site, including a dye factory, an insecticide factory, and a candle factory; and

WHEREAS, the applicant represents that the NYC Department of Environmental Protection (DEP) has affirmed that remediation is required prior to any development of the site; and

WHEREAS, the applicant also states that removal of the contaminated soil will require structural reinforcement of the building, including extensive underpinning, sheeting and shoring; and

WHEREAS, the applicant has submitted a letter from its environmental remediation contractor stating that the anticipated cost of remediation and structural reinforcement is approximately \$2,300,000; and

WHEREAS, accordingly, the Board finds that one of the unique conditions mentioned above – specifically, the soil contamination and structural work related to the retention of the existing building – creates practical difficulties and unnecessary hardship in developing the site in strict compliance with applicable zoning regulations; and

WHEREAS, after the rezoning, the applicant initially submitted a feasibility study analyzing the following scenarios: a 2.5 FAR as of right mixed-use commercial/residential building, and the 3.4 FAR proposal discussed above; and

WHEREAS, the applicant concluded that the as of right scenario did not result in a reasonable rate of return; and

WHEREAS, the Board questioned certain aspects of this study, including the condominium sell-out value of the proposed scenario and the construction costs of the as of right scenario; and

WHEREAS, the applicant then submitted a revised report reflecting an increase in the sell-out value and a decrease in the estimated construction costs; and

WHEREAS, this revised report also reflected a new 2.3 million dollar remediation cost, up from 2.0 million as initially presented; and

WHEREAS, at the Board's request, the applicant analyzed the proposed 3.0 FAR scenario; and

WHEREAS, the applicant concluded that this scenario would not realize a reasonable return; and

WHEREAS, however, the Board questioned the applicant's analysis of the 3.0 FAR scenario; specifically, the Board noted that the site valuation appeared to be excessive, that construction costs remained high in spite of the prior adjustment; and

WHEREAS, in light of the Board's concerns, the applicant revised its proposal to the current version, which eliminates or reduces certain of the requested waivers, while still providing sufficient floor area relief to overcome the hardship associated with the necessary environmental remediation; and

WHEREAS, based upon the above, the Board has

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determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with certain bulk provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant states that the bulk non-compliances, if approved by the Board, will not compromise the essential character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the Board was initially concerned with the total height of the building, the street wall height on North Seventh and the lack of both required setbacks, especially in light of the more restrictive height and setback regulations that exist for the portion of the building fronting on North Seventh Street beyond 100 feet from Meeker; and

WHEREAS, in response, the applicant reduced the building to six stories, brought the total height down, and reduced the FAR to a total of 3.0 by shifting bulk from the North Seventh Street side to the Meeker Avenue side; and

WHEREAS, the applicant notes that the elevated Brooklyn-Queens Expressway is immediately adjacent to the Meeker Avenue side of the site, which negates any potential height or bulk impact from this side of the proposed building; and

WHEREAS, thus, the Board finds that the proposed building envelope as modified is more contextual with buildings in the immediate area, and will not impact any adjacent uses; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board notes that the applicant has responded to its concerns and lowered the FAR from 3.4 to 3.0, the street wall height on a portion of North Seventh to 55'-0", and has provided a 15'-0" setback on North Seventh; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, in sum, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6NYCRR; 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. 05-BSA-058K, dated November 1, 2004; 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, DEP's Office of Environmental Planning and Assessment has reviewed the following submissions from the Applicant: (1) an Environmental Assessment Statement Form, dated November 1, 2004; (2) a February 2001 Phase I Environmental Site Assessment Report; and (3) a June 2, 2005 comments letter with attached SCREEN3 model analysis submitted by Lemonides Heineman Associates; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials, air quality and noise impacts; and

WHEREAS, a Restrictive Declaration was executed on May 5, 2005 and recorded on June 21, 2005 for the subject property to address hazardous materials concerns; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the Restrictive Declaration and the Applicant's agreement to the conditions noted below; 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, with conditions as stipulated below, 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 the required findings under Z.R. § 72-21, to permit, within an M1-2(R6)(Special Mixed Use MX-8) zoning district, the proposed four-story residential enlargement to an existing three-story manufacturing building proposed to be converted to residential as of right, which will deviate from applicable floor area and height regulations, contrary to Z.R. §§ 23-942, 123-64 and 23-633; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 14, 2005" – (7) sheets; and "Received November 14, 2005" – (5) sheets; *on further condition*:

THAT the parking garage shall be attended;

THAT the above condition shall be listed on the certificate of occupancy;

THAT prior to the issuance of any DOB permit for any work on the site that would result in soil disturbance (such as site preparation, grading or excavation), the applicant or any successor will perform all of the hazardous materials remedial measures and the construction health and safety measures as delineated in the Remedial Action Plan and the Construction Health and Safety Plan to the satisfaction of DEP and submit a

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written report that must be approved by DEP;

THAT no temporary or permanent Certificate of Occupancy shall be issued by DOB or accepted by the applicant or successor until the DEP shall have issued a Final Notice of Satisfaction or a Notice of No Objection indicating that the Remedial Action Plan and Health and Safety Plan has been completed to the satisfaction of DEP;

THAT the bulk parameters of the proposed building shall be as follows: a residential floor area ratio ("FAR") of 2.72; a commercial FAR of 0.28; a total FAR of 3.0; a total floor area of 66,810 sq. ft.; a street wall height of 41'-0" on the North Seventh side; a street wall height of 80'-0" on the Meeker Avenue side; building heights of 55'-0" (North Seventh side) and 80'-0" (Meeker Avenue side) and a 15'-0" setback on North Seventh;

THAT the interior layout, parking layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 15, 2005.

80-05-BZ

CEQR #05-BSA-116M

APPLICANT – The Law Office Frederick A. Becker, Esq. for H & M Holdings, LLC, owner; Nikko Spa & Health Corp. lessee.

SUBJECT – Application April 4, 2005 – under Z.R. §73-36 – Approval sought for a proposed physical cultural establishment to be located on a portion of the cellar, first floor, and second floor of a 4-story commercial building. The proposed PCE use will contain 11,600 gross square feet.

The site is located in a C6-6 Special Midtown District.

PREMISES AFFECTED – 49 West 33rd Street, northerly side of West 33rd Street 148'6" west of Broadway, Block 835, Lot 9, Manhattan

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Lyra Altman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO REOPEN HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and

Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough Commissioner, dated March 8, 2005, acting on Department of Buildings Application No. 104045819, reads:

“Proposed physical culture establishment is not permitted as of right in C6-6 zoning district. This is contrary to section 32-10 ZR”; and

WHEREAS, a public hearing was held on this application on October 18, 2005, after due notice by publication in *The City Record*, and then to decision on November 15, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 5, Manhattan, recommends approval of this application; and

WHEREAS, the New York City Fire Department has stated that it has no objection to this application; and

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit, within a C6-6 (Special Midtown) zoning district, the proposed physical culture establishment (“PCE”), to be located within an existing four-story commercial building; and

WHEREAS, the subject site is located on the northerly side of West 33rd Street, 148 ft. west of Broadway, and has a total lot area of 4,400 sq. ft.; and

WHEREAS, the subject lot is occupied by an existing four-story commercial building with 11,600 sq. ft. of floor area; and

WHEREAS, the subject PCE will occupy 8,496 sq. ft. of floor area, to be located on the cellar level and first and second floors of the subject building; and

WHEREAS, the applicant represents that the PCE has not opened yet, but will be a health spa, with facials, massage, sauna, exercise area and other spa services; and

WHEREAS, the applicant states that an automatic wet sprinkler system will be installed throughout the area occupied by the PCE, and an individually coded fire alarm system will be installed throughout the premises; and

WHEREAS, the PCE will be open 24 hours per day, seven days per week; the applicant states that such hours of operation should not create any adverse impacts given the commercial occupancy of the building and the commercial nature of the immediate area; and

WHEREAS, the applicant further represents that the proposed PCE use comports with the Special Midtown district requirements; 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

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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 proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to Z.R. §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; 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 05-BSA- 116M, dated November 3, 2005; 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; 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, 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 Z.R. §§ 73-36 and 73-03, to permit, within a C6-6 (Special Midtown) zoning district, the proposed physical culture establishment, to be located within an existing four-story commercial building; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received November 14, 2005"- (4) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years from November 15, 2005, expiring November 15, 2015;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT all massages shall be performed only by New York State licensed masseurs/masseuses;

THAT the above conditions shall appear on the

Certificate of Occupancy;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT fire safety measures, including a sprinkler system, shall be as installed and maintained on the Board-approved plans;

THAT an interior fire alarm system shall be provided as set forth on the BSA-approved plans and as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all of applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 15, 2005.

83-05-BZ

CEQR #05-BSA-118M

APPLICANT – Bryan Cave, LLP, for LuRose Realty Corp., owner.

SUBJECT – Application April 6, 2005 – under Z.R. §72-21 to allow construction of a 6-story, Use Group 3 residential health care facility in an R6 district; contrary to Z.R. §24-11, 24-382 and 24-522.

PREMISES AFFECTED – 214-218 West Houston Street and 50-56 Downing Street, Block 528, Lot 12, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Judith Gallent

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated March 10, 2005, acting on Department of Buildings Application No. 104018616, reads:

- “1. Proposed lot coverage does not comply with Z.R. 24-11 (Max. Lot Coverage). Max lot coverage permitted in a R6 is 65%. Under this application the proposed lot coverage is 77%.
2. Proposed rear yard (through lot) is contrary to Section 24-382 Z.R. (a), (b), and (c).
3. Proposed building does not comply with Section 24-522 of the zoning resolution in that the building penetrates the initial setback distance.”; and

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WHEREAS, a public hearing was held on this application on September 27, 2005 after due notice by publication in The City Record, with a continued hearing on November 1, 2005, and then to decision on November 15, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin; and

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, Council Member Gerson, and representatives from the New York State Department of Health, Greenwich House, St. Vincent's Hospital and Medical Center, Continuing Care – NYU Medical Center, The Greenwich Village–Chelsea Chamber of Commerce, The Caring Community, and Visiting Neighbors, recommend approval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the construction of a six-story, 100-bed, Use Group 3 residential health care facility in an R6 zoning district, which does not comply with applicable district requirements for lot coverage, rear yard, and setback, contrary to Z.R. §§ 24-11, 24-382, and 24-522; and

WHEREAS, the applicant notes that concurrent with filing this application with the Board, it is also filing for a special permit with the City Planning Commission to increase the allowable floor area ratio ("FAR") from 2.43 to 4.8; and

WHEREAS, this application is brought on behalf of Village Care of New York, a not-for-profit entity (hereinafter, the "Nursing Home"); and

WHEREAS, the site's shape consists of two adjoining trapezoids that meet on an angle; and

WHEREAS, because of the shape of the site, the site consists of a through lot and two interior lots with frontage on West Houston and Downing streets between Varick Street and Bedford Street; and

WHEREAS, the through lot portion of the lot is 154'-0" in length from East Houston Street to Downing Street; and

WHEREAS, the subject site has a total lot area of 11,253 sq. ft., and is currently improved upon with a one-story parking garage; and

WHEREAS, the site is the subject of two prior BSA applications: in 1934, the Board approved an application for a variance to permit the erection and maintenance of a garage for the storage of 15 motor vehicles in a business district; and in 1943, the Board permitted truck storage on the site for a term of five years, which was most recently extended in 1968 for a term of ten years; and

WHEREAS, the applicant proposes to demolish the parking garage and construct an approximately 45,000 sq. ft. U.G. 3 nursing facility; and

WHEREAS, construction of the building as currently proposed will result in the following non-compliances: lot coverage of 77% (65% is the maximum permitted); no rear yard (a rear yard equivalent is required on the through lot portion); and a wall height of approximately 75'-0" with no setback on either West Houston or Downing Streets (a

setback is required above a height of 60'-0"); and

WHEREAS, the proposed site plan includes a 1,630 s.f. landscaped courtyard located on the eastern side of the building in lieu of the rear yard equivalent; and

WHEREAS, the applicant proposes that each floor have an "open plan" configuration so that the Nursing Home has less of an institutional and more of a domestic feel, instead of the more typical compartmentalized plan in which rooms are arranged along a double-loaded corridor; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: (1) the lot has an irregular shape; (2) the through lot portion of the lot is shallow; and (3) a complying building would not meet the programmatic needs of the Nursing Home; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Nursing Home which are driven by New York State Department of Health regulations: (1) minimum room size of 125 s.f.; (2) inclusion of private bathrooms in each bedroom; (3) wheelchair access with a 5'-0" turning radius on one side of the bed and in the bathrooms; (4) unobstructed access to furniture and equipment for wheelchair residents; (5) dedicated activity and recreational space; (6) 15'-0" floor-to-floor ceiling heights for the ground floor and 12'-0" floor-to-floor ceiling heights on the five resident floors; (7) a minimum of three feet from bed to heating/cooling unit; and (8) a wardrobe or closet with minimum inside dimensions of 3'-0" by 1'-10"; and

WHEREAS, the applicant represents that if it were to construct a complying building, the building would rise to a height of eight stories with a partial ninth floor and would be located in the center of the zoning lot so as to comply with the rear yard equivalent and setback requirements; and

WHEREAS, the applicant states that to meet its programmatic needs, it requires a floor plate between 9,100 and 9,340 s.f.; a complying building would have a floor plates approximately 1,850 s.f. to 3,090 s.f. less than this requirement; and

WHEREAS, the applicant further represents that a higher building with less units per floor would be inefficient due to the staffing needs and other services shared amongst the residents; specifically, staff coverage would be compromised due to an increased need to travel from floor to floor; and

WHEREAS, the applicant also states that the complying floor plan configuration would leave no room for spaces to support clinical functions including documentation, occupational and recreational therapy and equipment storage for respiratory or infusion care; and

WHEREAS, specifically, the applicant represents that if it were required to comply with applicable setback requirements, the floor plates at floors above 60'-0" in height would be less than 69'-0" deep on the eastern side and 52'-0" deep on the western side; such floor plates would not be able to accommodate appropriately-sized resident rooms, toilets and a therapeutic bathing room, as required by State

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regulations; and

WHEREAS, the applicant further states that if it were to comply with the setback requirements it would not be able to construct its “open” plan living spaces and would have to significantly reduce the size of the courtyard; and

WHEREAS, the applicant states that if it were required to comply with the applicable rear yard requirement, the layout of the facility would have to be divided between two separate buildings; such configuration would be economically infeasible and inefficient because services shared by residents within both sections would be duplicated; and

WHEREAS, the applicant further represents that if it were to provide a rear yard equivalent along the side lot lines, it could not feasibly construct a building because of the narrow width of the lot, ranging from 60’-0” to 75’-0”;

WHEREAS, finally, the applicant states it would be infeasible to place the rear yard equivalent along West Houston Street and Downing Street because the building would have a compromised floor plate; and

WHEREAS, the Board agrees that, based upon the submitted evidence, the proposed building is necessary in order to meet the programmatic needs of the Nursing Home; and

WHEREAS, therefore, the Board finds that the cited unique physical conditions, when considered in conjunction with the programmatic needs of the Nursing Home, create practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board finds that the applicant need not address Z.R. § 72-21(b) since the applicant is a not-for-profit organization and the enlargement will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed building is contextual and would fill in the gap in the existing street walls on either side of the site left by the parking garage; and

WHEREAS, the applicant represents that the area to the east of the site on Sixth Avenue is characterized by five- to seven-story residential buildings, and to the west of the site along Varick Street, by six- to 16-story loft commercial buildings; and

WHEREAS, the applicant further represents that on the West Houston Street frontage, the site is located between a five-story loft building converted to residential use to the east and a three-story residential building to the west; and

WHEREAS, the applicant states that on the Downing Street frontage, the subject lot is located between a one-story commercial building to the west and a five-story residential building to the east; and

WHEREAS, the applicant further states that across from the subject lot on the Downing Street side is a nine-story residential building set back 20’-0” from the street; and

WHEREAS, the community expressed concerns related to the impact of the proposed building on light and air for the residents of Downing Street; and

WHEREAS, in response, the applicant states that by

aligning the resident rooms along Downing Street and West Houston Street and including a landscaped courtyard on the building’s eastern side, the building will create open space along the centerline of the block; and

WHEREAS, the applicant further states that it will provide the required 30’-0” rear yard for the interior portions of the zoning lot, and will use light-colored, reflective material on the walls of the building surrounding the courtyard to increase the amount of light that reaches the courtyard; and

WHEREAS, in addition, the applicant conducted a shadow study that shows that the proposed building has a limited shadow impact on the already dense, heavily-shadowed surrounding blocks; and

WHEREAS, the applicant further represents that the study shows that the building most impacted will be the building to the north of the site, but such impact is minimal; and

WHEREAS, the applicant also conducted a shadow study of an as-of right building, which shows that such a building would provide less daylight to adjoining open spaces and windows than the proposed building; and

WHEREAS, residents of Downing Street expressed concern at hearing as to the location of loading berths and entrances to the facility, and the potential impact on the residential nature of Downing Street; and

WHEREAS, the applicant represents that: (1) the service entrance for the building and a loading dock and curb cut similar to the existing garage access will be located on the West Houston Street side of the building; (2) parking regulations will not be changed on Downing Street; (3) there will be no curb cut on Downing Street; and (4) the main entrance will be located on West Houston Street and there will only be an exit on Downing Street; and

WHEREAS, in response to Board questions about the impact of the proposed building on traffic and parking in the neighborhood, the applicant provided the Board with an analysis showing a minimal impact on traffic and parking; and

WHEREAS, the traffic study also stated that at peak hours, the proposed use will have less traffic trips than the current use; and

WHEREAS, the Board asked the applicant to address the proposed canopy on Downing Street after several community members requested that it be removed because it would attract visitors to enter from Downing Street; and

WHEREAS the applicant represents that the canopy was included in response to comments from the Department of City Planning (DCP) in connection with the applicant’s special permit application, but the applicant is willing to remove the canopy if DCP does not object; and

WHEREAS, the Board notes that the proposed treatment of the building and its façade on Downing Street will enhance the streetscape and elevation on Downing Street, even without inclusion of the canopy; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding

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neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the Nursing Home relief; and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 05-BSA-118M dated May 20, 2005; 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, the Department of Environmental Protection's (DEP) Office of Environmental Planning and Assessment has reviewed the following submissions from the Applicant: (1) an Environmental Assessment Statement dated May 20, 2005; (2) a revised Phase II Investigation Workplan dated August 12, 2005; (3) and a July, 2005 Health and Safety Plan.

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials; and

WHEREAS, a Restrictive Declaration was executed on September 26, 2005 and recorded on October 11, 2005 for the subject property to address hazardous materials concerns; 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 the required findings under Z.R. § 72-21, to permit the construction of a six-story, 100-bed, Use Group 3 residential health care facility in an R6 zoning district, which does not comply with applicable district requirements for lot coverage, rear yard, and setback, contrary to Z.R. §§ 24-11, 24-382, and 24-522; 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 October 14, 2005 – eight (8) sheets; and on further condition:

THAT the increase in bulk for the proposed building is subject to the issuance of a special permit by the City Planning Commission; accordingly, no building permit shall be issued for construction of the building approved herein until such special permit is obtained;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 15, 2005.

84-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Exxon Mobil Corp., owner.

SUBJECT – Application April 6, 2005 - under Z.R. §73-211 to authorize the redevelopment of an existing gasoline service station with an accessory convenience store located in an R5/C2-2 zoning district.

PREMISES AFFECTED - 165-15 Hillside Avenue, northeast corner of 165th Street, Block 9837, Lot 10, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

Adopted by the Board of Standards and Appeals, November 15, 2005.

98-05-BZ

CEQR #05-BSA-122M

APPLICANT – Friedman & Gotbaum, LLP, for dac bon, LLC, contract vendee.

SUBJECT – Zoning Variance application filed on April 22, 2005 – under Z.R. §72-21 – to construct a 12-story residential building with ground floor retail in an M1-5B district, contrary to Z.R. §42-00 and Z.R. §42-14(D)(2)(b) and Z.R. §43-43.

PREMISES AFFECTED – 46-48 Bond Street, premises located on the north side of Bond Street between Lafayette Street and The Bowery, Block 530, Lot 44 and 32, Borough of Manhattan.

COMMUNITY BOARD #2M

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APPEARANCES –

For Applicant: Lori Cuisinier.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated October 21, 2005, acting on Department of Buildings Application No. 104079943, reads:

- “1. The proposed 11-story building containing residential use (UG2) in an M1-5B zoning district is not permitted as of right and is contrary to ZR 42-10.
2. The proposed commercial use (UG 6) below the level of the 2nd floor in an M1-5B zoning district is not permitted pursuant to ZR 42-14(D)(2)(b).
3. The proposed building does not comply with ZR 43-43 (proposed building violates requirements for maximum height & setback of front wall).”; and

WHEREAS, a public hearing was held on this application on November 27, 2005 after due notice by publication in the *City Record*, with a continued hearing on November 1, 2005, and then to decision on November 15, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chair Srinivasan, Vice Chair Babbar and Commissioner Chin; and

WHEREAS, Community Board 2, Manhattan, recommends approval of this application with certain conditions, discussed below; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an M1-5B zoning district, the proposed development of an 11-story mixed-use building with residential uses and retail uses below the level of the second story, which does not comply with the zoning requirements for use, height and setback, contrary to Z.R. §§ 42-10, 42-14(D)(2)(B) and 43-43; and

WHEREAS, the premises includes Lots 31 and 44, and has frontage on Bond Street and Great Jones Street between Lafayette Street and the Bowery; and

WHEREAS, Lot 31 is developed with a one-story plus basement building and houses the Great Jones Lumber Yard; and

WHEREAS, Lot 44 is vacant and currently used for material storage and parking by the Lumber Yard; and

WHEREAS, the applicant represents that Lot 44 was utilized as a parking lot since 1969, and prior to that it was used by a hat manufacturer; and

WHEREAS, Lot 44 and Lot 31 were merged to create a single zoning lot in 1991; and

WHEREAS, the zoning lot has a total lot area of 8,047 s.f.; and

WHEREAS, Lot 31 has a lot area of 2,470 s.f. and a width of 27'-0"; and

WHEREAS, the development site (Lot 44) has a lot area of 5,347 s.f. with a frontage of 53'-3" bordering on Bond Street, and a depth of 93'-0"; and

WHEREAS, the proposed building will have the following bulk parameters: a residential floor area ratio ("FAR") of 4.32; 34,732 sq. ft. of residential floor area; a commercial FAR of 0.35; 2,803 sq. ft. of commercial use on the ground floor; a total FAR of 4.67; a total floor area of 37,535 sq. ft.;

WHEREAS, the new building and the existing commercial building on Lot 31 will result in a total F.A.R. of 5.0 over the site; and

WHEREAS, the proposed building will also have a street wall height of 87'-0"; a setback of 15'-0"; and a total height of 120'-0"; and

WHEREAS, initially, the applicant proposed a street wall height of 85'-0"; a setback of 20'-0"; and a total height of 129'-0", but reduced the size in response to Board concerns; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformance and compliance with underlying district regulations: (1) the zoning lot is narrow with widths of 27'-0" on Great Jones Street and 53'-3" on Bond Street; (2) the floor plates are constrained and are inefficient and inadequate for conforming uses; and (3) even with smaller floor plates, the surrounding built-up condition compromises light and air with requisite rear yards; and

WHEREAS, the Board observes that the surrounding area has similarly-sized, lots ranging in size from 5,000 to 10,000 s.f.; however, most are developed with five to six story loft buildings that are occupied by commercial uses or joint living/work quarters; and

WHEREAS, the Board further observes that within a 400-ft. radius of the site, particularly along Great Jones Street, there are few remaining vacant or underbuilt lots; in addition, the lots that are vacant or underbuilt are different in size and shape from the subject lot; and

WHEREAS, in addition to size of the lot, the applicant represents that if it were to construct a conforming commercial development, it would not have an adequate floor plate for commercial uses because of a combination of the site's narrowness and the rear yard requirement; and

WHEREAS, the applicant also states that of the five buildings surrounding the site, four are overbuilt and rise seven stories; in addition, none of the surrounding buildings provide rear yards; and

WHEREAS, the applicant concludes that if it constructed a commercial building with no rear yard to achieve a larger floor plate, the building would still have less rentable space than other commercial buildings because certain of the units would not have adequate access to light and air due to the non-complying heights of the surrounding buildings and the absence of rear yards in the surrounding lots; and

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WHEREAS, therefore, the Board finds that the unique conditions cite by the applicant, as well as the condition noted by the Board, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict conformance with applicable zoning regulations; and

WHEREAS, the applicant initially submitted a feasibility study analyzing the following scenarios: a 5.0 FAR as of right office use, a 5.0 FAR as of right hotel use, and a non-conforming 5.0 FAR residential/retail use; and

WHEREAS, the applicant concluded that neither of the as of right scenarios resulted in a reasonable rate of return; and

WHEREAS, the Board noted, however, that the applicant's feasibility study did not analyze the full value of the zoning lot, as it did not include the economic impact of the lumber yard located on Lot 31 and the development rights available on that lot; and

WHEREAS, accordingly, the applicant revised its feasibility study to account for the value of Lot 31 and determined that the value of the commercial uses on the lot increased the overall return slightly, but ultimately concluded that the conforming scenarios were still not financially viable; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance and conformance with the applicable zoning provisions will provide a reasonable return; and

WHEREAS, the applicant represents that the site is located on a block that includes a wide range of commercial and manufacturing uses with residential loft dwellings occupying the upper floors of the numerous six- to seven-story buildings; and

WHEREAS, the applicant has submitted a land-use map that indicates that Lot 44 is adjacent to two seven-story buildings on either side, and a portion of Lot 44 is adjacent to a seven-story building to the rear; and

WHEREAS, the applicant represents that the street wall height of the proposed building will match the street walls of the neighboring buildings; and

WHEREAS, the Board notes that initially it was concerned with the total height of the building as other buildings in the area generally did not rise above 120'-0"; and

WHEREAS, in response, the applicant lowered its floor-to-ceiling heights from 12'-0" to 11'-0", and lowered the total height of the building to 120'-0"; and

WHEREAS, the applicant represents that it will provide a 30'-0" by 53'-0" garden/recreational area along the entire rear of the building above the first floor roof top level; and

WHEREAS, although the Community Board supports the proposal, they requested that: all units will be 1,200 s.f.; a U.G. 6 eating and drinking establishment may occupy the first floor but that there will be no entertainment or live music or dancing in the establishment; adequate soundproofing will be provided for the eating and drinking establishment; and there shall be a 9'-0" reduction from the initial height of 129'-0"

proposed by the applicant; and

WHEREAS, the NoHo Neighborhood Association expressed similar concerns; and

WHEREAS, the Board notes that the applicant has since lowered its proposed total height by 9'-0"; in addition, the Board has included as conditions to this grant a limitation on the uses of the ground floor; and

WHEREAS, the applicant notes that because floors 2 and 9-11 have small floor plates it would be difficult to ensure that each unit had a minimum of 1200 s.f.; and

WHEREAS, the Board recognizes the applicant's constraints, and suggests that instead it provide no more than two units per floor with a minimum of 1000 s.f. per unit; the applicant agreed to such modifications; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, therefore, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05BSA122M, dated April 22, 2005; 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, DEP's Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection has reviewed the following submissions from the Applicant: (1) an Environmental Assessment Statement dated April 22, 2005 and (2) a September, 2004 Phase I Environmental Site Assessment Report,

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials impacts and

WHEREAS, a Restriction Declaration was executed on August 31, 2005 and recorded on September 2, 2005 for the subject property to address hazardous materials concerns; and

WHEREAS, the applicant agrees as a condition to the

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grant herein that a written remediation schedule setting forth all remediation proposals and the estimated start and completion dates shall be submitted to DEP (with a copy to the BSA) prior to commencement of any remediation work; and

WHEREAS, the applicant agrees as a further condition to the grant herein that, upon completion of all remedial actions, a final written report should be prepared and signed by American Environmental Solutions, and provided to DEP (with a copy to the BSA) for review and approval; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal so long as the remediation proposals are implemented and completed; 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.

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, with conditions as stipulated below, 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 the required findings under Z.R. §72-21, to permit, within an M1-5B zoning district, the proposed development of an 11-story mixed-use building with residential uses and retail uses below the level of the second story, which does not comply with the zoning requirements for use, height and setback, contrary to Z.R. §§ 42-10, 42-14(D)(2)(B) and 43-43; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 18, 2005" – four (4) sheets and "Received November 2, 2005" – three (3) sheets; and *on further condition*:

THAT the proposed building will have the following bulk parameters: a residential FAR of 4.32; 34,732 sq. ft. of residential floor area; a commercial FAR of 0.35; 2,803 sq. ft. of commercial use on the ground floor; a total FAR of 4.67; a total floor area of 37,535 sq. ft.;

THAT the proposed building on Lot 44 shall have a street wall height of 87'-0"; a setback of 15'-0"; and a total height of 120'-0";

THAT the total FAR on the zoning lot shall be 5.0, with a total residential FAR of 4.32 and a total commercial FAR of 0.68;

THAT each floor shall have no more than two units with a minimum unit size of 1,000 s.f.;

THAT there shall be a maximum of 20 units;

THAT the first floor may be occupied by a U.G. 6

eating and drinking establishment but there shall be no entertainment or live music or dancing in the establishment;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT the interior layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 15, 2005.

207-05-BZ

APPLICANT – Eric Palatnik, P.C., for Aaron and Lisa Heskins, owner.

SUBJECT – Application September 19, 2005 – under Z.R. §73-622 to legalize the existing enlargement to a single family, semi-detached home which seeks to vary Z.R. §23-141 for floor area and lot coverage and Z.R. §23-461 for side yard and Z.R. §23-47 for less than the minimum rear yard. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 407 Allen Avenue, between Knapp and Plumb 1st Streets, Block 8830, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated August 9, 2005, acting on Department of Buildings Application No. 301990709, reads:

"Obtain approval from the Board of Standards and Appeals for the following objections:

Proposed floor area contrary to ZR 23-141.

Proposed lot coverage is contrary to ZR 23-141.

Proposed side yard is contrary to ZR 23-461.

Proposed rear yard is contrary to ZR 23-47."; and

WHEREAS, a public hearing was held on this application on November 1, 2005 after due notice by publication in *The City Record*, and then to decision on November 15, 2005; and

WHEREAS, the premises and surrounding area had a

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site and neighborhood examination by a committee of the Board; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to legalize, in an R4 zoning district, the enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area, lot coverage, side yard, and rear yard, contrary to Z.R. §§ 23-141(a), 23-461 and 23-47; and

WHEREAS, the subject lot is located on Allen Avenue between Knapp Street and Plumb 1st Street; and

WHEREAS, the subject lot has a total lot area of 1,772 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks an increase in the floor area from 937.8 sq. ft. (0.53 Floor Area Ratio or "FAR") to 1,564.1 sq. ft. (0.88 FAR); the maximum floor area permitted is 1,328.6 sq. ft. (0.75 FAR); and

WHEREAS, the enlargement will increase lot coverage from 31% to 50%; the maximum lot coverage is 45%; and

WHEREAS, the enlargement will reduce the rear yard from 46'-5 3/4" to 26'-9 7/8"; the minimum rear yard required is 30'-0"; and

WHEREAS, the enlargement at the rear of the existing building will extend the non-complying side yard of 3'-9 1/2"; however, the width of the side yard will be maintained; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20'-0" of the rear lot line; and

WHEREAS, the Board finds that the enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the applicant represents that the owner began enlarging the home without the proper permits; and

WHEREAS, the Board notes that the possibility exists that construction was performed contrary to Building Code or other legal requirements and that work may have been performed by individuals without the appropriate licenses; and

WHEREAS, therefore, the Board states that its approval is solely limited to legalization of the bulk parameters of an enlarged residence as reflected on the BSA-approved plans and is not intended to extend to any work that has already been completed on the premises; such work shall be reviewed and approved by the Department of Buildings, or if necessary, removed; and

WHEREAS, the Board also notes that the proposed waivers are allowed by the special permit text and the degree of such waivers is consistent with the Board's previous grants for other premises; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the

community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to legalize, in an R4 zoning district, the enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area, lot coverage, side yard, and rear yard, contrary to Z.R. §§ 23-141(a), 23-461 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received September 30, 2005"- 5 sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth in the certificate of occupancy;

THAT the total FAR on the premises shall not exceed 0.88;

THAT all construction already completed on the premises in connection with the enlargement shall be reviewed and approved by the Department of Buildings for compliance with all Building Code and other relevant laws, rules, regulations, or requirements;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 15, 2005.

245-04-BZ

APPLICANT – Agusta & Ross, for Mark Stern, owner.

SUBJECT – Application July 6, 2004 – under Z.R. §72-21 – to permit the proposed five-story, nine unit multiple dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED – 102/04 Franklin Avenue, west side, 182' south of Park Avenue, Block 1898, Lots 45 and 46, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

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ACTION OF THE BOARD - Laid over to January 24, 2006, at 1:30 P.M., for deferred decision.

260-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Leewall Realty by Nathan Indig, owner.

SUBJECT – Application July 20, 2004 – under Z.R. §72-21 to permit the proposed construction of a four story, penthouse and cellar three-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 222 Wallabout Street, 64’ west of Lee Avenue, Block 2263, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Lyra Altman.

ACTION OF THE BOARD – Laid over to December 13, 2005, at 1:30 P.M., for continued hearing.

262-04-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Tishrey-38 LLC by Malka Silberstein, owner.

SUBJECT – Application July 22, 2004 – under Z.R. §72-21, to permit the proposed construction of a four story, penthouse and cellar four-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 218 Wallabout Street, 94’ west of Lee Avenue, Block 2263, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to November 15, 2005, at 1:30 P.M., for continued hearing.

289-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Judo Associates, Inc., lessee.

SUBJECT – Application August 18, 2004 – under Z.R. §72-21 – to permit the proposed construction of a seven story mixed-use building, to contain commercial use on the ground floor, and residential use above, located within an M1-5B zoning district, which does permit residential use, is contrary to Z.R. §42-00 and §42-14.

PREMISES AFFECTED – 341 Canal Street, southeast corner of Greene Street, Block 229, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Richard Lobel, Jack Freeman and Gene Kaufman.

For Opposition: Barry Mallin, Joel K. Simon, Isabel Swift, Barbar Sisimon, Peter Pastor, Edward Perlmutoz, Sean Sweeney and DiJames Dee.

ACTION OF THE BOARD – Laid over to January 24, 2006, at 1:30 P.M., for continued hearing.

290-04-BZ

APPLICANT – Stuart A. Klein, Esq., for Alex Lokshin – Carroll Gardens, LLC, owner.

SUBJECT – Application August 20, 2004 – under Z.R. §72-21 to permit, in an R4 zoning district, the conversion of an existing one-story warehouse building into a six-story and penthouse mixed-use residential/commercial building, which is contrary to Z.R. §§22-00, 23-141(b), 23-631(b), 23-222, 25-23, 23-45, and 23-462(a).

PREMISES AFFECTED – 341-349 Troy Avenue (a/k/a 1515 Carroll Street), Northeast corner of intersection of Troy Avenue and Carroll Street, Block 1407, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #9BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to May 16, 2006, at 1:30 P.M., for continued hearing.

338-04-BZ

APPLICANT – Martyn & Don Weston, for Hi-Tech Equipment Rental Inc., owner.

SUBJECT – Application October 12, 2004 - under Z.R. §72-21 to permit the proposed construction of a one story and cellar extension to an as-of-right six story hotel, and to permit on grade accessory parking and below grade showroom/retail use, in an R5 zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 806/14 Coney Island Avenue, west side, 300.75’ north of Ditmas Avenue, Block 5393, Tentative Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Don Weston, Jack Freeman and Abdul Sageer.

For Opposition: Peter Levin, Isaac Gottdiewer, Lisa L. Gokhulsingh, Moshe Sochez, William Sheehan and other.

ACTION OF THE BOARD – Laid over to January 10, 2006, at 1:30 P.M., for continued hearing.

344-04-BZ

APPLICANT – Alfonso Duarte, for NWRE 202 Corp., owner.

SUBJECT – Application October 20, 2004 – under Z.R. §72-21 – proposed use of an open lot for the sale of new and used automobiles, located in a C2-2 within an R3-2 zoning district, is contrary to Z.R. §32-25.

PREMISES AFFECTED – 202-01 Northern Boulevard, northeast corner of 202nd Street, Block 6263, Lot 29, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Alfonso Duarte.

ACTION OF THE BOARD – Laid over to December 13, 2005, at 1:30 P.M., for continued hearing.

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360-04-BZ

APPLICANT – Marcus Marino Architects, for Walter Stojanowski, owner.

SUBJECT – Application November 16, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing one family dwelling, located in an R3X zoning district, which does not comply with the zoning requirements for side yards and lot width, is contrary to Z.R. §§107-42 and 107-462.

PREMISES AFFECTED - 38 Zephyr Avenue, south side, 75.18” north of Bertram Avenue, Block 6452, Lot 4, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Marcus Marino.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to December 6, 2005, at 1:30 P.M., for decision, hearing closed.

361-04-BZ

APPLICANT – Eric Palatnik, P.C. for Parsons Estates, LLC, owners.

SUBJECT – Application November 17, 2004 – under Z.R. §72-21 – to permit a proposed three-story residential building in an R4 district which does not comply with the zoning requirements for floor area, wall height, sky exposure plane, open space, lot coverage and the number of dwelling units; contrary to Z.R. §23-141c, 23-631 and 23-22.

PREMISES AFFECTED – 75-48 Parsons Boulevard, 168.40’ north of 75th road, at the intersection of 76th Avenue; Block 6810, Lot 44, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Eric Palatnik and Robert Pauls.

ACTION OF THE BOARD – Laid over to January 10, 2006, at 1:30 P.M., for continued hearing.

386-04-BZ

APPLICANT – Rothkrug, Rothkrug, Weinberg & Spector, for PSCH, Inc., owner.

SUBJECT – Application November 9, 2004 – under Z.R. §72-21 to permit the proposed enlargement and development of an existing community facility, located in M1-1 zoning district, which does not comply with the zoning requirements for accessory off-street loading berth, waterfront yards, total height and parking, is contrary to Z.R. §44-52, §62-331, §62-34, §62-441 and §44-21.

PREMISES AFFECTED – 22-44 119th Street, corner of 23rd Avenue, Block 4194, Lot 20, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik and Hiram Rothkrug.

For Opposition: Gary Hisiger and Allison Hsaney.

ACTION OF THE BOARD - Laid over to January 10, 2006, at 10 A.M., for decision, hearing closed.

38-05-BZ

APPLICANT – Eric Palatnik, P.C., for John Genovese, contract vendee.

SUBJECT – Application April 8, 2005 – under Z.R. §72-21 to reduce the number of required accessory parking spaces pursuant to Z.R. §36-21 (38 required, 26 proposed) and to eliminate the required loading berth pursuant to Z.R. §36-62 for a new Use Group 6 drug store (Walgreen’s) located within an R4/C1-2 district.

PREMISES AFFECTED – 80-01 Eliot Avenue, bound by 80th Street, Eliot Avenue, Caldwell Avenue and 81st Street, Block 2921, Lot 40, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over January 24, 2006, at 1:30 P.M., for continued hearing.

42-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Power Test Realty Company, LP, owner.

SUBJECT – Application February 24, 2005 - under Z.R. §11-411 of the zoning resolution, to request an extension of term of the previously granted variance, which permitted the maintenance of a gasoline service station with accessory uses located in a R3-2 zoning district. The grant expired on April 26, 2004.

PREMISES AFFECTED – 1982 Bronxdale Avenue, east side of the intersection of Neill and Bronxdale Avenues, Block 4261, Lot 60, Borough of The Bronx.

COMMUNITY BOARD #11BX

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to December 13, 2005, at 1:30 P.M., for decision, hearing closed.

52-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Coptic Orthodox Church of St. George, owner.

SUBJECT – Application March 4, 2005 - under Z.R. §72-21 Proposed development of a six-story and cellar building, with community use on floors one through three, residential use on floors three through six, and with parking in the cellar, located in a C1-2 within an R5 zoning district.

PREMISES AFFECTED - 6209 11th Avenue, northeast corner of 63rd Street, Block 5731, Lot 2, Borough of Brooklyn.

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COMMUNITY BOARD #10BK

APPEARANCES –

For Applicant: Richard Lobel, Fr. Armia Toufiles and Atman Monkos.

ACTION OF THE BOARD – Laid over to January 24, 2006, at 1:30 P.M., for continued hearing.

122-05-BZ

APPLICANT - Bryan Cave, LLP (Margery Perlmutter, Esq.), for Clinton Court Development, LLC, Owner.

SUBJECT - Application filed on May 20, 2005 under ZR§73-52 (Modification for Zoning Lots Divided by District Boundaries) to facilitate the development of a 13-story residential building containing 30 dwelling units, community facility space, and 41 accessory parking spaces; zoning lot located in an R6 and M1-1 district.

PREMISES AFFECTED - 525 Clinton Avenue, east side, 205.83' south of Fulton Street and 230.83' north of Atlantic Avenue, Block 2011, Lot 12, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Margery Perlmutter and Simon Fouladiani.
For Opposition: Council Member Lethia James, Phillip Kellog and Jim Barnes Clinton and Hill Sociez.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3
Negative:.....0

ACTION OF THE BOARD - Laid over to December 6, 2005, at 1:30 P.M., for decision, hearing closed.

156-05-BZ

APPLICANT - Charles Rizzo and Associates (CR&A) for Carmine Partners LLC, owner.

SUBJECT – Application July 5, 2005 - under Z.R. §72-21 to allow a proposed six-story residential building with ground floor retail containing four (4) dwelling units in a C2-6 Zoning District; contrary to ZR §23-145, §23-22, §35-24, and §35-31.

PREMISES AFFECTED – 1 Seventh Avenue South, Block 582, Lot 43, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Stephen Rizzo, Jonathan Marvel, Paul Reimer and Robert Pauls.

ACTION OF THE BOARD – Laid over to December 13, 2005, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 7:00 P.M.

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December 1, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JOEL A. MIELE, SR.

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Tuesday, November 29, 2005**

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523-58-BZ	117-30/48 Farmers Boulevard, Queens
723-84-BZ	241-02 Northern Boulevard, Queens
436-53-BZ	141-50 Union Turnpike, Queens
926-86-BZ	217-07 Northern Boulevard, Queens
143-05-A	47-05 Bell Boulevard, Queens
116-05-BZY	22-08 43 rd Avenue, Queens
117-05-BZY	43-05 222 nd Street, Queens

Afternoon Calendar815

Affecting Calendar Numbers:

3-04-BZ	147-08 46 th Avenue, Queens
234-04-BZ	255 McKibbin Street, Brooklyn
357-04-BZ	707 Cross Bay Boulevard, Queens
358-04-BZ	728 Cross Bay Boulevard, Queens
27-05-BZ	91-11 Roosevelt Avenue, Queens
118-05-BZ	2072 Ocean Parkway, Brooklyn
269-04-BZ	37 Bridge Street, Brooklyn
375-04-BZ	1527, 1529 and 1533 60 th Street, Brooklyn
380-04-BZ	32-12 23 rd Street, Queens
382-04-BZ	2026 Avenue "T", Brooklyn
396-04-BZ	180 West Broadway, Manhattan
399-04-BZ	425/27 Broome Street, Manhattan
5-05-BZ	59-25 Fresh Meadow Lane, Queens
48-05-BZ	469 West Street, Manhattan
77-05-BZ	132 West 26 th Street, Manhattan
99-05-BZ	39 Downing Street, Manhattan
102-05-BZ	259 Vermont Street, Brooklyn
119-05-BZ	834 Sterling Place, Brooklyn

DOCKETS

New Case Filed Up to November 29, 2005

330-05-BZ B. S.I 350 New Drop Lane,
located on the South side of New Drop Lane, 260' East of
the corner formed by the intersection of New Drop Lane &
Clawson Street, Block 4221, Lot 53, Borough of Staten
Island, Application # 500809084. To allow for the operation
for a PCE and to enlarge its existing cellar to part of the said
establishment in §73-36.

COMMUNITY BOARD # 2S.I

331-05-A B. Q 15-59 Clintonville Street
a/k/a 15-45 153rd Place, East side of Clintonville Street in
bed of mapped 153rd Place, Block 4722, Lot 19 (tent),
Borough of Queens, Application # 402071048. To permit
construction of a dwelling in a bed of a privately owned
mapped Street (153rd Place)

COMMUNITY BOARD # 7Q

332-05-A B. S.I 72 Summit Avenue, In
the bed of Enfield Place, 191.36 West of Summit Avenue,
Block 951, Lot 25 (tent 19), Borough of Staten Island,
Application # 500779357. To permit construction of two
one-family dwellings in the bed of a final mapped Street
(Enfield Place) contrary to GCL 35.

COMMUNITY BOARD # 2S.I

333-05-A B. S.I 74 Summit Avenue, In
the bed of Enfield Place, 191.36 West of Summit Avenue,
Block 951, Lot 27 (tent 19), Borough of Staten Island,
Application # 500779366. To permit construction of two
one-family dwellings in the bed of a final mapped Street
(Enfield Place) contrary to GCL 35.

COMMUNITY BOARD # 2 S.I

DESIGNATIONS: D-Department of Buildings; B.BK.-
Department of Buildings, Brooklyn; B.M.-Department of
Buildings, Manhattan; B.Q.-Department of Buildings,
Queens; B.S.I.-Department of Buildings, Staten Island;
B.BX.-Department of Building, The Bronx; H.D.-Health
Department; F.D.-Fire Department.

CALENDAR

JANUARY 24, 2006, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, January 24, 2006, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

469-64-BZ

APPLICANT – Charles Washington, for Heinz Vieluf, owner.

SUBJECT – Application August 19, 2005 - Amendment to a Variance Z.R. §72-21 to propose a second floor office addition in conjunction with existing first floor of food processing plant operation. The premise is located in a C2-4 in an R6 zoning district. The second floor enlargement is fully within the C2-4 portion of the lot.

PREMISES AFFECTED – 630-634 St. Ann's Avenue, north east corner of Westchester Avenue at St. Ann's Avenue, Block 2617, Lot 1, Borough of The Bronx.

COMMUNITY BOARD #8BX

855-87-BZ

APPLICANT – Glen V. Cutrona, AIA, for Michael Beck, owner; Mueller Distributing, lessee.

SUBJECT – Extension of Term of a Variance for an existing (UG16) warehouse with (UG6) office space on the mezzanine level. The term of variance expired on November 23, 2003. The premise is located in an R3A zoning district. **PREMISES AFFECTED** – 15 Irving Place, Block 639, Lot 10, Borough of Staten Island.

COMMUNITY BOARD #1SI

4-95-BZ

APPLICANT – Harry Meltzer, R.A., for 21 Hillside LLC/Allan Goldman, owner.

SUBJECT – Application June 27, 2005 - Pursuant to ZR §11-411 for the extension of term of a Use Group 8public parking lot for 48 cars. The premise is located in an R7-2 zoning district.

PREMISES AFFECTED – 21/23 Hillside Avenue, south side of Hillside Avenue, 252'-2" east of Broadway, Block 2170, Lot 110, Borough of Manhattan.

COMMUNITY BOARD #12M

APPEALS CALENDAR

174-05-A

APPLICANT – Norman Siegel on behalf of Neighbors Against N.O.I.S.E.,

GVA Williams for (Hudson Telegraph Associates, LP) owners; Multiple lessees.

SUBJECT – Application July 29, 2005 – Neighbors against N.O.I.S.E. is appealing the New York City Department of Buildings approval of a conditional variance of the New York City Administrative Code §27-829(b) (1) requirements for fuel oil storage at 60 Hudson Street .

PREMISES AFFECTED – 60 Hudson Street, between Worth & Thomas Streets, Block 144, Lot 40, Borough of Manhattan.

COMMUNITY BOARD #1M

JANUARY 24, 2006, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, January 24, 2006, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

351-04-BZ

APPLICANT - The Agusta Group, for Stahva Realty, owner.

SUBJECT – Application November 1, 2004 - under Z.R. §73-44 – to allow parking reduction for proposed enlargement of existing office building located in an R6B/C2-2.

PREMISES AFFECTED - 210-08/12 Northern Boulevard, thru lot between Northern Boulevard and 45th Road, 150' east of 211th Street, Block 7309, Lots 21 and 23 (Tentative Lot 21), Borough of Queens.

COMMUNITY BOARD #11Q

108-05-BZ

APPLICANT – Rothkrug Rothkrug, Weinberg & Spector, for Avi Mansher, owner.

SUBJECT – Application May 11, 2005 - under Z.R. §72-21 to permit the construction of a one-family semi attached dwelling that does not provide the required front yard, contrary to section 23-462 of the zoning resolution. The site is located in an R3-2 zoning district. The subject site is Tax Lot #74, the companion case, 109-05-BZ is Tax Lot #76 on the same zoning lot.

PREMISES AFFECTED – 224-22 Prospect Court, northwest corner of Prospect Court and 225th Street, Block 13071, Lot 13, Borough of Queens.

COMMUNITY BOARD #13Q

CALENDAR

109-05-BZ

APPLICANT - Rothkrug Rothkrug, Weinberg & Spector, for Avi Mansher, owner.

SUBJECT – Application May 11, 2005 - under Z.R. §72-21 to permit the construction of a one-family semi attached dwelling that does not provide the required front yard, contrary to section 23-462 of the zoning resolution. The site is located in an R3-2 zoning district. The subject site is Tax Lot #76, the companion case, 108-05-BZ is Tax Lot #74 on the same zoning lot.

PREMISES AFFECTED – 224-26 Prospect Court, northwest corner of Prospect Court and 225th Street, Block 13071, Lot 76, Borough of Queens.

COMMUNITY BOARD #13Q

124-05-BZ

APPLICANT – Greenberg Traurig LLP/Deirdre A. Carson, Esq., for Red Brick Canal, LLC, Contract Vendee.

SUBJECT – Application May 20, 2005 – under Z.R. §72-21 to allow proposed 11-story residential building with ground floor retail located in a C6-2A district; contrary to ZR §35-00, 23-145, 35-52, 23-82, 13-143, 35-24, & 13-142(a).

PREMISES AFFECTED – 482 Greenwich Street, Manhattan, Block 7309, Lot 21 & 23, Borough of Manhattan.

COMMUNITY BOARD #2M

132-05-BZ

APPLICANT - Sheldon Lobel, P.C., for Sami Alboukai, owner.

SUBJECT - Application- under Z.R. §73-622 to request a special permit to allow the enlargement of a single family residence which exceeds the allowable floor area and lot coverage per ZR 23-141, a rear yard less than the minimum per ZR 23-47 and a perimeter wall height greater than the maximum per ZR23-31. The premise is located in an R3-1 zoning district.

PREMISES AFFECTED – 220 West End Avenue, west side of West End Avenue between Oriental Boulevard and Esplanade, Block 8724, Lot 158, Borough of Brooklyn.

COMMUNITY BOARD #15BK

164-04-BZ

APPLICANT – Moshe M. Friedman, P.E., for 2241 Westchester Avenue Realty Corp., owner; Gotham City Fitness LLC, lessee.

SUBJECT – Application April 22, 2004 - under Z.R. §73-36 to permit the proposed physical culture establishment,

located on the second floor of an existing two story commercial building, located in C2-6 within an R6 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 2241 Westchester Avenue, aka 2101 Glebe Avenue, Block 3963, Lot 57, Borough of The Bronx.

COMMUNITY BOARD #10BX

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, NOVEMBER 29, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, November 29, 2005, were approved as printed in the Bulletin of December 1, 2005, Volume 90, Nos. 49-50.

SPECIAL ORDER CALENDAR

212-50-BZ

APPLICANT – Vassalotti Associates Architects, LLP., Cumberland Farms, Inc., owner.

SUBJECT – Application June 29, 2005 - Pursuant to ZR §11-411 to reopen and to extend the term of the variance for an additional ten years for an existing gasoline service station. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 29-16/44 Francis Lewis Boulevard, Cross Street – 172nd Street, Block 4938, Lot 1, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a re-opening and an extension of the term of the previously granted variance pursuant to Z.R. §11-411; and

WHEREAS, a public hearing was held on this application on November 1, 2005, after due notice by publication in *The City Record*, and then to decision on November 29, 2005; and

WHEREAS, Community Board No. 7, Queens, recommends conditional approval of this application; certain of these conditions are reflected below; and

WHEREAS, the premises is located on the corner of Francis Lewis Boulevard and 172nd Street; and

WHEREAS, the site is currently located in an R2 zoning district, and is occupied by a gasoline service station with accessory uses; and

WHEREAS, the Board has exercised jurisdiction over the subject site since on December 5, 1950, when, under the subject calendar number, the Board granted an application to permit the erection of a store, auto showroom, residence and gasoline service station, for a term of 15 years; and

WHEREAS, subsequently, this grant has been amended to allow for gasoline service station as the primary use and to

allow for the separation of the residence from the site, and has been extended by the Board at various times; and

WHEREAS, the most recent extension of term was granted on December 16, 1995; and

WHEREAS, the term of the most recent extension expires on December 16, 2005; and

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term for a previously granted variance; and

WHEREAS, based upon the submitted evidence, the Board finds the requested extension of term appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens and amends* the resolution, as adopted on December 5, 1950 and as subsequently amended and extended, so that as amended this portion of the resolution shall read: “to extend the term for ten years from December 16, 2005, to expire on December 16, 2015 *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received June 29, 2005’ – (3) sheets; and *on further condition*:

THAT the term of this grant shall be for ten years, to expire on December 16, 2015;

THAT all graffiti on the site shall be removed;

THAT all landscaping shall be installed and/or maintained as shown on the BSA-approved plans

THAT the above conditions shall be listed on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived remain in effect;

THAT all signage shall comply with applicable C1 district regulations;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 402113878)

Adopted by the Board of Standards and Appeals, November 29, 2005.

523-58-BZ

APPLICANT – Walter T. Gorman, P.E., for Yehuea, LLC, owner; Farmers Mini Mart Inc., lessee.

SUBJECT – Application March 25, 2005 – Reopening for Extension of Term/Waiver for a gasoline service station with accessory uses. The premise is located an C1-2/R3-2 and R3-2 zoning district.

PREMISES AFFECTED – 117-30/48 Farmers Boulevard, southwest corner of Baisley Boulevard, Block 12448, Lot 31,

MINUTES

Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: John Ronan.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, an amendment to the previously approved plans, and an extension of the term of the previously granted variance pursuant to Z.R. §11-411; and

WHEREAS, a public hearing was held on this application on July 26, 2005, after due notice by publication in *The City Record*, laid over to September 27, 2005, November 15, 2005 and then to decision on November 29, 2005; and

WHEREAS, Community Board No. 12, Queens, recommends approval of this application; and

WHEREAS, the premises is located on the southwest corner of Baisley Boulevard and Farmers Boulevard; and

WHEREAS, the site is currently located partially within a C1-2(R3-2) zoning district and partially within an R3-2 zoning district, and is occupied by a gasoline service station; and

WHEREAS, the Board has exercised jurisdiction over the subject site since on December 11, 1923, when, under the subject calendar number, the Board granted an application to permit the erection of a gasoline service station with accessory uses for a term of 15 years; and

WHEREAS, subsequently, this grant has been amended and extended by the Board at various times; the most recent extension of term was granted on November 15, 1994; and

WHEREAS, the term of the most recent extension expired on May 7, 2004; and

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term for a previously granted variance; and

WHEREAS, the Board finds the requested extension of term appropriate; and

WHEREAS, additionally, the applicant seeks an amendment to the plans, so as to increase the size of the Baisley Boulevard curb cut furthest from Farmers Boulevard from 23'-0" in width to 41'-0", and the size of the Baisley Boulevard curb cut closed to Farmers Boulevard from 24'-0" to 30'-0"; and

WHEREAS, the applicant represents that these curb cut enlargements were made by the City as part of a roadway improvement project; and

WHEREAS, at hearing, the Board questioned the need for the curb cut closest to Baisley Avenue; and

WHEREAS, the applicant responded that the curb cut closest to Baisley is necessary, as its elimination could create site traffic congestion and resulting safety concerns for

pedestrians on the adjacent sidewalk due to vehicles being unable to enter the station because of said congestion; and

WHEREAS, the applicant also seeks approval of the following minor site amendments: removal of the curbing adjacent to the service building, and the installation of 100% opaque fencing in lieu of shrubbery at the south and southwest border of the site, as indicated on the submitted site plan; and

WHEREAS, the Board has considered the proposed changes to the approved plans and finds that they are acceptable; and

WHEREAS, based upon its review of the submitted evidence, the Board finds that the requested extension of term and site plans changes are appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens and amends* the resolution, as adopted on December 11, 1923 and as subsequently amended and extended, so that as amended this portion of the resolution shall read: "to extend the term for ten years from May 7, 2004, to expire on May 7, 2014, and to permit minor plan modifications; *on condition* that all work/site conditions shall substantially conform to drawings as filed with this application, marked 'Received October 20, 2005-(4) sheets and "November 18, 2005"-(1) sheet; and *on further condition*:

THAT the term of this grant shall be for ten years, to expire on May 7, 2014;

THAT on-site parking spaces shall be used only for vehicles waiting for service;

THAT all graffiti on the site shall be removed;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived remain in effect;

THAT all signage shall comply with applicable C1 district regulations;

THAT all interior partitions and exits shall be as approved by the Department of Buildings;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application Nos. 402221341 & 402221350)

Adopted by the Board of Standards and Appeals, November 29, 2005.

723-84-BZ

APPLICANT – Sheldon Lobel, P.C., for Alameda Project Partners, owner.

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SUBJECT – Application May 18, 2005 - Amendment of a variance ZR 72-21 of the use restriction conditioned in a prior grant to permit a gastroenterologist's office in a portion of the ground floor of the existing building. The premise is located in a R1-2 zoning district.

PREMISES AFFECTED – 241-02 Northern Boulevard, southeast corner of the intersection between Northern Boulevard and Alameda Avenue, Block 8178, Lot 1, Borough of Queens

COMMUNITY BOARD #11Q

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a re-opening and an amendment to the previously issued resolution; and

WHEREAS, a public hearing was held on this application on November 1, 2005, after due notice by publication in the *City Record*, and then to closure and decision on November 29, 2005; and

WHEREAS, Community Board No. 11, Queens, recommends approval of this application subject to certain conditions, discussed below; and

WHEREAS, on October 30, 1987, under the subject calendar number, the Board approved a variance to permit, in an R1-2 zoning district, the construction of a 22,130 sq. ft. three-story bank and office building (Use Group 6), which does not conform to applicable use regulations, for a term of twenty-five years; and

WHEREAS, the Board imposed certain conditions on the variance, including that no medical, dental, psychological, psychiatric, chiropractic or veterinary offices be located within the building; and

WHEREAS, the applicant now seeks an amendment to the variance to permit a gastroenterologist's office, which will occupy 2,892 square feet of the ground floor of the existing building; and

WHEREAS, the applicant represents that the gastroenterology practice is the most viable tenant that the building's management has located since initiating a search for a lessee in December of 2003; and

WHEREAS, the applicant also represents that the gastroenterologist's office will generate only a limited amount of activity; and

WHEREAS, the Community Board recommends approval of this application subject to the following conditions: that the medical use be limited to 2,892 square feet of the ground floor; that the medical facility be assigned ten parking spaces marked for its exclusive use; that the term of the amended variance be limited to the remainder of the original term; and that all such restrictions be made a part of the lease with the medical facility; and

WHEREAS, the Board requested that the applicant

address the above concerns; and

WHEREAS, in response, the applicant has submitted plans that limit the use to 2,982 square feet of the ground floor, identifies the ten individual spaces allocated for use only by the staff and patients of the first floor doctor's office, and includes a sign that reads "Reserved for First Floor Doctor's Office;" and

WHEREAS, the Board has reviewed the application and has determined that this application is appropriate to grant, with certain conditions.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, as adopted on October 30, 1987, so that as amended this portion of the resolution shall read: "to permit the occupancy of a portion of the first floor of the building by a medical office; *on condition* that the use shall substantially conform to drawings as filed with this application, marked 'Received November 7, 2005'– (1) sheet; and *on further condition*;

THAT the variance, as amended, shall expire on October 30, 2012;

THAT there shall be ten parking spaces reserved for the use of the medical office and that such spaces shall be so designated by signage, as illustrated on the BSA approved plans;

THAT the use shall be limited to 2,982 square feet of the ground floor;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT all conditions from prior resolutions not waived herein by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB App. No. 402097770)

Adopted by the Board of Standards and Appeals, November 29, 2005.

436-53-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for 141-50 Union Turnpike, owner.

SUBJECT – Application September 7, 2005 - Pursuant to ZR 11-411 for the Extension of Term/Waiver for the operation of a gasoline service station which expired in February 24, 2004. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 141-50 Union Turnpike, south side of Union Turnpike, 44.96' west of the corner of Union Turnpike and Main Street, Block 6634, Lot 34, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

MINUTES

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

ACTION OF THE BOARD – Laid over to December 13, 2005, at 10 A.M., for decision, hearing closed.

926-86-BZ

APPLICANT – Sheldon Lobel, P.C., for Estate of Morton Manes c/o Steven Rosenblatt, owner; Fred Gangs BMW Dealership, lessee.

SUBJECT – Application June 8, 2005 - Extension of Term of Variance for the continued use of the existing automotive dealership for the sale and service of automobiles with repairs. The premise is located in R6B/C2-2 & R3X zoning districts.

PREMISES AFFECTED – 217-07 Northern Boulevard, north side of Northern Boulevard between 217th Street and 218th Street, Block 6320, Lot 18, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Jordan Most and Chris Tartaglia, P.E.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

ACTION OF THE BOARD – Laid over to December 13, 2005, at 10 A.M., for decision, hearing closed.

143-05-A

APPLICANT – Eric Palatnik, P.C., for Andrew & Peter Latos, owner.

SUBJECT – Application June 7, 2005 – An appeal seeking a determination that the owner of said premises has acquired a common-law vested right to continue development commenced under the prior R3-2 zoning district. Current Zoning District is R2A.

PREMISES AFFECTED – 47-05 Bell Boulevard, located between 47th and 48th Avenue, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Trevis Savage.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for: (1) a determination that the owner of the subject premises has obtained a vested

right to continue construction under Department of Buildings (“DOB”) Permit No. 4021124870 (the “Permit”); and (2) a rescindment of a Stop Work Order (“SWO”) issued by DOB relative to construction being performed under the Permit (described in more detail below); and

WHEREAS, a public hearing was held on this application on October 25, 2005, after due notice by publication in the *City Record*, and then to closure and decision on November 29, 2005; and

WHEREAS, a committee of the Board visited the site; and

WHEREAS, the subject premises is a 2300 sq. ft. lot located on Bell Boulevard between 47th and 48th Avenues; and

WHEREAS, the subject premises is occupied by an existing two-family dwelling that was proposed to be converted into a three-family dwelling under the Permit; and

WHEREAS, at the time that the Permit was issued (March 13, 2005), the premises was within an R3-2 zoning district, where such conversion was permitted; and

WHEREAS, on April 12, 2005, the City Council approved the rezoning proposal for the subject neighborhood; consequently, the subject premises is now within an R2A zoning district, where the conversion is not permitted; and

WHEREAS, because of the rezoning, DOB issued the SWO on May 9, 2005, which stopped work on the conversion of the building; and

WHEREAS, the applicant subsequently filed the instant application, stating that vested rights to proceed under the Permit had been acquired based upon the amount of work performed and the amount of expenditures made; and

WHEREAS, as a threshold issue, the Board must determine that a valid permit for the performed work was obtained prior to the date of the rezoning and that the work proceeded under this permit; and

WHEREAS, the Permit was obtained March 31, 2005, to expire on April 11, 2005; and

WHEREAS, the Board observes that the Permit was obtained approximately 10 days in advance of the adoption of the rezoning; and

WHEREAS, as discussed below, the applicant states that interior demolition work pursuant to the Permit was performed on or around April 5, 2005; and

WHEREAS, accordingly, the Board finds that the work cited by the applicant in furtherance of the vested rights claim was performed pursuant to a valid DOB permit; and

WHEREAS, the remaining determination is whether the work performed and the expenditures made prior to the rezoning were of a substantial nature such that vesting occurred; and

WHEREAS, the applicant represents that the actual work necessary to convert the ground floor level into a third dwelling unit consists of: interior demolition and removal of debris, and installation of new drywall, electrical work, and kitchen plumbing; and

WHEREAS, the applicant represents that the demolition work was completed on or around April 5, 2005, and has

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submitted proof of this, in the form of an invoice indicating that the work was paid for, dated April 6, 2005, as well as photographs of the interior, taken before April 12, 2005, and a floor plan illustrating the condition of the premises after the demolition work was completed; and

WHEREAS, the applicant also represents that substantial expenditures were made in furtherance of the construction: \$500.00 for the interior demolition, and \$5,870 in soft costs (primarily fees for design, and permit filing fees); and

WHEREAS, the applicant represents that the soft costs were expended prior to the date of the rezoning; and

WHEREAS, in support of these representations, the applicant has submitted an affidavit from the owner, setting forth each of the soft costs, as well as the above noted invoice; and

WHEREAS, the Board notes that it did not include the purchase price of the building as a legitimate soft cost that could be claimed towards vesting; and

WHEREAS, as to hard costs, the applicant initially represented that the remaining work would cost approximately \$8,000, and submitted a contractor's estimate that reflected this amount; and

WHEREAS, the Board asked the applicant to subtract costs associated with new oak cabinets, tiling and painting from the contractor estimate for the physical work, as these costs were unrelated to the work authorized under the Permit; the applicant submitted a new estimate reflecting the subtraction of these costs; and

WHEREAS, the applicant now represents that the remaining work will cost approximately \$6,000; and

WHEREAS, the applicant concludes that the owner has spent approximately 50% of the total job cost as of the date of the rezoning; and

WHEREAS, based upon its review of the submitted evidence, the Board observes that construction in furtherance of the proposed conversion authorized by the Permit had been initiated to a significant degree by the date of the rezoning; and

WHEREAS, likewise, the Board concludes that the expenditures made were substantial; and

WHEREAS, in sum, the Board finds that the owner has obtained a vested right to continue construction under the Permit because of the amount of work performed and the amount of expenditures made.

Therefore it is Resolved that the Board determines that the owner of the premises has obtained a vested right to continue construction under DOB Permit No. 4021124870, lifts the Stop Work Order issued by DOB, dated May 9, 2005, and reinstates said permit for a period of six months from the date of this decision, to expire on May 29, 2006, subject to DOB review and approval of plans associated with the Permit.

Adopted by the Board of Standards and Appeals, November 29, 2005.

116-05-BZY

APPLICANT – Frederick A. Becker for John Shik Im,

owner.

SUBJECT – Application May 12, 2005 – Proposed extension of time to complete construction for a two family home for a period of six months pursuant to Z.R. 11-331 of the Zoning Resolution under prior R3-2 Zoning District. As of April 12, 2005, the new Zoning District is R3-X.

PREMISES AFFECTED – 22-08 43rd Avenue, corner of 22nd Street and 43rd Avenue, Block 6328, Lot 17, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to December 13, 2005, at 10 A.M., for decision, hearing closed.

117-05-BZY

APPLICANT – Fredrick Becker, Esq., for Yohn Shik Im, owner.

SUBJECT – Application May 12, 2005 – Proposed extension of time to complete construction for a period of six months pursuant to Z.R. §11-331 on a two family home under prior R3-2 Zoning District. As of April 12, 2005 the new zoning district is R3-X.

PREMISES AFFECTED – 43-05 222ND Street, south of 43rd Avenue and East 222nd Street, 6328, Lot 16 Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to December 13, 2005, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 10:45 A.M.

REGULAR MEETING

TUESDAY AFTERNOON, NOVEMBER 29, 2005

1:30 P.M.

Present: Chair Srinivasan, Vice-Chair Babbar and

MINUTES

Commissioner Chin.

ZONING CALENDAR

3-04-BZ

APPLICANT - Eric Palatnik, P.C., for Rushikesh Trivedi, owner.

SUBJECT - Application January 6, 2004 - under Z.R. §72-21 to permit the proposed dental office, Use Group 6, located in an R-2 zoning district, which does not comply with the zoning requirements for floor area, open space, front and side yards and use, which is contrary to Z.R. §24-111, §22-14, §24-34 and §24-35.

PREMISES AFFECTED - 147-08 46th Avenue, between Parsons Boulevard and 149th Street, Block 5452, Lot 3, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated October 31, 2005, acting on Department of Buildings Application No. 4022158121, reads, in pertinent part:

- “1. In an R2 district, other than Use Group 1 (a single family detached residential) is not permitted per ZR 22-11. . .
2. Open Space Ratio is deficient from that required by ZR 23-141.”; and

WHEREAS, a public hearing was held on this application on October 5, 2004 after due notice by publication in the City Record, with continued hearings on December 7, 2004, February 8, 2005, April 5, 2005, June 7, 2005, and September 13, 2005, and then to decision on November 29, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chair Srinivasan, Vice Chair Babbar, and Commissioner Chin; and

WHEREAS, Community Board 7, Queens, recommends disapproval of the current version of this application; and

WHEREAS, certain neighbors, the Kissena Park Civic Association and Council Member Avella also recommend disapproval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within a R2 zoning district, the proposed development of a two-family dwelling, which is contrary to applicable use and open space ratio (“OSR”) requirements as set forth at Z.R. §§ 22-11 and 23-141, respectively; and

WHEREAS, an initial version of this application requested use, bulk and parking waivers to accommodate a proposed medical office, which was not permitted as of right in the subject zoning district; specifically, the initial proposal contemplated a two-story medical building with two on-site parking spaces and

WHEREAS, the Board expressed significant reservations as to this proposal, stating to the applicant that no hardship appeared to exist that would prevent residential development and that the proposed medical office could result in parking impacts; and

WHEREAS, in response to these concerns, the application was modified to request a two-family home, albeit one that reflected an increase in Floor Area Ratio (“FAR”) beyond what was permitted, front yard and setback relief, as well as a third floor identified as an attic; and

WHEREAS, after the Board expressed concerns about the FAR and yard relief, and the third floor, the applicant modified the proposal to reflect the current version; and

WHEREAS, the premises is a trapezoidal shaped corner lot with a lot area of 4,291 sq. ft., located at the southeast intersection of 46th Avenue and Parsons Boulevard; and

WHEREAS, the premises has approximately 70 ft. of frontage on 46th Avenue and 108 ft. of frontage on Parsons Blvd.; and

WHEREAS, the applicant represents that the lot tapers at its southern edge to just 22 ft. in width; and

WHEREAS, the site is currently improved upon with an existing one-and-one-half story real estate office permitted by the Board under Cal. No. 80-38-A; and

WHEREAS, the applicant represents that the term of this grant was routinely renewed until 1988; and

WHEREAS, the current application proposes a 23’-1” high, two-story, two-family dwelling, with two parking spaces to be located on an adjacent parking pad; and

WHEREAS, the dwelling will have the following bulk parameters: a complying FAR of 0.49, all required yards, and a non-complying OSR of 129% (150% is the minimum required); and

WHEREAS, a two-family dwelling is also a non-conforming use in the subject R2 zoning district; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance and conformance with underlying district regulations: the site’s irregular and trapezoidal shape results in excessive frontage on the adjacent busy intersection when compared with other corner lots in the subject residential area; and

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WHEREAS, the applicant argues that because of the high degree of frontage on a busy intersection, the degree of privacy and quiet that a single-family homeowner expects from a home is compromised; since a single-family dwelling is not a viable proposal, a need to propose a two-family dwelling results; and

WHEREAS, in support of this argument, the applicant has submitted a "Neighboring Corner Lot Study", which provides a ratio to quantify the exposure of a particular property to the surrounding streets; and

WHEREAS, the applicant claims that a ratio of 1.0 indicates that the lot has less exposure to the street than the average lot; a lower ratio indicates a high exposure; and

WHEREAS, the Study analyzed twelve corner properties including the subject premises; and

WHEREAS, the subject premises was found to have a ratio of 0.53; the next closest ratio is 0.76, and most of the lots have ratios in excess of 1.0; and

WHEREAS, the Board agrees that the shape of the lot and its location contributes to the difficulty of developing the site with a complying and conforming single-family dwelling; and

WHEREAS, the Board observes that this difficulty is further exacerbated by the location of a bus stop in front of the premises; and

WHEREAS, the applicant's representations are further supported by the submission of a statement from a real estate broker, which discussed the inherent problems with the marketability of a single-family dwelling at the subject location, and recommends development of the site with a two-family dwelling; and

WHEREAS, accordingly, the Board finds that the unique physical condition mentioned above, namely, the irregular shape of the lot and resulting excessive frontage on the street, creates practical difficulties and unnecessary hardship in developing the site in strict compliance and conformance with applicable zoning regulations; and

WHEREAS, after amending the application to reflect the current two-family dwelling proposal, the applicant submitted a feasibility study analyzing the following scenarios: a complying/conforming single-family dwelling, the existing commercial use, and the non-complying, non-conforming proposal; and

WHEREAS, the applicant concludes that a complying single-family home is not viable as the total construction costs exceed the projected sales price, since said sales price is compromised by the diminished privacy and quiet resulting from the excessive street frontage; and

WHEREAS, likewise, the commercial scenario is compromised by the small size of the existing obsolete structure; and

WHEREAS, the Board notes that, in any event, the right to commercial use on the site is subject to the prior Board grant, which, as noted above, has expired; and

WHEREAS, the applicant concludes that only the proposal results in a reasonable rate of return; and

WHEREAS, based upon the above, the Board has

determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance and conformance with applicable zoning provisions will provide a reasonable return; and

WHEREAS, the applicant represents that the proposal, if granted, will not affect the character of the neighborhood, impair adjacent uses, or be detrimental to the public welfare; and

WHEREAS, the applicant notes that the proposed two-family use of the lot will not compromise the character of the immediate neighborhood, as the properties surrounding the site are occupied by residentially compatible uses such as religious institutions and pre-existing medical offices; and

WHEREAS, additionally, because the majority of the building housing these uses are built at a bulk greater than both a single-family dwelling and the proposed two-family dwelling, the proposed dwelling will have less impact than if it was located near only single-family dwelling; and

WHEREAS, the applicant further represents that the proposed bulk of the two-family dwelling is comparable to what would be permitted for a single-family dwelling; and

WHEREAS, the Board also observes that the site is across the street from an R3-2 zoning district, where two-family and multiple dwellings are allowed as-of-right; and

WHEREAS, thus, the Board finds that the addition of one two-family dwelling to this existing context will not change the character of the neighborhood, nor impact other lawful uses; and

WHEREAS, the Board notes that the applicant reduced the FAR and eliminated a third story identified as an attic, which results in a building more consonant in size and height with nearby residences; and

WHEREAS, additionally, the Board finds that the OSR waiver is not significant and results from the trapezoidal shape of the lot, and will not affect the character of the neighborhood or adjacent uses; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, as discussed above, the Board notes the applicant continuously revised the application since its initial filing, first responding to the Board's concerns about the proposed medical office by proposing a two-family residence with numerous bulk waivers instead, and then responding to the Board's concerns about this proposal by revising the application to reflect the current two-story, two-family dwelling with OSR relief; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under

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Z.R. §72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6NYCRR; 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. 05-BSA-113Q, dated July 24, 2004; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative declaration in accordance with 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, within a R2 zoning district, the proposed development of a two-family dwelling, which is contrary to applicable use and open space ratio requirements as set forth at Z.R. §§22-11 and 23-141, respectively; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 4, 2005" – 7 sheets and "Received November 23, 2005" – 2 Sheets; and on further condition:

THAT the bulk parameters of the proposed building shall be as follows: a maximum total FAR of 0.49; an OSR of 129%; and a building height of 23'-1";

THAT the interior layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 29, 2005.

234-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Zunick Realty Corp., owner.

SUBJECT – Application June 18, 2004 - under Z.R. §72-21 to permit in a M1-1 and M1-2 district, approval sought to legalize residential occupancy of 73 dwelling units in a four-story and basement industrial building, which was constructed in 1931. The legal use is listed artist loft space for the 73 units. There are proposed 18 parking spaces on the open portion of the lot, which consists of 25,620 SF in its entirety. The use is contrary to district use regulations.

PREMISES AFFECTED – 255 McKibbin Street, between Bushwick Avenue and White Street, Block 3082, Lot 65, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated May 18, 2004, acting on Department of Buildings Application No. 301536283, reads:

“Amendment to convert commercial building into residential units in a manufacturing zoning district is contrary to Z.R. Section 42-00. Refer to Board of Standards and Appeals.”; and

WHEREAS, a public hearing was held on this application on February 8, 2005 after due notice by publication in the *City Record*, with continued hearings on April 12, 2005, May 24, 2005, July 12, 2005, August 23, 2005, September 27, 2005, and then to decision on November 29, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, on a site partially within an M1-1 zoning district and partially within an M1-2 zoning district, the legalization of the conversion of the third and fourth floors of a four-story plus cellar building from manufacturing use to Use Group 2 residential use, contrary to Z.R. § 42-00; and

WHEREAS, Community Board 1, Brooklyn, originally

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disapproved the initial application, but later recommended approval of the current proposal because of its inclusion of commercial uses on the cellar, first and second floors; and

WHEREAS, the current application proposes the conversion of 38,694 sq. ft. of floor area located on the third and fourth floors into 29 legal residential units; and

WHEREAS, the initial application proposed the conversion of 96,735 sq. ft. of floor area into 67 legal residential units on all floors within the building; and

WHEREAS, the applicant also studied intermediate proposals that contemplated the conversion of three of the four floors (or 58,041 sq. ft.) into 46 units; and

WHEREAS, the subject site is located on the north side of McKibbin Street between Bushwick Avenue and White Street, with a portion of the lot extending through to Boerum Street; and

WHEREAS, the site has 200'-0" of frontage on McKibbin Street and 25'-0" of frontage on Boerum Street, with varying depths of 139'-0" on the western portion of the parcel and 115'-0" on the eastern portion; and

WHEREAS, the site has a total lot area of 25,620 sq. ft., and is improved upon with an existing 96,735 sq. ft. four-story plus cellar building; and

WHEREAS, the applicant represents that approximately ten years ago the sportswear manufacturer tenant and the storage/warehouse tenant who occupied the building vacated the premises; and

WHEREAS, the applicant represents that in the last ten years new tenants entered into commercial leases with the owner of the property, and subsequently constructed partitions and created loft spaces without the knowledge or consent of the owner; said spaces were subsequently used as unlawful residential units; and

WHEREAS, at the request of the Board, the applicant submitted copies of the commercial leases entered into between the owner and the nine purportedly commercial tenants who occupy the building; and

WHEREAS, the applicant represents that the only commercial tenant that occupied its space legally did not renew its lease at the end of its term in 2002; and

WHEREAS, the applicant further represents that the owner has only been able to remove one of the commercial tenants, but has legal actions pending against four others; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformity with underlying district regulations: (1) the existing building is obsolete due to the arrangement of space over four stories instead of one or two stories; (2) the building has only one freight elevator and no loading dock; (3) the building has no entrance at street grade; (4) the building has low ceiling heights of 12'-6"; (5) the building has narrow column spacing that divides the floor plates into 20'-0" by 20'-0" bays; and (6) the area surrounding the building is characterized by narrow streets not conducive to large truck use; and

WHEREAS, the Board asked the applicant to further

clarify how the existing building is different from other manufacturing buildings in the area; and

WHEREAS, the applicant represents that most manufacturing buildings in the area are one- to two-story buildings with a full size loading bay and higher floor to ceiling heights; and

WHEREAS, the applicant submitted photographs of conforming manufacturing buildings in the area that are single-story with full size loading bays; and

WHEREAS, however, the Board requested a broader map reflecting both the uses and the heights of surrounding buildings; and

WHEREAS, in response, the applicant submitted an 800'-0" radius land use map that reflects that the majority of properties on the south side of Boerum Street are occupied with residential uses, and that many properties on the north side of Boerum Street are occupied by the same; and

WHEREAS, the applicant also submitted a building height map that shows that the majority of sites within an 800'-0" radius of the premises are developed with one- to two-story buildings; in fact, the subject site is one of only six sites within an 800'-0" radius that is developed with a four-story building; and

WHEREAS, the applicant represents that of the other comparable four-story buildings in the surrounding area, one (directly to the east of the premises) was recently constructed for what appears to be a specific user, and the other has ground floor commercial use and illegal residential above; and

WHEREAS, the applicant further represents that of the surrounding manufacturing buildings, 34 are one-story, 19 are two-story, six are three-story and only two others are four-story buildings; and

WHEREAS, based upon this submission, the Board agrees that most of the manufacturing uses in the neighborhood are located in buildings that are one to two stories; and

WHEREAS, notwithstanding this fact, the Board suggested that a retrofit of the building with a rear yard loading area on Boerum Street might make commercial use feasible on the site; and

WHEREAS, the applicant submitted a truck circulation plan in support of its position that large trucks would be unable to access a rear yard loading area for the following reasons: Boerum Street only has a 30'-0" wide street bed; a truck turning onto the property would turn on an acute angle; there are a large number of cars parked on both sides of Boerum Street; and the driveway would only be 25'-0" wide; and

WHEREAS, the Board reviewed this circulation plan and agrees that creation of a loading area is not a feasible retrofit of the subject building; and

WHEREAS, based upon its review of submitted evidence, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulties in developing the entirety of the site in conformity with the current zoning; and

WHEREAS, the applicant submitted a feasibility study of

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a conforming “as-is” commercial artists’ loft use (without residential tenants); this study demonstrates that a conforming commercial use would not yield a reasonable return; and

WHEREAS, the Board expressed concern about a full conversion of the building, suggesting that the degree of hardship did not warrant such significant relief, especially since the applicant represented that one-to-two story manufacturing buildings were still viable uses in the neighborhood; and

WHEREAS, in response, the applicant amended its application to include conversion of only the top three floors of the building to residential use, with a total of 46 residential units and 39 parking spaces, and the first floor and cellar occupied conforming uses; and

WHEREAS, accordingly, the applicant submitted a revised feasibility study analyzing two different three-story conversion scenarios involving the following parking proposals: (1) a conversion of the basement to a parking garage accessed from a rear yard ramp; and (2) the acquisition of a nearby property to be used for parking; and

WHEREAS, this study concluded that only the second scenario would realize a reasonable return on the property, because the costs of constructing a garage and ramp, as documented by an engineering report, amount to \$542,000, and would decrease the overall return of such a development; and

WHEREAS, the Board asked whether parking could be accommodated on the site without the use of an underground garage; and

WHEREAS, the applicant revised its proposal to include on-site parking for 27 vehicles in the rear left corner of the lot (using parking lifts); and

WHEREAS, this proposal has been further revised to provide 18 spaces, as the Board questioned the feasibility of the applicant’s 27-space parking scenario; and

WHEREAS, the Board asked the applicant to consider a scenario where the first two floors of the buildings would contain conforming uses and the top two floors would contain residential, with the above mentioned on-site parking; and

WHEREAS, the applicant submitted a revised feasibility study of such a scenario, which included in its analysis the cost of demising walls, electric service and plumbing for each of the units that were illegally converted; and

WHEREAS, however, the Board noted that it would not consider any costs related to illegal conversion of the building as grounds for hardship; and

WHEREAS, the Board also stated that the applicant should consider marking the conforming floors as open spaces on the plans rather than creating artists’ lofts to provide the applicant with more flexibility; and

WHEREAS, the applicant responded that it believed that large floor plates would be unattractive to typical industrial or commercial users because the floors are not located at street grade and are not serviced by a commercial grade freight elevator; and

WHEREAS, the applicant further responded that conforming users who are looking for large commercial spaces would have better options in the surrounding neighborhood

than the first two floors of the subject building; and

WHEREAS, however, the applicant amended its plans to show open conforming space on the lower floors; and

WHEREAS, in addition, a revised feasibility study concluded that the two-story conversion proposal would realize a reasonable return; and

WHEREAS, therefore, the Board has determined that because of the subject lot’s unique physical conditions there is no reasonable possibility that development in strict conformity with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood or impact neighboring conforming uses; and

WHEREAS, the applicant represents that directly south of the site across McKibbin Street is an R6 zoning district; and

WHEREAS, additionally, the applicant states that of the 86 lots within the site’s 400 ft. radius, 63% are occupied with residential uses, 19% are occupied by commercial or industrial uses and 16% are undeveloped or occupied by vacant buildings; and

WHEREAS, the Board expressed concern as to whether the residential uses in the manufacturing districts cited by the applicant in support of the above representation were legal uses; and

WHEREAS, the applicant submitted a chart compiling research conducted on the Department of Buildings Building Information System that reflects that 21 of the buildings surrounding the site in the manufacturing districts contain lawful residential uses; and

WHEREAS, the Board has conducted a site visit and concludes that residential use of the site is appropriate given the amount of lawful residential use in the immediate area, specifically across the street and along Boerum Street; and

WHEREAS, at hearing, the Board expressed concern with respect to the proposed size of the units and the provision of light and air to the prospective units; and

WHEREAS, to address the Board’s concern, the applicant amended its plans to include skylights in the fourth floor units and a reconfiguration of the third floor units so that all units receive light and air from the front or the rear of the building; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the New York Industrial Retention Network submitted a letter to the Board in opposition to the proposal, specifically alleging that the building was intentionally converted to residential use by the owner and that the applicant does not meet the findings for a variance grant; and

WHEREAS, the applicant represents that the building was not intentionally converted by the present owner, as evidenced by leases between the owner and the various tenants; and

WHEREAS, in any event, the specific hardship present at the site (obsolescence of the building and narrow adjacent

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streets) was not caused either by the owner or a predecessor in title; and

WHEREAS, therefore, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board notes that the applicant has modified its proposal significantly from its initial proposal of a full conversion of the entire building to the current proposal of conversion of only the two top floors, with retention of the first two floors and the cellar for conforming uses; and

WHEREAS, the Board further notes that the number of residential units proposed has been reduced from 67 to 29; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 04BSA218K dated July 18, 2004; 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; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; 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, with conditions as stipulated below, 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 Z.R. § 72-21 and grants a variance to permit, on a site partially within an M1-1 zoning district and partially within an M1-2 zoning district, the legalization of the conversion of the third and fourth floors of a four-story plus cellar building from manufacturing use to Use Group 2 residential use, contrary to Z.R. § 42-00; 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 November 29, 2005" – seven (7) sheets; and on further condition:

THAT there shall be a maximum of 29 residential units on the third and fourth floors of the building;

THAT the cellar, first and second floor shall be used for only conforming uses;

THAT the above conditions shall be listed on the Certificate of Occupancy;

THAT the interior layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Board is not approving all notes related to fire safety as reflected on the site plan; DOB shall review of such notes for compliance with applicable codes and law;

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, November 29, 2005.

357-04-BZ

APPLICANT – Alfonso Duarte, for Charles Howard, owner.
SUBJECT – Application November 12, 2004 - under Z.R. §72-21 to permit the proposed erection of a two story medical facility, located in an R3-2 zoning district, which does not comply with the zoning requirements for second floor occupancy, lot coverage, front yards, side yard, off-street parking spaces and penetration of the exposure plane, is contrary to Z.R. §22-14, §24-11, §24-33, §24-34, §24-35, §25-31 and §24-521; and the proposed use of the site, for off-site accessory parking, for a proposed medical facility across the street, is contrary to §25-51.

PREMISES AFFECTED - 707 Cross Bay Boulevard, southwest corner of 98th Street, Block 15311, Lot 11, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Alfonso Duarte.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

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THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated November 1, 2004, acting on Department of Buildings Application No. 401807283, reads:

- “1. Proposed medical building on 2nd floor contrary to Sect. 22-14 Z.R.
2. Proposed lot coverage for corner lot exceeds 60% and is contrary to Sect. 24-11 Z.R.
3. Proposed roof sheds project into front yard and is contrary to Section 24-33 Z.R.
4. Proposed front yards contrary to Section 24-34 Z.R.
5. Proposed side yard of 8 feet contrary to Section 24-35 Z.R. due to length of aggregate width of street wall.
6. Proposed 11 off-street parking spaces contrary to Sect. 25-31.
7. Part of proposed roof structure penetrates sky exposure plane and is contrary to Sect. 24-521 Z.R.”; and

WHEREAS, a public hearing was held on this application on September 13, 2005 after due notice by publication in *The City Record*, with a continued hearing on October 25, 2005, and then to decision on November 29, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin; and

WHEREAS, Community Board 14, Queens, and the Queens Borough President recommend approval of this application; and

WHEREAS, Council Member Addabbo, Jr. recommends approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit the construction of a two-story medical facility in an R3-2 zoning district, which does not comply with applicable district requirements for second floor occupancy, lot coverage, front yards, side yards, off-street parking spaces and penetration of the sky exposure plane, contrary to Z.R. §§ 22-14, 24-11, 24-33, 24-34, 24-35, 25-31 and 24-521; and

WHEREAS, this application is being filed in conjunction with Cal. No. 358-04-BZ, in which the applicant seeks a special permit to allow the use of 728 Cross Bay Boulevard, located directly across the street from the subject site, as an off-site parking lot for the proposed medical facility, contrary to Z.R. § 25-51; and

WHEREAS, the premises is located on the southwest corner of the intersection of Cross Bay Boulevard and 98th Street; and

WHEREAS, the site's shape is triangular with approximately 195'-0" of frontage on Cross Bay Boulevard, approximately 163'-0" of frontage on 98th Street and approximately 103'-0" bordering a neighboring lot; and

WHEREAS, because of the shape of the site, a portion of the site consists of a corner lot and the other portion consists of a through lot; and

WHEREAS, the subject site has a total lot area of 9,418.79 sq. ft., and is currently improved upon with a one-story building on one portion of the lot and a concrete and asphalt yard on the remainder of the lot; and

WHEREAS, the applicant proposes to demolish the existing building and construct a 7,817 sq. ft. U.G. 4 medical facility with a floor area ratio ("FAR") of 0.93; and

WHEREAS, construction of the building as currently proposed will result in the following non-compliances: projection into front yard of 13'-2" on Cross Bay Boulevard and 9'-8" on 98th Street (projection of 1'-4" maximum permitted); setback of 4'-0" on Cross Bay Boulevard and 8'-0" on 98th Street (15'-0" is the minimum setback required); lot coverage of 73.2% (60% is the maximum permitted); 8'-0" side yard (14.4 ft. side yard minimum required); 11 on-site spaces (20 spaces required on-site); and penetration of the sky exposure plane (slope of 1:1 required); and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: (1) the lot has a triangular shape; and (2) the lot is burdened with a high water table; and

WHEREAS, the applicant states that because of the triangular shape of the lot, the developer is constrained as to where the building can be placed on the lot, while still using available FAR and complying to the maximum extent possible with yard regulations; and

WHEREAS, the applicant represents that because the site tapers at both the north and south portions of the site, the ability to provide floor plates for a viable conforming development is compromised; and

WHEREAS, the applicant further represents that if it were to comply with the 14.4 ft. side yard requirement, it would have to provide such side yard on the interior portion of the lot that has the most depth to accommodate a viable floor plate, thereby further compromising the developer's ability to construct a feasible building; and

WHEREAS, additionally, the applicant has submitted boring reports that reflect that the existing water table is located approximately four to five feet below grade; and

WHEREAS, the applicant's reports also show that because of the high water table, any substantial structure constructed on the site should be supported on piles ranging from 45'-0" to 50'-0" long; and

WHEREAS, the applicant states that it is further constrained by the requirement that it provide parking on-site; and

WHEREAS, specifically, the applicant represents that because of the shape of the lot, it is unable to place 20 parking spaces on the surface of the lot and construct a viable building; and

WHEREAS, the applicant further represents that it is unable to place the parking in a cellar level because of the high water table; and

WHEREAS, in support of this representation, the applicant has submitted an estimate from a construction

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company that states that dewatering will have to take place prior to creating a cellar, and will be cost-prohibitive and difficult to maintain; and

WHEREAS, in addition, the applicant states that because it is not able to construct a cellar underneath the building, it is necessary to go to a second floor to utilize its permitted floor area, meet the needs of the facility, and make the facility financially feasible; and

WHEREAS, the applicant represents that if it were to construct an as-of-right building, the building would consist of a 1,793 s.f. one-story building with an FAR of 0.21; such FAR is well under the permitted FAR of 1.0; and

WHEREAS, therefore, the Board finds that the cited unique physical conditions create practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the applicant has submitted a feasibility study that contemplates a one-story, complying medical building with six on-site parking spaces; such study concludes that an as-of-right building will not generate a reasonable return; and

WHEREAS, the Board notes that as part of the building design, the applicant is including certain architectural features that inflate the cost of the building; and

WHEREAS, the applicant has submitted a letter from a construction company stating that although certain architectural features do increase construction costs, a major portion of the construction costs stem from the need to drive piles and provide a steel and concrete frame first floor; such costs will total between \$200,000 and \$300,000; and

WHEREAS, the Board considers the cost for piles to be a true hardship cost, and finds that said costs, along with impact of the site's unusual shape, contribute to the hardship present at the site; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning provisions will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed community facility will be an asset to the community as the closest hospital is in Far Rockaway; and

WHEREAS, the Board asked the applicant to provide information about the heights of surrounding buildings in the area, since the area is comprised of many one-story bungalow-type residences; and

WHEREAS, the applicant submitted photos of 12 neighboring buildings, most of which rise to two stories and include elaborate roofs; and

WHEREAS, the applicant also submitted a land use map that shows the locations of the photographed buildings; three of the residences are located across 98th Street from the subject site; and

WHEREAS, with respect to the side yard waiver, the applicant represents that it will provide a side yard of 8'-0" above the first story and the two neighboring properties will maintain their own side yards of 4'-8 1/4" and 5'-9",

respectively; and

WHEREAS, accordingly, the applicant represents that although it is only providing an 8'-0" side yard above the first story, this impact is minimized by the presence of the neighbors' side yards; and

WHEREAS, the applicant's plans also reflect that it will provide 11 on-site parking spaces; and

WHEREAS, in addition, pending approval by the Board of a special permit, the applicant will also provide nine parking spaces in a lot across the street from the site; and

WHEREAS, the applicant represents that the on-site spaces will be utilized by visitors of the facility, while the off-site parking will be for doctors and employees who work at the facility and will be there for longer periods of time; and

WHEREAS, the applicant further represents that this will minimize the amount of pedestrian traffic to and from the site; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 05BSA060Q dated November 12, 2004 and amended March 4, 2005; 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, 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 the required findings under Z.R. § 72-21, to permit the construction of a two-story medical facility in an R3-2 zoning district, which

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does not comply with applicable district requirements for second floor occupancy, lot coverage, front yards, side yards, off-street parking spaces and penetration of the sky exposure plane, contrary to Z.R. §§ 22-14, 24-11, 24-33, 24-34, 24-35, 25-31 and 24-521; 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 November 28, 2005 – two (2) sheets; and on further condition:

THAT there shall be 11 on-site parking spaces;

THAT 9 off-site parking spaces shall be provided for facility employees at 728 Cross Bay Boulevard, pursuant to BSA Cal. No. 358-04-BZ;

THAT the above condition shall be place on the certificate of occupancy;

THAT the bulk parameters of the building shall be as follows: projection of roof eave into front yard of 13'-2" on Cross Bay Boulevard and 9'-8" on 98th Street; setbacks of 4'-0" on Cross Bay Boulevard and 8'-0" on 98th Street; 8'-0" side yard; and penetration of the sky exposure plane as reflected on the BSA approved plans;

THAT all interior partitions and exits shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 29, 2005.

358-04-BZ

APPLICANT – Alfonso Duarte, for Charles Howard, owner.
SUBJECT – Application November 12, 2004 – under Z.R. §72-21 to permit the proposed use of the site, for off-site accessory parking, for a proposed medical facility across the street, is contrary to §25-31.

PREMISES AFFECTED – 728 Cross Bay Boulevard, southeast corner of 194th Avenue, Block 15453, Lot 8, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Alfonso Duarte, P.E.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated May 20, 2005, acting on Department of Buildings Application No. 401819252, reads:

"1. Proposed off-site parking spaces in R3-2 zoning district for proposed community facility located at 707 Cross Bay Boulevard is contrary to Section 25-51 Z.R."; and

WHEREAS, a public hearing was held on this application on September 27, 2005, after due notice by publication in *The City Record*, with a continued hearing on November 1, 2005, and then to decision on November 29, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin; and

WHEREAS, Community Board No. 14, Queens, recommends approval of the subject application; and

WHEREAS, this is an application for a special permit pursuant to Z.R. § 73-452 to allow, in an R3-2 zoning district, the proposed use of the site as an off-site accessory parking lot for a proposed medical facility to be located directly across the street, contrary to Z.R. § 25-51; and

WHEREAS, this application is being filed concurrently with Cal. No. 357-04-BZ, in which, pursuant to Z.R. §72-21, the applicant seeks to construct a two-story medical facility at 707 Cross Bay Boulevard, which does not comply with applicable district requirements for second floor occupancy, lot coverage, front yards, side yards, off-street parking spaces and penetration of the sky exposure plane, contrary to Z.R. §§ 22-14, 24-11, 24-33, 24-34, 24-35, 25-31 and 24-521; and

WHEREAS, the applicant will be providing 11 parking spaces on-site at 707 Cross Bay Boulevard; and

WHEREAS, the subject site is a 4,182.25 sq. ft. lot located on the southeast corner of Cross Bay Boulevard and 194th Street, and is currently improved upon with a one and one-half story residence; and

WHEREAS, the applicant proposes to demolish the existing building and create a parking lot with nine spaces, dedicated to parking for the doctors and other employees of the medical facility; and

WHEREAS, pursuant to Z.R. § 73-452, the Board may permit accessory off-street parking spaces in an off-site location to a community facility such as that proposed so long as such spaces are within 600'-0" from the border of the zoning lot and certain other conditions are met; and

WHEREAS, the applicant represents that the lot is located within 120'-0" of the nearest boundary of the medical facility; and

WHEREAS, the applicant further represents that there is

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no way to arrange such spaces on the medical facility zoning lot due to the shape of the lot and the presence of a high water table that prevents construction of an underground parking garage; and

WHEREAS, the applicant states that the proposed spaces will be limited to doctors and other employees, thereby minimizing the amount of traffic entering and leaving the lot; and

WHEREAS, the applicant represents that the subject site is located across the street from the medical facility at the corner of a "T" intersection, controlled by four traffic lights and five pedestrian control signals; and

WHEREAS, the applicant further represents that the parking lot will not impair the essential character or the future use or development of the adjacent area because the number of spaces is minimal; and

WHEREAS, the Board also notes that the applicant will provide a fence around the perimeter of the lot, to minimize any visual impact on the residential neighbors; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-452 and 73-03.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Parts 617.5 and 613 and § 5-02 (a), 5-02 (b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§73-452 and 73-03 for a special permit to allow, in an R3-2 zoning district, the proposed use of the site as an off-site accessory parking lot for a proposed medical facility across the street, contrary to Z.R. § 25-51; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "Received November 9, 2005 – one (1) sheet; and *on further condition*:

THAT there shall be exactly nine on-site parking spaces;

THAT the spaces shall be designated for the exclusive use of facility employees, and signage to this effect shall be posted;

THAT there shall be a 6'-0" high opaque screening fence around the full perimeter of the lot, as shown on the BSA-approved drawing;

THAT any lighting will be positioned down and away from residential uses;

THAT the above conditions shall be listed on the Certificate of Occupancy;

THAT the parking layout shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 29, 2005.

27-05-BZ

APPLICANT – Vassalotti Associates Architects, LLP., owner; Cumberland Farms, Inc., lessee.

SUBJECT – Application February 16, 2005 – Special Permit under Z.R. §11-411 for the re-establishment and extension of term for an existing gasoline service station, located in an C1-2/R6 zoning district, which was granted under BSA Calendar 361-37-BZ and the term lapsed on December 1, 2001.

PREMISES AFFECTED – 91-11 Roosevelt Avenue, Block 1479, Lot 38, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated July 16, 2004, acting on Department of Buildings Application No. 401976723, reads, in pertinent part:

“Proposal to extend term of variance previously granted by Board of Standards and Appeals, and secure a new certificate of occupancy for an automotive service station located in a C1-2 within a R6 is contrary to Board of Standards and Appeals Cal. No. 361-37-BZ”; and

WHEREAS, a public hearing was held on this application on October 25, 2005, after due notice by publication in *The City Record*, and then to decision on November 29, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin; and

WHEREAS, this is an application for a re-opening, a reinstatement of a previously granted variance, and an extension of term of said variance, pursuant to Z.R. § 11-411; and

WHEREAS, Community Board No. 3, Queens, recommends conditional approval of the subject application; certain of these conditions are reflected as conditions of this resolution; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since 1937, when, under BSA Calendar No. 361-37-BZ, it granted an application to permit the use of the

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site as an automotive service station with various accessory uses; various other Board actions since this date have allowed for extensions of term and amendments to the resolution; and

WHEREAS, the last extension of term expired on April 18, 2001; and

WHEREAS, the applicant represents that the premises is now within a C1-2(R6) zoning district, and is improved upon with an existing automotive service station (Use Group 16), which has occupied the site for more than 50 years, and that this use has been continuous since the expiration noted above; and

WHEREAS, the applicant now proposes to reinstate the prior grant and obtain a new ten year term; and

WHEREAS, the applicant states that it is unable to explain why no certificate of occupancy was obtained pursuant to the Board's resolution adopted in 1991 because ownership of the premises has changed numerous times since that time; and

WHEREAS, the applicant did explain that the last term lapsed because of the frequent change in ownership in the last six years, including mergers of various oil companies that owned the site; and

WHEREAS, pursuant to Z.R. § 11-411, the Board may extend the term of an expired variance; and

WHEREAS, the Board has determined that the evidence in the record supports the finding required to be made under Z.R. § 11-411; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 11-411, on a site previously before the Board, to permit a reinstatement of a previously granted variance, and an extension of term of said variance for ten years from April 18, 2001; *on condition* that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "February 16, 2005"–(1) sheet; and *on further condition*:

THAT the term of this grant shall expire on April 18, 2011;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the site shall not contain more parking spaces than are indicated on the BSA-approved plans;

THAT the parking spaces shall not be rented;

THAT all lighting on the site shall be directed downwards and away from adjacent uses;

THAT all landscaping shall be installed and maintained as shown on the BSA-approved plans;

THAT all tires shall be kept in the designated enclosure, as shown on the BSA-approved plans;

THAT the hours of operation shall be limited to: gasoline sales – 24 hours, seven days per week; auto service – 6AM to 6PM Monday through Friday and 6AM to 3PM Saturday;

THAT the above conditions shall appear on the certificate

of occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT a new certificate of occupancy shall be obtained within one year from the date of this resolution;

THAT all signage shall comply with applicable C1 zoning district regulations, as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 29, 2005.

118-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Ezra and Alice Tawil, owners.

SUBJECT – Application May 16, 2005 - under Z.R. §73-622 Special Permit – the enlargement of a single family residence to vary Z.R. sections §23-141 (open space and floor area), §23-46 (side yard) and §23-47 (rear yard). The premises is located in an R-5 (OP) zoning district.

PREMISES AFFECTED – 2072 Ocean Parkway, west side of Ocean Parkway between Avenue T and Avenue U, Block 7108, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 15, 2005, acting on Department of Buildings Application No. 301930276, reads:

“The proposed enlargement of the existing one family residence in an R2 zoning district:

1. Causes an increase in the floor area exceeding the floor area ratio allowed by section 23-141 of the zoning resolution.
2. Causes a decrease in the open space resulting in open space ratio less than the required minimum pursuant to section 23-141 of the zoning resolution.
3. Proposes a straight line extension resulting in a side yard contrary to ZR 23-46 of the zoning resolution.
4. Proposed rear yard contrary to ZR 23-47 in that the proposed rear yard is less than the 30'-0”

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that is required of the zoning resolution.”; and

WHEREAS, a public hearing was held on this application on September 27, 2005 after due notice by publication in *The City Record*, laid over to November 1, 2005 and then to decision on November 29, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R5 zoning district within the Special Ocean Parkway District, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, open space, side yard, and rear yard, contrary to Z.R. §§ 23-141, 23-46 and 23-47; and

WHEREAS, the subject lot is located on west side of Ocean Parkway between Avenue T and Avenue U; and

WHEREAS, the subject lot has a total lot area of 2,600 sq. ft., and is currently occupied with a two-story plus cellar single-family dwelling; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks an increase in the floor area from 1901.25 sq. ft. (0.73 Floor Area Ratio or “FAR”) to 3289.91 sq. ft. (1.265 FAR); the maximum floor area permitted is 3250 sq. ft. (1.25 FAR); and

WHEREAS, the proposed enlargement will decrease the open space from 85% to 39%; the minimum required open space is 45%; and

WHEREAS, the proposed enlargement will reduce the rear yard from 44’-6” to 20’-0”; the minimum rear yard required is 30’-0”; and

WHEREAS, the proposed enlargement at the rear of the existing building will extend the non-complying side yard; however, the width of the side yard will be maintained; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20’-0” of the rear lot line; and

WHEREAS, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2)

and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-622 and 73-03, to permit, in an R5 zoning district within the Special Ocean Parkway District, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, open space, side yard, and rear yard, contrary to Z.R. §§ 23-141, 23-46 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received November 7, 2005”-(7) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar or attic;

THAT the above condition shall be set forth in the certificate of occupancy;

THAT the total FAR on the premises shall not exceed 1.265;

THAT there shall be no zoning floor area in the attic;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 29, 2005.

269-04-BZ

APPLICANT – Law Office of Howard Goldman, LLC, for 37 Bridge Street Realty, Corp., owner.

SUBJECT – Application August 2, 2004 – under Z.R. §72-21 to permit the conversion of a partially vacant, seven-story industrial building located in a M1-2 and M3-1 zoning district into a 60 unit loft style residential dwelling in the Vinegar Hill/DUMBO section of Brooklyn.

PREMISES AFFECTED - 37 Bridge Street, between Water and Plymouth Streets, Block 32, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #1BK.

APPEARANCES –

For Applicant: Robert Pauls.

ACTION OF THE BOARD – Laid over to January 10, 2005, at 1:30 P.M., for continued hearing.

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ACTION OF THE BOARD – Laid over to January 31, 2005, at 1:30 P.M., for continued hearing.

375-04-BZ

APPLICANT – Greenberg Traurig LLP, for Designs by FMC, owner.

SUBJECT – Application November 29, 2004 – under Z.R. §72-21 – to permit the proposed expansion of an existing jewelry manufacturer and wholesaler establishment, located in an M1-1 zoning district, which does not comply with zoning requirements for floor area ratio, rear yard, street wall height and adequate parking, is contrary to Z.R. §43-12, §43-302, §43-43 and §44-21.

PREMISES AFFECTED – 1527, 1529 and 1533 60th Street, north side, between 15th and 16th Avenues, Block 5509, Lots 64, 65 and 68, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to December 13, 2005, at 1:30 P.M., for deferred decision.

380-04-BZ

APPLICANT – Sheldon Lobel, P.C., for BK Corporation, owner.

SUBJECT – Application November 29, 2004 – under Z.R. §72-21 to permit the legalization of the conversion of one dwelling unit, in a new building approved exclusively for residential use, to a community facility use, in an R5 zoning district, without two side yards, is contrary to Z.R. §24-35.

PREMISES AFFECTED – 32-12 23rd Street, bounded by 33rd Avenue and Broadway, Block 555, Lot 36, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to January 10, 2005, at 1:30 P.M., for decision, hearing closed.

382-04-BZ

APPLICANT – Eric Palatnik, P.C., for Billy Ades, (Contract Vendee).

SUBJECT – Application December 6, 2004 – under Z.R. §73-622 – to permit the proposed enlargement of an existing single family dwelling, located in an R4 zoning district, which does not comply with the zoning requirements for floor area, lot coverage, open space and side yards, is contrary to Z.R. §23-141(b) and §23-461(a).

PREMISES AFFECTED – 2026 Avenue “T”, corner of Avenue “T” and East 21st Street, Block 7325, Lot 8, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

396-04-BZ

APPLICANT – Stroock & Stroock & Lavan, LLP, by Ross Moskowitz, Esq., for S. Squared, LLC, owner.

SUBJECT – Application December 21, 2004 – under Z.R. §72-21 to permit the Proposed construction of a thirteen story, mixed use building, located in a C6-2A, TMU zoning district, which does not comply with the zoning requirements for floor area, lot coverage, street walls, building height and tree planting, is contrary to Z.R. §111-104, §23-145, §35-24(c)(d) and §28-12.

PREMISES AFFECTED – 180 West Broadway, northwest corner, between Leonard and Worth Streets, Block 179, Lots 28 and 32, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Ross Moskowitz, Richard Metsky, Robert Pauls and Anthony Rinaldi.

ACTION OF THE BOARD – Laid over to January 10, 2005, at 1:30 P.M., for continued hearing.

399-04-BZ

APPLICANT – Greenberg Traurig LLP, by Jay A. Segal, for Hip-Hin Realty Corp., owner.

SUBJECT – Application December 23, 2004 – under Z.R. §§72-21 and 73-36 – Proposed use of the subcellar for accessory parking, first floor and cellar for retail, and the construction of partial sixth and seventh stories for residential use, also a special permit to allow a physical culture establishment on the cellar level, of the subject premises, located in an M1-5B zoning district, is contrary to Z.R. §42-14(D), §13-12(a) and §73-36.

PREMISES AFFECTED – 425/27 Broome Street, southeast corner of Crosby Street, Block 473, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Jay Segal.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

ACTION OF THE BOARD – Laid over to January 10, 2005, at 1:30 P.M., for decision, hearing closed.

5-05-BZ

APPLICANT - Sheldon Lobel, P.C., for S & J Real Estate, LLC, owner.

SUBJECT – Application January 14, 2005 – under Z.R. §73-53 – to permit the enlargement of an existing non-conforming manufacturing building located within a district designated for residential use (R3-2). The application

MINUTES

seeks to enlarge the subject contractor's establishment (Use Group 16) by 2,499.2 square feet.

PREMISES AFFECTED – 59-25 Fresh Meadow Lane, east side, between Horace Harding Expressway and 59th Avenue, Block 6887, Lot 24, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Irving Minkin.

ACTION OF THE BOARD – Laid over to January 10, 2005, at 1:30 P.M., for continued hearing.

48-05-BZ

APPLICANT – Wachtel & Macyr, LLP for Bethune West Associates, LLC, contract vendee.

SUBJECT – Application March 2, 2005 - under Z.R. §72-21 to construct a 16- and 3-story mixed use development with 60 accessory parking spaces in an M1-5 district, contrary to Z.R. §42-00 and Z.R. §13-12.

PREMISES AFFECTED – 469 West Street, bounded by Bethune Street and West 12th Street, Block 640, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Jerry Johnson, State Senator Tom Duane, Councilmember Quinn, Assemblymember Glick, Mae Gamble and Mary Ann Arisman.

For Opposition: Fred Hanson, Michele Herman, Alexander Kaplen, Andrew Berman, Alice Green, Jessie McNab, Katherine Schoonover.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to January 10, 2005, at 1:30 P.M., for decision, hearing closed.

77-05-BZ

APPLICANT – Greenberg Traurig, LLP by Deirdre Carson, for Jack Ancona, owner.

SUBJECT – Application March 29, 2005 – under Z.R. §72-21 – to permit the proposed construction of a twelve-story mixed building, containing residential and retail uses, located within an M1-6 zoning district, in which residential use is not permitted as of right, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 132 West 26th Street, south side, 364.5’ west of Sixth Avenue, Block 801, Lot 60, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Deirdre Carson.

For Opposition: Stuart Klein.

ACTION OF THE BOARD – Laid over to January 24, 2005, at 1:30 P.M., for continued hearing.

99-05-BZ

APPLICANT – Sheldon Lobel, P.C., for 500 Turtles, LLC, owner.

SUBJECT – Application April 22, 2005 - under Z.R. §72-21 to permit the proposed enlargement of an existing restaurant, which is a legal non-conforming use, located on the first floor of a six-story mixed-use building, situated in an R6 zoning district, is contrary to Z.R. §22-10.

PREMISES AFFECTED - 39 Downing Street, a/k/a 31 Bedford Street, northwest corner, Block 528, Lot 77, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to December 13, 2005, at 1:30 P.M., for decision, hearing closed.

102-05-BZ

APPLICANT – Rothkrug Rothkrug Weinberg Spector, for Cornerstone Residence, LLC, owner.

SUBJECT – Application May 4, 2005 - under Z.R. §72-21 to permit the proposed construction of a two family dwelling on a corner lot that does not provide one of the required front yards, to vary section ZR 23-45. The vacant lot is located in an R-5 zoning district.

PREMISES AFFECTED – 259 Vermont Street aka 438 Glenmore Avenue, southeast corner of Vermont Street and Glenmore Avenue, Block 3723, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to December 13, 2005, at 1:30 P.M., for decision, hearing closed.

119-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Sam Malamud, owner.

SUBJECT – Application May 16, 2005 - under Z.R. §72-21 to permit the proposed enlargement to an existing one and two story warehouse building, with an accessory office, Use Group 16, located in a C4-3 and R6 zoning district, which does not comply with the zoning requirements for floor area,

MINUTES

floor area ratio, perimeter wall height, parking and loading berths, is contrary to Z.R. §52-41, §33-122, §33-432, §36-21 and §36-62.

PREMISES AFFECTED - 834 Sterling Place, south side, 80' west of Nostrand Avenue, Block 1247, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant:

ACTION OF THE BOARD – Laid over to February 7, 2006, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: P.M.

BULLETIN

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AND APPEALS

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Volume 90, Nos. 51

December 15, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Tuesday, December 6, 2005**

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185-05-BZ	62-02 Roosevelt Avenue, Queens
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DOCKETS

New Case Filed Up to December 6, 2005

334-05-BZ B.M. 933-945 Madison Avenue, 31-33 East 74th Street, East side of Madison Avenue between East 74th and East 75th Streets, Block 1389, Lots 21, 22, 23, 24, 25, 50, Borough of Manhattan. Application No. 104289146. Application pursuant to Z.R. §72-21 and §666 of New York Charter to allow the Whitney Museum of American Art to construct an enlargement of its existing complex, which is located partly in C5-1(MP) zoning district and partly in an R8B(LH-1A) zoning district. A variance is requested for these proposed additions which do not comply with several of the applicable use and bulk regulations set forth in the Zoning Resolution.

COMMUNITY BOARD #8M

335-05-BZ B.Q. 3 Kildare Walk, e/s Kildare Walk, 35.07' S/O Oceanside Avenue, Block 16350, Lot 400, Borough of Queens. Application No. 402171948. Proposal to reconstruct and enlarge existing single family dwelling not fronting a mapped street contrary to General City Law Article 3 Section 36 and upgrade an existing private disposal system located partially in the bed of the service lane contrary to Building Department policy.

COMMUNITY BOARD #14Q

336-05-BZ B.M. 495 Broadway, Westside of Broadway between Spring and Broome Streets, Block 484, Lot 24, Borough of Manhattan. Application No. 104167376. Special permit application under Z.R. §73-36 to permit a Physical Culture Establishment in the subject building, occupying the third and a portion of the second floor.

COMMUNITY BOARD #2M

337-05-BZ B.BX 1717 Hering Avenue, Hering Avenue, between Morris Park Avenue and Van Nest Avenue, Block 4115, Lot 23, Borough of the Bronx. Application No. 200821968. Application to rescind a Stop Work Order and reinstate DOB Permit Number 200821968-01 on the grounds that the owner has acquired a common law vested right to complete construction and obtain a Certificate of Occupancy.

COMMUNITY BOARD #11BX

338-05-BZ B.Q. 2224 East 14th Street, west side between Avenue V and Gravesend Neck Road, Block 7374, Lot 15, Borough of Brooklyn. Application No. 301991003. Application pursuant to Z.R. §73-622, to permit in an R4 zoning district, the proposed enlargement of a one family home, which creates non-compliances with respect to open space and floor area (Z.R. §23-141), side yards (Z.R. §23-461) and rear yard (Z.R. §23-47).

COMMUNITY BOARD #15BK

339-05-BZ B.BK 3574 Nostrand Avenue, south side of Nostrand Avenue, North of Avenue W, Block 7386, Lot 131, Borough of Brooklyn. Application No. 301964890. Application pursuant to Zoning Resolution Section 72-21, to permit the proposed construction of a Yeshiva at the Premises. Said proposal is contrary to sections 33-121 (floor area) and 33-441 (front setbacks) of the Zoning Resolution.

COMMUNITY BOARD #15BK

340-05-BZ B.M. 270 West 17th Street, a/k/a 124-128 Eighth Avenue, Easterly side of Eighth Avenue between West 17th Street and West 16th Street, Block 766, Lots 1101, 1102, Borough of Manhattan. Application No. 103949916. To allow the continued operation of a physical culture establishment previously allowed at the subject premises pursuant to a special permit issued by the BSA. The term of the prior approved special permit lapsed and cannot be extended, as the subject location has been rezoned, and the current zoning no longer permits a PCE by special permit.

COMMUNITY BOARD #4M

341-05-BZ B.Q. 220-06/08/10/12 147th Street, south side of 147th Avenue, 54 feet west of Springfield Boulevard, Block 13434, Lots 105, 106, 107, 109, Borough of Queens. Application No. 402218854. To legalize a storage warehouse (Use Group 16) and a contractor's yard (Use Group 17) within R3-1/R3-2 zoning districts.

COMMUNITY BOARD #13Q

DOCKET

342-05-BZ B.BX 1, 3 and 5 Maya Drive, southeast corner of Kingsbridge Terrace and Perot Street, Block 3253, Lots 205, 206 and 207, Borough of the Bronx. To proposed construction of three three-family dwellings on one zoning lot in an R4A zoning district which does not comply with the bulk and use requirements.

COMMUNITY BOARD #8BX

343-05-BZ B.BX 2, 4 and 6 Maya Drive, southeast corner of Kingsbridge Terrace and Perot Street, Block 3253, Lots 203, 209 and 211, Borough of the Bronx. To proposed construction of three three-family dwellings on one zoning lot in an R4A zoning district which does not comply with the bulk and use requirements.

COMMUNITY BOARD #8BX

344-05-BZ B.Q. 109-70 153rd Street, a/k/a 150-09 110th (Brinkerhoff) Avenue, N/W/C of 153rd Street and 110th (Brinkerhoff) Avenue, Block 12142, Lot 21, Borough of Queens. Application No. 402156279. To proposed construction of a two family dwelling, on a corner lot, that does not provide one of the required front yards.

COMMUNITY BOARD #12Q

345-05-A B.S.I. 81 White Plains Avenue, 150' SE of St. Mary's Avenue, 50.99' fronting on White Plains Avenue, Block 2972, Lot 35, Borough of Staten Island. Application No. 500810919. To build a structure on a lot not fronting on a legally mapped street.

COMMUNITY BOARD #1SI

346-05-A B.Q. 51-17 Rockaway Beach Boulevard, S/S 0' East of Beach 52nd Street, Block 15857, Lot 1, Borough of Queens. Application No. 402191310. To proposes to change the building to commercial use, retail stores and proposes to enlarge the front building which is located in a C8-1 zoning district.

COMMUNITY BOARD #14Q

347-05-A B.Q. 242-22 61st Avenue, south side of 61st Avenue, adjacent to the western edge of Douglaston Park, Block 8286, Lot 186, Borough of Queens.

COMMUNITY BOARD #11Q

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

JANUARY 31, 2006, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, January 31, 2006, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

648-42-BZ

APPLICANT – Sheldon Lobel, P.C., for Abenaa Frempong, owner.

SUBJECT – Application August 11, 2005 - Pursuant to ZR §11-413 this application seeks to change the ground floor use from previously approved manufacture of ferrous and non-ferrous metal products (UG16) to music studio (UG9). The owner also seeks to construct an as-of- right two family residences on two additional floors, thereby making this a proposed three story building. The premise is located in an R-6 zoning district.

PREMISES AFFECTED – 28 Quincy Street, between Classon Avenue and Downing Street, Block 1972, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #2BK

7-57-BZ

APPLICANT – Ruth Peres, Esq., for Kapsin & Dallis Realty Corp., owner; Ruth Peres, lessee.

SUBJECT – Application December 15, 2005 - Pursuant to ZR §11-411 for an Extension of Term of a gasoline service station which expired on September 30, 2005. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 2317-27 Ralph Avenue – 1302-1320 East 65th Street, southeast corner of Ralph Avenue and Avenue M, Block 8364, Lot 34, Borough of Brooklyn.

COMMUNITY BOARD #18BK

374-71-BZ

APPLICANT – Rothkrug Rothkrug Weinberg & Spector, for Evelyn DiBenedetto, owner; Star Toyota, lessee.

SUBJECT – Application filed pursuant to ZR §§72-01 and 72-22 for an extension of term of a variance permitting an automobile showroom with open display of new and used cars (UG16) in a C2-2 (R3-2) district. The application also seeks an amendment to permit accessory customer and employee parking in the previously unused vacant portion of the premises.

PREMISES AFFECTED – 205-11 Northern Boulevard, Block 6269, Lots 14 & 20, located on the North West corner of Northern Boulevard and the Clearview Expressway.

COMMUNITY BOARD#11Q

111-94-BZ

APPLICANT – Ari Goodman, Esq., for 2502 8th Avenue Corp., owner; Michael Williams, lessee.

SUBJECT – Application May 4, 2005 – Extension of term of a Special Permit for the vacant portion of a lot to be used for accessory parking for the commercial uses on the built portion of the site and as incidental monthly/overnight parking for the residential neighbors. The site is located in a C1-4/R-8 zoning district.

PREMISES AFFECTED – 3543-49 Broadway aka 601 West 145th Street, northwest corner intersection of Broadway and West 145th Street, Block 2092, Lot 26, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEALS CALENDAR

177-05-A

APPLICANT – Joseph Sherry for Breezy Point Cooperative, owner. Raymond Reis, lessee.

SUBJECT – Application August 2, 2005 – Proposed reconstruction and enlargement of an existing one family dwelling, not fronting on mapped street and located partially in the bed of a mapped street (Oceanside Avenue), are contrary to both Section 35 and Section 36, Article 3 of the General City Law and the upgrade of an existing private disposal system located in the bed of a mapped street is contrary to the Buildings Department Policy.

PREMISES AFFECTED – 5 Arcadia Walk, E/S 24.87 S/O Mapped Breezy Point Blvd, Block 16350 part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

181-05-A

APPLICANT – Walter T. Gorman, P.E. Breezy Point Cooperative, owner Donald & Connie & Jones, lessee.

SUBJECT – Application August 3, 2005 – Proposed to construct a two story home which does not fronting on mapped street, which is contrary to Section 36, Article 3 of the General City Law, also in the bed of a mapped street (Beach 207th Street) contrary to Section 35, General City Law and the installation of a new septic system located in the bed of a mapped street is contrary to the Buildings Department Policy. Located in an R-4 Zoning District

PREMISES AFFECTED – 22 Atlantic Walk w/s 3.59 North of Breezy Point Boulevard, Block 16350, part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

190-05-A

APPLICANT – Stadtmauer Bailkin, LLP, for John Antzoulis, owner.

CALENDAR

SUBJECT – Application filed on August 12, 2005 – An appeal seeking a determination that the owner of said premises has acquired a common-law vested right to continue development commenced under the prior R2 zoning district. Current Zoning District is R2A.

PREMISES AFFECTED - 28-32 215th Street, east side of 215th Street, between 28th Avenue and 29th Avenue, Block 6016, Lot 56, Borough of Queens.

COMMUNITY BOARD #11Q

304-05-A

APPLICANT – Joseph Sherry, P.E. for Breezy Point Cooperative, owner Fred & Josephine Rella, lessee.

SUBJECT – Application October 13, 2005 - Enlargement of a one family dwelling which does not front on mapped street, which is contrary to Section 36, Article 3 of the General City Law. Located in an R4 Zoning District

PREMISES AFFECTED –38 Ocean Avenue E/S 294.86 N/O Rockaway Point Boulevard, Block 16350, part of Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

305-05-A

APPLICANT – Joseph Sherry, P.E. for Breezy Point Cooperative, owner Jim McShane, lessee.

SUBJECT – Application October 13, 2005 - Enlargement of a one family dwelling which does not front on mapped street, which is contrary to Section 36, Article 3 of the General City Law and upgrade of a private disposal system is in the bed of a service road contrary to Department of Buildings policy. Located in an R4 Zoning District.

PREMISES AFFECTED –19 Queens Walk, E/S 416.39 N/O Breezy Point Boulevard, Block 16350 part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

286-04-BZ & 287-04-BZ

APPLICANT – Rothkrug Rothkrug Weinberg & Spector, LLP for Pei-Yu Zhong, owner.

SUBJECT – Application August 18, 2004 - under Z.R. §72-21 to permit the proposed one family dwelling, without the required lot width and lot area is contrary to Z.R. §23-32.

PREMISES AFFECTED –
85-78 Santiago Street, west side, 11.74' south of McLaughlin Avenue, Block 10503, Part of Lot 13 (tent. #13), Borough of Queens. 85-82 Santiago Street, west side, 177' south of McLaughlin Avenue, Block 10503, Part of Lot 13 (tent.#15), Borough of Queens.

COMMUNITY BOARD #8Q

171-05-BZ

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP for Equinox 568 Broadway Inc., lessee, 568 Broadway Properties LLC, owner.

SUBJECT – Application July 28, 2005 – Special Permit: Under ZR Section 73-36 an approval sought to permit the operation of a physical cultural establishment located on a portion of the cellar, portion of the first floor, part of the mezzanine, entire second floor, and a portion of the third floor of a twelve story commercial building. The PCE use will contain 26, 712 square feet of floor area. The site is located in a M1-5B Zoning District (SOHO Cast Iron).

PREMISES AFFECTED – 568 Broadway a/k/a 69-79 Prince Street and 108-112 Crosby Streets, Block 512, Lot 11, Borough of Manhattan.

COMMUNITY BOARD #2M

172-05-BZ

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP for Equinox Joralemon Street, Inc., lessee, 50 Court Street Associates, owner.

SUBJECT – Application July 28, 2005 – Special Permit: Under ZR Section 73-36 an approval sought to permit the operation of a physical cultural establishment located on a portion of the ground floor, part of the mezzanine, entire second, third and fourth floors of a twelve story commercial building. The PCE use will contain 31, 538 square feet of floor area. The site is located in a C5-2 A Zoning District(DB).

PREMISES AFFECTED – 50 Court Street aka 194-204 Joralemon Street, southwest corner of Court Street and Joralemon Street, Block 265, Lot # 43, Borough of Brooklyn.

COMMUNITY BOARD #2BK

JANUARY 31, 2006, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, January 31, 2006, at 1:30 P.M., at 40

CALENDAR

195-05-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Steven Wemreb and Raizy Weinreb, owner.

SUBJECT – Application August 17, 2005 - Pursuant to ZR §73-622 for the enlargement of an existing one family residence which creates non compliances with respect to floor area, lot coverage and open space as per ZR 23-141 and less than the minimum required side yard as per ZR 23-48. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 2906 Quentin Road, Quentin Road between East 29th Street and Nostrand Avenue, Block 6812, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #15BK

196-05-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Leon Kamkhatchi and Pnina Fani Kamkhatchi, owner.

SUBJECT – Application August 17, 2005 - ZR§73-622 for the enlargement of an existing one family residence which creates non compliances with respect to floor area, lot coverage and open space as per ZR §23-141 and less than the minimum required side yard as per ZR 23-48. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 2315 Quentin Road, Quentin Road between East 23rd Street and East 24th Street, Block 6786, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, DECEMBER 6, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, December 6, 2005, were approved as printed in the Bulletin of December 15, 2005, Volume 90, No. 51.

SPECIAL ORDER CALENDAR

595-44-BZ

APPLICANT – Joanne Seminara, Esq., Kurzman Karelsen & Frank, LLP, for Unit Owners of the Central Park South Medical Condominium, owner.

SUBJECT – Application August 3, 2005 – Pursuant to ZR §11-411 – Extension of Term of a Variance which expired on July 12, 2005, to permit in a residence use district the change in occupancy of an existing 15 story building from apartment hotel and accessory restaurant, to non-resident doctors’ offices and restaurant (cabaret with no dancing). The premise is located in an R-10H zoning district.

PREMISES AFFECTED – 30 Central Park South, southside of Central Park South between Avenue of the Americas and 5th Avenue, Block 1274, Condo Lots 1001-1055, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Joanne Seminara.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a re-opening, an extension of the term and an amendment of the previously granted variance; and

WHEREAS, the application was brought on behalf of the Board of Managers of the condominium building at the subject premises; and

WHEREAS, a public hearing was held on this application on November 15, 2005 after due notice by publication in The City Record, and then to decision on December 6, 2005; and

WHEREAS, Community Board No. 5, Manhattan, recommends approval of this application; and

WHEREAS, the premises is located on the south side of Central Park South, between the Avenue of Americas and Fifth Avenue, and is currently within an R10H zoning district; and

WHEREAS, on July 15, 1955, the Board granted a variance under the subject calendar number to permit, within

what was then a general residence district, floors one through fourteen of the existing 15-story building at the premises to be used for doctors’ offices; and

WHEREAS, this same grant allowed the 15th story and a portion of the 14th story to be occupied by a restaurant, for a term of 20 years; and

WHEREAS, the term of the grant was extended multiple times, most recently on October 7, 1997, to expire on July 12, 2005; and

WHEREAS, the applicant has applied to extend the term for a ten year period; and

WHEREAS, the applicant also states that certain bulk modifications have been made to the 15th floor since the last Board approval, as a result of a collapse in July of 2002 of a portion of the rear wall; and

WHEREAS, the applicant represents that the wall has been reconstructed, with a reduction in the floor area of the 15th floor unit by approximately 550 s.f.; and

WHEREAS, the applicant further represents that certain partitions on floors one through fourteen have also been modified since the last Board approval; and

WHEREAS, the applicant seeks approval of these changes, which are reflected on floor plans submitted by the applicant; and

WHEREAS, the applicant represents that there are four Environmental Control Board violations currently open with respect to the premises; and

WHEREAS, the Board requested additional information about the nature and status of these violations; and

WHEREAS, the applicant represents that three of the violations were issued in connection with the partial rear wall collapse mentioned above and one relates to construction on the building’s north façade which was recently completed; and

WHEREAS, the applicant further represents that it has completed all of the work necessary to cure the violations and will ensure that they are cancelled as of record; and

WHEREAS, accordingly, the Board finds that the requested extension of term and amendments to the plans are appropriate, with certain conditions as set forth below; and

WHEREAS, during the course of hearing, the applicant made some additional representations regarding the continuing applicability of the subject variance to the 15th story penthouse, in light of a Letter of No Objection opinion letter that the Board sent to the Department of Buildings (DOB) on July 26, 2004 (hereinafter, the “LNO”), at the request of a representative of the owner of the 15th floor unit; and

WHEREAS, counsel to the 15th story unit owner also appeared at hearing and made arguments related to the LNO; and

WHEREAS, the LNO states that the Board has no objection to a proposed change in use on the 15th floor from U.G. 12 restaurant to U.G. 2 residential; and

WHEREAS, the Board observes that discussion of the LNO is not relevant to the case before the Board, which is an application on the Special Order Calendar for an extension of term and minor interior amendments; and

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WHEREAS, nonetheless, even assuming that the LNO was an appropriate matter to discuss within the context of the subject application, the Board finds that it issued the LNO appropriately and that it remains valid; and

WHEREAS, in issuing the LNO, the Board neither approved any plans related to the conversion nor provided DOB with an express authorization of any conversion; rather, the letter was merely an opinion and did not amend the underlying variance in any manner; and

WHEREAS, because the Board did not review any plans or authorize the conversion, the opinion expressed in the LNO was necessarily qualified: the LNO specifically states that DOB has the authority to review the application for the conversion of the 15th floor to conforming residential use for zoning and Building Code compliance, as well as compliance with all other applicable laws, which would include DOB's own permitting requirements; and

WHEREAS, additionally, the LNO states that if DOB determines that any such non-compliance exists, the LNO will have no effect as to the permit application; and

WHEREAS, the Board observes that it routinely receives requests for such opinions, but that the opinion letters themselves do not serve as authorization to the recipient for the requested conversion to as of right use; and

WHEREAS, instead, the letter is merely an advisory statement to DOB that if a permit application that complies with all legal requirements is filed for such conversion, the Board would not require the matter to be heard on the Board's calendar unless it was necessary; and

WHEREAS, the applicant alleges that the LNO should be revoked or invalidated by the Board since it was issued to the individual owner of the 15th floor unit without the consent of the Board of Managers; and

WHEREAS, the applicant notes that the LNO states that the requesting party was acting on behalf of the owner of the building; and

WHEREAS, the applicant argues that this was not the case, and that the LNO should be invalidated on this basis; and

WHEREAS, the Board does not consider this language in the LNO to be fatal to its validity; and

WHEREAS, while the LNO should have specified that it was requested by the owner of a specific condominium unit within the building, the determination that as of right conversion, if approved by DOB as fully complying with all applicable laws, would not be objected to by the Board, is unaffected; and

WHEREAS, additionally, the fact that the LNO was issued to DOB at the request of a representative of the 15th floor unit owner is not a violation of any BSA Rule of Procedure or any applicable Charter section; and

WHEREAS, accordingly, even if such a request for invalidation of the LNO could properly be entertained during this application, the Board observes that there is no reason to make such a determination; and

WHEREAS, at hearing and in a written submission, counsel to the owner of the 15th floor penthouse unit argued that the requested extension of term should not be applied to the 15th floor, given that there is a currently approved DOB application for the conversion of that floor to residential use; and

WHEREAS, the Board disagrees, noting that although a permit for the conversion may have been issued by DOB, the certificate of occupancy (C/O) for the building, which establishes legal use, has not been changed; the subject C/O still reflects restaurant use at the 15th floor, and the continuing legality of this use requires the extension of the subject variance; and

WHEREAS, moreover, the instant application is not the 15th floor unit owner's to modify in any respect; it was brought by the Board of Managers and the application is for an extension of term for the full building; and

WHEREAS, accordingly, the extension of term granted herein applies to the entire building, including the 15th floor unit.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution adopted on July 15, 1955, as subsequently amended and extended, so that as amended this portion of the resolution shall read "to extend the term for ten years from July 12, 2005; on condition that the all work/site conditions shall substantially conform to drawings as filed with this application, marked 'August 3, 2005' – (18) sheets and 'October 17, 2005'-(1) sheet; and on further condition:

THAT the term of this grant shall be for ten years, to expire on July 12, 2015;

THAT the above condition shall be listed on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT all exiting requirements shall be as determined by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted, including clearing of all outstanding violations as noted above." (DOB Application No. 104177837)

Adopted by the Board of Standards and Appeals, December 6, 2005.

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289-79-BZ

APPLICANT – David L. Businelli, for Patsy Serra, owner.
SUBJECT – Application April 26, 2005 – Extension of Term/Waiver for the continued use of a commercial vehicle and storage establishment (UG16). The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 547 Midland Avenue, north side of Midland Avenue, Block 3799, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a Waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the variance; and

WHEREAS, a public hearing was held on this application on November 15, 2005 after due notice by publication in *The City Record*, and then to decision on December 6, 2005; and

WHEREAS, Community Board No. 2, Staten Island, recommends approval of this application; and

WHEREAS, the premises is located on the north side of Midland Avenue, at the corner of Midland and Freeborn Street; and

WHEREAS, on March 16, 1979, the Board granted a variance under the subject calendar number to permit, in an R3-2 zoning district, the development of a one-story building for use as a commercial vehicle and storage establishment with accessory public bus shelter, for a term of 15 years; and

WHEREAS, a subsequent amendment to this grant, made on December 11, 1984, allowed the elimination of the accessory bus shelter, canopy, and planted areas fronting Midland Avenue; and

WHEREAS, the term of the grant was extended on December 5, 1995, to expire on July 24, 2004; and

WHEREAS, the applicant has applied to extend the term for a ten year period; and

WHEREAS, at hearing, the Board recommended to the applicant that all existing fencing on the site be made opaque, and that 5'-0" opaque fencing be installed at the rear lot line; and

WHEREAS, the applicant subsequently submitted revised plans showing the requested fencing; and

WHEREAS, the Board finds that the requested extension of term 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 adopted on March 16, 1979, as subsequently amended and extended, so that as amended this portion of the resolution shall read “to extend the term for ten years from July 24, 2004; *on condition* that the all

work/site conditions shall substantially conform to drawings as filed with this application, marked ‘November 18, 2005’-(1) sheet; and *on further condition*:

THAT the term of this grant shall be for ten years, to expire on July 24, 2014;

THAT all fencing shall be opaque and shall be installed/maintained as indicated on the BSA approved plans;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT all exiting requirements shall be as determined by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.”

(DOB Application No. 500756103)

Adopted by the Board of Standards and Appeals, December 6, 2005.

886-82-BZ

APPLICANT – Blaise Parascondala, Esq., for Lenox Road Baptist Church, owner.

SUBJECT – Application May 13, 2005 – Reopening for an amendment to a variance ZR §72-21 to increase the floor area for a community use facility which increases the degree of non-compliance into the required rear yard. The premise is located in a C1-3 (R7-1) zoning district.

PREMISES AFFECTED – 1356 Nostrand Avenue, corner of Nostrand Avenue and Lenox Road, Block 5085, Lot 51, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a re-opening and an amendment to a previously granted variance; and

WHEREAS, a public hearing was held on this application on November 15, 2005 after due notice by publication in *The City Record*, and then to decision on December 6, 2005; and

WHEREAS, Community Board No. 17, Brooklyn, recommends approval of this application; and

WHEREAS, the premises is located on the corner of Nostrand Avenue and Lenox Road; and

WHEREAS, on April 26, 1983, the Board granted a

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variance under the subject calendar number to permit, in a C1-3 (R7-1) zoning district, the reconstruction of a two-story and basement church that encroaches into the required rear yard above the first story, contrary to Z.R. § 33-26; and

WHEREAS, the applicant proposes an enlargement to the existing church; and

WHEREAS, the enlargement will result in an increase in floor area from 19,293 s.f. to 26, 511 s.f., and will extend the building out slightly on its frontages on Lenox Road and Nostrand Avenue; and

WHEREAS, the applicant represents that the enlargement is necessary to meet the programmatic needs of the growing numbers of parishioners served by the church; and

WHEREAS, the Board observes that this enlargement is as of right in terms of floor area and other bulk parameters, but leads to a small increase in the degree of non-compliance as to the rear yard equivalent; and

WHEREAS, the Board notes further that the small increase in the rear yard equivalent non-compliance is due to a reconfiguration of the pitched roof of the church; and

WHEREAS, the Board finds that the requested amendment 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 adopted on April 26, 1983, so that as amended this portion of the resolution shall read “to permit an increase in the degree of a non-complying encroachment into the rear yard above the first story of the building; *on condition* that the expansion shall substantially conform to drawings as filed with this application, marked ‘November 22, 2005’ – (8) sheets; and *on further condition*:

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT all interior partitions and exits shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.”

(DOB Alt. Application No. 765/1982)

Adopted by the Board of Standards and Appeals, December 6, 2005.

146-02-BZ

APPLICANT – Anthony DiProperzio, R.A., R.A.J. Realty Corp., owner.

SUBJECT – Application September 7, 2005 – Extension of time to obtain a Certificate of Occupancy, to permit within a C1-2/R3-2 zoning district, a two-story addition to an existing retail establishment.

PREMISES AFFECTED – 138-27 247th Street, south side, 250’-0” East of 139th Avenue, Block 13621, Lots 9 & 11, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Anthony DiProperzio.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on November 15, 2005, after due notice by publication in the *City Record*, and then to decision on December 6, 2005; and

WHEREAS, on March 18, 2003, under the subject calendar number, the Board granted an application pursuant to Z.R. § 73-52 to permit, in a partial C1-2 (R3-2) zoning district and a partial R3-2 zoning district, the proposed two-story addition to an existing Use Group 6 retail establishment, which encroaches into the residential portion of the lot; and

WHEREAS, the resolution for said grant specified that a new certificate of occupancy (“CO”) be obtained within two years of the date of the grant; this period of time expired on March 18, 2005; and

WHEREAS, the applicant represents that as a result of unforeseen financial problems and difficulties in obtaining the demolition permit, the applicant has not yet obtained a CO; and

WHEREAS, at the Board’s request, the applicant has submitted a letter from the owner’s accountant that states that there are currently sufficient funds available to complete the proposed addition and renovations; and

WHEREAS, the applicant further represents that it expects the demolition permit to be secured shortly and construction to be complete within 16 months of the start of the demolition; and

WHEREAS, based upon the above, the Board has determined that the evidence in the record supports the grant of the requested waiver, extension and amendment.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on May 18, 2003, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a CO for an additional period of two (2) years from the date of this resolution, to expire on December 6, 2007; on condition:

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THAT a new certificate of occupancy shall be obtained within two years from the date of this grant;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect, and shall be listed on the new certificate of occupancy as specified in said resolutions;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.”

(DOB Application No. 401245354)

Adopted by the Board of Standards and Appeals, December 6, 2005.

364-36-BZ, Vol. II

APPLICANT – Joseph P. Morsellino, for Dominick Tricarico & Est. of P. Tricarico, owner.

SUBJECT – Application July 13, 2005 – Extension of Term/Waiver of a Variance which expired on February 11, 2005 for an additional 15 year term of an automotive service station. The premise is located in a C1-4 & R6B zoning district.

PREMISES AFFECTED – 31-70 31st Street, 31st Street and Broadway, Block 589, Lot 67, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Joseph P. Morsellino.

ACTION OF THE BOARD – Laid over to January 24, 2006, at 10 A.M., for continued hearing.

871-46-BZ

APPLICANT – Joseph P. Morsellino, Esq, for Boulevard Leasing, LLC, owner.

SUBJECT - Application September 9, 2005 - Extension of Time/Waiver to obtain a Certificate of Occupancy which expired December 11, 2002. The premise is located in a C4-2 zoning district.

PREMISES AFFECTED – 97-45 Queens Boulevard, northwest corner of 64th Road, Block 2091, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to December 13, 2005, at 10 A.M., for decision, hearing closed.

7-51-BZ

APPLICANT – Eric Palatnik, P.C., for 6717 4th Avenue, LLC, owner.

SUBJECT – Application December 29, 2004 -Extension of Term/Waiver permitting in a business use district, Use Group 6, using more than the permitted area and to permit the parking of patron's motor vehicles in a residence use portion of the lot. The subject premises is located in an R-6/R7-1(C1-3) zoning districts.

PREMISES AFFECTED – 6717/35 Fourth Avenue, northeast corner of Senator Street, Block 5851, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to January 10, 2006, at 10 A.M., for decision, hearing closed.

643-60-BZ

APPLICANT – Kenneth H. Koons, for Poplar Street Parking, Inc., owner.

SUBJECT – Application May 24, 2005 – Extension of Term of a variance for an existing public parking lot. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 2443 Poplar Street, a/k/a 2443-49 Poplar Street, north side of Poplar Street, 165’ west of Paulding Avenue, The Bronx.

COMMUNITY BOARD #11BX

APPEARANCES –

For Applicant: Kenneth H. Koons.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to December 13, 2005, at 10 A.M., for decision, hearing closed.

384-74-BZ

APPLICANT – Sheldon Lobel, P.C., for R. M. Property Management, Inc., owner.

SUBJECT – Application May 18, 2005 - Extension of Term of a public parking lot and an Amendment of a Variance ZR72-21to increase the number of parking spaces and to change the parking layout on site. The premise is located in an R4A zoning district.

PREMISES AFFECTED – 3120 Heath Avenue, southwest corner of Shradly Place, Block 3257, Lot 39, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES –

For Applicant: Josh Rinesmith.

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ACTION OF THE BOARD – Laid over to January 10, 2006, at 10 A.M., for continued hearing.

386-74-BZ

APPLICANT – Stadtmauer Bailkin/Steve Sinacori, for Riverside Radio Dispatcher, Inc., owner.

SUBJECT – Application October 19, 2005 – Reopening for an amendment to ZR 72-21 a Variance application to permit the erection of a one story building for use as an automobile repair shop which is not a permitted use. The proposed amendment pursuant to ZR 52-35 for the change of use from one non-conforming use (Automotive Repair Shop UG16) to another non-conforming use (Auto Laundry UG16) is contrary to the previously approved plans. The premise is located in C4-4 zoning district.

PREMISES AFFECTED – 4184/4186 Park Avenue, east side of Park Avenue, between East Tremont Avenue and 176th Street, Block 2909, Lot 8, Borough of The Bronx.

COMMUNITY BOARD #6BX

APPEARANCES –

For Applicant: Richard Bowers.

ACTION OF THE BOARD – Laid over to January 10, 2006, at 10 A.M., for continued hearing.

109-93-BZ

APPLICANT – H. Irving Sigman, Barone Properties, Inc., owner.

SUBJECT – Application April 18, 2005 – Extension of Term/Amendment/Wavier for the continued UG 6 use on the first floor of residential building amendment to change the use on the first floor from UG 6 (Offices) to UG6 eating and drinking establishment with accessory food preparation and storage in the basement. The premises is located in an R3-2 zoning district.

PREMISES AFFECTED – 189-11 Northern Boulevard, Block 5365, Lot 5, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: A.J. Sigman .

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to December 13, 2005, at 10 A.M., for decision, hearing closed.

122-93-BZ

APPLICANT – Adam Rothkrug, Esq., for Equinox Fitness Club, lessee; 895 Broadway LLC, owner.

SUBJECT - Application - March 31, 2005- Waiver of the rules, extension of term and amendment for a legalization of an enlargement to a physical cultural establishment that added 7, 605 square feet on the second floor and an addition of 743sq.ft on the first floor mezzanine.

PREMISES AFFECTED – 895/99 Broadway, W/S Broadway, 27'6" south of corner of East 20th Street, Block 648, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Adam W. Rothkrug.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to January 10, 2006, at 10 A.M., for decision, hearing closed.

62-96-BZ

APPLICANT – Law Office of Fredrick A. Becker, for 200 Madison Associates, LP, owner; New York Sports Club Inc., lessee.

SUBJECT – Application March 31, 2005 - Amendment to legalize on the first floor the enlargement of a physical culture establishment and to allow the change in ownership. The premise is located in C5-2 zoning district.

PREMISES AFFECTED – 200 Madison Avenue, westerly block of Madison Avenue, between East 35th and East 36th Streets, Block 865, Lot 14, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Laid over to January 10, 2006, at 10 A.M., for continued hearing.

213-96-BZ, Vol. III

APPLICANT – Slater & Beckerman, LLP, for 51 LLC, owner; Cheers of Manhattan, Inc., lessee.

SUBJECT – Application April 18, 2005 – Extension of Term/Waiver for an eating and drinking establishment with entertainment and dancing. The premise is located in an C4-5 zoning district.

PREMISES AFFECTED – 51-53 Christopher Street (a/k/a 113 Seventh Avenue South) Block 610, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Stuart Beckerman.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

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ACTION OF THE BOARD - Laid over to January 10, 2006, at 10 A.M., for decision, hearing closed.

132-97-BZ

APPLICANT – Alan R. Gaines, Esq., for Deti Land, LLC, owner; Fiore Di Mare LLC, lessee.

SUBJECT – Application June 7, 2005 – Extension of Term/Amendment/Waiver for an eating and drinking establishment with no entertainment or dancing and occupancy of less than 200 patrons, UG 6 located in a C-3 (SRD) zoning district.

PREMISES AFFECTED – 227 Mansion Avenue, Block 5206, Lot 26, Borough of Staten Island

COMMUNITY BOARD# 3SI

APPEARANCES –

For Applicant: Joseph D. Manno, Esq.

ACTION OF THE BOARD – Laid over to February 14, 2006, at 10 A.M., for continued hearing.

165-02-BZ thru 190-02-BZ

APPLICANT – Stuart A. Klein, Esq./Steve Sinacori, Esq., for Park Side Estates, LLC., owner.

SUBJECT – Application March 31, 2005- Reopening for an amendment to BSA resolution granted under calendar numbers 167-02-BZ, 169-02-BZ, 171-02-BZ, 173-02-BZ and 175-02-BZ. The application seeks to add 5 residential units to the overall development (encompassing lots 21 & 28) for a total of 37, increase the maximum wall height by 2’-0”, and increase the number of underground parking spaces from 11 to 20, while remaining compliant with the FAR granted under the original variance, located in an M1-1 zoning district.

PREMISES AFFECTED – 143-147 Classon Avenue, aka 380-388 Park Avenue and 149-159 Classon Avenue, southeast corner of Park and Classon Avenues, Block 1896, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Steven Sinacori.

ACTION OF THE BOARD – Laid over to January 31, 2006, at 10 A.M., for continued hearing.

77-99-BZ

APPLICANT – The Agusta Group, for Turnpike Auto Laundry, Inc., owner.

SUBJECT – Application March 8, 2005 – Extension of Term of the Special Permit for the operation of an existing auto laundry which expired on February 8, 2005 and an extension of time to obtain a Certificate of Occupancy which expired on July 22, 2005. The premise is located in C8-1 and R-2 zoning district.

PREMISES AFFECTED – 255-39 Jamaica Avenue, a/k/a Jericho Turnpike, north side of Jamaica Avenue, 80’ west of 256th Street, Block 8830, Lot 52, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Sol Korman.

THE VOTE TO REOPEN HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to January 24, 2006, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

1-05-A

APPLICANT – Kathleen R. Bradshaw, Esq. for Anthony Ciaramella, owner

SUBJECT – Application filed January 4, 2005 - to construct two one family homes in the bed of a mapped street (Shore Drive) which is contrary Section 35, Article 3 of the General City Law. Premises is located in a C3 within a R4 Zoning District.

PREMISES AFFECTED – 1426 and 1428 Shore Drive, Bronx, located at 643.08 ft south of the intersection of Layton Avenue and Shore Drive, Block 5467, Lots 37 and 38 (tentative Lots #138 and 139)

COMMUNITY BOARD #10BX

APPEARANCES –

For Applicant: Kathleen Bradshaw.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Bronx Borough Commissioner, dated May 11, 2005, acting on Department of Buildings Application Nos. 200786514 and 200786505, reads:

“Proposal to build in the bed of a mapped street (namely Shore Drive) is contrary to General City Law Number 35;” and

WHEREAS, a public hearing was held on this application on October 18, 2005 after due notice by publication in the *City Record*, and then to closure and decision on December 6, 2005; and

WHEREAS, by letter dated June 13, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

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WHEREAS, by letter dated February 25, 2005, the Department of Transportation has reviewed the project and has recommended that the applicant provide a ten foot side walk in front of his property and clearly show it on the Builder's Pavement Plan; and

WHEREAS, by letter dated March 18, 2005, the applicant has agreed to the recommendation of the Department of Transportation and will show the 10 foot side walk on the Builder's Pavement Plan; and

WHEREAS, by the letter dated November 21, 2005, the applicant has revised the site plan, labeled P1 to show a 10 foot sidewalk in accordance with the recommendation of the Department of Transportation; and

WHEREAS, by letter dated March 4, 2005, the Department of Environmental Protection has reviewed the project and has advised the Board that there is an existing 12" City water main and an existing 6'-0 x 4'-0 sanitary sewer and a 24" storm sewer in Shore Drive between Barkley Avenue and Lafayette Avenue; and

WHEREAS, by letter dated, March 18, 2005, the applicant submitted a survey and revised plan to the Department of Environmental Protection for its review; and

WHEREAS, by letter dated August 29, 2005, the Department of Environmental Protection has reviewed the submission and required that 36' of the mapped Shore Drive be available for maintenance and or reconstruction of the existing main and sewers identified above; the applicant has agreed to the recommendation of DEP and submitted a revised site plan, labeled P1, to indicate the easement; and WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Bronx Borough Commissioner, dated May 11, 2005, acting on Department of Buildings Application Nos. 200786514 & 200786505 are modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received November 21, 2005"- 1 sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 6, 2005.

106-05-A

APPLICANT – New York City Department of Buildings
OWNER OF PREMISES: Rob Rose Place, LLC.

SUBJECT – Application filed on May 10, 2005 – For a Modification of Certificate of Occupancy No. 17004 issued on November 11, 1930 on the basis that a non-conforming restaurant use on the first story of the premises was not in operation for a period of more than two years and the first story was being used illegally as residences. Pursuant to ZR Section 52-61 the non-conforming use was discontinued and the use of the premises must now conform to those permitted in an R7-2 district, therefore the current Certificate of Occupancy improperly authorizes an impermissible use of the premises.

PREMISES AFFECTED – 220-222 Sullivan Street, Block 540, Lot 28, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the application brought by the Commissioner of the Department of Buildings, dated May 10, 2005, reads:

“Application to modify Certificate of Occupancy (CO) No. 17004 pursuant to city charter section 666.6a and 645(b)(3)(e) on the basis that the certificate of occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution.”; and

WHEREAS, a public hearing was held on this application on November 15, 2005, after due notice by publication in the *City Record*, and then to decision on December 6, 2005; and

WHEREAS, the Department of Buildings (“DOB”) seeks to modify Certificate of Occupancy Number 17004 (the “CO”), issued on November 11, 1930 to 220-222 Sullivan Street in Manhattan, on the basis that the non-conforming restaurant use on the first floor of the existing building located at the premises was discontinued for a continuous period of greater than two years; and

WHEREAS, a representative of the building owner appeared at hearing and stated that the owner will conform to any modified CO by converting to residential; and

WHEREAS, the subject premises is located in an R7-2 zoning district, and is currently improved upon with a five-story plus cellar building; and

WHEREAS, the record indicates that the CO permits: (1) storage in the cellar; (2) a restaurant on the first story; and (3) tenements on the second through fifth stories; and

WHEREAS, in 1961, the premises was rezoned to an R7-2 zoning district, and the restaurant use on the first story became a non-conforming use; and

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WHEREAS, DOB represents that subsequent to 1961, the first story of the premises was illegally converted into two residential apartments; and

WHEREAS, DOB states that one of the apartments ("Apt. 1A"), consisting of 40% of the floor area of the first floor, was occupied by a single occupant from 1967 until 2002; and

WHEREAS, DOB has submitted affidavits from neighbors and relatives supporting the above, and Coles Telephone Directory listings from 1990-2002 reflecting the same; and

WHEREAS, DOB further states that the second apartment, consisting of 60% of the floor area of the first floor, is still being used as a residence; and

WHEREAS, on March 21, 2002, the owner of the premises submitted professionally certified Alteration Application No. 103131308 to DOB for general construction and minor demolition, as per submitted plans; and

WHEREAS, a work permit for this application was issued by DOB on June 13, 2002; and

WHEREAS, on August 22, 2002, professionally certified Alteration Application No. 103249511 was filed by the owner to renovate the space previously designated as Apt. 1A; such application states: "Renovate existing store for fast-food establishment, install fire suppression system under kitchen hood, install 4 sprinkler heads and install new store front. U.G.#6. No change in egress, occupancy or use is involved under this application."; and

WHEREAS, a work permit for this application was issued by DOB on September 26, 2002; and

WHEREAS, after several complaints were received against the premises, DOB audited and disapproved both self-certified applications and sent letters of its intention to revoke the first permit on November 13, 2002, and the second permit on June 27, 2003; the owner did not respond; and

WHEREAS, on July 17, 2003, DOB again notified the owner of its intention to revoke the approvals and permits, and of its intention to initiate an action with the Board to modify the CO; and

WHEREAS, DOB represents that the applicant responded by submitting a copy of the CO, and the affidavits and the Coles Directory listings mentioned above, as evidence that the premises was being used as a restaurant; and

WHEREAS, DOB further represents that the auditor removed the objections, but as the evidence submitted to DOB did not address the issue of whether the commercial use had been discontinued for a period of two years, DOB again revoked the permits on January 14, 2004 and March 22, 2004; and

WHEREAS, as noted above, the record indicates that the commercial use on the first floor began in 1930 as a lawful use, and became non-conforming in 1961 when the area was zoned R7-2; and

WHEREAS, Z.R. §52-61 provides, in pertinent part, "If, for a continuous period of two years . . . the active operation of substantially all of the non-conforming uses in any building . . .

is discontinued, such . . . building . . . shall thereafter be used only for a conforming use"; and

WHEREAS, DOB states that in the instant case, the non-conforming use was discontinued for more than two years; and

WHEREAS, DOB represents that from 1967 through 2002, the unit was used as a residence; and

WHEREAS, in support of this statement, in addition to the evidence listed above, DOB submitted records from the New York State Division of Housing and Community Renewal, Office of Rent Administration that establish that Richard A. Zappala was the tenant in Apt. 1A, which was rent controlled from April 1, 1984 until March 10, 2002; and

WHEREAS, the Board has reviewed the evidence submitted by DOB in support of its claim of discontinuance and finds it sufficient and credible; and

WHEREAS, accordingly, the Board finds that for a period of at least two years, the active operation of the lawful non-conforming use of the first floor of the subject premises as a restaurant had been substantially discontinued; and

WHEREAS, therefore, the Board finds that the reference on the CO to restaurant use on the first floor is without legal effect; and

WHEREAS, the Board also finds that the first floor of the premises must hereafter be used only for conforming uses currently permitted in the underlying R7-2 zoning district, notwithstanding the existence of any prior certificate of occupancy issued to the subject premises.

Therefore it is Resolved that the application brought by the Commissioner of the Department of Buildings, dated May 10, 2004, seeking modification of Certificate of Occupancy No. 17004, is hereby granted.

Adopted by the Board of Standards and Appeals, December 6, 2005.

203-05-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Donna Gallagher, lessee.

SUBJECT – Application August 26, 2005 – Appeal to Department of Buildings to enlarge an existing single family frame dwelling not fronting on a mapped street contrary to General City Law Article 3, Section 36. Premises is located within an R4 zoning district.

PREMISES AFFECTED – 39 Ocean Avenue, east/south 294.86 N/O Rockaway Point Boulevard, Block 16350, Part of Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Loretta Papa.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

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THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and
Commissioner Chin.....3
Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough
Commissioner, dated August 12, 2005, acting on Department
of Buildings Application No. 402166197, reads:

“For Board of Standards & Appeals

A1- The site and building is not fronting on an
mapped street therefore no permit or
Certificate of Occupancy can be issued as per
Article 3, Sect 36 of the General City Law;
Also no permit can be issued since proposed
construction does not have at least 8% of
total perimeter of the building fronting
directly upon a legally mapped street or
frontage space is contrary to Section 27-291
of the Administrative Code of the City of
New York.”; and

WHEREAS, a public hearing was held on this application
on December 6, 2005, after due notice by publication in the
City Record, and then to decision on December 6, 2005; and

WHEREAS, by letter dated October 31, 2005, the Fire
Department states that it has reviewed the above project and
has no objections; and

WHEREAS, the applicant has submitted adequate
evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens
Borough Commissioner, dated August 12, 2005, acting on
Department of Buildings Application No. 402166197 is
modified under the power vested in the Board by Section 36 of
the General City Law, and that this appeal is granted, limited to
the decision noted above; *on condition* that construction shall
substantially conform to the drawing filed with the application
marked “Received August 26, 2005” – (1) sheet; that the
proposal shall comply with all applicable zoning district
requirements; and that all other applicable laws, rules, and
regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the
Board in response to specifically cited and filed DOB/other
jurisdiction objection(s) only;

THAT the approved plans shall be considered approved
only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure
compliance with all other applicable provisions of the Zoning
Resolution, the Administrative Code and any other relevant
laws under its jurisdiction irrespective of
plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals,
December 6, 2005.

208-05-A thru 282-05-A

APPLICANT – Stadtmauer Bailkin, LLP, for Natalie Lyn,
LLC, owner.

SUBJECT – Application filed September 8, 2005 – Appeal
pursuant to Article III, Section 36, of the General City law to
permit construction of 75 two family detached dwellings that
does not front on a legally mapped street.

PREMISES AFFECTED – Richmond Terrace, Nicholas
Avenue Estates, southwest corner of Nicholas Avenue and
Richmond Terrace, Block 1116, Lots varies, Borough of
Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Steve Sinacori.

ACTION OF THE BOARD – Application granted on
condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and
Commissioner Chin.....3
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough
Commissioner, dated August 9, 2005 and September 6, 2005
for New Buildings for the following Application Nos.:

Applic. # 500782138. Applic. # 500774352.
Applic. # 50074254. Applic. # 500773567.
Applic. # 500773852. Applic. # 500773255.
Applic. # 500773264. Applic. # 500773246.
Applic. # 500773415. Applic. # 500773424.
Applic. # 500773433. Applic. # 500774290.
Applic. # 500774307. Applic. # 500773834.
Applic. # 500773585. Applic. # 500773843.
Applic. # 500773576. Applic. # 500782147.
Applic. # 500776617. Applic. # 500776608.
Applic. # 500776591. Applic. # 500776582.
Applic. # 500776092. Applic. # 500776083.
Applic. # 500776029. Applic. # 500776038.
Applic. # 500776047. Applic. # 500776074.
Applic. # 500776065. Applic. # 500776056.
Applic. # 500774218. Applic. # 500774272.
Applic. # 500774281. Applic. # 500774263.
Applic. # 500774245. Applic. # 500774325.
Applic. # 500776519. Applic. # 500776528.
Applic. # 500776537. Applic. # 500776546.
Applic. # 500776555. Applic. # 500776564.
Applic. # 500776573. Applic. # 500779936.
Applic. # 500776181. Applic. # 500776190.
Applic. # 500776172. Applic. # 500776163.
Applic. # 500776154. Applic. # 500776145.
Applic. # 500776136. Applic. # 500776127.
Applic. # 500776118. Applic. # 500776109.
Applic. # 500779623. Applic. # 500779632.
Applic. # 500779767. Applic. # 500779776.
Applic. # 500779749. Applic. # 500779687.
Applic. # 500779730. Applic. # 500779758.
Applic. # 500779650. Applic. # 500779669.
Applic. # 500779678. Applic. # 500779696.

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Applic. # 500779721. Applic. # 500779712.
Applic. # 500779703. Applic. # 500774316.
Applic. # 500774361. Applic. # 500774334.
Applic. # 500774343. Applic. # 500774236.
Applic. # 500774227, which reads:

“The Street giving access to the proposed buildings are not duly placed on the official map of the City of New York, Therefore: referred to BSA for Approval;” and

WHEREAS, a public hearing was held on this application on November 15, 2005 after due notice by publication in the *City Record*, and then closed and set for decision on December 6, 2005; and

WHEREAS, this application is to permit the construction of 75 two family homes that do not front on a legally mapped street; the overall development includes 86 homes; and

WHEREAS, by letter dated November 4, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Staten Island Borough Commissioner, dated August 9, 2005 and September 6, 2005, acting on Department of Buildings Application Nos. (see above) are modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received November 23, 2005”-(1) sheet; that the proposal shall comply with all applicable R3-A zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 6, 2005.

25-04-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Michael Picciallo, owner.

SUBJECT – Application February 11, 2004 – Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED – 506 Bradford Avenue, south side, 148' south of Drumgoole Road, Block 6946, Lot 36, Borough

of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Laid over to February 14, 2006, at 10 A.M., for continued hearing.

26-04-A

APPLICANT – Rothkrug Rothkrug Weinberg & Spector, for Michael Picciallo, owner.

SUBJECT – Application February 11, 2004 – Proposed construction of a one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED – 510 Bradford Avenue, south side, 108' south of Drumgoole Road, Block 6946, Lot 38, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Laid over to February 14, 2006, at 10 A.M., for continued hearing.

231-04-A

APPLICANT – Joseph P. Morsellino, Esq., for Chri Babatsikos and Andrew Babatsikos, owners.

SUBJECT – Application June 17, 2004 – Proposed one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 240-79 Depew Avenue, corner of 243rd Street, Block 8103, Lot 5, Borough of Queens.

COMMUNITY BOARD#11Q

APPEARANCES –

For Applicant: Joseph Morsellino.

THE VOTE TO REOPEN HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to January 24, 2006, at 10 A.M., for decision, hearing closed.

155-05-A

APPLICANT – Richard Kusack, neighbor; 81 East Third Street Realty, LLC., owner.

SUBJECT – Application filed on June 30, 2005 – for an appeal of the Department of Buildings decision dated May 27, 2005 rescinding its Notice of Intent to revoke the approvals and permit for Application No. 102579354 for a community facility (New York Law School) in that it allows violations of the Zoning Resolution and Building Code

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regarding bulk, light, air, and unpermitted obstructions in rear yards.

PREMISES AFFECTED – 81 East 3rd Street, Manhattan, Block 445, Lot 45, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to January 24, 2006, at 10 A.M., for adjourned hearing.

162-05-A

APPLICANT – Jay Segal, Esq., Greenberg & Traurig, LLP, for William R. Rupp, owner.

SUBJECT - Application filed July 15, 2005 - to appeal a final determination from the Department of Buildings dated June 15, 2005 in which they contend that the a privacy wall must be demolished because it exceeds the height limitation set by the Building Code and that the project engineer has failed to show that the Wall has been engineered and built according to code.

PREMISES AFFECTED - 19-21 Beekman Place, a/k/a 461 East 50th Street, located at east side of Beekman Place between East 50th Street and East 51st Street, Block 1361, Lot 117, Borough of Manhattan.

COMMUNITY BOARD#6BK

APPEARANCES –

For Applicant: Jay Segal, Louis Silbert and Donald Luckenbill.

For Opposition: Stephen Rizzo and Tim Barnard.

For Administration: Zanine Gaylard.

ACTION OF THE BOARD – Laid over to February 7, 2006, at 10 A.M., for continued hearing.

191-05-A/192-05-A

APPLICANT – Eric Palatnik, P.C., for Juliana Forbes, owner.

SUBJECT – Application filed on August 15, 2005 – Proposed construction of a two - two story, two family dwellings, which lies partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED – 12-09 116th Street, and 12-11 116th Street, at the intersection of 116th Street and 12th Avenue, Block 4023, Lots 44 and 45, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to January 10, 2006, at 10 A.M., for decision, hearing closed.

200-05-A and 201-05-A

APPLICANT – Joseph P. Morsellino, for Randolph Mastronardi, et. al., owners.

SUBJECT – Application August 23, 2005 – to permit the building of two conforming dwellings in the bed of mapped 157th Street as per GCL Section 35.

PREMISES AFFECTED – 20-17 and 20-21 Clintonville Street, Clintonville Street between 20th Avenue and 20th Road, Block 4750, Lots 3 and Tent. 6. Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Joseph P. Morsellino.

ACTION OF THE BOARD – Laid over to January 24, 2006, at 10 A.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: A.M.

REGULAR MEETING TUESDAY AFTERNOON, DECEMBER 6, 2005 1:30 P.M.

Present: Chair Srinivasan, Vice Chair Babbar, and Commissioner Chin.

ZONING CALENDAR

397-03-BZ thru 405-03-BZ

APPLICANT – Sheldon Lobel, P.C., for G & G Associates, owner.

SUBJECT – Application December 29, 2003 – under Z.R. §72-21 – to permit the proposed three story (3) plus attic building, to contain three residential units, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED –

1255 60th Street, between 12th and 13th Avenues, Block 5711, Lot 155, Borough of Brooklyn.

1257 60th Street, between 12th and 13th Avenues, Block 5711, Lot 154, Borough of Brooklyn.

1259 60th Street, between 12th and 13th Avenues, Block 5711, Lot 153, Borough of Brooklyn.

1261 60th Street, between 12th and 13th Avenues, Block 5711, Lot 152, Borough of Brooklyn.

1263 60th Street, between 12th and 13th Avenues, Block 5711, Lot 151, Borough of Brooklyn.

1265 60th Street, between 12th and 13th Avenues, Block 5711, Lot 150, Borough of Brooklyn.

1267 60th Street, between 12th and 13th Avenues, Block 5711, Lot 149, Borough of Brooklyn.

1269 60th Street, between 12th and 13th Avenues, Block 5711, Lot 148, Borough of Brooklyn.

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1271 60th Street, between 12th and 13th Avenues,
Block 5711, Lot 147, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES – None.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and
Commissioner Chin.....3

Negative:.....0

Adopted by the Board of Standards and Appeals,
December 6, 2006.

315-04-BZ

APPLICANT – Steven Sinacori/Stadmauer Bailkin, for Frank
Mignone, owner.

SUBJECT – Application September 20, 2004 – under Z.R.
§72-21 to permit the proposed development which will
contain four three-family homes (Use Group 2), within an
M1-1 Zoning District which is contrary to Section 42-00 of
the Resolution.

PREMISES AFFECTED – 1732 81st Street, east side of New
Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot
127), Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on
condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and
Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough
Commissioner, dated August 31, 2004, acting on Department
of Buildings Application No. 301795920, reads:

“Proposed residential use [in] M1-1 zoning
district is contrary to Z.R. section 42-00.”; and

WHEREAS, a public hearing was held on this
application on May 10, 2005, after due notice by publication
in *The City Record*, with a continued hearing on July 12,
2005; the decision was originally scheduled for September
13, 2005 and was then deferred for decision to October 18,
2005 and deferred again until December 6, 2005; and

WHEREAS, the premises and surrounding area had a
site and neighborhood examination by a committee of the
Board, consisting of Chair Srinivasan, Vice-Chair Babbar and
Commissioner Chin; and

WHEREAS, Community Board 11, Brooklyn,
recommends approval of this application; and

WHEREAS, this is one of a series of four applications made
pursuant to Z.R. § 72-21, to permit, within an M1-1 zoning
district, the proposed construction of three-family homes on a
site proposed to be subdivided into four individual zoning
lots, with a home on each lot, contrary to Z.R. § 42-00; and

WHEREAS, the subject premises is a triangular shaped

lot with frontage on New Utrecht Avenue and 81st Street, and
has a total lot area of 10,872.8 sq. ft; and

WHEREAS, the site is currently improved upon with an
approximately 1,656.8 sq. ft. two-story, two-family house and
two, one-story garage storage buildings, with approximately
2,896.3 sq. ft. of floor area; and

WHEREAS, the applicant proposes to demolish the
existing buildings and develop the site with four attached
three-story, three-family homes, fronting on 81st Street, with
an aggregate floor area of approximately 11, 742 sq. ft. (total
FAR of 1.08) ; 12 parking spaces will be provided in the area
behind the buildings; and

WHEREAS, the original proposal also contemplated
the construction of four attached three-story, three-family
homes, but included the construction of a new one-story
2,464 sq. ft. garage/storage building, and only 10 parking
spaces; as discussed further below, the Board asked the
applicant to eliminate the garage building and replace it with
landscaping, and provide more parking at the rear of the
proposed buildings; and

WHEREAS, the proposed home subject to the instant
resolution will have approximately 2,935.5 sq. ft. of floor
area, a perimeter wall height of 30’-0” and a total height of
37’-0”; and

WHEREAS, the applicant states that the following is a
unique physical condition inherent to the site, which creates
practical difficulties and/or unnecessary hardship in
developing the subject site in compliance with underlying
district regulations: the site’s irregular and triangular shape
and shallow depth prevent the creation of an economically
viable manufacturing building, with regularly shaped floor
plates; and

WHEREAS, the applicant states that although the site
has sizable frontages on both 81st Street (approximately 112
ft.) and New Utrecht Avenue (approximately 170 ft.), the
lot’s shallow depth leads to a small amount of lot area relative
to the frontages; and

WHEREAS, specifically, the applicant argues that the
southern half of the New Utrecht Avenue frontage averages a
depth of approximately 40 ft., which, when combined with
the triangular and irregular shape of the lot, means that that
only approximately 60 percent of the lot can be utilized for
conforming development; and

WHEREAS, the applicant argues that because of this
limitation, any conforming development will represent a
significant underutilization of the lot, sufficient to render such
development infeasible; and

WHEREAS, as noted above, the applicant initially
proposed a garage use for the portion of the site most affected
by the shallow depth, which the Board observed was contrary
to the argument that no economically viable use of this
portion of the site was possible; and

WHEREAS, in recognition of this inconsistency, the
applicant modified the proposal to eliminate the proposed
garage use; and

WHEREAS, the Board acknowledges that the
shallowness and irregularity of the site represents a

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significant problem in developing the site with a conforming building; and

WHEREAS, accordingly, the Board finds that the aforementioned unique condition creates a practical difficulty and unnecessary hardship in developing the site in conformance with the applicable use provisions in the subject zoning district; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed a conforming manufacturing building, which concluded that such a building did not realize a reasonable return; and

WHEREAS, at hearing, the Board asked for a new analysis of a conforming manufacturing building with a more regular floor plate shape on the developable portion of the property (with retention of the garage), as well as an analysis of a conforming retail development; and

WHEREAS, in response, the applicant submitted analyses of: (1) a conforming manufacturing development with approximately 6,154 sq. ft. of rentable manufacturing building area and approximately 1,816 sq. ft. of rentable garage building area; and (2) a conforming retail development with 6,878 sq. ft. of rentable floor area and 10 parking spaces; and

WHEREAS, in proffering these analyses, the applicant revised construction cost estimates, adjusted assumed rent per sq. ft. for the conforming manufacturing scenario upwards, and used a slightly higher than average assumed rent per sq. ft. for the retail scenario; and

WHEREAS, even after making such adjustment, the applicant concluded that neither of the conforming scenarios would realize a reasonable return; and

WHEREAS, the Board agrees that neither scenario is viable; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant represents that the current development proposal will not negatively impact the character of the community, adjacent conforming uses, or the public welfare; and

WHEREAS, the applicant represents that the street front along 81st Street is predominantly residential on both the M1-1 and R5 sides of the street, with two-story semi-detached and detached houses, two and three-story row houses, three and four-story apartment buildings, and a synagogue to the east of the site; and

WHEREAS, the applicant also represents that there are two-story and three-story houses and four, six and seven-story apartment buildings on 82nd and 83rd Street, as well as multi-story apartment buildings and two-story houses on 18th Avenue north of 81st Street; and

WHEREAS, the applicant has submitted a land use map which corroborates the above representations; the Board also confirmed that there is a substantial amount of residential use in the immediate area of the site on its site visit; and

WHEREAS, additionally, in response to Board concerns, the applicant reduced the proposed density on the site and eliminated the garage; and

WHEREAS, the Board notes that the height and modified density of the proposed development is comparable to that of the residential uses in the immediate area; in particular, the Board observes that there are numerous three-story homes and numerous multi-family dwellings on 81st Street, including two three-story multiple dwellings directly across the street from the site; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after accepting guidance from the Board as to the appropriate amount of relief necessary to address the degree of hardship afflicting the site, the applicant modified the proposal to the current version, with an FAR of 1.08 rather than an FAR of 1.29; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05-BSA-042K, dated August 24, 2004; 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; Construction Impacts and Public Health; and

WHEREAS, DEP's Office of Environmental Planning and Assessment has reviewed the November 2005 Remedial Action Plan (RAP) and Construction Health and Safety Plan (CHASP); and

WHEREAS, these submissions specifically addressed DEP's comments regarding the applicant's August 2005 Phase II Subsurface Investigation Report; and

WHEREAS, DEP finds the RAP and CHASP acceptable; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

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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 617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, within an M1-1 zoning district, the proposed construction of a three-family home on a site proposed to be subdivided into four individual zoning lots, with a home on each lot, contrary to Z.R. § 42-00; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "August 25, 2005"-(8) sheets; and *on further condition*:

THAT upon completion of the construction activities, the applicant shall submit a Closure Report (Report) certified by a Professional Engineer to DEP; the Report should demonstrate that all remediation activities have been implemented appropriately; at a minimum, the Report should include a summary of post-excavation analytical results, soil removal activities, all transportation manifests, soil disposal/recycling certificates and proof of importing certified clean fill/top soil at any landscaped or grass-covered areas (uncapped) at the site;

THAT no Certificate of Occupancy shall be issued until DEP approves of any submitted Report;

THAT the bulk parameters of the proposed home at the subject address shall be as follows: three stories, floor area of 2,935.5 sq. ft., a street wall height of 30'-0", and a total height of 37'-0";

THAT the internal floor layouts and exiting on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT all landscaping shall be planted and maintained as shown on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 6, 2005.

316-04-BZ

APPLICANT – Steven Sinacori/Stadmauer Bailkin, for Frank Mignone, owner.

SUBJECT – Application September 20, 2004 - under Z.R. §72-21 to permit the proposed development which will contain four three-family homes (Use Group 2), within an M1-1 Zoning District which is contrary to Section 42-00 of the Resolution.

PREMISES AFFECTED – 1734 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 128), Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated August 25, 2004, acting on Department of Buildings Application No. 301795948, reads:

“Proposed residential use [in] M1-1 zoning district is contrary to Z.R. section 42-00.”; and

WHEREAS, a public hearing was held on this application on May 10, 2005, after due notice by publication in *The City Record*, with a continued hearing on July 12, 2005; the decision was originally scheduled for September 13, 2005 and was then deferred for decision to October 18, 2005 and deferred again until December 6, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin; and

WHEREAS, Community Board 11, Brooklyn, recommends approval of this application; and

WHEREAS, this is one of a series of four applications made pursuant to Z.R. § 72-21, to permit, within an M1-1 zoning district, the proposed construction of three-family homes on a site proposed to be subdivided into four individual zoning lots, with a home on each lot, contrary to Z.R. § 42-00; and

WHEREAS, the subject premises is a triangular shaped lot with frontage on New Utrecht Avenue and 81st Street, and has a total lot area of 10,872.8 sq. ft; and

WHEREAS, the site is currently improved upon with an approximately 1,656.8 sq. ft. two-story, two-family house and two, one-story garage storage buildings, with approximately 2,896.3 sq. ft. of floor area; and

WHEREAS, the applicant proposes to demolish the existing buildings and develop the site with four attached three-story, three-family homes, fronting on 81st Street, with an aggregate floor area of approximately 11, 742 sq. ft. (total FAR of 1.08) ; 12 parking spaces will be provided in the area behind the buildings; and

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WHEREAS, the original proposal also contemplated the construction of four attached three-story, three-family homes, but included the construction of a new one-story 2,464 sq. ft. garage/storage building, and only 10 parking spaces; as discussed further below, the Board asked the applicant to eliminate the garage building and replace it with landscaping, and provide more parking at the rear of the proposed buildings; and

WHEREAS, the proposed home subject to the instant resolution will have approximately 2,935.5 sq. ft. of floor area, a perimeter wall height of 30'-0" and a total height of 37'-0"; and

WHEREAS, the applicant states that the following is a unique physical condition inherent to the site, which creates practical difficulties and/or unnecessary hardship in developing the subject site in compliance with underlying district regulations: the site's irregular and triangular shape and shallow depth prevent the creation of an economically viable manufacturing building, with regularly shaped floor plates; and

WHEREAS, the applicant states that although the site has sizable frontages on both 81st Street (approximately 112 ft.) and New Utrecht Avenue (approximately 170 ft.), the lot's shallow depth leads to a small amount of lot area relative to the frontages; and

WHEREAS, specifically, the applicant argues that the southern half of the New Utrecht Avenue frontage averages a depth of approximately 40 ft., which, when combined with the triangular and irregular shape of the lot, means that that only approximately 60 percent of the lot can be utilized for conforming development; and

WHEREAS, the applicant argues that because of this limitation, any conforming development will represent a significant underutilization of the lot, sufficient to render such development infeasible; and

WHEREAS, as noted above, the applicant initially proposed a garage use for the portion of the site most affected by the shallow depth, which the Board observed was contrary to the argument that no economically viable use of this portion of the site was possible; and

WHEREAS, in recognition of this inconsistency, the applicant modified the proposal to eliminate the proposed garage use; and

WHEREAS, the Board acknowledges that the shallowness and irregularity of the site represents a significant problem in developing the site with a conforming building; and

WHEREAS, accordingly, the Board finds that the aforementioned unique condition creates a practical difficulty and unnecessary hardship in developing the site in conformance with the applicable use provisions in the subject zoning district; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed a conforming manufacturing building, which concluded that such a building did not realize a reasonable return; and

WHEREAS, at hearing, the Board asked for a new

analysis of a conforming manufacturing building with a more regular floor plate shape on the developable portion of the property (with retention of the garage), as well as an analysis of a conforming retail development; and

WHEREAS, in response, the applicant submitted analyses of: (1) a conforming manufacturing development with approximately 6,154 sq. ft. of rentable manufacturing building area and approximately 1,816 sq. ft. of rentable garage building area; and (2) a conforming retail development with 6,878 sq. ft. of rentable floor area and 10 parking spaces; and

WHEREAS, in proffering these analyses, the applicant revised construction cost estimates, adjusted assumed rent per sq. ft. for the conforming manufacturing scenario upwards, and used a slightly higher than average assumed rent per sq. ft. for the retail scenario; and

WHEREAS, even after making such adjustment, the applicant concluded that neither of the conforming scenarios would realize a reasonable return; and

WHEREAS, the Board agrees that neither scenario is viable; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant represents that the current development proposal will not negatively impact the character of the community, adjacent conforming uses, or the public welfare; and

WHEREAS, the applicant represents that the street front along 81st Street is predominantly residential on both the M1-1 and R5 sides of the street, with two-story semi-detached and detached houses, two and three-story row houses, three and four-story apartment buildings, and a synagogue to the east of the site; and

WHEREAS, the applicant also represents that there are two-story and three-story houses and four, six and seven-story apartment buildings on 82nd and 83rd Street, as well as multi-story apartment buildings and two-story houses on 18th Avenue north of 81st Street; and

WHEREAS, the applicant has submitted a land use map which corroborates the above representations; the Board also confirmed that there is a substantial amount of residential use in the immediate area of the site on its site visit; and

WHEREAS, additionally, in response to Board concerns, the applicant reduced the proposed density on the site and eliminated the garage; and

WHEREAS, the Board notes that the height and modified density of the proposed development is comparable to that of the residential uses in the immediate area; in particular, the Board observes that there are numerous three-story homes and numerous multi-family dwellings on 81st Street, including two three-story multiple dwellings directly across the street from the site; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the

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surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after accepting guidance from the Board as to the appropriate amount of relief necessary to address the degree of hardship afflicting the site, the applicant modified the proposal to the current version, with an FAR of 1.08 rather than an FAR of 1.29; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05-BSA-042K, dated August 24, 2004; 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; Construction Impacts and Public Health; and

WHEREAS, DEP's Office of Environmental Planning and Assessment has reviewed the November 2005 Remedial Action Plan (RAP) and Construction Health and Safety Plan (CHASP); and

WHEREAS, these submissions specifically addressed DEP's comments regarding the applicant's August 2005 Phase II Subsurface Investigation Report; and

WHEREAS, DEP finds the RAP and CHASP acceptable; 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 617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, within an M1-1 zoning district, the proposed construction of a three-family home on a site proposed to be subdivided into four individual

zoning lots, with a home on each lot, contrary to Z.R. § 42-00; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "August 25, 2005"- 8 sheets; and *on further condition*:

THAT upon completion of the construction activities, the applicant shall submit a Closure Report (Report) certified by a Professional Engineer to DEP; the Report should demonstrate that all remediation activities have been implemented appropriately; at a minimum, the Report should include a summary of post-excavation analytical results, soil removal activities, all transportation manifests, soil disposal/recycling certificates and proof of importing certified clean fill/top soil at any landscaped or grass-covered areas (uncapped) at the site;

THAT no Certificate of Occupancy shall be issued until DEP approves of any submitted Report;

THAT the bulk parameters of the proposed home at the subject address shall be as follows: three stories, floor area of 2,935.5 sq. ft., a street wall height of 30'-0", and a total height of 37'-0";

THAT the internal floor layouts and exiting on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT all landscaping shall be planted and maintained as shown on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 6, 2005.

317-04-BZ

APPLICANT – Steven Sinacori/Stadmauer Bailkin, for Frank Mignone, owner.

SUBJECT – Application September 20, 2004 - under Z.R. §72-21 to permit the proposed development which will contain four three-family homes (Use Group 2), within an M1-1 Zoning District which is contrary to Section 42-00 of the Resolution.

PREMISES AFFECTED – 1736 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 129), Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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Affirmative: Chair Srinivasan, Vice-Chair Babbar and
Commissioner Chin.....3
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough
Commissioner, dated August 25, 2004, acting on Department
of Buildings Application No. 301795957, reads:

“Proposed residential use [in] M1-1 zoning
district is contrary to Z.R. section 42-00.”; and

WHEREAS, a public hearing was held on this
application on May 10, 2005, after due notice by publication
in *The City Record*, with a continued hearing on July 12,
2005; the decision was originally scheduled for September
13, 2005 and was then deferred for decision to October 18,
2005 and deferred again until December 6, 2005; and

WHEREAS, the premises and surrounding area had a
site and neighborhood examination by a committee of the
Board, consisting of Chair Srinivasan, Vice-Chair Babbar and
Commissioner Chin; and

WHEREAS, Community Board 11, Brooklyn,
recommends approval of this application; and

WHEREAS, this is one of a series of four applications
made pursuant to Z.R. § 72-21, to permit, within an M1-1
zoning district, the proposed construction of three-family
homes on a site proposed to be subdivided into four
individual zoning lots, with a home on each lot, contrary to
Z.R. § 42-00; and

WHEREAS, the subject premises is a triangular shaped
lot with frontage on New Utrecht Avenue and 81st Street, and
has a total lot area of 10,872.8 sq. ft; and

WHEREAS, the site is currently improved upon with an
approximately 1,656.8 sq. ft. two-story, two-family house and
two, one-story garage storage buildings, with approximately
2,896.3 sq. ft. of floor area; and

WHEREAS, the applicant proposes to demolish the
existing buildings and develop the site with four attached
three-story, three-family homes, fronting on 81st Street, with
an aggregate floor area of approximately 11,742 sq. ft. (total
FAR of 1.08); 12 parking spaces will be provided in the area
behind the buildings; and

WHEREAS, the original proposal also contemplated
the construction of four attached three-story, three-family
homes, but included the construction of a new one-story
2,464 sq. ft. garage/storage building, and only 10 parking
spaces; as discussed further below, the Board asked the
applicant to eliminate the garage building and replace it with
landscaping, and provide more parking at the rear of the
proposed buildings; and

WHEREAS, the proposed home subject to the instant
resolution will have approximately 2,935.5 sq. ft. of floor
area, a perimeter wall height of 30'-0" and a total height of
37'-0"; and

WHEREAS, the applicant states that the following is a
unique physical condition inherent to the site, which creates
practical difficulties and/or unnecessary hardship in
developing the subject site in compliance with underlying
district regulations: the site's irregular and triangular shape

and shallow depth prevent the creation of an economically
viable manufacturing building, with regularly shaped floor
plates; and

WHEREAS, the applicant states that although the site
has sizable frontages on both 81st Street (approximately 112
ft.) and New Utrecht Avenue (approximately 170 ft.), the
lot's shallow depth leads to a small amount of lot area relative
to the frontages; and

WHEREAS, specifically, the applicant argues that the
southern half of the New Utrecht Avenue frontage averages a
depth of approximately 40 ft., which, when combined with
the triangular and irregular shape of the lot, means that that
only approximately 60 percent of the lot can be utilized for
conforming development; and

WHEREAS, the applicant argues that because of this
limitation, any conforming development will represent a
significant underutilization of the lot, sufficient to render such
development infeasible; and

WHEREAS, as noted above, the applicant initially
proposed a garage use for the portion of the site most affected
by the shallow depth, which the Board observed was contrary
to the argument that no economically viable use of this
portion of the site was possible; and

WHEREAS, in recognition of this inconsistency, the
applicant modified the proposal to eliminate the proposed
garage use; and

WHEREAS, the Board acknowledges that the
shallowness and irregularity of the site represents a
significant problem in developing the site with a conforming
building; and

WHEREAS, accordingly, the Board finds that the
aforementioned unique condition creates a practical difficulty
and unnecessary hardship in developing the site in
conformance with the applicable use provisions in the subject
zoning district; and

WHEREAS, the applicant submitted an initial
feasibility study that analyzed a conforming manufacturing
building, which concluded that such a building did not realize
a reasonable return; and

WHEREAS, at hearing, the Board asked for a new
analysis of a conforming manufacturing building with a more
regular floor plate shape on the developable portion of the
property (with retention of the garage), as well as an analysis
of a conforming retail development; and

WHEREAS, in response, the applicant submitted
analyses of: (1) a conforming manufacturing development
with approximately 6,154 sq. ft. of rentable manufacturing
building area and approximately 1,816 sq. ft. of rentable
garage building area; and (2) a conforming retail
development with 6,878 sq. ft. of rentable floor area and 10
parking spaces; and

WHEREAS, in proffering these analyses, the applicant
revised construction cost estimates, adjusted assumed rent per
sq. ft. for the conforming manufacturing scenario upwards,
and used a slightly higher than average assumed rent per sq.
ft. for the retail scenario; and

WHEREAS, even after making such adjustment, the

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applicant concluded that neither of the conforming scenarios would realize a reasonable return; and

WHEREAS, the Board agrees that neither scenario is viable; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant represents that the current development proposal will not negatively impact the character of the community, adjacent conforming uses, or the public welfare; and

WHEREAS, the applicant represents that the street front along 81st Street is predominantly residential on both the M1-1 and R5 sides of the street, with two-story semi-detached and detached houses, two and three-story row houses, three and four-story apartment buildings, and a synagogue to the east of the site; and

WHEREAS, the applicant also represents that there are two-story and three-story houses and four, six and seven-story apartment buildings on 82nd and 83rd Street, as well as multi-story apartment buildings and two-story houses on 18th Avenue north of 81st Street; and

WHEREAS, the applicant has submitted a land use map which corroborates the above representations; the Board also confirmed that there is a substantial amount of residential use in the immediate area of the site on its site visit; and

WHEREAS, additionally, in response to Board concerns, the applicant reduced the proposed density on the site and eliminated the garage; and

WHEREAS, the Board notes that the height and modified density of the proposed development is comparable to that of the residential uses in the immediate area; in particular, the Board observes that there are numerous three-story homes and numerous multi-family dwellings on 81st Street, including two three-story multiple dwellings directly across the street from the site; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after accepting guidance from the Board as to the appropriate amount of relief necessary to address the degree of hardship afflicting the site, the applicant modified the proposal to the current version, with an FAR of 1.08 rather than an FAR of 1.29; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05-BSA-042K, dated August 24, 2004; 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; Construction Impacts and Public Health; and

WHEREAS, DEP's Office of Environmental Planning and Assessment has reviewed the November 2005 Remedial Action Plan (RAP) and Construction Health and Safety Plan (CHASP); and

WHEREAS, these submissions specifically addressed DEP's comments regarding the applicant's August 2005 Phase II Subsurface Investigation Report; and

WHEREAS, DEP finds the RAP and CHASP acceptable; 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 617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, within an M1-1 zoning district, the proposed construction of a three-family home on a site proposed to be subdivided into four individual zoning lots, with a home on each lot, contrary to Z.R. § 42-00; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "August 25, 2005"- 8 sheets; and *on further condition*:

THAT upon completion of the construction activities, the applicant shall submit a Closure Report (Report) certified by a Professional Engineer to DEP; the Report should demonstrate that all remediation activities have been implemented appropriately; at a minimum, the Report should include a summary of post-excavation analytical results, soil removal activities, all transportation manifests, soil disposal/recycling certificates and proof of importing certified clean fill/top soil at any landscaped or grass-covered areas (uncapped) at the site;

THAT no Certificate of Occupancy shall be issued until DEP approves of any submitted Report;

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THAT the bulk parameters of the proposed home at the subject address shall be as follows: three stories, floor area of 2,935.5 sq. ft., a street wall height of 30'-0", and a total height of 37'-0";

THAT the internal floor layouts and exiting on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT all landscaping shall be planted and maintained as shown on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 6, 2005.

318-04-BZ

APPLICANT – Steven Sinacori/Stadmauer Bailkin, for Frank Mignone, owner.

SUBJECT – Application September 20, 2004 - under Z.R. §72-21 to permit the proposed development which will contain four three-family homes (Use Group 2), within an M1-1 Zoning District which is contrary to Section 42-00 of the Resolution.

PREMISES AFFECTED – 738 81st Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 130), Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated December 2, 2004, acting on Department of Buildings Application No. 301872695, reads:

“Proposed residential use [in] M1-1 zoning district is contrary to Z.R. section 42-00.”; and

WHEREAS, a public hearing was held on this application on May 10, 2005, after due notice by publication in *The City Record*, with a continued hearing on July 12, 2005; the decision was originally scheduled for September 13, 2005 and was then deferred for decision to October 18, 2005 and deferred again until December 6, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the

Board, consisting of Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin; and

WHEREAS, Community Board 11, Brooklyn, recommends approval of this application; and

WHEREAS, this is one of a series of four applications made pursuant to Z.R. § 72-21, to permit, within an M1-1 zoning district, the proposed construction of three-family homes on a site proposed to be subdivided into four individual zoning lots, with a home on each lot, contrary to Z.R. § 42-00; and

WHEREAS, the subject premises is a triangular shaped lot with frontage on New Utrecht Avenue and 81st Street, and has a total lot area of 10,872.8 sq. ft; and

WHEREAS, the site is currently improved upon with an approximately 1,656.8 sq. ft. two-story, two-family house and two, one-story garage storage buildings, with approximately 2,896.3 sq. ft. of floor area; and

WHEREAS, the applicant proposes to demolish the existing buildings and develop the site with four attached three-story, three-family homes, fronting on 81st Street, with an aggregate floor area of approximately 11, 742 sq. ft. (total FAR of 1.08) ; 12 parking spaces will be provided in the area behind the buildings; and

WHEREAS, the original proposal also contemplated the construction of four attached three-story, three-family homes, but included the construction of a new one-story 2,464 sq. ft. garage/storage building, and only 10 parking spaces; as discussed further below, the Board asked the applicant to eliminate the garage building and replace it with landscaping, and provide more parking at the rear of the proposed buildings; and

WHEREAS, the proposed home subject to the instant resolution will have approximately 2,935.5 sq. ft. of floor area, a perimeter wall height of 30'-0" and a total height of 37'-0"; and

WHEREAS, the applicant states that the following is a unique physical condition inherent to the site, which creates practical difficulties and/or unnecessary hardship in developing the subject site in compliance with underlying district regulations: the site's irregular and triangular shape and shallow depth prevent the creation of an economically viable manufacturing building, with regularly shaped floor plates; and

WHEREAS, the applicant states that although the site has sizable frontages on both 81st Street (approximately 112 ft.) and New Utrecht Avenue (approximately 170 ft.), the lot's shallow depth leads to a small amount of lot area relative to the frontages; and

WHEREAS, specifically, the applicant argues that the southern half of the New Utrecht Avenue frontage averages a depth of approximately 40 ft., which, when combined with the triangular and irregular shape of the lot, means that that only approximately 60 percent of the lot can be utilized for conforming development; and

WHEREAS, the applicant argues that because of this limitation, any conforming development will represent a significant underutilization of the lot, sufficient to render such

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development infeasible; and

WHEREAS, as noted above, the applicant initially proposed a garage use for the portion of the site most affected by the shallow depth, which the Board observed was contrary to the argument that no economically viable use of this portion of the site was possible; and

WHEREAS, in recognition of this inconsistency, the applicant modified the proposal to eliminate the proposed garage use; and

WHEREAS, the Board acknowledges that the shallowness and irregularity of the site represents a significant problem in developing the site with a conforming building; and

WHEREAS, accordingly, the Board finds that the aforementioned unique condition creates a practical difficulty and unnecessary hardship in developing the site in conformance with the applicable use provisions in the subject zoning district; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed a conforming manufacturing building, which concluded that such a building did not realize a reasonable return; and

WHEREAS, at hearing, the Board asked for a new analysis of a conforming manufacturing building with a more regular floor plate shape on the developable portion of the property (with retention of the garage), as well as an analysis of a conforming retail development; and

WHEREAS, in response, the applicant submitted analyses of: (1) a conforming manufacturing development with approximately 6,154 sq. ft. of rentable manufacturing building area and approximately 1,816 sq. ft. of rentable garage building area; and (2) a conforming retail development with 6,878 sq. ft. of rentable floor area and 10 parking spaces; and

WHEREAS, in proffering these analyses, the applicant revised construction cost estimates, adjusted assumed rent per sq. ft. for the conforming manufacturing scenario upwards, and used a slightly higher than average assumed rent per sq. ft. for the retail scenario; and

WHEREAS, even after making such adjustment, the applicant concluded that neither of the conforming scenarios would realize a reasonable return; and

WHEREAS, the Board agrees that neither scenario is viable; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with the use provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant represents that the current development proposal will not negatively impact the character of the community, adjacent conforming uses, or the public welfare; and

WHEREAS, the applicant represents that the street front along 81st Street is predominantly residential on both the M1-1 and R5 sides of the street, with two-story semi-detached and detached houses, two and three-story row

houses, three and four-story apartment buildings, and a synagogue to the east of the site; and

WHEREAS, the applicant also represents that there are two-story and three-story houses and four, six and seven-story apartment buildings on 82nd and 83rd Street, as well as multi-story apartment buildings and two-story houses on 18th Avenue north of 81st Street; and

WHEREAS, the applicant has submitted a land use map which corroborates the above representations; the Board also confirmed that there is a substantial amount of residential use in the immediate area of the site on its site visit; and

WHEREAS, additionally, in response to Board concerns, the applicant reduced the proposed density on the site and eliminated the garage; and

WHEREAS, the Board notes that the height and modified density of the proposed development is comparable to that of the residential uses in the immediate area; in particular, the Board observes that there are numerous three-story homes and numerous multi-family dwellings on 81st Street, including two three-story multiple dwellings directly across the street from the site; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after accepting guidance from the Board as to the appropriate amount of relief necessary to address the degree of hardship afflicting the site, the applicant modified the proposal to the current version, with an FAR of 1.08 rather than an FAR of 1.29; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05-BSA-042K, dated August 24, 2004; 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; Construction Impacts and Public Health; and

WHEREAS, DEP's Office of Environmental Planning

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and Assessment has reviewed the November 2005 Remedial Action Plan (RAP) and Construction Health and Safety Plan (CHASP); and

WHEREAS, these submissions specifically addressed DEP's comments regarding the applicant's August 2005 Phase II Subsurface Investigation Report; and

WHEREAS, DEP finds the RAP and CHASP acceptable; 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 617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, within an M1-1 zoning district, the proposed construction of a three-family home on a site proposed to be subdivided into four individual zoning lots, with a home on each lot, contrary to Z.R. § 42-00; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "August 25, 2005"- 8 sheets; and *on further condition*:

THAT upon completion of the construction activities, the applicant shall submit a Closure Report (Report) certified by a Professional Engineer to DEP; the Report should demonstrate that all remediation activities have been implemented appropriately; at a minimum, the Report should include a summary of post-excavation analytical results, soil removal activities, all transportation manifests, soil disposal/recycling certificates and proof of importing certified clean fill/top soil at any landscaped or grass-covered areas (uncapped) at the site;

THAT no Certificate of Occupancy shall be issued until DEP approves of any submitted Report;

THAT the bulk parameters of the proposed home at the subject address shall be as follows: three stories, floor area of 2,935.5 sq. ft., a street wall height of 30'-0", and a total height of 37'-0";

THAT the internal floor layouts and exiting on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT all landscaping shall be planted and maintained as shown on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant

laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 6, 2005.

70-05-BZ

APPLICANT – Lewis E. Garfinkel, R.A., for Yaakov Adler, owner.

SUBJECT – Application March 23, 2005 - under Z.R. §73-622 to permit an enlargement of a single family home to vary sections ZR 23-141(a) for open space ratio & floor area, ZR 23-461 for minimum side yard requirement. The premise is located in a R-2 zoning district.

PREMISES AFFECTED – 2905 Avenue M, northside of Avenue M, 25' easterly of intersection of Avenue M and 29th Street, Block 7647, Lot 8, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 18, 2005, acting on Department of Buildings Application No. 301911634, reads:

1. Proposed Plans are contrary to Z.R. 23-141(a) in that the proposed Floor Area Ratio (FAR) exceeds the permitted 50%.
2. Proposed Plans are contrary to Z.R. 23-141(a) in that the proposed Open Space Ratio (OSR) is less than the minimum required 150%.
3. Proposed Plans are contrary to Z.R. 23-461(a) in that the proposed side yards are less than the total of 13'-0".;

WHEREAS, a public hearing was postponed on this application on September 20, 2005 for lack of proper notification, and was held after due notice by publication in *The City Record* on November 1, 2005, and then to decision on December 6, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, open space, and side yards, contrary to Z.R. §§ 23-141(a) and 23-461(a); and

WHEREAS, the subject lot is located on Avenue M

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between Nostrand Avenue and East 29th Street; and

WHEREAS, the subject lot has a total lot area of 2,489 sq. ft.; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks an increase in the floor area from 1,401 sq. ft. (0.55 Floor Area Ratio or "FAR") to 2,428 sq. ft. (0.97 FAR); the maximum floor area permitted is 1,244.6 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will decrease the open space ratio from 0.57 to 0.39; the minimum required open space ratio is 1.50; and

WHEREAS, the proposed enlargement at the rear of the existing building will extend the non-complying side yard of 2'-10-3/4"; however, the width of the side yard will be maintained; and

WHEREAS, in addition, the other side yard will be reduced in the rear of the lot from 7'-2" to 5'-9"; and

WHEREAS, the applicant represents that because the lot width is less than 40'-0", it is allowed to reduce its combined side yard requirement by 4'-5"; and

WHEREAS, the applicant further represents that it is not required to provide a rear yard; and

WHEREAS, the Board questioned whether the lot would still be able to accommodate one off-site parking space; and

WHEREAS, the applicant states that the parking space currently located in the 7'-2" portion of the eastern side yard will be maintained; and

WHEREAS, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-622 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of an existing single-family dwelling, which does not comply with the zoning requirements for floor area ratio, open space, and side yards, contrary to Z.R. §§ 23-141(a) and 23-461(a); *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received July 25, 2005"- (4) sheets and "November

22, 2005"- (6) sheets; and *on further condition*:

THAT the total FAR on the premises, including the attic, shall not exceed 0.97;

THAT the total attic floor area shall not exceed 385.76 sq. ft., as confirmed by the Department of Buildings;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 6, 2005.

122-05-BZ

APPLICANT - Bryan Cave, LLP (Margery Perlmutter, Esq.), for Clinton Court Development, LLC, Owner.

SUBJECT - Application filed on May 20, 2005 under ZR §73-52 (Modification for Zoning Lots Divided by District Boundaries) to facilitate the development of a 13-story residential building containing 30 dwelling units, community facility space, and 41 accessory parking spaces; zoning lot located in an R6 and M1-1 district.

PREMISES AFFECTED – 525 Clinton Avenue, east side, 205.83' south of Fulton Street and 230.83' north of Atlantic Avenue, Block 2011, Lot 12, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Margery Perlmutter.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated May 5, 2005, issued in response to a confirmation request that the open space, lot coverage and rear yard required for a proposed residential building to be built on that portion of the premises within an R6 zoning district may be located in that portion of the premises within an M1-1 zoning district, and that the M1-1 portion may be included in the floor area calculations for residential use, reads:

"Denied for appeal to the Board of Standards and Appeals"; and

WHEREAS, a public hearing was held on this application on November 15, 2005 after due notice by publication in the

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City Record, and then to decision to December 6, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Commissioner Chin; and

WHEREAS, Community Board 2, Brooklyn, recommends disapproval of the subject application, because it believes that it is inappropriate to grant it while the surrounding area is under study by the Department of City Planning (DCP); and

WHEREAS, Council Member James also testified against the application, expressing reservations comparable to the concerns of the Community Board; and

WHEREAS, this is an application under Z.R. § 73-52 to permit the proposed residential development of a 13-story mixed-use community facility and residential building, on a lot partially within a R6 zoning district and partially within an M1-1 zoning district, which is contrary to Z.R. § 42-00 and which requires a special permit to allow the extension of the residential and community facility uses to a 25 foot portion of the lot within the M1-1 zoning district; and

WHEREAS, the zoning lot has a lot area of 16,120 square feet, and is currently vacant; and

WHEREAS, that portion of the lot that is within the R6 zoning district occupies 12,400 sq. ft. and extends 100 ft. in depth from the front lot line; that portion of the lot that is within the M1-1 zoning district occupies 3,720 sq. ft. and extends the remaining 30 ft. of depth to the rear lot line; and

WHEREAS, the R6 portion of the lot fronts on Clinton Avenue; the M1-1 portion does not have any street access; and

WHEREAS, the proposed building will contain community facility use and accessory parking on the first floor, community facility use on the second floor, and a total of 30 dwelling units on the third through thirteenth floors; and

WHEREAS, the applicant represents that by allowing R6 bulk regulations to apply to 25 of the total 30 ft. depth of the M1-1 portion of the lot, increases in floor area of 7,575 sq. ft. for residential use and 3,100 sq. ft. for community facility use are allowed; and

WHEREAS, the applicant also represents that by allowing the R6 use and bulk regulations to apply to 25 ft. of the full 30 ft. depth of the M1-1 portion of the lot, accessory parking for the residential and community facility uses may be located in the M1-1 portion; and

WHEREAS, the proposed lot coverage is 65 percent; and

WHEREAS, the applicant states that the proposed height of the building (147'-4") will be the same as an as of right building, as would the 18 feet setback at the third floor; and

WHEREAS, the applicant further states that unlike an as-of-right building, the first floor of the proposed building will be built to a point that is five feet to the west of the rear lot line (which is permitted because the first floor is to be occupied by a community facility and, therefore, no rear yard is required at the first floor level); and

WHEREAS, however, the building will set back an additional 30 feet at the second floor in order to satisfy the rear yard requirement for this floor level and those above; and

WHEREAS, the applicant states that the remaining five ft. of the zoning lot, at the rear and in the M1-1 portion, shall be filled in with a five feet deep, 14 feet high storage structure, to prevent the creation of an otherwise potentially dangerous alleyway; and

WHEREAS, Z.R. § 73-52 provides that when a zoning lot, in single ownership as of 1961, is divided by district boundaries in which two or more uses are permitted, the Board may permit a use which is permitted in the district in which more than 50 percent of the lot area of the zoning lot is located to extend not more than 25 feet into the remaining portion of the zoning lot where such use is not permitted, provided: (a) that, without any such extension, it would not be economically feasible to use or develop the remaining portion of the zoning lot for a permitted use; and (b) that such extension will not cause impairment of the essential character or the future use or development of the surrounding area; and

WHEREAS, as to the threshold single ownership requirement, the applicant has submitted a bargain and sale deed that reveals that the zoning lot was in single ownership as of 1961; and

WHEREAS, accordingly, the Board finds that the applicant has provided sufficient evidence showing that the zoning lot was in single ownership prior to 1961 and continuously from that time onward; and

WHEREAS, as to the threshold 50 percent requirement, as discussed above, approximately 12,400 sq. ft. of the zoning lot's total lot area is located within the R6 zoning district, which is more than the required 50 percent of lot area; and

WHEREAS, as to the first finding, the applicant represents that without the extension of the R6 zoning district provisions into that portion of the lot within the M1-1 zoning district, there is no viable use of that portion since it is landlocked and could not be developed with a conforming commercial or manufacturing use; and

WHEREAS, specifically, the applicant states that vehicular passage over the R6 portion of the lot to the M1-1 portion would not be allowed as of right since such access would be accessory to the M1-1 use, and thus not permitted in the R6 portion; and

WHEREAS, the applicant concludes that absent such access, there is no viable use to which the M1-1 portion of the lot may be put; and

WHEREAS, the Board agrees and finds that without the requested extension, it would not be economically feasible to use or develop the M1-1 portion of the zoning lot for a permitted use; and

WHEREAS, as to the second finding, the applicant states that the special permit would allow an increase in available floor area and a resulting increase in the size of the residential floor plates; and

WHEREAS, specifically, the special permit would allow an increase in zoning floor area of approximately 10,675 sq. ft., with 7,575 sq. ft. for residential use and 3,100 sq. ft. for community facility use; and

WHEREAS, the applicant represents that the additional

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floor area would be located at the rear of the site, thus minimizing any visual impact it might have from Clinton Avenue; and

WHEREAS, the applicant notes that the proposed residential and community facility uses are consistent with the uses in the neighboring area, as both sides of Clinton Avenue surrounding the site are primarily residential in nature; and

WHEREAS, in support of the above representations, the applicant presented pictures at hearing depicting surrounding buildings in the neighborhood; and

WHEREAS, the applicant concludes that the proposed extension will not cause impairment of the essential character of the neighborhood, which is predominantly residential, nor will it impair the future development of adjacent properties, given the small increase in floor area and floor plate size over what is permitted as of right; and

WHEREAS, both the Community Board and the Council Member expressed concerns regarding the proposed scale and height of the building; and

WHEREAS, the Council Member stated that the area was being studied for a rezoning that would reduce the permitted height of newly developed buildings; and

WHEREAS, the Board notes that the R6 zoning district currently allows for buildings that are 12 to 13 stories high, and the special permit does not allow any height parameters to be exceeded; rather, it only allows the use of 25 ft. within the M1-1 zoning district to be utilized for floor area, and lot coverage purposes for the proposed residential/community facility building; and

WHEREAS, the Board observes that even if the special permit were not available to the applicant, a building of comparable height could be constructed, albeit with slightly smaller floor plates; and

WHEREAS, for the above reasons, the Board finds that the proposed extension of the R6 zoning district portion of the lot into the M1-1 portion will not cause impairment of the essential character or the future use or development of the surrounding area, nor will it be detrimental to the public welfare; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, as discussed above, the applicant notes that the special permit, if granted, would lead only to slightly larger floor plates at the rear of the lot than what would be permitted as of right; and

WHEREAS, the Environmental Assessment Statement submitted with the application indicates that this increase in floor plate size and floor area would not have any adverse affect on the surrounding area, including the surrounding historic resources; and

WHEREAS, conversely, the special permit will allow for the development of land that otherwise could not be developed, and provide for a development with additional dwelling units, thereby increasing the amount of available housing in the neighborhood; and

WHEREAS, accordingly, the Board finds that, under the

conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§ 73-52 and 73-03; and

WHEREAS, the Board notes that any development on the subject zoning lot must conform to all applicable zoning district regulations and other Building Code and legal requirements, as determined and approved by the Department of Buildings; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 05BSA129K dated May 23, 2005; 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, The Department of Environmental Protection's (DEP) Office of Environmental Planning and Assessment has reviewed the following submissions from the Applicant: (1) an Environmental Assessment Statement, dated May 23, 2005; (2) an August, 2004 Phase I Environmental Site Assessment (Phase I ESA); an October, 2005 Phase II Site Investigation Report; an October, 2005 Soil Management Plan (Remedial Action Plan or "RAP"), an November, 2005 RAP addendum, and a November, 2005 Construction Health and Safety Plan.

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials, air quality and noise impacts; and

WHEREAS, a Restrictive Declaration was executed on December 5, 2005 and subsequently submitted for recordation at the Office of the City Register on December 5, 2005 for the subject property to address hazardous materials concerns; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the Restrictive Declaration and the Applicant's agreement to the conditions noted below: 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

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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 Z.R. §§ 73-52 and 73-03 and grants a special permit to allow the proposed residential development of an entire zoning lot with a 13-story mixed-use community facility and residential building, on a lot partially within a R6 zoning district and partially within an M1-1 zoning district, which is contrary to Z.R. § 43-10 and which requires a special permit to allow the extension of the residential and community facility uses to a 25 foot portion of the lot within the M1-1 zoning district; *on condition* that any and all work shall substantially conform to the drawings as they apply to the objections above noted, filed with this application marked "Received May 23, 2005" – two (2) sheet; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 6, 2005.

202-04-BZ

APPLICANT – Einbinder & Dunn, LLP, for 202 Meserole, LLC, owner.

SUBJECT – Application May 24, 2004 – under Z.R. §72-21 to permit the proposed conversion of a vacant industrial building, into a 17 unit multiple dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10. PREMISES AFFECTED – 100 Jewel Street, southeast corner of Meserole Street, Block 2626, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES – None.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to January 24, 2006, at 1:30 P.M., for decision, hearing closed.

296-04-BZ

APPLICANT – Sheldon Lobel, P.C., for 135 Orchard Street, Co., LLC, owner.

SUBJECT – Application August 30, 2004 – under Z.R. §72-21 to permit the legalization of the residential uses on floors two through five of an existing five-story mixed use building located in a C6-1 zoning district.

PREMISES AFFECTED – 135 Orchard Street, (a/k/a 134 Allen Street), between Delancey and Rivington Streets, Block 415, Lot 69, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Irv Minkin.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to January 10, 2006, at 10 A.M., for decision, hearing closed.

373-04-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Brendan McCartan, owner.

SUBJECT – Application November 26, 2004 - under Z.R. §72-21 in an R4 district, permission sought to allow the construction of a two-story one-family dwelling on a 25' x 53.55' lot consisting of 1,338 SF. The structure does not comply with floor area allowed, open space, lot area, front yard.

PREMISES AFFECTED – 57-69 69th Street, north side of 69th Street 24' west of 60th Avenue, Block 2830, Lot 33, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Laid over to January 10, 2006, at 1:30 P.M., for continued hearing.

26-05-BZ

APPLICANT – Cozen O'Connor, for Tikvah Realty, LLC, owner.

SUBJECT – Application February 11, 2005 - under Z.R. §72-21 to permit the proposed bulk variance, to facilitate the new construction of an 89 room hotel on floors 4-6, catering facility on floors 1-3, ground floor retail and three levels of underground parking, which creates non-compliance with regards to floor area, rear yard, interior lot, permitted obstructions in the rear yard, setback, sky exposure plane, loading berths and accessory off-street parking spaces, is contrary to Z.R. §33-122, §33-26, §33-432, §36-21, §33-23 and §36-62.

PREMISES AFFECTED - 1702/28 East 9th Street, a/k/a 815 Kings Highway, west side, between Kings Highway and Quentin Road, Block 6665, Lots 7, 12 and 15, Borough of Brooklyn.

COMMUNITY BOARD #15BK

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APPEARANCES –

For Applicant: Howard Hornstein, Barbara Hair, Jack Friedman, Ethan Eldon and Alex Klein.

For Opposition: Morris Harary, Chaim Wanberg, David Orelrey, Ben Akselrod, Selma Cameo, Eli Sultan, Irwin Shamah, Diana Cohen, Yosef Ozeiley and Beth Anteby.

ACTION OF THE BOARD – Laid over to January 31, 2006, at 1:30 P.M., for continued hearing.

40-05-BZ

APPLICANT – Petraro & Jones for Rafael Sassouni, owner; Graceful Services, Inc., lessee.

SUBJECT - Application April 21, 2005 – under Z.R. §73-36 to permit a legalization of a physical cultural establishment to be located on the second floor of four story mixed use building. The PCE use will contain 285 square feet to be used in conjunction with an existing physical cultural establishment on the second floor (988 Square feet)located at 1097 Second Avenue, Manhattan.

PREMISES AFFECTED – 1095 Second Avenue, west side of Second Avenue , 60.5 feet south of intersection with East 58th Street, Block1331, Lot 25, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Patrick W. Jones and Willy Zambiano.

ACTION OF THE BOARD – Laid over to January 24, 2006, at 1:30 P.M., for continued hearing.

94-05-BZ

APPLICANT – Eric Palatnik, P.C., for Abraham Bergman, owner.

SUBJECT – Application April 20, 2005 – under Special Permit ZR §73-622 to permit the enlargement of a single family residence to vary ZR sections 23-141 for the increase in floor area and open space, 23-461 for less than the required side yards and 23-47 for less than the required rear yard. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1283 East 29th Street, East 29th Street, north of Avenue M, Block 7647, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to January 24, 2006, at 1:30 P.M., for continued hearing.

96-05-BZ

APPLICANT – Petraro & Jones for Graceful Spa, lessee, 205 LLC, owner.

SUBJECT – Application April 21, 2005 – under Z.R. §73-36 to permit a legalization of physical cultural establishment located on the second floor of a five story mixed-use building. The PCE use will contain 1,465 square feet . The site is located in a C6-3-A Zoning District.

PREMISES AFFECTED – 205 West 14th Street, north side of West 14th Street, 50’ west on intersection with 7th Avenue, Block 764, Lot 35, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Patrick W. Jones.

ACTION OF THE BOARD – Laid over to January 10, 2006, at 1:30 P.M., for continued hearing.

119-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Sam Malamud, owner.

SUBJECT – Application May 16, 2005 – under Z.R. §72-21 to permit the proposed enlargement to an existing one and two story warehouse building, with an accessory office, Use Group 16, located in a C4-3 and R6 zoning district, which does not comply with the zoning requirements for floor area, floor area ratio, perimeter wall height, parking and loading berths, is contrary to Z.R. §52-41, §33-122, §33-432, §36-21 and §36-62.

PREMISES AFFECTED – 834 Sterling Place, south side, 80’ west of Nostrand Avenue, Block 1247, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Richard Lobel, Yossi Malamud and Oshie Ogor.

For Opposition: Forrester G. Goodrich and Janet A. Collins.

ACTION OF THE BOARD – Laid over to February 7, 2006, at 1:30 P.M., for continued hearing.

127-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Church Avenue Realty, Inc., owner; Popeyes Chicken and Biscuits, lessee.

SUBJECT – Application May 24, 2005 – under Z.R. §73-243 to permit approval for a special permit to legalize an existing accessory drive through window for an eating and drinking establishment. The site is located in a C1-3/R5 zoning district.

PREMISES AFFECTED – 9216 Church Avenue, a/k/a 9220 Church Avenue, southwest corner of the intersection between Church Avenue, East 93rd Street, and Linden Boulevard, Block 4713, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #17BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to January 24, 2006, at 1:30 P.M., for continued hearing.

MINUTES

130-05-BZ

APPLICANT – Elise Wagner, Esq., Kramer Levin, for Hudson Island, LLC, owner.

SUBJECT – Application May 25, 2005 – under Z.R. §72-21 to permit the development of a mixed-use, nine-story building with ground level retail, and a small amount of community facility space, and approximately 25 residential units on the upper floors within an M1-5B zoning district.

PREMISES AFFECTED – 74-88 Avenue of the Americas, a/k/a 11-15 Thompson Street and 27-31 Grand Street, east side of Avenue of the Americas, between Grand and Canal Streets, Block 227, Lots 50, 52 and 56, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Paul Selver.

ACTION OF THE BOARD – Laid over to January 24, 2006, at 1:30 P.M., for continued hearing.

138-05-BZ

APPLICANT – Lewis Garfinkel, for Devorah Fuchs, owner.

SUBJECT – Application June 6, 2005 – under Z.R. §73-22 to request a special permit to allow the enlargement of a single family residence which exceeds the allowable floor area and open space per Z.R. §23-141(a), the side yard Z.R. §23-461(a) and the rear yard Z.R. §23-47 is less than the minimum required of the Zoning Resolution. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1227 East 27th Street, east side of 27th Street, Block 7645, Lot 34, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to January 24, 2006, at 1:30 P.M., for decision, hearing closed.

150-05-BZ

APPLICANT – Henry & Dooley Architects, P.C., for Doris Porter, owner; Cynthia Small, lessee.

SUBJECT – Application June 16, 2005 – under Z.R. §73-36 approval sought for a proposed physical cultural establishment located on the second and third floor in a mixed-use building. The PCE use will contain 2,006 square feet. The site is located in a C2-3 /R-6 Zoning District.

PREMISES AFFECTED – 1426 Fulton Street, between Kingston and Brooklyn Avenue, Block 1863, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Paul Duke.

ACTION OF THE BOARD – Laid over to January 31, 2006, at 1:30 P.M., for continued hearing.

185-05-BZ

APPLICANT – Manatt, Phelps & Phillips, LLP (Carol E. Rosenthal, Esq.) for 62-02 Roosevelt Avenue Corporation, owner.

SUBJECT – Application August 5, 2005 – under Z.R. §72-21 to allow a dance floor (Use Group 12) to be constructed in an existing eating and drinking establishment located in an R6/C1-2 zoning district, which is contrary to Z.R. §32-15.

PREMISES AFFECTED – 62-02 Roosevelt Avenue, South side of Roosevelt Ave. 101ft from the corner formed by the intersection of the LIRR tracks with Roosevelt Avenue and 192’59” from the corner formed by the intersection of Roosevelt Avenue and 63rd Street, Block 1294, Lot 58, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Carol E. Rosenthal.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to January 10, 2006, at 1:30 P.M., for decision, hearing closed.

187-05-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Salvatore Porretta and Vincenza Porretto, owners.

SUBJECT – Application August 9, 2005 – under Z.R. §72-21– Propose to build a two family dwelling that will comply with all zoning requirements with the exception of two non-complying side yards and undersized lot area due to a pre-existing condition.

PREMISES AFFECTED – 78-20 67th Road, Southerly side of 67th Road, 170’ easterly of 78th Street, Block 3777, Lot 17, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Fredrick A. Becker and Joseph Perrotto.

ACTION OF THE BOARD – Laid over to January 24, 2006, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 6:10 P.M.

BULLETIN

OF THE
NEW YORK CITY BOARD OF STANDARDS
AND APPEALS

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Volume 90, No. 52

December 29, 2005

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

JAMES CHIN

Commissioners

Pasquale Pacifico, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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Tuesday, December 13, 2005**

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147-05-BZ	2402 Avenue "P", Brooklyn
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DOCKETS

New Case Filed Up to December 20, 2005

351-05-BZ

146 Conover Street, South facing block front of Conover Street between King and Sullivan Street, Block 554, Lot(s) 29, Borough of **Brooklyn, Community Board: 6**. Under 72-21-To construct a 4 story residential building consisting of 8 units on a vacant lot in an M2-1 ZD.

352-05-BZ

21-41 Mott Avenue, Southeast corner of intersection at Beach Channel Drive, Block 15709, Lot(s) 101, Borough of **Queens, Community Board: 14**. (SPECIAL PERMIT)73-243-For an eating and drinking establishment with an accessory drive-through.

353-05-BZY

614 7th Avenue, Northwest corner of 7th Avenue and 23rd Street, Block 900, Lot(s) 39, Borough of **Brooklyn, Community Board: 7**. Extension of Time-To complete construction for a Major Minor development for a period of six months.

354-05-BZY

182 15th Street, South side of 15th Street, 320' west of 5th Avenue, Block 1047, Lot(s) 22, Borough of **Brooklyn, Community Board: 7**. Extension of Time-For construction for a Major Minor development for a period of six months.

355-05-BZY

422 Prospect Avenue, Prospect Avenue west of 8th Avenue, Block 869, Lot(s) 39, Borough of **Brooklyn, Community Board: 7**. Extension of Time-For construction for a Major Minor development for a period of six months.

356-05-A

150 Beach 4th Street, Beach 4th Street, south of Seagirt Avenue, Block 15607, Lot(s) 62, Borough of **Queens, Community Board: 14**. Appeals-Seeks a determination that the owner of the premises acquired a common-law vested right to continue the development of a two (2) family commenced under R5 zoning.

357-05-A

152 Beach 4th Street, Beach 4th Street, south of Seagirt Avenue, Block 15607, Lot(s) 63, Borough of **Queens, Community Board: 14**. Appeals-Seeks a determination that the owner of the premises acquired a common-law vested right to continue the development of a two (2) family commenced under R5 zoning.

358-05-BZ

438 Port Richmond Avenue, Northwest corner of Port Richmond Avenue and Burden Avenue, Block 1101, Lot(s) 62, Borough of **Staten Island, Community Board: 1**. Under 72-21-To permit accessory parking, in an R3A ZD, to use a (UG6) retail building located in an adjacent C8-1 ZD.

359-05-BZ

1927-1933 Flatbush Avenue, Northeast corner of the intersection of Flatbush Avenue and Kings Highway, Block 7819, Lot(s) 20 & 25, Borough of **Brooklyn, Community Board: 18**. (SPECIAL PERMIT) 73-211-To authorize the use of the existing gasoline service with accessory convenience store.

360-05-BZY

400 15th Street, South side of 15th Street 205' feet 5" west of intersection of 8th Avenue and 15th Street, Block 1104, Lot(s) 27, Borough of **Brooklyn, Community Board: 7**. Extension of Time

361-05-BZY

1638 8th Avenue, Fronting on 8th Avenue between Prospect Avenue and Windsor Place, approximately 100ft south of Windsor Place, Block 1112, Lot(s) 52, 54, Borough of **Brooklyn, Community Board: 7**. Extension of Time-To complete construction.

362-05-BZY

639 Sixth Avenue, East side of Sixth Avenue 128'2" north of intersection of 18th Street and Sixth Avenue, Block 874, Lot(s) 9 & 10, Borough of **Brooklyn, Community Board: 7**. Extension of Time-To complete construction.

DOCKET

363-05-BZ

5717 108th Street, Westside Avenue between Van Doren Street and Waldron Street, Block 1966, Lot(s) 83, Borough of **Queens, Community Board: 4.** Under 72-21- 72-21 Bulk variance to erect 2 (3) story w/ accessory parking in a R5.

364-05-A

87-30 167th Street, On the west side of 167th Street 252 feet north of the corner formed by the intersection of Hillside Avenue and 167th Street., Block 9838, Lot(s) 114, Borough of **Queens, Community Board: 8.** Appeals-Seeking a determination that the owner of said premises has acquired a common-law vested right to continued development.

365-05-A

87-32 167th Street, On the west side of 167th Street 222 feet north of the corner formed by the intersection of Hillside Avenue and 167th Street, Block 9838, Lot(s) 116 (tent), Borough of **Queens, Community Board: 8.** Appeals-Seeking a determination that the owner of said premises has acquired a common-law vested right to continue development.

366-05-A

1638 8th Avenue, Lot fronting on 8th Avenue between Prospect Avenue and Windsor Place, approximately 100 feet from Windsor Place, Block 1112, Lot(s) 52,54, Borough of **Brooklyn, Community Board: 7.** Appeals - Subject seeks a determination that the owner of the premises acquired a common-low vested right to continue development.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

FEBRUARY 7, 2006, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, February 7, 2006, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

262-99-BZ

APPLICANT – Sheldon Lobel, P.C., for A.R.E. Group Inc., owner.

SUBJECT – Application October 12, 2005 – Application for a waiver of Rules of Procedure for an extension of time to complete construction and to obtain a certificate of occupancy which expired September 12, 2004.

PREMISES AFFECTED – 230-234 East 124th Street, south side of 124th Street between Second Avenue and Third Avenue, Block 1788, Lots 35 & 37, Borough of Manhattan.

COMMUNITY BOARD #11M

54-01-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Michael Koegel and Francesca Koegel, owners.

SUBJECT – Application December 13, 2005 – request for an extension of time to complete construction and obtain a new certificate of occupancy which expires on January 8, 2006.

PREMISES AFFECTED – 2508 Avenue J, between Bedford Avenue and East 26th Street, Block 7607, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #14BK

136-01-BZ

APPLICANT – Eric Palatnik, P.C., for Cel-Net Holding, Inc., owner.

SUBJECT – Application November 23, 2005 – Reopening for an amendment to the resolution to extend the time to complete construction which expires June 11, 2006.

PREMISES AFFECTED – 11-11 44th Drive, north side between 11th and 21st Street, Block 447, Lot 13, Borough of Queens.

COMMUNITY BOARD #8Q

APPEALS CALENDAR

139-05-A

APPLICANT – Valentino Pompeo for Breezy Point Cooperative, owner Dimitrios Tzentelis, lessee.

SUBJECT – Application June 6, 2005 - Proposed enlargement of an existing one family dwelling, not fronting on mapped street, is contrary to Section 36, Article 3 of the General City Law

PREMISES AFFECTED – 972 Bayside Walk, W/S Bayside Walk west of Rockaway Point Boulevard, Block 16350 part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

189-05-A

APPLICANT – James Periconi for Olive Freud, Hudson Waterfront Associates, owners et al.

SUBJECT – Application filed on September 7, 2005 – An appeal challenging the Department of Building’s issuance of Temporary Certificate of Occupancies for 240 Riverside Boulevard (Building A) before the completion of the roadway connection between 72nd Street and Riverside Boulevard.

PREMISES AFFECTED – 240 Riverside Boulevard, (Building A), Block 1171, Lot 120, Borough of Manhattan.

COMMUNITY BOARD #6M

300-05-A

APPLICANT – Zygmunt Staszewski for Breezy Point Cooperative, owner Ed Keisel, lessee.

SUBJECT – Application October 6, 2005 - Proposed reconstruction and enlargement of an existing one family dwelling, not fronting on mapped street, is contrary to Section 36, Article 3 of the General City Law and the upgrade of an existing private disposal system is contrary to the Buildings Department Policy.

PREMISES AFFECTED – 995 Bayside, East of Bayside, 0 ft North of West Market Street, Block 16350 part of Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

316-05-A

APPLICANT – Zygmunt Staszewski for Breezy Point Cooperative, owner Tim Reid, lessee.

SUBJECT – Application October 28, 2005 – Proposed reconstruction and enlargement of an existing one family dwelling, not fronting on mapped street, is contrary to Section 36, Article 3 of the General City Law and the upgrade of an existing private disposal system is contrary to the Buildings Department Policy.

PREMISES AFFECTED – 3 West Market Street, South of West Market Street 15.24 Feet of Beach 204th Street, Block 16350 part of Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

CALENDAR

335-05-A

APPLICANT – Gary Lenhart for Breezy Point Cooperative, owner; J. Mary Schumacher, lessee.

SUBJECT – Application November 23, 2005 – Proposed reconstruction and enlargement of an existing one family dwelling, not fronting on mapped street, is contrary to Section 36, Article 3 of the General City Law and the upgrade of an existing private disposal system located in the bed of a service lane is contrary to the Buildings Department Policy.

PREMISES AFFECTED – 3 Kildare Walk, E/S Kildare Walk 35.07 S/O Oceanside Avenue, Block 16350 part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

FEBRUARY 7, 2006, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, February 7, 2006, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

100-05-BZ

APPLICANT – Martyn & Don Weston, for 223 Water Street, LLC, owner.

SUBJECT – Application April 25, 2005 – under Z.R. §72-21 to permit the proposed conversion of the second and third floors, of a six story manufacturing building, to residential use, Use Group 2, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 223 Water Street, aka 48 Bridge Street, northwest corner, Block 31, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #2BK

133-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Yitzchok Shindler.

SUBJECT – Application November 30, 2005 – Under Z.R. §73-622 to allow the enlargement of a single family residence which exceeds the allowable floor area and lot coverage per ZR 23-141 of the Zoning Resolution. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1231 East 21st Street, southeast corner of Avenue K and East 21st Street, Block 7621, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #14BK

136-05-BZ

APPLICANT - Gerald J. Caliendo, R.A., A.I.A., for Irving Avenue Holding, LLC, owner.

SUBJECT- Application June 3, 2005 – Under Z.R. §72-21 to construct a two family, two story dwelling which does not comply with the front yard requirement pursuant to ZR§23-45 and is less than the required lot width/lot area pursuant to ZR§23-32. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 1901 Nereid Avenue, corner formed by intersection of the east side of Ely Avenue and North side of Nereid Avenue, Block 5092, Lot 10, Borough of The Bronx.

COMMUNITY BOARD #10BX

137-05-BZ

APPLICANT – Gerard J. Caliendo, R.A., AIA, for Danny Dalal, owner.

SUBJECT – Application June 3, 2005 – Under Z.R. §72-21 to construct a one family, two story and attic dwelling which does not comply with the minimum required lot width of 60'-0" as per ZR 23-32. The premise is located in an R1-2 zoning district.

PREMISES AFFECTED – 198-61 Foothill Avenue, north side of Foothill Avenue 230.47' from the corner of Foothill Avenue and Hillside Avenue, Block 10532, Lot 139, Borough of Queens.

COMMUNITY BOARD #8Q

180-05-BZ

APPLICANT – Wachtel & Masyr for 1511 Third Avenue Association/Related/Equinox, owner.

SUBJECT – Application August 4, 2005 – Special Permit under Z.R. §§73-03 and 73-367 approval sought for the legalization of a physical culture establishment located on the entire second floor portion of the third floor and the entire fourth floor with a total of 34, 125sq.ft. of floor area. The site is located in a C2-8 zoning district.

PREMISES AFFECTED – 1511 Third Avenue aka 201 East 85th Street, northeast corner of 85th Street and Third Avenue, Block 1531, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

322-05-BZ

APPLICANT – Eric Palatnik, P.C., for Queens Jewish Community Council, c/o Warren Hecht, Esq., contract vendee.

SUBJECT – Application November 4, 2005 – Under Z.R. §72-21 to permit the enlargement of an existing single family home and to change the use from residential to community facility. The enlargement is contrary to ZR §24-34 (rear yard) 24-35 (side yard) and 24-521 (sky exposure plane). The premise is located in an R4B zoning district.

PREMISES AFFECTED – 69-69 Main Street, Northeast corner of Main Street and 70th Avenue, Block 6642, Lot 1, Borough of Queens.

COMMUNITY BOARD #8Q

CALENDAR

Pasquale Pacifico, Executive Director

FEBRUARY 14, 2006, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, February 14, 2006, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

1180-80-BZ

APPLICANT – SFS Associates, for One Tiffany Place Condominium, owner.

SUBJECT – Application September 21, 2005 – Reopening for an amendment to the resolution to include superintendents' apartment in the cellar of the existing building.

PREMISES AFFECTED – 1 Tiffany Place, Block 320, Lot 20, Borough of Brooklyn.

COMMUNITY BOARD #6BK

148-03-BZ

APPLICANT – Francis R. Angelino, Esq., for North West Real Estate, LLC, owner.

SUBJECT – Application August 18, 2005 – Reopening for an amendment to a previously approved five story and penthouse mixed commercial and residential building to add a mezzanine in the residential penthouse, located in an M1-6 zoning district.

PREMISES AFFECTED – 111/13 West 28th Street, between Sixth and Seventh Avenues, 164' -4" west of Sixth Avenue, Block 804, Lots 1101-1105 (formerly 28 and 29), Borough of Manhattan.

COMMUNITY BOARD #5M

APPEALS CALENDAR

173-05-A

APPLICANT – Stuart Klein for Trevor Fray, owner.

SUBJECT – Application July 28, 2005 – An appeal seeking

a determination that the owner of said premises has acquired a common-law vested right to continue development commenced under the prior R5 zoning district. Current Zoning District is R4A.

PREMISES AFFECTED – 85-24 168th Place, west side of 168th Place, 200' south of the corner formed by the intersection of 18th Place and Gothic Drive, Block 9851, Lot 47, Borough of Queens.

COMMUNITY BOARD #12Q

FEBRUARY 14, 2006, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, February 14, 2006, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

329-05-BZ

APPLICANT – Wireless EDGE Consultants, LLC, for NYC Heath and Hospitals Corporation, owner.

SUBJECT – Application November 15, 2005 – Under Z.R. §73-30 Proposed Multiple Carrier Monopoles (Use Group 6) is contrary to NYC Department of Buildings technical policy and procedure and therefore not allowable within R3-2 district (Special Natural Area – NA1).

PREMISES AFFECTED – 460 Brielle Avenue, Between Brielle Avenue and Rockland Avenue, Block 955, Lot 1, Borough of Staten Island

COMMUNITY BOARD #2SI

339-05-BZ

APPLICANT – Eric Palatnik, P.C., for Congregation Lev Bais Yaakov, Inc., owner.

SUBJECT – Application November 25, 2005 – Under Z.R. §72-21 to permit the proposed construction of a Yeshiva and is contrary to Z.R. Sections 33-121 (floor area) and 33-441 (front setbacks).

PREMISES AFFECTED – 3574 Nostrand Avenue, south side of Nostrand Avenue, north of Avenue W, Block 7386, Lot 131, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, DECEMBER 13, 2005
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar, and Commissioner Chin.

The motion is to approve the minutes of regular meeting of the Board held on Tuesday morning and afternoon December 13, 2005, as printed in the bulletin of December 29, 2005, Vol. 90, No. 52.

SPECIAL ORDER CALENDAR

871-46-BZ

APPLICANT – Joseph P. Morsellino, Esq, for Boulevard Leasing, LLC, owner.

SUBJECT - Application September 9, 2005 - Extension of Time/Waiver to obtain a Certificate of Occupancy which expired December 11, 2002. The premise is located in a C4-2 zoning district.

PREMISES AFFECTED – 97-45 Queens Boulevard, northwest corner of 64th Road, Block 2091, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

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; and

WHEREAS, a public hearing was held on this application on December 6, 2005, after due notice by publication in the *City Record*, and then to decision on December 13, 2005; and

WHEREAS, on June 9, 1959, under BSA Cal. No. 871-46-BZ Vol. II, the Board granted an application to permit the erection of a 12-story office building with a non-storage garage and loading berth; and

WHEREAS, on July 28, 1992, the Board approved an amendment to the resolution to permit a 900 sq. ft. extension to the building to be used as a greenhouse; such approval required that a new Certificate of Occupancy (“CO”) be obtained within one year from the date of the resolution; and

WHEREAS, the applicant represents that the CO was not obtained within that time frame, and the Board approved an additional year to obtain the CO on December 11, 2001; and

WHEREAS, the applicant represents that the tenants on the premises previously were responsible for their own filings,

but now the owner has assumed this responsibility; and

WHEREAS, the owner further represents that it went to the Department of Buildings to file for a new CO, but DOB instructed the owner to come before the Board first to receive an extension of time; and

WHEREAS, based upon the above, the Board has determined that the evidence in the record supports the grant of the requested waiver and extension.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on June 9, 1959, as amended, so that as further amended this portion of the resolution shall read: “to permit an extension of time to obtain a Certificate of Occupancy for an additional year from the date of this resolution, to expire on December 13, 2006; *on condition*:

THAT a new certificate of occupancy shall be obtained within one year from the date of this grant;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect, and shall be listed on the new certificate of occupancy as specified in said resolutions;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.”

(DOB Application No. 400222139)

Adopted by the Board of Standards and Appeals, December 13, 2005.

436-53-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for 141-50 Union Turnpike, owner.

SUBJECT – Application September 7, 2005 - Pursuant to ZR 11-411 for the Extension of Term/Waiver for the operation of a gasoline service station which expired in February 24, 2004. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 141-50 Union Turnpike, south side of Union Turnpike, 44.96' west of the corner of Union Turnpike and Main Street, Block 6634, Lot 34, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a Waiver of the

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Rules of Practice and Procedure, a re-opening, and an extension of the term of the variance pursuant to ZR § 11-411; and

WHEREAS, a public hearing was held on this application on October 18, 2005 after due notice by publication in *The City Record*, laid over to November 22, 2005 and then to decision on December 13, 2005; and

WHEREAS, Community Board No. 8, Queens, recommends conditional approval of this application; said conditions are discussed below; and

WHEREAS, the premises is located on the south side of Union Turnpike, approximately 45 ft. west of the corner of Union Turnpike and Main Street, and is currently within an R3-2 zoning district; and

WHEREAS, the site has a lot area of 17,256 sq. ft., and is improved upon with an automotive service station with a lubricatorium; and

WHEREAS, on February 24, 1954, the Board granted a variance under the subject calendar number to permit, in what was then a general residence district, the development of a gasoline service station and repair facility, for a term of 15 years; and

WHEREAS, this grant was subsequently extended in term at various times, and, in 1989, the resolution and plan were amended to allow for the replacement of the repair bays with the subject lubrication facility; and

WHEREAS, the last term of the grant expired on February 24, 2004; and

WHEREAS, the applicant has applied to extend the term for a ten year period; and

WHEREAS, during the hearing process, the following issues were raised by the Board: (1) compliance with the conditions proposed by the Community Board; (2) compliance with the previously approved amount of signage, as the applicant indicated that the amount exceeded what was permitted on the prior approved plans; and (3) the need for the middle curb cut on Union Turnpike, since it posed problems in terms of internal circulation; and

WHEREAS, the Community Board, in recommending the approval of this application, made the following recommendations: (1) that the site be cleaned and maintained; (2) that new shrubs be planted near the side lot lines; and (3) that the dumpster be enclosed; and

WHEREAS, the applicant agreed to all of the conditions and subsequently submitted revised plans showing the requested trash enclosure and shrubbery; and

WHEREAS, these same plans show that the middle curb cut on Union Turnpike will be eliminated; and

WHEREAS, the plans also show compliance with the Board's prior signage limitation (the previously approved plans indicated 112 sq. ft. of signage; the plans approved herein indicate 111.5 sq. ft. of signage); and

WHEREAS, accordingly, since all identified issues were resolved, the Board finds that the requested extension of term 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 adopted on February 24, 1954, as subsequently amended and extended, so that as amended this portion of the resolution shall read "to extend the term for ten years from February 24, 2004; *on condition* that the all work/site conditions shall substantially conform to drawings as filed with this application, marked 'November 29, 2005' – (2) sheets; and *on further condition*:

THAT the term of this grant shall be for ten years, to expire on February 24, 2014;

THAT all landscaping and shall be installed/maintained as indicated on the BSA approved plans;

THAT the site shall be cleaned and maintained on a regular basis;

THAT no more than 112 sq. ft. of accessory business signage is permitted on the site;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT all exiting requirements shall be as determined by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 402036391)

Adopted by the Board of Standards and Appeals, December 13, 2005.

643-60-BZ

APPLICANT – Kenneth H. Koons, for Poplar Street Parking, Inc., owner.

SUBJECT – Application May 24, 2005 – Extension of Term of a variance for an existing public parking lot. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 2443 Poplar Street, a/k/a 2443-49 Poplar Street, north side of Poplar Street, 165' west of Paulding Avenue, The Bronx.

COMMUNITY BOARD #11BX

APPEARANCES – None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an extension of the term of the previously granted variance pursuant to Z.R. §11-411; and

WHEREAS, a public hearing was held on this application

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on November 22 2005, after due notice by publication in *The City Record*, and then to decision on December 13, 2005; and

WHEREAS, Community Board No. 11, Bronx, did not submit a report with respect to this application; and

WHEREAS, the premises is located on the corner of the north side of Poplar Street, west of Paulding Avenue; and

WHEREAS, the site is currently located in an R4 zoning district, and is occupied by a public parking lot; and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 16, 1961, when, under the subject calendar number, the Board granted an application to permit a parking lot for more than five cars for a term of ten years; and

WHEREAS, subsequently, this grant has been extended by the Board at various times; and

WHEREAS, the most recent extension of term was granted on September 27, 1995, to expire on September 27, 2005; and

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term for a previously granted variance; and

WHEREAS, based upon the submitted evidence, the Board finds the requested extension of term appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, as adopted on May 16, 1961, as subsequently extended, so that as amended this portion of the resolution shall read: “to extend the term for ten years from September 27, 2005, to expire on September 27, 2015, *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received October 6, 2005’ –(1) sheet; and *on further condition*:

THAT the term of this grant shall be for ten years, to expire on September 27, 2015;

THAT the above condition shall 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; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.” (DOB Application No. 200942347)

Adopted by the Board of Standards and Appeals, December 13, 2005.

926-86-BZ

APPLICANT – Sheldon Lobel, P.C., for Estate of Morton Manes c/o Steven Rosenblatt, owner; Fred Gangs BMW Dealership, lessee.

SUBJECT – Application June 8, 2005 - Extension of Term of Variance for the continued use of the existing automotive

dealership for the sale and service of automobiles with repairs. The premise is located in R6B/C2-2 & R3X zoning districts.

PREMISES AFFECTED – 217-07 Northern Boulevard, north side of Northern Boulevard between 217th Street and 218th Street, Block 6320, Lot 18, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening and an extension of the term of the previously granted variance; and

WHEREAS, a public hearing was held on this application on November 1, 2005, after due notice by publication in *The City Record*, with a continued hearing on November 22, 2005, and then to decision on December 13, 2005; and

WHEREAS, Community Board 11, Queens, recommends denial of this application, because of certain quality of life issues related to the operation of the premises; and

WHEREAS, Council Member Avella recommends denial of this application for reasons similar to those expressed by the Community Board; and

WHEREAS, the premises is located on the north side of Northern Boulevard between 217th Street and 218th Street; and

WHEREAS, the premises is improved upon with an 11,588 sq. ft. one-story building with mezzanine, cellar and outdoor storage used as an automotive dealership with accessory repair; and

WHEREAS, the southern portion of the site is located in an R6B/C2-2 zoning district and the northern portion is located in an R3X zoning district; and

WHEREAS, on July 24, 1962, under Cal. No. 1875-61-BZ, the Board granted a variance to permit, in residence and retail use districts, the erection of a one-story and basement building for use as an authorized car agency, the use of accessory incidental auto repairs with hand tools only, the use of the open area for the sale and service of new and used cars and the parking of more than five cars; and

WHEREAS, on November 4, 1987, under the subject calendar number, the Board granted a modification to the grant under Z.R. §11-412 to permit an automobile dealership for the sale and service of automobiles with accessory incidental auto repairs with tools only, and with parking for no more than 35 cars on the C2-2 portion of the site and no more than 30 cars on the R3-2 portion of the site; and

WHEREAS, at the time of the modification to the grant, the southern portion of the site was located in an R4/C2-2 zoning district and the northern portion was located in an R3-2 zoning district; and

WHEREAS, in 2001, the southern portion of the site was

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re-zoned and in 2005 the northern portion was re-zoned; and

WHEREAS, the variance was subsequently amended and extended; most recently, on April 9, 2002, the Board granted an extension of term to expire on November 4, 2005; and

WHEREAS, the applicant represents that the Certificate of Occupancy ("CO") for the premises, dated March 2, 1992, provides parking for 82 cars; and

WHEREAS, the applicant notes that although the previously approved BSA plans provided for only 72 parking spaces, it requests that revised plans be approved for 82 parking spaces, as per the CO; and

WHEREAS, the Community Board raised certain issues at its meeting, including problems with drainage, excessive noise, debris, traffic, and parking; and

WHEREAS, the applicant responded to the Community Board in a letter dated August 12, 2005, and stated, in part, that with respect to flooding at the site, a drainage system was installed and the applicant will have its engineer visit the site to determine if there are any problems with the system; and

WHEREAS, the applicant states that the dumpster will be located along 218th Street and will not face any residences; in addition, the applicant states that it has added an additional day of garbage pick-up and that garbage pick-up will continue to be at 6AM; and

WHEREAS, the applicant represents that a 6'-0" wooden stockade fence has been constructed between the subject premises and the adjacent property on 217th Street; and

WHEREAS, the applicant also represents that it has a contract with a landscaper to ensure that trees and plants on the lot are properly maintained; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of term and minor modifications are appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens and amends* the resolution, adopted on November 4, 1987, as amended, so that as further amended this portion of the resolution shall read: "to extend the term for five years from November 4, 2005, to expire on November 4, 2010; *on condition* that all work/site conditions shall substantially conform to drawings as filed with this application, marked "Received November 30, 2005"- (3) sheets; and *on further condition*:

THAT the term of this grant shall be for five years, to expire on November 4, 2010;

THAT there shall be a maximum of 82 parking spaces on the premises;

THAT the hours of operation shall be Monday through Thursday 8AM to 7PM, Friday 8AM to 6PM, Saturday 8AM to 1PM for service and 8AM to 3PM for parts, and closed on Sunday;

THAT all fencing shall be installed and/or maintained as indicated on the BSA approved plans;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT the layout of the parking spaces shall be as approved by the Department of Buildings;

THAT all fences as indicated on the BSA-approved plans shall be maintained;

THAT all interior partitions and exits shall be as approved by the Department of Buildings;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 402140875)

Adopted by the Board of Standards and Appeals, December 13, 2005.

109-93-BZ

APPLICANT – H. Irving Sigman, Barone Properties, Inc., owner.

SUBJECT – Application April 18, 2005 – Extension of Term/Amendment/Wavier for the continued UG 6 use on the first floor of residential building. Amendment to change the use on the first floor from UG 6 (Offices) to UG6 eating and drinking establishment with accessory food preparation and storage in the basement. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 189-11 Northern Boulevard, Block 5365, Lot 5, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: H. Irving Sigman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for a re-opening, an amendment, and an extension of the term of the variance; and

WHEREAS, a public hearing was held on this application on October 25, 2005 after due notice by publication in *The City Record*, with a continued hearing on December 6, 2005, and then to decision on December 13, 2005; and

WHEREAS, Community Board No. 11, Queens, and the Queens Borough President recommend approval of this application, with certain conditions as discussed herein; and

WHEREAS, the premises is located on Northern Boulevard between 189th and 190th Streets; and

WHEREAS, on May 24, 1994, the Board granted a variance under the subject calendar number to permit, in an R3-

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2 zoning district, the legalization of an office use (Use Group 6B) in the first floor of an existing three (3) story and basement multiple dwelling; and

WHEREAS, in the instant application, the applicant seeks to permit an eating and drinking establishment and retail bakery, Use Group 6, on the first floor in lieu of the office use, with accessory food preparation and storage in the basement; and

WHEREAS, in connection with the change in use, the applicant proposes changes to the plans to better accommodate the new use, including changes of interior partitions, modification of the handicapped ramp, new air conditioning units and a new refuse container; and

WHEREAS, the applicant represents that the hours of operation of the bakery will be from 7AM to 12AM daily; and

WHEREAS, the applicant proposes to provide accessory parking at a lot across the street from the subject premises at 190-02 Northern Boulevard; both lots are under common ownership; and

WHEREAS, the proposed accessory parking lot is subject to a Board grant under Cal. No. 982-83-BZ permitting a change in use; the lot contains 50 off-street parking spaces intended to serve the retail stores on the lot; and

WHEREAS, the applicant submitted a parking study that evaluated whether the lot at 190-02 Northern Boulevard could accommodate parking for the proposed use in addition to the retail stores it already serves; the study concluded that the lot has excess capacity for at least 23 cars on weekdays and weekends, and that this would meet the demands of the proposed use; and

WHEREAS, at the Board's request, the applicant expanded their parking study to take into account later hours; and

WHEREAS, the applicant's analysis further concluded that between the hours of 7PM and 10PM the lot would continue to have excess capacity to meet the demands of the proposed use; and

WHEREAS, although the Board recognizes that there are no parking requirements in the Zoning Resolution for commercial uses in a residential district, the Board asked the applicant to analyze what the parking requirement would be in a C1 or C2 district or other local retail district for the proposed use; and

WHEREAS, the applicant represents that under C1-1 and C1-2 zoning district regulations the parking requirement would be waived as per Z.R. § 36-231 based upon the amount of floor area proposed for commercial use at the subject site; and

WHEREAS, further, the applicant conducted a parking survey which concludes that there is ample on-street parking surrounding the site; and

WHEREAS, the Board notes that the nearby parking lot and the availability of on-street spaces provide sufficient parking for the bakery; and

WHEREAS, the most recent term of the variance expired on May 24, 2004; and

WHEREAS, the applicant now seeks a ten-year extension

of the term of the variance; and

WHEREAS, the Community Board committee report and the Queens Borough President recommended that both the barbed wire and stored vehicles on the property be removed; and

WHEREAS, the applicant represents that the owner will no longer store vehicles on the property and will remove the barbed wire; according to the Community Board report, the applicant has sent a letter to the Community Board stating the above; and

WHEREAS, the Board finds that the requested extension of term and amendment 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 adopted on May 24, 1994, so that as amended this portion of the resolution shall read "to extend the term for ten years from May 24, 2004, and to allow the change of use of the first floor from UG 6 offices to UG 6 eating and drinking establishment with accessory food preparation and storage in the basement; *on condition* that the changes shall substantially conform to drawings as filed with this application, marked 'September 14, 2005' – (5) sheets; and *on further condition*:

THAT the term of this grant shall be for ten years, to expire on May 24, 2014;

THAT the hours of operation shall be 7AM to 12AM daily;

THAT all deliveries shall be made from Northern Boulevard, between the hours of 9AM and 9PM;

THAT there shall be no storage of vehicles on the site;

THAT the existing fence along the property lines shall be replaced with a 6'-0" high aluminum fence;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT all exterior lighting shall be directed away from the adjacent residences;

THAT all signage on the site shall comply with regulations applicable to C1 zoning districts, as reviewed and approved by DOB;

THAT all interior partitions and exits shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 401873656)

Adopted by the Board of Standards and Appeals, December 13, 2005.

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1016-84-BZ

APPLICANT – Martyn & Don Weston, for Livia Liberace, owner; Ultramotive, lessee.

SUBJECT – Application August 8, 2005 – Pursuant to ZR §11-411 for the Extension of Term of a previously approved Variance for the operation of an auto repair shop (UG12) with accessory uses and an Amendment to reestablish and legalize auto body and fender work on site. The premise is located in a C8-2 & R-5 OP zoning district.

PREMISES AFFECTED – 790-798 Coney Island Avenue, west side 260'-0 3/8 south of Cortelyou Road, Block 5393, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Don Weston.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

ACTION OF THE BOARD – Laid over to January 10, 2006, at 10 A.M., for decision, hearing closed.

4-95-BZ

APPLICANT – Harry Meltzer, R.A., for 21 Hillside LLC/Allan Goldman, owner.

SUBJECT – Application June 27, 2005 - Pursuant to ZR §11-411 for the extension of term of a Use Group 8 public parking lot for 48 cars. The premise is located in an R7-2 zoning district.

PREMISES AFFECTED – 21/23 Hillside Avenue, south side of Hillside Avenue, 252'-2" east of Broadway, Block 2170, Lot 110, Borough of Manhattan.

COMMUNITY BOARD #12M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over without date.

337-03-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for 340 Madison Owner, LLC, owner.

SUBJECT – Application September 1, 2005 – Reopening for an amendment to a previously approved variance which permitted the enlargement of the 21-story office, retail and church building. The applicant is requesting a proposed modifications of plans. The site is located in a C5-3 zoning district.

PREMISES AFFECTED – 340 Madison Avenue a/k/a 16 East 44th Street, west blockfront of Madison Avenue, between East 43rd and 44th Streets, Block 1278, Lots 8, 14, 15, 17, 62, 63, 65, Borough of Manhattan.

COMMUNITY BOARD #5

APPEARANCES –

For Applicant: William Rice, Robert Flahive and Gary Tarnoff .

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and

Commissioner Chin.....3
Negative:.....0

ACTION OF THE BOARD – Laid over to January 24, 2006, at 10 A.M., for decision, hearing closed.

206-04-BZ

APPLICANT – Steven M. Sinacori/Stadtmauer Bailkin, LLP, for Sephardic Community Youth Center, Inc., owners.

SUBJECT – Application September 27, 2005 – Reopening for an amendment to reflect the installation of additional security measures, the relocation of an outdoor play area, waiver of required parking and loading berths, changes to landscaping and a building projection. The premise is located in an R5 within Ocean Parkway Special District.

PREMISES AFFECTED – 1901 Ocean Parkway, fronting on Ocean Parkway, Avenue S and East 7th Street, Block 7088, Lots 1, 14, 15, 16 and 89, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Howard A. Zipser, Charles Azar, Joan Krevlin and Ethan Eldon .

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

ACTION OF THE BOARD – Laid over to January 10, 2006, at 10 A.M., for decision, hearing closed.

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APPEALS CALENDAR

53-04-A

APPLICANT – New York City Department of Buildings

OWNER OF RECORD: Thomas Huang

SUBJECT – Applications February 26, 2004 – Application to revoke Certificate of Occupancy No. 401223289, on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED – 140-26A 34th Avenue, Block 4994, Lot 24, Borough of Queens

COMMUNITY BOARD #11Q

APPEARANCES –

For Administration: Lisa Orrantia, DOB.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, reads:

“Application to revoke certificate of occupancy no. 401223289 pursuant to City Charter Section 666.6a on the basis that the certificate of occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and Administrative Code.”; and

WHEREAS, a public hearing was held on this application on April 13, 2004, after due notice by publication in the *City Record*, with continued hearings on May 18, 2004, June 8, 2004, July 13, 2004, January 11, 2005, March 15, 2005, July 12, 2005, August 23, 2005, and then to decision on December 13, 2005; and

WHEREAS, the Department of Buildings (“DOB”) seeks to review and set aside Certificate of Occupancy Number 401223289 (the “CO”), issued on April 5, 2002 for a new building located at 140-26A 34th Avenue in Queens within a new multi-building residential development, on the basis that the CO was issued in error; and

WHEREAS, this application was filed in conjunction with nine other applications, each for a different building within the proposed development; and

WHEREAS, the subject premises is located in an R6 zoning district; and

WHEREAS, the record reflects that the developer filed professionally certified new building applications for each of the ten buildings in question on April 5, 2001; and

WHEREAS, DOB conducted final inspections of the ten buildings, including the subject building, between February and April of 2002 and subsequently issued a CO for each of the ten buildings; and

WHEREAS, certain of the buildings are still owned by

the developer and certain of the buildings are owned by individual unit owners; the developer and the unit owners were represented by separate counsel; and

WHEREAS, the CO indicates that the following are the lawful uses in the building: (1) an “accessory use, boiler room” in the cellar; (2) an “accessory use recreation room, attached two car garage” on the first floor; (3) a “dwelling” on the second floor; (4) a “dwelling” on the third floor; and (5) a “dwelling” on the mezzanine; and

WHEREAS, DOB represents that its inspectors issued Environmental Control Board Notices of Violation to several of the buildings in the new development for violations of the Administrative Code of the City of New York and of the Zoning Resolution for construction as proposed by, and in some cases built contrary to, the improperly approved plans; and

WHEREAS, DOB asserts that the following are the reasons why the CO was improperly issued and should be revoked: (1) the plans and CO incorrectly identify a floor as mezzanine instead of a fourth floor, contrary to AC § 27-232; (2) the plans do not support the use of the building’s fourth floor as an independent dwelling unit in a three-dwelling building as set forth in the CO; (3) the plans do not show an interior access stair to the roof, contrary to AC § 27-375(k)(1); (4) the plans fail to provide an exterior accessible route and an accessible primary entrance as set forth in AC § 27-292.5; (5) the plans fail to show the minimum distance between a required window and side lot line contrary to ZR § 23-861; and (6) the plans are not in compliance with certain off-street parking regulations of the Zoning Resolution; and

WHEREAS, correspondence submitted to the Board indicates that the developer consulted with DOB in an attempt to remove most of the objections presented to the Board in DOB’s initial application; and

WHEREAS, DOB stated in a submission dated June 30, 2004 that the revised plans still did not comply with the minimum distance between windows and side lot lines requirement; and

WHEREAS, on September 14, 2004, several of the unit owners within the development filed suit in the Supreme Court of the State of New York against the developer, alleging, among other things, breach of contract; and

WHEREAS, the attorney for the developer represents that it received approval for plans as of December 17, 2004 and construction permits in March of 2005 for the buildings located at 140-26A, 140-28, 140-28A, 140-30 and 140-30A 24th Avenue; and

WHEREAS, the applicant further represents that construction commenced on these units as of June of 2005; and

WHEREAS, DOB made a submission on June 28, 2005 that states that five of the units still had “disapproved” status, and although permits were issued for the other five units, the permitted work had not been completed; therefore none of the buildings were eligible for a final CO; and

WHEREAS, at the Board’s request, the attorney for the developer submitted a construction timeline that indicated that

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work was expected to be completed for the approved five units by December of 2005 and for the disapproved units by January of 2006; and

WHEREAS, according to DOB's files, construction has not yet been completed on the five approved units, and the remaining five units still have disapproved status; and

WHEREAS, neither the attorney for the developer nor the attorney for the individual unit owners has submitted any additional information to disprove this information; and

WHEREAS, the Board recognizes that the developer and the individual unit owners will need to modify the COs in accordance with the plans approved by DOB for the five buildings under construction and with the plans that will be approved by DOB for the remaining five buildings, once all zoning and other compliance issues are resolved; and

WHEREAS, further, the Board notes that revocation of the COs will allow DOB to issue new or modified COs once all buildings are in compliance with all zoning and Building Code requirements; and

WHEREAS, the Board finds that, based upon the evidence submitted, the subject CO was improperly issued.

Therefore it is Resolved that the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, seeking revocation of Certificate of Occupancy No. 401223289, is hereby granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

54-04-A

APPLICANT – New York City Department of Buildings

OWNER OF RECORD: Thomas Huang

SUBJECT – Applications February 26, 2004 – Application to revoke Certificate of Occupancy No. 401223289, on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED – 140-28 34th Avenue, Block 4994, Lot 224, Borough of Queens

COMMUNITY BOARD #11Q

APPEARANCES –

For Administration: Lisa Orrantia, DOB.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, reads:

“Application to revoke certificate of occupancy no. 401223243 pursuant to City Charter Section 666.6a on the basis that the certificate of occupancy allows

conditions at the referenced premises that are contrary to the Zoning Resolution and Administrative Code.”; and

WHEREAS, a public hearing was held on this application on April 13, 2004, after due notice by publication in the *City Record*, with continued hearings on May 18, 2004, June 8, 2004, July 13, 2004, January 11, 2005, March 15, 2005, July 12, 2005, August 23, 2005, and then to decision on December 13, 2005; and

WHEREAS, the Department of Buildings (“DOB”) seeks to review and set aside Certificate of Occupancy Number 401223243 (the “CO”), issued on February 21, 2002 for a new building located at 140-28 34th Avenue in Queens within a new multi-building residential development, on the basis that the CO was issued in error; and

WHEREAS, this application was filed in conjunction with nine other applications, each for a different building within the proposed development; and

WHEREAS, the subject premises is located in an R6 zoning district; and

WHEREAS, the record reflects that the developer filed professionally certified new building applications for each of the ten buildings in question on April 5, 2001; and

WHEREAS, DOB conducted final inspections of the ten buildings, including the subject building, between February and April of 2002 and subsequently issued a CO for each of the ten buildings; and

WHEREAS, certain of the buildings are still owned by the developer and certain of the buildings are owned by individual unit owners; the developer and the unit owners were represented by separate counsel; and

WHEREAS, the CO indicates that the following are the lawful uses in the building: (1) an “accessory use, boiler room” in the cellar; (2) an “accessory use recreation room, attached two car garage” on the first floor; (3) a “dwelling” on the second floor; (4) a “dwelling” on the third floor; and (5) a “dwelling” on the mezzanine; and

WHEREAS, DOB represents that its inspectors issued Environmental Control Board Notices of Violation to several of the buildings in the new development for violations of the Administrative Code of the City of New York and of the Zoning Resolution for construction as proposed by, and in some cases built contrary to, the improperly approved plans; and

WHEREAS, DOB asserts that the following are the reasons why the CO was improperly issued and should be revoked: (1) the plans and CO incorrectly identify a floor as mezzanine instead of a fourth floor, contrary to AC § 27-232; (2) the plans do not support the use of the building’s fourth floor as an independent dwelling unit in a three-dwelling building as set forth in the CO; (3) the plans do not show an interior access stair to the roof, contrary to AC § 27-375(k)(1); (4) the plans fail to provide an exterior accessible route and an accessible primary entrance as set forth in AC § 27-292.5; (5) the plans fail to show the minimum distance between a required window and side lot line contrary to ZR § 23-861; and (6) the

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plans are not in compliance with certain off-street parking regulations of the Zoning Resolution; and

WHEREAS, correspondence submitted to the Board indicates that the developer consulted with DOB in an attempt to remove most of the objections presented to the Board in DOB's initial application; and

WHEREAS, DOB stated in a submission dated June 30, 2004 that the revised plans still did not comply with the minimum distance between windows and side lot lines requirement; and

WHEREAS, on September 14, 2004, several of the unit owners within the development filed suit in the Supreme Court of the State of New York against the developer, alleging, among other things, breach of contract; and

WHEREAS, the attorney for the developer represents that it received approval for plans as of December 17, 2004 and construction permits in March of 2005 for the buildings located at 140-26A, 140-28, 140-28A, 140-30 and 140-30A 24th Avenue; and

WHEREAS, the applicant further represents that construction commenced on these units as of June of 2005; and

WHEREAS, DOB made a submission on June 28, 2005 that states that five of the units still had "disapproved" status, and although permits were issued for the other five units, the permitted work had not been completed; therefore none of the buildings were eligible for a final CO; and

WHEREAS, at the Board's request, the attorney for the developer submitted a construction timeline that indicated that work was expected to be completed for the approved five units by December of 2005 and for the disapproved units by January of 2006; and

WHEREAS, according to DOB's files, construction has not yet been completed on the five approved units, and the remaining five units still have disapproved status; and

WHEREAS, neither the attorney for the developer nor the attorney for the individual unit owners has submitted any additional information to disprove this information; and

WHEREAS, the Board recognizes that the developer and the individual unit owners will need to modify the COs in accordance with the plans approved by DOB for the five buildings under construction and with the plans that will be approved by DOB for the remaining five buildings, once all zoning and other compliance issues are resolved; and

WHEREAS, further, the Board notes that revocation of the COs will allow DOB to issue new or modified COs once all buildings are in compliance with all zoning and Building Code requirements; and

WHEREAS, the Board finds that, based upon the evidence submitted, the subject CO was improperly issued.

Therefore it is Resolved that the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, seeking revocation of Certificate of Occupancy No. 401223243, is hereby granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

55-04-A

APPLICANT – New York City Department of Buildings

OWNER OF RECORD: Thomas Huang

SUBJECT – Applications February 26, 2004 – Application to revoke Certificate of Occupancy No. 401223289, on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED – 140-28A 34th Avenue, Block 4994, Lot 224, Borough of Queens

COMMUNITY BOARD #11Q

APPEARANCES –

For Administration: Lisa Orrantia, DOB.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, reads:

“Application to revoke certificate of occupancy no. 401223323 pursuant to City Charter Section 666.6a on the basis that the certificate of occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and Administrative Code.”; and

WHEREAS, a public hearing was held on this application on April 13, 2004, after due notice by publication in the *City Record*, with continued hearings on May 18, 2004, June 8, 2004, July 13, 2004, January 11, 2005, March 15, 2005, July 12, 2005, August 23, 2005, and then to decision on December 13, 2005; and

WHEREAS, the Department of Buildings (“DOB”) seeks to review and set aside Certificate of Occupancy Number 401223323 (the “CO”), issued on February 27, 2002 for a new building located at 140-28A 34th Avenue in Queens within a new multi-building residential development, on the basis that the CO was issued in error; and

WHEREAS, this application was filed in conjunction with nine other applications, each for a different building within the proposed development; and

WHEREAS, the subject premises is located in an R6 zoning district; and

WHEREAS, the record reflects that the developer filed professionally certified new building applications for each of the ten buildings in question on April 5, 2001; and

WHEREAS, DOB conducted final inspections of the ten buildings, including the subject building, between February and April of 2002 and subsequently issued a CO for each of the ten buildings; and

WHEREAS, certain of the buildings are still owned by the developer and certain of the buildings are owned by

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individual unit owners; the developer and the unit owners were represented by separate counsel; and

WHEREAS, the CO indicates that the following are the lawful uses in the building: (1) an “accessory use, boiler room” in the cellar; (2) an “accessory use recreation room, attached two car garage” on the first floor; (3) a “dwelling” on the second floor; (4) a “dwelling” on the third floor; and (5) a “dwelling” on the mezzanine; and

WHEREAS, DOB represents that its inspectors issued Environmental Control Board Notices of Violation to several of the buildings in the new development for violations of the Administrative Code of the City of New York and of the Zoning Resolution for construction as proposed by, and in some cases built contrary to, the improperly approved plans; and

WHEREAS, DOB asserts that the following are the reasons why the CO was improperly issued and should be revoked: (1) the plans and CO incorrectly identify a floor as mezzanine instead of a fourth floor, contrary to AC § 27-232; (2) the plans do not support the use of the building’s fourth floor as an independent dwelling unit in a three-dwelling building as set forth in the CO; (3) the plans do not show an interior access stair to the roof, contrary to AC § 27-375(k)(1); (4) the plans fail to provide an exterior accessible route and an accessible primary entrance as set forth in AC § 27-292.5; (5) the plans fail to show the minimum distance between a required window and side lot line contrary to ZR § 23-861; and (6) the plans are not in compliance with certain off-street parking regulations of the Zoning Resolution; and

WHEREAS, correspondence submitted to the Board indicates that the developer consulted with DOB in an attempt to remove most of the objections presented to the Board in DOB’s initial application; and

WHEREAS, DOB stated in a submission dated June 30, 2004 that the revised plans still did not comply with the minimum distance between windows and side lot lines requirement; and

WHEREAS, on September 14, 2004, several of the unit owners within the development filed suit in the Supreme Court of the State of New York against the developer, alleging, among other things, breach of contract; and

WHEREAS, the attorney for the developer represents that it received approval for plans as of December 17, 2004 and construction permits in March of 2005 for the buildings located at 140-26A, 140-28, 140-28A, 140-30 and 140-30A 24th Avenue; and

WHEREAS, the applicant further represents that construction commenced on these units as of June of 2005; and

WHEREAS, DOB made a submission on June 28, 2005 that states that five of the units still had “disapproved” status, and although permits were issued for the other five units, the permitted work had not been completed; therefore none of the buildings were eligible for a final CO; and

WHEREAS, at the Board’s request, the attorney for the developer submitted a construction timeline that indicated that work was expected to be completed for the approved five units

by December of 2005 and for the disapproved units by January of 2006; and

WHEREAS, according to DOB’s files, construction has not yet been completed on the five approved units, and the remaining five units still have disapproved status; and

WHEREAS, neither the attorney for the developer nor the attorney for the individual unit owners has submitted any additional information to disprove this information; and

WHEREAS, the Board recognizes that the developer and the individual unit owners will need to modify the COs in accordance with the plans approved by DOB for the five buildings under construction and with the plans that will be approved by DOB for the remaining five buildings, once all zoning and other compliance issues are resolved; and

WHEREAS, further, the Board notes that revocation of the COs will allow DOB to issue new or modified COs once all buildings are in compliance with all zoning and Building Code requirements; and

WHEREAS, the Board finds that, based upon the evidence submitted, the subject CO was improperly issued.

Therefore it is Resolved that the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, seeking revocation of Certificate of Occupancy No. 401223323, is hereby granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

56-04-A

APPLICANT – New York City Department of Buildings

OWNER OF RECORD: Thomas Huang

SUBJECT – Applications February 26, 2004 – Application to revoke Certificate of Occupancy No. 401223289, on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED – 140-30 34th Avenue, Block 4994, Lot 125, Borough of Queens

COMMUNITY BOARD #11Q

APPEARANCES –

For Administration: Lisa Orrantia, DOB.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, reads:

“Application to revoke certificate of occupancy no. 401223332 pursuant to City Charter Section 666.6a on the basis that the certificate of occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and

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Administrative Code.”; and

WHEREAS, a public hearing was held on this application on April 13, 2004, after due notice by publication in the *City Record*, with continued hearings on May 18, 2004, June 8, 2004, July 13, 2004, January 11, 2005, March 15, 2005, July 12, 2005, August 23, 2005, and then to decision on December 13, 2005; and

WHEREAS, the Department of Buildings (“DOB”) seeks to review and set aside Certificate of Occupancy Number 401223332 (the “CO”), issued on February 27, 2002 for a new building located at 140-30 34th Avenue in Queens within a new multi-building residential development, on the basis that the CO was issued in error; and

WHEREAS, this application was filed in conjunction with nine other applications, each for a different building within the proposed development; and

WHEREAS, the subject premises is located in an R6 zoning district; and

WHEREAS, the record reflects that the developer filed professionally certified new building applications for each of the ten buildings in question on April 5, 2001; and

WHEREAS, DOB conducted final inspections of the ten buildings, including the subject building, between February and April of 2002 and subsequently issued a CO for each of the ten buildings; and

WHEREAS, certain of the buildings are still owned by the developer and certain of the buildings are owned by individual unit owners; the developer and the unit owners were represented by separate counsel; and

WHEREAS, the CO indicates that the following are the lawful uses in the building: (1) an “accessory use, boiler room” in the cellar; (2) an “accessory use recreation room, attached two car garage” on the first floor; (3) a “dwelling” on the second floor; (4) a “dwelling” on the third floor; and (5) a “dwelling” on the mezzanine; and

WHEREAS, DOB represents that its inspectors issued Environmental Control Board Notices of Violation to several of the buildings in the new development for violations of the Administrative Code of the City of New York and of the Zoning Resolution for construction as proposed by, and in some cases built contrary to, the improperly approved plans; and

WHEREAS, DOB asserts that the following are the reasons why the CO was improperly issued and should be revoked: (1) the plans and CO incorrectly identify a floor as mezzanine instead of a fourth floor, contrary to AC § 27-232; (2) the plans do not support the use of the building’s fourth floor as an independent dwelling unit in a three-dwelling building as set forth in the CO; (3) the plans do not show an interior access stair to the roof, contrary to AC § 27-375(k)(1); (4) the plans fail to provide an exterior accessible route and an accessible primary entrance as set forth in AC § 27-292.5; (5) the plans fail to show the minimum distance between a required window and side lot line contrary to ZR § 23-861; and (6) the plans are not in compliance with certain off-street parking regulations of the Zoning Resolution; and

WHEREAS, correspondence submitted to the Board indicates that the developer consulted with DOB in an attempt to remove most of the objections presented to the Board in DOB’s initial application; and

WHEREAS, DOB stated in a submission dated June 30, 2004 that the revised plans still did not comply with the minimum distance between windows and side lot lines requirement; and

WHEREAS, on September 14, 2004, several of the unit owners within the development filed suit in the Supreme Court of the State of New York against the developer, alleging, among other things, breach of contract; and

WHEREAS, the attorney for the developer represents that it received approval for plans as of December 17, 2004 and construction permits in March of 2005 for the buildings located at 140-26A, 140-28, 140-28A, 140-30 and 140-30A 24th Avenue; and

WHEREAS, the applicant further represents that construction commenced on these units as of June of 2005; and

WHEREAS, DOB made a submission on June 28, 2005 that states that five of the units still had “disapproved” status, and although permits were issued for the other five units, the permitted work had not been completed; therefore none of the buildings were eligible for a final CO; and

WHEREAS, at the Board’s request, the attorney for the developer submitted a construction timeline that indicated that work was expected to be completed for the approved five units by December of 2005 and for the disapproved units by January of 2006; and

WHEREAS, according to DOB’s files, construction has not yet been completed on the five approved units, and the remaining five units still have disapproved status; and

WHEREAS, neither the attorney for the developer nor the attorney for the individual unit owners has submitted any additional information to disprove this information; and

WHEREAS, the Board recognizes that the developer and the individual unit owners will need to modify the COs in accordance with the plans approved by DOB for the five buildings under construction and with the plans that will be approved by DOB for the remaining five buildings, once all zoning and other compliance issues are resolved; and

WHEREAS, further, the Board notes that revocation of the COs will allow DOB to issue new or modified COs once all buildings are in compliance with all zoning and Building Code requirements; and

WHEREAS, the Board finds that, based upon the evidence submitted, the subject CO was improperly issued.

Therefore it is Resolved that the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, seeking revocation of Certificate of Occupancy No. 401223332, is hereby granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

57-04-A

APPLICANT – New York City Department of Buildings

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OWNER OF RECORD: Thomas Huang

SUBJECT – Applications February 26, 2004 – Application to revoke Certificate of Occupancy No. 401223289, on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED –140-30A 34th Avenue, Block 4994, Lot 225, Borough of Queens

COMMUNITY BOARD #11Q

APPEARANCES –

For Administration: Lisa Orrantia, DOB.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, reads:

“Application to revoke certificate of occupancy no. 401223314 pursuant to City Charter Section 666.6a on the basis that the certificate of occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and Administrative Code.”; and

WHEREAS, a public hearing was held on this application on April 13, 2004, after due notice by publication in the *City Record*, with continued hearings on May 18, 2004, June 8, 2004, July 13, 2004, January 11, 2005, March 15, 2005, July 12, 2005, August 23, 2005, and then to decision on December 13, 2005; and

WHEREAS, the Department of Buildings (“DOB”) seeks to review and set aside Certificate of Occupancy Number 401223314 (the “CO”), issued on February 21, 2002 for a new building located at 140-30A 34th Avenue in Queens within a new multi-building residential development, on the basis that the CO was issued in error; and

WHEREAS, this application was filed in conjunction with nine other applications, each for a different building within the proposed development; and

WHEREAS, the subject premises is located in an R6 zoning district; and

WHEREAS, the record reflects that the developer filed professionally certified new building applications for each of the ten buildings in question on April 5, 2001; and

WHEREAS, DOB conducted final inspections of the ten buildings, including the subject building, between February and April of 2002 and subsequently issued a CO for each of the ten buildings; and

WHEREAS, certain of the buildings are still owned by the developer and certain of the buildings are owned by individual unit owners; the developer and the unit owners were represented by separate counsel; and

WHEREAS, the CO indicates that the following are the

lawful uses in the building: (1) an “accessory use, boiler room” in the cellar; (2) an “accessory use recreation room, attached two car garage” on the first floor; (3) a “dwelling” on the second floor; (4) a “dwelling” on the third floor; and (5) a “dwelling” on the mezzanine; and

WHEREAS, DOB represents that its inspectors issued Environmental Control Board Notices of Violation to several of the buildings in the new development for violations of the Administrative Code of the City of New York and of the Zoning Resolution for construction as proposed by, and in some cases built contrary to, the improperly approved plans; and

WHEREAS, DOB asserts that the following are the reasons why the CO was improperly issued and should be revoked: (1) the plans and CO incorrectly identify a floor as mezzanine instead of a fourth floor, contrary to AC § 27-232; (2) the plans do not support the use of the building’s fourth floor as an independent dwelling unit in a three-dwelling building as set forth in the CO; (3) the plans do not show an interior access stair to the roof, contrary to AC § 27-375(k)(1); (4) the plans fail to provide an exterior accessible route and an accessible primary entrance as set forth in AC § 27-292.5; (5) the plans fail to show the minimum distance between a required window and side lot line contrary to ZR § 23-861; and (6) the plans are not in compliance with certain off-street parking regulations of the Zoning Resolution; and

WHEREAS, correspondence submitted to the Board indicates that the developer consulted with DOB in an attempt to remove most of the objections presented to the Board in DOB’s initial application; and

WHEREAS, DOB stated in a submission dated June 30, 2004 that the revised plans still did not comply with the minimum distance between windows and side lot lines requirement; and

WHEREAS, on September 14, 2004, several of the unit owners within the development filed suit in the Supreme Court of the State of New York against the developer, alleging, among other things, breach of contract; and

WHEREAS, the attorney for the developer represents that it received approval for plans as of December 17, 2004 and construction permits in March of 2005 for the buildings located at 140-26A, 140-28, 140-28A, 140-30 and 140-30A 24th Avenue; and

WHEREAS, the applicant further represents that construction commenced on these units as of June of 2005; and

WHEREAS, DOB made a submission on June 28, 2005 that states that five of the units still had “disapproved” status, and although permits were issued for the other five units, the permitted work had not been completed; therefore none of the buildings were eligible for a final CO; and

WHEREAS, at the Board’s request, the attorney for the developer submitted a construction timeline that indicated that work was expected to be completed for the approved five units by December of 2005 and for the disapproved units by January of 2006; and

WHEREAS, according to DOB’s files, construction has

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not yet been completed on the five approved units, and the remaining five units still have disapproved status; and

WHEREAS, neither the attorney for the developer nor the attorney for the individual unit owners has submitted any additional information to disprove this information; and

WHEREAS, the Board recognizes that the developer and the individual unit owners will need to modify the COs in accordance with the plans approved by DOB for the five buildings under construction and with the plans that will be approved by DOB for the remaining five buildings, once all zoning and other compliance issues are resolved; and

WHEREAS, further, the Board notes that revocation of the COs will allow DOB to issue new or modified COs once all buildings are in compliance with all zoning and Building Code requirements; and

WHEREAS, the Board finds that, based upon the evidence submitted, the subject CO was improperly issued.

Therefore it is Resolved that the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, seeking revocation of Certificate of Occupancy No. 401223314, is hereby granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

58-04-A

APPLICANT – New York City Department of Buildings
OWNER OF RECORD: Thomas Huang

SUBJECT – Applications February 26, 2004 – Application to revoke Certificate of Occupancy No. 401223289, on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED – 140-32 34th Avenue, Block 4994, Lot 126, Borough of Queens

COMMUNITY BOARD #11Q

APPEARANCES –

For Administration: Lisa Orrantia, DOB.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, reads:

“Application to revoke certificate of occupancy no. 401224714 pursuant to City Charter Section 666.6a on the basis that the certificate of occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and Administrative Code.”; and

WHEREAS, a public hearing was held on this application on April 13, 2004, after due notice by publication in the *City*

Record, with continued hearings on May 18, 2004, June 8, 2004, July 13, 2004, January 11, 2005, March 15, 2005, July 12, 2005, August 23, 2005, and then to decision on December 13, 2005; and

WHEREAS, the Department of Buildings (“DOB”) seeks to review and set aside Certificate of Occupancy Number 401224714 (the “CO”), issued on March 20, 2002 for a new building located at 140-32 34th Avenue in Queens within a new multi-building residential development, on the basis that the CO was issued in error; and

WHEREAS, this application was filed in conjunction with nine other applications, each for a different building within the proposed development; and

WHEREAS, the subject premises is located in an R6 zoning district; and

WHEREAS, the record reflects that the developer filed professionally certified new building applications for each of the ten buildings in question on April 5, 2001; and

WHEREAS, DOB conducted final inspections of the ten buildings, including the subject building, between February and April of 2002 and subsequently issued a CO for each of the ten buildings; and

WHEREAS, certain of the buildings are still owned by the developer and certain of the buildings are owned by individual unit owners; the developer and the unit owners were represented by separate counsel; and

WHEREAS, the CO indicates that the following are the lawful uses in the building: (1) an “accessory use, boiler room” in the cellar; (2) an “accessory use recreation room, attached two car garage” on the first floor; (3) a “dwelling” on the second floor; (4) a “dwelling” on the third floor; and (5) a “dwelling” on the mezzanine; and

WHEREAS, DOB represents that its inspectors issued Environmental Control Board Notices of Violation to several of the buildings in the new development for violations of the Administrative Code of the City of New York and of the Zoning Resolution for construction as proposed by, and in some cases built contrary to, the improperly approved plans; and

WHEREAS, DOB asserts that the following are the reasons why the CO was improperly issued and should be revoked: (1) the plans and CO incorrectly identify a floor as mezzanine instead of a fourth floor, contrary to AC § 27-232; (2) the plans do not support the use of the building’s fourth floor as an independent dwelling unit in a three-dwelling building as set forth in the CO; (3) the plans do not show an interior access stair to the roof, contrary to AC § 27-375(k)(1); (4) the plans fail to provide an exterior accessible route and an accessible primary entrance as set forth in AC § 27-292.5; (5) the plans fail to show the minimum distance between a required window and side lot line contrary to ZR § 23-861; and (6) the plans are not in compliance with certain off-street parking regulations of the Zoning Resolution; and

WHEREAS, correspondence submitted to the Board indicates that the developer consulted with DOB in an attempt to remove most of the objections presented to the Board in

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DOB's initial application; and

WHEREAS, DOB stated in a submission dated June 30, 2004 that the revised plans still did not comply with the minimum distance between windows and side lot lines requirement; and

WHEREAS, on September 14, 2004, several of the unit owners within the development filed suit in the Supreme Court of the State of New York against the developer, alleging, among other things, breach of contract; and

WHEREAS, the attorney for the developer represents that it received approval for plans as of December 17, 2004 and construction permits in March of 2005 for the buildings located at 140-26A, 140-28, 140-28A, 140-30 and 140-30A 24th Avenue; and

WHEREAS, the applicant further represents that construction commenced on these units as of June of 2005; and

WHEREAS, DOB made a submission on June 28, 2005 that states that five of the units still had "disapproved" status, and although permits were issued for the other five units, the permitted work had not been completed; therefore none of the buildings were eligible for a final CO; and

WHEREAS, at the Board's request, the attorney for the developer submitted a construction timeline that indicated that work was expected to be completed for the approved five units by December of 2005 and for the disapproved units by January of 2006; and

WHEREAS, according to DOB's files, construction has not yet been completed on the five approved units, and the remaining five units still have disapproved status; and

WHEREAS, neither the attorney for the developer nor the attorney for the individual unit owners has submitted any additional information to disprove this information; and

WHEREAS, the Board recognizes that the developer and the individual unit owners will need to modify the COs in accordance with the plans approved by DOB for the five buildings under construction and with the plans that will be approved by DOB for the remaining five buildings, once all zoning and other compliance issues are resolved; and

WHEREAS, further, the Board notes that revocation of the COs will allow DOB to issue new or modified COs once all buildings are in compliance with all zoning and Building Code requirements; and

WHEREAS, the Board finds that, based upon the evidence submitted, the subject CO was improperly issued.

Therefore it is Resolved that the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, seeking revocation of Certificate of Occupancy No. 401224714, is hereby granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

59-04-A

APPLICANT – New York City Department of Buildings

OWNER OF RECORD: Thomas Huang

SUBJECT – Applications February 26, 2004 – Application to revoke Certificate of Occupancy No. 401223289, on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED – 140-32A 34th Avenue, Block 4994, Lot 27, Borough of Queens

COMMUNITY BOARD #11Q

APPEARANCES –

For Administration: Lisa Orrantia, DOB.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, reads:

“Application to revoke certificate of occupancy no. 401224705 pursuant to City Charter Section 666.6a on the basis that the certificate of occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and Administrative Code.”; and

WHEREAS, a public hearing was held on this application on April 13, 2004, after due notice by publication in the *City Record*, with continued hearings on May 18, 2004, June 8, 2004, July 13, 2004, January 11, 2005, March 15, 2005, July 12, 2005, August 23, 2005, and then to decision on December 13, 2005; and

WHEREAS, the Department of Buildings (“DOB”) seeks to review and set aside Certificate of Occupancy Number 401224705 (the “CO”), issued on April 26, 2002 for a new building located at 140-32A 34th Avenue in Queens within a new multi-building residential development, on the basis that the CO was issued in error; and

WHEREAS, this application was filed in conjunction with nine other applications, each for a different building within the proposed development; and

WHEREAS, the subject premises is located in an R6 zoning district; and

WHEREAS, the record reflects that the developer filed professionally certified new building applications for each of the ten buildings in question on April 5, 2001; and

WHEREAS, DOB conducted final inspections of the ten buildings, including the subject building, between February and April of 2002 and subsequently issued a CO for each of the ten buildings; and

WHEREAS, certain of the buildings are still owned by the developer and certain of the buildings are owned by individual unit owners; the developer and the unit owners were represented by separate counsel; and

WHEREAS, the CO indicates that the following are the

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lawful uses in the building: (1) an “accessory use, boiler room” in the cellar; (2) an “accessory use recreation room, attached two car garage” on the first floor; (3) a “dwelling” on the second floor; (4) a “dwelling” on the third floor; and (5) a “dwelling” on the mezzanine; and

WHEREAS, DOB represents that its inspectors issued Environmental Control Board Notices of Violation to several of the buildings in the new development for violations of the Administrative Code of the City of New York and of the Zoning Resolution for construction as proposed by, and in some cases built contrary to, the improperly approved plans; and

WHEREAS, DOB asserts that the following are the reasons why the CO was improperly issued and should be revoked: (1) the plans and CO incorrectly identify a floor as mezzanine instead of a fourth floor, contrary to AC § 27-232; (2) the plans do not support the use of the building’s fourth floor as an independent dwelling unit in a three-dwelling building as set forth in the CO; (3) the plans do not show an interior access stair to the roof, contrary to AC § 27-375(k)(1); (4) the plans fail to provide an exterior accessible route and an accessible primary entrance as set forth in AC § 27-292.5; (5) the plans fail to show the minimum distance between a required window and side lot line contrary to ZR § 23-861; and (6) the plans are not in compliance with certain off-street parking regulations of the Zoning Resolution; and

WHEREAS, correspondence submitted to the Board indicates that the developer consulted with DOB in an attempt to remove most of the objections presented to the Board in DOB’s initial application; and

WHEREAS, DOB stated in a submission dated June 30, 2004 that the revised plans still did not comply with the minimum distance between windows and side lot lines requirement; and

WHEREAS, on September 14, 2004, several of the unit owners within the development filed suit in the Supreme Court of the State of New York against the developer, alleging, among other things, breach of contract; and

WHEREAS, the attorney for the developer represents that it received approval for plans as of December 17, 2004 and construction permits in March of 2005 for the buildings located at 140-26A, 140-28, 140-28A, 140-30 and 140-30A 24th Avenue; and

WHEREAS, the applicant further represents that construction commenced on these units as of June of 2005; and

WHEREAS, DOB made a submission on June 28, 2005 that states that five of the units still had “disapproved” status, and although permits were issued for the other five units, the permitted work had not been completed; therefore none of the buildings were eligible for a final CO; and

WHEREAS, at the Board’s request, the attorney for the developer submitted a construction timeline that indicated that work was expected to be completed for the approved five units by December of 2005 and for the disapproved units by January of 2006; and

WHEREAS, according to DOB’s files, construction has

not yet been completed on the five approved units, and the remaining five units still have disapproved status; and

WHEREAS, neither the attorney for the developer nor the attorney for the individual unit owners has submitted any additional information to disprove this information; and

WHEREAS, the Board recognizes that the developer and the individual unit owners will need to modify the COs in accordance with the plans approved by DOB for the five buildings under construction and with the plans that will be approved by DOB for the remaining five buildings, once all zoning and other compliance issues are resolved; and

WHEREAS, further, the Board notes that revocation of the COs will allow DOB to issue new or modified COs once all buildings are in compliance with all zoning and Building Code requirements; and

WHEREAS, the Board finds that, based upon the evidence submitted, the subject CO was improperly issued.

Therefore it is Resolved that the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, seeking revocation of Certificate of Occupancy No. 401224705, is hereby granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

60-04-A

APPLICANT – New York City Department of Buildings

OWNER OF RECORD: Thomas Huang

SUBJECT – Applications February 26, 2004 – Application to revoke Certificate of Occupancy No. 401223289, on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED – 140-34 34th Avenue, Block 4994, Lot 127, Borough of Queens

COMMUNITY BOARD #11Q

APPEARANCES –

For Administration: Lisa Orrantia, DOB.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, reads:

“Application to revoke certificate of occupancy no. 401224698 pursuant to City Charter Section 666.6a on the basis that the certificate of occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and Administrative Code.”; and

WHEREAS, a public hearing was held on this application on April 13, 2004, after due notice by publication in the *City*

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Record, with continued hearings on May 18, 2004, June 8, 2004, July 13, 2004, January 11, 2005, March 15, 2005, July 12, 2005, August 23, 2005, and then to decision on December 13, 2005; and

WHEREAS, the Department of Buildings (“DOB”) seeks to review and set aside Certificate of Occupancy Number 401224698 (the “CO”), issued on February 27, 2002 for a new building located at 140-34 34th Avenue in Queens within a new multi-building residential development, on the basis that the CO was issued in error; and

WHEREAS, this application was filed in conjunction with nine other applications, each for a different building within the proposed development; and

WHEREAS, the subject premises is located in an R6 zoning district; and

WHEREAS, the record reflects that the developer filed professionally certified new building applications for each of the ten buildings in question on April 5, 2001; and

WHEREAS, DOB conducted final inspections of the ten buildings, including the subject building, between February and April of 2002 and subsequently issued a CO for each of the ten buildings; and

WHEREAS, certain of the buildings are still owned by the developer and certain of the buildings are owned by individual unit owners; the developer and the unit owners were represented by separate counsel; and

WHEREAS, the CO indicates that the following are the lawful uses in the building: (1) an “accessory use, boiler room” in the cellar; (2) an “accessory use recreation room, attached two car garage” on the first floor; (3) a “dwelling” on the second floor; (4) a “dwelling” on the third floor; and (5) a “dwelling” on the mezzanine; and

WHEREAS, DOB represents that its inspectors issued Environmental Control Board Notices of Violation to several of the buildings in the new development for violations of the Administrative Code of the City of New York and of the Zoning Resolution for construction as proposed by, and in some cases built contrary to, the improperly approved plans; and

WHEREAS, DOB asserts that the following are the reasons why the CO was improperly issued and should be revoked: (1) the plans and CO incorrectly identify a floor as mezzanine instead of a fourth floor, contrary to AC § 27-232; (2) the plans do not support the use of the building’s fourth floor as an independent dwelling unit in a three-dwelling building as set forth in the CO; (3) the plans do not show an interior access stair to the roof, contrary to AC § 27-375(k)(1); (4) the plans fail to provide an exterior accessible route and an accessible primary entrance as set forth in AC § 27-292.5; (5) the plans fail to show the minimum distance between a required window and side lot line contrary to ZR § 23-861; and (6) the plans are not in compliance with certain off-street parking regulations of the Zoning Resolution; and

WHEREAS, correspondence submitted to the Board indicates that the developer consulted with DOB in an attempt to remove most of the objections presented to the Board in

DOB’s initial application; and

WHEREAS, DOB stated in a submission dated June 30, 2004 that the revised plans still did not comply with the minimum distance between windows and side lot lines requirement; and

WHEREAS, on September 14, 2004, several of the unit owners within the development filed suit in the Supreme Court of the State of New York against the developer, alleging, among other things, breach of contract; and

WHEREAS, the attorney for the developer represents that it received approval for plans as of December 17, 2004 and construction permits in March of 2005 for the buildings located at 140-26A, 140-28, 140-28A, 140-30 and 140-30A 24th Avenue; and

WHEREAS, the applicant further represents that construction commenced on these units as of June of 2005; and

WHEREAS, DOB made a submission on June 28, 2005 that states that five of the units still had “disapproved” status, and although permits were issued for the other five units, the permitted work had not been completed; therefore none of the buildings were eligible for a final CO; and

WHEREAS, at the Board’s request, the attorney for the developer submitted a construction timeline that indicated that work was expected to be completed for the approved five units by December of 2005 and for the disapproved units by January of 2006; and

WHEREAS, according to DOB’s files, construction has not yet been completed on the five approved units, and the remaining five units still have disapproved status; and

WHEREAS, neither the attorney for the developer nor the attorney for the individual unit owners has submitted any additional information to disprove this information; and

WHEREAS, the Board recognizes that the developer and the individual unit owners will need to modify the COs in accordance with the plans approved by DOB for the five buildings under construction and with the plans that will be approved by DOB for the remaining five buildings, once all zoning and other compliance issues are resolved; and

WHEREAS, further, the Board notes that revocation of the COs will allow DOB to issue new or modified COs once all buildings are in compliance with all zoning and Building Code requirements; and

WHEREAS, the Board finds that, based upon the evidence submitted, the subject CO was improperly issued.

Therefore it is Resolved that the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, seeking revocation of Certificate of Occupancy No. 401224698, is hereby granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

61-04-A

APPLICANT – New York City Department of Buildings

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OWNER OF RECORD: Thomas Huang
SUBJECT – Applications February 26, 2004 – Application to revoke Certificate of Occupancy No. 401223289, on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED –140-34A 34th Avenue, Block 4994, Lot 227, Borough of Queens

COMMUNITY BOARD #11Q

APPEARANCES –

For Administration: Lisa Orrantia, DOB.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, reads:

“Application to revoke certificate of occupancy no. 401230011 pursuant to City Charter Section 666.6a on the basis that the certificate of occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and Administrative Code.”; and

WHEREAS, a public hearing was held on this application on April 13, 2004, after due notice by publication in the *City Record*, with continued hearings on May 18, 2004, June 8, 2004, July 13, 2004, January 11, 2005, March 15, 2005, July 12, 2005, August 23, 2005, and then to decision on December 13, 2005; and

WHEREAS, the Department of Buildings (“DOB”) seeks to review and set aside Certificate of Occupancy Number 401230011 (the “CO”), issued on February 21, 2002 for a new building located at 140-34A 34th Avenue in Queens within a new multi-building residential development, on the basis that the CO was issued in error; and

WHEREAS, this application was filed in conjunction with nine other applications, each for a different building within the proposed development; and

WHEREAS, the subject premises is located in an R6 zoning district; and

WHEREAS, the record reflects that the developer filed professionally certified new building applications for each of the ten buildings in question on April 5, 2001; and

WHEREAS, DOB conducted final inspections of the ten buildings, including the subject building, between February and April of 2002 and subsequently issued a CO for each of the ten buildings; and

WHEREAS, certain of the buildings are still owned by the developer and certain of the buildings are owned by individual unit owners; the developer and the unit owners were represented by separate counsel; and

WHEREAS, the CO indicates that the following are the lawful uses in the building: (1) an “accessory use, boiler room”

in the cellar; (2) an “accessory use recreation room, attached two car garage” on the first floor; (3) a “dwelling” on the second floor; (4) a “dwelling” on the third floor; and (5) a “dwelling” on the mezzanine; and

WHEREAS, DOB represents that its inspectors issued Environmental Control Board Notices of Violation to several of the buildings in the new development for violations of the Administrative Code of the City of New York and of the Zoning Resolution for construction as proposed by, and in some cases built contrary to, the improperly approved plans; and

WHEREAS, DOB asserts that the following are the reasons why the CO was improperly issued and should be revoked: (1) the plans and CO incorrectly identify a floor as mezzanine instead of a fourth floor, contrary to AC § 27-232; (2) the plans do not support the use of the building’s fourth floor as an independent dwelling unit in a three-dwelling building as set forth in the CO; (3) the plans do not show an interior access stair to the roof, contrary to AC § 27-375(k)(1); (4) the plans fail to provide an exterior accessible route and an accessible primary entrance as set forth in AC § 27-292.5; (5) the plans fail to show the minimum distance between a required window and side lot line contrary to ZR § 23-861; and (6) the plans are not in compliance with certain off-street parking regulations of the Zoning Resolution; and

WHEREAS, correspondence submitted to the Board indicates that the developer consulted with DOB in an attempt to remove most of the objections presented to the Board in DOB’s initial application; and

WHEREAS, DOB stated in a submission dated June 30, 2004 that the revised plans still did not comply with the minimum distance between windows and side lot lines requirement; and

WHEREAS, on September 14, 2004, several of the unit owners within the development filed suit in the Supreme Court of the State of New York against the developer, alleging, among other things, breach of contract; and

WHEREAS, the attorney for the developer represents that it received approval for plans as of December 17, 2004 and construction permits in March of 2005 for the buildings located at 140-26A, 140-28, 140-28A, 140-30 and 140-30A 24th Avenue; and

WHEREAS, the applicant further represents that construction commenced on these units as of June of 2005; and

WHEREAS, DOB made a submission on June 28, 2005 that states that five of the units still had “disapproved” status, and although permits were issued for the other five units, the permitted work had not been completed; therefore none of the buildings were eligible for a final CO; and

WHEREAS, at the Board’s request, the attorney for the developer submitted a construction timeline that indicated that work was expected to be completed for the approved five units by December of 2005 and for the disapproved units by January of 2006; and

WHEREAS, according to DOB’s files, construction has not yet been completed on the five approved units, and the

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remaining five units still have disapproved status; and

WHEREAS, neither the attorney for the developer nor the attorney for the individual unit owners has submitted any additional information to disprove this information; and

WHEREAS, the Board recognizes that the developer and the individual unit owners will need to modify the COs in accordance with the plans approved by DOB for the five buildings under construction and with the plans that will be approved by DOB for the remaining five buildings, once all zoning and other compliance issues are resolved; and

WHEREAS, further, the Board notes that revocation of the COs will allow DOB to issue new or modified COs once all buildings are in compliance with all zoning and Building Code requirements; and

WHEREAS, the Board finds that, based upon the evidence submitted, the subject CO was improperly issued.

Therefore it is Resolved that the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, seeking revocation of Certificate of Occupancy No. 401230011, is hereby granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

62-04-A

APPLICANT – New York City Department of Buildings

OWNER OF RECORD: Thomas Huang

SUBJECT – Applications February 26, 2004 – Application to revoke Certificate of Occupancy No. 401223289, on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative Code.

PREMISES AFFECTED – 140-36 34th Avenue, Block 4994, Lot 327, Borough of Queens

COMMUNITY BOARD #11Q

APPEARANCES –

For Administration: Lisa Orrantia, DOB.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION –

WHEREAS, the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, reads:

“Application to revoke certificate of occupancy no. 401202444 pursuant to City Charter Section 666.6a on the basis that the certificate of occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and Administrative Code.”; and

WHEREAS, a public hearing was held on this application on April 13, 2004, after due notice by publication in the *City Record*, with continued hearings on May 18, 2004, June 8,

2004, July 13, 2004, January 11, 2005, March 15, 2005, July 12, 2005, August 23, 2005, and then to decision on December 13, 2005; and

WHEREAS, the Department of Buildings (“DOB”) seeks to review and set aside Certificate of Occupancy Number 401202444 (the “CO”), issued on February 27, 2002 for a new building located at 140-36 34th Avenue in Queens within a new multi-building residential development, on the basis that the CO was issued in error; and

WHEREAS, this application was filed in conjunction with nine other applications, each for a different building within the proposed development; and

WHEREAS, the subject premises is located in an R6 zoning district; and

WHEREAS, the record reflects that the developer filed professionally certified new building applications for each of the ten buildings in question on April 5, 2001; and

WHEREAS, DOB conducted final inspections of the ten buildings, including the subject building, between February and April of 2002 and subsequently issued a CO for each of the ten buildings; and

WHEREAS, certain of the buildings are still owned by the developer and certain of the buildings are owned by individual unit owners; the developer and the unit owners were represented by separate counsel; and

WHEREAS, the CO indicates that the following are the lawful uses in the building: (1) an “accessory use, boiler room” in the cellar; (2) an “accessory use recreation room, attached two car garage” on the first floor; (3) a “dwelling” on the second floor; (4) a “dwelling” on the third floor; and (5) a “dwelling” on the mezzanine; and

WHEREAS, DOB represents that its inspectors issued Environmental Control Board Notices of Violation to several of the buildings in the new development for violations of the Administrative Code of the City of New York and of the Zoning Resolution for construction as proposed by, and in some cases built contrary to, the improperly approved plans; and

WHEREAS, DOB asserts that the following are the reasons why the CO was improperly issued and should be revoked: (1) the plans and CO incorrectly identify a floor as mezzanine instead of a fourth floor, contrary to AC § 27-232; (2) the plans do not support the use of the building’s fourth floor as an independent dwelling unit in a three-dwelling building as set forth in the CO; (3) the plans do not show an interior access stair to the roof, contrary to AC § 27-375(k)(1); (4) the plans fail to provide an exterior accessible route and an accessible primary entrance as set forth in AC § 27-292.5; (5) the plans fail to show the minimum distance between a required window and side lot line contrary to ZR § 23-861; and (6) the plans are not in compliance with certain off-street parking regulations of the Zoning Resolution; and

WHEREAS, correspondence submitted to the Board indicates that the developer consulted with DOB in an attempt to remove most of the objections presented to the Board in DOB’s initial application; and

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WHEREAS, DOB stated in a submission dated June 30, 2004 that the revised plans still did not comply with the minimum distance between windows and side lot lines requirement; and

WHEREAS, on September 14, 2004, several of the unit owners within the development filed suit in the Supreme Court of the State of New York against the developer, alleging, among other things, breach of contract; and

WHEREAS, the attorney for the developer represents that it received approval for plans as of December 17, 2004 and construction permits in March of 2005 for the buildings located at 140-26A, 140-28, 140-28A, 140-30 and 140-30A 24th Avenue; and

WHEREAS, the applicant further represents that construction commenced on these units as of June of 2005; and

WHEREAS, DOB made a submission on June 28, 2005 that states that five of the units still had “disapproved” status, and although permits were issued for the other five units, the permitted work had not been completed; therefore none of the buildings were eligible for a final CO; and

WHEREAS, at the Board’s request, the attorney for the developer submitted a construction timeline that indicated that work was expected to be completed for the approved five units by December of 2005 and for the disapproved units by January of 2006; and

WHEREAS, according to DOB’s files, construction has not yet been completed on the five approved units, and the remaining five units still have disapproved status; and

WHEREAS, neither the attorney for the developer nor the attorney for the individual unit owners has submitted any additional information to disprove this information; and

WHEREAS, the Board recognizes that the developer and the individual unit owners will need to modify the COs in accordance with the plans approved by DOB for the five buildings under construction and with the plans that will be approved by DOB for the remaining five buildings, once all zoning and other compliance issues are resolved; and

WHEREAS, further, the Board notes that revocation of the COs will allow DOB to issue new or modified COs once all buildings are in compliance with all zoning and Building Code requirements; and

WHEREAS, the Board finds that, based upon the evidence submitted, the subject CO was improperly issued.

Therefore it is Resolved that the application brought by the Commissioner of the Department of Buildings, dated February 26, 2004, seeking revocation of Certificate of Occupancy No. 401202444, is hereby granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

103-05-A

APPLICANT – Rothkrug, Rothkrug ,Weinberg & Spector,

LLP. for Main Street Makeover 2, Inc.,owner.

SUBJECT – Application filed on May 4, 2005 – for an appeal of the Department of Buildings decision dated April 22, 2005 refusing to lift the "Hold" on Application #500584799, and renew a building permit on approved plans for alteration to an existing one -family dwelling, based on a determination by the Department of City Planning dated February 2, 2005 that CPC approval of a restoration plan is required pursuant to Section 105-45 of the Zoning Resolution.

PREMISES AFFECTED – 366 Nugent Street, Staten Island, located at the S/W/C of intersection of Nugent Street and Spruce Street (not final mapped), Block 2284, Lot 44.

COMMUNITY BOARD # 2SI

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

For Administration: Lisa M. Orrantia, Department of Buildings.

ACTION OF THE BOARD - Application denied.

THE VOTE TO GRANT –

Affirmative:0

Negative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

WHEREAS, the instant appeal comes before the Board in response to a final determination of the Staten Island Borough Commissioner, dated March 22, 2005 (the “Final Determination”); and

WHEREAS, a public hearing was held on this application on October 18, 2005 after due notice by publication in *The City Record*, and then to decision on December 13, 2005; and

WHEREAS, the Final Determination was issued in response to a request that the Department of Buildings (“DOB”) lift the “Hold” status from DOB Application No. 500584799 (the “Application”) so that the building permit issued under the Application (the “Permit”) could be renewed and reinstated; and

WHEREAS, the Final Determination reads “Denied. CPC restoration plan required.”; and

WHEREAS, the subject premises is an approximately 100 ft. by 130 ft. lot, with 12,072 sq. ft. of lot area, and is located within an R1-2 zoning district within the Special Natural Area District, NA-1 (“SNAD”); and

WHEREAS, the site was previously occupied by a two-story, single-family dwelling constructed around 1920; and

WHEREAS, the Application was for an Alteration Type I Permit for a horizontal and vertical enlargement of a three-story residential building with sub-cellar and cellar”; and

WHEREAS, although not mentioned on the Application form, the plans submitted with the Application showed a proposed new retaining wall as well; and

WHEREAS, the Application was placed on hold status because DOB determined that the applicant for the Permit failed to submit the proposed plans to the City Planning Commission (CPC) for its review, pursuant to ZR §§ 105-02 and 105-40; and

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WHEREAS, ZR §105-02 provides that the SNAD regulations apply to any “development” or “site alteration” on a lot within the SNAD; and

WHEREAS, ZR § 105-40 provides that prior to the issuance by DOB of a building permit for a “development” or “site alteration”, CPC must issue a certification to DOB that such work is approved; and

WHEREAS, the appellant claims no CPC review was necessary because the construction of the new building was actually an alteration, and that the construction of the wall was a grandfathered site alteration; accordingly, no development or site alteration occurred which would require CPC review; and

WHEREAS, as discussed in more detail below, the appellant also makes additional arguments as to why the instant appeal should be granted; and

WHEREAS, certain aspects of the factual background are contested, and will be discussed accordingly; however, both parties apparently agree that the genesis of the Application began on November 6, 2002, when an architect acting on behalf of the owner of the premises submitted an “Additional Information” form requesting that the Department accept an alteration-type application to “enlarge the existing house and to replace and relocate the existing square footage so as to be in compliance with existing zoning and to upgrade [its] structural integrity”; and

WHEREAS, DOB notes, and that appellant does not dispute, that no plans were presented to DOB when this request was made; and

WHEREAS, nevertheless, the request was ultimately accepted on November 8, 2002 by former Borough Commissioner Jorge Canepa; and

WHEREAS, after permission to bring in an alteration-type application for the purported enlargement of the existing dwelling was granted, the Application was formally filed, approved on March 3, 2003, and the Permit was issued on March 4, 2003 for an alteration of the existing building; and

WHEREAS, the Application was later slightly modified on September 30, 2003, and then renewed for an additional term on November 26, 2003, to expire on December 5, 2004; and

WHEREAS, the Application form describes the work as a “horizontal enlargement,” “vertical enlargement” and a “partial demolition” of the existing 2-story one-family residential building with cellar; the scope of work also included the removal of soil to reduce the grade on the site; and

WHEREAS, the appellant states that pursuant to DOB policy in effect at the time, notwithstanding the actual construction work involved, such demolition and construction could be construed by DOB as an alteration; and

WHEREAS, demolition and construction of the new building and wall commenced under the Permit; and

WHEREAS, the parties contest the chronology of construction; and

WHEREAS, the appellant claims that construction of the wall was completed in May of 2003, before any major

demolition of the existing home; and

WHEREAS, in support of this claim, the appellant submitted affidavits, purportedly from contractors present at the site when construction was proceeding, all which assert that the retaining wall was completed before demolition of the existing dwelling; and

WHEREAS, DOB contends that demolition of the existing dwelling occurred in mid-April of 2003, before construction of the wall, which DOB contends occurred around May 6, 2003; and

WHEREAS, DOB bases its contentions on inspection records from April 16, 2003, on which date an inspector inspected the site in response to a complaint of demolition work without a permit; the inspector’s notes state “no action necessary – permits issued.”; and

WHEREAS, DOB also cites to inspection records from May 6, 2003, on which date an inspector inspected the site in response to a complaint that a 20-foot wall was installed without a permit; the inspector’s notes state that “approved plans [were] issued [for the] foundation built.”; and

WHEREAS, DOB also cites to a survey, originally dated October 30, 2002 and revised March 10, 2004, submitted with a subdivision application filed with CPC, dated March 31, 2004; and

WHEREAS, this survey indicates that the foundation for the new building was already in place by May 30, 2003; and

WHEREAS, although there is disagreement as to the chronology of construction, for reasons set forth below, the Board finds that is unnecessary to resolve this factual dispute; and

WHEREAS, as construction proceeded, DOB inspectors again inspected conditions at the site; and

WHEREAS, on May 18, 2004, an inspector issued an Environmental Control Board (“ECB”) violation for work without a permit in violation of Building Code § 27-147; and

WHEREAS, this violation noted, in part, “work without permit (demo)... 3-[story New Building] was in place... no visual confirmation of existing house being in place... “; and

WHEREAS, this violation was dismissed on October 13, 2004 by an ECB Administrative Law Judge (“ALJ”) based on the ALJ’s finding that then-Commissioner Canepa’s pre-consideration acceptance allowed the work to be performed without a demolition permit; and

WHEREAS, on June 9, 2004, during the time that the ECB violation was being resolved, DOB placed a hold on the Application; and

WHEREAS, on April 22, 2005, Acting Borough Commissioner Werner deFoe, who succeeded former Commissioner Canepa, denied a request to renew the Application permit and issued the Final Determination; and

WHEREAS, the Application continued to be in hold status, and DOB notified the owner that it intended to revoke the Permit; and

WHEREAS, the appellant subsequently filed the instant appeal; and

WHEREAS, DOB issued the owner a letter stating

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its intent to revoke the Permit and Application approval in October 2005; however, final revocation was stayed by DOB pending the outcome of the instant appeal; and

WHEREAS, the appellant's first argument is that the construction of the new dwelling did not require CPC approval, since the work performed was not a "development" but an "alteration"; and

WHEREAS, ZR §12-10 defines "development", in part, as "the construction of a new building or other structure on a zoning lot"; and

WHEREAS, the appellant argues that it did not construct a new "building or other structure" on the zoning lot; and

WHEREAS, the appellant asserts that the new 3-story residential building must be recognized as an "alteration" of the existing structure rather than a "development" because DOB issued an alteration-type permit for the work and the ECB ALJ dismissed a violation a DOB inspector issued for demolition work without a permit; and

WHEREAS, DOB rejects this claim because it relies on a pre-consideration that was obtained by the Permit applicant's misrepresentation as to the nature and scope of proposed work, allowing the Application to be filed as an alteration rather than as a new building; and

WHEREAS, DOB states that the owner filed plans for, and demolished, the existing two-story dwelling and constructed a three-story dwelling on an entirely new footprint; and

WHEREAS, DOB contends that the Application plans show a full demolition of the existing building and construction of a new building, notwithstanding the representations made by the filing representative in the Application form; and

WHEREAS, DOB cites to approved Demolition Plan D-1, which indicates a complete demolition of the existing building, consisting of the removal of the roof, and all walls and floors of the foundation, cellar, first and second floors; and

WHEREAS, DOB also observes that Plan A-1 shows that the new three-story building will be situated on a different area of the lot than the prior building; and

WHEREAS, further, DOB notes that the new building has a new foundation, new floors, new walls and a new roof, and is entirely unrelated to the existing structure; and

WHEREAS, based upon its review of the submitted evidence, the Board finds that the Application was in fact for a new building rather than an alteration; and

WHEREAS, the Board makes this determination based upon its review of the submitted plans and the relevant definitions; and

WHEREAS, the Board observes that construction of a dwelling with its own foundations on a portion of the lot previously unoccupied can in no way be characterized as an alteration of an existing building, especially where such existing building was located on another part of the lot and completely demolished; and

WHEREAS, logically, it can only be construed as

construction of a new building on the lot, which falls squarely within the definition of "development"; and

WHEREAS, as noted above, the appellant argues that the pre-consideration request granted by the former Staten Island Borough Commissioner renders the Application valid as an alteration, since express permission to file it as an alteration was apparently given; and

WHEREAS, the Board does not find this argument persuasive; and

WHEREAS, instead, the Board finds that the architect's pre-consideration request does not accurately reflect either the actual nature of the work proposed under the Application nor the actual work that occurred; and

WHEREAS, the architect's request represented that the "[t]he client[']s intent is to enlarge the existing house . . . and to upgrade the structural integrity of the structure. In addition, the client intends to increase the square footage of the residence."; and

WHEREAS, in fact, no such enlargement, upgrade, or increase in square footage of the existing dwelling was either filed for under the Application or performed; and

WHEREAS, based upon the inaccurate representations made by the architect, the Board is unsurprised that permission was granted to file the proposed work as an alteration-type application rather than as a new building; and

WHEREAS, the appellant also argues that construction of the retaining wall does not satisfy the definition of "development" in that the wall is not a "building or other structure"; and

WHEREAS, the appellant argues that the wall is not a structure because the wall is below grade, lacks a use, is not subject to zoning regulations, is comparable to a dry well, and neither the New York City Building Code definitions of "structure" or "retaining wall" identify a retaining wall as being a structure set forth in Building Code § 27-232; and

WHEREAS, DOB notes that the wall is an engineered piece of construction measuring approximately 130-foot long and 15-foot high for use in retaining soil that formerly lay at a steep incline of greater than 15%; and

WHEREAS, DOB states that the wall satisfies the Building Code definition of "structure" in that the wall is "an assembly of materials forming a construction for . . . use."; and

WHEREAS, the Board agrees with DOB: the wall is clearly is an assembly of materials with a designed soil retaining function; and

WHEREAS, more importantly, as the SNAD regulations are found in the ZR and not the Building Code, the Board notes that in a letter dated February 2, 2005, the Department of City Planning ("DCP") opines that the wall falls within the category of "other structure" as set forth in the ZR definition of "development" such that CPC review and approval in accordance with the applicable SNAD provisions is required; and

WHEREAS, specifically, DCP states that "ZR § 15-01 defines development as 'the construction of a new building or other structure on a zoning lot'. Further, ZR § 12-10 defines

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‘building or other structure’ as including ‘any building or any other structure of any kind’; and

WHEREAS, DCP goes on to note that the wall was 15 ft. in height, and was visible to its full height from surrounding parcels; and

WHEREAS, finally, DCP states that it has previously considered retaining walls to be “other structures” as defined by ZR § 12-10, making construction of such walls developments requiring CPC approval; and

WHEREAS, the Board agrees with DCP: a wall of the type constructed on the subject lot, being 15 ft. high and approximately 130 ft. long, is clearly an “other structure” as defined by ZR § 12-10; thus, construction of it was a development by definition, and CPC approval was required; and

WHEREAS, in sum, the Board finds that both the new dwelling and the wall independently satisfy the definition of “development”; and

WHEREAS, the appellant makes the secondary argument that the lot contained a residential building on the effective date of the special district designation and therefore, ZR §105-01 provides an exception to the applicability of the SNAD regulations, and allowed the owner to perform “any construction on the site,” including demolition of the existing building and construction of a new building and wall, without regard to CPC certification requirements; and

WHEREAS, specifically, the appellant states that this exception applies to any site alteration on a zoning lot of less than 40,000 sq. ft. containing a residential building on the effective date of SNAD; and

WHEREAS, the appellant’s interpretation relies on the assumption that all work on the lot falls under his exemption; and

WHEREAS, however, as correctly noted by DOB, ZR § 105-01 exempts only “site alterations” from review; and

WHEREAS, construction that qualifies as a “development” must still receive CPC approval, as there is no grandfathering of developments; and

WHEREAS, as noted above, the construction of the wall clearly meets the definition of a development; and

WHEREAS, for this reason, the actual chronology of construction of the wall, demolition of the existing building, and construction of the new building, is irrelevant: since the wall is a development, CPC review is required regardless of whether the existing building existed at the time it was constructed; and

WHEREAS, even if the Board assumed that the appellant’s version of the chronology was accurate, the Board’s conclusion that construction of the new building was a new development rather than an alteration renders the grandfathering argument moot; and

WHEREAS, further, the Board notes that as defined in §ZR 105-01, “site alteration” includes “land contour work, topographic modifications, removal of top soil, vegetation, excavating, filling, dumping, changes in existing drainage systems, improvements in public rights-of-way, relocation of boulders, or modification of any other natural features”; and

WHEREAS, the Board observes that nothing in this definition would eliminate the categorization of the wall as a development, even if said wall was constructed in furtherance of actual site alterations; and

WHEREAS, in sum, the Board finds that construction of both the wall and the new building qualify as developments such that CPC certification should have been obtained for the proposal pursuant to applicable SNAD regulations; and

WHEREAS, the appellant makes the following additional arguments: (1) that the DCP letter was an improper, unappealable decision that “usurps” the jurisdiction of the Board; (2) that the aforementioned ECB opinion acts as res judicata upon the Board as to the applicability of the CPC review requirement; (3) that the owner acted in good faith reliance upon DOB representations and actions, including the acceptance of the pre-consideration request; therefore, DOB is estopped from correcting its error at this juncture; and (4) that the Board should not find in favor of DOB based upon the doctrine of laches, since DOB should have rectified its alleged error in time to allow the owner the opportunity to avoid significant prejudice; and

WHEREAS, the Board rejects the first argument: the DCP letter did not set forth a determination that was binding upon either the appellant or DOB; and

WHEREAS, instead, it merely expressed an opinion that DOB could use as confirmation of its own interpretation, or merely consider; and

WHEREAS, nothing in the Charter or the Building Code prevents DOB from taking into account an opinion of DCP counsel; and

WHEREAS, further, the DCP letter did not prevent the Board from hearing an appeal of a DOB decision that corresponded to the conclusions contained in the letter; and

WHEREAS, finally, the Board observes that the letter was issued in response to an inquiry not from DOB, but from a representative of the owner of the premises; and

WHEREAS, the Board finds the claim that its authority was usurped by DCP’s response to the owner’s own inquiry to be nonsensical; and

WHEREAS, as to the second argument, the Board observes that the ALJ decision does not act as res judicata against the Board, pursuant to an opinion of the full ECB dated September 16, 1992 (91692P), which states that ALJ opinions do not have preclusive effect; and

WHEREAS, moreover, as correctly noted by DOB, the ECB ALJ’s opinion did not address whether CPC approval was required for the work performed at the premises, which is the fundamental issue of the instant appeal; and

WHEREAS, as to the third and fourth arguments, the Board finds that the record does not contain any persuasive evidence of good faith reliance by the owner or of unnecessary delay on the part of DOB; and

WHEREAS, in any event, the Board notes that it does not possess the authority to apply principles of equitable estoppel or the doctrine of laches against DOB in the context of this appeal; and

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WHEREAS, finally, the Final Determination does not address the good faith reliance or laches claims; therefore, they are not properly before the Board; and

WHEREAS, accordingly, the Board declines to address these arguments further; and

WHEREAS, in conclusion, the Board finds that: (1) DOB's application of the relevant definitions to the construction of the dwelling and wall at the premises was correct; and (2) its refusal to lift the hold and reinstate the Permit and Application approval for failure to submit the proposal to CPC was an appropriate exercise of its jurisdiction.

Therefore it is Resolved that the instant appeal, seeking a reversal of the determination of the Staten Island Borough Commissioner, dated March 22, 2005, to refuse to remove a hold on DOB Application No. 500584799, is hereby denied.

Adopted by the Board of Standards and Appeals, December 13, 2005.

116-05-BZY

APPLICANT – Frederick A. Becker for John Shik Im, owner.

SUBJECT – Application May 12, 2005 – Proposed extension of time to complete construction for a two family home for a period of six months pursuant to Z.R. 11-331 of the Zoning Resolution under prior R3-2 Zoning District. As of April 12, 2005, the new Zoning District is R3-X.

PREMISES AFFECTED – 22-08 43rd Avenue, corner of 222nd Street and 43rd Avenue, Block 6328, Lot 17, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

WHEREAS, this is an application under Z.R. §11-331, to renew a building permit and extend the time for the completion of the foundation of a minor development under construction; and

WHEREAS, a public hearing was held on this application on October 18, 2005 after due notice by publication in *The City Record*, with continued hearings on November 15, 2005 and November 29, 2005, and then to decision on December 13, 2005; and

WHEREAS, the site was inspected by a committee of the Board, including Chair Srinivasan; and

WHEREAS, Council Member Avella opposed the granting of any relief to the applicant; and

WHEREAS, the subject premises is located at the intersection of 222nd Street and 43rd Avenue; and

WHEREAS, the subject premises is currently located

within an R3-X zoning district; prior to the rezoning, it was in an R3-2 zoning district; and

WHEREAS, the subject premises (as well as the premises at 43-05 222nd Street) is proposed to be developed with two two-family dwellings; and

WHEREAS, however, on April 12, 2005 (hereinafter, the "Enactment Date"), the City Council voted to enact text changes to the Zoning Resolution rendering the proposed development non-complying; and

WHEREAS, Z.R. §11-331 reads: "If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued as set forth in Section 11-31 paragraph (a), to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations."; and

WHEREAS, Z.R. § 11-31(a) reads: "For the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met."; and

WHEREAS, because the proposed development contemplates a single building on one zoning lot, it meets the definition of Minor Development; and

WHEREAS, the applicant represents that all of the relevant Department of Buildings permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the applicant represents that demolition of the prior existing structure took place on March 29, 2005 and was completed by April 1, 2005, pursuant to a lawfully issued demolition permit which was issued on March 22, 2005; and

WHEREAS, the record indicates that on April 8, 2005 a new building permit (Permit No. 402114939-01-EQ.FN) for

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the new building was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the Board has reviewed the record and agrees that the afore-mentioned permit was lawfully issued to the owner of the subject premises; and

WHEREAS, the applicant represents that, as of the Enactment Date, substantial progress had been made on foundations; and

WHEREAS, the applicant represents that excavation of the site was completed on April 8, 2005; and

WHEREAS, the Board notes that in order to complete the foundations, the applicant would need to construct all footings and foundation walls, including all necessary concrete pours; and

WHEREAS, the applicant represents that the foundations for the structure commenced on April 9, 2005, and concrete was poured on April 9th and April 11th; and

WHEREAS, in support of the contention that concrete for the footings and walls was poured, the applicant has submitted several receipts from a concrete batching company that reflect that for the subject premises 15 cubic yards were poured on April 9, 2005 and 60 cubic yards were poured on April 11, 2005; and

WHEREAS, the applicant further represents that the foundation walls were all in place as of the Enactment Date; and

WHEREAS, the applicant represents that the only remaining portion of the foundations to be completed is the slab of the cellar; and

WHEREAS, the applicant represents that, for the subject premises, 75 cubic yards of concrete were poured as of the Enactment Date (a total of 150 cubic yards for both the subject premises and 43-05 222nd Street) and approximately 8.5 cubic yards are required to be poured to complete the foundations (a total of 17 cubic yards for both the subject premises and 43-05 222nd Street); accordingly, as of the Enactment Date, 90% of the concrete necessary to complete the foundation had been poured; and

WHEREAS, in support of the claim that substantial progress had been made on foundations as of the Enactment Date, the applicant has submitted, among other items, photographs taken on May 10, 2005, and a foundation plan indicating the amount of foundation work that was complete as of the Enactment Date; and

WHEREAS, Council Member Avella submitted a separate set of photographs taken on April 21, 2005; the Council Member represents that these photos reflect that only excavation was completed and no foundations had been poured as of that date; and

WHEREAS, the applicant responds that the wooden forms seen in the photographs taken on April 21, 2005 were still in place subsequent to the concrete pouring that took place on April 9th and April 11th, and together with the other evidence submitted by the applicant, the photographs do not indicate that foundations were not substantially complete as of the Enactment Date; and

WHEREAS, the applicant has also submitted an affidavit from the general contractor documenting the work completed on the proposed development as of the Enactment Date; and

WHEREAS, the Board has reviewed the affidavit and other evidence submitted, and agree with the conclusion that excavation was complete and that substantial progress was made on the foundations as of April 12, 2005; and

WHEREAS, the applicant has submitted a cost breakdown of money expended, which states that \$40,000 of the approximately \$45,200 (or 88%) of the foundation costs, including the costs for the supplies and labor associated with installing the footings and forms, and excluding excavation costs and other soft costs associated with development on both the subject site and 43-05 222nd Street had been incurred as of the Enactment Date; and

WHEREAS, in support of these costs, the applicant has submitted a copy of the contract between the applicant and the general contractor, and a deposited check made out to the concrete batching company dated April 9, 2005; and

WHEREAS, the Board finds all of above-mentioned submitted evidence sufficient and credible; and

WHEREAS, additionally, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, based upon the above, the Board finds that excavation was complete and that substantial progress had been made on foundations, and additionally, that the applicant has adequately satisfied all the requirements of Z.R. § 11-331.

Therefore it is resolved that this application to renew New Building permit No. 402114939-01 pursuant to Z.R. § 11-331 is granted, and the Board hereby extends the time to complete the required foundations for one term of six months from the date of this resolution, to expire on June 13, 2006.

Adopted by the Board of Standards and Appeals, December 13, 2005.

117-05-BZY

APPLICANT – Fredrick Becker, Esq., for Yohn Shik Im, owner.

SUBJECT – Application May 12, 2005 – Proposed extension of time to complete construction for a period of six months pursuant to Z.R. §11-331 on a two family home under prior R3-2 Zoning District. As of April 12, 2005 the new zoning district is R3-X.

PREMISES AFFECTED – 43-05 222ND Street, south of 43rd Avenue and East 222nd Street, 6328, Lot 16 Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

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Negative:.....0

WHEREAS, this is an application under Z.R. §11-331, to renew a building permit and extend the time for the completion of the foundation of a minor development under construction; and

WHEREAS, a public hearing was held on this application on October 18, 2005 after due notice by publication in *The City Record*, with continued hearings on November 15, 2005 and November 29, 2005, and then to decision on December 13, 2005; and

WHEREAS, the site was inspected by a committee of the Board, including Chair Srinivasan; and

WHEREAS, Council Member Avella opposed the granting of any relief to the applicant; and

WHEREAS, the subject premises is located at the intersection of 222nd Street and 43rd Avenue; and

WHEREAS, the subject premises is currently located within an R3-X zoning district; prior to the rezoning, it was in an R3-2 zoning district; and

WHEREAS, the subject premises (as well as the premises at 222-08 43rd Avenue) is proposed to be developed with two two-family dwellings; and

WHEREAS, however, on April 12, 2005 (hereinafter, the "Enactment Date"), the City Council voted to enact text changes to the Zoning Resolution rendering the proposed development non-complying; and

WHEREAS, Z.R. §11-331 reads: "If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued as set forth in Section 11-31 paragraph (a), to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations."; and

WHEREAS, Z.R. § 11-31(a) reads: "For the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely

a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met."; and

WHEREAS, because the proposed development contemplates a single building on one zoning lot, it meets the definition of Minor Development; and

WHEREAS, the applicant represents that all of the relevant Department of Buildings permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the applicant represents that demolition of the prior existing structure took place on March 29, 2005 and was completed by April 1, 2005, pursuant to a lawfully issued demolition permit which was issued on March 22, 2005; and

WHEREAS, the record indicates that on April 8, 2005 a new building permit (Permit No. 402114920-01-EQ.FN) for the new building was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the Board has reviewed the record and agrees that the afore-mentioned permit was lawfully issued to the owner of the subject premises; and

WHEREAS, the applicant represents that, as of the Enactment Date, substantial progress had been made on foundations; and

WHEREAS, the applicant represents that excavation of the site began on April 8, 2005 and concluded on April 9, 2005; and

WHEREAS, the Board notes that in order to complete the foundations, the applicant would need to construct all footings and foundation walls, including all necessary concrete pours; and

WHEREAS, the applicant represents that the foundations for the structure commenced on April 9, 2005, and concrete was poured an April 9th and April 11th; and

WHEREAS, in support of the contention that concrete for the footings and walls was poured, the applicant has submitted several receipts from a concrete batching company that reflect that, for both the subject premises and 15 cubic yards were poured on April 9, 2005 and 60 cubic yards were poured on April 11, 2005; and

WHEREAS, the applicant further represents that the foundation walls were all in place as of the Enactment Date; and

WHEREAS, the applicant represents that the only remaining portion of the foundations to be completed is the slab of the cellar; and

WHEREAS, the applicant represents that, for the subject premises, 75 cubic yards of concrete were poured as of the Enactment Date (a total of 150 cubic yards for both the subject premises -08 43rd Avenue) and approximately 8.5 cubic yards are required to be poured to complete the foundations (a total of 17 cubic yards for both the subject premises and -08 43rd Avenue); accordingly, as of the Enactment Date, 90% of the concrete necessary to complete the foundation had been poured; and

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WHEREAS, in support of the claim that substantial progress had been made on foundations as of the Enactment Date, the applicant has submitted, among other items, photographs taken on May 10, 2005, and a foundation plan indicating the amount of foundation work that was complete as of the Enactment Date; and

WHEREAS, Council Member Avella submitted a separate set of photographs taken on April 21, 2005; the Council Member represents that these photos reflect that only excavation was completed and no foundations had been poured as of that date; and

WHEREAS, the applicant responds that the wooden forms seen in the photographs taken on April 21, 2005 were still in place subsequent to the concrete pouring that took place on April 9th and April 11th, and together with the other evidence submitted by the applicant, the photographs do not indicate that foundations were not substantially complete as of the Enactment Date; and

WHEREAS, the applicant has also submitted an affidavit from the general contractor documenting the work completed on the proposed development as of the Enactment Date; and

WHEREAS, the Board has reviewed the affidavit and other evidence submitted, and agree with the conclusion that excavation was complete and that substantial progress was made on the foundations as of April 12, 2005; and

WHEREAS, the applicant has submitted a cost breakdown of money expended, which states that \$40,000 of the approximately \$45,200 (or 88%) of the foundation costs, including the costs for the supplies and labor associated with installing the footings and forms, and excluding excavation costs and other soft costs associated with development on both the subject site and 222-08 43rd Avenue had been incurred as of the Enactment Date; and

WHEREAS, in support of these costs, the applicant has submitted a copy of the contract between the applicant and the general contractor, and a deposited check made out to the concrete batching company dated April 9, 2005; and

WHEREAS, the Board finds all of above-mentioned submitted evidence sufficient and credible; and

WHEREAS, additionally, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, based upon the above, the Board finds that excavation was complete and that substantial progress had been made on foundations, and additionally, that the applicant has adequately satisfied all the requirements of Z.R. § 11-331.

Therefore it is resolved that this application to renew New Building permit No. 402114920-01 pursuant to Z.R. § 11-331 is granted, and the Board hereby extends the time to complete the required foundations for one term of sixth months from the date of this resolution, to expire on June 13, 2006.

Adopted by the Board of Standards and Appeals, December 13, 2005.

160-05-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Melissa & Mark Gaurdioso, lessee. SUBJECT – Application filed on July 14, 2005 – Appeal to Department of Buildings to reconstruct and enlarge an existing single family frame dwelling situated in the bed of a mapped street contrary to General City Law Article 3, Section 35 and upgrading an existing non-conforming private disposal system which is contrary to Department of Buildings policy. Premises is located within an R4 zoning district. PREMISES AFFECTED – 458 ½ Hillcrest Walk, east of Beach 212th Street, 149.65' s/o Rockaway Point Boulevard, Block 16350, part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated July 8, 2005, acting on Department of Buildings Application No. 402104842, reads:

“A1- The existing building to be altered lies within the bed of mapped street contrary to General City Law Section 35.

A-2- The proposed upgraded private disposal system is in the bed of a mapped street contrary to Department of Buildings policy;” and

WHEREAS, a public hearing was held on this application on December 13, 2005 after due notice by publication in the *City Record*, and then to decision on December 13, 2005; and

WHEREAS, by letter dated October 26, 2005, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated August 5, 2005, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated October 31, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated July 8, 2005, acting on Department of Buildings Application No. 402104842, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to

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the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received July 14, 2005"-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

53-05-A

APPLICANT – The Agusta Group, for Tom George, owner.
SUBJECT - Application filed on March 4, 2005 – Proposed construction of a three story residential and a four story mixed use building fronting Forest Avenue, which lies partially in the bed of a mapped street (Greene Avenue) which is contrary to Section 35 of the General City Law.
PREMISES AFFECTED – 62-41 Forest Avenue, East Side of Forest Avenue, 216' of Metropolitan Avenue, Block 3492, Lot 25, 28, 55, 58, (tentative, Lot 25), Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Sol Korman.

For Opposition:

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD - Laid over to January 10, 2006, at 10 A.M., for decision, hearing closed.

144-05-BZY

APPLICANT – Alfonso Duarte, for Bel Homes, LLC, owner.

SUBJECT – Application June 9, 2005 - Proposed extension of time to complete construction pursuant to Z.R. 11-331 for two-two family attached dwellings.

PREMISES AFFECTED – 143-53/55 Poplar Avenue, northwest corner of Parsons Boulevard, and Poplar Avenue, Block 5228, Lots 32 & 34, Flushing, Borough of Queens

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Alfonso Duarte.

For Opposition:

ACTION OF THE BOARD - Laid over to January 31,

2006, at 10 A.M., for adjournment.

145-05-BZY

APPLICANT – Krzysztof Rostek, for Belvedere III, LLC, owner.

SUBJECT – Application June 9, 2005 – Proposed extension of time to complete construction to Z.R. §11-331 for a six family house.

PREMISES AFFECTED – 135 North 9th Street, north side, 125' from northeast corner of Berry Street, Block 2304, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD

APPEARANCES –

For Applicant: Krzysztof Rostek and Wiltov Wasilewski.

For Opposition:

ACTION OF THE BOARD - Laid over to January 24, 2006, at 10 A.M., for continued hearing.

324-05-BZY/348-05-A

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Perry Street Development Corp., c/o Richard Born, Hotel Wellington, owners.

SUBJECT – Application November 10, 2005 - Proposed extension of time to complete construction pursuant to Z.R. 11-332 for 2-story residential addition to an existing 6-story commercial building. Appeal case is seeking a determination that the owner of said premises has acquired a common-law vested right to continue development commenced under the prior C6-2 zoning district. Current Zoning District is R6A (C1-5) and (C1-7).

PREMISES AFFECTED – 164-172 Perry Street, midblock portion of block bounded by Perry, Washington and West Streets and Charles Lane, Block 637, Lots 13 & 17, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Gary Tarnoff

For Opposition: Andrew Berman, Councilmember Quinn, Assemblymember Deborah Glick, Mike Lefowitz, Zack Winesting, GUCTF and Shaann Khan Scottstringer.

ACTION OF THE BOARD - Laid over to January 10, 2006, at 10 A.M., for continued hearing.

326-05-BZY/328-05-A

APPLICANT – Greenberg Traurig, LLP by Deirdre Carson, for 163 Charles St. Realty, LLC., owner.

SUBJECT – Application November 10, 2005 - Proposed extension of time to complete construction pursuant to Z.R. 11-331 for the alteration and enlargement of the building. Appeal case is seeking a determination that the owner of said premises has acquired a common-law vested right to continue development commenced under the prior C6-2 zoning district. Current Zoning District is R6A and (C1-5).

PREMISES AFFECTED – 163 Charles Street, lot fronting on

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Charles Lane between West and Washington Streets, Block 637, Lot 42, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Deidre A. Carson

For Opposition: Andrew Berman, Councilmember Quinn, Assemblymember Glick, Shaan Khan, Man. Borough Pres. Elect Scot Stringer, Zack Winesting, Barbara Chacour, Rosario DeVito and Edward Kirkland.

ACTION OF THE BOARD - Laid over to January 10, 2006, at 10 A.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: P.M.

REGULAR MEETING

TUESDAY AFTERNOON, DECEMBER 13, 2005

1:30 P.M.

Present: Chair Srinivasan, Vice Chair Babbar, and Commissioner Chin.

ZONING CALENDAR

156-03-BZ

APPLICANT – Law Offices of Howard Goldman, PLLC, for RKO Plaza LLC & Farrington Street Developers, LLC, owner.

SUBJECT – Application May 20, 2003 – under Z.R. §72-21 – Proposed construction of a eighteen story mixed use building, Use Groups 2, 4 and 6, containing retail, community facility, 200 dwelling units and 200 parking spaces, located in an R6 within a C2-2 overlay zoning district, is contrary to Z.R. §§35-00 and 36-00.

PREMISES AFFECTED – 135-35 Northern Boulevard, northside of Main Street, Block 4958, Lots 48 and 38, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Howard Goldman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

WHEREAS, the decision of the Queens Borough Commissioner, dated November 4, 2005, acting on Department of Buildings Application No. 401622669, reads:

- “1. Proposed residential bulk exceeds 2.43 FAR permitted under Section 23-142 of the Z.R..
2. Proposed total bulk exceeds 4.8 FAR permitted under Section 35-31 of the Z.R.
3. Proposed open space is less than the amount required under Section 23-142 of the Z.R.
4. Proposed off-street parking is less than the amount required under Section 36-20 of the Z.R.”; and

WHEREAS, a public hearing was held on this application on May 11, 2005 after due notice by publication in the *City Record*, with continued hearings on July 26, 2005, September 27, 2005 and November 2, 2005, and then to decision on December 13, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioner Chin; and

WHEREAS, both Community Board 7, Queens and the Queens Borough President recommend approval of this application; and

WHEREAS, this application also has the support of Council Member Liu and State Senator Stavisky; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within a C2-2(R6) zoning district, the proposed development of a 200 unit, seventeen-story, mixed-use commercial/community facility/residential condominium building, with ground level retail, second floor community facility use, and 229 accessory parking spaces in a three-level, below-grade parking garage, which exceeds the permitted residential and total mixed-use Floor Area Ratio (“FAR”), and provides less than both the required Open Space Ratio (“OSR”) and the required amount of accessory parking, contrary to Z.R. §§23-142, 35-31 and 36-20; and

WHEREAS, the proposal has been modified since it was originally filed at the Board; and

WHEREAS, initially, the applicant proposed a 195’-0” high, 15-story mixed-use building, with an FAR of 9.08, 150 dwelling units and 250 accessory parking spaces in a three-level garage; the proposal also included a large commercial component; and

WHEREAS, however, by the time of the first public hearing, the applicant had modified the proposal to a 17-story, 7.5 FAR mixed-use building with 200 parking spaces in three levels of parking; and

WHEREAS, at hearing, the applicant agreed to attempt to provide a fourth level of parking in order to accommodate more spaces; however, as discussed below, this proposal was found to be infeasible due to poor soil conditions and a high water table; and

WHEREAS, accordingly, the only significant

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modifications to these parameters made over the course of the public hearing process are: (1) an increase in the amount of accessory parking spaces from 200 to 229, which results from the proposed use of an elevator system in the garage, rather than a ramp system; and (2) a decrease in the amount of proposed parking levels from four to three; and

WHEREAS, thus, the proposal is now for a 17-story, 164'-11" high (without bulkheads; 174'-11" with bulkheads), 200 unit mixed-use building with retail, community facility and residential uses, a 41'-0" street wall, and 229 attended parking spaces in a three-level garage; and

WHEREAS, the approximate amount of floor area, by use, is as follows: retail use on the first floor – 11,000 sq. ft.; senior center community facility use on the second floor – 16,000 sq. ft.; residential use on the third through seventeenth floors – 287,000 sq. ft.; and

WHEREAS, the proposed development results in the following waiver requests: (1) a residential FAR of 6.86 (287,313 sq. ft. of zoning floor area); the maximum permitted residential FAR. is 2.43; (2) a total FAR of 7.5 (314,127 sq. ft. of zoning floor area); the maximum permitted FAR for a mixed-use building is 4.8; (3) an OSR of 4.86%; 32.0% is the minimum required OSR; and (4) a total of 229 accessory parking spaces, less than the amount required; and

WHEREAS, no height, setback, or commercial or community facility FAR waivers are required; and

WHEREAS, the site is a large, slightly irregular mid-block site, approximately 278 ft. deep by 158 ft. wide, comprised of two individual tax lots (Lots 38 and 48), and has a total lot area of approximately 41,880 sq. ft.; and

WHEREAS, the site is located at the north side of Northern Boulevard, at the intersection of the Boulevard and Main Street in Flushing, Queens; and

WHEREAS, the site only has frontage on Northern Boulevard, and is bounded on the east by an existing one, two and three-story building, on the west by an existing two-story building, and on the north by existing concrete yards and a portion of an existing three-story building; and

WHEREAS, the Lot 48 portion of the site is improved upon with the RKO Keith Flushing Theater, constructed in 1927, which is a three-story, 82,439 sq. ft. building, formerly used as a movie theater but vacant since 1990; this building will be partially demolished and then reconstructed, with the residential tower placed over the theater; and

WHEREAS, the Lot 38 portion of the site is improved upon with a two-story, 2,350 sq. ft. commercial building, which will be demolished in order to provide an exit for the garage to Farrington Street; and

WHEREAS, a portion of the interior of the RKO – specifically, the lobby, the grand foyer, staircase and ceiling – was designated an interior landmark by the City's Landmarks Preservation Commission (LPC) in 1984; and

WHEREAS, the proposed building will be constructed around the RKO's lobby and foyer, which will become the grand entrance to the building; and

WHEREAS, the proposed development includes the protection of the landmarked interior, which is proposed to be

restored because it is currently in a dilapidated state; and

WHEREAS, the landmarked interior will be protected during construction by a steel frame structure; and

WHEREAS, LPC has issued a Certificate of Appropriateness for the proposed lobby restoration, dated September 6, 2005; and

WHEREAS, further, the applicant has obtained approval of the proposed height of the building from the Federal Aviation Administration (FAA) and the Port Authority, since the site is near Laguardia airport; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: (1) pursuant to LPC direction, the interior landmark portion of the RKO must be restored and protected during the construction of the residential tower to be placed above it, requiring the construction of an expensive protective shell, which leads to an increase in the estimated time for completion of the overall development; (2) the site is deep and only has limited frontage on Northern Boulevard, which necessitates the siting of the tower above the space that is occupied by the interior landmark, further complicating development; and (3) the RKO building is obsolete for its intended theater purpose, and any retrofit of the theater space to bring it up to modern movie theater standards is cost-prohibitive; and

WHEREAS, as to the need to restore the interior landmark portion of the RKO and protect it during the construction of the entire development, the applicant states that because the lobby area to be restored and protected is quite large (38 feet high and 66 ft. wide, and approximately 7,000 square feet), the cost to protect it during development is extraordinary, both in terms of actual construction cost and the increase in construction time; and

WHEREAS, these costs have been detailed in a report generated by the applicant's construction consultant, submitted to the Board on July 15, 2005; and

WHEREAS, in this report, the consultant states that significant efforts would have to be made to shore up the lobby to prevent structural decay caused by the movement of heavy construction materials, including the removal of soil to create the underground parking garage; and

WHEREAS, additionally, the lobby's delicate wall paintings and fixtures would have to be removed, protected and eventually incorporated into the project; and

WHEREAS, these representations were amplified upon by the construction consultant at hearing; and

WHEREAS, specifically, the consultant stated that to protect the landmarked interior during construction of the residential tower, temporary bracing would have to be installed while the superstructure was being removed and temporarily held up; and

WHEREAS, the consultant also stated that after the tower was completed, the protective bracing would then be removed; this work would involve the cutting away of existing structural steel that connects the landmarked portion of the RKO to the rest of the building, the severing of

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additional trusses, and then the insertion of new structural steel and trusses; and

WHEREAS, the consultant noted that this work would take approximately three to six months, significantly lengthening the overall development process; and

WHEREAS, the applicant also represents that the site only has 160 feet along Northern Boulevard, and with the 66 foot wide lobby located in the middle of that frontage, all construction activity would be constrained by having to maneuver around the lobby and the protective structure described above; and

WHEREAS, the consultant states that this would further increase the length of the overall development process, due to its impact on construction staging; and

WHEREAS, the Board observes that if frontage was available on another portion of the site, then the physical costs and time impact associated with the protection of the interior landmark could be mitigated; and

WHEREAS, the applicant states that because of the extraordinary costs that are incurred as a result of the need to protect the interior landmark, as well as the combination of its location on the site and the site's limited frontage, a mixed-use development with a complying residential and total FAR is not financially feasible; and

WHEREAS, the Board, based upon its review of the submitted evidence, agrees that such conditions increase the cost of developing the site in compliance with applicable bulk regulations; and

WHEREAS, the Board observes that it is the relationship between the existing interior landmark and its position on a site with the limited street frontage that, in part, distinguishes this site from others that possess interior landmarks; and

WHEREAS, the Board further observes that the majority of the sites designated as interior landmarks are also designated as exterior landmarks, greatly limiting any on-site redevelopment potential of such designated buildings; and

WHEREAS, additionally, many other interior landmarks in the City are in the Theater Subdistrict of the Special Midtown District, which allows the transfer of development rights and thus relief from any potential hardship that might be imposed by the interior landmark designation; and

WHEREAS, the Board also notes that the site is underdeveloped to an extent unlikely to be replicated on other solely interior landmark sites; and

WHEREAS, finally, the applicant represents that the existing RKO building is obsolete by modern theater standards; and

WHEREAS, specifically, the applicant states that the existing level seating would have to be rebuilt to provide modern "stadium seating", which would require the ground floor to be reconstructed at a steeper incline; and

WHEREAS, however, the current floorplate lines up with the landmarked lobby and, therefore, the entire landmarked lobby would have to be raised; and

WHEREAS, additionally, the balcony currently hangs over much of the ground floor seating, and if the ground floor were to be raised, the entire balcony would have to be rebuilt in order to preserve sight lines; and

WHEREAS, in sum, the applicant represents that reconstructing the theater to conform to modern standards would be architecturally impractical, and, as a result, cost-prohibitive; and

WHEREAS, the applicant has explained how these claimed bases of uniqueness trigger the requested waivers; and

WHEREAS, the FAR waiver is driven by the additional costs precipitated by the need to protect the interior landmark, the location of the landmark on the site, and the lack of street frontage that results in increased development time; the increased residential FAR is necessary to offset these impacts; and

WHEREAS, the OSR waiver is necessary because if the proposed building is constructed with the requested FAR, it must be spread out over the site to respect the height limitations set by the FAA and the Port Authority, thus reducing the amount of open space that can be provided to a non-complying level; and

WHEREAS, finally, the parking waiver is necessary due to the increase in required parking spaces that arises from the increased floor area within the development; and

WHEREAS, the Board observes that the applicant has established each of the bases of uniqueness and justified the requested waivers through the submission of expert testimony, all of which the Board finds credible and persuasive; and

WHEREAS, accordingly, the Board finds that the unique conditions cited above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict compliance with applicable zoning regulations; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed a complying retail scenario and a complying theater rehabilitation scenario; and

WHEREAS, the applicant concluded that these complying development scenarios would not realize a reasonable return due to the site's constraints; specifically, the applicant has identified approximately \$8.2 million in premium costs related to the site's unique features that render these scenarios infeasible; and

WHEREAS, the applicant also submitted an analysis of a mixed-use residential/retail/community facility building with a complying 4.8 FAR; and

WHEREAS, the Board questioned certain aspects of this scenario; and

WHEREAS, specifically, the Board questioned how much of the landmark protection costs related to the placement of the proposed tower directly over the landmark portion; and

WHEREAS, the Board suggested that the costs might be reduced if the tower were relocated away from the landmark, further into the interior of the site; and

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WHEREAS, in response, the applicant stated that the interior landmark was so delicate and was in such a compromising location within the site, that alternative tower sitings would not have a significant impact on the costs associated with protecting it; and

WHEREAS, in support of this claim, the applicant submitted a report prepared by its construction consultant, which showed that relocating the bulk only reduced the construction costs by less than 2 percent of the estimated premium costs, or 0.01 percent of the overall construction budget; and

WHEREAS, the Board reviewed this explanation and finds it sufficient and credible; and

WHEREAS, additionally, the Board also expressed concern about the overall per square foot construction costs, observing that they appeared high for the Flushing area; and

WHEREAS, in response, the applicant showed that the construction costs were typical of a development of this size, quality and complexity in Flushing, using union labor; and

WHEREAS, accordingly, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with the bulk provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, the applicant states that the proposed development's FAR and OSR waivers will not negatively affect the character of the neighborhood nor impact adjacent uses; and

WHEREAS, at the outset, the Board observes that the site is located at a significant location within Flushing, the intersection of Northern Boulevard and Main Street; and

WHEREAS, the applicant represents that this is the most prominent intersection in Flushing, that the RKO Keith provides the northern anchor of the Flushing neighborhood, and that historically, it was the largest structure in the area; and

WHEREAS, the applicant further represents that although most of the surrounding structures consist of medium density buildings, several large-scale buildings also exist in the area; and

WHEREAS, specifically, the applicant cites to: (1) a large eight-story office building, adjacent to a seven story residential building, both of which are located across Northern Boulevard at the corner of Main Street; (2) a 16-story Sheraton Hotel, located to the south on 39th Avenue; and (3) the Latimer Houses, a large public housing project to the north on Linden Blvd, which contains four 10-story buildings with 423 units; and

WHEREAS, in addition, the applicant notes that there are currently three large scale development sites in proximity to the RKO, including the Municipal Parking Lot on Union Street, the Sears site two blocks east on Northern Blvd and a proposed development across the street on 35th Avenue; and

WHEREAS, in support of the claim that the proposed bulk of the building will comport with the character of the

neighborhood, the applicant prepared a Height Analysis of Flushing; and

WHEREAS, the Analysis presents 29 existing building located in Flushing that range from eight to 25 stories; six of these buildings exceed the project height and four are of comparable height; and

WHEREAS, additionally, the Analysis shows the three above-mentioned proposed developments, two of which will likely exceed the height of the proposed building; and

WHEREAS, as to parking, the applicant states that the Environmental Assessment Statement shows that the peak parking demand on a weekday is 130 spaces and the peak parking demand on a Saturday is 155 spaces; and

WHEREAS, the applicant concludes that the proposed 229 accessory parking spaces should be sufficient to accommodate such demand; and

WHEREAS, the applicant also observes that the proposed building is within a vibrant mixed-use district well-served by public transportation; and

WHEREAS, the Board has reviewed the submitted evidence and agrees that the proposed parking waiver will not create any deleterious effects in the neighborhood, as the proposed development provides sufficient parking for the contemplated uses; and

WHEREAS, the Board observes that the proposed building will be of superior quality in terms of design and amenities, will provide much needed space for a community senior center, as well as an interpretative center dedicated to the display of the history of RKO, and will restore and preserve a valuable interior landmark; and

WHEREAS, the Board also observes that the applicant has obtained the appropriate sign-offs from LPC as to the restoration and protection of the lobby, as well as from the FAA and the Port Authority as to the proposed height; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, as noted above, the applicant's first proposal upon filing was for a 9.0 FAR building; and

WHEREAS, the applicant modified this proposal even before the first hearing; and

WHEREAS, the modified proposal was the 7.5 FAR building with three levels of parking; and

WHEREAS, the Board also asked the applicant to submit a 6.5 FAR building, on the assumption that overall construction costs could be reduced by shifting the location of the residential tower away from the landmarked interior; and

WHEREAS, however, as explained above, relocation of the tower does not appreciably reduce construction costs such that a 6.5 FAR building would realize a reasonable return; and

WHEREAS, as mentioned above, the applicant also

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analyzed a 7.5 FAR building with four levels of parking, which would have reduced or eliminated the parking waiver request; and

WHEREAS, however, the applicant states that the site is afflicted with a high water table and poor soil conditions; and

WHEREAS, the applicant argues that because of these conditions, construction of a four-level parking garage with enough spaces to accommodate all required parking is cost-prohibitive; and

WHEREAS, accordingly, the applicant submitted for the Board's approval the 7.5 FAR building with 229 attended parking spaces in a three-level garage, serviced by an elevator rather than a ramp system, which the applicant represents will realize a reasonable return; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05-BSA-058K, dated November 1, 2004; 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, the Office of Environmental Planning and Assessment of the NYC Department of Environmental Protection (DEP) has reviewed the following submissions from the Applicant: (1) a December 2004 Environmental Assessment Statement Form; (2) Supplemental Environmental Studies on Traffic, Air Quality, and Noise Impacts, prepared by Urbitran Associates; (3) a Phase II Environmental Investigation Work Plan and Site-Specific Health and Safety Plan; and (4) a Draft Restrictive Declaration submitted to DEP on March 25, 2005; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials, air quality and noise impacts; and

WHEREAS, a Restrictive Declaration to address hazardous materials concerns was executed on November 29, 2005, and was submitted for recording on December 13, 2005; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the

implementation of the measures cited in the Restrictive Declaration and the Applicant's agreement to the conditions noted below; and

WHEREAS, DEP has reviewed the applicant's Mobile and Stationary Source Air Quality Assessments and determined that the project would not result in significant mobile or stationary source impacts; and

WHEREAS, DEP has reviewed the applicant's Mobile Source Noise analysis and determined that the projected vehicular traffic would not result in significant noise impacts; and

WHEREAS, DEP reviewed the applicant's Stationary Source Noise Assessment and determined that the proposed project would not result in significant noise impacts so long as the following measures were implemented: 35 dBA of window/wall attenuation through the use of construction materials and windows that provide said degree of attenuation (with alternate means of ventilation), in order to maintain an interior noise level of 45 dBA; and

WHEREAS, the NYC Department of Transportation (DOT) has reviewed the EAS, Traffic Study and other supplemental studies; certain improvement measures at the following intersections have been identified for the 2007 Build Year: (1) Northern Boulevard and Farrington street; (2) Northern Boulevard and Main Street; and (3) Northern Boulevard and Union Street; and

WHEREAS, improvement measures involving signal timing modifications, parking regulation modifications and striping have also been identified, which would address traffic issues at the above-mentioned locations; and

WHEREAS, DOT has indicated that it will investigate the feasibility of implementing the proposed improvement measures when the project is built and occupied; and

WHEREAS, LPC has reviewed the project for potential historic and archaeological resource impacts and determined that there would not be any archaeological impacts; and

WHEREAS, LPC also determined that there are potential impacts relating to the RKO's status as a State/National Register-listed property and to the LPC-designated interior landmark that can be mitigated through a Construction Protection Plan and HABS (Historic American Buildings Survey) recordation/documentation; 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 Type I Negative Declaration, with the conditions stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, within a C2-2(R6) zoning district, the

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proposed development of a 200 unit, seventeen-story, mixed-use commercial/community facility/residential condominium building, with ground level retail, second floor community facility space, and 229 accessory parking spaces in a three-level, below-grade parking garage, which exceeds the permitted residential and total mixed-use Floor Area Ratio, and provides less than both the required Open Space Ratio and the required amount of accessory parking, contrary to Z.R §§ 23-142, 35-31 and 36-20; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 29, 2005" – (13) sheets and "Received December 29, 2005" – (1) sheet; and *on further condition*:

THAT a total of 229 attended parking spaces shall be provided in the accessory parking garage;

THAT the above condition shall be listed on the certificate of occupancy;

THAT prior to the issuance of any DOB permit for any work on the site that would result in soil disturbance (such as demolition, site preparation, grading or excavation), the applicant or any successor will perform all of the hazardous materials remedial measures and the construction health and safety measures as delineated in the Restrictive Declaration to the satisfaction of DEP and submit a written report that must be approved by DEP;

THAT no temporary or permanent Certificate of Occupancy shall be issued by DOB or accepted by the applicant or successor until the DEP shall have issued a Final Notice of Satisfaction or a Notice of No Objection indicating that the measures and conditions in the Restrictive Declaration have been completed to the satisfaction of DEP;

THAT construction materials and windows that provide at least 35 dBA of attenuation with alternate means of ventilation will be used in order to maintain an interior noise level of 45 dBA;

THAT the applicant shall notify DOT six months prior to the opening of the proposed project so that they can investigate the feasibility of implementing the proposed improvement measures;

THAT the applicant shall submit the following documents to LPC for review and approval prior to any demolition, construction or development on the subject site: Construction Protection Plan for the interior landmark; an amended "Data Recovery" section of the Revised Mitigation Plan that shall read: "The scope of work for HABS documentation shall be submitted to the LPC for review and approval prior to the demolition and the start of the documentation process."; a revised EAS stating that any written approvals by the LPC Preservation Department shall be included in the Final EAS;

THAT a copy of the Certificate of Appropriateness 06-1202 for the subject property issued September 6, 2005 shall be included in the Final EAS, as well as a Scope-of-Work for HABS documentation;

THAT the Applicant shall submit the Scope-of-Work for HABS documentation to LPC for its review and approval prior

to demolition and the start of the documentation process;

THAT the bulk parameters of the proposed building shall be as follows: (1) a residential FAR of 5.64 (245,798 sq. ft. of zoning floor area); (2) a total FAR of 7.5 (314,127 sq. ft. of zoning floor area); (3) an OSR of 4.86%; (4) 17 stories; (5) a total building height 164'-11" without bulkheads and 174'-11" with bulkheads; (6) a street wall height of 41'-0"; and (7) an actual height for flight path purposes of 194.9 ft., AMSL;

THAT the interior layout, parking layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

154-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Wavebrook Associates, owner.

SUBJECT - Application April 9, 2004- under Z.R. §72-21 to permit the proposed construction of a four family dwelling, Use Group 2, located in M1-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 63 Rapeleye Street, north side, 116' east of Hamilton Avenue, Block 363, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES – None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 20, 2005, acting on Department of Buildings Application No. 301645245, reads:

"1. Proposed multiple dwelling (UG 2) in an M1-1

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zoning district is contrary to section 42-10 ZR and is referred to the Board of Standards and Appeals.”; and

WHEREAS, a public hearing was held on this application on June 7, 2005, after due notice by publication in the *City Record*, with continued hearings on July 19, 2005, August 23, 2005, October 18, 2005 and then to decision on December 13, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an M1-1 zoning district, the proposed construction of a new three unit, three-story plus cellar residential building (Use Group 2) on a vacant lot, contrary to Z.R. § 42-00; and

WHEREAS, Community Board 6, Brooklyn, recommended disapproval of the initial application; and

WHEREAS, the current version of this application contemplates a three unit, three-story residential building, with a floor area of 3,375 sq. ft., a floor area ratio (“F.A.R.”) of 1.8, and a total building height of 40’-0”;

WHEREAS, the original version of this application contemplated a four unit, four-story residential building, with a floor area of 4,125 sq. ft., an F.A.R. of 2.2 and a total building height of 50’-0”;

WHEREAS, the subject premises is an approximately 19’-0” by 100’-0” vacant lot, with 1,875 sq. ft. of lot area, located on the north side of Rapeleye Street, east of Hamilton Avenue; and

WHEREAS, the applicant represents that the property was formerly developed with a residential building in the 19th century, along with other three- to four-story buildings on the block; and

WHEREAS, the applicant further represents that the building fell into a state of disrepair in the 1980’s and title reverted back to the City; in 1996, the Department of Housing Preservation and Development authorized the filing of a demolition, and the building was demolished in 2001; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformity with underlying district regulations: (1) the lot is 19’-0” in width, has a lot area of only 1,875 sq. ft., and is not conducive for a manufacturing floor plate; and (2) the history of the development of the site as a residential building; and

WHEREAS, the applicant represents that due to the small size of the lot, a conforming development would have an extremely narrow width such that the resulting floor plate would not be feasible for conforming uses; and

WHEREAS, moreover, the small size of the lot would not allow for loading berths or other commercial amenities which would be required for a conforming development; and

WHEREAS, the Board asked for further documentation about the history of the site; and

WHEREAS, the applicant submitted a deed indicating that the property was sold at a public auction as a result of a foreclosure action for unpaid taxes; and

WHEREAS, the applicant further submitted a memorandum of sale dated November 13, 2002, indicating that the owner purchased the property at that time; and

WHEREAS, the Board asked the applicant to differentiate the subject site from other vacant sites in the neighborhood; the applicant provided a land use map that shows that there are many similar-sized vacant lots located near the subject site west of Columbia Street/Hamilton Avenue;

WHEREAS, however, the applicant notes that the neighborhood west of Columbia Street/Hamilton Avenue is characterized by manufacturing uses, whereas the neighborhood east of Columbia Street/Hamilton Avenue, where the subject site is located, has fewer vacant similarly-sized sites and is predominantly characterized by mixed residential and manufacturing uses; and

WHEREAS, accordingly, the Board finds that the narrow width and small size of this pre-existing and vacant lot, as well as its prior history of residential development, create practical difficulties and unnecessary hardship in developing the site in strict conformity with current applicable zoning regulations; and

WHEREAS, the applicant submitted marketing attempts documenting that the owner unsuccessfully tried to market the property to conforming users; and

WHEREAS, the applicant initially submitted a feasibility analysis that showed that a one-story conforming manufacturing/commercial building would not result in a reasonable return, but that the initial four-story proposal would; and

WHEREAS, the Board questioned the applicant about the estimated construction costs incorporated into this analysis; and

WHEREAS, the applicant responded that it used construction costs from a widely acceptable industry standards construction cost estimate manual, and increased them slightly due to the practical difficulties that arise from constructing on a narrow lot; and

WHEREAS, the Board asked the applicant if it would be feasible to reduce the number of units from four to three, as a three-story building would be more in keeping with the character of the area and would represent a more reasonable minimum variance, given the degree of hardship on the site; and

WHEREAS, the applicant revised its feasibility analysis to three units with a partial fourth floor set back from Rapeleye Street; the applicant represents that it would still make a reasonable return, although less than the initial proposal; and

WHEREAS, the Board asked the applicant to revise its proposal to a three-story building, as originally requested; and

WHEREAS, the applicant then modified the proposal accordingly, concluding that it was feasible as it still maintained three units; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot’s unique physical

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condition, there is no reasonable possibility that development in strict conformance with the provisions applicable in the subject zoning district will provide a reasonable return; and

WHEREAS, applicant represents that the site is in a neighborhood with many lawful non-conforming residential uses; and

WHEREAS, the applicant submitted photographs documenting other residential uses surrounding the site; and

WHEREAS, the applicant has submitted a land use map showing these numerous residential uses; the conditions reflected on this map were confirmed by the Board on its site visit; and

WHEREAS, certain members of the community expressed concern over the loss of a potential manufacturing site in the neighborhood; and

WHEREAS, the applicant responded that the property had never been used for actual manufacturing purposes, and that there are a number of vacant sites in the surrounding neighborhood that would be more suited to commercial/manufacturing uses; and

WHEREAS, specifically, the applicant submitted photographs of 15 nearby vacant lots that are larger or are in more desirable locations for manufacturing; and

WHEREAS, the Board observes that while there are conforming manufacturing and automotive uses next to or near the site, the modest increase in residential presence due to the proposed development (a total of three units) should not negatively impact these uses; and

WHEREAS, therefore, the Board finds that the use change proposed by the applicant is appropriate; and

WHEREAS, the Board found the applicant's initial proposal of a four-story building to be out of character with the neighborhood, including the adjacent three-story residential structures; and

WHEREAS, at the Board's request, the applicant has revised its proposal and reduced the streetwall height by 10'-0" to make the building more compatible with the surrounding neighborhood; and

WHEREAS, certain neighbors voiced concerns at the hearing about traffic in the area, stating that the area was overwhelmingly commercial and would be unsafe for residential tenants; and

WHEREAS, the applicant submitted an initial traffic study analyzing existing truck traffic on a weekday between 6AM to 9AM and 5PM to 8PM; the study concluded that there is a maximum of one truck per every 4 minutes during the peak hour of 7PM to 8PM, and that the trucks were "light-duty" trucks with no heavy-duty diesel trucks; and

WHEREAS, the Board notes that upon its first visit it did witness several trucks passing, but on its second site visit, the area was much more quiet; and

WHEREAS, certain area residents also noted the presence of an automotive service station on the corner of Hicks Street and Rapeleye Street; and

WHEREAS, the Board asked for additional material relating to truck traffic on Rapeleye Street in light of the

proximity of this service station; and

WHEREAS, the applicant conducted a second truck and bus survey on a weekday from 6AM to 9AM and 3PM to 6PM, and determined that during the morning peak hour there is one truck/bus trip every three minutes, and during the afternoon peak hour there is one truck/bus trip every two minutes; and

WHEREAS, the applicant compared its findings to another Brooklyn mixed-use neighborhood, and determined that the traffic on Rapeleye Street is less than in that other neighborhood; and

WHEREAS, the applicant also notes that the manufacturing building adjacent to the premises did not generate any truck trips during the time period evaluated in the traffic study; and

WHEREAS, in addition, neighbors expressed concern about the lack of available parking in the area; and

WHEREAS, in response, the applicant conducted a parking study, which concluded that between 7AM and 9AM, there were between 75 and 98 available on-street parking spaces; the proposal only requires three spaces; and

WHEREAS, the applicant also proposes to include a common roof-top recreation area for the occupants of the three units; and

WHEREAS, the Board notes that the reduction in floor area, stories and height from the applicant's initial proposal to the applicant's current proposal results in a building that is more compatible with the built conditions surrounding the site; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after taking direction from the Board as to the proper amount of relief given the degree of hardship present at the site and the character of the community, the applicant modified the development proposal to the current version; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the project is classified as an Unlisted Action pursuant to 6 NYCRR, Part 617; 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. 04BSA162K dated April 7, 2004; 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;

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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, a one day Parking Survey and a Truck Count Survey were conducted by the applicant's consultant, EPDSO, on July 6, 2005; the Parking Survey determined that there would not be any parking demand impacts due to the proposal; the Truck Count Survey determined that there would not be any impacts on the proposed project due to the truck traffic in front of the site; no heavy-duty diesel trucks were observed passing by the site at any time during the survey period; 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, with conditions as stipulated below, 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 the required findings under Z.R. § 72-21, to permit, within an M1-1 zoning district, the proposed construction of a new three unit, three-story plus cellar residential building (Use Group 2) on a vacant lot, contrary to Z.R. §42-00; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 9, 2005" – 6 sheets and "December 12, 2005"-1 sheet; and *on further condition*:

THAT the bulk parameters of the proposed buildings shall be as follows: total maximum F.A.R. of 1.8; maximum floor area of 3,375 sq. ft.; rear yard of 40 ft.; and maximum total height of 40'-0";

THAT there shall be a maximum of three residential units;

THAT there shall be no habitable space in the cellar;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

360-04-BZ

APPLICANT – Marcus Marino Architects, for Walter Stojanowski, owner.

SUBJECT – Application November 16, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing one family dwelling, located in an R3X zoning district, which does not comply with the zoning requirements for side yards and lot width, is contrary to Z.R. §§107-42 and 107-462.

PREMISES AFFECTED - 38 Zephyr Avenue, south side, 75.18" north of Bertram Avenue, Block 6452, Lot 4, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Marcus Marino.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Staten Island Borough Commissioner, dated October 19, 2004, acting on Application No. 500588483, reads:

1. The proposed horizontal and vertical enlargement of the existing one story, one family residence to a three story, one family detached residence in an R3X zone within the Special South Richmond Development District, with side yards of 2.30' and 2.75' is contrary to Section 107-462 of the NYC Zoning Resolution.
2. The proposed enlargement of a one story building to a three story building in an R3X zone within the Special South Richmond Development District with a lot width of 21.82' is contrary to Section 107-42 of the NYC Zoning Resolution."; and

WHEREAS, a public hearing was held on this application on October 18, 2005 after due notice by publication in *The City Record*, with a continued hearing on November 15, 2005, and then to December 13, 2005 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, including Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin; and

WHEREAS, Community Board No. 3, Staten Island, recommends approval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed enlargement of a single-family dwelling located in an R3X zoning district within the Special South Richmond Development District, which will increase the degree of non-compliance with respect to side yard and lot width requirements, contrary to Z.R. §§ 107-462 and 104-42; and

WHEREAS, the site is located on the south side of

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Zephyr Avenue north of Bertram Avenue; and

WHEREAS, the site is 21.82 ft. in width and 183.34 ft. in length, with a total lot area of 3,972 sq. ft.; and

WHEREAS, the subject premises is currently improved upon with a one-story, single-family, "bungalow"-type dwelling, containing 647 sq. ft. of floor area; and

WHEREAS, the applicant represents that the dwelling was constructed circa 1920 as part of a group of seasonal beachfront bungalows, the majority of which were enlarged prior to the enactment of the Special South Richmond Development District regulations on September 11, 1975; and

WHEREAS, the subject application seeks to construct a two-story vertical enlargement to part of the existing dwelling and a three story horizontal enlargement in the rear of the dwelling, with a total building height of 33 ft.; and

WHEREAS, the applicant represents that the vertical enlargement will be constructed pursuant to the requirements of Z.R. § 54-313, which permits vertical enlargements for residences with non-complying side yards; and

WHEREAS, the resulting enlargement will result in a residence with a floor area that is 2,177 sq. ft. (FAR of 0.548); the total allowable residential floor area is approximately 2,383 sq. ft. (FAR of 0.60); and

WHEREAS, the residence currently has a non-complying lot width of 21.82 ft.; the required minimum lot width is 40 ft.; and

WHEREAS, the proposed enlargement will increase the degree of non-compliance for the lot width requirement because although the lot width will remain the same for the proposed enlargement, the minimum lot width for a three-story building in the Special South Richmond Development District is 50 ft.; and

WHEREAS, the residence currently has non-complying side yards which vary at different lengths of the property: the easterly side yard is 2.75 ft. wide at its narrowest and 3.7 ft. wide at its widest point; and the westerly side yard is 2.3 ft. wide at its narrowest and 3.54 ft. at its widest point; and

WHEREAS, for a three-story building in the Special South Richmond Development District, the required side yards are a minimum of 8 ft. each and a total of 20 ft.; and

WHEREAS, the proposed side yards at the portion of the residence being vertically enlarged will remain the same, and the proposed side yards at the portion of the residence being horizontally enlarged will be 5 ft. on each side; and

WHEREAS, the applicant represents that both enlargements will result in a distance of at least 8 ft. between the subject building and the surrounding buildings; and

WHEREAS, the applicant represents that the proposed residence will comply with the Special South Richmond Development District bulk parameters and Lower Density Growth Management Area requirements in all other respects; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties in developing the subject lot in compliance with underlying district regulations: (1) the site is small and narrow; and (2) the

current dwelling occupying the site is obsolete; and

WHEREAS, at the Board's request, the applicant has submitted a radius map with details of the subject lot and the surrounding lots to further clarify the small size of the lot in comparison to the surrounding lots; and

WHEREAS, the applicant represents that the current dwelling was constructed around 1920, and has an FAR of 0.16, well below the permitted 0.60 F.A.R.; and

WHEREAS, the applicant further represents that the home was constructed in a "bungalow" style, and contains two bedrooms and one bathroom, and that such space is infeasible for a permanent, year-round residence; and

WHEREAS, the applicant represents that there are only four remaining similar bungalows other than the subject property, two of which are vacant; and

WHEREAS, accordingly, the Board finds that the aforementioned unique physical conditions, namely the narrowness and small size of the subject lot and the obsolescence of the building, create a practical difficulty in developing the site in compliance with the current zoning; and

WHEREAS, the applicant represents that in order to accommodate the floor area allowed under the zoning they will require side yard waivers to achieve a reasonable building width; the Special South Richmond Development District side yard requirements mandate a total amount of 20 ft. and the subject lot only has a total width of 21.82 ft.; and

WHEREAS, in addition, the applicant requests a lot width waiver because of its proposal to increase the building to three stories; and

WHEREAS, in order to reduce the variance requested, the Board questioned whether the applicant could accommodate all of their permitted floor area through a two-story enlargement in the rear; and

WHEREAS, the applicant represents that it was restricted by the Designated Open Space requirements which limit use of the rear yard; and

WHEREAS, in addition, the applicant submitted a proposed plan showing all four bedrooms on the second floor, and represents that one of the bedrooms would be sub-standard and would not comply with the size requirements in the Building Code; and

WHEREAS, the Board has determined that because of the subject lot's unique physical conditions there is no reasonable possibility that development in strict compliance with the applicable zoning requirements will result in a building that would be habitable or feasible; and

WHEREAS, the applicant represents that the bulk of the proposed dwelling is compatible with the surrounding homes; specifically, the applicant states that exclusive of the four bungalows, the average house size is 4,237 sq. ft. with 4.4 bedrooms; and

WHEREAS, at the request of the Board, the applicant has submitted a 200 ft. radius map along with a survey of the surrounding homes; the survey reflects that the heights of the buildings on either side of the subject premises are 22 ft. and 35 ft., respectively; and

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WHEREAS, one of the sites adjacent to the subject site is benefited by a Board grant, made under Cal. No. 346-02-BZ; and

WHEREAS, the survey states that the heights of other neighboring buildings are in the range of 28 ft. to 34 ft., and the floor area of the buildings ranges from approximately 2,200 sq. ft. to 6,500 sq. ft.; and

WHEREAS, the applicant has also submitted photographs of the neighboring buildings that further support the contention that the proposed building is compatible with the surrounding neighborhood; and

WHEREAS, the Board notes that the photographs depict larger homes of two-and-one half to three stories; in addition, the Board notes that the proposed second and third stories are set back from Zephyr Avenue which mitigates the impact of the building on the Avenue; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under §72-21 of the Zoning Resolution; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13, §§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 Z.R. §72-21, to permit the proposed enlargement of a single-family dwelling located in an R3X zoning district within the Special South Richmond Development District, which will increase the degree of non-compliance with respect to side yard and lot width requirements, contrary to Z.R. §§ 107-462 and 104-42, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received July 27, 2005"- 11 sheets; and on further condition;

THAT there shall be no habitable space the cellar;

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

375-04-BZ

APPLICANT – Greenberg Traurig LLP, for Designs by FMC, owner.

SUBJECT – Application November 29, 2004 – under Z.R. §72-21 – to permit the proposed expansion of an existing jewelry manufacturer and wholesaler establishment, located in an M1-1 zoning district, which does not comply with zoning requirements for floor area ratio, rear yard, street wall height and adequate parking, is contrary to Z.R. §43-12, §43-302, §43-43 and §44-21.

PREMISES AFFECTED – 1527, 1529 and 1533 60th Street, north side, between 15th and 16th Avenues, Block 5509, Lots 64, 65 and 68, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Jay Segal.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 19, 2004, acting on Department of Buildings Application No. 301866372, reads, in pertinent part:

- “1. FAR exceeds maximum permitted in M1-1 zoning district under ZR 43-12.
2. Rear yard of 20’ violates ZR 43-302
3. Street wall height of 3 stories (35’-3”) exceeds maximum permitted under ZR 43-43 . . .”; and

WHEREAS, a public hearing was held on this application on August 23, 2005 after due notice by publication in the *City Record*, with a continued hearing on September 27, 2005, and then to decision on November 1, 2005; the decision was deferred until November 29, 2005, and again until December 13, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chair Srinivasan, Vice Chair Babbar, and Commissioner Chin; and

WHEREAS, Community Board 12, Queens, recommends approval of this application; and

WHEREAS, Council Member Felder, the Brooklyn Chamber of Commerce and the New York City Industrial Retention Network also support this application; and

WHEREAS, this is an application under Z.R. § 72-21,

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to permit, within an M1-1 zoning district, the proposed expansion of an existing Use Group 17 jewelry manufacturing and wholesaling establishment, which does not comply with zoning requirements for Floor Area Ratio (FAR), street wall height (and setback), and rear yard, contrary to Z.R. §§ 43-12, 43-202 and 43-43; and

WHEREAS, the premises consists of three contiguous tax lots, each occupied by a separate building (hereinafter referred to as the “Eastern, Center, and Western Buildings”) currently used by the jewelry business; and

WHEREAS, the site has a total lot area of 11,398 sq. ft., and abuts an R5 zoning district at its rear lot line; and

WHEREAS, the Eastern Building is three stories, with full lot coverage at the ground floor, a depth of 61’-8” at the second and third floors, and a total floor area of 7,040 sq. ft.; the Center Building is two stories, with full lot coverage at the ground floor, a depth of 75’-0” at the second floor, and a total floor area of 8,478 sq. ft.; and the Western Building is a two-story residential building with a front and rear yard, and a total floor area of 2,640 sq. ft.; and

WHEREAS, the Board notes that the aggregate floor area of the Buildings is currently over what is permitted in the subject zoning district; and

WHEREAS, the Buildings were purchased by the owner at different times, and have been connected to each other by doorways and stairways; and

WHEREAS, the owner proposes to modify the Buildings as follows: (1) the Eastern Building will be expanded at the second and third floors by 13’-6”, leaving a 25’-0” rear yard at these levels; (2) the Center Building will be enlarged with an extra story, so that there will be a 25’-0” rear yard at the second and third floor levels; (3) the current Western Building will be demolished and replaced with a three-story building that would partially line up with the other two, with full lot coverage at the ground floor and a 25’ rear yard at the second and third floors; and

WHEREAS, the three connected manufacturing buildings, in the aggregate, will have the following total bulk parameters: (1) a FAR of 2.51 (1.0 is the maximum permitted); (2) floor area of 28,594 sq. ft. (11,398 sq. ft. is the maximum permitted); (3) a wall height of three stories and 35’-0” (two stories and 30’-0” is the maximum permitted); and (4) no rear yard at the ground level and a 25’-0” rear yard at the second and third stories (a 30’-0” ft. rear yard is required at all levels); and

WHEREAS, additionally, 14 parking spaces will be provided at a lot directly across the street from the site pursuant to ZR § 44-32; two loading berths will be provided on-site; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: (1) the Buildings, even when combined, do not provide the amount of floor area or the efficient floor plates necessary for a viable manufacturing establishment; and (2) even with additional floor area, the misaligned nature of the Buildings necessitates

additional street wall and rear yard waivers; and

WHEREAS, as to the first point, the applicant represents that the combination of the Buildings is problematic in that the floor plates are not aligned, which results in level changes requiring stairwells for circulation; this in turn leads to a loss of usable manufacturing area that compromises the overall function of the Buildings; and

WHEREAS, additionally, the applicant states that in comparison with other manufacturing sites in the vicinity, the subject site suffers from small lot size and, as a result, the Buildings have less floor area than what is needed for a viable manufacturing use; and

WHEREAS, the applicant notes that this is true even though the Buildings are currently over bulk; as noted above, the available floor area is compromised by the lack of floor alignment between the Buildings; and

WHEREAS, in support of this argument, the applicant has submitted a map and table prepared by a consultant, which shows that there are six working industrial sites within a quarter-mile of the site that contain at least 20,000 sq. ft. of gross building area, and four of these sites have at least 20,000 sq. ft. of lot area; and

WHEREAS, the average lot area of the six buildings is 36,044 sq. ft., which is 13,069 sq. ft. larger than the site’s lot area; and

WHEREAS, the average floor plate of the six buildings is 22,433 sq. ft., which is 16,529 sq. ft. larger than the Buildings’ floor plates; and

WHEREAS, further, the average size of the buildings on these six sites in terms of floor area is 53, 645 sq. ft., which is 35,932 sq. ft. larger than the Buildings; and

WHEREAS, the applicant concludes that the relative smallness of the site and the Buildings’ sub-standard floor plates presents a unique hardship; and

WHEREAS, the applicant continues that this hardship is one that would be faced by many manufacturing enterprises, not just the subject jewelry business; and

WHEREAS, in support of this claim, the applicant has submitted documentation that explains that businesses need buildings with simple footprints and with floors that have an appropriate vertical relationship, as well as documentation establishing that many companies are seeking spaces larger than the space provided at the site; and

WHEREAS, specifically, the applicant has submitted a letter from the New York Industrial Retention Network that states that nine manufacturing companies seeking space in Brooklyn require 25,000 sq. ft. to 30,000 sq. ft. of floor area; and

WHEREAS, as to the second point, the applicant states that the Eastern Building and the Center Building are of different depths and that the stories are at different heights; consequently, the floors do not line up either vertically or horizontally; and

WHEREAS, as a result, dead-end spaces and circulation problems occur; and

WHEREAS, the applicant represents that once the Western Building is constructed, this problem will be

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compounded; and

WHEREAS, specifically, the rear yard waiver is required because the adjacent property is a residential building that will not allow any of the buildings to line up with one another: the Western Building would have to provide a 30'-0" rear yard at all levels, which would not line up with either of the other buildings, and it would have to be setback 10'-0" on the third floor in the front, making it shorter in front on the third floor than either of the others; and

WHEREAS, thus, without the rear yard and street wall waivers, the objective of creating larger and more efficient floor plates would not be possible; and

WHEREAS, in addition, the street wall waiver is driven by the existing floor-to-floor heights and is only a modest increase of approximately 5'-0" above the permitted street wall height; and

WHEREAS, the Board notes, however, that even with the waivers, the alignment problems are not resolved entirely; instead, the inefficiencies that result from the combination of the Buildings will be compensated for by the increase in usable floor area; and

WHEREAS, finally, the Board observes that although the Buildings have fundamental problems that exacerbate the hardship on the site, new construction on the site would have even less FAR available than what results from the retention of the Buildings, negating the viability of this option; and

WHEREAS, accordingly, the Board finds that the unique physical conditions mentioned above, namely, lack of sufficiently-sized floor plates and sufficient floor area, and the need to align the three disparate Buildings, create practical difficulties and unnecessary hardship in developing the site in strict compliance with applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study analyzing a complying development scenario, entailing only the addition of the new Western Building to the other two Buildings, without any addition of floor area or any alignment of walls or floors; and

WHEREAS, this study concluded that such a scenario was not feasible, due to the resulting inefficient and small floor plates that would be created; and

WHEREAS, however, at hearing, the Board expressed concern that the merger of the Western Building with the others might actually increase rather than diminish the hardship over the entire site; and

WHEREAS, the Board asked the applicant to address this concern; and

WHEREAS, accordingly, the applicant conducted a series of studies that led to the following conclusions: (1) the Eastern and Center Buildings suffer hardship on their own without the addition of the Western Buildings; (2) however, enlargement of the site through the addition of the Western Building does not increase the degree of hardship; (3) that the costs that would be incurred in rectifying the misaligned floors of the Eastern and Center Buildings are so significant that they would render such a proposal infeasible; and (4) that the addition of the Western Building without the requested

waivers would only increase such realignment costs, also rendering this proposal infeasible; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict compliance with applicable zoning provisions will provide a reasonable return; and

WHEREAS, the applicant represents that the proposal, if granted, will not affect the character of the neighborhood, impair adjacent uses, nor be detrimental to the public welfare; and

WHEREAS, most of the buildings on the subject street are either one or two stories tall, although the mixed use buildings are three stories; and

WHEREAS, additionally, the applicant represents that the rear yard waiver would not significantly impact properties in the R5 zoning district adjacent to the rear; and

WHEREAS, the applicant notes that the Center and Eastern Buildings already extend to the rear lot line at the ground level, as do two adjacent buildings; allowing the Western Building to likewise extend should not negatively impact any adjacent use; and

WHEREAS, the applicant also notes that the properties on the residential side of the block have 25 ft. rear yards, and that the 25 ft. rear yard at the second and third floor levels will mitigate any impact on the residential uses; and

WHEREAS, the applicant states that views of the new Western Building at the ground level will be blocked by garages, and that a new fence between the two districts at the location of the addition will further block views; and

WHEREAS, the applicant notes that the subject blockfront is primarily industrial and commercial in nature, with only a few interspersed residential uses; and

WHEREAS, the Board observes that the proposed use conforms to the subject zoning district; and

WHEREAS, finally, the applicant states that the proposal, if granted, will allow for the provision and expansion of local employment at the jewelry business; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, as noted above, the applicant has demonstrated through a feasibility study that a lesser proposal that does not include the Western Building would not result in a reasonable return; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6NYCRR; and

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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. 05-BSA-065K, dated October 4, 2004; 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, DEP's Office of Environmental Planning and Assessment has reviewed the following submissions from the Applicant: (1) an Environmental Assessment Statement Form, dated October 4, 2004 and (2) a May 2003 Phase I Environmental Site Assessment Report;

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials impacts; and

WHEREAS, a Restrictive Declaration to address hazardous materials concerns was executed on December 9, 2005 and submitted for recordation on December 12, 2005; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the Restrictive Declaration and the Applicant's agreement to the conditions noted below; 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 in accordance with 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, within an M1-1 zoning district, the proposed expansion of an existing Use Group 17 jewelry manufacturing and wholesaling establishment, which does not comply with zoning requirements for Floor Area Ratio, street wall height (and setback), and rear yard, contrary to Z.R. §§ 43-12, 43-202 and 43-43; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 21, 2005" – 6 sheets; and *on further condition*:

THAT prior to the issuance of any DOB permit for any work on the site, the applicant or any successor shall submit a detailed Phase II Environmental Site Assessment, regarding hazardous materials, an investigative health and safety plan, and an asbestos-containing materials (ACM) survey to the

satisfaction of DEP and submit a written report that must be approved by DEP;

THAT no temporary or permanent Certificate of Occupancy shall be issued by DOB or accepted by the applicant or successor until the DEP shall have issued a Final Notice of Satisfaction or a Notice of No Objection indicating that the Phase II, Health and Safety Plan, and ACM Survey have been completed to the satisfaction of DEP;

THAT the bulk parameters of the proposed building shall be as follows: (1) a FAR of 2.51; (2) a street wall height of three stories and 35'-0"; (3) no rear yard at the ground level and a 25'-0" rear yard at the second and third stories;

THAT the interior layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

42-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Power Test Realty Company, LP, owner.

SUBJECT – Application February 24, 2005 - under Z.R. § 11-411 of the zoning resolution, to request an extension of term of the previously granted variance, which permitted the maintenance of a gasoline service station with accessory uses located in a R3-2 zoning district. The grant expired on April 26, 2004.

PREMISES AFFECTED – 1982 Bronxdale Avenue, east side of the intersection of Neill and Bronxdale Avenues, Block 4261, Lot 60, Borough of The Bronx.

COMMUNITY BOARD #11BX

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application for an extension of term of a previously granted variance, pursuant to Z.R. § 11-411; and

WHEREAS, the decision of the Bronx Borough Commissioner, dated January 28, 2005, acting on Department

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of Buildings Application No. 200928817, reads:

“Proposed continued use of the Gasoline Service Station with accessory uses located in an R3-2 zoning district is contrary to BSA resolution 825-28-BZ Vol. II and Section 22-00 of the Zoning Resolution”; and

WHEREAS, a public hearing was held on this application on November 15, 2005, after due notice by publication in *The City Record*, and then to decision on December 13, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin; and

WHEREAS, Community Board No. 11, Bronx, did not issue a report with respect to this application; and

WHEREAS, the premises is a triangular lot located at the intersection of Bronxdale Avenue and Neil Avenue;

WHEREAS, the Board has exercised jurisdiction over the subject premises since 1957, when, under BSA Calendar No. 825-58-BZ Vol. II, it granted an application to permit the construction of a gasoline service station, auto washing, lubritorium, sale of auto accessories, minor repairs with hand tools only, parking and storage of cars; various other Board actions since this date have allowed for extensions of term and amendments to the resolution; and

WHEREAS, the last extension of term expired on April 26, 1994; and

WHEREAS, the applicant represents that the premises is now within an R3-2 zoning district, and is improved upon with an existing gasoline service station, which has occupied the site since 1957, and that this use has been continuous since the expiration noted above; and

WHEREAS, the applicant now proposes to reinstate the prior grant and obtain a new ten year term; and

WHEREAS, pursuant to Z.R. § 11-411, the Board may extend the term of an expired variance; and

WHEREAS, the Board has determined that the evidence in the record supports the finding required to be made under Z.R. § 11-411; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 11-411, on a site previously before the Board, to permit a reinstatement of a previously granted variance, and an extension of term of said variance for ten years from December 13, 2005; *on condition* that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked “November 29, 2005”– (5) sheets; and *on further condition*:

THAT the term of this grant shall expire on December 13, 2015;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the hours of operation for repairs shall be limited

to: 6:30AM to 11PM Monday through Saturday, 7AM to 7PM Sunday;

THAT the above conditions shall appear 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; 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, December 13, 2005.

99-05-BZ

APPLICANT – Sheldon Lobel, P.C., for 500 Turtles, LLC, owner.

SUBJECT – Application April 22, 2005 - under Z.R. §72-21 to permit the proposed enlargement of an existing restaurant, which is a legal non-conforming use, located on the first floor of a six-story mixed-use building, situated in an R6 zoning district, is contrary to Z.R. §22-10.

PREMISES AFFECTED - 39 Downing Street, a/k/a 31 Bedford Street, northwest corner, Block 528, Lot 77, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough Commissioner, dated March 23, 2005, acting on Department of Buildings Application No. 104056940, reads:

“Proposed commercial use is not permitted as of right in a R6 Zoning District. This is contrary to section 22-10 ZR.”; and

WHEREAS, a public hearing was held on this application on October 18, 2005 after due notice by publication in the *City Record*, with a continued hearing on November 29, 2005, and then to decision on December 13, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chair Srinivasan, Vice Chair Babbar and Commissioner Chin; and

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit, within an R6 zoning district, the enlargement of a

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restaurant on the first floor of the premises, contrary to Z.R. § 22-10; and

WHEREAS, the subject building is a six-story mixed-use building located on the northwest corner of Bedford Street and Downing Street, with two restaurants occupying the ground floor; and

WHEREAS, the applicant represents that the commercial use on the ground floor is a pre-existing non-conforming use, and seeks an enlargement of such use in the subject application; and

WHEREAS, the proposed expansion will convert an additional 393 sq. ft. of space located on the first floor of the building, situated immediately behind the tenant mailboxes and adjacent to the northeastern portion of the restaurant, from residential use to commercial use; and

WHEREAS, the applicant represents that the expansion will allow the restaurant to accommodate an additional 16 seats; and

WHEREAS, the applicant represents that the residential space that is to be converted to commercial use is located directly above bakery ovens used by one of the restaurants; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject portion of the lot in compliance with underlying district regulations: (1) the history of use of the ovens at the cellar of the site; and (2) history of commercial use on the first floor of the site; and (3) the small size of the un-rentable space; and

WHEREAS, the applicant represents that because of the heat produced by the ovens, the space on the first floor above the ovens is un-rentable as residential space; and

WHEREAS, the applicant notes that the ovens are 150 years old and contribute to the character of the building; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulties in developing the site in compliance with the current zoning; and

WHEREAS, the applicant states that the aforementioned unique physical site conditions result in there being no reasonable possibility of using the approximately 400 sq. ft. of floor area as residential space; and

WHEREAS, the applicant represents that it has not been able to rent out the vacant space for the last fifteen years; and

WHEREAS, the applicant has submitted a financial analysis that shows that if the restaurant is not able to expand it will not generate a reasonable return; and

WHEREAS, the applicant represents that if the restaurant does not generate sufficient revenue to remain open, the closure would deprive the building owner of rental income required for the operation of the building; and

WHEREAS, at the request of the Board, the applicant has submitted a letter from the restaurant's accountants stating that without the additional space, the restaurant may be unable to accumulate sufficient capital to address the risks inherent in the restaurant industry; and

WHEREAS, based upon the evidence submitted, the Board believes that without the additional space the restaurant would likely not succeed; and

WHEREAS, the Board recognizes that the restaurant provides a rental stream that is vital to the financial success of the entire building; and

WHEREAS, the Board has conducted an additional financial analysis with respect to the restaurant's impact on the overall return of the building; and

WHEREAS, the Board finds that if the existing restaurant vacates the premises, the building would not generate a sufficient rate of return because of lack of rental income generated from the existing restaurant; and

WHEREAS, in reaching its findings, the Board has considered the approximate 1,300 sq. ft. of other commercial space on the ground floor, as well as 18,153 sq. ft. of residential floor area on the upper floors; and

WHEREAS, the Board notes that the rate of return that would be generated from the building if the existing restaurant space is vacated would be lower than the market rate established by credible industry surveys, and would not be a sufficient return to continue to attract debt and equity investors; and

WHEREAS, accordingly, the Board finds that if the restaurant space becomes unusable the value of the entire building will likely suffer as the loss in value to the entire property would be approximately \$1,250,000; and

WHEREAS, the Board further concludes that if the expansion is permitted, the entire building would generate a reasonable return; and

WHEREAS, therefore, the Board has determined that because of the subject site's unique physical conditions, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood; and

WHEREAS, the applicant notes that the approximately 400 sq. ft. commercial use expansion of the first floor is contained entirely within an existing building, and is an expansion of an existing use; and

WHEREAS, the applicant notes that there are other restaurant and retail uses located in the building across the subject building on Downing Street; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21.

Therefore it is Resolved that the Board of Standards and

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Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 72-21, to permit, to permit, within an R6 zoning district, the enlargement of a restaurant on the first floor of the premises, contrary to Z.R. § 22-10; 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 December 6, 2005" – (1) sheet; and on further condition:

THAT a maximum of 393 sq. ft. of residential floor area shall be converted to commercial floor area as indicated on the BSA-approved plans;

THAT all interior partitions and exits shall be as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

102-05-BZ

APPLICANT – Rothkrug Rothkrug Weinberg Spector, for Cornerstone Residence, LLC, owner.

SUBJECT – Application May 4, 2005 - under Z.R. §72-21 to permit the proposed construction of a two family dwelling on a corner lot that does not provide one of the required front yards, to vary section ZR 23-45. The vacant lot is located in an R-5 zoning district.

PREMISES AFFECTED – 259 Vermont Street aka 438 Glenmore Avenue, southeast corner of Vermont Street and Glenmore Avenue, Block 3723, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES – None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated September 29, 2004, acting on Department of Buildings Application No. 301828379, reads: "Proposed two family dwelling does not provide the required front yard in R-5 zoning district and must be referred to the Board of Standards and Appeals." and

WHEREAS, a public hearing was held on this application on September 20, 2005, after due notice by publication in *The City Record*, and then to closure and decision on October 25, 2005; the decision date was then deferred to December 13, 2005; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, former Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 13, Brooklyn recommends disapproval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed construction of a two-family residence on a vacant corner lot located in an R5 zoning district, which does not comply with the zoning requirements for front yards, contrary to Z.R. § 23-45; and

WHEREAS, the record indicates that the subject premises is located on the southeast corner of Vermont Street and Glenmore Avenue, and is currently vacant; and

WHEREAS, the subject vacant corner lot is 26 ft. wide by 106 ft. deep, with total lot area of 2,756 sq. ft.; and

WHEREAS, the applicant proposes to construct a two-family dwelling that does not provide one of the two front yards required for a corner lot; and

WHEREAS, the applicant represents that pursuant to ZR § 23-33 "Special Provisions for Existing Small Lots", construction of the proposed dwelling is permitted on this undersized zoning lot since it was owned separately from other lot as of December 15, 1961; and

WHEREAS, the proposed building will not provide a 10 ft. front yard along Glenmore Avenue; instead, a three ft. front yard will be provided; and

WHEREAS, the applicant represents that the proposed building will otherwise provide the required yards; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties in developing the subject lot in compliance with underlying district regulations: the site is a narrow vacant lot that can not sustain a habitable and marketable development without the requested front yard waiver; and

WHEREAS, specifically, the applicant states that provision of the required 10 ft. front yard along Glenmore Avenue would result in a home that is only 11 ft. wide, which would not be habitable or marketable, given modern standards for new two-family dwelling construction; and

WHEREAS, based upon its review of municipal land use maps, the Board notes that over a 12 block area between Pennsylvania Avenue to Van Siclen Avenue and Pitkin Avenue to Liberty Avenue, even though several corner lots are similarly sized as the subject lot, approximately 75% are developed; and

WHEREAS, the Board finds that the aforementioned unique condition creates practical difficulties in developing the site in compliance with the applicable zoning provision; and

WHEREAS, as noted above, the applicant states that without the requested waiver, no habitable residence could be

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constructed on the property; and

WHEREAS, accordingly, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict compliance with the applicable zoning requirements will result in any development of the property; and

WHEREAS, the applicant represents that the proposed variance, if granted, will not negatively impact the essential character of the neighborhood or adjacent uses; and

WHEREAS, the applicant states that the building will comply with R5 zoning regulations in all other respects other than provision of a second front yard, including floor area ratio, yards and height requirements; and

WHEREAS, the applicant has also submitted photographs of other residences in the area, including two other corner lot buildings developed without the two required front yards; and

WHEREAS, the applicant has also submitted a diagram of existing front yards on Glenmore Avenue between Vermont Street and Wyona Street; the diagram reflects that out of the three developed lots on Glenmore Avenue (two remain vacant, aside from the subject lot), two interior lots have front yards of 6'-0" and the corner lot has no front yard; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.13 and §§5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. § 72-21, to permit the proposed construction of a two-family residence on a vacant corner lot located in an R5 zoning district, which does not comply with the zoning requirements for front yards, contrary to Z.R. § 23-45; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received July 25, 2005" – (8) sheets and "October 11, 2005"-(1) sheet; and *on further condition*;

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 13, 2005.

160-04-BZ/161-04-A

APPLICANT – Mitchell S. Ross, Esq., Augusta & Ross, for Daffna, LLC, owner.

SUBJECT – Application April 21, 2004 – under Z.R. §72-21 to permit, in an M1-2 zoning district, the residential conversion of an existing four-story commercial loft building into eight dwelling units, contrary to Z.R. §42-10.

PREMISES AFFECTED – 73 Washington Avenue, East side of Washington Avenue 170' north of Park Avenue, Block 1875, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Mitchell Ross.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to March 14, 2006, at 1:30 P.M., for continued hearing.

260-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Leewall Realty by Nathan Indig, owner.

SUBJECT – Application July 20, 2004 – under Z.R. §72-21 to permit the proposed construction of a four story, penthouse and cellar three-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 222 Wallabout Street, 64' west of Lee Avenue, Block 2263, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Lyra Altman.

ACTION OF THE BOARD – Laid over to February 28, 2006, at 1:30 P.M., for continued hearing.

262-04-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Tishrey-38 LLC by Malka Silberstein, owner.

SUBJECT – Application July 22, 2004 – under Z.R. §72-21, to permit the proposed construction of a four story, penthouse and cellar four-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 218 Wallabout Street, 94' west of Lee Avenue, Block 2263, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

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For Applicant: Lyra Altman.

ACTION OF THE BOARD – Laid over to February 28, 2006, at 1:30 P.M., for continued hearing.

**280-04-BZ/281-04-A &
282-04-BZ/283-04-A**

APPLICANT - Gerald Caliendo ,RA. for the North Shore Tennis & Racquet Club, owner.

SUBJECT - Application August 10, 2004 - pursuant to Section Z.R.§72-21 to permit the proposed two temporary air supported structures to cover 10 tennis courts accessory to non-commercial club contrary to Section 52-22ZR and also located in the bed of a mapped street contrary to General City Law Section 35 in an R-2A zoning district.

PREMISES AFFECTED - 34-28 214th Place west side of 214th Place distant 104.27 feet south of corner formed by intersection of 214th Place and 33rd Road, Block 6118, Lots: 1& 32, Block 6119, Lot 21, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Sandy Agnoston, Ronald Freedman and George Garland.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

ACTION OF THE BOARD – Laid over to February 7, 2006, at 1:30 P.M., for decision, hearing closed.

344-04-BZ

APPLICANT – Alfonso Duarte, for NWRE 202 Corp., owner.

SUBJECT – Application October 20, 2004 – under Z.R. §72-21 – proposed use of an open lot for the sale of new and used automobiles, located in a C2-2 within an R3-2 zoning district, is contrary to Z.R. §32-25.

PREMISES AFFECTED – 202-01 Northern Boulevard, northeast corner of 202nd Street, Block 6263, Lot 29, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Alfonso Duarte.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3
Negative:.....0

ACTION OF THE BOARD – Laid over to February 10, 2006, at 1:30 P.M., for decision, hearing closed.

47-05-BZ

APPLICANT – Fischbein Badillo Wagner Harding, LLP, for AMF Machine, owner.

SUBJECT – Application March 1, 2005 - under Z.R.§72-21 to permit the proposed eight story and penthouse mixed-use

building, located in an R6B zoning district, with a C2-3 overlay, which exceeds the permitted floor area, wall and building height requirements, is contrary to Z.R. §23-145 and §23-633.

PREMISES AFFECTED - 90-15 Corona Avenue, northeast corner of 90th Street, Block 1586, Lot 10, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Peter Geis and Jack Freeman

For Opposition: Jacques Catafago

ACTION OF THE BOARD – Laid over to January 31, 2006, at 1:30 P.M., for continued hearing.

72-05-BZ

APPLICANT – Harold Weinberg, P.E., for Cong. Shomlou by Rabbi Marton Ehrenreich, owner.

SUBJECT – Application March 23, 2005 - under Z.R.§72-21 to permit the proposed erection of a synagogue and yeshiva, with accessory residences, Use Groups 2 and 4, located in an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, rear yard and open space ratio, is contrary to Z.R. §§24-11, 23-142, 24-36 and 24-12.

PREMISES AFFECTED - 245 Hooper Street, north side, 205' east of Marcy Avenue, between Marcy and Harrison Avenues, Block 2201, Lot 61, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Harold Weinberg.

ACTION OF THE BOARD – Laid over to January 31, 2006, at 1:30 P.M., for continued hearing.

89-05-BZ

APPLICANT – Stadtmauer Bailkin, LLP (Steven M. Sinacori, Esq.) for 18 Heyward Realty, Inc., owner.

SUBJECT – Application April 12, 2005- under Z.R.§72-21 to allow an enlargement of the rear portion of an existing five-story community facility/commercial building; site is located in an R6 district; contrary to ZR§24-11, 24-37 and 24-33.

PREMISES AFFECTED – 18 Heyward Street, Heyward Street, between Bedford and Wythe Avenues, Block 2230, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Yosef Goldfeder, Sarah Landau, Leaweill and Richard Bowers.

For Opposition: Kenneth Fisher, Michael Zenneck and Moshe Gold.

ACTION OF THE BOARD – Laid over to February 14, 2006, at 1:30 P.M., for continued hearing.

135-05-BZ

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APPLICANT – Bryan Cave, LLP (Judith Gallent, Esq.) for L & M Equity Participants Ltd. And Harlem Congregations for Community Improvement, Inc. contract vendees.

SUBJECT – Application June 3, 2005 - under Z.R. §72-21 to allow the residential conversion of an existing non-complying building previously used as a school (former PS 90) located in an R7-2 district. The proposed conversion is contrary to ZR §§23-142, 23-533 & 23-633.

PREMISES AFFECTED – 217 West 147th Street, located on block bounded by West 147th and West 148th Streets and Adam Clayton Powell, Jr. and Frederick Douglas Boulevards, Block 2033, Lot 12, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES –

For Applicant: Judith Gallent and Mei Lin Chiu.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to January 24, 2006, at 1:30 P.M., for decision, hearing closed.

147-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Kollel Bnei Yeshivas, owner.

SUBJECT - Application June 13, 2005 - under Z.R. §72-21 the proposed enlargement, of a two-story building, housing a synagogue and Rabbi's apartment, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, side and front yards and front setback, is contrary to Z.R. §23-141, §24-11, §24-34, §24-35, and §24-521.

PREMISES AFFECTED - 2402 Avenue "P", southeast corner of East 24th Street, Block 6787, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel and Rabbi Moshe Scheinerman

ACTION OF THE BOARD – Laid over to January 10, 2006, at 1:30 P.M., for continued hearing.

156-05-BZ

APPLICAT - Charles Rizzo and Associates (CR&A) for Carmine Partners LLC, owner.

SUBJECT – Application July 5, 2005 - under Z.R. §72-21 to allow a proposed six-story residential building with ground floor retail containing four (4) dwelling units in a C2-6 Zoning District; contrary to ZR §23-145, §23-22, §35-24, and §35-31.

PREMISES AFFECTED – 1 Seventh Avenue South, Block 582, Lot 43, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Stephen Rizzo.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Chin.....3

Negative:.....0

ACTION OF THE BOARD – Laid over to February 10, 2006, at 1:30 P.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 5:00 P.M.