

---

# BULLETIN

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

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, Nos. 1-3

January 15, 2004

---

### DIRECTORY

**JAMES CHIN**, *Chairman*

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

**PETER CALIENDO**

**JOEL A. MIELE, SR.**

*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**

### CONTENTS

DOCKET .....	4-5
<b>CALENDAR</b> of February 24, 2004	
Morning .....	6
Afternoon .....	7

---

# CONTENTS

---

**MINUTES** of Regular Meetings,  
**Tuesday, January 6, 2004**

Morning Calendar .....8

**Affecting Calendar Numbers:**

1152-64-BZ	2385 Richmond Avenue, Staten Island
39-66-BZ	43-70 Kissena Boulevard, Queens
207-68-BZ	115-58 Dunkirk Street, Queens
140-71-BZ	12-40/42 150 <sup>th</sup> Street, Queens
739-76-BZ	212-95 26 <sup>th</sup> Avenue, Queens
1255-80-BZ	35-33 31 <sup>st</sup> Street, Queens
546-82-BZ	148-15 89 <sup>th</sup> Avenue, Queens
132-86-BZ	102-09/11 Roosevelt Avenue, Queens
109-97-BZ	1201-1239 Lafayette Avenue, The Bronx
74-49-BZ	515 7 <sup>th</sup> Avenue and 144-158 West 38 <sup>th</sup> Street, Manhattan
254-63-BZ	301 East 66 <sup>th</sup> Street, Manhattan
289-63-BZ	150 East 61 <sup>st</sup> Street, Manhattan
444-67-BZ	187-39 Hillside Avenue, Queens
994-77-BZ	89-43/49 Doran Avenue, Queens
173-94-BZ	165-10 144 <sup>th</sup> Road, Queens
633-87-BZ	216 Grand Street, Brooklyn
33-92-BZ	95-01 Brisbin Street, Queens
287-02-A thru	
289-02-A	Reynolds Court, Staten Island
254-03-A	423 Cross Bay Boulevard, Queens
315-03-A thru	
322-03-A	Dunton Court, Queens
336-03-A	112 Beach 216 <sup>th</sup> Street, Queens
91-03-A	349 Broadway, Manhattan

Afternoon Calendar.....20

**Affecting Calendar Numbers:**

284-01-BZ	275 Castleton Avenue, Staten Island
70-03-BZ	761 East 84 <sup>th</sup> Street, Brooklyn
111-03-BZ	1685 60 <sup>th</sup> Street, Brooklyn
112-03-BZ	1687 60 <sup>th</sup> Street, Brooklyn
113-03-BZ	1689 60 <sup>th</sup> Street, Brooklyn
114-03-BZ	1691 60 <sup>th</sup> Street, Brooklyn
115-03-BZ	1693 60 <sup>th</sup> Street, Brooklyn
120-03-BZ	1810 Loring Place, The Bronx
179-03-BZ	402 Avenue U, Brooklyn
230-03-BZ	144 Billop Avenue, Staten Island
238-03-BZ	2305 Olean Street, Brooklyn
269-03-BZ	333 Pearl Street, Manhattan
222-02-BZ	2547 East 12 <sup>th</sup> Street, Brooklyn
229-02-BZ thru	
231-02-BZ	Walton Street, Brooklyn
138-03-BZ	79-59/77 Cooper Avenue, Queens
241-03-BZ	1183 East 28 <sup>th</sup> Street, Brooklyn
242-03-BZ	1858 East 26 <sup>th</sup> Street, Brooklyn
60-02-BZ	3849 Bedford Avenue, Brooklyn
202-02-BZ	133-20 Rockaway Boulevard, Queens
68-03-BZ	649 39 <sup>th</sup> Street, Brooklyn
77-03-BZ &	
78-03-BZ	260-32 & 260-34 Grand Central Parkway, Queens
142-03-BZ	140-20 Farmers Boulevard, Queens
243-03-BZ	2420 Amsterdam Avenue, Manhattan
246-03-BZ	1371 East 23 <sup>rd</sup> Street, Brooklyn
248-03-BZ	1915 Third Avenue, Manhattan
249-03-BZ	265 Bedford Avenue, Brooklyn
268-03-BZ	145-55 Guy Brewer Boulevard, Queens
270-03-BZ	108-36/50 Queens Boulevard, Queens
272-03-BZ	4106 Hylan Boulevard, Staten Island
294-03-BZ	One East 60 <sup>th</sup> Street, Manhattan

---

# DOCKETS

---

New Case Filed Up to January 13, 2004

---

**391-03-BZ** B.BK. 1288 East 19th Street, between Avenues "L and M", Block 6738, Lots 36, 38, 137 and part of 136, Borough of Brooklyn. N.B.#301662617. Proposed construction of an eight-story plus basement 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.

**COMMUNITY BOARD #14BK**

---

**392-03-A** B.Q. 20 Janet Lane, south side, 206' east of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens. Alt.1#401737741. 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.

---

**393-03-A** B.Q. 2 Roxbury Avenue, southeast corner of Marshall Avenue, Block 16340, Lot 50, Borough of Queens. Alt.1#401737750. Proposed enlargement and alteration 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. The building is not considered within 100' of a corner, therefore, 30'0" rear yard is required for second story enlargement.

---

**394-03-BZ** B.Q. 16-61 Weirfield Street, between Wyckoff and Cypress Avenues, Block 3549, Lots 74, 78 and 80, Borough of Queens. Applic.#401713428. Proposed physical culture establishment, located in an M1-4D zoning district, which will occupy ground and mezzanine levels in an existing one story plus mezzanine building, requires a special permit from the Board as per Z.R.§73-36.

**COMMUNITY BOARD #5Q**

---

**395-03-A** B.Q. 253-02 Rockaway Boulevard, located on Rockaway Boulevard and corner of East Dock Street, Block 13921, Lot 82, Borough of Queens. Applic.#401730677. Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**396-03-A** B.Q. 253-06 Rockaway Boulevard, located on Rockaway Boulevard and corner of East Dock Street,

Block 13921, Lot 84, Borough of Queens. Applic.#401729037. Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**397-03-BZ** B.BK. 1255 60th Street, between 12th and 13th Avenues, Block 5711, Lot 155, Borough of Brooklyn. N.B.#301646011. 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.

**COMMUNITY BOARD #12BK**

---

**398-03-BZ** B.BK. 1257 60th Street, between 12th and 13th Avenues, Block 5711, Lot 154, Borough of Brooklyn. N.B.#301646020. 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.

**COMMUNITY BOARD #12BK**

---

**399-03-BZ** B.BK. 1259 60th Street, between 12th and 13th Avenues, Block 5711, Lot 153, Borough of Brooklyn. N.B.#301646039. 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.

**COMMUNITY BOARD #12BK**

---

**400-03-BZ** B.BK. 1261 60th Street, between 12th and 13th Avenues, Block 5711, Lot 152, Borough of Brooklyn. N.B.#301646048. 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.

**COMMUNITY BOARD #12BK**

---

**401-03-BZ** B.BK. 1263 60th Street, between 12th and 13th Avenues, Block 5711, Lot 151, Borough of Brooklyn. N.B.#301646057. 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.

**COMMUNITY BOARD #12BK**

---

---

# DOCKETS

---

**402-03-BZ** B.BK. 1265 60th Street, between 12th and 13th Avenues, Block 5711, Lot 150, Borough of Brooklyn. N.B.#301646066. 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.

**COMMUNITY BOARD #12BK**

---

**403-03-BZ** B.BK. 1267 60th Street, between 12th and 13th Avenues, Block 5711, Lot 149, Borough of Brooklyn. N.B.#301646075. 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.

**COMMUNITY BOARD #12BK**

---

**404-03-BZ** B.BK. 1269 60th Street, between 12th and 13th Avenues, Block 5711, Lot 148, Borough of Brooklyn. N.B.#301646084. 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.

**COMMUNITY BOARD #12BK**

---

**405-03-BZ** B.BK. 1271 60th Street, between 12th and 13th Avenues, Block 5711, Lot 147, Borough of Brooklyn. N.B.#301646093. 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.

**COMMUNITY BOARD #12BK**

---

**406-03-BZY** B.S.I. 2 Wenlock Street, south side, 30'west of Morning Star Road, Block 1179, Lot 32, Tentative Lot 33, Borough of Staten Island. N.B.#500657032. Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R.§11-331.

**407-03-BZY** B.S.I. 4 Wenlock Street, south side, 48' west of Morning Star Road, Block 1179, Lot 32, Tentative Lot 32, Borough of Staten Island. N.B.#500657069. Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R.§11-331.

**408-03-BZY** B.S.I. 8 Wenlock Street, south side, 56' west of Morning Star Road, Block 1179, Lot 32, Tentative Lot 30, Borough of Staten Island. N.B.#500657078. Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R.§11-331.

**409-03-BZY** B.S.I. 10 Wenlock Street, south side, 82' west of Morning Star Road, Block 1179, Lot 32, Tentative Lot

20, Borough of Staten Island. N.B.#500657087. Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R.§11-331.

**410-03-BZY** B.S.I. 95 Lansing Street, southwest corner of South Beach Avenue, Block 3404, Lots 31 and 34, Borough of Staten Island. N.B.#500646526. Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R.§11-331.

**411-03-BZY** B.S.I. 97 Lansing Street, southwest corner of South Beach Avenue, Block 3404, Lot 36, Borough of Staten Island. N.B.#500646517. Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R.§11-331.

**412-03-BZY** B.S.I. 99 Lansing Street, southwest corner of South Beach Avenue, Block 3404, Lot 37, Borough of Staten Island. N.B.#500646508. Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R.§11-331.

**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 24, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, February 24, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

### **SPECIAL ORDER CALENDAR**

#### **1073-62-BZ**

APPLICANT - Sheldon Lobel, P.C., for 305 East 40th Owner's Corporation, owner; Innovative Parking, LLC, lessee.  
SUBJECT - Application January 13, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired March 5, 2003.  
PREMISES AFFECTED - 301-313 East 40th Street, north side of East 40th Street, Block 1333, Lot 1, Borough of Manhattan.  
**COMMUNITY BOARD #6M**

---

#### **34-94-BZ**

APPLICANT - Maduakolam M. Nnabuihe, for Kenny Collado, owner.  
SUBJECT - Application October 3, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired June 6, 2003.  
PREMISES AFFECTED - 401, 403, 405 Castle Hill Avenue, aka 2181 Norton Avenue, northwest corner of Castle Avenue and Norton Avenue, Block 3510, Lot 1, Borough of The Bronx.  
**COMMUNITY BOARD #9BX**

---

#### **87-94-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, Esq., for Czech Republic, owner.  
SUBJECT - Application November 13, 2003 - reopening for an extension of time to complete construction and for an amendment to the resolution.  
PREMISES AFFECTED - 321-325 East 73rd Street, north side of 73rd Street, Block 1448, Lot 16, Borough of Manhattan.  
**COMMUNITY BOARD #8M**

---

#### **4-00-BZ**

APPLICANT - Noel Im, for 243 West 30th Realty, LLC, c/o  
**342-03-BZ**  
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

New York Equity, LLC, owner; Anie Yang, Yhung Kang & Cong Yan d/b/a West Garden, Inc., lessees.

SUBJECT - Application October 21, 2003 - reopening for an amendment to the resolution.

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

**COMMUNITY BOARD #5M**

---

## **FEBRUARY 24, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, February 24, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

### **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**

---

#### **186-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Mount Carmel Plaza, LLC, owner.  
SUBJECT - Application June 4, 2003 - under Z.R. §72-21 to permit the proposed seven story multiple dwelling, Use Group 2, with a total of sixty residential units and twenty-four parking spaces, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.  
PREMISES AFFECTED - 525 Union Avenue, west side, 48' south of Withers Street, Block 2315, Lot 14, Borough of Brooklyn.  
**COMMUNITY BOARD #1BK**

---

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**

---

# CALENDAR

---

---

## **346-03-BZ**

APPLICANT - Joseph P. Morsellino, Esq., for Roadco, LLC, owner.

SUBJECT - Application November 13, 2003 - under Z.R. §72-21 to permit the legalization of an existing two family dwelling, Use Group 2, located in an R2 zoning district, which does not comply with the zoning requirements, regarding the number of units permitted on the zoning lot, is contrary to Z.R. §23-22.

PREMISES AFFECTED - 156-05 Cross Island Parkway, east of 156th Street, Block 4566, Lot 78 (tentative Lot No. 94), Borough of Queens.

**COMMUNITY BOARD #7Q**

office furniture facility, Use Groups 16 and 17, located in an M3-1 zoning district, which does not comply with the zoning requirements for floor area ratio, setbacks, sky exposure plane, street wall height and parking spaces, which is contrary to Z.R. §43-12, §43-43, §44-21.

PREMISES AFFECTED - 1100 Leggett Avenue, south side, between Barry and Dupont Streets, Block 2606, Lot 125, Borough of the Bronx.

**COMMUNITY BOARD #2BX**

---

*Pasquale Pacifico, Executive Director*

---

## **377-03-BZ**

APPLICANT - Fischbein Badillo Wagner Harding, for Bond Street Garage I, LLC, owner; Tribeach Holdings, LLC, contract vendee.

SUBJECT - Application December 4, 1993 - under Z.R. §72-21 to permit the proposed mixed-use building, located in an M1-5B zoning district, which creates non-compliance with regards to residential and retail uses, also public parking and floor area, which is contrary to Z.R. §42-00, §42-14, §32-17 and §43-12.

PREMISES AFFECTED - 25 Bond Street, south side, 70' east of Lafayette Street, Block 529, Lot 21, Borough of Manhattan.

**COMMUNITY BOARD #2M**

---

## **387-03-BZ**

APPLICANT - Steven M. Sinacori/Stadtmauer Bailkin, for 1100 Leggett Avenue, Inc., owner; Green Office Systems, Inc., lessee.

SUBJECT - Application December 15, 2003 - under Z.R. §72-21 to permit the proposed expansion and reconstruction of a functionally obsolete one-story industrial building, thereby creating a modern climate controlled eight-story manufacturing and storage of

88, No. 45.

**REGULAR MEETING  
TUESDAY MORNING, JANUARY 6, 2004  
10:00 A.M.**

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, October 28, 2003, were approved as printed in the Bulletin of November 6, 2003, Volume

---

**SPECIAL ORDER CALENDAR**

## **1152-64-BZ**

APPLICANT - Eric Palatnik, P.C., for Ford Leasing Development Company, owner.

---

# MINUTES

---

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

PREMISES AFFECTED - 2385 Richmond Avenue, between Nome Avenue and Richmond Hill Road, Block 2402, Lot 200, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Application reopened and amended.

THE VOTE TO GRANT -

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

THE RESOLUTION -

WHEREAS, the applicant requests a waiver of the rules of practice and procedure and a re-opening to amend the resolution, to permit a one-story enlargement of an existing auto salesroom and repair shop; and

WHEREAS, a public hearing was held on this application on November 5, 2003, after due notice by publication in The City Record, and laid over to November 25, 2003 for decision; the decision was then deferred to January 6, 2004; and

WHEREAS, the subject application is for the creation of a one-story enlargement to the existing building; said enlargement will comply with applicable bulk regulations; and

WHEREAS, the applicant represents that the enlargement is necessary because the auto sales establishment has experienced an increase in sales and service volume, and the current building is no longer sufficient to meet its business needs; and

WHEREAS, in or around March 1965, the Board approved the use of the premises for auto salesroom and repair shop for new cars under the subject calendar number; and

WHEREAS, the applicant represents that since the prior BSA approval, the premises has been continuously utilized as an auto showroom and repair shop for new cars.

Resolved, that the Board of Standards and Appeals reopens and amends the resolution, pursuant to Z.R. §72-01 and 72-22, said resolution having been adopted in or around March of 1965, so that as amended this portion of the resolution shall read:

"To permit a one-story enlargement of the existing auto

THE VOTE TO GRANT -

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

THE RESOLUTION -

WHEREAS, the applicant requested a waiver of the Rules of Practice and Procedure and an extension of time to obtain a Certificate of Occupancy for a parking garage; and

WHEREAS, a public hearing was held on this application on October 7, 2003 after due notice by publication in The City Record, then laid over to November 5, 2003, November 25, 2003, and then to January 6, 2004 for decision; and

Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution pursuant to Section 11-411 of the Zoning Resolution, said resolution having been adopted on April 13, 1966, so that as

salesroom and repair shop, 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 18, 2003" - (10) 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 no mechanical lifts will be used outside of the enlarged building at 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."

(DOB Application # 500630025)

Adopted by the Board of Standards and Appeals, January 6, 2004.

**39-66-BZ**

APPLICANT - Sheldon Lobel, P.C., for Jonathan Woodner Company, owner.

SUBJECT - Application August 4, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of time to obtain a Certificate of Occupancy which expired April 30, 2003.

PREMISES AFFECTED - 43-70 Kissena Boulevard, south side of Kissena Boulevard, 304.22' west of Elder Avenue, Block 5137, Lot 102, Borough of Queens.

**COMMUNITY BOARD #7Q**

APPEARANCES -

For Applicant: Jordan Most.

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

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 6, 2006, on condition

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

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

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

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

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

---

# MINUTES

---

jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application No. 401212022)

Adopted by the Board of Standards and Appeals, January 6, 2004.

---

## 207-68-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Deerfield Meadows Inc., d/b/a Castro Convertibles, owner.

SUBJECT - Application July 14, 2003 - reopening for an extension of term of variance which expired June 18, 2003.

PREMISES AFFECTED - 115-58 Dunkirk Street, westerly side of Dunkirk Street, 80' north of Newburg Street, Block 10315, Lots 134, 225, 227, Borough of Queens.

### COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Fredrick A. Becker.

**ACTION OF THE BOARD** - Application re-opened, and term of variance extended.

THE VOTE TO GRANT -

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

THE RESOLUTION -

WHEREAS, the applicant requested a re-opening and an extension of the term of the variance, which expired on June 18, 2003; and

WHEREAS, a public hearing was held on this application on October 21, 2003, after due notice by publication in The City Record, and laid over to December 16, 2003, and then to January 6, 2004 for decision; and

WHEREAS, on June 18 1968, the Board granted an application permitting a change in occupancy in an existing one-story building from a bowling establishment to the manufacture

THAT 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 #1672/67)

Adopted by the Board of Standards and Appeals, January 6, 2004.

---

## 140-71-BZ

APPLICANT - Carl A Sulfaro, Esq., for 12-42 150 Realty Corp., owner; Stork's Bakery, lessee.

SUBJECT - Application June 17, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 12-40/42 150<sup>th</sup> Street, southwest corner of 12<sup>th</sup> Road, Block 4505, Lot 29, Borough of Queens.

and storage of paper vacuum bags, with accessory parking; and

WHEREAS, in 1988, the Board granted an extension of the term and amended the resolution to change the use from the manufacture and storage of paper vacuum bags to bulk reupholstering of furniture and the storage of cable television wire; and

WHEREAS, in December 1994, the Board again amended the resolution to permit general storage.

Resolved, that the Board of Standards and Appeals, reopens and amends the resolution, pursuant to Z.R. §§ 72-01 & 72-22, said resolution having been adopted on June 18, 1968 as amended through June 18, 1993 expiring June 18, 2003, so that as amended this portion of the resolution shall read:

"to permit the extension of the term of the variance for an additional ten (10) years from June 18, 2003 expiring on June 18, 2013, on condition that all work shall substantially conform to drawings filed with this application marked "Received July 14, 2003"- (1) sheet, "September 12, 2003" -(1) sheet, and "December 16, 2003" -(1) sheet; and on further condition;

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

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

THAT fencing will contain full slats and be 100 per cent opaque;

THAT the Use Group 16 - Storage shall be limited to the rear portion of the premises;

THAT upon expiration of the term of this Variance, if the applicant/owner returns to the Board of Standards and Appeals for an extension, the applicant will submit with the application a financial study examining the feasibility of residential use of the premises;

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

THAT a new Certificate of Occupancy shall be obtained within one year of this resolution;

## COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Carl A. Sulfaro.

**ACTION OF THE BOARD** - Application reopened, and resolution amended.

THE VOTE TO GRANT -

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

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on September 9, 2003, after due notice by publication in The City Record, laid over to November 18, 2003 and then to January 6, 2004 for decision; and

WHEREAS, the applicant requests a re-opening, and an amendment to the resolution; and

WHEREAS, on June 22, 1971, the Board granted an application permitting an enlargement to an existing bakery that exceeded the floor area limitations for production space; and

WHEREAS, the applicant seeks to legalize the existing arrangement at the second floor level, dedicating a room for

---

# MINUTES

---

chocolate preparation to be used in conjunction with the first floor bakery, and to allow two residential apartments in the remaining space.

Resolved, that the Board of Standards and Appeals, reopens and amends the resolution, pursuant to Z.R.§§72-01, 72-22 and 73-11 said resolution having been adopted on June 22, 1971, so that as amended this portion of the resolution shall read:

"to permit the legalization of the conversion of professional office space on the second floor to a chocolate preparation area and to allow two dwelling units, 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 21, 2003"- (3) sheets and "November 24, 2003"- (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 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; and

THAT the Department of Buildings must ensure compliance 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 #401584237)

Adopted by the Board of Standards and Appeals, January 6, 2004.

WHEREAS, a public hearing was held on this application on December 16, 2003, after due notice by publication in The City Record, and then to January 6, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the special permit which expired on April 10, 2003; 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 (1) year, on condition that the hours of operation be limited to 11:00 a.m. to 9:30 p.m. Monday through Saturday and 11:00 a.m. to 6:00 p.m. on Sunday.

Resolved, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, reopens and amends the resolution, pursuant to §73-03(f), said resolution having been adopted on February 8, 1977 as amended through April 10, 2002, 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 (1) year from April 10, 2003 to expire on April 10, 2004, 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 26, 2003"- (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

---

## 739-76-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Cord Myer Development Corp., owner; Peter Pan Games of Bayside, owner.  
SUBJECT - Application September 26, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired April 10, 2003.

PREMISES AFFECTED - 212-95 26th Avenue, 26th Avenue and Bell Boulevard, Block 5900, Lot 2, Borough of Queens.

## COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, and term of special permit extended.

THE VOTE TO REOPEN HEARING -

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

THE VOTE TO CLOSE HEARING -

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

Negative: Vice-Chair Babbar .....1

THE VOTE TO GRANT -

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

Negative: Vice-Chair Babbar .....1

THE RESOLUTION -

within 48 hours;

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

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

THAT the Department of Buildings must ensure compliance 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 #400732515)

Adopted by the Board of Standards and Appeals, January 6, 2004.

---

## 1255-80-BZ

APPLICANT - Gerald J. Caliendo, R.A., for Constantine Plagakis, owner.

SUBJECT - Application May 30, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired June 2, 2001.

PREMISES AFFECTED - 35-33 31<sup>st</sup> Street, east side of 31<sup>st</sup> Street, 217.71' North of 36<sup>th</sup> Avenue, Block 604, Lot 10, Borough of Queens.

---

# MINUTES

---

## COMMUNITY BOARD #1Q

### APPEARANCES -

For Applicant: Gerald J. Caliendo and Sandy Anagnosto.

**ACTION OF THE BOARD** - Application re-opened, and term of variance extended.

### THE VOTE TO REOPEN HEARING -

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

### THE VOTE TO CLOSE HEARING -

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

### THE VOTE TO GRANT -

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

### THE RESOLUTION -

WHEREAS, the applicant requested a re-opening and an extension of the term of the variance, which expired on June 2, 2001; and

WHEREAS, a public hearing was held on this application on August 5, 2003, after due notice by publication in The City Record, and laid over to September 30, 2003, October 28, 2003, December 16, 2003 and then to January 6, 2004 for decision; and

WHEREAS, on June 2, 1981 the Board granted an

THAT upon expiration of the term of this Variance, if the applicant/owner returns to the Board of Standards and Appeals for an extension, the applicant will submit with the application a financial study examining the feasibility of residential use of the premises;

THAT a new Certificate of Occupancy shall be obtained within one year of this resolution;

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

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

(DOB Application #401647143)

Adopted by the Board of Standards and Appeals, January 6, 2004.

---

## 546-82-BZ

APPLICANT - Pasquale Carpentiere, for Pasquale Carpentiere, owner; Ganesh Budhu, lessee.

SUBJECT - Application July 2, 2003 - reopening for an extension of term of variance which expired June 14, 2003.

PREMISES AFFECTED - 148-15 89th Avenue, west side 110' east of 148<sup>th</sup> Street, Block 9693, Lot 60, Jamaica, Borough of Queens.

## COMMUNITY BOARD #12Q

### APPEARANCES - None.

**ACTION OF THE BOARD** - Rules of Practice and Procedure

application permitting in an R5 zoning district, the erection of a one-story and mezzanine structure for use as a showroom with accessory storage and office.

Resolved, that the Board of Standards and Appeals, reopens and amends the resolution, pursuant to Sections 72-01 and 72-22, said resolution having been adopted on June 2, 1981, 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 June 2, 2001 expiring on June 2, 2011, on condition that all work shall substantially conform to drawings filed with this application marked "Received June 13, 2003"- (3) sheets and "October 21, 2003"- (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 all trash receptacles will be located within the property line behind a fence except on designated pick-up days;

THAT the trash dumpster shall be stored within Lot 9 and placed on the sidewalk only during pick-up times;

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

THAT the Department of Buildings will approve all exiting requirements for the subject property and the adjacent building;

waived, application reopened, and term of Variance extended.

### THE VOTE TO GRANT -

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

### THE RESOLUTION -

WHEREAS, a public hearing was held on this application on September 16, 2003, after due notice by publication in The City Record, and laid over to November 5, 2003 and then to November 25, 2003 for decision; the decision was then deferred until January 6, 2004; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the variance which expired on June 14, 2003, and

WHEREAS, Community Board 12 and the Queens Borough President's office recommended approval of the subject application; and

WHEREAS, the applicant seeks to renew the term of a previously granted variance, granted June 14, 1983 under the instant calendar number, permitting a public parking lot, in an R6 zoning district; and

WHEREAS, an amendment to this resolution, granted on May 9, 1995, limited the parking lot to 68 spaces and 10 reservoir spaces.

Resolved, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, reopens and amends the resolution, pursuant to Zoning Resolution §§72-01 and 72-22, extends the term of the Variance which expired on June 14, 2003, so that as amended this portion of the resolution shall read:

"To permit the extension of the term of the Variance for an

---

# MINUTES

---

additional five (5) years from June 14, 2003, expiring on June 14, 2008, on condition that all work shall substantially conform to drawings filed with this application marked "Received October 14, 2003" -(1) sheet; and on further condition:

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

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

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

THAT upon expiration of the term of this Variance, if the applicant/owner returns to the Board of Standards and Appeals for an extension, the applicant will submit with the application a financial study examining the feasibility of residential use of the premises;

THAT 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."

## THE VOTE TO GRANT -

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

## THE RESOLUTION -

WHEREAS, a public hearing was held on this application on June 17, 2003, after due notice by publication in The City Record, and laid over to July 15, 2003, October 7, 2003, and then to November 25, 2003 for decision; the decision was then deferred to January 6, 2004; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the variance which expired on July 8, 2002; and

WHEREAS, Community Board 3, Queens, recommends conditional approval of the subject application; and

WHEREAS, the applicant seeks to renew the term of a previously granted variance for an additional ten years, permitting the continued operation of an automobile sales establishment (Use Group 9); and

WHEREAS, the applicant also seeks an amendment to the Resolution to allow for the legalization of another mezzanine at the rear of the building; and

WHEREAS, on July 8, 1987, the Board legalized the establishment and maintenance of an automotive sales establishment and granted Administrative Appeal 133-86-A pursuant to GCL §35, allowing the facility to remain in the bed of the mapped street; and

WHEREAS, the record indicates that the premises has been continuously occupied as an automotive sales establishment since the Board's grant.

Resolved, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, reopens and amends the resolution, pursuant to Zoning Resolution §§72-01 and 72-22, and extends the term of the Variance which expired on July 8, 2002, so that as amended this portion of the resolution shall read:

(DOB Application Alt. 1206/79)

Adopted by the Board of Standards and Appeals, January 6, 2004.

---

## 132-86-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Cristobal F. Rosero, owner.

SUBJECT - Application April 9, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired July 8, 2002.

PREMISES AFFECTED - 102-09/11 Roosevelt Avenue, northside 196.16', west of 103rd Street, Block 1770, Lots 47 & 48, Corona, Borough of Queens.

## COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Carl A. Sulfaro.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, resolution amended and term of Variance extended.

"to permit the extension of the term of the Variance for an additional ten (10) years from July 8, 2002, expiring on July 8, 2012, 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 22, 2003"-(1) sheet and "November 18, 2003"-(1) sheet; and on further condition;

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

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

THAT substantial landscaping, and fencing, shall be provided and maintained on a year round basis, in accordance with BSA approved plans;

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

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

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

(DOB Application #401621786)

Adopted by the Board of Standards and Appeals, January 6, 2004.

---

## 109-97-BZ

APPLICANT - The Agusta Group, for Max Blauner for Blauers, LLC, owner.

SUBJECT - Application October 24, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1201-1239 Lafayette Avenue,

---

# MINUTES

---

northwest corner of Barretto Street, and northeast corner of Tiffany Street, Block 2739, Lot 15, Borough of The Bronx.

## COMMUNITY BOARD #2BX

### APPEARANCES -

For Applicant: Sheldon S. Leffler.

**ACTION OF THE BOARD** - Application reopened and resolution amended.

### THE VOTE TO GRANT -

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

### THE RESOLUTION -

WHEREAS, a public hearing was held on this application on

WHEREAS, the instant application seeks to use 5,000 square feet on the east wing of the 4th floor for use as a school to teach art and cooking to young adults.

Resolved, that the Board of Standards and Appeals, reopens and amends the resolution pursuant to Z.R. §73-11, said resolution having been adopted on September 16, 1997, as amended through April 11, 2000, so that as amended this portion of the resolution shall read:

"to permit the expansion of the school use to the east wing of the 4th floor of Building "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 December 23, 2003"- (1) sheet; and on further condition;

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

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

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

THAT a Certificate of Occupancy be obtained within twenty-four (24) months from the date of this resolution; THAT 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. Application No. 133-86)

Adopted by the Board of Standards and Appeals, January 6, 2004.

---

## 74-49-BZ

APPLICANT - Sheldon Lobel, P.C., for 515 Seventh Associates, L.P., owner.

SUBJECT - Application November 8, 2001 - request for a waiver

December 16, 2003, after due notice by publication in The City Record, and laid over to January 6, 2004 for decision; and

WHEREAS, the applicant requests a re-opening, and an amendment to the resolution; and

WHEREAS, on September 16, 1997, the Board granted a special permit allowing the conversion of a four-story manufacturing building with basement and sub-basement ("Building A") which is part of a larger complex of three attached manufacturing buildings in an M1-1 zoning district; and

WHEREAS, the original special permit allowed a school in Building "A" on a portion of the 1st floor and an April 11, 2000 amendment granted an expansion of the school to the 2nd and 3rd floors; and

of the Rules of Practice and Procedure and reopening for an extension of time to complete construction and to obtain a certificate of occupancy which expired April 4, 2001.

PREMISES AFFECTED - 515 7<sup>th</sup> Avenue and 144-158 West 38<sup>th</sup> Street, Block 813, Lot 64, Borough of Manhattan.

## COMMUNITY BOARD #5M

### APPEARANCES -

For Applicant: Jordan Most.

### THE VOTE TO CLOSE HEARING -

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

**ACTION OF THE BOARD** - Laid over to February 3, 2004, at 10 A.M., for decision, hearing closed.

---

## 254-63-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for 301 East 66th Street Condominium, owner.

SUBJECT - Application July 10, 2003 - reopening for an extension of term of variance which expired June 20, 2003.

PREMISES AFFECTED - 301 East 66<sup>th</sup> Street, a/k/a 1260-1274 Second Avenue, East side of Second Avenue from East 66<sup>th</sup> Street to East 67<sup>th</sup> Street, Block 1441, Lot 1, Borough of Manhattan.

## COMMUNITY BOARD #8M

### APPEARANCES -

For Applicant: Fredrick A. Becker.

### THE VOTE TO CLOSE HEARING -

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

**ACTION OF THE BOARD** - Laid over to January 27, 2004, at 10 A.M., for decision, hearing closed.

---

## 289-63-BZ

APPLICANT - Sheldon Lobel, P.C., for 61st LP, owner; Imperial Parking Systems, lessee.

---

# MINUTES

---

SUBJECT - Application July 1, 2003 - reopening for an extension of term of variance which expired June 27, 2003.

PREMISES AFFECTED - 150 East 61st Street (aka 775 Lexington Avenue), south east corner of intersection of East 61st Street and Lexington Avenue, Block 1395, Lot 50, Borough of Manhattan.

**COMMUNITY BOARD #8M**

APPEARANCES -

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING -

**444-67-BZ**

APPLICANT - Eric Palatnik, P.C., for Hillside 188th Street Corp, owner; BP Products North America, owner.

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

PREMISES AFFECTED - 187-39 Hillside Avenue, northwest corner of 87-88 to 87-96 188th Street, Block 9960, Lot 1, Borough of Queens.

**COMMUNITY BOARD #8Q**

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

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

**ACTION OF THE BOARD** - Laid over to January 27, 2004, at 10 A.M., for decision, hearing closed.

---

**994-77-BZ**

APPLICANT - Joseph P. Morsellino, for Rutledge Apartments, owner; DNS Automotive Inc., lessee.

SUBJECT - Application June 12, 2003 - reopening for an extension of term of variance which expired May 23, 2003.

PREMISES AFFECTED - 89-43/49 Doran Avenue, northside of Woodhaven Boulevard, Block 3872, Lot 49, Borough of Queens.

**COMMUNITY BOARD #5Q**

APPEARANCES -

For Applicant: Joseph P. Morsellino.

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

---

**173-94-BZ**

APPLICANT - Board of Standards and Appeals

OWNER OF PREMISES: Richard Shelala.

SUBJECT - Application reopening for compliance to the resolution.

PREMISES AFFECTED - 165-10 144<sup>th</sup> Road, Block 13271, Lot 17, Borough of Queens.

**COMMUNITY BOARD #13Q**

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

**ACTION OF THE BOARD** - Laid over to January 27, 2004, at 10 A.M., for decision, hearing closed.

---

APPEARANCES -

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** - Laid over to April 20, 2004, at 10 A.M., for continued hearing.

---

**633-87-BZ**

APPLICANT - Martyn & Don Weston, for The Fristachi Trust, owner.

SUBJECT - Application October 1, 2003 - reopening for an extension of term of variance which expired September 7, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 216 Grand Street, southwest corner of Driggs Avenue, Block 2393, Lots 27 & 29, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Don Weston and Frank Fristacci.

**ACTION OF THE BOARD** - Laid over to February 3, 2004, at 10 A.M., for continued hearing.

---

**33-92-BZ**

APPLICANT - Sheldon Lobel, P.C., for D & K Realty, owner.

SUBJECT - Application September 9, 2003 - reopening for an extension of term of variance which expired August 10, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 95-01 Brisbin Street, aka 143-02 95th Avenue, south side of Atlantic Avenue between Brisbin and Allendale Streets, Block 10007, Lot 1, Borough of Queens.

**COMMUNITY BOARD #12Q**

APPEARANCES -

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING -

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

**ACTION OF THE BOARD** - Laid over to January 27, 2004, at 10 A.M., for decision, hearing closed.

---

---

# MINUTES

---

**287-02-A thru 289-02-A**

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

SUBJECT - Application October 23, 2002 - Proposed one family  
5 Reynolds Court, north side, 363.1' east of Reynolds Street, Block 2981, Lot 95, Borough of Staten Island.  
7 Reynolds Court, north side, 300' east of Reynolds Street, Block 2981, Lot 97, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

**APPEARANCES -**

For Applicant: Adam W. Rothkrug.

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

**THE VOTE TO REOPEN HEARING -**

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

**THE VOTE TO CLOSE HEARING -**

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

**TO GRANT -**

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

**THE RESOLUTION-**

WHEREAS, the decision of the Staten Island Borough Commissioner dated October 1, 2002 on N.B. Application Nos. 500565195, 500565239, 500565248, read in pertinent part:

1. Street giving access to the proposed building is not placed on the official map of the City of New York, therefore:
  - A. No Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law, and
  - B. Permit may not be issued since 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, therefore, contrary to Section 27-291 of the Administrative Code; and

WHEREAS, this subject property is to be developed with three one-family dwellings.

WHEREAS, the Fire Department has reviewed the above project and as required that the buildings be fully sprinklered in accordance with the NYC Bldg. Code; and

WHEREAS, by the letter dated November 17, 2003, the Department of Transportation has reviewed the above project and has recommended that an appropriate "No Stopping Anytime" area be designated with the appropriate Dot regulations to allow for the access of single unit emergency vehicles into Reynolds Court ; and

WHEREAS, by letter dated December 1, 2003 , in response to a DOT recommendation , the developer has agreed to post "No

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

dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

**PREMISES AFFECTED -**

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

Stopping Anytime" signs along the length of the private road to facilitate ingress to and egress from the entrance into Reynolds Court; and

WHEREAS, the Department of Buildings has accepted a 10 foot wide sewer easement to be established in Lots 24, 93, 95 and 97 to allow drainage, contingent upon approval by the Department of Environmental Protection ; and

WHEREAS, the developer has agreed to a condition requiring that a Homeowners Association be responsible for maintenance of the private street; and

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

Resolved, that the decision of the Staten Island Borough Commissioner, dated October 1, 2002 acting on N.B. Application Nos. 500565195, 500565239, 500565248, 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 5, 2004, " -(1) sheet; and that the proposal comply with all applicable R3-2 zoning requirements; that all other applicable laws, rules, and regulations shall be complied with; and on further condition

THAT a Homeowners Association be established for the maintenance of the private street; and

THAT "No Stopping Anytime" signs be posted along the length of the private road to facilitate entrance into Reynolds Court; and

THAT a 10 foot wide sewer corridor easement established along Lots 24, 93, 95 and 97 that is acceptable to the DEP is created and recorded prior to the issuance of the Certificate of Occupancy;

THAT the buildings be fully sprinklered as per the NYC Bldg Code;

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

THAT a paved walkway be installed in Reynolds Court from the entry to that three buildings contiguous to Reynolds Street;

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

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

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

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

Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related

---

# MINUTES

---

to the relief granted.

Adopted by the Board of Standards and Appeals, January 6, 2004.

\_\_\_\_\_

## 254-03-A

APPLICANT - Petraro & Jones, LLP, for Robert J. Eckert, II ad Jessica Rojas Eckert, owners.

SUBJECT - Application August 8, 2003 - Proposed construction of a single family dwelling, located partially within the bed of mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 423 Cross Bay Boulevard, west side, 150.69' north of 191st Avenue, Block 15306, Lot 6 (tentative), Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Patrick Jones.

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

**THE VOTE TO GRANT** -

Affirmative: Chairman Chin, Commissioner Caliendo and

Vice-Chair Babbar .....3

Negative: .....0

Not Voting: Commissioner Miele .....1

**THE RESOLUTION** -

WHEREAS, the decision of the Queens Borough Commissioner, dated July 14, 2003 acting on N.B. Application No. 401495048, reads in pertinent part:

"Structure in the bed of a mapped street contrary to Section 35 General Law".

WHEREAS, by letter dated December 3, 2003, Community Board 14 has no objection to the above project; and

WHEREAS, the Fire Department has reviewed the above project and has no objections; and

WHEREAS, by letter dated November 4, 2003 the department of Environmental Protection has reviewed the above project and has no objections as there are no existing City water mains nor existing sewer at the above location ; and

WHEREAS, by letter dated December 4, 2003, the Department of Transportation has reviewed the above project has indicated that the improvement of 99th Street to its full width , which would involve a taking of a portion of the applicant's property is not presently included in DOT's Capital Improvement Program 102-13 Dunton Court, east of 102nd Street, Block 14240, Lot 1233, Borough of Queens.

102-15 Dunton Court, east of 102nd Street, Block 14240, Lot 1231, Borough of Queens.

102-21 Dunton Court, east of 102nd Street, Block 14240, Lot 1229, Borough of Queens.

102-23 Dunton Court, east of 102nd Street, Block 14240, Lot

nor is it likely to be included in a future program . DOT also advises that it appears Lot 6 was acquired from the City subject to a "dollar condemnation clause " for the portion of the street lying in the street bed.

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

Resolved, that the decision of the Queens Borough Commissioner, dated July 14, 2003, acting on. N.B. Application No. 401495048 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 22, 2003"- (1) sheet; and that the proposal comply with all applicable R3-2 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; on further condition;

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

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

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

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

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

Adopted by the Board of Standards and Appeals on January 6, 2004.

\_\_\_\_\_

## 315-03-A thru 322-03-A

APPLICANT - Joseph P. Morsellino, Esq., for John Contrubis, et al, owner; Stellar Development, LLC, lessee.

SUBJECT - Application October 16, 2003 - Proposed erection of a two family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED -

102-03 Dunton Court, east of 102nd Street, Block 14240, Lot 1237, Borough of Queens.

102-05 Dunton Court, east of 102nd Street, Block 14240, Lot 1235, Borough of Queens.

1227, Borough of Queens.

102-31 Dunton Court, east of 102nd Street, Block 14240, Lot 1225, Borough of Queens.

102-33 Dunton Court, east of 102nd Street, Block 14240, Lot 1223, Borough of Queens.

### COMMUNITY BOARD #10Q

APPEARANCES -

---

# MINUTES

---

For Applicant: Joseph P. Morsellino.

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

**THE VOTE TO GRANT** -

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

**THE RESOLUTION** -

WHEREAS, the decision of the Queens Borough Commissioner, dated September 12, 2003 acting on N.B. Application Nos. 401712287, 401712278, 401712269, 401712250, 401712241, 401712232, 401712223, 401712214 reads in pertinent part:

1. Comply with General City Law 36 for buildings not fronting a mapped street.
2. Comply with Section 27- 291, buildings frontage."

WHEREAS, this appeal is to allow (8) eight two- family semi-detached dwellings houses to be built fronting an unmapped street known as Dunton Court , east of 102nd Street ; and

WHEREAS, the Fire Department has reviewed the above project and has no objections provided that the following conditions are met:

1. Buildings are sprinklered in accordance with the NYC Bldg. Code.
2. Street signs to be provided throughout the development to read "No Parking - Fire Lane".
3. Main entrance of every building must be within 250 feet of a fire hydrant and the water mains supplying for the hydrants be at least 8" inches in diameter.; and

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

Resolved, that the decision of the Queens Borough Commissioner, dated September 12, 2003 acting on N.B. Application Nos. 401712287, 401712278, 401712269, 401712250, 401712241, 401712232, 401712223, 401712214 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 16, 2003"- (2) sheets; and that the proposal comply with all applicable R3-1 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; on further condition

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

**THE RESOLUTION** -

WHEREAS, the decision of the Queens Borough Commissioner, dated October 22, 2003, acting on ALT 1. Application No. 401699961, reads in pertinent part:

For Board of Standard and Appeals Only:

"A1- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be

THAT the following conditions shall be met :

1. All the Buildings are sprinklered in accordance with the NYC Bldg. Code.
2. Street signs to be provided throughout the development to read "No Parking - Fire Lane".
3. Main entrance of every building must be within 250 feet of a fire hydrant and the water mains supplying for the hydrants be at least 8" inches in diameter;

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 will appear on the Certificate of Occupancy;

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

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

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

Adopted by the Board of Standards and Appeals on January 6, 2004.

### 336-03-A

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

SUBJECT - Application October 28, 2003 - 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 -112 Beach 216th Street, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES - None.

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

**THE VOTE TO GRANT** -

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 the 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."; and

WHEREAS, by the letter dated December 10, 2003 , the Fire Department has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to

---

# MINUTES

---

warrant this approval under certain conditions.

Resolved, that the decision of the Queens Borough Commissioner, dated October 22, 2003 acting on ALT 1. Application No. 401699961 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 28, 2003"-(1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; on further condition;

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

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

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

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

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

Adopted by the Board of Standards and Appeals on January 6, 2004.

---

## 91-03-A

APPLICANT - Paul Gregory, R.A., for 349 Broadway Group LP, owner.

SUBJECT - Application March 21, 2003 - Proposed increase in the number of loft dwelling units in an existing nine story mixed use building, must comply with Local Law 10/99 regarding sprinklers. PREMISES AFFECTED - 349 Broadway, a/k/a 93 Leonard Street, northwest corner, Block 174, Lot 37, Borough of Manhattan.

### COMMUNITY BOARD #1M

APPEARANCES -

#### REGULAR MEETING

TUESDAY AFTERNOON, JANUARY 6, 2004

2:00 P.M.

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

---

### ZONING CALENDAR

## 284-01-BZ

APPLICANT - Stanley K. Schlein, Esq., for Silver Lake Realty Partnership, owner.

For Applicant: Irving E. Minkin and Paul Gregory.

For Administration: Anthony Scaduto, Fire Department.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to March 9, 2004, at 10:00 A.M., for decision, hearing closed.

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director.*

Adjourned: 11:35 A.M.

SUBJECT - Application October 3, 2001 - under Z.R. §72-21, to permit the proposed expansion of an existing nursing home, located an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, contrary to Z.R. §24-111.

PREMISES AFFECTED - 275 Castleton Avenue, 26' east of the northeast corner of Castleton Avenue and Harbor View Court, Block 119, Lot 104, Borough of Staten Island.

### COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Patrick Jones.

For Opposition: Janine A. Gaylard, Department of Buildings.

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

THE VOTE TO GRANT -

---

# MINUTES

---

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

## THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated September 4, 2001, acting on Application No. 500481748 reads, in part:

"Objection #1 - The proposed floor area ratio exceeds that permitted by ZR 24-111."; and

WHEREAS, a public hearing was held on this application on November 19, 2002 after due notice by publication in The City Record, laid over to January 28, 2003, March 4, 2003, May 20, 2003, July 15, 2003, August 12, 2003, October 21, 2003 and then to December 9, 2003 for decision; the decision was then deferred to January 6, 2004; and

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

WHEREAS, this is an application under Z.R. §72-21 to permit the proposed expansion of an existing nursing home, located an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio ("FAR"), contrary to Z.R. §24-111; and

WHEREAS, the subject lot is occupied by a building with a four-story and penthouse section and a two-story section, utilized as a nursing home facility, and is within the Special Hillside Preservation District ("SHPD"); and

WHEREAS, the applicant proposes the addition of one floor on top of the building section with two stories, which the applicant states will be used to increase the quality of life of existing patients and not to increase bed count; and

WHEREAS, the applicant states that the proposed additional floor would only increase the height of the southern portion of the building, and that the northern portion of the building would remain one story higher; and

WHEREAS, the applicant notes that the existing vegetation patterns, topography, and soils would not be affected by the proposed addition; and

WHEREAS, the Board has expressed concern about the following issues: deliveries from vendors illegally stopping on Castleton Avenue, the location of the ambulance loading area, and the use and capacity of the rear parking lot; and

WHEREAS, community members in opposition to the application have also expressed concern about the same issues, alleging that the quality of life of residents in the immediate neighborhood is impacted by the nursing home's inattention to their concerns; and

WHEREAS, the applicant has made efforts to address these concerns, in that they have contacted their vendors to address the delivery issue, and shifted the ambulance loading area 15 feet westward, which allows for a short, direct path to the new front

WHEREAS, the proposed addition will increase the FAR from the current 1.60 to 1.843, while the permitted FAR is 0.5; and

WHEREAS, the applicant states that the nursing home was constructed in 1966 and enlarged in 1970, prior to the enactment of the SHPD and also when a higher FAR was allowed, thus making the existing facility a legal non-complying development; and

WHEREAS, since construction of the facility, the site has been down-zoned significantly (from an R4 to an R3-2 zoning district), with an attendant decrease in the permitted FAR; and

WHEREAS, the applicant further states that the additional floor area will create a secure, private and safe environment for residents, addressing the facility's changed programmatic needs and allowing it to comply with standards promulgated by the New York State Health Department ("NYSDOH"); and

WHEREAS, the applicant maintains that the convergence of the applicable zoning regulations, the facility's increased programmatic needs, and the applicable NYSDOH regulations creates a hardship for the facility in strictly complying with the zoning; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, namely the convergence of the more restrictive zoning with the applicable NYSDOH regulations, and the increased programmatic needs of the facility, create practical difficulties in developing the site in conformity with the current zoning regulations; and

WHEREAS, evidence in the record, including an economic analysis, demonstrates that developing the site with a conforming development would not yield a reasonable return, and that without the proposed enlargement, a reduction in occupancy levels could be anticipated that would significantly affect the economic viability of the facility; and

entrance of the facility; and

WHEREAS, the applicant has also provided evidence that use of the rear parking lot by facility employees is increasing, and that the nursing home has implemented an operational plan to increase such use; and

WHEREAS, the applicant has agreed to maintain forty-two (42) parking spaces on the premises; 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 minimum variance 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; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental

---

# MINUTES

---

Assessment Statement and has carefully considered all relevant areas of environmental concern; and

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

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, to permit the proposed expansion of an existing nursing home, located an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, contrary to Z.R. §24-111, 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 5, 2003"-(11) sheets and "December 10, 2003"-(2) sheets; and on further condition;

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

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

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

THAT the ambulance loading area will be, and remain, located as shown on approved BSA plans;

THAT landscaping and buffering around the ambulance loading area, and elsewhere on the site, will be planted and  
SUBJECT - Application February 13, 2003 - under Z.R. §72-21 to permit, on a site previously before the Board, within an R5-zoning district, the reestablishment of an expired variance, previously granted under Calendar Number 29-68-BZ, which permitted a contractor's establishment and the legalization of a one-story enlargement of the establishment contrary to Z.R. §22-00.

PREMISES AFFECTED - 761 East 84th Street, east side, 89'-0" north of Flatlands Avenue, Block 8005, Lot 11, Borough of Brooklyn.

## COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Carl A. Sulfaro

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

**THE VOTE TO GRANT** -

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

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated January 16, 2003, acting on Alt. Application No. 301476114 reads:

"PROPOSED TO REESTABLISH AND EXTEND THE EXPIRED TERMS OF VARIANCE FOR A

maintained as shown on BSA approved plans;

THAT the submitted operational plan for use of the rear parking lot will be maintained and utilized;

THAT forty-two (42) parking spaces will be provided on the premises, as shown on BSA approved plans;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, January 6, 2004.

---

## 70-03-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Flatlands 84th Realty Corp., owner.

CONTRACTOR'S ESTABLISHMENT UNDER USE GROUP 7IN A R5 DISTRICT. THIS USE WAS PREVIOUSLY APPROVED BY THE BOARD OF STANDARDS AND APPEALS UNDER RESOLUTION 29-68-BZ IS CONTRARY TO SECTION 11-411 OF THE ZONING RESOLUTION. THE TERM EXPIRED ON JULY 16, 1973."; and

WHEREAS, a public hearing was held on this application on October 28, 2003 after due notice by publication in The City Record, and laid over to November 25, 2003 for decision; the decision was then deferred to January 6, 2004; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, on a site previously before the Board located within an R5-zoning district, the reestablishment of an expired variance, previously granted under Calendar Number 29-68-BZ, which permitted a contractor's establishment and the legalization of a one-story enlargement of the establishment, contrary to Z.R. §22-00; and

WHEREAS, the subject lot is an irregular parcel measuring approximately 36'-0" in width by 100'-0 in length, within 100 feet of

---

# MINUTES

---

the intersection of Flatlands Avenue and East 84th Street, developed with a one-story masonry building the applicant seeks to reuse; and

WHEREAS, the subject parcel was originally occupied as part of a gasoline service station located at 8401 Flatlands Avenue and the entire site had been granted a variance under Calendar Number 92-31-BZ; and

WHEREAS, the record indicates that in 1967, an application was filed to subdivide the property separating the service station located on lot 6 from the adjoining lot 11, creating a separate use for this lot; and

WHEREAS, the applicant represents that the aforementioned application sought to change the use of the existing one-story masonry building from a motor vehicle repair facility to a contractor's establishment, and in 1968, the Board granted a special permit under Z.R. §11-413 allowing the change in use; and

WHEREAS, for a term of five years, expiring on July 16, 1973, the Board's grant permitted two open loading berths in the front yard and 3 accessory parking spaces, in the open space between the service station and the building; and

WHEREAS, the record indicates that sometime after the Board's grant, a one-story concrete masonry enlargement measuring approximately 11'-8" with a depth of 79'-10" was erected on the side of the property adjacent to the service station, filling in the space previously authorized three accessory parking

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 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, on a site previously before the Board, within an R5-zoning district, the reestablishment of an expired variance, previously granted under Calendar Number

spaces; and

WHEREAS, further, the designated parking area was instead used as a storage space of approximately 661 square feet, an additional office measuring approximately 157 square feet and an additional restroom of approximately 23 square feet; and

WHEREAS, the record indicates that the contractor's establishment was abandoned and the building was used as a repair center for electronic appliances (Use Group 8), a business that the applicant represents did not survive, the tenant was evicted in 2001 and the building has remained vacant; and

WHEREAS, the applicant represents that the prior owner failed to renew the special permit and that the current owner now seeks to legalize the existing conditions; and

WHEREAS, the Board finds that the zoning lot's irregular shape and the aforementioned history of use with non-conforming Board approved uses creates an unnecessary hardship in developing the zoning lot in conformity with the current zoning regulations; and

WHEREAS, evidence in the record, including a feasibility study, demonstrates 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 two-story brick buildings housing residential and commercial uses; and

29-68-BZ, which permitted a contractor's establishment and the legalization of a one-story enlargement of the establishment 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 12, 2003"- (1) sheet and "November 18, 2003"-(1) sheet, and on further condition;

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, January 6, 2004.

---

# MINUTES

---

## 111-03-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for 909 East 5th Street, LLC, owner.

SUBJECT - Application April 7, 2003 - under Z.R. §72-21 to permit, in an R5 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which creates non-compliances with respect to floor area ratio, open space ratio, lot coverage, front yard and building height, contrary to Zoning Resolution §§23-141(c), 23-631, 23-45 and 25-23.

PREMISES AFFECTED - 1685 60<sup>th</sup> Street, northwest corner of 17<sup>th</sup> Avenue, Block 5510, Lot 150, Borough of Brooklyn.

## COMMUNITY BOARD #12BK

### APPEARANCES -

For Applicant: Howard Hornstein.

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

### THE VOTE TO GRANT -

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

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R5 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which creates non-compliances with respect to floor area ratio, open space ratio, lot coverage, front yard and building height, contrary to Zoning Resolution §§23-141(c), 23-631, 23-45 and 25-23; and

WHEREAS, the subject zoning lot is a corner lot with a total lot area of 10,017 sq. ft., which has historically been used an auto service/repair facility but which is now currently vacant; and

WHEREAS, the subject application is part of a series, which would permit the development of five attached buildings each with three floors and a cellar containing a total of 15 dwelling units; and

WHEREAS, the applicant maintains and the record shows that the site contains underground storage tanks and hydraulic lifts, and that environmental reports revealed the likely existence of petroleum spills from the tanks and possible leakage from the lifts; and

WHEREAS, the applicant represents that the presence of contaminated soil from the spills and leakage leads to a need for extensive remediation and attendant increased development costs; and

WHEREAS, the aforementioned unique physical conditions, namely the soil contamination that is a vestige of the past use of the site, creates practical difficulties in developing the site in conformity with current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; 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, upon site inspection and review of the record, the Board has noted that the applicant's proposal is contextually

.....0  
THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated November 12, 2003, acting on NB Application No. 301430360, reads:

"Proposed residential building in an R5 zoning district does not comply with F.A.R., Lot Coverage and Yard requirements of Z.R. section 23-146."; and

WHEREAS, a public hearing was held on this application on June 24, 2003 after due notice by publication in The City Record, and then laid over to August 5, 2003, September 16, 2003, October 28, 2003, and then to November 25, 2003 for decision; the decision was then deferred to January 6, 2004; and

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

compatible with the surrounding homes and neighborhood, which consists of 2 and 3-family houses; and

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and 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 stipulated on the conditions noted below to address potential hazardous materials impacts on the proposed residents and under 6 NYCRR Part 617 and '6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, under Z.R. §72-21, to permit, in an R5 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which creates non-compliances with respect to floor area ratio, open space ratio, lot coverage, front yard and building height, contrary to Zoning Resolution §§23-141(c), 23-631, 23-45 and 25-23; on condition that all work shall substantially conform to

---

# MINUTES

---

drawings as they apply to the objections above noted, filed with this application marked "Received October 21, 2003"- (3) sheets, and on further condition:

THAT the Board's approval shall be contingent upon the following:

- (1) Applicant's completion, recording and execution of a Restrictive Declaration agreed to by DEP;
- (2) Applicant's commitment to follow DEP's recommendations, including a Hazardous Materials Sampling Protocol, as stated in its letter dated October 3, 2003 and BSA's letter dated October 9, 2003;
- (3) The applicant shall obtain DEP's approvals prior to obtaining

THAT 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 6, 2004.

---

## 112-03-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for 909 East 5th Street, LLC, owner.

SUBJECT - Application April 7, 2003 - under Z.R. §72-21 to permit, in an R5 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which creates non-compliances with respect to floor area ratio, open space ratio, lot coverage, front yard and building height, contrary to Zoning Resolution §§23-141(c), 23-631, 23-45 and 25-23.

PREMISES AFFECTED - 1687 60<sup>th</sup> Street, northwest corner of 17<sup>th</sup> Avenue, Block 5510, Lot 149, Borough of Brooklyn.

### COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Howard Hornstein.

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

**THE VOTE TO GRANT** -

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

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated November 12, 2003, acting on NB Application No. 301430379, reads:

"Proposed residential building in an R5 zoning district does not comply with F.A.R., Lot Coverage and Yard requirements of

building permits relative to cleaning the site and constructing the proposed buildings in accordance with the subject approvals;

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

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

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

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

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

Z.R. section 23-146."; and

WHEREAS, a public hearing was held on this application on June 24, 2003 after due notice by publication in The City Record, and then laid over to August 5, 2003, September 16, 2003, October 28, 2003, and then to November 25, 2003 for decision; the decision was then deferred to January 6, 2004; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R5 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which creates non-compliances with respect to floor area ratio, open space ratio, lot coverage, front yard and building height, contrary to Zoning Resolution §§23-141(c), 23-631, 23-45 and 25-23; and

WHEREAS, the subject zoning lot is a corner lot with a total lot area of 10,017 sq. ft., which has historically been used an auto service/repair facility but which is now currently vacant; and

WHEREAS, the subject application is part of a series, which would permit the development of five attached buildings each with three floors and a cellar containing a total of 15 dwelling units; and

WHEREAS, the applicant maintains and the record shows that the site contains underground storage tanks and hydraulic lifts, and that environmental reports revealed the likely existence of petroleum spills from the tanks and possible leakage from the lifts; and

WHEREAS, the applicant represents that the presence of contaminated soil from the spills and leakage leads to a need for extensive remediation and attendant increased development costs; and

WHEREAS, the aforementioned unique physical conditions, namely the soil contamination that is a vestige of the past use of the site, creates practical difficulties in developing the site in conformity with current zoning; and

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

WHEREAS, based upon its review of the record, the Board has determined that because of the subject lot's unique physical

---

# MINUTES

---

conditions, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, upon site inspection and review of the record, the Board has noted that the applicant's proposal is contextually compatible with the surrounding homes and neighborhood, which

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

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

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under 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 stipulated on the conditions noted below to address potential hazardous materials impacts on the proposed residents and under 6 NYCRR Part 617 and '6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, under Z.R. §72-21, to permit, in an R5 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which creates non-compliances with respect to floor area ratio, open space ratio, lot coverage, front yard and building height, contrary to Zoning Resolution §§23-141(c), 23-631, 23-45 and 25-23; 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 21, 2003"- (3) sheets, and on further condition:

THAT the Board's approval shall be contingent upon the following:

- (1) Applicant's completion, recording and execution of a Restrictive Declaration agreed to by DEP;
- (2) Applicant's commitment to follow DEP's recommendations, including a Hazardous Materials Sampling Protocol, as stated in its letter dated October 3, 2003 and BSA's letter dated October 9, 2003;
- (3) The applicant shall obtain DEP's approvals prior to obtaining building permits relative to cleaning the site and constructing the proposed buildings in accordance with the subject approvals;

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

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

THAT the premises shall comply with all applicable fire safety

WHEREAS, a public hearing was held on this application on

consists of 2 and 3-family houses; 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 measures;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, January 6, 2004.

---

## 113-03-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for 909 East 5th Street, LLC, owner.

SUBJECT - Application April 7, 2003 - under Z.R. §72-21 to permit, in an R5 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which creates non-compliances with respect to floor area ratio, open space ratio, lot coverage, front yard and building height, contrary to Zoning Resolution §§23-141(c), 23-631, 23-45 and 25-23.

PREMISES AFFECTED - 1689 60<sup>th</sup> Street, northwest corner of 17<sup>th</sup> Avenue, Block 5510, Lot 148, Borough of Brooklyn.

### COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Howard Hornstein.

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

**THE VOTE TO GRANT** -

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

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated November 12, 2003, acting on NB Application No. 301430388, reads:

"Proposed residential building in an R5 zoning district does not comply with F.A.R., Lot Coverage and Yard requirements of Z.R. section 23-146."; and

June 24, 2003 after due notice by publication in The City Record,

---

# MINUTES

---

and then laid over to August 5, 2003, September 16, 2003, October 28, 2003, and then to November 25, 2003 for decision; the decision was then deferred to January 6, 2004; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R5 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which creates non-compliances with respect to floor area ratio, open space ratio, lot coverage, front yard and building height, contrary to Zoning Resolution §§23-141(c), 23-631, 23-45 and 25-23; and

WHEREAS, the subject zoning lot is a corner lot with a total lot area of 10,017 sq. ft., which has historically been used an auto service/repair facility but which is now currently vacant; and

WHEREAS, the subject application is part of a series, which would permit the development of five attached buildings each with three floors and a cellar containing a total of 15 dwelling units; and

WHEREAS, the applicant maintains and the record shows that the site contains underground storage tanks and hydraulic lifts, and that environmental reports revealed the likely existence of petroleum spills from the tanks and possible leakage from the lifts; and

WHEREAS, the applicant represents that the presence of contaminated soil from the spills and leakage leads to a need for extensive remediation and attendant increased development costs; and

WHEREAS, the aforementioned unique physical conditions, namely the soil contamination that is a vestige of the past use of the site, creates practical difficulties in developing the site in conformity with current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; 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, upon site inspection and review of the record, the Board has noted that the applicant's proposal is contextually compatible with the surrounding homes and neighborhood, which consists of 2 and 3-family houses; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor

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

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

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

THAT the above conditions shall be noted in the Certificate of

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

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.

Resolved that the Board of Standards and Appeals issues a Negative Declaration stipulated on the conditions noted below to address potential hazardous materials impacts on the proposed residents and under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, under Z.R. §72-21, to permit, in an R5 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which creates non-compliances with respect to floor area ratio, open space ratio, lot coverage, front yard and building height, contrary to Zoning Resolution §§23-141(c), 23-631, 23-45 and 25-23; 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 21, 2003"- (3) sheets, and on further condition:

THAT the Board's approval shall be contingent upon the following:

- (1) Applicant's completion, recording and execution of a Restrictive Declaration agreed to by DEP;
- (2) Applicant's commitment to follow DEP's recommendations, including a Hazardous Materials Sampling Protocol, as stated in its letter dated October 3, 2003 and BSA's letter dated October 9, 2003;
- (3) The applicant shall obtain DEP's approvals prior to obtaining building permits relative to cleaning the site and constructing the proposed buildings in accordance with the subject approvals;

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

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

---

# MINUTES

---

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 6, 2004.

---

## 114-03-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for 909 East 5th Street, LLC, owner.

SUBJECT - Application April 7, 2003 - under Z.R. §72-21 to permit, in an R5 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which creates non-compliances with respect to floor area ratio, open space ratio, lot coverage, front yard and building height, contrary to Zoning Resolution §§23-141(c), 23-631, 23-45 and 25-23.

PREMISES AFFECTED - 1691 60<sup>th</sup> Street, northwest corner of 17<sup>th</sup> Avenue, Block 5510, Lot 147, Borough of Brooklyn.

### COMMUNITY BOARD #12BK

#### APPEARANCES -

For Applicant: Howard Hornstein.

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

#### THE VOTE TO GRANT -

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

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated November 12, 2003, acting on NB Application No. 301430397, reads:

"Proposed residential building in an R5 zoning district does not comply with F.A.R., Lot Coverage and Yard requirements of Z.R. section 23-146."; and

WHEREAS, a public hearing was held on this application on June 24, 2003 after due notice by publication in The City Record, and then laid over to August 5, 2003, September 16, 2003,

WHEREAS, upon site inspection and review of the record, the Board has noted that the applicant's proposal is contextually compatible with the surrounding homes and neighborhood, which consists of 2 and 3-family houses; and

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

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

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

WHEREAS, the Board has determined that the evidence in the

October 28, 2003, and then to November 25, 2003 for decision; the decision was then deferred to January 6, 2004; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R5 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which creates non-compliances with respect to floor area ratio, open space ratio, lot coverage, front yard and building height, contrary to Zoning Resolution §§23-141(c), 23-631, 23-45 and 25-23; and

WHEREAS, the subject zoning lot is a corner lot with a total lot area of 10,017 sq. ft., which has historically been used an auto service/repair facility but which is now currently vacant; and

WHEREAS, the subject application is part of a series, which would permit the development of five attached buildings each with three floors and a cellar containing a total of 15 dwelling units; and

WHEREAS, the applicant maintains and the record shows that the site contains underground storage tanks and hydraulic lifts, and that environmental reports revealed the likely existence of petroleum spills from the tanks and possible leakage from the lifts; and

WHEREAS, the applicant represents that the presence of contaminated soil from the spills and leakage leads to a need for extensive remediation and attendant increased development costs; and

WHEREAS, the aforementioned unique physical conditions, namely the soil contamination that is a vestige of the past use of the site, creates practical difficulties in developing the site in conformity with current zoning; and

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

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 stipulated on the conditions noted below to address potential hazardous materials impacts on the proposed residents and under 6 NYCRR Part 617 and '6-07(b) of the Rules

---

# MINUTES

---

of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, under Z.R. §72-21, to permit, in an R5 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which creates non-compliances with respect to floor area ratio, open space ratio, lot coverage, front yard and building height, contrary to Zoning Resolution §§23-141(c), 23-631, 23-45 and 25-23; 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 21, 2003"- (3) sheets, and on further condition:

THAT the Board's approval shall be contingent upon the following:

- (1) Applicant's completion, recording and execution of a Restrictive Declaration agreed to by DEP;
- (2) Applicant's commitment to follow DEP's recommendations, including a Hazardous Materials Sampling Protocol, as stated in its letter dated October 3, 2003 and BSA's letter dated October 9, 2003;
- (3) The applicant shall obtain DEP's approvals prior to obtaining building permits relative to cleaning the site and constructing the proposed buildings in accordance with the subject approvals;

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

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

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

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

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

THAT this approval is limited to the relief granted by the WHEREAS, the decision of the Borough Commissioner, dated November 12, 2003, acting on NB Application No. 301430404, reads:

"Proposed residential building in an R5 zoning district does not comply with F.A.R., Lot Coverage and Yard requirements of Z.R. section 23-146."; and

WHEREAS, a public hearing was held on this application on June 24, 2003 after due notice by publication in The City Record, and then laid over to August 5, 2003, September 16, 2003, October 28, 2003, and then to November 25, 2003 for decision; the decision was then deferred to January 6, 2004; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R5 zoning district, the erection of a three-story,

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 6, 2004.

---

## 115-03-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for 909 East 5th Street, LLC, owner.

SUBJECT - Application April 7, 2003 - under Z.R. §72-21 to permit, in an R5 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which creates non-compliances with respect to floor area ratio, open space ratio, lot coverage, front yard and building height, contrary to Zoning Resolution §§23-141(c), 23-631, 23-45 and 25-23.

PREMISES AFFECTED - 1693 60<sup>th</sup> Street, northwest corner of 17<sup>th</sup> Avenue, Block 5510, Lot 47, Borough of Brooklyn.

### COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Howard Hornstein.

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

**THE VOTE TO GRANT** -

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

**THE RESOLUTION** -

three-family dwelling (Use Group 2), which creates non-compliances with respect to floor area ratio, open space ratio, lot coverage, front yard and building height, contrary to Zoning Resolution §§23-141(c), 23-631, 23-45 and 25-23; and

WHEREAS, the subject zoning lot is a corner lot with a total lot area of 10,017 sq. ft., which has historically been used an auto service/repair facility but which is now currently vacant; and

WHEREAS, the subject application is part of a series, which would permit the development of five attached buildings each with three floors and a cellar containing a total of 15 dwelling units; and

WHEREAS, the applicant maintains and the record shows that the site contains underground storage tanks and hydraulic lifts, and that environmental reports revealed the likely existence of petroleum spills from the tanks and possible leakage from the lifts; and

WHEREAS, the applicant represents that the presence of contaminated soil from the spills and leakage leads to a need for extensive remediation and attendant increased development costs; and

---

# MINUTES

---

WHEREAS, the aforementioned unique physical conditions, namely the soil contamination that is a vestige of the past use of the site, creates practical difficulties in developing the site in conformity with current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; 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, upon site inspection and review of the record, the Board has noted that the applicant's proposal is contextually compatible with the surrounding homes and neighborhood, which consists of 2 and 3-family houses; and

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

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

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

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

WHEREAS, the Board has conducted an environmental (2) Applicant's commitment to follow DEP's recommendations, including a Hazardous Materials Sampling Protocol, as stated in its letter dated October 3, 2003 and BSA's letter dated October 9, 2003;

(3) The applicant shall obtain DEP's approvals prior to obtaining building permits relative to cleaning the site and constructing the proposed buildings in accordance with the subject approvals;

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

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

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

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

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

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

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

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

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 stipulated on the conditions noted below to address potential hazardous materials impacts on the proposed residents and under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, under Z.R. §72-21, to permit, in an R5 zoning district, the erection of a three-story, three-family dwelling (Use Group 2), which creates non-compliances with respect to floor area ratio, open space ratio, lot coverage, front yard and building height, contrary to Zoning Resolution §§23-141(c), 23-631, 23-45 and 25-23; 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 21, 2003"- (3) sheets, and on further condition:

THAT the Board's approval shall be contingent upon the following:

(1) Applicant's completion, recording and execution of a Restrictive Declaration agreed to by DEP;

jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, January 6, 2004.

## **120-03-BZ**

APPLICANT - Mothiur Rahman, for Earth Properties & Construction Corp., owner.

SUBJECT - Application April 16, 2003- under Z.R. §72-21 to permit the legalization of an existing public parking lot, Use Group 8C, located in an R5 zoning district, which is contrary to Z.R. § 22-00.

PREMISES AFFECTED - 1810 Loring Place, northeast corner of West Tremont Avenue, Block 2879, Lot 51, Borough of The Bronx.

## **COMMUNITY BOARD #5BX**

APPEARANCES - None.

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

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

---

# MINUTES

---

.....0  
THE RESOLUTION-

WHEREAS, the decision of the Borough Commissioner, dated April 8, 2003, acting on Application No. 200736123 reads:

"Use Group 8 (Public Parking Lot) not permitted in R5 district as per Section 22-00 Zoning Resolution"; and

WHEREAS, a public hearing was held on this application on September 30, 2003 after due notice by publication in The City Record and laid over to October 28, 2003, and then to January 6, 2004 for decision; and

WHEREAS, Community Board 5 has recommended approval of this application; and

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

WHEREAS, this is an application under Z.R. §72-21 to permit the legalization of the commercial use of an existing accessory parking lot, Use Group 8C, located in an R5 zoning district, which is contrary to Z.R. §22-00; and

WHEREAS, pursuant to a Restrictive Declaration between

WHEREAS, the applicant maintains that the current owner cleaned and paved the property, erected secure fencing, lighting and 24 hour security, and began to provide secure parking for neighborhood residents; and

WHEREAS, the record indicates that the lot's history of development with an unsafe building that was eventually demolished and its subsequent vacancy of over 20 years, resulting in an abandoned lot filled with rubble, debris, and garbage, are unique conditions demonstrating that development of this site with a conforming use creates an unnecessary hardship; and

WHEREAS, the evidence in the record, including a feasibility study demonstrates that developing the site with a conforming use would be costly and would not yield a reasonable return; and

WHEREAS, the record indicates that the neighborhood contains a number of mixed-use multiple dwelling residential and commercial occupancies, some community facilities, as well as many buildings which are solely residential or commercial; and

WHEREAS, the applicant represents that attendants will supervise the operation of the subject lot, controlling vehicle movement and placement and thereby mitigating vehicle light and noise impacts; and

WHEREAS, additionally, the applicant has provided assurances that the sidewalks will not be obstructed as there will be an attendant on the site 24 hours a day; and

WHEREAS, there is ample community support for this application, as it provides needed parking to residents in the immediate vicinity of the parking lot; and

WHEREAS, out of concern that the surrounding area may return to an as-of-right residential use, the Board notified the applicant that the term for this variance would be limited to five years; and

the owner of the parking lot and the City of New York, executed November 21, 2000, the subject lot must be maintained as an accessory parking lot, with 53 accessory spaces, in relation to two parcels - 1771 Andrews Avenue and 200 West Tremont Avenue - for teachers, doctors, personnel, parents and visitors to a neighboring vocational training program and child care facility, and if either of these two parcels are no longer used, then the owner must cease use of the lot as a parking lot; and

WHEREAS, this variance applications would legalize the non-accessory commercial use of the parking lot; and

WHEREAS, the record indicates that in 1983, a building was situated on the subject lot which the Department of Buildings deemed unsafe, resulting in demolition of the building; and

WHEREAS, the applicant represents that due to the above demolition, rocks and debris at the site made development of the site impractical, in that any rebuilding would require extensive and costly site preparation and removal of the former foundation materials; and

WHEREAS, the applicant states that due to the cost of rebuilding, the subject lot remained vacant for twenty years, and it was utilized primarily as an illegal garbage dump; and

WHEREAS, the applicant consented to the five year term; and

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

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and WHEREAS, the Board finds that the variance application is the minimum variance necessary to afford the owner relief; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and 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, to permit the legalization of an existing public parking lot, Use Group 8C, located in an R5 zoning district, which is contrary to Z.R. § 22-00, on condition that the lot be paved, striped and maintained in accordance with the drawings as they apply to the objections above noted, filed with this application marked "Received October 20, 2003"-(2) sheets; and on further condition;

THAT the term of the Variance will begin on January 6, 2004

---

# MINUTES

---

and expire on January 6, 2009;

THAT the owner shall comply fully with the Restrictive Declaration noted above and shall provide 53 accessory parking spaces;

THAT there shall be no parking on the sidewalks abutting the subject lot;

THAT there shall be no auto sales or repair on the subject lot;

THAT fencing shall be maintained in accordance with BSA approved plans, and will be 100 per cent opaque;

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

THAT upon expiration of the term of this Variance, if the applicant/owner returns to the Board of Standards and Appeals for an extension of term, at such time the applicant will submit with the application a financial study examining the feasibility of residential use of the subject lot;

## 179-03-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Sephardic Foundation for Torah Studies, Inc, owner.

SUBJECT - Application May 28, 2003 - under Z.R. §72-21 to permit, in an R6-A zoning district, the proposed construction of a seven-story condominium building with a community facility as one of the condominium unit owners, which does not comply with the zoning requirements for floor area and setback regulations contrary to Z.R. §§24-11 and 23-633.

PREMISES AFFECTED - 402 Avenue "U", aka 2133 East Second Street, southeast corner, Block 7129, Lot 1, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Howard Hornstein.

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

**THE VOTE TO GRANT** -

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

**THE RESOLUTION-**

WHEREAS, the decision of the Borough Commissioner, dated May 19, 2003, acting on Application No. 301271567, reads in pertinent part:

"Proposed FAR is 4.94 in a R6-A zoning district with a maximum FAR of 3.00. ZR 24-351 requires 8 foot side yard at south property line (district boundary) adjacent to adjoining R4 district and 5 foot streetwall setback with maximum base height of 40 feet and maximum building height of 50 feet for portion of building within 25 feet of district boundary. Proposed building has no streetwall setback and exceeds street wall and maximum building height within 25 feet of boundry [sic]."; and

WHEREAS, a public hearing was held on this application on August 12, 2003, after due publication in The City Record, laid

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

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

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

Adopted by the Board of Standards and Appeals, January 6, 2004.

over to October 21, 2003, November 25, 2003 and then to January 6, 2004 for decision; and

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

WHEREAS, this is an application to permit, in an R6-A zoning district, the proposed construction of a seven-story condominium building with a community facility as one of the condominium unit owners, which does not comply with the zoning requirements for floor area and setback regulations, contrary to Z.R. §§24-11 and 23-633; and

WHEREAS, the subject zoning lot is located at on the corner of Avenue U and East 2nd Street, and has a total lot area of approximately 10,000 square feet; and

WHEREAS, the applicant represents that the site is improved with a former automobile repair building, which is currently being used as a small community facility; and

WHEREAS, this applicant seeks to demolish the existing structure, and construct a seven-story condominium building with a total floor area of 40,494 square feet, of which 10,494 square feet shall be owned by and operated as a community facility; and

WHEREAS, the record indicates that the site was used as a gasoline service station for much of the last century; and

WHEREAS, the applicant states that the site is burdened with 12 underground storage tanks which have resulted in significant petroleum related soil contamination; and

WHEREAS, the applicant further states that all contaminated soil must be removed in accordance with City, State and Federal guidelines before the construction of any new building can commence; and

WHEREAS, the Board finds that the subsurface soil contamination constitutes a unique physical condition inherent to the subject lot, resulting in practical difficulties and unnecessary hardship so as to satisfy the finding required by Z.R. §72-21 (a) of the Zoning Resolution; and

---

# MINUTES

---

WHEREAS, a detailed financial analysis has been provided to the Board demonstrating that because of such physical conditions there is no reasonable possibility that the development of the zoning lot in strict conformity with the provisions of the Zoning Resolution will bring a reasonable return; and

WHEREAS, the Board finds that evidence in the record, including the financial analysis, demonstrate that developing the site with a conforming use would not yield a reasonable return; and

WHEREAS, the applicant contends that the proposed building would not alter the essential character of the neighborhood or

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 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.

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, to permit, in an R6-A zoning district, the proposed construction of a seven-story condominium building with a community facility as one of the condominium unit owners, which does not comply with the zoning requirements for floor area and setback regulations contrary to Z.R. §§24-11 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 May 28, 2003"-(9) sheets and "November 12, 2003"-(1) sheet; and on further condition:

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

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

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

THAT there shall be no commercial catering or functions in the community facility space;

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

THAT substantial construction shall be completed in

district in which the zoning lot is located, would not impair the appropriate use and development of adjacent property, would not be detrimental to the public welfare, and would, in fact, provide a benefit to the neighborhood as a whole; and

WHEREAS, the applicant represents that 23 accessory parking spaces are being provided - double the number of required spaces; and

WHEREAS, the record indicates that the proposed building is smaller than the existing multiple dwelling located directly across East 2nd Street; and

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, January 6, 2004.

---

## 230-03-BZ

APPLICANT - Alfred V. Saulo, Architect, for Mike Graziano, owner.

SUBJECT - Application July 2, 2003 - under Z.R. §72-21 to permit the proposed construction of a one-family dwelling (Use Group 1) located in an R-3A zoning district, which does not comply with the zoning requirements for front yard, contrary to Z.R. §23-45.

PREMISES AFFECTED - 144 Billop Avenue, southeast corner of Brighton Street, Block 7881, Lots 67, 1 and 2, Borough of Staten Island.

### COMMUNITY BOARD #3S.I.

APPEARANCES - None.

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

**THE VOTE TO GRANT** -

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

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated June 3, 2003 acting on Application No. 50060927 reads:

"The proposed new building in an R3A zoning district to be occupied as a single family detached residence, Use Group 1, does not have the minimum required front yard on Billop Ave and is contrary to Section 23-45 ZR and shall therefore be

---

# MINUTES

---

referred to the Board of Standards and Appeals."; and

WHEREAS, a public hearing was held on this application on December 18, 2003 after due notice by publication in The City Record, laid over to January 6, 2004 for decision; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a one-family dwelling (Use Group 1) located in an R-3A zoning district, which does not comply with the zoning requirements for front yard, contrary to Z.R. §23-45; and

WHEREAS, the record indicates that the subject premises consists of a single zoning lot, comprised of two tax lots; and

WHEREAS, the record indicates that the subject site is located on a corner lot; and

WHEREAS, the subject application seeks to reduce the minimum required front yard from 10 feet to 5 feet along Billop Avenue; and

WHEREAS, the applicant represents that compliance with the required front yard regulations would result in a house with a 10 foot depth; and

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

WHEREAS, the aforementioned unique physical condition, namely the narrowness of the subject through lot, creates a practical difficulty in developing the site in conformity with the current 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 zoning will provide a reasonable return; and

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

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

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

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

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

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

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

Resolved that the Board of Standards and Appeals issues a Type II Determination under 6 NYCRR Part 617 and §6-07(b) of THE VOTE TO GRANT -

WHEREAS, the premises and surrounding area had a site and neighborhood examinations by a committee of the Board consisting of Chairman James Chin, Vice Chair Satish Babbar, Commissioner Joel Miele and Commissioner Peter Caliendo; and the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, to permit the proposed construction of a one-family dwelling (Use Group 1) located in an R-3A zoning district, which does not comply with the zoning requirements for front yard, 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 2, 2003"-(1) sheet and "December 23, 2003"-(1) sheet; and on further condition;

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, January 6, 2004.

---

## **238-03-BZ**

APPLICANT - Harold Weinberg, P.E., for Congregation Derech Emunah, owner.

SUBJECT - Application July 9, 2003 - under Z.R. §72-21 to permit in an R3-2 zoning district, the proposed side and rear yard enlargements, to an existing synagogue and parsonage, Use Group 4, which does not comply with the zoning requirements for floor area ratio, lot coverage, and side and rear yards, contrary to Z.R. §§24-11, 24-35 and 24-36.

PREMISES AFFECTED - 2305 Olean Street, north side, 16'-1½" east of East 23rd Street, Block 7677, Lot 63, Borough of Brooklyn.

## **COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Harold Weinberg.

**ACTION OF THE BOARD** - Application granted on condition. Affirmative: Chairman Chin, Vice-Chair Babbar and Commissioner

---

# MINUTES

---

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

## THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 25, 2003 acting on Application No. 301238550 reads: "BOARD OF STANDARDS AND APPEALS DENIALTHE PROPOSED ENLARGEMENT OF THE EXISTING SYNAGOGUE IN USE GROUP 4 IN AN R2 ZONING DISTRICT

1. CREATES NON-COMPLIANCES WITH RESPECT TO FLOOR AREA RATIO EXCEEDING THE ALLOWABLE FLOOR AREA RATIO AND LOT COVERAGE AND IS CONTRARY TO SECTION 24-11 OF THE ZONING RESOLUTION.
2. CREATES NON-COMPLIANCES WITH RESPECT TO SIDE YARDS AND IS CONTRARY TO SECTION 24-35 OF THE ZONING RESOLUTION.
3. REDUCES THE REAR YARD BELOW 30' AND IS CONTRARY TO SECTION 24-36 OF THE ZONING RESOLUTION."; and

WHEREAS, a public hearing was held on this application on November 18, 2003 after due notice by publication in The City Record, and laid over to December 23, 2003 and then to January 6, 2004 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit in an R3-2 zoning district, the proposed side and rear yard enlargements, to an existing synagogue and parsonage, Use Group 4, which does not comply with the zoning requirements for floor area ratio, lot coverage, and side and rear yards, contrary to Z.R. §§24-11, 24-35 and 24-36; and

WHEREAS, the subject parcel is a 40' by 100' lot, which is currently improved with an existing legal synagogue; and

WHEREAS, the record indicates that the congregation has greatly increased in size since 1980 and that the structure is not suitable to accommodate the synagogue's programmatic needs; and

WHEREAS, the applicant has demonstrated that the site is too small and narrow to accommodate the current congregation; and

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit in an R3-2 zoning district, the proposed side and rear yard enlargements, to an existing synagogue and parsonage, Use Group 4, which does not comply with the zoning requirements for floor area ratio, lot coverage, and side and rear yards, contrary to Z.R.

WHEREAS, the requested enlargements are needed to facilitate the congregation's numerous social gatherings and religious observances; and

WHEREAS, the applicant asserts that religious custom, namely the location of the synagogue and the parsonage on the same lot, and religious requirements, namely separate private entrances for both male and female members of the congregation, create a practical difficulty in the construction of a conforming development; and

WHEREAS, the Board finds that the programmatic needs of the community facility create practical difficulties with strict compliance with the provisions of the Zoning Resolution; and

WHEREAS, additionally, the Board finds that the aforementioned unique physical conditions, namely the narrowness of the narrowness of the subject lot, create practical difficulties in developing the site in conformity with the current zoning regulations; and

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

WHEREAS, the record indicates that the surrounding area consists largely of residential uses mixed with some community facility uses; and

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and 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.

§§24-11, 24-35 and 24-36, 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 15, 2003" - (11) sheets and "December 29, 2003"-(3) sheets, and on further condition;

THAT there shall be no cooking on the premises and the kitchen shall be used for warming food only;

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

THAT any graffiti located on the premises shall be removed

---

# MINUTES

---

within 48 hours;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, January 6, 2004.

---

## 269-03-BZ

APPLICANT - Wolf, Block, Schorr and Solis-Cohen LLP by David E. Bronston, for Southbridge Towers, Inc., owner; Cellular Telephone Company d/b/a AT&T Wireless Services, lessees.

SUBJECT - Application August 26, 2003 - under Z.R. §73-30 to permit, in an R-2 zoning district, the erection of a 30 foot high cellular monopole, which, pursuant to Z.R. §22-21, requires a special permit.

PREMISES AFFECTED - 333 Pearl Street, northwest corner of Frankfort Street, Block 94, Lot 1, Borough of Manhattan.

### COMMUNITY BOARD #1M

#### APPEARANCES -

For Applicant: David Bronston.

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

#### THE VOTE TO GRANT -

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

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

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 20, 2003 acting on Application No. 103518506, reads in pertinent part:

"The proposed scope of work does not conform to T.P.P.N. #5/98 in that the antenna is not located within the building. Therefore, obtain special permit as per section 22-21 on [sic] the New York City Zoning Resolution."; and

WHEREAS, a public hearing was held on this application on November 5, 2003, after due notice by publication in the City Record, and then to November 25, 2003 for decision; the decision was then deferred to January 6, 2004; and

WHEREAS, this is an application under Z.R. §73-30, to permit the erection of a 30 foot high cellular monopole in a R-8 zoning district, which, pursuant to Z.R. §22-21, requires a special permit; and

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

WHEREAS, the applicant states that the pole will contain two antennas and cables, and will be sited in a grassy area adjacent to a Mitchell-Lama residential building (with related equipment to be placed in the basement of the building), pursuant to an agreement between the wireless company and the owning entity of the building; 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 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

area; 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(a) and (b); 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

---

# MINUTES

---

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, in an R-2 zoning district, the erection of a 30 foot high cellular monopole, 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 August 26, 2003"-(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;

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 above conditions shall appear on the certificate of completion;

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

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

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

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

Adopted by the Board of Standards and Appeals, January 6, 2004.

## PREMISES AFFECTED -

24 Walton Street, corner of Marcy Avenue and Walton Street, Block 2249, Lot 5, Borough of Brooklyn.

32 Walton Street, corner of Marcy Avenue and Walton Street, Block 2249, Lot 7, Borough of Brooklyn.

42 Walton Street, corner of Marcy Avenue and Walton Street, Block 2249, Lot 9, Borough of Brooklyn.

## COMMUNITY BOARD #3BK

### APPEARANCES -

For Applicant: Mark A. Levine.

### THE VOTE TO REOPEN HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to January 13, 2004, at 1:30 P.M., for continued hearing.

---

## 222-02-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Eugene & Francine Simonetti, owner.

SUBJECT - Application August 5, 2002 - under Z.R. §72-21 to permit the proposed nine family residential development, Use Group 2, located in an R4 zoning district, which exceeds the permitted floor area and number of dwelling units, and provide less than the required parking, which is contrary to Z.R. §23-141b, §23-22 and §25-23.

PREMISES AFFECTED - 2547 East 12<sup>th</sup> Street, east side, 280' north of Avenue "Z", Block 7433, Lot 159, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

### APPEARANCES -

For Applicant: Hiram A. Rothkrug.

### THE VOTE TO REOPEN HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to March 9, 2004, at 1:30 P.M., for continued hearing.

---

## 229-02-BZ thru 231-02-BZ

APPLICANT - Mark A. Levine, Esq., of Herrick, Feinstein, LLP, for Simon Dushinsky and Issac Rabinowitz, owners.

SUBJECT - Application August 15, 2002 - under Z.R. §72-21 to permit the proposed construction of a six-story building containing twelve units, Use Group 2, located in an M3-1 zoning district, which is contrary to Z.R. §42-00.

---

## 138-03-BZ

APPLICANT - Agusta & Ross, for C & M Service Center, owner.

SUBJECT - Application June 19, 2003 - under Z.R. §§11-412 & 11-413 to permit the proposed modification and enlargement of a former gasoline service station, to reflect, the elimination of the gasoline sales and to permit a compensating enlargement to facilitate an accessory store, larger repair bays and auto sales, is contrary to Z.R. §32-10.

PREMISES AFFECTED - 79-59/77 Cooper Avenue, north side, at the corner of 69<sup>th</sup> Road, Block 3801, Lot 35, Borough of Queens.

## COMMUNITY BOARD #5Q

### APPEARANCES -

---

# MINUTES

---

For Applicant: Mitchell Ross.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to January 27,  
2004, at 1:30 P.M., for continued hearing.

---

## 241-03-BZ

APPLICANT - Moshe M. Friedman, P.E., for Chaya Knopf,  
owner.

SUBJECT - Application July 10, 2003 - under Z.R. §73-622 to  
permit the 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, open  
space ratio, rear yard and minimum side yard, is contrary to Z.R.  
§23-141(a), §23-47 and §23-48.

PREMISES AFFECTED - 1183 East 28th Street, east side, 100'  
north of Avenue "L", Block 7628, Lot 11, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Moshe Friedman.

THE VOTE TO REOPEN HEARING -

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

.....0

THE VOTE TO CLOSE HEARING -

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

## 60-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Naomi Kunin, owner.

SUBJECT - Application February 15, 2002 - under Z.R. §72-21,  
to permit the legalization of an interior enlargement in an existing one  
family dwelling, Use Group 1, which creates non-compliance with  
respect to floor area ratio and rear yard, which is contrary to Z.R.  
§§23-141 and 23-47.

PREMISES AFFECTED - 3849 Bedford Avenue, east side,  
380.0' south of Quentin Road, Block 6808, Lot 71, Borough of  
Brooklyn

### COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Irving Minkin.

**ACTION OF THE BOARD** - Laid over to March 2, 2004,  
at 1:30 P.M., for continued hearing.

---

## 202-02-BZ

APPLICANT - Sullivan Chester & Gardner, LLP, for Hajj D.  
Corp., owner.

.....0

**ACTION OF THE BOARD** - Laid over to January 13,  
2004, at 1:30 P.M., for decision, hearing closed.

---

## 242-03-BZ

APPLICANT - Moshe M. Friedman, P.E., for Sion Maslaton,  
owner.

SUBJECT - Application July 10, 2003 - under Z.R. §73-622 to  
permit the proposed enlargement to an existing one family dwelling,  
Use Group 1, located in an R3-2 zoning district, which does not  
comply with the zoning requirements for floor area ratio, open space  
ratio, rear yard, side yard, minimum side yard, lot coverage and  
perimeter wall, is contrary to Z.R. §23-141(b), §23-47 and §23-48  
and §23-631(b)

PREMISES AFFECTED - 1858 East 26th Street, west side, 285'-  
0" north of Avenue "S", Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Moshe Friedman.

THE VOTE TO REOPEN HEARING -

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

.....0

THE VOTE TO CLOSE HEARING -

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

.....0

**ACTION OF THE BOARD** - Laid over to January 13,  
2004, at 1:30 P.M., for decision, hearing closed.

---

SUBJECT - Application July 1, 2002 - under Z.R. §72-243 to  
permit the proposed construction of an accessory drive-thru facility  
in conjunction with an eating and drinking establishment, Use Group  
6, which requires a special permit as per Z.R. §32-10.

PREMISES AFFECTED - 133-20 Rockaway Boulevard, between  
133<sup>rd</sup> and 134<sup>th</sup> Streets, Block 11757, Lot 55, Borough of Queens.

### COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Jeffrey Chester.

THE VOTE TO CLOSE HEARING -

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

.....0

**ACTION OF THE BOARD** - Laid over to January 27,  
2004, at 1:30 P.M., for decision, hearing closed.

---

## 68-03-BZ

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

---

# MINUTES

---

owner.

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

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

## COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to January 27, 2004, at 1:30 P.M., for continued hearing.

---

## 77-03-BZ & 78-03-BZ

APPLICANT - Gerald J. Caliendo, R.A., A.I.A., for Better Luxury Homes, Inc., owner.

SUBJECT - Application March 3, 2003 - under Z.R. §72-21 to permit the proposed construction of a one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirement for minimum rear yard, and is contrary to Z.R. §23-47.

PREMISES AFFECTED -

260-32 Grand Central Parkway, east side, 9' south of 267th Street, Block 8443, Lot 123, Borough of Queens.

260-34 Grand Central Parkway, east side, 9' south of 267th

## 243-03-BZ

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

SUBJECT - Application July 16, 2003 - under Z.R. §11-412 to permit the reestablishment of a previous variance granted by the Board, Under Cal. No. 8-78-BZ, which permitted a gasoline service station with accessory uses, Use Group 16, on a site that is divided by an R7-2 and C8-3 district boundary, also the conversion of a portion of the building to an accessory convenient store, is contrary to Z.R. §22-10.

PREMISES AFFECTED - 2420 Amsterdam Avenue, between West 180<sup>th</sup> and West 181<sup>st</sup> Streets, Block 2152, Lots 77 and 83, Borough of Manhattan.

## COMMUNITY BOARD #12M

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to January 27, 2004, at 1:30 P.M., for continued hearing.

---

## 246-03-BZ

APPLICANT - Eric Palatnik, P.C., for Carol Feldsher, owner.

SUBJECT - Application September 19, 2003 - under Z.R. §73-

Street, Block 8443, Lot 120, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Gerald J. Caliendo.

THE VOTE TO CLOSE HEARING -

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

**ACTION OF THE BOARD** - Laid over to February 3, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 142-03-BZ

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

SUBJECT - Application May 1, 2003 - under Z.R. §§11-412 & 11-413

to permit the proposed auto repair shop, Use Group 16, located in a C2-2 zoning district, is contrary to Z.R. §32-00.

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

## COMMUNITY BOARD #12Q

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to February 10, 2004, at 1:30 P.M., for continued hearing.

---

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, open space, rear and side yards, is contrary to Z.R. §23-141, §23-461 and §23-47.

PREMISES AFFECTED - 1371 East 23rd Street, east side, between Avenues "N and M", Block 7659, Lot 15, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

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

**ACTION OF THE BOARD** - Laid over to January 27, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 248-03-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Ross & Ross, owner; Bally Total Fitness, lessee.

---

# MINUTES

---

SUBJECT - Application July 31, 2003 - under Z.R. §72-21 to permit the proposed operation of a physical culture establishment, in an existing two story commercial building, with mezzanine and cellar, that is located in C1-5(R7-2) zoning district.

PREMISES AFFECTED - 1915 Third Avenue, southeast corner of East 106th Street, Block 1655, Lot 45, Borough of Manhattan.

**COMMUNITY BOARD #11M**

APPEARANCES -

For Applicant: Barbara Hair and Howard Hornstein.

THE VOTE TO CLOSE HEARING -

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

**ACTION OF THE BOARD** - Laid over to January 27, 2004, at 1:30 P.M., for decision, hearing closed.

---

**249-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for D & J Herms Realty, Inc., owner.

SUBJECT - Application July 31, 2003 - under Z.R. §72-21 to permit the proposed four story building, with penthouse and cellar, to contain nine residential units on the second, third and fourth floors, and one commercial unit on the ground floor, on a site that is

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

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

**ACTION OF THE BOARD** - Laid over to January 27, 2004, at 1:30 P.M., for decision, hearing closed.

---

**270-03-BZ**

APPLICANT - Joseph P. Morsellino, for Cord Meyer Development, LLC, owner.

SUBJECT - Application August 26, 2003 - under Z.R. §72-21 to permit the proposed erection and maintenance of a mixed use building, Use Groups 2 and 6, with less than the required open space, and which exceeds the permitted floor area ratio, located on a site that is divided by two zoning districts (C4-2 and R7-1), is contrary to §35-23, §23-142, §35-33 and §35-32.

PREMISES AFFECTED - 108-36/50 Queens Boulevard, southeast corner of 71st Road, Block 3257, Lot 1 (formerly 1 and 42), Borough of Queens.

**COMMUNITY BOARD #6Q**

APPEARANCES -

For Applicant: Joseph P. Morsellino.

**ACTION OF THE BOARD** - Laid over to February 10,

located in C8-2 zoning district, which does not permit residential use, is contrary to §32-10.

PREMISES AFFECTED - 265 Bedford Avenue, southeast corner of North First Street, Block 2381, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to January 27, 2004, at 1:30 P.M., for continued hearing.

---

**268-03-BZ**

APPLICANT - Eric Palatnik, P.C., for Park Circle Realty Associates, owner; BP Products North America, lessee.

SUBJECT - Application August 22, 2003 - under Z.R. §§11-411 & 11-412 to permit the reestablishment of a previous variance granted under Cal. No. 704-53-BZ for an automotive service station, the legalization of the existing air station, vacuum and beverage machines, and the modification of the existing signage, which is contrary to Z.R. §32-35.

PREMISES AFFECTED - 145-55 Guy Brewer Boulevard, a/k/a 145-51/67 Guy Brewer Boulevard and 145-54/66 Farmers Boulevard, northeast corner, Block 13313, Lot 40, Borough of Queens.

**COMMUNITY BOARD #13Q**

2003, at 1:30 P.M., for continued hearing.

---

**272-03-BZ**

APPLICANT - Rampulla Associates Architects, for Robert Brown/Daniel Brown, owners.

SUBJECT - Application October 3, 2003 - under Z.R. §72-21 to permit the proposed construction of a cellar and two story retail building, Use Group 6, with accessory off-street parking for twenty-five cars, with a curb cut on Hylan Boulevard which is not permitted, also the proposed building in the required arterial setback is not permitted, is contrary to Z.R. §22-10, §107-251(a) and §107-251(b).

PREMISES AFFECTED - 4106 Hylan Boulevard, south side, between Goodall and Glover Streets, Block 5307, Lots 6, 7, 13 and 14 (tentative Lot 6), Borough of Staten Island.

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

APPEARANCES -

For Applicant: Philip L. Rampulla.

THE VOTE TO CLOSE HEARING -

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

**ACTION OF THE BOARD** - Laid over to January 27, 2004, at 1:30 P.M., for decision, hearing closed.

---

# MINUTES

---

**294-03-BZ**

APPLICANT - Robert Loos, Esq., Sybil H. Pollet, Esq., for The Metropolitan Club, Inc., owner.

SUBJECT - Application September 10, 2003 - under Z.R. §72-21 to permit the proposed enlargement of an existing six story community facility, Use Group 4, located in R10-H and C5-1 zoning districts, and the Special Park Improvement District, which does not comply with the zoning requirements for lot coverage, rear yard, rear yard equivalent and front walls, is contrary to Z.R. §24-11, §33-26, §24-36, §54-31 and §92-042(c).

PREMISES AFFECTED - One East 60th Street, northeast corner of Fifth Avenue, Block 1375, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #8M**

APPEARANCES -

For Applicant: Robert Loos, Sybil Pollet and David Acheson.

THE VOTE TO CLOSE HEARING -

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

**ACTION OF THE BOARD** - Laid over to January 27, 2004, at 1:30 P.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 3:05 P.M.

---

# BULLETIN

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

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 4

January 22, 2004

---

### DIRECTORY

**JAMES CHIN**, *Chairman*

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

**PETER CALIENDO**

**JOEL A. MIELE, SR.**

*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**

---

### CONTENTS

DOCKET .....	46
<b>CALENDAR</b> of March 2, 2004	
Morning .....	47
Afternoon .....	47

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, January 13, 2003**

Morning Calendar .....49

**Affecting Calendar Numbers:**

489-82-BZ	2025 Atlantic Avenue, a/k/a 228 Hopkinson Avenue, Brooklyn
106-02-BZ	4502 14 <sup>th</sup> Avenue, a/k/a 1371 46 <sup>th</sup> Street, Brooklyn
263-02-BZ	1800 Coney Island Avenue, Brooklyn
361-02-BZ	214 25 <sup>th</sup> Street, Brooklyn
867-55-BZ, Vol. II	66-11 Borden Avenue, Queens
931-57-BZ	535 Vanderbilt Avenue, Staten Island
1068-64-BZ	202-01 Northern Boulevard, Queens
1048-80-BZ	1680/88 Albany Avenue, a/k/a 4024 Marginal Street, Brooklyn
132-92-BZ	3948-52 Amboy Road, Staten Island
145-95-BZ	80 Fifth Avenue, Manhattan
59-96-BZ	32-02 Linden Place, a/k/a 135-20 32 <sup>nd</sup> Avenue, Queens
234-98-BZ	2600-2614 Adam Clayton Powell Jr. Boulevard, Manhattan
189-99-BZ	460 Quincy Avenue, Bronx
297-03-A	101-10 Metropolitan Avenue, a/k/a 91-51/99 71 <sup>st</sup> Avenue, Queens
99-01-A, Vol. II	37-18 74 <sup>th</sup> Street, Queens
323-03-A & 117-36 166 <sup>th</sup> Street and 117-38 166 <sup>th</sup> Street, Queens	
324-03-A	
351-03-A	23 Pelham Walk, Queens
352-03-A	362-1/2 Sea Breeze Avenue, Queens
353-03-A	396 Sea Breeze Avenue, Queens

---

# CONTENTS

---

Afternoon Calendar .....54

**Affecting Calendar Numbers:**

229-02-BZ	24 Walton Street, Brooklyn
230-02-BZ	32 Walton Street, Brooklyn
231-02-BZ	42 Walton Street, Brooklyn
73-03-BZ	400 Lenox Avenue, Manhattan
133-03-BZ	2354 East 5 <sup>th</sup> Street, Brooklyn
190-03-BZ & 87-48 215 <sup>th</sup> Place, Queens	
191-03-A	
210-03-BZ	1455 East 24 <sup>th</sup> Street, Brooklyn
242-03-BZ	1858 East 26 <sup>th</sup> Street, Brooklyn
244-03-BZ	3975 Bedford Avenue, Brooklyn
265-03-BZ	28-56/60 Steinway Street, Queens
301-03-BZ	1103 East 22 <sup>nd</sup> Street, Brooklyn
254-02-BZ	41/45 South Fifth Street, Brooklyn
276-02-BZ	160 Norfolk Street, Brooklyn
80-03-BZ	602 39 <sup>th</sup> Street, Brooklyn
83-03-BZ	2100 Hermany Avenue, Bronx
85-03-BZ	922/26 Bedford Avenue, a/k/a 371 Willoughby Avenue, Brooklyn
150-03-BZ	136 Metropolitan Avenue, Brooklyn
183-03-BZ	118 Berry Street and 116 North Seventh Street, Brooklyn
199-03-BZ thru	148/156 Classon Avenue, 77/81/85/89 Emerson Place, Brooklyn
205-03-BZ	
208-03-BZ	2555 Shell Road, Brooklyn
240-03-BZ	83-10 and 83-16 188 <sup>th</sup> Street, Queens
241-03-BZ	1183 East 28 <sup>th</sup> Street, Brooklyn
264-03-BZ	2713 Avenue "N", Brooklyn
266-03-BZ	1710/12 McDonald Avenue, Brooklyn
307-03-BZ	543/45 West 110 <sup>th</sup> Street, Manhattan
310-03-BZ	2223 Avenue "M", Brooklyn
327-03-BZ	175-35 148 <sup>th</sup> Road, Queens
340-03-BZ	408 Greenwich Street, a/k/a 22/24 Hubert Street, Manhattan

**SPECIAL HEARING**

**Wednesday, January 14, 2004**

**Affecting Calendar Numbers:** .....75

281-99-BZ	6055 Strickland Avenue, Brooklyn
-----------	----------------------------------

---

# DOCKETS

---

---

**1-04-BZY** B.S.I. 28 Webster Avenue, west side, 34.4' north of Stanley Avenue, Block 111, Lot 15, Borough of Staten Island. N.B. #500650137. Proposed extension of time to complete construction for a major development for a period of six months pursuant to Z.R. §11-331.

---

**2-04-BZY** B.S.I. 32 Webster Avenue, northwest corner of Stanley Avenue, Block 111, Lot 16, Borough of Staten Island. N.B. #500650128. Proposed extension of time to complete construction for a major development for a period of six months pursuant to Z.R. §11-331.

---

**3-04-BZ** B.Q 147-08 46<sup>th</sup> Avenue, between Parsons Boulevard and 149<sup>th</sup> Street, Block 5452, Lot 3, Borough of Queens. N.B. #401738884. Proposed dental office, Use Group 6, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space, front and side yards and use, is contrary to Z.R. §24-111, §22-14, §24-34 and §24-35.

**COMMUNITY BOARD #7Q**

---

**4-04-BZ** B.BK. 177 Norfolk Street, between Oriental and Shore Boulevards, Block 8757, Lot 27, Borough of Brooklyn. Alt.1 #301636674. Proposed enlargement of an existing single family residence, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space, rear and side yards, perimeter wall height and lot coverage is contrary to Z.R. §23-141(a), §23-141, §23-45, §23-47 §23-61 and §23-631b.

**COMMUNITY BOARD 15BK**

---

**5-04-BZ** B.BX. 595 Gerard Avenue, a/k/a 587/95 River Avenue, between 150<sup>th</sup> and 151<sup>st</sup> Streets, Block 2354, Lot 1, Borough of The Bronx. Alt. #200821780. Proposed construction and operation of a school, without sleeping accommodations on the site, Use Group 3, to be located in an M1-2 zoning district, requires a special permit from the Board as per Z.R. §73-19.

**COMMUNITY BOARD #4BX**

---

**6-04-BZ** B.BK. 7118/24 Third Avenue, between 71<sup>st</sup> and 72<sup>nd</sup> Streets, Block 5890, Lot 43, Borough of Brooklyn. Alt.1 #301499484. The legalization of an existing physical culture establishment, situated in an R6 and C1-2/R6 Bay Ridge Special District, and located

on the second and third floors of an existing three story building, is contrary to Z.R. §32-10.

**COMMUNITY BOARD #10BK**

---

**7-04-BZ** B.BX. 2208 Boller Avenue, property fronting on Boller and Hunter Avenues and Erskine Place, Block 5135, Lot 1, Borough of The Bronx. N.B. #200804291. Proposed construction of a Church/Community Outreach Center, Use Group 4, located in an R3-2 zoning district, which does not comply with the zoning requirements for open space ratio, floor area ratio, height and setback, and encroaches onto the front and side yards, is contrary to Z.R. §24-11, §24-34, §24-35 and §24-521.

**COMMUNITY BOARD #10BX**

---

**8-04-BZ** B.Q. 78-15 Parsons Boulevard, between 78<sup>th</sup> Avenue and 78<sup>th</sup> Road, Block 6829, Lot 1, Borough of Queens. Applic. #400865328. 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, is contrary to Z.R. §24-11, §24-521, §24-34 and §24-33.

**COMMUNITY BOARD #8Q**

---

**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 2, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, March 2, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## **SPECIAL ORDER CALENDAR**

### **1050-38-BZ, Vol. II**

APPLICANT - Walter T. Gorman, P.E., for Sovereign Realty Associates, LLC, owner; Amoco Oil Company, lessee.

SUBJECT - Application - November 20, 2003 reopening for an extension of term of variance which expires June 30, 2004.

PREMISES AFFECTED - 1301/1319 65th Street a/k/a 6411/23 13th Avenue, northeast corner of 13th Avenue, Block 5747, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

---

### **889-55-BZ, Vol. II**

APPLICANT - J & H Management Corp., for Everything Auto Repair, lessee.

SUBJECT - Application October 21, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 1, 2003

PREMISES AFFECTED - 69-13/25 (69-15 Official) 164th Street, east side 110' south of 69th Avenue, Block 6931, Lot 38, Borough of Queens.

**COMMUNITY BOARD #8**

---

### **923-77-BZ**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for Matthew Percia, owner.

SUBJECT - Application September 9, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 31, 2003.

PREMISES AFFECTED - 1905 McDonald Avenue, east side of McDonald Avenue, 105' south of Quentin Road, Block 6658, Lot 86, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

---

**MARCH 2, 2004, 1:30 P.M.**

### **260-03-BZ**

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

SUBJECT - Application August 14, 2003 - under Z.R. §72-21 to permit the legalization of sixty (60) residential units, in an existing

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, March 2, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## **ZONING CALENDAR**

### **223-03-BZ**

APPLICANT - C Anthony Mulrain c/o Greenberg Traurig, LLP, for Majority Baptist Church, owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application July 1, 2003 - under Z.R. §73-30 to permit the proposed installation of a wireless telecommunications facility, located in a C2-2 within an R3-2 zoning district, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 115-15 Farmers Boulevard, bounded by 115th Road and 115th Avenue, Block 11032, Lot 4, Borough of Queens.

**COMMUNITY BOARD #12**

---

### **224-03-BZ**

APPLICANT - C Anthony Mulrain c/o Greenberg Traurig, LLP, for Mal Pal Realty Corp., owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application July 1, 2003 - under Z.R. §73-30 to permit the proposed installation of a wireless telecommunications facility, located in an R3-2 zoning district, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 139-19 109th Avenue, bounded by 139th and 142nd Streets, Block 10068, Lots 210, 213, 214 and 215, Borough of Queens.

**COMMUNITY BOARD #12**

---

### **258-03-BZ**

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**

---

seven story building, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

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

**COMMUNITY BOARD #2BK**

---

---

# CALENDAR

---

---

## **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 #10**

---

## **302-03-BZ**

APPLICANT - Harold Weinberg, P.E., for Albert Gonter, owner.

SUBJECT - Application September 22, 2003 - under Z.R. §73-622 to permit the proposed erection of a rear enlargement to an existing one family dwelling, also an extension of the residential use into the attic, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio and rear yard, is contrary to Z.R. §23-141, §23-47 and §54-31.

PREMISES AFFECTED - 1212 East 23rd Street, west side, 100' south of Avenue "L", Block 7640, Lot 51, Borough of Brooklyn.

**COMMUNITY BOARD #14**

---

## **386-03-BZ**

APPLICANT - Steven M. Sinacori/Stadtmauer Bailkin, for Jean E. Manas & Rebecca Haile, owners.

SUBJECT - Application December 12, 2003 - under Z.R. §72-21 to permit the proposed conversion of a vacant doctor's office in the basement of the building, to residential use, and to incorporate that space into the existing one-family residential use, Use Group 2, located in an R7B zoning district, which does not comply with the zoning requirements for rear yard, floor area and lot coverage, is contrary to Z.R. §23-145, §23-44 and §54-31.

PREMISES AFFECTED - 326 East 18th Street, south side, between First and Second Avenues, Block 923, Lot 50, Borough of Manhattan.

**COMMUNITY BOARD #6**

---

*Pasquale Pacifico, Executive Director*

**REGULAR MEETING  
TUESDAY MORNING, JANUARY 13, 2004  
10:00 A.M.**

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, November 18, 2003, were approved as printed in the Bulletin of November 27, 2003, Volume

88, No. 46-47.

---

## **SPECIAL ORDER CALENDAR**

### **489-82-BZ**

**APPLICANT - Beryl J. Levi, for Tower Isles Frozen Foods, Ltd., owner.**

**SUBJECT - Application October 3, 2003 - request for a**

---

# MINUTES

---

waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired February 1, 2003 and for an amendment to the resolution.

**PREMISES AFFECTED** - 2025 Atlantic Avenue, a/k/a 228 Hopkinson Avenue, north side of Atlantic Avenue bounded by Radde Place and Hopkinson Avenue, Block 1564, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #16BK**

**APPEARANCES** - None.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, resolution amended and term of special permit extended.

**THE VOTE TO GRANT** -

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

Negative:.....0

**THE RESOLUTION** -

WHEREAS, a public hearing was held on this application on November 18, 2003, after due notice by publication in *The City Record*, and laid over to January 13, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, an extension of the term of the special permit which expired on February 1, 2003, and an amendment to the resolution; and

WHEREAS, the applicant seeks an amendment for approval to expand the hours of operation at the subject site; and

WHEREAS, on February 1, 1983, the Board granted a special permit under Z.R. §11-413, permitting the change in use from an automobile sales and service establishment to a food products processing establishment; and

WHEREAS, the above grant limited the hours of operation to 7:30 a.m. to 5:00 p.m. five days a week; and

WHEREAS, the applicant now seeks to extend the hours of operation from 4:00 a.m. to 10:00 p.m. six days a week, closed Sunday; and

WHEREAS, the record indicates that the applicant has been a good neighbor to the adjacent properties and that since the last grant its business needs have increased.

*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 special permit which expired on February 1, 2003, pursuant to Zoning Resolution §§72-01 and 72-22, so that as amended this 106-02-BZ

**APPLICANT** - Eric Palatnik, P.C., for Beth Jacobs of Boro Park Inc., owner.

**SUBJECT** - Application October 2, 2003 - reopening for an amendment to the resolution.

**PREMISES AFFECTED** - 4502 14th Avenue a/k/a 1371 46th Street, 14th Avenue and 46th Street, Block 5617, Lots 38, 43, 50, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

**APPEARANCES** -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Application reopened and

portion of the resolution shall read:

“to permit the extension of the term of the special permit for an additional twenty (20) years from February 1, 2003 expiring on February 1, 2023, and to approve the new hours of operation, limited to 4:00 a.m. to 10:00 p.m., Monday through Saturday; 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 24, 2003”- (1) sheet; and on further condition;

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

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

THAT landscaping shall be provided and maintained in accordance with BSA approved plans;

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

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

THAT the Department of Buildings verifies that the plans submitted in conjunction with the instant application substantially conform to plans previously approved by the Board;

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

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

(DOB Application # 747/81)

Adopted by the Board of Standards and Appeals, January 13, 2004.

resolution amended.

**THE VOTE TO GRANT** -

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

Negative:.....0

**THE RESOLUTION**-

WHEREAS, a public hearing was held on this application on December 23, 2003, after due notice by publication in *The City Record*, and laid over to January 13, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, an extension of the

---

# MINUTES

---

term of the special permit which expired on February 1, 2003, and an amendment to the resolution; and

WHEREAS, on December 17, 2002, the Board granted a variance under Z.R. §72-21, permitting, in an R6 zoning district, the enlargement of an existing childcare facility and Yeshiva, (Use Groups 3 and 4) which did not comply with the zoning requirements for lot coverage, rear yard and the required off-street parking, contrary to Z.R. §§24-11, 24-12, 24-36 and 24-31; and

WHEREAS, the applicant seeks an amendment to legalize the addition of a fourth floor to the facility, thereby increasing the floor area by 12, 456 square feet; to amend the previously approved plan to rearrange rooms and to relocate the connecting bridge between two of the structures; and to legalize a change in the height and setback of the building which is contrary to Z.R. §24-522.

Resolved, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, *reopens and amends* the resolution, pursuant to Zoning Resolution §§72-01 and 72-22, so that as amended this portion of the resolution shall read:

“to approve the legalization of the addition of a fourth floor to the facility, thereby increasing the floor area by 12, 456 square feet; the amendment of the previously approved plan to rearrange rooms and to relocate the connecting bridge between two of the structures; and the legalization of a change in the height and setback of the building which is contrary to Z.R. §24-522; 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 2, 2003”- (17) sheets and “January 5, 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 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 DOB/other

**THE VOTE TO GRANT -**

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

Adopted by the Board of Standards and Appeals, January 13, 2004.

---

867-55-BZ, Vol. II

APPLICANT - Carl A. Sulfaro, Esq., for 66-15 JR Realty Corp., owner.

SUBJECT - Application June 17, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired June 19, 2001.

PREMISES AFFECTED - 66-11 Borden Avenue, northeast

jurisdiction objection(s) only;

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

(DOB Alt. Application No. 301161515)

Adopted by the Board of Standards and Appeals, January 13, 2004.

---

263-02-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Sando Realty by David Mosher

SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 1800 Coney Island Avenue, west side, 260' north of Avenue O, south of Avenue N, Block 6592, Lot 34, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES - None.

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

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Adopted by the Board of Standards and Appeals, January 13, 2004.

---

361-02-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: 214 25 Street Corp.

SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 214 25th Street, between Fourth and Fifth Avenue, Block 655, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Marianne Russo.

ACTION OF THE BOARD - Application withdrawn.

corner of Clinton Avenue, Block 2394, Lot 8, Maspeth, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES -

For Applicant: Carl A. Sulfaro.

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

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

---

931-57-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Ziya Ercan, owner;

---

# MINUTES

---

Time Service Station, Inc., lessee.

**SUBJECT - Application June 13, 2003 - reopening for an extension of term of variance which expires May 9, 2004 and for an amendment to the resolution.**

**PREMISES AFFECTED - 535 Vanderbilt Avenue, a/k/a 1047 Van Duzer Street, northeast corner of Vanderbilt Avenue and Van Duzer Street, Block 650, Lot 30, Borough of Staten Island.**

**COMMUNITY BOARD #1SI**

**APPEARANCES -**

**For Applicant: Carl A. Sulfaro.**

**THE VOTE TO CLOSE HEARING -**

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

**Negative:.....0**

**ACTION OF THE BOARD - Laid over to February 3, 2004, at 10 A.M., for decision, hearing closed.**

---

**1068-64-BZ**

**APPLICANT - Alfonse Duarte, P.E., for NWRE 202 Corp., owner; Xiaomeng Li, lessee.**

**SUBJECT - Application November 13, 2003 - request for a rehearing.**

**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 March 9, 2004, for continued hearing.**

---

**ACTION OF THE BOARD - Laid over to February 3, 2004, at 10 A.M., for decision, hearing closed.**

---

**145-95-BZ**

**APPLICANT - Sullivan Chester & Gardner, P.C., for LRHC, Inc., d/b/a Lucille Roberts, owner.**

**SUBJECT - Application June 5, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired November 13, 2002.**

**PREMISES AFFECTED - 80 Fifth Avenue, southwest corner of West 14<sup>th</sup> Street, Block 577, Lot 39, Borough of Manhattan.**

**COMMUNITY BOARD #2M**

**APPEARANCES -**

**For Applicant: Jeffrey Chester.**

**1043-80-BZ**

**APPLICANT - Rothkrug & Rothkrug Weinberg & Spector for RANS 1680 Building Corp., owner.**

**SUBJECT - Application December 17, 2001 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 3, 2000.**

**PREMISES AFFECTED - 1680/88 Albany Avenue a/k/a 4024 Marginal Street, southwest corner of Albany Avenue and Marginal Street, Block 7744, Lots 47, 49, 50, Borough of Brooklyn.**

**COMMUNITY BOARD #18BK**

**APPEARANCES -**

**For Applicant: Eric Palatnik.**

**THE VOTE TO REOPEN HEARING -**

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

**Negative: .....0**

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

---

**132-92-BZ**

**APPLICANT - The Law Office of Fredrick A. Becker, for Joseph DiStefano, owner.**

**SUBJECT - Application February 27, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expires July 19, 2004 and for an amendment to the resolution.**

**PREMISES AFFECTED - 3948-52 Amboy Road, south side of Amboy Road between Hillside Terrace and Brown Avenue, Block 5142, Lot 22, Borough of Staten Island.**

**COMMUNITY BOARD #3SI**

**APPEARANCES -**

**For Applicant: Fredrick A. Becker.**

**THE VOTE TO CLOSE HEARING -**

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

**Negative: .....0**

**THE VOTE TO CLOSE HEARING -**

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

**Negative: .....0**

**ACTION OF THE BOARD - Laid over to February 3, 2004, at 10 A.M., for decision, hearing closed.**

---

**56-96-BZ**

**APPLICANT - The Agusta Group by Philip P. Agusta, R.A., for Yong Brothers Trading, Inc., owner; Pine Village Corp., lessee.**

**SUBJECT - Application November 14, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to obtain a Certificate of Occupancy which expired January 9, 2003.**

**PREMISES AFFECTED - 32-02 Linden Place aka 135-20**

---

# MINUTES

---

32nd Avenue, southwest corner of Linden Place and 32nd Avenue, Block 4950, Lot 48, Borough of Queens.

**COMMUNITY BOARD #7Q**

**APPEARANCES -**

**For Applicant: I. Korman.**

**ACTION OF THE BOARD - Laid over to March 2, 2004, at 10 A.M., for continued hearing.**

---

**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. Blvd., aka 2600-2614 7th Avenue, west side of Adam Clayton Powell Jr. Blvd, blockfront from W150th Street to W. 151st Street, Block 2036, Lot 29, Borough of Manhattan.

**COMMUNITY BOARD #10M**

**APPEARANCES -**

**For Applicant: John Ronan.**

**ACTION OF THE BOARD -** Laid over to March 9, 2004, at 10 A.M., for continued hearing.

---

**189-99-BZ**

**APPLICANT -**The Agusta Group by Philip P. Agusta, R.A., M.U.P., for 460 Quincy Avenue Realty Corporation, owner.

**SUBJECT -** Application October 21, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to complete construction which expired November 14, 2001.

**PREMISES AFFECTED -** 460 Quincy Avenue, southeast corner of Dewey Avenue, Block 5578, Lot 1, Borough of The Bronx.

**COMMUNITY BOARD #10BX**

**WHEREAS, by the letter dated December 26, 2003 the Department of Environmental Protection has reviewed the detailed site plan and cross section SA-1 and SA-2 prepared by the project engineer and has determined that there is enough space between the proposed building and the existing city sewer and that construction will not interfere with the DEP's structures . DEP finds this proposal acceptable; and**

**WHEREAS, by letter dated November 17, 2003, the Department of Transportation has reviewed the above project and has no objections as this site 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.**

**Resolved, that the decision of the Queens Borough Commissioner, dated September 8, 2003, acting on N.B. Application No. 401721286 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 11, 2003"- (1) sheet; and that the**

**APPEARANCES -** None.

**THE VOTE TO CLOSE HEARING -**

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

**Negative: .....0**

**ACTION OF THE BOARD -** Laid over to February 3, 2004, at 10 A.M., for decision, hearing closed.

---

**297-03-A**

**APPLICANT -** Fischbein Badillo Wagner Harding, for 101-02/10 Metropolitan, owner.

**SUBJECT -** Application September 11, 2003 - proposed construction, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

**PREMISES AFFECTED -** 101-10 Metropolitan Avenue, aka 91-51/99 71<sup>st</sup> Avenue, southwest corner, Block 3896, Lot 42, Borough of Queens.

**COMMUNITY BOARD #6Q**

**APPEARANCES -**

**For Applicant: Peter Geis.**

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

**THE VOTE TO GRANT -**

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

**Negative: .....0**

**THE RESOLUTION -**

**WHEREAS, the decision of the Queens Borough Commissioner, dated September 8, 2003 acting on N.B. Application No. 401721286, reads in pertinent part:**

**"1- Construction in the bed of a mapped street is contrary to General City Law, Section 35 and therefore must be referred to the Board of Standards & Appeals"; and**

**WHEREAS, the Fire Department has reviewed the above project and has no objections; and proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; on further condition**

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

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

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

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

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

**Adopted by the Board of Standards and Appeals on January 13, 2004.**

---

---

# MINUTES

---

99-01-A, Vol. II

APPLICANT - The Agusta Group, for Nicolo Balducci, Executor for Serafina Balducci, owner.

SUBJECT - Application August 7, 2003 - To restore to calendar- proposed to legalize the conversion of a two story and cellar frame two (2) family dwelling to stores (U.G. 6).

PREMISES AFFECTED - 37-18 74th Street, west of 74th Street, 161.107' south of 37th Avenue, Block 1284, Lot 47, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Israel Korman.

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

---

323-03-A and 324-03-A

APPLICANT - Sheldon Lobel, P.C., for Infinity Homes, Inc., owner.

SUBJECT - Application October 21, 2003 - Proposed construction of a two-story, two-family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City law.

PREMISES AFFECTED -

117-36 166th Street, between 119th Avenue and Foch Boulevard, Block 12356, Lot 36 and p/o of 39, New Lot 38, Borough of Queens.

117-38 166th Street, between 119th Avenue and Foch Boulevard, Block 12356, Part of Lot 39, New Lot 40, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Jon Popin.

THE VOTE TO CLOSE HEARING -

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

352-03-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Kerry & Larry Gresser, lessees.

SUBJECT - Application November 18, 2003 - Proposed reconstruction and enlargement of the first floor, and the addition of a second story, to an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 362-1/2 Sea Breeze Avenue, south side, 43.19' west of Beach 181st Street, Block 16340, Part of Lot 50, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

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

Negative: .....0

ACTION OF THE BOARD - Laid over to February 3, 2004, at 10 A.M., for decision, hearing closed.

---

351-03-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Dawn & Joseph Henderson, lessees.

SUBJECT - Application November 18, 2003 - Proposed reconstruction and enlargement of the first floor, and the addition of a 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 - 23 Pelham Walk, east side, 240.61' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

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

---

353-03-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Clifford Ris, lessee.

SUBJECT - Application November 18, 2003 - Proposed reconstruction and enlargement of an existing one family dwelling, situated 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 - 396 Sea Breeze Avenue, east side, of Beach 182nd Street, Block 16340, Lot 50, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

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

# MINUTES

*Pasquale Pacifico, Executive Director*

Adjourned: 11:05 A.M.

REGULAR MEETING  
TUESDAY AFTERNOON, JANUARY 13, 2004  
2:00 P.M.

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

ZONING CALENDAR

229-02-BZ

CEQR #03-BSA-022K

APPLICANT - Mark A. Levine, Esq., of Herrick, Feinstein, LLP, for Simon Dushinsky and Issac Rabinowitz, owners.

SUBJECT - Application August 15, 2002 - under Z.R. §72-21 to permit in an M3-1 zoning district, the proposed construction of a three building residential development (Use Group 2), which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 24 Walton Street, corner of Marcy Avenue and Walton Street, Block 2249, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #3BK

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M3-1 zoning district, the proposed construction of a three building residential development (Use Group 2), which is contrary to Z.R. §42-00; and

WHEREAS, the subject site is comprised of three adjacent tax lots, and is irregularly shaped in that it is only 87.9 feet wide, and 172 feet long on the south side and 250 long on the north side; and

WHEREAS, the proposed development will be comprised of three separate 7 story buildings, each on its own tax and zoning lot, with a shared cellar, and overall the three buildings will contain 42 multi-bedroom units designed for larger families; and

WHEREAS, specifically, the applicant represents that when completed the proposed development will contain 1 three-bedroom unit, 17 four-bedroom units, and 24 five-bedroom units; and

WHEREAS, the site is occupied by an existing, vacant three story building containing approximately 21,690 sq. ft. and occupying a footprint of approximately 7,320 sq. ft.; the building is only 61 feet wide and 120 feet long; and

WHEREAS, the applicant represent that the existing building was built as a specialty building for a pharmaceutical company, and is obsolete for an as-of-right use due to the

APPEARANCES -

For Applicant: Mark A. Levine.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative: .....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 22, 2002, acting on NB Application No. 301384794, reads:

“Proposed construction of residential building is not permitted within the M3-1 zone as per section 42-00 of the Zoning Resolution.”; and

WHEREAS, a public hearing was held on this application on January 7, 2003 after due notice by publication in *The City Record*, and then laid over for continued hearings to March 25, 2003, June 24, 2003, September 9, 2003, October 21, 2003, December 9, 2003 and then to January 6, 2004 for decision; the decision was then deferred to January 13, 2004; and

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

small floor plate, limited elevator capacity, and supporting beam configuration, leading to inefficiencies in the moving and storage of manufacturing materials and equipment; and

WHEREAS, the applicant further represents that to rehabilitate the building to accommodate a modern conforming use would require extensive work and significant investment that is cost-prohibitive; and

WHEREAS, the aforementioned unique physical conditions, namely the irregular shape of the site and obsolescence of the existing building, make its occupancy for a complying development impractical and create practical difficulties and unnecessary hardship in developing the site in conformity with current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; 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 bulk and height of the proposed development is in keeping with the adjacent R7-1 zoning district; and

# MINUTES

WHEREAS, the applicant notes that the proposed design of the development possesses a streetwall contextual base similar to existing residential buildings found in the area; and

WHEREAS, upon site inspection and review of the submitted land use maps, the Board notes that the applicant's proposal is contextually compatible with the surrounding buildings and neighborhood, and will not have any adverse impact on the use or development of adjacent properties; 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

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.

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

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

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

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

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

Adopted by the Board of Standards and Appeals, January 13, 2004.

230-02-BZ

CEQR #03-BSA-023K

APPLICANT - Mark A. Levine, Esq., of Herrick, Feinstein, LLP, for Simon Dushinsky and Issac Rabinowitz, owners.

SUBJECT - Application August 15, 2002 - under Z.R. §72-21 to permit in an M3-1 zoning district, the proposed construction of a three building residential development (Use Group 2), which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 32 Walton Street, corner of Marcy Avenue and Walton Street, Block 2249, Lot 7, Borough of Brooklyn.

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, to permit, in an M3-1 zoning district, the proposed construction of a three building residential development (Use Group 2), which is contrary to Z.R. §42-00, on condition that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received December 17, 2003"- (10) sheets, "January 6, 2004"-(2) sheets, and "January 7, 2004"- (2) sheets and on further condition:

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

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

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

THAT when completed, the proposed development shall contain 1 three-bedroom unit, 17 four-bedroom units, and 24 five-bedroom units;

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Mark A. Levine.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT-

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

Negative: .....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 22, 2002, acting on NB Application No. 301384794, reads:

"Proposed construction of residential building is not permitted within the M3-1 zone as per section 42-00 of the Zoning Resolution."; and

WHEREAS, a public hearing was held on this application on January 7, 2003 after due notice by publication in *The City Record*, and then laid over for continued hearings to March 25, 2003, June 24, 2003, September 9, 2003, October 21, 2003, December 9, 2003 and then to January 6, 2004 for decision; the decision was then deferred to January 13, 2004; and

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

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

---

# MINUTES

---

permit, in an M3-1 zoning district, the proposed construction of a three building residential development (Use Group 2), which is contrary to Z.R. §42-00; and

WHEREAS, the subject site is comprised of three adjacent tax lots, and is irregularly shaped in that it is only 87.9 feet wide, and 172 feet long on the south side and 250 long on the north side; and

WHEREAS, the proposed development will be comprised of three separate 7 story buildings, each on its own tax and zoning lot, with a shared cellar, and overall the three buildings will contain 42 multi-bedroom units designed for larger families; and

WHEREAS, specifically, the applicant represents that when completed the proposed development will contain 1 three-bedroom unit, 17 four-bedroom units, and 24 five-bedroom units; and

WHEREAS, the site is occupied by an existing, vacant three story building containing approximately 21,690 sq. ft. and occupying a footprint of approximately 7,320 sq. ft.; the building is only 61 feet wide and 120 feet long; 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 bulk and height of the proposed development is in keeping with the adjacent R7-1 zoning district; and

WHEREAS, the applicant notes that the proposed design of the development possesses a streetwall contextual base similar to existing residential buildings found in the area; and

WHEREAS, upon site inspection and review of the submitted land use maps, the Board has noted that the applicant's proposal is contextually compatible with the surrounding buildings and neighborhood, and will not have any adverse impact on the use or development of adjacent properties; and

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

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

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

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

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

WHEREAS, the applicant represent that the existing building was built as a specialty building for a pharmaceutical company, and is obsolete for an as-of-right use due to the small floor plate, limited elevator capacity, and supporting beam configuration, leading to inefficiencies in the moving and storage of manufacturing materials and equipment; and

WHEREAS, the applicant further represents that to rehabilitate the building to accommodate a modern conforming use would require extensive work and significant investment that is cost-prohibitive; and

WHEREAS, the aforementioned unique physical conditions, namely the irregular shape of the site and obsolescence of the existing building, make its occupancy for a complying development impractical and create practical difficulties and unnecessary hardship in developing the site in conformity with current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; 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 objection cited, to permit, in an M3-1 zoning district, the proposed construction of a three building residential development (Use Group 2), which is contrary to Z.R. §42-00; on condition that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application "Received December 17, 2003"-(10) sheets, "January 6, 2004"-(2) sheets, and "January 7, 2004"-(2) sheets and on further condition:

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

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

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

THAT when completed, the proposed development shall contain 1 three-bedroom unit, 17 four-bedroom units, and 24 five-bedroom units;

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

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

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

---

# MINUTES

---

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 13, 2004.

231-02-BZ

CEQR #03-BSA-024K

APPLICANT - Mark A. Levine, Esq., of Herrick, Feinstein, LLP, for Simon Dushinsky and Issac Rabinowitz, owners.

SUBJECT - Application August 15, 2002 - under Z.R. §72-21 to permit in an M3-1 zoning district, the proposed "Proposed construction of residential building is not permitted within the M3-1 zone as per section 42-00 of the Zoning Resolution."; and

WHEREAS, a public hearing was held on this application on January 7, 2003 after due notice by publication in *The City Record*, and then laid over for continued hearings to March 25, 2003, June 24, 2003, September 9, 2003, October 21, 2003, December 9, 2003 and then to January 6, 2004 for decision; the decision was then deferred to January 13, 2004; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M3-1 zoning district, the proposed construction of a three building residential development (Use Group 2), which is contrary to Z.R. §42-00; and

WHEREAS, the subject site is comprised of three adjacent tax lots, and is irregularly shaped in that it is only 87.9 feet wide, and 172 feet long on the south side and 250 long on the north side; and

WHEREAS, the proposed development will be comprised of three separate 7 story buildings, each on its own tax and zoning lot, with a shared cellar, and overall the three buildings will contain 42 multi-bedroom units designed for larger families; and

WHEREAS, specifically, the applicant represents that when completed the proposed development will contain 1 three-bedroom unit, 17 four-bedroom units, and 24 five-bedroom units; and

WHEREAS, the site is occupied by an existing, vacant three story building containing approximately 21,690 sq. ft.

construction of a three building residential development (Use Group 2), which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 42 Walton Street, corner of Marcy Avenue and Walton Street, Block 2249, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Mark A. Levine.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT-

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

Negative: .....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 22, 2002, acting on NB Application No. 301384794, reads:

and occupying a footprint of approximately 7,320 sq. ft.; the building is only 61 feet wide and 120 feet long; and

WHEREAS, the applicant represent that the existing building was built as a specialty building for a pharmaceutical company, and is obsolete for an as-of-right use due to the small floor plate, limited elevator capacity, and supporting beam configuration, leading to inefficiencies in the moving and storage of manufacturing materials and equipment; and

WHEREAS, the applicant further represents that to rehabilitate the building to accommodate a modern conforming use would require extensive work and significant investment that is cost-prohibitive; and

WHEREAS, the aforementioned unique physical conditions, namely the irregular shape of the site and obsolescence of the existing building, make its occupancy for a complying development impractical and create practical difficulties and unnecessary hardship in developing the site in conformity with current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; 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 bulk and height of the proposed development is in keeping with the adjacent R7-1 zoning district; and

WHEREAS, the applicant notes that the proposed design of the development possesses a streetwall contextual base similar to existing residential buildings found in the area; and

WHEREAS, upon site inspection and review of the submitted land use maps, the Board has noted that the

---

# MINUTES

---

applicant's proposal is contextually compatible with the surrounding buildings and neighborhood, and will not have any adverse impact on the use or development of adjacent properties; and

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

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

WHEREAS, this proposal is the minimum necessary to

*Resolved* that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, to permit, in an M3-1 zoning district, the proposed construction of a three building residential development (Use Group 2), which is contrary to Z.R. §42-00; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 17, 2003"- (10) sheets, "January 6, 2004"- (2) sheets, and "January 7, 2004"- (2) sheets and on further condition:

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

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

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

THAT when completed, the proposed development shall contain 1 three-bedroom unit, 17 four-bedroom units, and 24 five-bedroom units;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, January 13, 2004.

afford the owner relief; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and 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.

73-03-BZ

CEQR #03-BSA-138M

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

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

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

COMMUNITY BOARD #10M

APPEARANCES -

For Applicant: Mark A. Levine

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative: Chairman Chin.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner,

---

# MINUTES

---

dated January 24, 2003, acting on Department of Buildings New Building Application No. 103272076, reads:

- “a) The lot coverage proposed exceeds the allowable. This is contrary to ZR 23-142
- b) The floor area proposed exceeds the allowable. This is contrary to ZR 23-142
- c) The proposed building projects into the required setbacks and sky exposure planes. These projections are not allowable obstructions beyond the required setbacks and

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

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

WHEREAS, the subject lot is located on the east side of Lenox Avenue, between West 129<sup>th</sup> and 130<sup>th</sup> Streets, and encompasses 23,491 square feet, located within a R7-2 zoning district, with a 100' wide C2-4 commercial overlay along Lenox Avenue; and

WHEREAS, the record indicates that the subject lot is currently occupied by an inactive and partially constructed church structure, containing approximately 45,000 sq. ft., and a designated landmark 2-story wood frame structure used by a church, containing approximately 5,970 sq. ft.; and

WHEREAS, the subject application originally contemplated the demolition of the partially constructed church structure, followed by the construction of a 24-story mixed use building, but, in response to Board and community concerns, has now been modified to entail construction of a 12-story, 125 feet high mixed use building containing 142,139 sq. ft. (6.05 FAR), with 131,003 sq. ft. of residential floor area and 11,136 sq. ft. of commercial floor area, including 94 residential units and 88 parking spaces; and

WHEREAS, the Board notes that the applicant has worked diligently with the community and elected officials and has been responsive to their concerns regarding the initial proposed height of the building, and that the community now supports the subject application; and

WHEREAS, the applicant represents that the unique physical conditions inherent to the site that cause hardship are as follows: (1) high water conditions, (2) poor unstable soils, (3) the need for extensive installation of sheeting and underpinning, and (4) protection of an adjacent landmark; and

sky exposure plane. This is contrary to ZR 23-632 and ZR 23-64

- d) A commercial usage on the same floor as residential usage is not permitted. This is contrary to ZR 32-421”; and

WHEREAS, a public hearing was held on this application on June 3, 2003 after due notice by publication in *The City Record*, with continued hearings on July 15, 2003, September 9, 2003, October 7, 2003, November 18, 2003, December 16, 2003 and then to January 13, 2004 for decision; and

WHEREAS, the applicant has submitted supplementary evidence as to the subsurface conditions, in the form of written submissions and testimony from a consultant, purporting to show that said conditions would require extensive work in order to be appropriately addressed and that this work would greatly increase the cost of development over and above a development where such conditions do not exist; and

WHEREAS, specifically, this consultant, in a letter dated December 18, 2003, contends that the increased cost of foundation construction associated with the subsurface conditions and heightened need for extensive sheeting and underpinning (including that due to the adjacent landmark) is roughly 2.2 million dollars; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, namely the site’s subsurface conditions and proximity to a designated landmark, create practical difficulties in developing the site in conformity with the current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; 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 the proposed building is designed with a contextual base similar to existing buildings on West 129<sup>th</sup> Street, and is positioned on the site at a point furthest away from the adjacent landmarked row houses; and

WHEREAS, the Board finds that the bulk and height of the proposed building, as modified over the course of the hearing process, will not impair the use of the surrounding residential buildings; and

WHEREAS, the Board notes that the immediate neighborhood is characterized generally by 3 to 6 story residential buildings on the cross streets, with some larger and taller commercial and mixed use buildings along Lenox Avenue; and

---

# MINUTES

---

WHEREAS, therefore, the Board finds that this action, if approved, 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

*Resolved* that the Board of Standards and Appeals issues a Type II Determination under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, to permit the proposed construction of a 24-story mixed use building (residential and commercial), in an R7-2 zoning district, which does not comply with the zoning requirements for lot coverage, floor area, setbacks and exposure planes, and also has commercial use on the same floor as residential use, contrary to Z.R. §§23-142, 23-632, 23-64 and 32-421, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 3, 2003"-(17) sheets; and on further condition;

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

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

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

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

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

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

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

THAT the Department of Buildings must ensure compliance 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 13, 2004.

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

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

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

133-03-BZ

CEQR #03-BSA-175K

APPLICANT - Harold Weinberg, P.E., for Natan Bukai, owner.

SUBJECT - Application April 22, 2003 - under Z.R. §73-622 to permit in an R4 zoning district, the proposed erection of a one-story enlargement at the rear of an existing one-family dwelling, which does not comply with the zoning requirements for floor area ratio and minimum rear yard, contrary to Z.R. §§23-141 and 54-31.

PREMISES AFFECTED - 2354 East 5th Street, west side, 100'-0" south of Avenue "W", between Avenue "W" and Angel Court, Block 7180, Lot 12, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Harold Weinberg.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT-

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

Negative: .....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated April 11, 2003, acting on Department of Buildings Alteration Type 1 Application No. 301501765, reads:

"BOARD OF STANDARDS AND APPEALS  
DENIAL

THE PROPOSED ENLARGEMENT OF THE  
EXISTING DETACHED RESIDENCE IN AN R4  
ZONING DISTRICT:

1. INCREASES THE DEGREE OF NON-COMPLIANCE WITH RESPECT TO FLOOR AREA RATIO EXCEEDING THE ALLOWABLE FLOOR AREA RATIO AND IS

# MINUTES

CONTRARY TO SECTIONS 23-141 & 54-31 OF THE ZONING RESOLUTION.

2. REDUCES THE REAR YARD BELOW 30' MINIMUM REQUIRED AND IS CONTRARY TO SECTION 23-47 OF THE ZONING RESOLUTION.”; and

WHEREAS, a public hearing was held on this

WHEREAS, a special permit is sought under Z.R. §73-622, to permit, in an R4 zoning district, the proposed erection of a one-story enlargement at the rear of an existing one-family dwelling, which does not comply with the zoning requirements for floor area ratio and minimum rear yard, contrary to Z.R. §§23-141 and 54-31; 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 enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

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

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

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

*Resolved* that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622 to permit, in an R4 zoning district, the proposed erection of a one-story enlargement at the rear of an existing one-family dwelling, which does not comply with the zoning requirements for floor area ratio and minimum rear yard, contrary to Z.R. §§23-141 and 54-31, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked “Received October 21, 2003”- (4) sheets, “December 29, 2003”-(1) sheet and “January 13, 2004”-(1) sheet; and *on further condition*;

THAT there shall be no habitable room in the cellar;

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 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 use and layout of the cellar shall be as

application on December 23, 2003 and then laid over to January 13, 2004 for decision; and

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

approved by the Department of Buildings;

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

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

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

Adopted by the Board of Standards and Appeals, January 13, 2004.

## 190-03-BZ and 191-03-A

### CEQR #03-BSA-205Q

**APPLICANT - Sheldon Lobel, P.C., for Satya Sanatan Dharma Sabha, Inc., owner.**

**SUBJECT - Application June 9, 2003 - under Z.R. § 72-21 to permit the legalization of a portion of a two-story building to a temple and conversion of the remainder of the building to a temple, and to permit an enlargement of the building, which does not comply with the zoning requirements for height, side, and front yards, contrary to Z.R. §§24-521, 24-35, and 24-34.**

**PREMISES AFFECTED - 87-48 215<sup>th</sup> Place, corner of Hillside Avenue, Block 10682, Lot 45, Borough of Queens.**

### COMMUNITY BOARD #13Q

#### APPEARANCES -

**For Applicant: Jordan Most.**

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

#### THE VOTE TO GRANT-

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

Negative:.....0

#### THE RESOLUTION -

WHEREAS, the decision of the Department of Buildings, dated May 27, 2003, acting on Department of Buildings Alteration Application No. 401641201, reads, in part:

- “1. PROPOSED HEIGHT OF BUILDING AFTER ENLARGEMENT EXCEEDS THE PERMISSIBLE HEIGHT CONTRARY TO

---

# MINUTES

---

## SECTION 24-521 ZONING RESOLUTION

2. PROPOSED CONVERSION TO COMMUNITY FACILITY USE CREATES A
3. PROPOSED ENLARGEMENT CREATES A NON-COMPLIANCE WITH RESPECT TO ONE FRONT YARD, CONTRARY TO SECTION 24-34 ZONING RESOLUTION"; and

WHEREAS, a public hearing was held on this application on October 21, 2003 after due notice by publication in *The City Record* and laid over to December 9, 2003 for decision; the decision was then deferred to January 13, 2004; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-chair Satish Babbar, Commissioner Peter Caliendo and Commissioner Joel Miele; and

WHEREAS, this is an application under Z.R. §72-21 to permit the legalization of a portion of a two-story building to a temple and conversion of the remainder of the building to a temple, and to permit an enlargement of the building, which does not comply with the zoning requirements for height, side, and front yards, contrary to Z.R. §§24-521, 24-35, and 24-34; and

WHEREAS, the subject property is an irregularly shaped corner lot measuring 3,955 square feet in area; and

WHEREAS, the subject lot is presently improved with a two-story and cellar building, which was originally used as a single family dwelling, but which currently contains one dwelling unit on the second floor and a temple which occupies the first floor and cellar; and

WHEREAS, the yards of the existing building were in compliance with the zoning resolution when the building was used as a single family dwelling; and

WHEREAS, the applicant notes that the proposed FAR, after enlargement, is 30 per cent less than that permitted by the Zoning Resolution; and

WHEREAS, the conversion of the whole building to a community facility use has created a non-compliance with only one side yard; and

WHEREAS, a community facility is a conforming "as of right" use under the Zoning Resolution; and

WHEREAS, the applicant asserts that the size of the existing building is inadequate to serve the programmatic needs of the temple, which include meetings and services for a growing congregation of approximately sixty-five members; and

WHEREAS, the applicant represents that the requested variance will enable the temple to meet its programmatic requirement of providing the appropriate atmosphere for worship as dictated by the religious practices of the congregation; and

## NON-COMPLIANCE WITH RESPECT TO ONE SIDE YARD, CONTRARY TO SECTION 24-35 ZONING RESOLUTION

WHEREAS, the Boards finds that the applicant's programmatic needs, as discussed above, create a practical difficulty with strict compliance with the bulk provisions of the Zoning Resolution; and

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

WHEREAS, the record indicates that the neighborhood surrounding the site is characterized by residential uses; and WHEREAS, the applicant represents that the enlargement of the proposed building is not out of context with the height, front, and side yards of neighboring properties, nor will it adversely impact local residential dwellings; and

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

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

WHEREAS, the Board finds that 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 has carefully considered all relevant areas of environmental concern; and

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

*Therefore, it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and *grants* a variation in the application of the Zoning Resolution, limited to the objections cited, to permit the legalization of a portion of a two-story building to a temple and conversion of the remainder of the building to a temple, and to permit an enlargement of the building, which does not comply with the zoning requirements for height, side, and front yards, contrary to Z.R. §§24-521, 24-35, and 24-34, *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 9, 2003"- (7) sheets; and *on further condition*;

---

# MINUTES

---

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, January 13, 2004.

---

## 210-03-BZ

### CEQR #03-BSA-214K

APPLICANT - Harold Weinberg, P.E. & Jack Gamill, P.E., for Mordechai Beityakov, owner.

SUBJECT - Application June 20, 2003 - under Z.R. §73-622 to permit in an R2 zoning district, the proposed erection of a two-story enlargement at the rear of an existing one-family dwelling that does not comply with the zoning requirements for floor area ratio, open space ratio and the rear yards requirement, contrary to Z.R. §§23-141, 23-47, and 54-31.

PREMISES AFFECTED - 1455 East 24th Street, east side, 450' south of Avenue "N", Block 7678, Lot 26, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

#### APPEARANCES -

For Applicant: Harold Weinberg.

ACTION OF THE BOARD - Application granted on condition.

#### THE VOTE TO GRANT-

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

Negative: .....0

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 11, 2003, acting on Department of Buildings Alteration Type 1 Application No. 301546815, reads:

“THE PROPOSED ENLARGEMENT OF THE EXISTING

*Resolved* that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review

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

#### 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.”; and

WHEREAS, a public hearing was held on this application on December 23, 2003 after due notice by publication in *The City Record*, laid over to January 13, 2004 for decision; and

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

WHEREAS, a special permit is sought under Z.R. §73-622, to permit, in an R2 zoning district, the proposed erection of a two-story enlargement at the rear of an existing one-family dwelling that does not comply with the zoning requirements for floor area ratio, open space ratio and the rear yard requirement, contrary to Z.R. §§23-141, 23-47, and 54-31; 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 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 perimeter wall height will comply with all applicable zoning regulations; and

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

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

and makes the required findings under Z.R. §73-622 to permit, in an R2 zoning district, the proposed erection of a two-story enlargement at the rear of an existing one-family

# MINUTES

dwelling that does not comply with the zoning requirements for floor area ratio, open space ratio and the rear yards requirement, contrary to Z.R. §§23-141, 23-47, and 54-31, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received November 13, 2003"- (7) sheets and "December 29, 2003"-(2) sheet; and *on further condition*;

THAT there shall be no habitable room(s) in the cellar;

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 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;

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

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

Adopted by the Board of Standards and Appeals, January 13, 2004.

241-03-BZ

APPLICANT - Moshe M. Friedman, P.E., for Chaya Knopf, owner.

SUBJECT - Application July 10, 2003 - under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliance with regard to floor area, open space, and rear and side yard requirements, and is contrary to Z.R. §§23-141, 23-461 and 23-47.

PREMISES AFFECTED - 1183 East 28th Street, east side, 100' north of Avenue "L", Block 7628, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

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

For Applicant: Joseph Friedman.

For Opposition: Shirley Simon.

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

THE VOTE TO GRANT-

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

Negative: .....0

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated November 26, 2002, acting on DOB Application No. 301400231 reads:

"1. Proposed plans are contrary to ZR 23-141 in that the Floor Area Ratio exceeds the 0.5 permitted and the Open Space Ratio is less than the 150.0 required.

2. Proposed plans are contrary to ZR 23-461 in that the proposed yards are less than the minimum 5 feet required on one side.

3. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than 30 feet."; and

WHEREAS, a public hearing was held on this application on December 9, 2003 after due notice by publication in The City Record, laid over to January 6, 2004 for decision; the decision was then deferred to January 13, 2004; and

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

WHEREAS, a special permit is sought under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliance with regard to floor area, open space, and rear and side yard requirements, contrary to Z.R. §§'23-141, 23-461 and 23-47; 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 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

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

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

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality

# MINUTES

Review and makes the required findings under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliance with regard to floor area, open space, and rear and side yard requirements, and is 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 marked "Received July 10, 2002"-(7) sheets and "January 8, 2004"-(1) sheet; and on further condition;

THAT there shall be no habitable room(s) in the cellar;

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 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;

THAT the Department of Buildings must ensure compliance 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 within four (4) years of this grant.

Adopted by the Board of Standards and Appeals, January 13, 2004.

## 242-03-BZ

WHEREAS, a special permit is sought under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R3-2 zoning district, which creates non-compliance with regard to floor area ratio, open space ratio, lot coverage, perimeter wall height and rear and side yard requirements, and is contrary to Z.R §§23-141, 23-47, 23-48 and 23-631; and

WHEREAS, the Board finds that the proposed

## CEQR #04-BSA-012K

APPLICANT - Moshe M. Friedman, P.E., for Sion Maslaton, owner.

SUBJECT - Application July 10, 2003 - under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R3-2 zoning district, which creates non-compliance with regard to floor area ratio, open space ratio, lot coverage, perimeter wall height and rear and side yard requirements, and is contrary to Z.R §§23-141, 23-47, 23-48 and 23-631.

PREMISES AFFECTED - 1858 East 26th Street, west side, 285'-0" north of Avenue "S", Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Joseph Friedman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT-

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

Negative: .....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 3, 2003, acting on Application No. 301053507 reads:

"Proposed extensions to existing One (1) Family

Dwelling are contrary to

ZR 23-141(b) Floor Area

ZR 23-141(b) Open Space & Lot Coverage

ZR 23-48 Side Yard

ZR 23-48 Minimum Side Yard

ZR 23-47 Rear Yard

ZR 23-631(b) Perimeter Wall

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 December 23, 2003 and then laid over to January 6, 2004 for decision; then deferred to January 13, 2004; and

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

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 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

WHEREAS, the perimeter wall height will comply with

# MINUTES

the applicable zoning regulations; and

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

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

*Resolved* that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R3-2 zoning district, which creates non-compliance with regard to floor area ratio, open space ratio, lot coverage, perimeter wall height and rear and side yard requirements, and is contrary to Z.R. §§23-141, 23-47, 23-48 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 marked "Received July 10, 2003"- (5) sheets, "September 23, 2003"- (3) sheets, and "January 8, 2004"- (1) sheet; and *on further condition*;

THAT there shall be no habitable room in the cellar;

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 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;

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

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

WHEREAS, a public hearing was held on this application after due notice by publication in *The City Record* on November 18, 2003, and then laid over to December 16, 2003, and then to January 13, 2004 for decision; and

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

Adopted by the Board of Standards and Appeals, January 13, 2004.

244-03-BZ

CEQR #04-BSA-014K

APPLICANT - Eric Palatnik, P.C., for Victor Falah, owner.  
SUBJECT - Application July 17, 2003 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, open space, and rear and side yards, contrary to Z.R. §§23-141, 23-47, and 23-461.

PREMISES AFFECTED - 3975 Bedford Avenue, between Avenues "S" and "R", Block 6831, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Eric Palatnik

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT-

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

Negative: .....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 3, 2003, acting on Department of Buildings Alteration Type 1 Application No. 301556144, reads:

**"OBTAIN SPECIAL PERMIT APPROVAL FROM THE BOARD OF STANDARDS AND APPEALS AS PER SEC. 73-622 OF THE ZONING RESOLUTION FOR THE FOLLOWING OBJECTIONS:**

**PROPOSED SIDE YARD IS CONTRARY TO Z.R. 23-461**

**PROPOSED REAR YARD IS CONTRARY TO ZR 23-47**

**PROPOSED FLOOR AREA IS CONTRARY TO ZR 23-141**

**PROPOSED OPEN SPACE RATIO IS CONTRARY TO ZR 23-141."**; and

Joel Miele; and

WHEREAS, a special permit is sought under Z.R. §73-622, to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, open space, and rear and side yards, contrary to Z.R. §§23-141, 23-47, and 23-461; and

WHEREAS, the Board finds that the proposed

---

# MINUTES

---

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

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

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

*Resolved* that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622, to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, open space, and rear and side yards, contrary to Z.R. §§23-141, 23-47, and 23-461, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received December 11, 2003"-(11) sheets; and *on further condition*;

THAT there shall be no habitable room(s) in the cellar;

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 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;

"Proposed Physical Culture Establishment located at 28-56 Steinway Street on the first and second floors is not permitted pursuant to ZR 12-10. Proposed use is not permitted on the 3<sup>rd</sup> floor as per ZR 12-10.;" and

WHEREAS, a public hearing was held on this application on December 23, 2003, after due notice by publication in *The City Record*, and then to January 13, 2003 for decision; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-Chair Satish

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 within four (4) years of this grant.

Adopted by the Board of Standards and Appeals, January 13, 2004.

265-03-BZ

CEQR #04-BSA-030Q

APPLICANT - The Law Office of Fredrick A. Becker, for 2856-2860 Steinway Street, LLC by Lloyd Goldman, owner; TSI Astoria Inc. d/b/a New York Sports Club, lessee.

SUBJECT - Application August 21, 2003 - under Z.R. §73-36 to permit the creation of a physical culture establishment ("PCE") within C2-2 and C4-2A zoning districts, located on the second and third floors of an existing three-story commercial building.

PREMISES AFFECTED - 28-56/60 Steinway Street, northwest corner of 30th Avenue, Block 662, Lot 41, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated August 8, 2003, acting on Department of Buildings Application No. 401705963, reads:

Babbar, Commissioner Peter Caliendo and Commissioner Joel Miele; and

WHEREAS, this is an application under Z.R. §§73-36 and 73-03 to permit the creation of a physical culture establishment ("PCE") within C2-2 and C4-2A zoning districts, located on the second and third floors of an existing three-story commercial building; and

WHEREAS, the subject structure contains a three-story building that was previously occupied by a theater and retail stores; and

WHEREAS, the building presently houses a bank and a

---

# MINUTES

---

drug store use on the first floor, with the second and third floors remaining vacant; and

WHEREAS, the proposed hours of operation of the PCE will be Monday through Thursday 6:00 A.M. to 11:00 P.M., Friday 6:00 A.M. to 9:00 P.M., and Saturday and Sunday 9:00 A.M. to 7:00 P.M.; and

WHEREAS, the record shows that the proposed PCE will contain facilities for classes, instruction, and programs for physical improvement, body building, 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 of the owner and operator of such facility and issued a report which the Board has determined to be satisfactory; 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 record indicates that the proposed PCE will have no adverse impact on the privacy, light, quiet, and air of the surrounding area, as the facility is to be located at the second and third floors of an existing 3-story commercial building; and

WHEREAS, the proposed project will not interfere with the existing street system or 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. §§73-36 and 73-03; and

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

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

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

*Resolved* that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-

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 13, 2004.

07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-36, and 73-03, to permit the creation of a physical culture establishment ("PCE") within C2-2 and C4-2A zoning districts, located on the second and third floors of an existing three-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 August 21, 2003"- (6) sheets and "January 6, 2004"- (2) sheets; and on further condition;

THAT the term of this special permit shall be limited to ten (10) years from the date of this grant, expiring on January 13, 2014;

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

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

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

THAT all signage shall comply with the underlying signage regulations;

THAT the hours of operation shall be limited to Monday through Thursday 6:00 A.M. to 11:00 P.M., Friday 6:00 A.M. to 9:00 P.M. and Saturday and Sunday 9:00 A.M. to 7:00 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 the above conditions shall appear on the certificate of occupancy;

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

THAT substantial construction shall be completed in accordance with Z.R. §73-70;

THAT this approval is limited to the relief granted by the Board in response to the specifically cited and filed Department of Buildings objection only;

301-03-BZ

CEQR #04-BSA-051K

APPLICANT - The Law Office of Fredrick A. Becker, for Leonard Wassner and Isabell Wassner, owners.

SUBJECT - Application September 22, 2003 - under Z.R. §73-622 to permit in an R2 zoning district, the proposed enlargement of an existing one-family dwelling, which does not comply with the zoning requirements for floor area ratio, open space ratio, rear and side yards, contrary to Z.R. §§23-141, 23-46 and 23-47.

PREMISES AFFECTED - 1103 East 22nd Street, between

---

# MINUTES

---

Avenues "J" and "K", Block 7604, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Lyra J. Altman and David Shteierman.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT-

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

Negative: .....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated September 3, 2003, acting on Application No. ALT. I. 301622885 reads:

"Obtain special permit 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 contrary to zr 23-141.
- 3). Proposed rear yard contrary to zr 23-47
- 4). Proposed side yard contrary to zr 23-46.";

WHEREAS, a public hearing was held on this application on December 16, 2003 after due notice by publication in *The City Record*, and then laid over to January 13, 2004 for decision; and

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

WHEREAS, a special permit is sought under Z.R. §73-622, to permit, in an R2 zoning district, the proposed enlargement of an existing one-family dwelling, which does not comply with the zoning requirements for floor area ratio, open space ratio, rear and side yards, contrary to Z.R. §§23-141, 23-46 and 23-47; and

WHEREAS, the Board finds that the proposed

THAT 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; no approval has been given by the Board as to the use and layout of the cellar;

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

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

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

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

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

*Resolved* that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622 to permit, in an R2 zoning district, the proposed enlargement of an existing one-family dwelling, which does not comply with the zoning requirements for floor area ratio, open space ratio, rear and side yards, 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 objection above-noted, filed with this application marked "Received November 20, 2003"- (7) sheets and "January 13, 2004"- (2) sheets; and *on further condition*;

THAT there shall be no habitable room(s) in the cellar;

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

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;

this grant.

Adopted by the Board of Standards and Appeals, January 13, 2004.

254-02-BZ

APPLICANT - Klein & O'Brien, LLP, for Malka Ausch, owner.

SUBJECT - Application September 18, 2002 - under Z.R. §72-21 to permit the legalization of residential occupancy, Use Group 2, in an existing three-story building and the proposed use, in the one story building, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 41/45 South Fifth Street, bounded

---

# MINUTES

---

on the west by Kent Avenue, and on the east by Wythe Avenue, Block 2441, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

ACTION OF THE BOARD - Laid over to February 3, 2004, at 1:30 P.M., for decision, hearing closed.

---

276-02-BZ

APPLICANT - Harold Weinberg, P.E., for Morton Osterman, owner.

SUBJECT - Application October 10, 2002 - under Z.R. §73-622 to permit the proposed erection of a second story, and a rear enlargement to an existing one family dwelling, Use Group 1, located in an R3-1 zoning district, which creates non-compliance with regards to floor area ratio, open space ratio, lot coverage, and rear and side yards, is contrary to Z.R. §23-141, §23-47, §54-31 and §23-461.

PREMISES AFFECTED - 160 Norfolk Street, west side, 300'0 north of Oriental Boulevard and south of Shore Boulevard, Block 8756, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Harold Weinberg.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

ACTION OF THE BOARD - Laid over to February 10, 2004, at 1:30 P.M., for decision, hearing closed.

---

80-03-BZ

85-03-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for 926 Bedford LLC, owner; Department of General Services, lessee.

SUBJECT - Application March 13, 2003 - under Z.R. 72-21 to permit the proposed combining of three tax lots into a single zoning and tax lot, and also the proposed construction of a two-story building, that will be used for the manufacturing (primary assembly) of materials handling equipment, located in an R6 zoning district, is contrary to Z.R. §22-10.

PREMISES AFFECTED - 922/26 Bedford Avenue, a/k/a 371 Willoughby Avenue, northwest corner, Block 1914, Lots 43, 44 and 46 (Tentative Lot 43), Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPLICANT - Fredrick A. Becker, Esq., for C & L Pioneer Enterprises LLC, owner.

SUBJECT - Application March 4, 2003 - under Z.R. §72-21 to permit the proposed construction of two multi-story multiple dwellings, also the use of a community facility (school), in one of the buildings, Use Groups 2 and 4, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 602 39<sup>th</sup> Street, southeast corner of Sixth Avenue, Block 914, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to February 10, 2004, at 1:30 P.M., for continued hearing.

---

83-03-BZ

APPLICANT - The Agusta Group, for Ms. Hilda Lovera, owner.

SUBJECT - Application March 12, 2003 - under Z.R. §72-21 to permit the proposed construction of a two family dwelling, Use Group 2, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, front yard and the maximum number of dwelling units, which is contrary to Z.R. §23-141, §23-45 and §23-22.

PREMISES AFFECTED - 2100 Hermany Avenue, southeast corner of Olmstead Avenue, Block 3685, Lot 9, Borough of The Bronx.

COMMUNITY BOARD #9BX

APPEARANCES -

For Applicant: S. Korman.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

ACTION OF THE BOARD - Laid over to February 3, 2004, at 1:30 P.M., for decision, hearing closed.

---

APPEARANCES - None.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

ACTION OF THE BOARD - Laid over to February 10, 2004, at 1:30 P.M., for decision, hearing closed.

---

150-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Bolshy Gulliver, Inc., owner.

SUBJECT - Application May 15, 2003 - under Z.R. §72-21 to permit the proposed construction of three additional floors above a one story and basement building, to form a mixed-use

---

# MINUTES

---

building, to contain as of right uses on the first floor and basement level, and a nine residential units on the remaining three floors, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

**PREMISES AFFECTED** - 136 Metropolitan Avenue, between Wythe Avenue and Berry Street, Block 2364, Lot 17, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

**APPEARANCES** -

For Applicant: Jordan Most.

**ACTION OF THE BOARD** - Laid over to February 24, 2004, at 1:30 P.M., for continued hearing.

---

**183-03-BZ**

**APPLICANT** - Agusta & Ross, for North Berry Capital Group, LLC, owner.

**SUBJECT** - Application June 3, 2003 - under Z.R. §72-21 to permit the proposed forty-three unit multiple dwelling, with retail space on the ground floor, and underground accessory parking throughout for twenty-two vehicles, Use Groups 2 and 6, located in an M1-2 zoning district, which is contrary to Z.R. §42-10.

**PREMISES AFFECTED** - 118 Berry Street, 116 North Seventh Street, a/k/a 116/26 North Seventh Street and 118/20 Berry Street, northwest corner, Block 2326, Lots 18 and 19 (tentative Lot 18), Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

**APPEARANCES** -

89 Emerson Place, between Myrtle and Park Avenues, Block 1895, Proposed Lot 114, Borough of Brooklyn.

**COMMUNITY BOARD #3BK**

**APPEARANCES** -

For Applicant: Stuart Klein.

**ACTION OF THE BOARD** - Laid over to March 2, 2004, at 1:30 P.M., for continued hearing.

---

**208-03-BZ**

**APPLICANT** - Law Offices of Stuart A. Klein for Shell Road, LLC, owner; Orion Caterers, Inc., lessee.

**SUBJECT** - Application June 19, 2003 - under Z.R. §72-21 to permit the legalization of an expansion of an existing catering hall, Use Group 9, located in a split C1-2(overlay of R-4) and M1-1 zoning district, which does not comply with the zoning

For Applicant: Mitchell Ross.

For Opposition: Michelle Radicher, Sal Perovic, Anthony Tawczos, Rolf Carle, Peter Gillespr, Jean Heyer and Paul Parkhill.

**ACTION OF THE BOARD** - Laid over to February 10, 2004, at 1:30 P.M., for continued hearing.

---

**199-03-BZ thru 205-03-BZ**

**APPLICANT** - Stuart A. Klein, Esq., for Classon Holding Co., owner.

**SUBJECT** - Application June 17, 2003 - under Z.R. §72-21 to permit the proposed seven story residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

**PREMISES AFFECTED** -

148 Classon Avenue, between Myrtle and Park Avenues, Block 1895, Proposed Lot 42, Borough of Brooklyn.

152 Classon Avenue, between Myrtle and Park Avenues, Block 1895, Proposed Lot 46, Borough of Brooklyn.

156 Classon Avenue, between Myrtle and Park Avenues, Block 1895, Proposed Lot 47, Borough of Brooklyn.

77 Emerson Place, between Myrtle and Park Avenues, Block 1895, Proposed Lot 117, Borough of Brooklyn.

81 Emerson Place, between Myrtle and Park Avenues, Block 1895, Proposed Lot 116, Borough of Brooklyn.

85 Emerson Place, between Myrtle and Park Avenues, Block 1895, Proposed Lot 115, Borough of Brooklyn.

requirements for floor area ratio, rear yard, and parking, is contrary to Z.R. §33-121, 33-292, §36-21, §43-26 and §44-20.

**PREMISES AFFECTED** - 2555 Shell Road, east side, between Avenue "X" and Bouck Court, Block 7192, Lot 74, Borough of Brooklyn.

**COMMUNITY BOARD #11BK**

**APPEARANCES** -

For Applicant: Stuart Klein.

**ACTION OF THE BOARD** - Laid over to February 24, 2004, at 1:30 P.M., for continued hearing.

---

**240-03-BZ**

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

**SUBJECT** - Application July 10, 2003 - under Z.R. §72-21 to permit the proposed enlargement of an existing two story

---

# MINUTES

---

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

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

**COMMUNITY BOARD #8Q**

**APPEARANCES** -

For Applicant: Sheldon Lobel, Meir Mishkoff, and Harvey Rosenblum.

For Opposition: Bernard Strauss, Bob Harris, S. Basehoe, and Leo Weinberger.

**ACTION OF THE BOARD** - Laid over to March 2, 2004, at 1:30 P.M., for continued hearing.

---

**264-03-BZ**

**APPLICANT** - The Law Office of Fredrick A. Becker, for Samuel Halon and Chaya Halon, owner.

**SUBJECT** - Application August 21, 2003 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio and side yard, is contrary to Z.R. §23-141 and §23-461.

**PREMISES AFFECTED** - 2713 Avenue "N", 66' west of East 28th Street, Block 7663, Lot 5, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

**APPEARANCES** -

**307-03-BZ**

**APPLICANT** - Fried, Frank Harris, Shriver & Jacobson, by Adrienne W. Bernard, Esq., for Clatco Company, LLC, 543 Realty Co., LLC and Broadway 110 Developers, LLC, owners.

**SUBJECT** - Application October 2, 2003 - under Z.R. §72-21 to permit the proposed construction of a 15-story residential building, Use Group 2, located in R-8 and C1-4 zoning districts, which does not comply with the zoning requirements for lot coverage, maximum building height, street walls and setback, and is contrary to Z.R. §35-24, §23-633 and §23-145.

**PREMISES AFFECTED** - 543/45 West 110th Street, (aka Cathedral Parkway), and 2840/46 Broadway, northeast corner, Block 1882, Lots 1 and 6, Borough of Manhattan.

**COMMUNITY BOARD #9M**

**APPEARANCES** -

For Applicant: Steven Lelkowitz and Paul Byand.

For Opposition: Jeffery Chester, Carolyn Birden, Miriam Winocour and Daniel Katz.

For Applicant: Lyra J. Altman

**THE VOTE TO CLOSE HEARING** -

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

Negative: .....0

**ACTION OF THE BOARD** - Laid over to February 3, 2004, at 1:30 P.M., for decision, hearing closed.

---

**266-03-BZ**

**APPLICANT** - Rothkrug Rothkrug Weinberg & Spector, for 1710-2 McDonald Realty, LLC, owner.

**SUBJECT** - Application August 21, 2003 - under Z.R. §73-50 to permit the proposed enlargement of an existing warehouse (furniture), situated in an M1-1 zoning district, by constructing a one-story addition at the rear, that will encroach into the required yard between district boundaries, is contrary to Z.R. §43-302.

**PREMISES AFFECTED** - 1710/12 McDonald Avenue, west side, 60' south of Avenue "O", Block 6607, Lot 10, Borough of Brooklyn.

**COMMUNITY BOARD #11BK**

**APPEARANCES** -

For Applicant: Adam Rothkrug.

For Opposition: Dr. Joseph Knoll.

**ACTION OF THE BOARD** - Laid over to February 24, 2004, at 1:30 P.M., for continued hearing.

---

**ACTION OF THE BOARD** - Laid over to March 2, 2004, at 1:30 P.M., for continued hearing.

---

**310-03-BZ**

**APPLICANT** - Sheldon Lobel, P.C., for Albert Dweck, owner.

**SUBJECT** - Application October 6, 2003 - under Z.R. §73-622 to permit the 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.

**PREMISES AFFECTED** - 2223 Avenue "M", corner of East 23rd Street, Block 7640, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

**APPEARANCES** -

For Applicant Richard Lobel.

**THE VOTE TO CLOSE HEARING** -

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

---

# MINUTES

---

Negative: .....0  
ACTION OF THE BOARD - Laid over to February 10, 2004, at 1:30 P.M., for decision, hearing closed.

---

327-03-BZ  
APPLICANT - Sheldon Lobel, P.C., for New Century Limited Partnership, owner.  
SUBJECT - Application November 12, 2003 - under Z.R. §73-53 to permit the proposed enlargement of an existing warehouse, located in an M1-1 zoning district, which requires a special permit.  
PREMISES AFFECTED - 175-35 148th Road, between Guy Brewer Boulevard and 175th Street, Block 13379, Lot 21, Borough of Queens.  
COMMUNITY BOARD #13Q  
APPEARANCES -  
For Applicant: Jordan Most.  
THE VOTE TO CLOSE HEARING -  
Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4  
Negative: .....0  
ACTION OF THE BOARD - Laid over to February 10, 2004, at 1:30 P.M., for decision, hearing closed.

---

SPECIAL HEARING  
WEDNESDAY MORNING, JANUARY 14, 2004  
10:00 A.M.

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

---

281-99-BZ  
APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF THE PREMISES: Enopac Holding LLC.  
SUBJECT - On remand from the New York County Supreme Court.  
PREMISES AFFECTED - 6055 Strickland Avenue, west side of Strickland Avenue roughly between the prolongation of Mayfair Avenue and East 59th Place, Block 8470, Lots 1060, 1070, 1076, Borough of Brooklyn.  
COMMUNITY BOARD #18BK  
APPEARANCES -  
For Applicant: Jay Segal.

340-03-BZ  
APPLICANT - Davidoff & Malito, LLP, by Howard B. Weiss, Esq., for Ramirez Properties, LLC, owner.  
SUBJECT - Application November 5, 2003 - under Z.R. §72-21 to permit the proposed nine story mixed use building, commercial and residential (Use Groups 2 and 6), located in an M1-5 zoning district, which does not comply with the zoning requirements for floor area ratio, setback, perimeter wall height, sky exposure plane and open space, is contrary to Z.R. §42-00, §43-12 and §43-42.  
PREMISES AFFECTED - 408 Greenwich Street, a/k/a 22/24 Hubert Street, between Laight and Hubert Streets, Block 217, Lot 23, Borough of Manhattan.  
COMMUNITY BOARD #1M  
APPEARANCES -  
For Applicant: Howard Weiss and Elysis Quasebarth.  
For Opposition: Sadie Dyer, Office of Assembly Member Deborah Glick; Carole DeSaram, Community Board No. 1, Doris Diether, Starr Ockenga and others.  
ACTION OF THE BOARD - Laid over to February 24, 2004, at 1:30 P.M., for continued hearing.

---

*Pasquale Pacifico, Executive Director*

Adjourned: 6:00 P.M.

For Opposition: Lewis Fidler, Council Member and Roberta Sherman.  
THE VOTE TO CLOSE HEARING -  
Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4  
Negative: .....0  
ACTION OF THE BOARD - Laid over to March 2, 2004, at 1:30 P.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director*

Adjourned: 10:55 A.M.

---

# BULLETIN

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

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, Nos. 5-6

February 5, 2004

---

### DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

PETER CALIENDO

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**

### CONTENTS

DOCKET .....

**CALENDAR** of March 2, 2004

Morning .....

Afternoon .....

**CALENDAR** of March 9, 2004

Morning .....

Afternoon .....

---

# CONTENTS

---

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, January 27, 2004**

Morning Calendar .....

**Affecting Calendar Numbers:**

254-63-BZ	301 East 66 <sup>th</sup> Street, a/k/a 1260-1274 Second Avenue, Manhattan
289-63-BZ	150 East 61 <sup>st</sup> Street, a/k/a 775 Lexington Avenue, Manhattan
444-67-BZ	187-39 Hillside Avenue, Queens
33-92-BZ	95-01 Brisbin Street, a/k/a 143-02 95 <sup>th</sup> Avenue, Queens
628-39-BZ	1531/41 Plimpton Avenue, Bronx
465-55-BZ	486/496 Coney Island Avenue, a/k/a 804/826 Church Avenue, Brooklyn
973-57-BZ	60-04 Metropolitan Avenue, Manhattan
400-70-BZ	134-07 Cross Bay Boulevard, Queens
245-90-BZ	1054 43 <sup>rd</sup> Street, Brooklyn
193-03-BZ	824-834 Kent Avenue, Brooklyn
334-03-A	40 Graham Place, Queens
335-03-A	47 Tioga Walk, Queens
123-03-A thru 127-03-A	437/435/431/434/436 Beach 29 <sup>th</sup> Street, Queens
128-03-A thru 130-03-A	22/26/30 Brookside Loop, Staten Island
331-03-A	37-44 103 <sup>rd</sup> Street, Queens

---

# CONTENTS

---

Afternoon Calendar.....

**Affecting Calendar Numbers:**

249-01-BZ	9 White Street, a/k/a 210/22 Varet Street, Brooklyn
202-02-BZ	133-20 Rockaway Boulevard, Queens
138-03-BZ	79-59/77 Cooper Avenue, Queens
246-03-BZ	1371 East 23 <sup>rd</sup> Street, Brooklyn
248-03-BZ	1915 Third Avenue, Manhattan
268-03-BZ	145-55 Guy Brewer Boulevard, Queens
272-03-BZ	4106 Hylan Boulevard, Staten Island
294-03-BZ	One East 60 <sup>th</sup> Street, Manhattan
68-03-BZ	649 39 <sup>th</sup> Street, Brooklyn
108-03-BZ thru 110-03-BZ	135 Coffey Street, 71/79 Walcott Street, Brooklyn
211-03-BZ	529-535 48 <sup>th</sup> Avenue, Queens
231-03-BZ	63 and 65 Columbia Street, Brooklyn
239-03-BZ	468 West Broadway and 140 Thompson Street, Manhattan
243-03-BZ	2420 Amsterdam Avenue, Manhattan
249-03-BZ	265 Bedford Avenue, Brooklyn
261-03-BZ	1404/06 Stebbins Avenue, Bronx
267-03-BZ	2/6 Berry Street, Brooklyn
271-03-BZ	976 Metropolitan Avenue, Brooklyn
286-03-BZ	148 Beach 116 <sup>th</sup> Street, Queens
289-03-BZ	440 Morgan Avenue, Brooklyn
290-03-BZ	1097 Second Avenue, Manhattan
308-03-BZ	557/71 Grand Concourse, Bronx
309-03-BZ	744/48 Greenwich Street, Manhattan
329-03-BZ	142 Coffey Street, Brooklyn
330-03-A	79 Walcott Street, Brooklyn

---

# DOCKETS

---

New Case Filed Up to January 27, 2004

---

**9-04-BZ**                    **B.BK.**                    114 Walworth Street,  
northwest corner of Myrtle Avenue, Block 1735, Lot 24,  
Borough of Brooklyn. Applic. #301535177. 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.  
**COMMUNITY BOARD #3BK**

---

**10-04-BZ**                    **B.Q.**                    54-14 74<sup>th</sup> Street,  
west of Grand Avenue, Block 2803, Lot 28, Borough of  
Queens. Alt. #401723266. Proposed enlargement of an  
existing building, located in an M1-1 zoning district, which  
does not comply with the zoning requirements for floor area  
ratio, rear yards, height of front wall and required setback,  
also accessory off-street parking, is contrary to Z.R. §43-12,  
§43-26, §43-43 and §43-20.  
**COMMUNITY BOARD #5Q**

---

**11-04-A**                    **B.Q.**                    25 Fulton Walk,  
east side, 64.30' north of Breezy Point Boulevard, Block  
16350, Part of Lot 400, Borough of Queens. Alt.1 #  
401752670. Proposed reconstruction 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.

---

**12-04-A**                    **B.Q.**                    310 Hillside Avenue,  
south side, 350.0' west of Beach 178<sup>th</sup> Street, Block 16340,  
Lot 50, Borough of Queens. Alt.1 # 401731088. Proposed  
reconstruction 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.

---

**13-04-A**                    **B.Q.**                    520 Browns Boulevard,  
west side of Beach 181<sup>st</sup> Street, and 396.29' south of Bayside  
Drive, Block 16340, Part of Lot 50, Borough of Queens.  
Alt.1 #401752689. 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.

---

**14-04-BZ**                    **B.Q.**                    76-07 Roosevelt Avenue,  
northeast corner of 76<sup>th</sup> Street, Block 1287, Lot 43, Borough  
of Queens. Applic. #401685495. Proposed conversion of an  
existing restaurant (Use Group 6), to an eating and drinking  
establishment with entertainment(Use Group 12A), located in  
a C2-3 within an R6 zoning district, is contrary to Z.R. §32-  
31.  
**COMMUNITY BOARD #3Q**

---

**15-04-A**                    **B.S.I.**                    8 Reynolds Street,  
south side, 100' west of St. Mary's Avenue, Block 2989,  
Tentatively Lot 28, Borough of Staten Island. N.B.  
#500643878. Proposed building not fronting on a legally  
mapped street, is contrary to Section 36, Article 3 of the  
General City Law.

---

**16-04-BZ**                    **B.Q.**                    186-05 120<sup>th</sup> Road,  
southwest corner of Farmers Boulevard, Block 12458, Lot  
421, Borough of Queens. Applic. #401733567. Proposed  
construction of a non-accessory radio tower for public utility  
wireless communications, at the subject premises, requires a  
special permit from the Board as per Z.R. §73-30.  
**COMMUNITY BOARD #12Q**

---

**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

---

---

# CALENDAR

---

**MARCH 2, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, March 2, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## **SPECIAL ORDER CALENDAR**

### **1050-38-BZ, Vol. II**

APPLICANT - Walter T. Gorman, P.E., for Sovereign Realty Associates, LLC, owner; Amoco Oil Company, lessee.

SUBJECT - Application - November 20, 2003 reopening for an extension of term of variance which expires June 30, 2004.

PREMISES AFFECTED - 1301/1319 65th Street a/k/a 6411/23 13th Avenue, northeast corner of 13th Avenue, Block 5747, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

---

### **889-55-BZ, Vol. II**

APPLICANT - J & H Management Corp., for Everything Auto Repair, lessee.

SUBJECT - Application October 21, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 1, 2003

PREMISES AFFECTED - 69-13/25 (69-15 Official) 164th Street, east side 110' south of 69th Avenue, Block 6931, Lot 38, Borough of Queens.

**COMMUNITY BOARD #8**

---

### **923-77-BZ**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for Matthew Percia, owner.

SUBJECT - Application September 9, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 31, 2003.

PREMISES AFFECTED - 1905 McDonald Avenue, east side of McDonald Avenue, 105' south of Quentin Road, Block 6658, Lot 86, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

---

**MARCH 2, 2004, 1:30 P.M.**

### **260-03-BZ**

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

SUBJECT - Application August 14, 2003 - under Z.R. §72-21 to permit the legalization of sixty (60) residential units, in an existing

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, March 2, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## **ZONING CALENDAR**

### **223-03-BZ**

APPLICANT - C Anthony Mulrain c/o Greenberg Traurig, LLP, for Majority Baptist Church, owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application July 1, 2003 - under Z.R. §73-30 to permit the proposed installation of a wireless telecommunications facility, located in a C2-2 within an R3-2 zoning district, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 115-15 Farmers Boulevard, bounded by 115th Road and 115th Avenue, Block 11032, Lot 4, Borough of Queens.

**COMMUNITY BOARD #12**

---

### **224-03-BZ**

APPLICANT - C Anthony Mulrain c/o Greenberg Traurig, LLP, for Mal Pal Realty Corp., owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application July 1, 2003 - under Z.R. §73-30 to permit the proposed installation of a wireless telecommunications facility, located in an R3-2 zoning district, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 139-19 109th Avenue, bounded by 139th and 142nd Streets, Block 10068, Lots 210, 213, 214 and 215, Borough of Queens.

**COMMUNITY BOARD #12**

---

### **258-03-BZ**

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**

---

seven story building, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

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

**COMMUNITY BOARD #2BK**

---

# CALENDAR

---

MARCH 9, 2004, 10:00 A.M.

**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 #10**

**302-03-BZ**

APPLICANT - Harold Weinberg, P.E., for Albert Gonter, owner.

SUBJECT - Application September 22, 2003 - under Z.R. §73-622 to permit the proposed erection of a rear enlargement to an existing one family dwelling, also an extension of the residential use into the attic, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio and rear yard, is contrary to Z.R. §23-141, §23-47 and §54-31.

PREMISES AFFECTED - 1212 East 23rd Street, west side, 100' south of Avenue "L", Block 7640, Lot 51, Borough of Brooklyn.

**COMMUNITY BOARD #14**

**386-03-BZ**

APPLICANT - Steven M. Sinacori/Stadtmauer Bailkin, for Jean E. Manas & Rebecca Haile, owners.

SUBJECT - Application December 12, 2003 - under Z.R. §72-21 to permit the proposed conversion of a vacant doctor's office in the basement of the building, to residential use, and to incorporate that space into the existing one-family residential use, Use Group 2, located in an R7B zoning district, which does not comply with the zoning requirements for rear yard, floor area and lot coverage, is contrary to Z.R. §23-145, §23-44 and §54-31.

PREMISES AFFECTED - 326 East 18th Street, south side, between First and Second Avenues, Block 923, Lot 50, Borough of Manhattan.

**COMMUNITY BOARD #6**

*Pasquale Pacifico, Executive Director*

**263-01-BZ**

APPLICANT - Francis R. Angelino, Esq., for Lee & Wythe Realty Corp., owner; 85-101 North Third Street Associates, Inc., Lessee.

SUBJECT - Application January 7, 2004 - reopening for an extension of time to obtain a Certificate of Occupancy which expired on January 7, 2003.

PREMISES AFFECTED - 85-101 N. 3rd Street, northeast corner of intersection of North 3rd Street and Whythe Avenue, Block 2350, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #1**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, March 9, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

**SPECIAL ORDER CALENDAR**

**671-56-BZ**

APPLICANT - Walter T. Gorman, P.E., for Benjamin Siegel Properties, LLC, owner; Euclid Enterprises, Inc., lessee.

SUBJECT - Application December 5, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired September 143, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 1249-1265 Sutter Avenue, northside blockfront from Euclid Avenue to Doscher Street, Block 4249, Lots 55 and 59, Borough of Brooklyn.

**COMMUNITY BOARD #5**

**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 #8**

**269-98-BZ**

APPLICANT - Mothiur Rahman, for Mothiur Rahman, owner.

SUBJECT - Application December 9, 2003 - reopening for an extension of time to obtain a Certificate of Occupancy.

PREMISES AFFECTED - 70 East 184th Street, aka 2363 Morris Avenue, south side of East 184th Street, corner formed by the intersection of Morris Avenue, Block 3183, Lot 42, Borough of The Bronx.

**COMMUNITY BOARD #5**

**32-02-BZ**

APPLICANT - Martyn & Don Weston, for Winchester Realty Group, LLC, owner.

SUBJECT - Application December 12, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 176-182 Johnson Street, southwest corner of 92-102 Prince Street, Block 2049, Lot 15, Borough of Brooklyn.

**COMMUNITY BOARD #2**

---

# CALENDAR

---

**288-03-BZ**

APPLICANT - H. Irving Sigman, for Aggressive Realty Corp., owner.

SUBJECT - Application August 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a three story vertical and horizontal enlargement to an existing two story hotel, Use Group 5, located in a C2-2 within an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, height and non-complying signs, is contrary to Z.R. §33-121, §33-341, §32-641-643, §32-652 and §32-655.

PREMISES AFFECTED - 109-17 Horace Harding Expressway, northeast corner of Saultell Avenue, Block 1969, Tentative Lot 2, Borough of Queens.

**COMMUNITY BOARD #4**

---

**296-03-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Kigsway Realty, LLC, owner.

SUBJECT - Application September 10, 2003 - under Z.R. §72-21 to permit the proposed extension of an existing two story (2) commercial building, Use Group 6, to three stories, located in a C4-3 zoning district, which is in compliance with the NYC Zoning Resolution for the addition, but does not comply with the required parking requirements, as per Z.R. §36-21.

PREMISES AFFECTED - 1619 Kings Highway, aka 1601/1621 Kings Highway and 1639/1651 East 17th Street, Block 6779, Lot 22, Borough of Brooklyn.

**COMMUNITY BOARD #15**

---

**303-03-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Leon Farhi, owner.

SUBJECT - Application December 8, 2004 - under Z.R. §72-21 to permit the proposed reconstruction of a four story residential building, Use Group 2, that had existed at this location and was demolished by the City of New York, which does not comply with the zoning requirements for floor area, lot size, perimeter wall, dwelling units, side yards and parking, is contrary to Z.R. §23-141(a), §23-32, §23-631(d), §23-22, §23-462 and §25-23.

**REGULAR MEETING****TUESDAY MORNING, JANUARY 27, 2004****10:00 A.M.**

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, November 25, 2003, were approved as printed in the Bulletin of December 4, 2003, Volume 88, No. 48.

---

**SPECIAL ORDER CALENDAR**

PREMISES AFFECTED - 433 Columbia Street, northeast corner of Columbia Street and West 9th Street, Block 534, Lot 4, Borough of Brooklyn.

**COMMUNITY BOARD #6**

---

**306-03-BZ**

APPLICANT - Law Offices of Howard Goldman, LLC, for Kay Water Properties, LLC, owner.

SUBJECT - Application September 29, 2003 - under Z.R. §72-21 to permit the proposed conversion of a four story industrial building, located in an M1-2 zoning district, into a residential dwelling, also the addition of two floors, for a total of 18 loft-style dwelling units, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 192 Water Street, between Jay and Bridge Streets, Block 41, Lot 11, Borough of Brooklyn.

**COMMUNITY BOARD #2**

---

**5-04-BZ**

APPLICANT - Bryan Cave, LLP, for Gerard Avenue LLC, c/o American Self Storage Management Associates, Inc. owner.

SUBJECT - Application January 7, 2004 - under Z.R. §73-19 to permit the proposed construction and operation of a school, without sleeping accommodations on the site, Use Group 3, to be located in an M1-2 zoning district, requires a special permit as per Z.R. §73-19.

PREMISES AFFECTED - 595 Gerard Avenue, a/k/a 587/95 River Avenue, between 150th and 151st Streets, Block 2354, Lot 1, Borough of The Bronx.

**COMMUNITY BOARD #4**

---

*Pasquale Pacifico, Executive Director*

**254-63-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, for 301 East 66th Street Condominium, owner.

SUBJECT - Application July 10, 2003 - reopening for an extension of term of variance which expired June 20, 2003.

PREMISES AFFECTED - 301 East 66<sup>th</sup> Street, a/k/a 1260-1274 Second Avenue, East side of Second Avenue from East 66<sup>th</sup> Street to East 67<sup>th</sup> Street, Block 1441, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #8M**

APPEARANCES -

For Applicant: Fredrick A. Becker.

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

**THE VOTE TO GRANT -**

**Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3**

---

# MINUTES

---

Negative:.....0  
Abstain: Chair Srinivasan.....1  
Absent: Commissioner Chin.....1  
THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 27, 2003, acting on Application No. 401277505, reads:

- “(1) PROPOSED AUTO-REPAIR USE GROUP 16 IN C2-2 (IN AN R5) IS CONTRARY TO SECTION 32-00 Z.R.
- 2) PROPOSED EXTENSION (VARIETY STORE) IS PART OF PRINCIPAL USE OF AUTO REPAIR USE GROUP 16 IS ALSO ACCESSORY USE OF AUTO REPAIR ESTABLISHMENT B.S.A. VARIANCE IS REQUIRED”; and

WHEREAS, a public hearing was held on this application on September 9, 2003 after due notice by publication in *The City Record* and laid over to October 7, 2003, October 28, 2003, November 25, 2003, January 6, 2004, and then to January 27, 2004; and

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

WHEREAS, the applicant has requested an amendment to the variance for a special permit pursuant to Z.R. §§11-412 and 11-413, to permit the proposed modification and enlargement of a former pre-1961 gasoline service station, to reflect the elimination of the gasoline sales and to permit a compensating enlargement to facilitate accessory storage, larger repair bays for automotive repairs by minor hand tools only, automotive hand-washing and automotive and retail sales, which is contrary to Z.R. §32-10; and

WHEREAS, on May 23, 1950, the Board granted a variance to permit the construction of a gasoline service station at the referenced premises; this grant was amended

THAT 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.”

(D.O.B. Application No. 401277505)

Adopted by the Board of Standards and Appeals, January 27, 2004.

## 289-63-BZ

APPLICANT - Sheldon Lobel, P.C., for 61st LP, owner; Imperial Parking Systems, lessee.

SUBJECT - Application July 1, 2003 - reopening for an extension

through September 9, 1992; and

WHEREAS, the applicant represents that the subject site was used as a gasoline service station prior to 1961 and has since been used only for auto repairs, a lubritorium, and accessory auto sales for over five years; and

WHEREAS, the applicant represents that the zoning lot will not increase in size; and

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

*Resolved*, that the Board of Standards and Appeals, reopens and amends the resolution so that as amended that portion of the resolution shall read: “to permit the proposed modification and enlargement of a former pre-1961 gasoline service station, to reflect the elimination of the gasoline sales and to permit a compensating enlargement to facilitate accessory storage, larger repair bays for automotive repairs by minor hand tools only, automotive hand-washing and automotive and retail sales, 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 June 19, 2003”-(2) sheets, “September 24, 2003”-(1) sheet, and “January 12, 2004 ”-(1) sheet; and on further condition:

THAT the term of the special permit shall be limited to ten (10) years from the date of this grant, to expire on January 27, 2014;

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

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

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

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

of term of variance which expired June 27, 2003.

PREMISES AFFECTED - 150 East 61st Street (a/k/a 775 Lexington Avenue), south east corner of intersection of East 61st Street and Lexington Avenue, Block 1395, Lot 50, Borough of Manhattan.

## COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD - Rules of Practice and Procedure waived, application reopened, and term of variance extended.**

THE VOTE TO REOPEN HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

THE VOTE TO CLOSE HEARING -

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

---

# MINUTES

---

Negative: .....0  
Absent: Commissioner Chin.....1

**THE VOTE TO GRANT -**

**Affirmative:** Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

**Negative:**.....0

**Abstain:** Chair Srinivasan.....1

**Absent:** Commissioner Chin.....1

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on October 7, 2003 after due notice by publication in *The City Record*, and laid over to November 18, 2003, January 6, 2004 and then to January 27, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the granted variance, which expired on June 27, 2003; and

WHEREAS, on July 2, 1963, the Board granted an application for a variance made pursuant to Section 60(3) of the Multiple Dwelling Law, permitting the use of transient parking for the unused and surplus tenants' spaces in the required accessory garage of a multiple dwelling located in a C5-2 and R8B zoning district; and

WHEREAS, the term of the grant has been extended two times under the same calendar number, once on June 17, 1978 and once on October 19, 1993.

*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 June 27, 2003, pursuant to Zoning Resolution §§72-01 and 72-22, so that as amended this portion of the resolution shall read:

“to permit the extension of the term of the waiver for an additional ten (10) years from June 27, 2003 expiring on June 27, 2013; on condition that all work shall substantially conform to drawings as they

**ACTION OF THE BOARD -** Application reopened and resolution amended.

**THE VOTE TO GRANT -**

**Affirmative:** Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

**Negative:**.....0

**Abstain:** Chair Srinivasan.....1

**Absent:** Commissioner Chin.....1

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on August 12, 2003, after due notice by publication in *The City Record*, laid over to October 7, 2003, October 28, 2003, November 25, 2003, January 6, 2004 and then to January 27, 2004 for decision; and

WHEREAS, the applicant requests a re-opening, and an amendment to the resolution; and

WHEREAS, in 1937 under BSA calendar number 147-34-BZ, the Board granted an application permitting the use of the premises as an automotive service station; and

WHEREAS, in 1967, the owner of the premises filed a new application, as required by the Board, to amend the

apply to the objections above noted, filed with this application marked “Received November 3, 2003 (1) sheet, December 30, 2003 (1) sheet; and on further condition;

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

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

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

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

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

(DOB Alteration Type 1 Application # 103486176)

Adopted by the Board of Standards and Appeals, January 27, 2004.

**444-67-BZ**

APPLICANT - Eric Palatnik, P.C., for Hillside 188th Street Corp, owner; BP Products North America, owner.

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

PREMISES AFFECTED - 187-39 Hillside Avenue, northwest corner of 87-88 to 87-96 188<sup>th</sup> Street, Block 9960, Lot 1, Borough of Queens.

**COMMUNITY BOARD #8Q**

APPEARANCES -

For Applicant: Eric Palatnik.

resolution under BSA Cal. No. 444-67-BZ; and

WHEREAS, the applicant seeks to make changes to the signage; and

WHEREAS, the newly proposed signage arrangement will entail 66.8 square feet of illuminated signage and 38.6 square feet of non-illuminated signage.

Resolved, that the Board of Standards and Appeals, *reopens and amends* the resolution, pursuant to Z.R. §§72-01, 72-22 and 73-11, said resolution having been adopted on June 22, 1971, so that as amended this portion of the resolution shall read: “to permit changes in signage which will result in a total of 66.8 square feet of illuminated signage and 38.6 square feet of non-illuminated signage, *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 3, 2003 ”- (5 ) 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 and all conditions from prior

---

# MINUTES

---

resolutions shall appear on the certificate of occupancy;

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

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

(DOB Application #401585352)

Adopted by the Board of Standards and Appeals, January 27, 2004.

---

### 33-92-BZ

APPLICANT - Sheldon Lobel, P.C., for D & K Realty, owner.  
SUBJECT - Application September 9, 2003 - reopening for an extension of term of variance which expired August 10, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 95-01 Brisbin Street, a/k/a 143-02 95th Avenue, south side of Atlantic Avenue between Brisbin and Allendale Streets, Block 10007, Lot 1, Borough of Queens.

#### COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD - Application reopened, term of variance extended, time to obtain a Certificate of Occupancy extended and resolution amended.**

#### THE VOTE TO GRANT -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

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

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

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

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

THAT the Department of Buildings must ensure compliance 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 #400184698)

Adopted by the Board of Standards and Appeals, January 27, 2004.

---

### 628-39-BZ

APPLICANT - Rothkrug, Rothkrug Weinberg & Spector, for R-9-2 Inc., owner; D2 Developers Inc., lessee.

SUBJECT - Application October 10, 2003 - reopening for an extension of term of variance which expired December 12, 2003.

### THE RESOLUTION -

WHEREAS, a public hearing was held on this application on November 25, 2003 after due notice by publication in The City Record, and laid over to January 6, 2004 and then to January 27, 2004 for decision; and

WHEREAS, the applicant requests a re-opening, an extension of the term of the variance which expired on August 10, 2003, and an extension of the time to obtain a certificate of occupancy which expired on August 10, 1994; and

WHEREAS, this application also seeks an amendment to permit the expansion of a legal non-conforming use - a contractor's yard- pursuant to Z.R. §§22-00 and 54-31, and the legalization of a metal shed outside and minor changes to the interior layout of the first floor; and

WHEREAS, on August 10, 1993, the Board granted an application permitting, in an R5 district, the conversion existing garages on the first floor to contractor's storage area, and the conversion of the residential apartment on the second floor to offices.

*Resolved, that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on August 10, 1993, 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 August 10, 2003 to expire on August 10, 2013, and to permit the expansion of a legal non-conforming use, and the legalization of a metal shed outside and minor changes to the interior layout of the first floor, 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 9, 2003"- (5) sheets; and on further condition:*

PREMISES AFFECTED - 1531/41 Plimpton Avenue, northwest corner of Plimpton Avenue and Featherbed Lane, Block 2875, Lots 51 and 56, Borough of The Bronx.

#### COMMUNITY BOARD #5BX

APPEARANCES -

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD - Laid over to March 9, 2004, at 10 A.M., for continued hearing.**

---

### 465-55-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for 325 North Macquesten Parkway Corporation, owner; Abko Inc dba Carwash Associates, lessee.

SUBJECT - Application June 13, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 486/496 Coney Island Avenue aka 804/826 Church Avenue, west side of Coney Island Avenue 91' 9 1/8" south of the corner of Church Avenue and Coney Island Avenue) Block 5341, Lot 17, Borough of Brooklyn.

#### COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Fredrick A. Becker.

**ACTION OF THE BOARD - Laid over to March 2, 2004,**

---

# MINUTES

---

at 10 A.M., for continued hearing.

\_\_\_\_\_

### 973-57-BZ

APPLICANT - Sheldon Lobel, P.C., for Bill Wolf Petroleum Corp., owner.

SUBJECT - Application October 16, 2003 - reopening for an extension of term of variance which expired October 28, 2003.

PREMISES AFFECTED - 60-04 Metropolitan Avenue on the southwest corner of 60th Street, Block 3492, Lot 45, Borough of Manhattan.

### COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to March 9, 2004, at 10 A.M., for continued hearing.

\_\_\_\_\_

### 400-70-BZ

APPLICANT - Sheldon Lobel, P.C., for Amerada Hess Corporation, owner.

SUBJECT - Application November 7, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 134-07 Cross Bay Boulevard (formerly 134-15 Croo Bay Boulevard) Cross Bay Boulevard at northeast corner of Linden Boulevard, Block 11493, Lots 79 and 87, Borough of Queens.

### COMMUNITY BOARD #10Q

### 193-03-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Park and Kent Associates, Inc.  
SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 824-834 Kent Avenue, south side of Park Avenue, east of Taafee Place, Block 1897, Lot 31, Borough of Brooklyn.

### COMMUNITY BOARD #3BK

APPEARANCES -

For Favor: Jim Plotkin.

**ACTION OF THE BOARD** - Laid over to March 9, 2004, at 10 A.M., for continued hearing.

\_\_\_\_\_

### 334-03-A

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

SUBJECT - Application October 28, 2003 - Proposed second story enlargement, to an existing one family dwelling, located within the bed of a mapped street, not fronting on a legally mapped street, and has an upgraded private disposal system in the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law, and Department of Buildings' Policy.

PREMISES AFFECTED - 40 Graham Place, Block 16350, Lot 400, Borough of Queens.

APPEARANCES -

For Applicant: Janice Cahalane and Chris Tartaglia.

**ACTION OF THE BOARD** - Laid over to March 9, 2004, at 10 A.M., for continued hearing.

\_\_\_\_\_

### 245-90-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Margarita Herskovich and Lyubov Herskovich, owners.

SUBJECT - Application June 12, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 29, 2001.

PREMISES AFFECTED - 1054 43<sup>rd</sup> Street, south side of 43rd Street, Block 5602, Lot 51, Borough of Brooklyn.

### COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Jim Plotkin.

**ACTION OF THE BOARD** - Laid over to March 2, 2004, at 10 A.M., for continued hearing.

\_\_\_\_\_

### COMMUNITY BOARD #14Q

APPEARANCES - None.

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

THE VOTE TO GRANT -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated October 22, 2003 acting on ALT 1. Application No. 401696241, reads in pertinent part:

For Board of Standards & Appeals Only

“A1- The site is 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.

A2- The site and building is not fronting on an official mapped street therefore, no permit or Certificate of Occupancy can be issued as per Art. 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 building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section C27-291(C26-401.1) of

# MINUTES

the Administrative Code of the City of New York.

A3- The upgraded private disposal system is in the bed of a private service road contrary to Department of Buildings policy.”; and

WHEREAS, by the letter dated December 10, 2003, the Fire Department has reviewed the above project and has no objections; and

WHEREAS, by the letter dated November 26, 2003 the Department of Environmental Protection has indicated that there are no existing City water mains at the above location, nor existing sewers or an adopted drainage plan for this portion of Rockaway Blvd. and has no further comments on this application; and

WHEREAS, by letter dated December 24, 2003, the Department of Transportation has reviewed the above project and has no objections as this site 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.

*Resolved*, that the decision of the Queens Borough

THAT the Department of Buildings must ensure compliance 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 on January 27, 2004.

**335-03-A**

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

SUBJECT - Application October 28, 2003 - Proposed enlargement, to an existing one family dwelling, located within the bed of a mapped street, not fronting on a legally mapped street, and has an upgraded private disposal system in the bed of a private service road, is contrary to Sections 35 and 36, Article 3 of the General City Law, and Department of Buildings’ Policy.

PREMISES AFFECTED - 47 Tioga Walk, east side, 110.96 south of Sixth Avenue, 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: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3  
 Negative:.....0  
 Abstain: Chair Srinivasan.....1  
 Absent: Commissioner Chin.....1

**THE RESOLUTION** -

WHEREAS, the decision of the Queens Borough

Commissioner, dated October 22., 2003, acting on ALT 1. Application No. 401696241 is modified under the 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 January 20, 2004”- (1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *on further condition*

THAT the upgrade private disposal system comply with DOB requirements;

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

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

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

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

Commissioner, dated October 22, 2003, acting on ALT 1. Application No. 401717406, reads, in pertinent part:

“A1- The site is 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.

A2- The site and building is not fronting on an official mapped street therefore, no permit or Certificate of Occupancy can be issued as per Art. 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 building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section C27-291(C26-401.1) of the Administrative Code of the City of New York.

A3- The upgraded private disposal system is in the bed of a private service road contrary to Department of Buildings policy.”

WHEREAS, by the letter dated December 10, 2003, the Fire Department has reviewed the above project and has no objections; and

WHEREAS, by the letter dated December 2, 2003, the Department of Environmental Protection has indicated that there are no existing City water mains at the above location, nor existing sewers or an adopted drainage plan for this portion of Rockaway Blvd. and has no further comments on this application; and

WHEREAS, by letter dated November 17, 2003, the Department of Transportation has reviewed the above

---

# MINUTES

---

project and has no objections as this site 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.

*Resolved*, that the decision of the Queens Borough Commissioner, dated October 22, 2003, acting on ALT 1. Application No. 401717406, is modified under the 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 January 20, 2004" - (1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with and *on further condition*:

THAT the upgrade private disposal system comply with DOB requirements;

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

THAT any graffiti located on the premises shall be **123-03-A thru 127-03-A**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Collier Realty, LLC., owner.

SUBJECT - Application April 17, 2003 - Proposed construction of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -

437 Beach 28th Street, west side, 141.5" south of Brookhaven Avenue, Block 15793, Lot 9, Borough of Queens.

435 Beach 28th Street, west side, 174.9" south of Brookhaven Avenue, Block 15793, Lot 10, Borough of Queens.

431 Beach 28th Street, west side, 200.2" south of Brookhaven Avenue, Block 15793, Lot 12, Borough of Queens.

434 Beach 29th Street, east side, 10" south of Brookhaven Avenue, Block 15793, Lot 48, Borough of Queens.

436 Beach 29th Street, east side, 39.3" south of Brookhaven Avenue, Block 15793, Lot 50, Borough of Queens.

## COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Adam W. Rothkrug.

THE VOTE TO REOPEN HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to March 2, 2004, at 10 A.M., for continued hearing.

removed within 48 hours;

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

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

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

Adopted by the Board of Standards and Appeals on January 27, 2004.

---

## 128-03-A thru 130-03-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Brookside Development Corp., owner.

SUBJECT - Application April 18, 2003 - Proposed construction of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -

22 Brookside Loop, west side, 162' south of Woodrow Road, Block 7022, Lot 5, Borough of Staten Island.

26 Brookside Loop, west side, 25.5' south of Woodrow Road, Block 7022, Lot 8, Borough of Staten Island.

30 Brookside Loop, west side, 341.5' south of Woodrow Road, Block 7022, Lot 10, Borough of Staten Island.

## COMMUNITY BOARD #3S.I.

APPEARANCES -

For Applicant: Adam W. Rothkrug.

THE VOTE TO REOPEN HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to March 2, 2004, at 10 A.M., for continued hearing.

---

## 331-03-A

APPLICANT - The Augusta Group, for Nelson Catano, owner.

SUBJECT - Application October 27, 2003 - The legalization of an existing mercantile occupancy, within a frame class IID construction

---

# MINUTES

---

building, located within the fire district, is not permitted as per §27-296 and Table 4-1 of the NYC Building Code.

PREMISES AFFECTED - 37-44 103<sup>rd</sup> Street, west side, 410.75' south of 37th Avenue, Block 1768, Lot 32, Borough of Queens.

## COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Sheldon Lefler.

For Opposition: Tawane A. Gasiaro.

**ACTION OF THE BOARD** - Laid over to March 2, 2004, at 10 A.M., for continued hearing.

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director.*

Adjourned: 11:01 A.M.

**REGULAR MEETING  
TUESDAY AFTERNOON, JANUARY 27, 2004  
2:00 P.M.**

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

\_\_\_\_\_  
**ZONING CALENDAR**

### 249-01-BZ

#### CEQR #02-BSA-015K

APPLICANT - Moshe M. Friedman, P.E., for B.Z.V. Enterprise Corporation, owner.

SUBJECT - Application August 7, 2001 - under Z.R. § 72-21, to permit the proposed conversion of an existing four story manufacturing building, Use Group 17, to joint living/working quarters, Use Group 17D, located in an M1-2 zoning district, which is contrary to Z.R. §42-14.

PREMISES AFFECTED - 9 White Street, a/k/a 210/22 Varet Street, southwest corner, Block 3117, Lot 29, Borough of Brooklyn.

#### COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Moshe M. Friedman.

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

#### THE VOTE TO GRANT -

Affirmative:.....0  
Negative: Vice -Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3  
Abstain: Chair Srinivasan.....1  
Absent: Commissioner Chin.....1

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 19, 2003, acting on Application No. 301218518 reads;

“The Proposed conversion of an Existing Manufacturing Building (U.G. 17) to Residential Dwellings (UG2) in an M1-2 zone is contrary to Section 42-00 of the Zoning Resolution and requires a variance from the Board of Standards and Appeals as per Section 72-21 of the Zoning Resolution.”; and  
WHEREAS, a public hearing was held on this application on November 12, 2002, after due notice by publication in *The City Record* and laid over to January 7, 2003, March 4, 2003, June 17, 2003, September 16, 2003, October 7, 2003 and then to December 9, 2003 for decision; it was then deferred to January 27, 2004 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M1-2 zoning district, the construction of residential dwellings (Use Group 2), contrary to Z.R. §42-00; and

WHEREAS, the instant proposal seeks the conversion of an existing four-story non-complying Manufacturing (Use Group 17) building, to Manufacturing (Use Group 17) and Residential (Use Group 2); and

WHEREAS, the applicant proposes to retain the existing manufacturing use on the ground floor and convert the second, third and fourth floors to residential use; and

WHEREAS, the applicant contends that, because of its arrangement of space and lack of access for trucks and trailers, the building is functionally obsolete for the purpose for which it was intended; and

WHEREAS, however, the applicant limited the analysis of obsolescence to large scale manufacturing uses and garment manufacturing uses; and

WHEREAS, the application failed to adequately document that the site was marketed to modern light

---

# MINUTES

---

manufacturing uses or commercial uses; and

WHEREAS, the applicant further contends that the alleged practical difficulty and unnecessary hardship were created, in part, by a change in the way business in the garment industry is conducted; and

WHEREAS, however, evidence in the record, including the Board's own site inspection, demonstrates that the subject site remains viable for manufacturing uses; and

WHEREAS, during the hearings, the Board requested that the applicant provide evidence that there are unique physical conditions - including irregularity, narrowness or

WHEREAS, the Board notes that the only evidence offered by the applicant of the alleged residential character of the immediate vicinity were illegal occupancies, which the Board finds insufficient; and

WHEREAS, the applicant was provided numerous opportunities, but failed, to demonstrate that certain residential uses in the neighborhood were legally converted; and

WHEREAS, the applicant was given a deferred decision date so that additional information as to the essential character of the neighborhood could be submitted, but the Board finds such submission unpersuasive in that no new evidence as to essential character was presented; and

WHEREAS, the Board, based on its site visit and review of the record, determines that the subject site is partially occupied with commercial uses, that the immediate surrounding area is characterized by conforming manufacturing or commercial uses, and that conversion of the upper three floors to residential will alter the character of the surrounding area; and

WHEREAS, the Board finds that the applicant has failed to provide substantial evidence that the proposed conversion would not impair the character of the neighborhood; and

WHEREAS, therefore, the Board finds that the applicant has failed to meet the requirement of §72-21 (c); and

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

*Resolved*, the decision of the Borough Commissioner, dated February 19, 2003, acting on Application No. 301218518, is sustained and the subject application is hereby denied.

Adopted by the Board of Standards and Appeals, January 27, 2004.

202-02-BZ

CEQR #03-BSA-002Q

APPLICANT - Sullivan Chester & Gardner, LLP, for Hajj D. Corp., owner.

SUBJECT - Application July 1, 2002 - under Z.R. §72-243 to

shallowness of lot size or shape or exceptional topography or other physical conditions - that are peculiar, or inherent, to the subject site, but no such evidence was provided; and

WHEREAS, moreover, the Board has reviewed the record and finds that the applicant failed to provide substantial evidence demonstrating that a conforming tenant or user would not provide a reasonable return to the property owner; and

WHEREAS, therefore, the Board finds that the applicant has failed to meet the requirements of Z.R. §72-21 (a) and (b); and

permit in a C1-2 zoning district, the proposed accessory drive-thru facility for an eating and drinking establishment, contrary to Z.R. §32-15.

PREMISES AFFECTED - 133-20 Rockaway Boulevard, between 133<sup>rd</sup> and 134<sup>th</sup> Streets, Block 11757, Lot 55, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Zara Fernandes.

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

**THE VOTE TO GRANT -**

**Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3**

**Negative:.....0**

**Abstain: Chair Srinivasan.....1**

**Absent: Commissioner Chin.....1**

**THE RESOLUTION -**

WHEREAS, the decision of the Borough Commissioner dated June 10, 2002, acting on Application No. 401395414 reads:

“Construction of drive-through window in conjunction with Dunkin Donuts new building is contrary to Section 32-15 of the Zoning Resolution and thereby must be referred to the Board of Standards and Appeals.”; and

WHEREAS, a public hearing was held on this application on May 6, 2003 after due notice by publication in The City Record, and laid over to June 24, 2003, August 5, 2003, Sept 16, 2003, October 7, 2003, November 25, 2003, January 6, 2004, and then to January 27, 2004 for decision; and

WHEREAS, Community Board No. 10 and the Queens Borough President in Queens recommend conditional 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 Vice-Chair Satish Babbar, Commissioner James Chin Commissioner Peter Caliendo and Commissioner Joel Miele; and

WHEREAS, this is an application for a special permit under Z.R. §§73-03 and 73-243, to permit, in a C1-2 zoning district, the proposed accessory drive-thru facility for a

---

# MINUTES

---

proposed eating and drinking establishment contrary to Z.R. §32-15; and

WHEREAS, the premises is located on Rockaway Boulevard between 133<sup>rd</sup> and 134<sup>th</sup> Streets, with frontages of 80.60' along Rockaway Boulevard, 110.40' along 134<sup>th</sup> Street, and side lot lines measuring 100.00' and 102.57',

WHEREAS, under Z.R. §73-243, the application must demonstrate that the drive-through facility provides reservoir space for not less than ten automobiles, causes minimum interference with traffic flow in the immediate vicinity, that the eating and drinking establishment with accessory drive-thru facility complies with accessory off-street parking regulations, that the character of the commercially-zoned street frontage within 500 feet of the subject premises reflects substantial orientation toward motor vehicles, that the drive-thru facility will not have an undue adverse impact on any residences in the immediate area, and that there is adequate buffering between the drive-thru facility and adjacent residential uses; and

WHEREAS, Rockaway Boulevard is a heavily trafficked, commercially oriented main thoroughfare; and

WHEREAS, the instant application proposes reservoir space for up to ten (10) automobiles, demonstrates that the proposed vehicle entrance on Rockaway Boulevard and the proposed left-turn only exit into 134<sup>th</sup> Street ensures that the drive-thru facility will cause minimum interference with traffic flow in the immediate vicinity, and provides for eleven (11) off-street accessory parking spaces, exceeding the 8 required under applicable accessory off-street parking regulations; and

WHEREAS, the record indicates that within 500' of the premises the existing frontages are commercial in nature; and

WHEREAS, the applicant represents that fencing and screening will be installed in the rear of the site to further minimize adverse impacts on any nearby residences; and

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

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

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-243 and 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

presently developed with a retail bakery facility that is no longer in use; and

WHEREAS, the instant application seeks to replace the existing retail bakery facility with a drive-thru lane that would be accessory to the proposed eating and drinking establishment; and 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. §§73-03 and 73-243, to permit, in a C1-2 zoning district, the proposed accessory drive-thru facility for an eating and drinking establishment, contrary to Z.R. §32-15, *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, 2002"- (3) sheets, "October 10, 2003"- (1) sheet, and "January 20, 2004"- (1) sheet; and *on further condition*:

THAT the term of this special permit shall be limited to five (5) years from the date of this grant, to expire on January 27, 2009;

THAT the vehicle entrance of the eating and drinking establishment should be made only from Rockaway Boulevard;

THAT the exit on 134<sup>th</sup> Street is left-turn only;

THAT the applicant will pay for any traffic safety improvements at the intersection of Rockaway Boulevard and 134<sup>th</sup> Street that may be required subsequent to any Department of Transportation traffic study;

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

THAT substantial construction shall be completed in accordance with Z.R. §73-70;

THAT this approval is limited to the relief granted by the Board in response to the specifically cited and filed Department of Building objection 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 27, 2004.

---

138-03-BZ

CEQR #03-BSA-176Q

APPLICANT - Agusta & Ross, for C & M Service Center, owner.  
SUBJECT - Application June 19, 2003 - under Z.R. §§11-412 and

---

# MINUTES

---

11-413 to permit a compensating enlargement to facilitate accessory storage, larger repair bays for automotive repairs by minor hand tools only, automotive hand-washing and automotive and retail sales, which is contrary to Z.R. §32-10.

PREMISES AFFECTED - 79-59/77 Cooper Avenue, north side, at the corner of 69<sup>th</sup> Road, Block 3801, Lot 35, Borough of Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

Absent: Commissioner Chin.....1

## THE VOTE TO GRANT -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

## THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 27, 2003, acting on Application No. 401277505, reads:

- “(1) PROPOSED AUTO-REPAIR USE GROUP 16 IN C2-2 (IN AN R5) IS CONTRARY TO SECTION 32-00 Z.R.
- 2) PROPOSED EXTENSION (VARIETY STORE) IS PART OF PRINCIPAL USE OF AUTO REPAIR USE GROUP 16 IS ALSO ACCESSORY USE OF AUTO REPAIR ESTABLISHMENT B.S.A. VARIANCE IS REQUIRED”;

WHEREAS, a public hearing was held on this application on September 9, 2003 after due notice by publication in *The City Record* and laid over to October 7, 2003, October 28, 2003, November 25, 2003, January 6, 2004, and then to January 27, 2004; and

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

WHEREAS, the applicant has requested an amendment to the variance for a special permit pursuant to Z.R. §§11-412 and 11-413, to permit the proposed modification and enlargement of a former pre-1961 gasoline service station, to reflect the elimination of the gasoline sales and to permit a compensating enlargement to facilitate accessory storage, larger repair bays for automotive repairs by minor hand tools only, automotive hand-washing and automotive and retail sales, which is contrary to Z.R. §32-10; and

WHEREAS, on May 23, 1950, the Board granted a variance to permit the construction of a gasoline service station at the referenced premises; this grant was amended through September 9, 1992; and

Queens.

## COMMUNITY BOARD #5Q

### APPEARANCES -

For Applicant: Mitchell Ross.

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

### THE VOTE TO CLOSE HEARING -

WHEREAS, the applicant represents that the subject site was used as a gasoline service station prior to 1961 and has since been used only for auto repairs, a lubritorium, and accessory auto sales for over five years; and

WHEREAS, the applicant represents that the zoning lot will not increase in size; and

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

*Resolved*, that the Board of Standards and Appeals, reopens and amends the resolution so that as amended that portion of the resolution shall read: “to permit the proposed modification and enlargement of a former pre-1961 gasoline service station, to reflect the elimination of the gasoline sales and to permit a compensating enlargement to facilitate accessory storage, larger repair bays for automotive repairs by minor hand tools only, automotive hand-washing and automotive and retail sales, 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 June 19, 2003”-(2) sheets, “September 24, 2003”-(1) sheet, and “January 12, 2004”-(1) sheet; and *on further condition*:

THAT the term of the special permit shall be limited to ten (10) years from the date of this grant, to expire on January 27, 2014;

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

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

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

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)

---

# MINUTES

---

and/or configuration(s) not related to the relief granted.”  
(D.O.B. Application No. 401277505)

Adopted by the Board of Standards and Appeals,  
January 27, 2004.

## 246-03-BZ

### CEQR #04-BSA-016K

APPLICANT - Eric Palatnik, P.C., for Carol Feldsher, owner.  
SUBJECT - Application September 19, 2003 - under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliance with regard to floor area, open space, and rear and side yard requirements, contrary to Z.R §§23-141, 23-461 and 23-47.

PREMISES AFFECTED - 1371 East 23rd Street, east side, between Avenues “N and M”, Block 7659, Lot 15, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

#### APPEARANCES -

For Applicant: Eric Palatnik.

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

#### THE VOTE TO GRANT -

**Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3**

**Negative:.....0**

**Abstain: Chair Srinivasan.....1**

**Absent: Commissioner Chin.....1**

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 10, 2003, acting on Application No. 301556126 reads:

“OBTAIN SPECIAL PERMIT APPROVAL FROM THE BOARD OF STANDARDS AND APPEALS AS PER SEC. 73-622 OF THE ZONING RESOLUTION FOR THE FOLLOWING OBJECTIONS:

PROPOSED SIDE YARD IS CONTRARY TO ZR 23-461

PROPOSED REAR YARD IS CONTRARY TO ZR 23-47

PROPOSED FLOOR AREA IS CONTRARY TO ZR 23-141

PROPOSED OPEN SPACE RATIO IS CONTRARY TO ZR 23-141.”; and

WHEREAS, a public hearing was held on this application on November 25, 2003 and then laid over to January 6, 2004 and then to January 27, 2004 for decision; and

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

Miele; and

WHEREAS, a special permit is sought under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliance with regard to floor area, open space, and rear and side yard requirements, contrary to Z.R §§23-141, 23-461 and 23-47; 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 perimeter wall height will comply with all applicable zoning regulations; and

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

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

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

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

*Resolved*, that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliance with regard to floor area, open space, and rear and side yard requirements, 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 marked “Received September 19, 2003”- (10) sheets, and “January 6, 2004”- (2) sheets; and *on further condition*:

THAT there shall be no habitable room(s) in the cellar;

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

---

# MINUTES

---

certificate of occupancy;

THAT the use and layout of the cellar shall be as

THAT 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;

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

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

Adopted by the Board of Standards and Appeals, January 27, 2004.

---

## 248-03-BZ

### CEQR #04-BSA-017M

APPLICANT - Fischbein Badillo Wagner Harding, for Ross & Ross, owner; Bally Total Fitness, lessee.

SUBJECT - Application July 31, 2003 - under Z.R. §72-21 to permit the operation of a PCE (UG 9), located in an existing commercial building divided by C1-5 and R7-2 zoning district boundaries, which is contrary to Z.R. §32-10.

PREMISES AFFECTED - 1915 Third Avenue, southeast corner of East 106th Street, Block 1655, Lot 45, Borough of Manhattan.

### COMMUNITY BOARD #11M

#### APPEARANCES -

For Applicant: Barbara Hair.

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

#### THE VOTE TO GRANT -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 24, 2003 acting on Application No. 103485630 reads:

“ZR 32-10 Proposed physical culture establishment within C1-5 in R7-2 zoning district is not permitted.”; and

WHEREAS, a public hearing was held on this application on January 6, 2004 after due notice by publication in *The City Record* and laid over to January 27,

WHEREAS, the applicant states that when the existing building was constructed in 1925, the entire site lay within

approved by the Department of Buildings;

2004 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21 to permit the operation of a physical culture establishment (“PCE”) (UG 9), located in an existing commercial building divided by C1-5 and R7-2 zoning district boundaries, contrary to Z.R. §32-10; and

WHEREAS, the subject premises is located on the southeast corner of Third Avenue and East 106<sup>th</sup> Street with frontages of approximately 100 feet along Third Avenue and 160 feet along East 106<sup>th</sup> Street, and is currently improved with a two-story, mezzanine and cellar commercial building; and

WHEREAS, the record indicates that approximately 60% of the site lies within the C1-5 overlay along Third Avenue, and the remaining 40% lies within the underlying R7-2 district; and

WHEREAS, Z.R. §73-36 does not permit the Board to grant a special permit for a PCE within either a C1-5 or R7-2 zoning district, and the applicant must therefore seek a variance; and

WHEREAS, the applicant represents that the PCE will occupy 10,137 square feet in the cellar level, 11,189 square feet on the second floor and 5,257 square feet on the first floor which includes the entrance; and

WHEREAS, the applicant states that proposed hours of operation will be 6 A.M through 11 P.M. Monday through Friday, and 8 A.M. through 9 P.M Saturday and Sunday; and

WHEREAS, the applicant represents that the interior space is specifically arranged to allow for stretching, cardio, strength training, free weights, general exercise, classes, instruction and programs for physical improvement; and

WHEREAS, the applicant further represents that no massage services are currently offered or proposed at this time; and

WHEREAS, the record indicates that the existing building was constructed in 1925 for the use by a single department store with retail area on the first floor, office space on the mezzanine, sample and lunch rooms on the second floor; and

WHEREAS, the building was constructed so that the first floor covers the entire lot while the second floor is an irregular L-shape covering the lot along the Third Avenue and East 106<sup>th</sup> Street frontages, narrowing in width to approximately 15 feet along part of 106<sup>th</sup> Street; and

the boundaries of a business zoning district; and

WHEREAS, the applicant represents that the site is the

---

# MINUTES

---

only property along the Third Avenue commercial corridor, within a five-block radius, which is split and subject to the regulations of C1-5 and R7-2 zoning districts; and

WHEREAS, the Board finds that the aforementioned unique physical conditions create an unnecessary undue hardship in developing the site in conformity with the current zoning regulations; and

WHEREAS, evidence in the record, including a feasibility study, demonstrates that developing the site with a conforming development would not yield a reasonable return; and

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

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

WHEREAS, the record indicates that the surrounding area contains a mix of residential and commercial 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 hardship herein was not created by the owner or a predecessor in title; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and 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 operation of a PCE (UG 9), located in an existing commercial building divided  
PREMISES AFFECTED - 145-55 Guy Brewer Boulevard, a/k/a 145-51/67 Guy Brewer Boulevard and 145-54/66 Farmers Boulevard, northeast corner, Block 13313, Lot 40, Borough of

by C1-5 and R7-2 zoning district boundaries, 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 July 31, 2003"- (1) sheet , and "January 6, 2004"- (3) sheets; and *on further condition*:

THAT the term of this special permit shall be limited to ten (10) years from January 27, 2004 to expire on January 27, 2014;

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

THAT 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 premises shall be maintained free of debris and graffiti;

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, January 27, 2004.

---

## 268-03-BZ

### CEQR #04-BSA-033Q

APPLICANT - Eric Palatnik, P.C., for Park Circle Realty Associates, owner; BP Products North America, lessee.

SUBJECT - Application August 22, 2003 - under Z.R. §§11-411 and 11-412 to permit to re-establish a variance previously granted under Calendar Number 704-53-BZ, for an automotive service station, to permit the legalization of the existing air station, vacuum and beverage machines, and to permit the modification of the existing signage, which is contrary to Z.R. §32-35.

Queens.

### COMMUNITY BOARD #13Q

APPEARANCES -

---

# MINUTES

---

For Applicant: Eric Palatnik.

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

**THE VOTE TO GRANT** -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated July 30, 2003, acting on Department of Buildings Alt-1 Application No. 401702617 reads:

“Automotive Service Station located in a C1-2 within an R6 Zoning District is not permitted as-of-right. Previous Board of Standards and Appeals approval under BSA Calendar Number 704-53-BZ has expired, and must be referred to the BSA for extension of term. Proposed Signage modifications.”; and

WHEREAS, a public hearing was held on this application on January 6, 2004 after due notice by publication in the City Record, and laid over to January 27, 2004 for decision; and

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

WHEREAS, this is an application under Z.R. §§11-411 and 11-412, on a site previously before the Board, to re-establish a variance previously granted under Calendar Number 704-53-BZ, for an automotive service station, to permit the legalization of the existing air station, vacuum and beverage machines, and to permit the modification of the existing signage, which is contrary to Z.R. §32-35; and

WHEREAS, the subject lot is a 11,243 sq. ft. irregular corner lot, with a 128 sq. ft. one-story kiosk building located in the center of the site; and

WHEREAS, on March 23, 1954, under Calendar Number 704-53-BZ, the Board issued a resolution authorizing the use of the premise as an automotive service station; and

WHEREAS, the applicant represents that the existing automotive service station has occupied the premises for continuously for more than 50 years; and

WHEREAS, the applicant seeks Board approval of existing conditions that were not approved in the previous application; specifically, these conditions are an existing vacuum, existing beverage machines, and an existing air

THAT there will be no lubrication or repair of cars on the premises at any time;

THAT fencing and screening shall be provided in accordance with BSA-approved plans;

THAT lighting shall be provided in accordance with

station; and

WHEREAS, the applicant also proposes to change signage at the service station; and

WHEREAS, the applicant represents that the failure to renew the grant in 1998 was an oversight on the part of the lessee, arising from a corporate merger, and that the owner has made good faith efforts to comply with the prior resolutions; and

WHEREAS, the most recent term of the grant expired on April 19, 1998; and

WHEREAS, the applicant represents that the subject application meets the findings set forth at Z.R. §73-211(a), which is for a new special permit for a service station; 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 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. §§11-411 and 11-412, and grants a variation in the application of the Zoning Resolution, limited to the objection cited, on a site previously before the Board, to re-establish a variance previously granted under Calendar Number 704-53-BZ, for an automotive service station, to permit the legalization of the existing air station, vacuum and beverage machines, and to permit the modification of the existing signage, which is contrary to Z.R. §32-35, on condition that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked “Received August 22, 2003-” -(5) sheets; and on further condition;

THAT the term of the variance shall be limited to ten (10) years from the date of this grant expiring on January 27, 2014;

THAT signage shall be provided in accordance with BSA-approved plans;

THAT there shall be no used car sales on the premises at any time;

BSA-approved plans and shall be positioned down and away from any adjacent residential uses;

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

THAT any graffiti located on the premises shall be

---

# MINUTES

---

removed within 48 hours;

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

THAT a new Certificate of Occupancy Shall be obtained within two (2) years of the date of this resolution;

THAT 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 27, 2004.

## 272-03-BZ

### CEQR #04-BSA-037R

APPLICANT - Rampulla Associates Architects, for Robert Brown/Daniel Brown, owners.

SUBJECT - Application October 3, 2003 - under Z.R. §72-21 to permit **in an R3-1 zoning district within the Special South Richmond District, the proposed construction of a two-story and cellar retail building (UG 6), with accessory off-street parking for twenty-five (25) cars and a curb cut on Hylan Boulevard that is not permitted, which is situated within a required arterial setback, contrary to Z.R. §§22-10 and 107-251(a) and (b).**

PREMISES AFFECTED - 4106 Hylan Boulevard, south side, between Goodall and Glover Streets, Block 5307, Lots 6, 7, 13 and 14 (tentative Lot 6), Borough of Staten Island.

### COMMUNITY BOARD #3 S.I.

#### APPEARANCES -

For Applicant: Philip L. Rampulla.

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

#### THE VOTE TO GRANT -

**Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3**

WHEREAS, the applicant states 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 size and is "L"-shaped, and lacks consistent depth; it contains two non-adjacent rear yards, three separate side yards, and two separate front yards; and the existing buildings possess differing floor elevations, causing practical difficulties in merging the two buildings into one larger building; and

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 18, 2003, acting on Department of Buildings NB Application No. 500534619 reads, in part:

"1. Proposed cellar and two story retail and office building within an R3-1 Zoning district is not permitted as per Section 22-10 Z.R. . . .

3. The proposed Retail Commercial Development indicates a curb cut on Hylan Boulevard which is not permitted pursuant to Section 107-251(a) Z.R. and indicates that the proposed building in the required arterial setback which is not permitted pursuant to Section 107-251(b) Z.R." and

WHEREAS, a public hearing was held on this application on January 6, 2004 after due notice by publication in the City Record, and laid over to January 27, 2004 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R3-1 zoning district within the Special South Richmond District, the proposed construction of a two-story and cellar retail building (UG 6), with accessory off-street parking for twenty-five (25) cars and a curb cut on Hylan Boulevard that is not permitted, which is situated within a required arterial setback, contrary to Z.R. §§22-10 and 107-251(a) and (b); and

WHEREAS, the subject zoning lot is an irregularly shaped plot of land, with 183.17 feet of frontage on Hylan Boulevard and 69.24 feet of frontage on Goodall Street, with a total lot area of 17,239 sq. ft; and

WHEREAS, the zoning lot is currently occupied by an existing one-story retail building (without accessory off-street parking), built pursuant to a Board grant, which is proposed to be demolished; and

WHEREAS, the applicant states that the owner explored as-of-right residential alternatives and subsequently determined that such an option had been negated due to the diminished status of the subject site's location and economic obsolescence in terms of residential development, thus necessitating the need for a variance; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning;

---

# MINUTES

---

and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; 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 Hyland Boulevard has been developed with many commercial uses, and that the adjoining buildings are commercial uses; and

WHEREAS, the applicant further represents that the granting of the variance would create continuity with adjacent buildings and would solidify the established commercial use along this particular stretch of Hyland Boulevard; and

WHEREAS, the Board notes that the proposed development includes the provision of a twenty-five (25) space accessory off-street parking lot; and

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

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

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

WHEREAS, 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 294-03-BZ

**CEQR #04-BSA-045M**

APPLICANT - Robert Loos, Esq., Sybil H. Pollet, Esq., for The Metropolitan Club, Inc., owner.

SUBJECT - Application September 10, 2003 - under Z.R. §72-21 to permit in an R10-H and C5-1 zoning district, and in the Special Park Improvement District, the proposed enlargement of an existing six story community facility that does not comply with the zoning requirements for lot coverage, rear yard, rear yard equivalent and front walls,

required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, under Z.R. §72-21, to permit, in an R3-1 zoning district within the Special South Richmond District, the proposed construction of a two-story and cellar retail building (UG 6), with accessory off-street parking for twenty-five (25) cars and a curb cut on Hylan Boulevard that is not permitted, which is situated within a required arterial setback, contrary to Z.R. §§22-10 and 107-251(a) and (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 27, 2003"- (3) sheets, "October 3, 2003"- (1) sheets, and *on further condition*:

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

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, January 27, 2004.

contrary to Z.R. §§24-11, 33-26, 24-36, 54-31 and 92-042(c).

PREMISES AFFECTED - One East 60th Street, northeast corner of Fifth Avenue, Block 1375, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #8M**

APPEARANCES -

For Applicant: Sybil Pollet.

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

THE VOTE TO GRANT -

---

# MINUTES

---

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3  
Negative:.....0  
Abstain: Chair Srinivasan.....1  
Absent: Commissioner Chin.....1

## THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 21, 2003, acting on Department of Buildings Alteration Application No. 103495004, reads:

- “1. The proposed enlargement in an R10-H zoning district exceeds the permitted lot coverage, pursuant to §24-11 of the Zoning Resolution.
2. The proposed enlargement in a C5-1 zoning district does not satisfy the rear yard requirements, pursuant to §33-26 of the zoning resolution.
3. The proposed enlargement in an R10-H zoning district does not satisfy rear yard requirements pursuant to §24-36 of the zoning resolution.
4. The proposed enlargement increases the degree of non-compliance pursuant to §54-31 of the zoning resolution.
5. The proposed enlargement does not comply with §92-042(c), limits on recesses in front walls in the special park improvement district.”; and

WHEREAS, a public hearing was held on this application on January 6, 2004 after due notice by publication in *The City Record*, and then laid over to January 27, 2004 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R10-H and C5-1 zoning district, and in the Special Park Improvement District, the proposed enlargement of an existing six-story community facility that

WHEREAS, the applicant states that the following are unique physical conditions that create practical difficulties and unnecessary hardships in constructing the proposed improvements to the building in conformity with underlying district regulations: lack of available open space on the lot, the landmarked status of the building and its courtyard, the lack of space in the interior of the building for the necessary improvements, the need to preserve the architecturally significant interior space, the irregular rear yard, and the division of the lot by district boundaries and inclusion of part of the lot within the Special Park Improvement District; and

does not comply with the zoning requirements for lot coverage, rear yard, rear yard equivalent and front walls, contrary to Z.R. §§24-11, 33-26, 24-36, 54-31 and 92-042(c); and

WHEREAS, the Board notes that the N.Y.C. Landmarks Preservation Commission has granted a Certificate of Appropriateness for the proposed work on November 14, 1997, renewed December 5, 2002, and that said approval and renewal are in the record; and

WHEREAS, the subject zoning lot is a 100'5" by 225' lot, with a total lot area of 22,593.75 sq. ft; and

WHEREAS, the zoning lot is divided by R10-H and C5-1 district boundaries, and that portion of the zoning lot from Fifth Avenue to 125' east of Fifth Avenue lies within the Special Park Improvement District; and

WHEREAS, the subject lot is occupied by a non-complying landmarked six-story building designed by McKim, Mead and White, which currently houses the Metropolitan Club (the “Club”), a not for profit corporation; and

WHEREAS, the applicant states that the Club was formerly for the exclusive use of men, who were served by an all male staff; and

WHEREAS, the applicant further states that the original design of the building contemplated 250 members; and

WHEREAS, the applicant represents that the Club now has approximately 1560 male and female members, and that the staff also consists of both men and women; and

WHEREAS, the Club would like to ensure safe entrance and egress for its predominantly elderly members, provide adequate elevators for disabled members, and provide sufficient handicapped-accessible bathrooms for both men and women; and

WHEREAS, in light of the above stated goals, the Club proposes to install new fire-rated, fully enclosed egress staircases from each floor to the street; to install an elevator accessible to the disabled, in compliance with both the Americans with Disabilities Act and Local Law 58/87; and to install bathrooms for male and female members in compliance with Local Law 58/87 and Building Code Reference Standard 16; and

WHEREAS, the applicant states that the Club explored as-of-right alternatives and subsequently determined that no such alternative was feasible, thus necessitating the need for a variance; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate as to this particular building and in conjunction with the stated programmatic need of creating a handicapped-accessible facility, with amenities for both men and women, create practical difficulties in developing the site in strict conformity with current zoning; and

WHEREAS, the Board finds that the applicant need not

---

# MINUTES

---

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

WHEREAS, the applicant states that the proposed work would increase the lot coverage of the building by only 1.84% and not diminish the light and air to the Club or to legal windows in the adjacent building; and

WHEREAS, the proposal will result in the removal of exterior open metal stairs in the rear yard; and

WHEREAS, the applicant claims that of the improvements would be recessed from Fifth Avenue, thereby reducing the view of the improvements from the street; and

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

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 **68-03-BZ**

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

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

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

**COMMUNITY BOARD #7BK**

to the objection cited, under Z.R. §72-21, to permit, in an R10-H and C5-1 zoning district, and in the Special Park Improvement District, the proposed enlargement of an existing six story community facility that does not comply with the zoning requirements for lot coverage, rear yard, rear yard equivalent and front walls, contrary to Z.R. §§24-11, 33-26, 24-36, 54-31 and 92-042(c); *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 10, 2003"- (16) sheets, and *on further condition*:

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

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, January 27, 2004.

---

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to April 13, 2004, at 1:30 P.M., for continued hearing.

---

## **108-03-BZ thru 110-03-BZ**

APPLICANT - Eric Palatnik, P.C., for FAC Homeownership HDFC, owners.

SUBJECT - Application April 4, 2003 - under Z.R. §72-21 to permit the proposed construction of a four story residential building, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for height, setback, also front and rear yards, is contrary to Z.R. §23-631, §23-45 and §23-47.

---

# MINUTES

---

**PREMISES AFFECTED -**

135 Coffey Street, between Conover and Van Brunt Streets, Block 597, Tentative Lots 9 and 11, Former Lots Numbers, 9-11, 13, 14, 37 and 38, Borough of Brooklyn.

71 Walcott Street, between Richard and Van Brunt Streets, Block 596, Tentative Lot 24, Former Lots Numbers, 23-29 and 43, Borough of Brooklyn.

79 Walcott Street, between Richard and Van Brunt Streets, Block 596, Tentative Lot 12, Former Lots Numbers, 12-15, 22, 23, 49 and 50, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

**APPEARANCES -**

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD -** Laid over to February 10, 2004, at 1:30 P.M., for deferred decision.

---

**211-03-BZ**

**APPLICANT -** Eric Palatnik, P.C., for Simon Blitz, Contract Vendee.

**SUBJECT -** Application June 20, 2003 - under Z.R. §72-21 to permit the proposed expansion and also the conversion of an existing warehouse, to residential use, Use Group 2, located in an M1-4(Special LIC District), which does not comply with the zoning requirements for the new use, floor area and total height, is contrary to Z.R. §43-12, §43-43 and §42-10.

**PREMISES AFFECTED -** 529-535 48th Avenue, between Vernon Boulevard and Fifth Street, Block 30, Lot 9, Borough of Queens.

**PREMISES AFFECTED -** 468 West Broadway and 140 Thompson Street, fronting on West Broadway and Thompson Street, between West Houston and Prince Streets, Block 516, Lot 7, Borough of Manhattan.

**COMMUNITY BOARD #2M**

**APPEARANCES -**

For Applicant: Jay Segal.

**THE VOTE TO CLOSE HEARING -**

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD -** Laid over to March 2, 2004, at 1:30 P.M., for decision, hearing closed.

---

**243-03-BZ**

**COMMUNITY BOARD #1Q**

**APPEARANCES -**

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD -** Laid over to March 9, 2004, at 1:30 P.M., for continued hearing.

---

**231-03-BZ**

**APPLICANT -** Sheldon Lobel, P.C., for Isaac Douek Jacqueline Douek Maurice Douek, owners.

**SUBJECT -** Application July 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a six story building, with a mezzanine and cellar, to contain eighteen residential units, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

**PREMISES AFFECTED -** 63 and 65 Columbia Street, southeast corner of Congress Street, Block 299, Lots 7 and 8, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

**APPEARANCES -**

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD -** Laid over to March 23, 2004, at 1:30 P.M., for continued hearing.

---

**239-03-BZ**

**APPLICANT -** Jay A. Segal, Greenberg Traurig, LLP, for West Broadway Arches c/o Mr. Chuck Seltzer, owner.

**SUBJECT -** Application July 10, 2003 - under Z.R. § 73-01 & 73-53 to permit the proposed extension of the uses (studios w/accessory living/sleeping/accommodations) allowed on floors two through six of the West Broadway portion of the building, to the ground floor portion of the building, located in M1-5A and R7-2 zoning districts, is contrary to Z.R. §42-14D.

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

**SUBJECT -** Application July 16, 2003 - under Z.R. §11-412 to permit the reestablishment of a previous variance granted by the Board, Under Cal. No. 8-78-BZ, which permitted a gasoline service station with accessory uses, Use Group 16, on a site that is divided by an R7-2 and C8-3 district boundary, also the conversion of a portion of the building to an accessory convenient store, is contrary to Z.R. §22-10.

**PREMISES AFFECTED -** 2420 Amsterdam Avenue, between West 180<sup>th</sup> and West 181<sup>st</sup> Streets, Block 2152, Lots 77 and 83, Borough of Manhattan.

**COMMUNITY BOARD #12M**

**APPEARANCES -**

For Applicant: Janice Cahalane.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner

---

# MINUTES

---

Caliendo and Commissioner Miele.....4  
Negative: .....0  
Absent: Commissioner Chin.....1  
**ACTION OF THE BOARD** - Laid over to March 9, 2004,  
at 1:30 P.M., for decision, hearing closed.

---

## **249-03-BZ**

**APPLICANT** - Sheldon Lobel, P.C., for D & J Herms Realty, Inc., owner.  
**SUBJECT** - Application July 31, 2003 - under Z.R. §72-21 to permit the proposed four story building, with penthouse and cellar, to contain nine residential units on the second, third and fourth floors, and one commercial unit on the ground floor, on a site that is located in C8-2 zoning district, which does not permit residential use, is contrary to §32-10.  
**PREMISES AFFECTED** - 265 Bedford Avenue, southeast corner of North First Street, Block 2381, Lot 1, Borough of Brooklyn.  
**COMMUNITY BOARD #1BK**  
**APPEARANCES** -  
For Applicant: Janice Cahalane.  
For Opposition: James Esber.

**ACTION OF THE BOARD** - Laid over to March 9, 2004,

## **267-03-BZ**

**APPLICANT** - Stuart A. Klein, Esq., for North 14th Street Realty Associates, LLC, owner.  
**SUBJECT** - Application August 21, 2003 - under Z.R. §72-21 to permit the proposed construction of three attached six and seven story buildings, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.  
**PREMISES AFFECTED** - 2/6 Berry Street, 194/96 North 14th Street, south side, between Wythe Avenue to the west and Berry Street to the east, Block 2279, Lot 13, Borough of Brooklyn.  
**COMMUNITY BOARD #1BK**  
**APPEARANCES** -  
For Applicant: Stuart Klein and Ken Fisher.  
For Opposition: Stephanie Eisenberg.

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 1:30 P.M., for continued hearing.

---

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

---

## **261-03-BZ**

**APPLICANT** - Sheldon Lobel, P.C., for PLK Realty Corp., owner.  
**SUBJECT** - Application August 18, 29003- under Z.R. §72-21 to permit the legalization of an existing one story building, as an auto repair shop, Use Group 16, located in an R7-1 zoning district, which is contrary to Z.R. §23-00.  
**PREMISES AFFECTED** - 1404/06 Stebbins Avenue, northeast corner of East 170th Street, Block 2965, Lot 36, Borough of The Bronx.

## **COMMUNITY BOARD #3BX**

### **APPEARANCES** -

For Applicant: Sheldon Lobel, Richard Lobel and Luis M. Depasquale.

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

---

## **271-03-BZ**

**APPLICANT** - Law Office of Fredrick A. Becker, for Frank Scelta, owner.  
**SUBJECT** - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a five family, three-story multiple dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10, §42-11 and §42-12.  
**PREMISES AFFECTED** - 976 Metropolitan Avenue, between Catherine Street and Morgan Avenue, Block 2918, Lot 3, Borough of Brooklyn.

## **COMMUNITY BOARD #1BK**

### **APPEARANCES** -

For Applicant: Fredrick Becker, Frack Scelta and Everett Parker.

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 1:30 P.M., for continued hearing.

---

## **286-03-BZ**

---

# MINUTES

---

APPLICANT - Sheldon Lobel, P.C., for Classic Closeouts, LLC, owner.

SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit the proposed renovation of the existing building, to facilitate a retail store with accessory storage, as well as offices with accessory storage, Use Group 6, located in C1-2 and R5 zoning districts, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 148 Beach 116th Street, 200' north of the Ocean Promenade, Block 16188, Lot 30, Borough of Queens.

## COMMUNITY BOARD #14Q

APPEARANCES - None.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to February 24, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 289-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Aldo Paronich, owner.

SUBJECT - Application August 29, 2003 - under Z.R. §73-53 to permit the legalization of an existing contractor' establishment, Use Group 16, located in an M1-1 zoning district, which is currently overbuilt by 21% beyond the permitted floor area ratio of 1.0 is contrary to Z.R. §43-12.

PREMISES AFFECTED - 440 Morgan Avenue, southeast corner of Frost Street, Block 2869, Lot 5, Borough of Brooklyn.

## 308-03-BZ

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

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

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

## COMMUNITY BOARD #4BX

APPEARANCES -

For Applicant: Janice Cahalane.

For Opposition: Livingstone Gibson, Jaime Leon, Keith Walcott, Lebbeney Bandar, James Williams and Elena Lee.

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

---

## 309-03-BZ

APPLICANT - Howard A. Zipser, Stadtmauer Bailkin, LLP, for

## COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to March 9, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 290-03-BZ

APPLICANT - Petraro & Jones, LLP, for Graceful Services, Inc., owner; Joseph B. Rosenblatt, lessee.

SUBJECT - Application September 3, 2003 - under Z.R. §73-36 to permit the legalization of an existing physical culture establishment, located on the second floor of a four story building, in a C2-8 (TA special district), which requires a special permit as per Z.R. §73-36.

PREMISES AFFECTED - 1097 Second Avenue, west side, 40' south of East 56th Street, Block 1331, Lot 126, Borough of Manhattan.

## COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Patrick Jones.

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

---

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 setback limit per table A, which is contrary to Z.R. §§23-145 and 23-633.

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 -

For Applicant: Howard Zipser, Shawn Basler and Abbas Shah.

For Opposition: Barry Mallin, Daniel Lane, Shirley Wright, Mariopie Cott, Andrew Jones, Chatherine Immgraham and Eric Graham.

**ACTION OF THE BOARD** - Laid over to March 2, 2004, at 1:30 P.M., for continued hearing.

---

---

# MINUTES

---

**329-03-BZ**

APPLICANT - Eric Palatnik, P.C., for FAC Homeownership HDFC; contract vendee.

SUBJECT - Application October 24, 2003 - under Z.R. §72-21 to permit the proposed off-site residential accessory parking, for the proposed development at 135 Coffey Street, is contrary to Z.R. §25-52.

PREMISES AFFECTED - 142 Coffey Street, between Conover and Van Brunt Streets, Block 586, Lots 37 and 38 (Tentative Lot 37), Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

APPEARANCES -

For Applicant: Eric Palatnik, Cindy Hardery and Susan Friedland.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to February 10, 2004, at 1:30 P.M., for decision, hearing closed.

---

**330-03-A**

APPLICANT - Eric Palatnik, P.C., for FAC Homeownership HDFC; contract vendee.

SUBJECT - Application October 24, 2003 - Proposed area of openings in the rear wall, and distance from a window to a rear lot line, for a proposed four story residential building, is contrary to Article 15, Table 3-4 of the NYC Building Code, and Article 3, Title 1, Sections 26 and 30 of the Multiple Dwelling Law.

PREMISES AFFECTED - 79 Wolcott Street, between Van Brunt and Richard Streets, Block 576, Tentative Lot 12, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to February 10, 2004, at 1:30 P.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 5:30 P.M.

---

# BULLETIN

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

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, Nos. 7

February 12, 2004

---

### DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

PETER CALIENDO

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**

### CONTENTS

DOCKET .....	
<b>CALENDAR</b> of March 9, 2004	
Morning .....	
Afternoon .....	

---

# CONTENTS

---

**MINUTES** of Regular Meetings,  
**Tuesday, February 3, 2004**

Morning Calendar .....

**Affecting Calendar Numbers:**

74-49-BZ	515 7 <sup>th</sup> Avenue and 144-158 West 38 <sup>th</sup> Street, Manhattan
931-57-BZ	535 Vanderbilt Avenue, a/k/a 1047 Van Duzer Street, Staten Island
132-92-BZ	3948-52 Amboy Road, Staten Island
145-95-BZ	80 Fifth Avenue, Manhattan
189-99-BZ	460 Quincy Avenue, Bronx
85-58-BZ	20/24 2 <sup>nd</sup> Avenue, a/k/a 30/32 East 1 <sup>st</sup> Street, Manhattan
731-61-BZ	9620 Third Avenue, Brooklyn
772-67-BZ, Vol. II	1234 Forest Avenue, Staten Island
62-83-BZ, Vol. II	696 Pacific Street, 529/39 Dean Street and 549/59 Dean Street, Brooklyn
633-87-BZ	216 Grand Street, Brooklyn
323-03-A & 324-03-A	117-36 & 117-38 166 <sup>th</sup> Street, Queens
45-03-A thru 64-03-A	69/67/65/63/61/59/55/53/51/49/45/43/41/39/37/35 31/29 Hall Avenue, Staten Island
263-03-A	1638 Eighth Avenue, Brooklyn

Afternoon Calendar.....

**Affecting Calendar Numbers:**

75-02-BZ	460 Union Street, Brooklyn
241-02-BZ	130 Third Street, Brooklyn
254-02-BZ	41/45 South Fifth Street, Brooklyn
83-03-BZ	2100 Hermany Avenue, Bronx
219-03-BZ	175-15 Rockaway Boulevard, Queens
220-03-BZ	175-21 149 <sup>th</sup> Avenue, a/k/a 175-48 148 <sup>th</sup> Road, Queens
264-03-BZ	2713 Avenue "N", Brooklyn
161-02-BZ	2433 Knapp Street, Brooklyn
164-02-BZ	1913 Hobart Avenue, Bronx
203-02-BZ	110-18 Northern Boulevard, Queens
360-02-BZ	130 North Fourth Street, Brooklyn
69-03-BZ	32/40 Bond Street, Manhattan
77-03-BZ & 78-03-BZ	260-32 & 260/34 Grand Central Parkway, Queens
92-03-BZ	472 West 130 <sup>th</sup> Street, Manhattan
217-03-BZ	140/42 Pennsylvania Avenue, Brooklyn
221-03-BZ	253/55 West 28 <sup>th</sup> Street, Manhattan
262-03-BZ	1564 East 28 <sup>th</sup> Street, Brooklyn
273-03-BZ thru 285-03-BZ	211-51/49/47/45/43/41/54/52/50/48/46/44/42 94 <sup>th</sup> Road, Queens
337-03-BZ	342 Madison Avenue, a/k/a 16 East 44 <sup>th</sup> Street, Manhattan
354-03-BZ	209/15 East 51 <sup>st</sup> Street, Manhattan

---

# DOCKETS

---

New Case Filed Up to February 3, 2004

**17-04-BZ**            B.BK.            2323 Avenue “S”,  
northwest corner of East 24<sup>th</sup> Street, Block 6829, Lot 42,  
Borough of Brooklyn. Alt. #301677184. The legalization of  
an enlargement in portions of the first and second floors, of  
a single family residence, located in an R3-2 zoning  
district, which does not comply with the zoning  
requirements for floor area ratio, lot coverage, open space,  
side and front yards, also perimeter wall height, is contrary  
to Z.R. §23-141, §23-461A, §23-631B and §23-45.

**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 9, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, March 9, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

**SPECIAL ORDER CALENDAR**

**671-56-BZ**

APPLICANT - Walter T. Gorman, P.E., for Benjamin Siegel Properties, LLC, owner; Euclid Enterprises, Inc., lessee.

SUBJECT - Application December 5, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired September 143, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 1249-1265 Sutter Avenue, northside blockfront from Euclid Avenue to Doscher Street, Block 4249, Lots 55 and 59, Borough of Brooklyn.

**COMMUNITY BOARD #5**

---

**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 #8**

---

**269-98-BZ**

APPLICANT - Mothiur Rahman, for Mothiur Rahman, owner.

SUBJECT - Application December 9, 2003 - reopening for an extension of time to obtain a Certificate of Occupancy.

PREMISES AFFECTED - 70 East 184th Street, aka 2363 Morris Avenue, south side of East 184th Street, corner formed by the intersection of Morris Avenue, Block 3183, Lot 42, Borough of The Bronx.

**COMMUNITY BOARD #5**

---

APPLICANT - Moshe M. Friedman, P.E., for Kingsway Realty, LLC, owner.

SUBJECT - Application September 10, 2003 - under Z.R. §72-21 to permit the proposed extension of an existing two story (2)

**263-01-BZ**

APPLICANT - Francis R. Angelino, Esq., for Lee & Wythe Realty Corp., owner; 85-101 North Third Street Associates, Inc., Lessee. SUBJECT - Application January 7, 2004 - reopening for an extension of time to obtain a Certificate of Occupancy which expired on January 7, 2003.

PREMISES AFFECTED - 85-101 N. 3rd Street, northeast corner of intersection of North 3rd Street and Whythe Avenue, Block 2350, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #1**

---

**32-02-BZ**

APPLICANT - Martyn & Don Weston, for Winchester Realty Group, LLC, owner.

SUBJECT - Application December 12, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 176-182 Johnson Street, southwest corner of 92-102 Prince Street, Block 2049, Lot 15, Borough of Brooklyn.

**COMMUNITY BOARD #2**

---

**MARCH 9, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, March 9, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

**ZONING CALENDAR**

**288-03-BZ**

APPLICANT - H. Irving Sigman, for Aggressive Realty Corp., owner.

SUBJECT - Application August 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a three story vertical and horizontal enlargement to an existing two story hotel, Use Group 5, located in a C2-2 within an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, height and non-complying signs, is contrary to Z.R. §33-121, §33-341, §32-641-643, §32-652 and §32-655.

PREMISES AFFECTED - 109-17 Horace Harding Expressway, northeast corner of Saultell Avenue, Block 1969, Tentative Lot 2, Borough of Queens.

**COMMUNITY BOARD #4**

---

**296-03-BZ**

commercial building, Use Group 6, to three stories, located in a C4-3 zoning district, which is in compliance with the NYC Zoning Resolution for the addition, but does not comply with the required parking requirements, as per Z.R. §36-21.

---

# CALENDAR

---

PREMISES AFFECTED - 1619 Kings Highway, aka 1601/1621 Kings Highway and 1639/1651 East 17th Street, Block 6779, Lot 22, Borough of Brooklyn.

**COMMUNITY BOARD #15**

---

**303-03-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Leon Farhi, owner.

SUBJECT - Application December 8, 2004 - under Z.R. §72-21 to permit the proposed reconstruction of a four story residential building, Use Group 2, that had existed at this location and was demolished by the City of New York, which does not comply with the zoning requirements for floor area, lot size, perimeter wall, dwelling units, side yards and parking, is contrary to Z.R. §23-141(a), §23-32, §23-631(d), §23-22, §23-462 and §25-23.

PREMISES AFFECTED - 433 Columbia Street, northeast corner of Columbia Street and West 9th Street, Block 534, Lot 4, Borough of Brooklyn.

**COMMUNITY BOARD #6**

---

**306-03-BZ**

APPLICANT - Law Offices of Howard Goldman, LLC, for Kay Water Properties, LLC, owner.

SUBJECT - Application September 29, 2003 - under Z.R. §72-21 to permit the proposed conversion of a four story industrial building, located in an M1-2 zoning district, into a residential dwelling, also the addition of two floors, for a total of 18 loft-style dwelling units, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 192 Water Street, between Jay and Bridge Streets, Block 41, Lot 11, Borough of Brooklyn.

**COMMUNITY BOARD #2**

---

**5-04-BZ**

APPLICANT - Bryan Cave, LLP, for Gerard Avenue LLC, c/o American Self Storage Management Associates, Inc. owner.

SUBJECT - Application January 7, 2004 - under Z.R. §73-19 to permit the proposed construction and operation of a school, without sleeping accommodations on the site, Use Group 3, to be located in an M1-2 zoning district, requires a special permit as per Z.R. §73-19.

PREMISES AFFECTED - 595 Gerard Avenue, a/k/a 587/95 River Avenue, between 150th and 151st Streets, Block 2354, Lot 1, Borough of The Bronx.

**COMMUNITY BOARD #4**

---

*Pasquale Pacifico, Executive Director*

**REGULAR MEETING  
TUESDAY MORNING, FEBRUARY 3, 2004**

---

# MINUTES

---

10:00 A.M.

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, December 9, 2003, were approved as printed in the Bulletin of Volume 88, No. 48-50.

---

## SPECIAL ORDER CALENDAR

### 74-49-BZ

APPLICANT - Sheldon Lobel, P.C., for 515 Seventh Associates, L.P., owner.

SUBJECT - Application November 8, 2001 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to complete construction and to obtain a certificate of occupancy which expired April 4, 2001.

PREMISES AFFECTED - 515 7<sup>th</sup> Avenue and 144-158 West 38<sup>th</sup> Street, Block 813, Lot 64, Borough of Manhattan.

### COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Jordan Most.

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

THE VOTE TO REOPEN HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

THE VOTE TO GRANT -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, the applicant requested a waiver of the

THAT 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. 1024600089)

Adopted by the Board of Standards and Appeals, February 3, 2004.

Rules of Practice and Procedure and an extension of time to obtain a Certificate of Occupancy (“CO”) for a building containing a parking garage, a bank and an Off-Track Betting facility; and

WHEREAS, a public hearing was held on this application on February 26, 2002 after due notice by publication in *The City Record*, then laid over to April 9, 2002, May 14, 2002, July 9, 2002, August 6, 2002, November 12, 2002, January 28, 2003, May 20, 2003, September 30, 2003, November 25, 2003, and then to February 3, 2004 for decision; and

WHEREAS, on April 4, 2001, under the referenced calendar number, the Board reopened and amended the previous resolution, originally adopted on March 29, 1949, and required that a new CO be obtained within one year of the date of the amended resolution; and

WHEREAS, the applicant represents that the owner has not obtained a CO due to a number of violations affecting the premises; and

WHEREAS, at the request of the Board, the owner of the premises has reduced the number of outstanding violations affecting the premises.

*Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and *reopens and amends* the resolution pursuant to Section 1-05(g) of the Board’s Rules of Practice and Procedure and Section 11-411 of the Zoning Resolution, said resolution having been originally adopted on March 29, 1949, 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 February 3, 2006, *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, 2004”-(8) sheets; and *on further condition*;

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

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

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

THAT all outstanding violations related to life, safety and health affecting the premises be resolved prior to issuance of the Certificate of Occupancy;

### 931-57-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Ziya Ercan, owner; Time Service Station, Inc., lessee.

SUBJECT - Application June 13, 2003 - reopening for an extension of term of variance which expires May 9, 2004 and for an amendment to the resolution.

PREMISES AFFECTED - 535 Vanderbilt Avenue, a/k/a 1047

---

# MINUTES

---

**Van Duzer Street, northeast corner of Vanderbilt Avenue and Van Duzer Street, Block 650, Lot 30, Borough of Staten Island.**

**COMMUNITY BOARD #1SI**

**APPEARANCES -**

**For Applicant: Carl A. Sulfaro.**

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, resolution amended and term of variance extended.

**THE VOTE TO GRANT -**

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on September 9, 2003, after due notice by publication in *The City Record*, and laid over to October 28, 2003, January 13, 2004 and then to February 3, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, an extension of the term of the variance which expires on May 9, 2004, and an amendment to the resolution; and

WHEREAS, the applicant seeks approval for an increase in the number of gasoline dispensers and creation of a pump island beneath the existing canopy; for the conversion of the existing accessory building from an accessory auto repair facility to an accessory convenience store; and for new signage; and

WHEREAS, since July 29, 1958, the Board has exercised jurisdiction over the premises under the subject calendar number, with further actions occurring since that date, the most recent being a reopening on the SOC calendar for an extension of time to obtain a certificate of occupancy, granted on November 23, 1999; and

WHEREAS, the record indicates that the premises has been continuously occupied as a gasoline service station since 1958.

*Resolved*, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, *reopens and amends* the resolution, pursuant to Zoning Resolution §§11-411 and 11-412, extends the term of the variance which expires on May 9, 2004, so that as amended this portion of the resolution shall read: "to permit the extension

**PREMISES AFFECTED - 3948-52 Amboy Road, south side of Amboy Road between Hillside Terrace and Brown Avenue, Block 5142, Lot 22, Borough of Staten Island.**

**COMMUNITY BOARD #3SI**

**APPEARANCES -**

**For Applicant: Fredrick A. Becker.**

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, and term of variance extended.

**THE VOTE TO GRANT -**

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

of the term of the variance for an additional five (5) years from May 9, 2004 expiring on May 9, 2009, and to permit an increase in the number of gasoline dispensers and creation of a pump island beneath the existing canopy; the conversion of the existing accessory building from an accessory auto repair facility to an accessory convenience store; and new signage; *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 21, 2003"- (4) sheets; and *on further condition*;

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

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

THAT landscaping shall be provided and maintained in accordance with BSA approved plans;

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

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

THAT a certificate of occupancy will 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 #500621400)

Adopted by the Board of Standards and Appeals, February 3, 2004.

**132-92-BZ**

**APPLICANT - The Law Office of Fredrick A. Becker, for Joseph DiStefano, owner.**

**SUBJECT - Application February 27, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expires July 19, 2004 and for an amendment to the resolution.**

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on August 13, 2003, after due notice by publication in *The City Record*, and laid over to October 7, 2003, December 9, 2003, January 13, 2004 and then to February 3, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the variance which expires on July 19, 2004; and

---

# MINUTES

---

WHEREAS, on July 19, 1994, the Board granted an application permitting, in a C1-1 and R3-1 district, the conversion of the cellar level from accessory storage (Use Group 6) to a banquet hall (Use Group 9) in an existing one story and cellar commercial building with accessory parking within the residential portion of the lot; and

WHEREAS, the applicant had originally proposed the extension of the day care use in the cellar level, but has since withdrawn their request.

*Resolved*, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, *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 variance for an additional (10) years from July 19, 2004 to expire on July 19, 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 February 27, 2003"- (2) sheets, "July 30, 2003"- (1) sheet, "December 1, 2003"- (1) sheet, "January 6, 2004"- (1) sheet, and "January 20, 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 there shall be no simultaneous use of the playground/parking area for both parking and as a playground;

THAT signage shall be posted on both of the gates at the Brown Avenue and Hillside Terrace entrances with text reading "Gate to remain closed, and no access for vehicles when play area is in use";

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; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)

*Resolved*, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, *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 special permit for an additional (10) years, from November 13, 2002 to expire on November 13, 2012, *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 5, 2003"- (2) sheets; and *on further condition*:

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

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

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

and/or configuration(s) not related to the relief granted." (DOB Application #500590728)

Adopted by the Board of Standards and Appeals, February 3, 2004.

---

## 145-95-BZ

**APPLICANT - Sullivan Chester & Gardner, P.C., for LRHC, Inc., d/b/a Lucille Roberts, owner.**

**SUBJECT - Application June 5, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired November 13, 2002.**

**PREMISES AFFECTED - 80 Fifth Avenue, southwest corner of West 14<sup>th</sup> Street, Block 577, Lot 39, Borough of Manhattan.**

**COMMUNITY BOARD #2M**

**APPEARANCES - None.**

**ACTION OF THE BOARD - Rules of Practice and Procedure waived, application reopened, and term of the special permit extended.**

**THE VOTE TO GRANT -**

**Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3**

**Negative:.....0**

**Abstain: Chair Srinivasan.....1**

**Absent: Commissioner Chin.....1**

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on August 12, 2003, after due notice by publication in The City Record, and laid over to September 30, 2003, November 25, 2003, January 13, 2004, and then to February 3, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the special permit, which expired on November 13, 2002; and

WHEREAS, November 13, 1996, the Board granted an application permitting, in a C6-4 zoning district, the legalization of a physical culture establishment located on the second floor of a 16-story commercial building.

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

THAT the Department of Buildings must ensure compliance 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 #100908485)

Adopted by the Board of Standards and Appeals,

February 3, 2004.

---

## 189-99-BZ

**APPLICANT - The Agusta Group by Philip P. Agusta, R.A., M.U.P., for 460 Quincy Avenue Realty Corporation, owner.**

---

# MINUTES

---

SUBJECT - Application October 21, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to complete construction which expired November 14, 2001.

PREMISES AFFECTED - 460 Quincy Avenue, southeast corner of Dewey Avenue, Block 5578, Lot 1, Borough of The Bronx.

**COMMUNITY BOARD #10BX**

APPEARANCES -

For Applicant: Sheldon S. Leffler.

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

THE VOTE TO REOPEN HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

THE VOTE TO GRANT -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, the applicant requested 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 December 16, 2003 after due notice by publication in *The City Record*, then laid over to January 13, 2004, and then to February 3, 2004 for decision; and

WHEREAS, on November 14, 1999, the Board granted the legalization of a two-story and cellar mixed use building with retail use on the ground floor and cellar, and residential use on the second floor.

PREMISES AFFECTED - 20/24 2nd Avenue a/k/a 30/32 East 1st Street, northeast corner of 2nd Avenue and East 1st Street, Block 443, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #3M**

APPEARANCES -

For Applicant: Heywood Blaufeux.

**ACTION OF THE BOARD** - Laid over to March 2, 2004, at 10 A.M., for continued hearing.

**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 time to obtain a Certificate of Occupancy for an additional two (2) years from the date of this resolution to expire on February 3, 2006, 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 23, 2003"- (1) sheet; and on further condition**

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

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

**THAT any signage, including any awning signage, at the site shall contain, in the aggregate, no more than 50 square feet of total area,;**

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

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

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

**(DOB Application No. 200584876)**

**Adopted by the Board of Standards and Appeals, February 3, 2004.**

**85-58-BZ**

APPLICANT - Maxfield Blaufeux & Heywood Blaufeux, for Estate of Hyman Badzanower, owner; Westfield second Associates, owner

SUBJECT - Application October 7, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired and for an amendment to

**731-61-BZ**

APPLICANT - Richard A. Kaplin, Esq., for McLaughlin & Sons, Inc., owner.

SUBJECT - Application October 24, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired October 31, 2001.

PREMISES AFFECTED - 9620 Third Avenue, 97th Street and Third Avenue, Block 6121, Lots 31 and 33, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

APPEARANCES -

For Applicant: Richard Kaplin.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to February 24,

---

# MINUTES

---

2004, at 10 A.M., for decision, hearing closed.

## **772-67-BZ Vol. II**

APPLICANT - Carl A. Sulfaro, Esq., for 1234 Forest Avenue Realty Corp., owner.

SUBJECT - Application September 9, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to complete construction which expired January 24, 2003.

PREMISES AFFECTED - 1234 Forest Avenue, southeast corner of Jewett Avenue, Block 354, Lot 32, Borough of Staten Island.

### **COMMUNITY BOARD #1SI**

APPEARANCES -

For Applicant: Carl A. Sulfaro.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to February 24, 2004, at 10 A.M., for decision, hearing closed.

## **62-83-BZ, Vol. II**

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Shaya B. Pacific, LLC.

SUBJECT - Reopening for possible rescindment.

PREMISES AFFECTED - 696 Pacific Street, 529/39 Dean Street and 549/59 Dean Street, Block 1128, Lots 16, 18, 37, 65, 68, 70, Borough of Brooklyn.

### **COMMUNITY BOARD #8BK**

APPEARANCES -

For Applicant: Chris Wright and Howard Goldman.

**ACTION OF THE BOARD** - Laid over to March 9, 2004, at 10 A.M., for continued hearing.

### **COMMUNITY BOARD #12Q**

APPEARANCES -

For Applicant: Jordan Most.

**ACTION OF THE BOARD** - Appeals granted

THE VOTE TO REOPEN HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**THE VOTE TO GRANT** -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

**THE RESOLUTION-**

## **633-87-BZ**

APPLICANT - Martyn & Don Weston, for The Fristachi Trust, owner.

SUBJECT - Application October 1, 2003 - reopening for an extension of term of variance which expired September 7, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 216 Grand Street, southwest corner of Driggs Avenue, Block 2393, Lots 27 & 29, Borough of Brooklyn.

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

APPEARANCES -

For Applicant: Don Weston and Frank Fristacci.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to February 24, 2004, at 10 A.M., for decision, hearing closed.

## **323-03-A and 324-03-A**

APPLICANT - Sheldon Lobel, P.C., for Infinity Homes, Inc., owner.

SUBJECT - Application October 21, 2003 - Proposed construction of a two-story, two-family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City law.

PREMISES AFFECTED -

117-36 166th Street, between 119th Avenue and Foch Boulevard, Block 12356, Lot 36 and p/o of 39, New Lot 38, Borough of Queens.

117-38 166th Street, between 119th Avenue and Foch Boulevard, Block 12356, Part of Lot 39, New Lot 40, Borough of Queens.

WHEREAS, the decision of the Department of Buildings Queens Borough Commissioner, dated September 17, 2003 acting on NB Applications Nos. 401401862 and 401401871, reads, in pertinent part:

“(1) Proposed construction of two new two family homes and a private roadway within a bed of a mapped street (Bedell Street) is contrary to Section 35 of General City Law”; and

WHEREAS, this appeal is filed to allow two two-family dwellings to be built in a portion of the bed of a mapped street known as Bedell Street, Queens; and

WHEREAS, by letter dated January 28, 2004, the Fire Department has reviewed the above project and has no objections to the project; and

WHEREAS, by letter dated February 3, 2004, the Department of Transportation has reviewed the above project and has no objections as this site is not presently included in DOT’s Capital Improvement Program, though the letter does note that the subject lots were acquired from the City subject to a “dollar condemnation recapture clause” for the portion of the property lying in the street bed; and

---

# MINUTES

---

WHEREAS, by the letter dated December 12, 2003, the Department of Environmental Protection has reviewed the above revised project and has advised the Board that the latest adapted City Drainage Plan, #41SWC (35) and (14), for the above referenced location calls for the future installation of a 12" inch storm sewer in Bedell Street between Foch Blvd. and 119<sup>th</sup> Avenue; as the tax map for this area shows that the width of Bedell Street at the above location is 99 feet and is paved and open, there is sufficient space in the bed of the street for future installation and maintenance of a drainage sewer plan; DEP had no further comments; and

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

*Resolved*, that the decision of the DOB Queens Borough Commissioner, dated September 17, 2003, acting on N.B. Application Nos. 401401862 and 401401871, 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 26, 2004" - (2) sheets; and that the proposal comply with all applicable zoning requirements; that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

**THAT any graffiti located on the premises shall be**

69 Hall Avenue, north side, 595.62' west of Willowbrook Road, Block 2091, Lot 85, Borough of Staten Island.

67 Hall Avenue, north side, 570.62' west of Willowbrook Road, Block 2091, Lot 80, Borough of Staten Island.

65 Hall Avenue, north side, 545.62' west of Willowbrook Road, Block 2091, Lot 79, Borough of Staten Island.

63 Hall Avenue, north side, 520.62' west of Willowbrook Road, Block 2091, Lot 78, Borough of Staten Island.

61 Hall Avenue, north side, 495.62' west of Willowbrook Road, Block 2091, Lot 77, Borough of Staten Island.

59 Hall Avenue, north side, 465.62' west of Willowbrook Road, Block 2091, Lot 76, Borough of Staten Island.

55 Hall Avenue, north side, 435.62' west of Willowbrook Road, Block 2091, Lot 75, Borough of Staten Island.

53 Hall Avenue, north side, 410.62' west of Willowbrook Road, Block 2091, Lot 74, Borough of Staten Island.

51 Hall Avenue, north side, 385.62' west of

removed within 48 hours;

**THAT within thirty (30) days from the date of this grant, an affidavit from the owner will be submitted stating that the owner understands that the property in the bed of the mapped street is subject to a "dollar condemnation recapture clause";**

**THAT 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 3, 2004.**

---

## 45-03-A thru 64-03-A

APPLICANT - Robert E. Englert, A.I.A., for Sleepy Hollow Development Corp., owner.

SUBJECT - Application February 10, 2003 - Proposed two family attached frame building, not fronting on a legally mapped street, and located within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED -

Willowbrook Road, Block 2091, Lot 73, Borough of Staten Island.

49 Hall Avenue, north side, 355.62' west of Willowbrook Road, Block 2091, Lot 72, Borough of Staten Island.

45 Hall Avenue, north side, 325.62' west of Willowbrook Road, Block 2091, Lot 71, Borough of Staten Island.

43 Hall Avenue, north side, 300.62' west of Willowbrook Road, Block 2091, Lot 70, Borough of Staten Island.

41 Hall Avenue, north side, 275.62' west of Willowbrook Road, Block 2091, Lot 69, Borough of Staten Island.

39 Hall Avenue, north side, 250.62' west of Willowbrook Road, Block 2091, Lot 68, Borough of Staten Island.

37 Hall Avenue, north side, 225.62' west of Willowbrook Road, Block 2091, Lot 67, Borough of Staten Island.

35 Hall Avenue, north side, 200.62' west of Willowbrook Road, Block 2091, Lot 66, Borough of Staten Island.

31 Hall Avenue, north side, 267.12' west of Willowbrook Road, Block 2091, Lot 65, Borough of Staten Island.

29 Hall Avenue, north side, 143.62' west of Willowbrook Road, Block 2091, Lot 63, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Robert E. Englert.

**ACTION OF THE BOARD** - Laid over to March 9, 2004, at 10 A.M., for continued hearing.

---

# MINUTES

---

For Applicant: John W. Carroll.

For Administration: Lisa Orrantia, Department of Buildings.

**ACTION OF THE BOARD** - Laid over to March 2, 2004, at 10 A.M., for postponed hearing.

*Pasquale Pacifico, Executive Director.*

Adjourned: 10:50 A.M.

## 263-03-A

APPLICANT - John W. Carroll, Wolfson & Carroll, for Ben Bobker, owner.

SUBJECT - Application August 20, 2003 - An administrative appeal challenging the Department of Buildings' final determination dated August 13, 2003, in which the Department refused to revoke the certificate of occupancy, on the basis that the applicant had satisfied all objections regarding said premises.

PREMISES AFFECTED - 1638 Eighth Avenue, west side, 110-5' east of Prospect Avenue, Block 1112, Lot 52, Borough of Brooklyn.

### COMMUNITY BOARD #7BK

APPEARANCES -

SUBJECT - Application March 12, 2002 - under Z.R. §72-21 to permit the proposed construction of a six story, 64-unit residential building, Use Group 2, located in an M2-1 zoning district, is contrary to §42-00.

PREMISES AFFECTED - 460 Union Street, bounded by Union, Bond and Presidents Streets, and Gowanus Canal, Block 438, Lot 7, Borough of Brooklyn.

### COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Chris Wright.

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

THE VOTE TO GRANT -

Affirmative: .....0

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

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 12, 2002, acting on Department of Buildings Application No. 301264450, reads:

“The proposed residential dwellings in an M2-1 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 December 17, 2002 after due notice by publication in the City Record, with continued hearings on February 25, 2003, April 29, 2003, June 24, 2003, October 21, 2003, and then to February 3, 2004 for decision; and

WHEREAS, the premises and surrounding area had a

## REGULAR MEETING

TUESDAY AFTERNOON, FEBRUARY 3, 2004

2:00 P.M.

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

## ZONING CALENDAR

### 75-02-BZ

#### CEQR #02-BSA-149K

APPLICANT - Law Offices of Howard Goldman, PLLC, for 460 Union Street LLC, contract vendee.

---

# MINUTES

---

site and neighborhood examination by a committee of the Board consisting of Vice-Chair Satish Babbar, Commissioner James Chin, Commissioner Peter Caliendo and Commissioner Joel Miele; and

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M2-1 zoning district, the proposed construction of a four-story with penthouse, 44 unit residential building (UG 2), which is contrary to Z.R. §42-00; and

WHEREAS, the application was originally for a six-story, 66 unit residential building, but the applicant reduced the bulk of the proposal over the course of the public hearing process; and

WHEREAS, the subject zoning lot is 28,500 sq. ft., measuring 80 feet in the front, 100 feet in the rear and 300 feet in length, with frontage on the Gowanus Canal; and

WHEREAS, the zoning lot is currently occupied by an existing one-story manufacturing building, which is proposed to be demolished; and

WHEREAS, the applicant states that the following are

WHEREAS, the Board also notes that no showing has been made that the purported soil conditions are not general conditions affecting numerous properties within the immediate vicinity along the Gowanus canal; and

WHEREAS, the Board has reviewed the submitted engineering report and observes that the applicant has not explored alternative methods to mitigate the potential negative impact of pile driving necessary for construction of a conforming use, nor has the applicant, in their engineering analysis, considered less-intensive conforming uses that would require less extensive pile driving; and

WHEREAS, the Board disagrees that the minimum design live load for a conforming heavy manufacturing use would be 600 psf, as stated in the engineering report; the Board finds this number to be inflated and notes that other heavy manufacturing use buildings typically have a live load of around 300 psf; the Board also notes that this number is certainly excessive for less-intensive conforming manufacturing uses; and

WHEREAS, accordingly, the Board does not find the arguments set forth in the engineering report persuasive; and

WHEREAS, therefore, the Board finds that the applicant has failed to provide substantial evidence that the subject lot possesses unique physical conditions that create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning, and that the application consequently fails to meet the finding set forth at Z.R. §72-21(a); and

WHEREAS, the applicant claims that the building has been marketed actively for conforming uses for a recent 2 year period, and prior to that, for a 10 year period, and, in support of this contention, submitted copies of two newspaper advertisements that ran in May and June of 1999 and a letter from a previous owner with a copy of a

unique physical conditions, which create practical difficulties and unnecessary hardships in constructing the proposed building in conformity with underlying district regulations: the functional obsolescence of the existing building for conforming use, due to its age, design, and deteriorated condition; the existence of subsurface conditions, including compressible organic soils and the potential for liquefaction at a shallow depth that necessitates extensive pile driving; and proximity to older residential uses that could be impacted by the pile driving; and

WHEREAS, the applicant has submitted an engineering report that concludes that only residential use, which requires substantially smaller and shallower piles that conforming use, can feasibly be developed; and

WHEREAS, the Board notes that the proposed application contemplates the demolition of the existing building, thus obviating any claim of uniqueness on that basis; and

marketing contract with a 6 month term attached; and

WHEREAS, the Board has reviewed this marketing evidence and finds it to be insufficient, in that two newspaper advertisements in a two month period does not, in the Board's estimation, prove that an active marketing attempt has been made; nor was there sufficient documentary support for the allegations of marketing contained in the previous owner's letter; and

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

WHEREAS, the applicant represents that that the neighborhood surrounding the subject site is in decline, alleging that there are many vacant or underutilized lots near the subject parcel; and

WHEREAS, the applicant further represents that part of the proposed building would be across the street from conforming residential uses in a residential zoning district; and

WHEREAS, however, the Board observes that the building is situated on a block occupied by only conforming uses; that the surrounding blocks to the north, south, east, southeast, and northeast contain predominantly conforming uses, and that no substantial, undisputed evidence has been provided showing that a significant proportion of lots within the area are vacant or underutilized as applicant alleges; and

WHEREAS, the Board notes that only one small side of the proposed building, fronting on the east side of Bond Street, would face a residential district, and that this side of Bond Street is occupied predominantly by conforming manufacturing uses; and

WHEREAS, the Board further notes that the proposed

---

# MINUTES

---

development would front on the Gowanus Canal, which both historically and currently has a predominantly industrial character; and

WHEREAS, the applicant has submitted a land use map on December 23, 2003 that shows an area outlined in red that the applicant labels the Union Street Corridor, which extends from Smith Street to 5<sup>th</sup> Avenue, bounded by President and Sackett Streets; and

WHEREAS, the applicant argues that this corridor is mixed-use in nature, with many residential uses, and that, therefore, the proposed development would be compatible with the neighborhood character; and

WHEREAS, the Board considers the submitted land use map to be self-serving, and notes that the so-called Union Street Corridor does even not include conforming uses on the same block as the subject site; and

WHEREAS, based on the a review of the submitted *Resolved*, the decision of the Borough Commissioner, dated February 12, 2002, acting on DOB Alt Application No. 301264450 must be sustained, and the subject application hereby denied.

Adopted by the Board of Standards and Appeals, February 3, 2004.

land use map, other data in the record, and its own site visit, the Board finds that the proposed building, if constructed, would be one of the few residential uses with a large number of units fronting on the Gowanus Canal and within a viable manufacturing area that extends north/south from the site in both directions along Bond Street and continues due east past the canal to Nevins Street, encompassing a number of blocks that predominantly contain conforming uses; and

WHEREAS, based on the above, the Board finds that this action will alter the essential character of the surrounding neighborhood, and that the application therefore fails to meet the finding set forth at Z.R. §72-21(c); and

WHEREAS, because the subject application fails to meet the findings set forth at Z.R. §72-21(a)(b) & (c), it must be denied.

Absent: Commissioner Chin.....1  
THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 1, 2002, acting on Department of Buildings Application No. 301377445, reads:

“Proposed residential conversion of existing structures to residential uses within this M2-1 zoning district is contrary to ZR Section 42-00 and therefore must be referred to the Board of Standards and Appeals.”; and

WHEREAS, a public hearing was held on this application on April 15, 2003 after due notice by publication in the City Record, with continued hearings on June 17, 2003, September 9, 2003 and November 18, 2003, and then to February 3, 2004 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M2-1 zoning district, the proposed conversion and combination of existing three-story, two-story and six-story manufacturing buildings to residential use, with 48 residential units (UG 2), which is contrary to Z.R. §42-00; and

WHEREAS, the subject zoning lot is 24,304 sq. ft., with frontage on the Gowanus Canal, as well as on North Third Street, which is a wide street; and

WHEREAS, the zoning lot is currently occupied by three vacant manufacturing buildings, which are proposed to be combined; and

WHEREAS, the applicant alleges that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in using the existing buildings or in constructing the proposed combined building in conformity with underlying district regulations: the

## 241-02-BZ

### CEQR #03-BSA-032K

APPLICANT - Sheldon Lobel, P.C., for HFK Inc., owner.

SUBJECT - Application August 30, 2002 - under Z.R. §72-21 to permit the proposed conversion to residential use, of two connected vacant manufacturing building, Use Group 2, located in an M2-1 zoning district, that will provide 48 residential loft type units, and is contrary to Z.R. §42-00.

PREMISES AFFECTED - 130 Third Street, corner of Bond and Third Streets, Block 466, Lot 1, Borough of Brooklyn.

### COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Janice Cahalane.

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

**THE VOTE TO GRANT -**

Affirmative: .....0

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

Abstain: Chair Srinivasan.....1

---

# MINUTES

---

functional obsolescence of the existing buildings for conforming use, due the massing of square footage on the upper floors of the six-story building, the unimproved floors broken up by numerous support columns, the lack of loading docks, the antiquated wiring, elevators, and mechanicals, and the insufficient ceiling heights; and

WHEREAS, the applicant has submitted supplemental documents that allegedly substantiate the claims made in support of the claim that the existing buildings are functionally obsolete; and

WHEREAS, as the applicant notes in its submission of January 20, 2004, the Board does consider the functional

WHEREAS, therefore, the Board finds that although the applicant has tailored its most recent submission, and specifically its representation of functional obsolescence, to be identical to a prior resolution for a Board variance, there is no merit to the applicant's contention that the subject application is identical to any other; and

WHEREAS, the Board disagrees with the applicant's characterization of the buildings as functionally obsolete, finding that: the subject building fronts on a wide street (Third Street), and thus it is possible to create a loading dock system that would conform to the trucking needs of a modern manufacturing use (unlike a building fronting only on a narrow street); and the floor to ceiling height on floors 1 through 4 of the 6-story building are approximately 15 feet high, which the Board finds to be adequate; and

WHEREAS, based on its review of the record and its site visit, the Board finds that the applicant has failed to provide substantial evidence that the subject lot possesses unique physical conditions that create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning, and that the application therefore fails to meet the finding set forth at Z.R. §72-21(a); and

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

WHEREAS, the applicant represents that that residential use is appropriate at the site because: there is a residential zoning district diagonally to the northwest, a bike lane runs along Third Street in front of the site, and the site is adjacent to the Gowanus Canal, which the applicant alleges is now predominantly used for recreation; and

WHEREAS, the Board notes that the residential zoning district that applicant sites is diagonally across a large intersection and a wide street and, within a 400' radius of the site, consists primarily of vacant lots and lots occupied by manufacturing uses; and

WHEREAS, because of the separation between the subject site and the residential zoning district, as well as the minimal amount of residential uses in a 400' radius of the site, the Board finds that there is no real relation in terms of neighborhood character between the site and the

obsolescence of an existing building, if supported by substantial evidence, to be the basis for a claim of unique physical conditions that lead to practical difficulty or unnecessary hardship, as set forth at §72-21(a); and

WHEREAS, however, the Board notes that a claim of functional obsolescence of a building for conforming use is examined on a case by case basis, and that each case is unique - it is highly unlikely that two buildings far apart from each other geographically would exhibit the exact same degree of functional obsolescence or the same combination of physical features; and

residential zoning district; and

WHEREAS, the Board observes that the building is situated on a block occupied by only conforming uses; that the block to the north contains predominantly conforming uses, and that the blocks across the Gowanus Canal from the site contain predominantly conforming uses; and

WHEREAS, the Board notes that the proposed building would not actually face any residential district, and notes further that the east side of Bond Street, on which a small portion of the proposed building would front, is occupied predominantly by conforming manufacturing uses extending from the site due north for several blocks; and

WHEREAS, the Board finds, based on its site visit and evidence in the record, that the site is within, and relates to in terms of character, a viable M2-1 manufacturing area that extends east from Bond Street across the Gowanus Canal to approximately 3rd Avenue, with blocks occupied predominantly by conforming uses; and

WHEREAS, the Board disagrees that a bike lane creates or contributes to any alleged residential character of this particular neighborhood; rather, a bike lane, given that it is actually laid out on the street, is more analogous to a transportation lane for auto vehicles; and

WHEREAS, in support of the argument that the Gowanus Canal is now predominantly used for recreation, the applicant has submitted excerpts from newspapers and a community board website containing anecdotes regarding alleged observed recreational use of the canal; and

WHEREAS, the Board notes that one of the articles submitted by applicant states that barges owned by the Bayside Fuel Oil Corporation continue to use the canal; and

WHEREAS, the information from the community board website, submitted by applicant, states that while overall water quality in the Gowanus Canal has improved, "the bottom of the canal is still lined with decades worth of sediment containing heavy metals, PCBs and other toxic elements"; and

WHEREAS, the Board disagrees with the applicant's assertion that the Gowanus Canal is now predominantly used for recreational use, and concludes based on evidence in the record and its own observations, that the use of the canal for such purposes is at most minimal and in

---

# MINUTES

---

its fledgling stages, and that the canal, while cleaner than in the past, remains significantly polluted; and

WHEREAS, the Board notes that even if the Gowanus Canal were to be used primarily for recreational uses in the future, it would not necessarily lead to the conclusion that the area in which the subject site is situated had become more amenable to residential conversions; and

WHEREAS, based on the a review of the submitted land use map, other data in the record, and its own site visit, the Board finds that the proposed building, if constructed, would be one of the only residential uses with a large number of units in a viable manufacturing area, and

*Resolved*, the decision of the Borough Commissioner, dated August 1, 2002, acting on DOB Alt Application No. 301377445 must be sustained, and the subject application is hereby denied.

Adopted by the Board of Standards and Appeals, February 3, 2004.

**254-02-BZ**

**CEQR #03-BSA-038K**

**APPLICANT - Klein & O'Brien, LLP, for Malka Ausch, owner.**

**SUBJECT - Application September 18, 2002 - under Z.R. §72-21 to permit the legalization of residential occupancy (U.G. 2), in an existing three-story building, and proposed residential occupancy (U.G. 2) in a one-story building, within an M1-2 zoning district, which is contrary to Z.R. §42-00.**

**PREMISES AFFECTED - 41/45 South Fifth Street, bounded on the west by Kent Avenue, and on the east by Wythe Avenue, Block 2441, Lot 38, Borough of Brooklyn.**

**COMMUNITY BOARD #1BK**

**APPEARANCES - None.**

**ACTION OF THE BOARD - Application Approved on Condition.**

**THE VOTE TO GRANT -**

**Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3**

**Negative:.....0**

**Abstain: Chair Srinivasan.....1**

**Absent: Commissioner Chin.....1**

**THE RESOLUTION -**

WHEREAS, the decision of the Borough Commissioner, dated August 22, 2002, acting on Department of Buildings

the only large residential building with frontage on the Gowanus Canal; and

WHEREAS, based on the above, the Board finds that this action, if approved, will alter the essential character of the neighborhood, and that the application therefore fails to meet the finding set forth at Z.R. §72-21(c); and

WHEREAS, because the subject application fails to meet the findings set forth at Z.R. §72-21(a), (b) & (c), it must be denied.

**Alt. Application No. 301158039 reads:**

**“Proposed residential apartments (J-2) U.G. 2 in Manufacturing district M1-2 Zoning is not permitted as per Z.R. 42-00. Must be referred to B.S.A. for approval {sic}.”; and**

WHEREAS, a public hearing was held on this application on April 15, 2003 after due notice by publication in the City Record, with continued hearings on June 17, 2003, August 15, 2003, September 9, 2003, October 21, 2003, January 13, 2004 and then to February 3, 2004 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit the legalization of residential occupancy (U.G. 2), in an existing three-story building, and proposed residential occupancy (U.G. 2) in a one-story building, within an M1-2 zoning district, which is contrary to Z.R. §42-00; and

WHEREAS, the subject site consists of a rectangular shaped lot, with a total lot area of approximately 7,321 square feet; and

WHEREAS, the site is presently occupied by a U-shaped, 3-story building and a one-story building, with approximately 13,109 square feet of floor area, excluding the basement; there is an interior courtyard between the two buildings connected to South Fifth Street by a driveway; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in developing the site in conformity with underlying district regulations: the floor plate size of both buildings is small; there is no elevator service; and the existence of the courtyard does not lend itself to conforming use; all of which contributes to the buildings' functional obsolescence and leads to an inability to attract conforming tenants; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning;

---

# MINUTES

---

and

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

WHEREAS, in response to a request from the Board, the applicant has submitted a land-use study in January 2004 that purports to show many legal residential conversions in the vicinity of the subject site; and

WHEREAS, the Board has reviewed the land-use study, and finds that there are a number of lawful residential uses in the immediate vicinity, including lawful pre-existing residential buildings on the same block as the subject property; and

WHEREAS, moreover, the applicant has adequately addressed the concerns of the Board regarding fire safety issues and outstanding violations; and

WHEREAS, the Board has determined that the proposed project is consistent with the City's Local Waterfront Revitalization Program policies; and

WHEREAS, based on the above, the Board finds that the proposal, 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

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 applicant has submitted a January 17, 2003 recommendation from an environmental consultant, suggesting that specific conditions be part of the approval on the subject proposal to ensure that potential air quality and noise impacts on the proposed residents will not occur; these environmental concerns are based on the proximity of the subject site to the Williamsburg Bridge approach and the industrial operations in the area; 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 with the conditions stipulated

that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that while the subject site is the only one on the northern side of Park Avenue not developed with conforming manufacturing uses, the site is nevertheless appropriate for residential development because it is proximate to other existing residential uses; and

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 objection cited, to permit the legalization of residential occupancy (U.G. 2), in an existing three-story building, and proposed residential occupancy (U.G. 2) in a one-story building, within an M1-2 zoning district, which is contrary to Z.R. §42-00; *on condition* that all work substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 7, 2004"-(7) sheets and "Received January 20, 2004"-(1) sheet, and *on further condition*:

THAT the Applicant shall provide operable windows in the proposed building which shall include an alternate means of ventilation. Alternate means of ventilation shall include, but not be limited to the following options:

- (1) Central air-conditioning in the apartments.
- (2) Provision for air conditioner sleeves for use with an air conditioner or HUD-approved fan. Additionally, the air intake duct for the building's HVAC system shall be provided on the top of the proposed building. The alternate means of ventilation shall be designed to achieve a minimum window/wall attenuation of 35 dBA for all facades of the building;

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, February 3, 2004.

---

# MINUTES

---

83-03-BZ

**SUBJECT - Application March 12, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-family dwelling (Use Group 2) located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, front yard and the maximum number of dwelling units, which is contrary to Z.R. §§23-141, 23-45 and 23-22.**

**PREMISES AFFECTED - 2100 Hermany Avenue, southeast corner of Olmstead Avenue, Block 3685, Lot 9, Borough of The Bronx.**

**COMMUNITY BOARD #9BX**

**APPEARANCES -**

**For Applicant: Sheldon S. Leffler.**

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

**THE VOTE TO GRANT -**

**Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3**

**Negative:.....0**

**Abstain: Chair Srinivasan.....1**

**Absent: Commissioner Chin.....1**

**THE RESOLUTION -**

**WHEREAS, the decision of the Borough Commissioner, dated June 30, 2003 acting on Application No. 200706458 reads:**

**“the proposed two family dwelling is contrary to the following zoning sections:**

- 1. Floor area proposed exceeds max. F.A.R. contrary to section 23-141 of the ZR.**
- 2. Front yard along Hermany Ave. is less than 10 ft. contrary to section 23-45 of the ZR.**
- 3. The side yard along the southern lot line is less than 5'-0" contrary to section 23-461 of the ZR.**
- 4. Area and width of lot is contrary to section 23-32 of the ZR.**
- 5. Density proposed exceeds maximum allowed, contrary to section 23-22 of the ZR.”; and**

**WHEREAS, a public hearing was held on this application on August 5, 2003 after due notice by publication in *The City Record*, laid over September 16, 2003, October 7, 2003, November 5, 2003, December 23, 2003, January 13, 2004, and then to February 3, 2004 for decision; and**

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

**WHEREAS, this is an application under Z.R. §72-21, to Resolved that the Board of Standards and Appeals issues a Type II Determination under 6 NYCRR Part 617 and §6-**

**CEQR #03-BSA-146X**

**APPLICANT - The Agusta Group, for Ms. Hilda Lovera, owner.**

**permit the proposed construction of a two-family dwelling (Use Group 2) located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, front yard and the maximum number of dwelling units, which is contrary to Z.R. §§23-141, 23-45 and 23-22; and**

**WHEREAS, the record indicates that the subject premises is a corner lot located at the southeast corner of Olmstead Avenue and Hermany Avenue, with a frontage of 25 feet along Olmstead Avenue and 89.44 feet along Hermany Avenue; and**

**WHEREAS, the applicant states that a corner zoning lot located in an R3-2 district requires two front yards with minimum dimensions of 10 and 15 feet; and**

**WHEREAS, the applicant represents that compliance with the required front yard regulations would result in a house with a 15 foot width; and**

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

**WHEREAS, the aforementioned unique physical condition, namely the narrowness of the subject through lot, creates a practical difficulty in developing the site in conformity with the current 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 zoning will provide a reasonable return; and**

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

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

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

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

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

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

**WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and 07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the**

# MINUTES

required findings under Z.R. §72-21, to permit the proposed construction of a two-family dwelling (Use Group 2) located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, front yard and the maximum number of dwelling units, which is contrary to Z.R. §§23-141, 23-45 and 23-22, *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 12, 2002”-(7) sheets, and “January 6, 2003”-(1) sheet; and *on further condition*:

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, February 3, 2004.

## 219-03-BZ

### CEQR #03-BSA-219Q

APPLICANT - Fischbein Badillo Wagner Harding, for Homes for the Homeless Summer Camp, Inc., owner.

SUBJECT - Application June 25, 2003 - under Z.R. §72-21 to permit the proposed legalization of an existing philanthropic institution with sleeping accommodations (U.G. 3), within an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 175-15 Rockaway Boulevard, north side, between 175<sup>th</sup> Street and 149<sup>th</sup> Road, Block 13381, Lot 1, Borough of Queens.

### COMMUNITY BOARD #13Q

APPEARANCES - None.

THE ACTION OF BOARD - Application granted on condition.

### THE VOTE TO GRANT -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and

WHEREAS, a small portion of the site is occupied by a non-conforming dwelling structure that was used most

Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 20, 2003, acting on Department of Buildings Application No. 401685798 reads:

“1) Proposed non-profit institution with sleeping accommodations (Use Group 3) is not permitted in as {sic} M1-1 Zoning District as per Z.R. 42-00”; and

WHEREAS, a public hearing was held on this application on September 9, 2003 after due notice by publication in the City Record, with continued hearings on September 30, 2003, October 28, 2003, December 16, 2003, and then laid over to February 3, 2004 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed legalization of an existing philanthropic institution with sleeping accommodations (U.G. 3) within an M1-1 zoning district, which is contrary to Z.R. §42-00; and WHEREAS,

WHEREAS, the Board notes that there is a companion variance application under BSA Calendar No. 220-03-BZ, which would allow the expansion of the subject institution (a homeless shelter) through construction of a new building on Lots 11 and 63, resulting in the addition of 91 families to the existing capacity of the facility on the subject site, as well as the legalization of the use of a building on Lot 11; and

WHEREAS, the subject site is comprised of the three above mentioned tax lots, and is irregularly shaped with 252' of frontage on Rockaway Boulevard, 250' of frontage on 148<sup>th</sup> Road, 140' of frontage on 149<sup>th</sup> Avenue, 215' of frontage on 177<sup>th</sup> Street and 180' of frontage on 149<sup>th</sup> Road, with a total area of approximately 112,750 square feet; and

WHEREAS, the site is presently occupied by two structures, built as hotels, which contain a total of 106,878 square feet of floor area; and

WHEREAS, the hotel structure on the subject lot was purchased by a homeless service provider, Homes for the Homeless (“HFH”), in the 1980s, and is currently used by HFH as emergency transitional housing for families; and

WHEREAS, the facility at the site also includes a cafeteria, medical clinic, adult and preschool education services, and other support services; and

recently as a mechanics shop; and

WHEREAS, the applicant states that the following are

---

# MINUTES

---

unique physical conditions, which create practical difficulties and unnecessary hardships in developing the site in conformity with underlying district regulations: the lot is irregular in shape; and the existing hotel structure is no longer viable for its intended use and thus is functionally obsolete; and

WHEREAS, the applicant also states that the existing structure on the subject lot serves HFH's programmatic needs of providing transitional shelter services to families, and that HFH has an existing contract with the City of New York to provide such services; and

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

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

WHEREAS, the applicant represents that HFH has been operating at the site for approximately 15 years; that the site is a self-contained area within an M1-1 zoning district; and that the existing use of the site by HFH as a shelter facility does not materially affect the surrounding area or impact neighboring uses; and

WHEREAS, the applicant states that the site is significantly removed geographically from any residential district, and that increased traffic concerns are mitigated by the provision of van service to and from subway stations and other areas of the vicinity; and

WHEREAS, based on the above, the Board finds that legalization of the use in the existing building on the subject tax lot, with its current capacity, 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

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

SUBJECT - Application June 25, 2003 - under Z.R. §72-21 to permit only the proposed legalization of an existing philanthropic institution with sleeping accommodations (U.G. 3), within an M1-1

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 objection cited, to permit the proposed legalization of an existing philanthropic institution with sleeping accommodations (U.G. 3), within an M1-1 zoning district, which is contrary to Z.R. §42-00; *on condition* that any work related to the legalization that is the subject of this application shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "P-1"- "Received February 2, 2004"; "A-2"- "Received June 25, 2003"; "A-7"- "Received June 25, 2003"; "A-9"- "Received June 25, 2003"; and "A-11"- "Received June 25, 2003"; and *on further condition*:

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

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

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

THAT the shelter units at the facility will be occupied exclusively by families with children, and not by single men or women;

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

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

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

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

Adopted by the Board of Standards and Appeals, February 3, 2004.

220-03-BZ

CEQR #03-BSA-219Q

APPLICANT - Fischbein Badillo Wagner Harding, for Homes for the Homeless Summer Camp, Inc., owner.

zoning district, in the existing building on Lot 11, which is contrary to Z.R. §42-00

PREMISES AFFECTED - 175-21 149<sup>th</sup> Avenue, a/k/a 175-48

---

# MINUTES

---

148<sup>th</sup> Road, 140' east of 175<sup>th</sup> Street, Block 13380, Lots 11 and 63 (Tentative Lot 11), Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted in part and denied in part.

### THE VOTE TO ADOPT THE RESOLUTION -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 20, 2003, acting on Department of Buildings Application No. 401685805, reads:

- “1) Proposed non-profit institution with sleeping accommodations (Use Group 3) is not permitted in as {sic} M1-1 Zoning District as per Z.R. 42-00
- 2) Proposed new building violates rear yard requirements of Z.R. 43-23 and 43-27”; and

WHEREAS, a public hearing was held on this application on September 9, 2003 after due notice by publication in the City Record, with continued hearings on September 30, 2003, October 28, 2003, December 16, 2003, and then laid over to February 3, 2004 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed legalization of an existing philanthropic institution (a homeless shelter) with sleeping accommodations (U.G. 3), within an M1-1 zoning district, and the expansion of the shelter through the construction of a new building that does not comply with the applicable rear yard requirement, which is contrary to Z.R. §§42-00 and 43-23; and

WHEREAS, the subject site is comprised of three tax lots - Lots 1, 11 and 63 - but the subject application only concerns Lots 11 and 63; and

WHEREAS, the Board notes that there is a companion

WHEREAS, only as to the legalization component, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate and in conjunction with the programmatic needs of HFH, create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning, and that the finding set forth at Z.R. §72-21(a) has therefore been met as to this component; and

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

variance application under BSA Calendar No. 219-03-BZ, which proposes the legalization of a shelter facility existing on Lot 1; and

WHEREAS, the subject application contains two components: (1) the legalization of the use of the building on Lot 11 as a shelter facility by a homeless service provider, Homes for the Homeless (the “legalization component”), and (2) the expansion of the Homes for the Homeless (“HFH”) facility, through construction of a new building on Lots 11 and 63 (which additionally requires a waiver of applicable rear yard requirements), resulting in the addition of 91 families to the existing capacity of the entire facility located on the subject site (the “expansion component”); and

WHEREAS, the subject site is irregularly shaped with 252' of frontage on Rockaway Boulevard, 250' of frontage on 148<sup>th</sup> Road, 140' of frontage on 149<sup>th</sup> Avenue, 215' of frontage on 177<sup>th</sup> Street and 180' of frontage on 149<sup>th</sup> Road, with a total area of approximately 112,750 square feet; and

WHEREAS, the site is presently occupied by two large buildings, built as hotels and connected with a bridge, which contain a total of 106,878 square feet of floor area; and

WHEREAS, the hotel structure on Lot 11 was purchased by HFH in the 1980s, and is currently used as a facility for emergency transitional housing for families; and

WHEREAS, a small portion of Lot 63 is occupied by a non-conforming dwelling structure that was allegedly used most recently as a mechanic’s shop; and

WHEREAS, the HFH facility at the site also includes a cafeteria, medical clinic, adult and preschool education services, and other support services; and

WHEREAS, because the subject application contains two separate and distinct components, the Board renders its determination as to each component separately; and

WHEREAS, as to the legalization component, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in developing the site in conformity with underlying district regulations: the lot is irregular in shape, and the existing hotel structure on Lot 11 is no longer viable for its intended use and thus is functionally obsolete; and

WHEREAS, the applicant also states that the existing structure on Lot 11 serves HFH’s existing programmatic needs of providing transitional shelter services to families, and that HFH has an existing contract to provide such services; and

WHEREAS, the applicant represents that HFH has been operating at the site for approximately 15 years and that the site is a self-contained area within an M1-1 zoning district that does not materially affect the surrounding area or impact neighboring uses; and

WHEREAS, the applicant states that the site is significantly removed geographically from any residential district, and that increased traffic concerns are mitigated by the provision of van service to and from subway stations and other areas of the vicinity; and

WHEREAS, based on the above, the Board finds that the

---

# MINUTES

---

legalization component of the application, if approved, 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, only as the legalization component, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, only as the legalization component, the proposal is the minimum necessary to afford the owner relief; and

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

WHEREAS, in support of the expansion component of the subject application, the applicant claims that homelessness is a major social issue facing the City of New York, and that there is a general need to provide shelter and other services to homeless families, which leads to the specific need for the proposed expansion of the shelter use and the attendant increase in capacity at the site; and

WHEREAS, the applicant states that the City's Department of Homeless Services ("DHS") has issued an open request for proposals ("RFP") for transitional residences for families, and argues that the existence of this RFP supports the contention that the provision of increased shelter is needed at the subject site; and

WHEREAS, the Board has reviewed the RFP and notes that its mere existence does not mean that the City will contract with HFH and utilize the increase in shelter units and related services that would result from the proposed expansion at this site, and further notes that DHS did not submit any statement or provide any testimony during the course of the hearings that such a contract would be entered into or was contemplated; and

WHEREAS, additionally, the Board notes that evidence in the record suggests that the City has not had inordinate difficulty in placing families with children; specifically, a DHS report states that since February 2003, no families with children arriving before 10

WHEREAS, the record in the instant application is notably devoid of any substantial evidence showing an actual or proposed increase in enrollment at the HFH facility, but rather contains testimony only as to the proposed increase in capacity; and

WHEREAS, the Board also notes that a religious or educational use before the Board for an expansion variance could quantify any increase in the size of the congregation, or increase in enrollment, but in the instant matter, the applicant has failed to provide evidence showing that the homeless population has increased at their site such that the expansion is necessary, or showing that the City can not provide temporary shelter to homeless families because of the HFH facility's current capacity; and

WHEREAS, the Board further notes that no showing has been made by the applicant that HFH is subject to any City or State mandate to increase the capacity of their facility, or that any other law or regulation requires them to do so; and

WHEREAS, the Board, while not denying the existence of the serious problem of homelessness in the City, finds that the applicant

PM have stayed overnight in the City's Emergency Assistance Unit; and

WHEREAS, testimony provided at hearing, which was not directly refuted by the applicant, suggests that DHS may not need the increase in shelter beds that would result from the proposed expansion, and that DHS has not requested that HFH expand its facility; and

WHEREAS, the applicant has conceded on the record that they have not entered into any agreements with the City regarding the proposed expansion, and stated that if they do not get a contract for the additional beds, they will use the proposed new building as an ancillary support facility for the existing population of homeless families at the HFH facility; and

WHEREAS, the record does not contain any evidence that the programmatic needs of HFH require an expansion just for the creation of an ancillary support facility for the existing population of homeless families; and

WHEREAS, the Board questions how pressing the need for new shelter units can be in light of the fact that the applicant is considering alternative plans for the proposed new building in the event that the units are not needed; and

WHEREAS, the applicant contends that other community facilities, such as schools and religious institutions, when before the Board for expansions, have not been required to show existing contracts for increased enrollment, and that to deny the proposed expansion on that basis would be arbitrary; and

WHEREAS, the Board disagrees that educational or religious uses are comparable to the subject use; specifically, the Board notes that the religious and educational uses previously before the Board for expansion variances typically do not contract with the City for use of their facilities or for provision of services, and that usually such applications are bulk variance applications, rather than a combined use legalization/bulk waiver application, as here; and

has not submitted substantial evidence that the unique physical conditions present at the subject site lead to unnecessary hardship or practical difficulties requiring an expansion of the proposed use and provision of increased shelter and services at the site through construction of a new building, nor has the claim of increased programmatic needs been substantiated, and thus, as to the expansion component, 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, the applicant contends that the proposal is the minimum variance required necessary to afford relief, and supports this contention by stating that they have reduced the number of proposed new shelter units from the amount originally proposed; and

WHEREAS, the Board disagrees that a reduction in the degree of requested relief made during the course of the hearing supports the contention that the proposal therefore reflects the minimum variance necessary to afford relief, and notes again that the applicant

---

# MINUTES

---

has failed to show that the new building and increased number of shelter units are needed; and

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

WHEREAS, the Board notes that certain community members and political representatives have testified that they are opposed to the proposed expansion of HFH, primarily because they are concerned about the amount of comparable facilities providing similar services in the general vicinity, characterizing the amount of such uses in the area as over-saturation; and

WHEREAS, the applicant argues, and the Board agrees, that a determination as to whether a larger geographical area than the neighborhood in which the site is situated is indeed over-saturated with certain community facilities is not a proper determination for the Board to make in deciding whether to grant the subject application; and

WHEREAS, therefore, the Board, while not questioning the sincerity of the concerns expressed about over-saturation at hearing and through submissions, expressly discounts such testimony as the basis for any part of its decision as set forth herein; and

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

THAT 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.

*Be it further resolved*, as to the expansion component, because the applicant has failed to meet the findings set forth at Z.R. §72-21(a) and (e), this component of the application is hereby denied.

Adopted by the Board of Standards and Appeals, February 3, 2004.

**264-03-BZ**

**CEQR #04-BSA-029K**

**APPLICANT - The Law Office of Fredrick A. Becker, for Samuel Halon and Chaya Halon, owner.**

**SUBJECT - Application August 21, 2003 - under Z.R. §73-**

*Resolved*, as to the legalization component, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited above, to permit only the proposed legalization of an existing philanthropic institution with sleeping accommodations (U.G. 3), within an M1-1 zoning district, in the existing building on Lot 11, which is contrary to Z.R. §42-00; *on condition* that any work related to the legalization component of the subject of application shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "P-1"- "Received February 2, 2004"; "A-13"- "Received June 25, 2003"; "A-15"- "Received August 12, 2003"; "A-17"- "Received June 25, 2003"; "A-19"- "Received August 12, 2003"; "A-21"- "Received August 12, 2003"; and "A-23"- "Received August 12, 2003"; and *on further condition*:

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

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

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

THAT the shelter units at the facility will be occupied exclusively by families with children, and not by single men or women;

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

**622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliance with regard to floor area ratio, open space ratio, and side yard requirements, and is contrary to Z.R §§23-141 and 23-461.**

**PREMISES AFFECTED - 2713 Avenue "N", 66' west of East 28th Street, Block 7663, Lot 5, Borough of Brooklyn. COMMUNITY BOARD #14BK**

**APPEARANCES -**

**For Applicant: Lyra Altman.**

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

**THE VOTE TO GRANT -**

**Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3**

**Negative:.....0**

**Abstain: Chair Srinivasan.....1**

**Absent: Commissioner Chin.....1**

---

# MINUTES

---

## THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 11, 2003, acting on Application No. 301620850 reads:

“Proposed plans are contrary to ZR 23-141 in that the proposed building exceeds the maximum permitted floor area ratio of .50.

Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required open space ratio of 150.

Proposed plans are contrary to ZR 23-461 in that the proposed straight line enlargement continues with the existing non-complying side yard of 3'-11" and is less than the minimum required side yard of 5'-0".”; and

WHEREAS, a public hearing was held on this application on December 16, 2003, laid over to January 13, 2004 and then to February 3, 2004 for decision; and

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

WHEREAS, a special permit is sought under Z.R. §73-622 to permit the proposed enlargement of an existing single-

*Resolved* that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliance with regard to floor area ratio, open space ratio, and side yard requirements, and is 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 marked “Received August 21, 2003”-(11) sheets, and “January 20, 2004”-(1) sheet; and *on further condition*;

THAT there shall be no habitable room in the cellar;

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 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

family dwelling in an R2 zoning district, which creates non-compliance with regard to floor area ratio, open space ratio, and side yard requirements, and which is contrary to Z.R §§23-141 and 23-461; 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 perimeter wall height will comply with all applicable zoning regulations; and

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

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

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

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

only for the portions related to the specific relief granted;

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

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

Adopted by the Board of Standards and Appeals, February 3, 2004.

---

## 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 and Donald Letnik.

For Opposition: Dan Cavanagh.

---

# MINUTES

---

**ACTION OF THE BOARD** - Laid over to April 13, 2004, at 1:30 P.M., for continued hearing.

**164-02-BZ**

APPLICANT - Stuart A. Klein, Esq. for Marian Begley, owner.  
SUBJECT - Application May 23, 2002 - under Z.R. §72-21 to permit the legalization of an enlargement to an existing two family dwelling, which does not comply with the zoning requirements for side yards, is contrary to Z.R. § 23-48(b), §23-48 and §23-461(a).

PREMISES AFFECTED - 1913 Hobart Avenue, west side, bounded by St. Theresa Avenue to the south and Wilkinson Avenue to the north, Block 4234, Lot 58, Borough of The Bronx.

**COMMUNITY BOARD #10BX**

APPEARANCES -

For Applicant: Richard Budd.

**ACTION OF THE BOARD** - Laid over to March 9, 2004, at 1:30 P.M., for continued hearing.

**203-02-BZ**

APPLICANT - Sheldon Lobel, P.C., for Marcello Porcelli, owner; BP Amoco, PLC, lessee.

SUBJECT - Application December 13, 2002 - under Z.R. §72-21 to permit the proposed conversion and enlargement of an existing warehouse, into a residential building with 83 units and 41 parking spaces, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 130 North Fourth Street, between Berry Street and Bedford Avenue, Block 2351, Lot 6, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Chris Wright.

**ACTION OF THE BOARD** - Laid over to February 24, 2004, at 1:30 P.M., for continued hearing.

**69-03-BZ**

APPLICANT - Friedman & Gotbaum, LLP, by Shelly S. Friedman, Esq., for Bond Street, LLC, owner.

SUBJECT - Application February 12, 2003 - under Z.R. § 72-21 to permit the proposed development of a 15-story mixed-use building, consisting of residential apartments and local retail usage, located in an M1-5B zoning district, where residential use is not

SUBJECT - Application July 1, 2002 - under Z.R. §72-21 to permit the proposed construction of a new automotive service station with an accessory convenience store, Use Group 16, that is located in a C1-2 within an R5 zoning district, is contrary to §32-31.

PREMISES AFFECTED - 110-18 Northern Boulevard, between 110th and 111th Streets, Block 1725, Lots 1, 3, 4, 7, 8, 11, 12 and 13, (Tentative Lot 1), Borough of Queens.

**COMMUNITY BOARD #3Q**

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO REOPEN HEARING -

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

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 1:30 P.M., for decision, hearing closed.

**360-02-BZ**

APPLICANT - Law offices of Howard Goldman, PLLC, for S & Y Enterprises, LLC, owner.

permitted is contrary to Z.R. §42-10.

PREMISES AFFECTED - 32/40 Bond Street, mid-block portion fronting on north side, of Bond Street between Lafayette and Bowery, Block 530, Lot 48, Borough of Manhattan.

**COMMUNITY BOARD #2M**

APPEARANCES -

For Applicant: Shelly Friedman, Richard Boru, Marus Simons, Robert Pauls and Jennifer Morris.

For Opposition: Peter Hoffman, Doris Diether, Marilyn Geyer, Allison Rosenthal and Jeffrey Weinstein.

**ACTION OF THE BOARD** - Laid over to March 10, 2004, at 10 A.M., Special Hearing, for continued hearing.

**77-03-BZ & 78-03-BZ**

APPLICANT - Gerald J. Caliendo, R.A., A.I.A., for Better Luxury Homes, Inc., owner.

SUBJECT - Application March 3, 2003 - under Z.R. §72-21 to permit the proposed construction of a one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirement for minimum rear yard, and is contrary to Z.R. §23-47.

PREMISES AFFECTED -

260-32 Grand Central Parkway, east side, 9' south of 267th Street, Block 8443, Lot 123, Borough of Queens.

260-34 Grand Central Parkway, east side, 9' south of 267th Street, Block 8443, Lot 120, Borough of Queens.

**COMMUNITY BOARD #13Q**

---

# MINUTES

---

## APPEARANCES -

For Applicant: Gerald J. Caliendo.

## THE VOTE TO REOPEN HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

## THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to February 24, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 92-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Parkside Inc., owner.  
SUBJECT - Application March 25, 2003 - under Z.R. §73-52 to permit the proposed residential development of an entire zoning lot,  
PREMISES AFFECTED - 140/42 Pennsylvania Avenue, southeast corner of Liberty Avenue, Block 3703, Lot 21, Borough of Brooklyn.

## COMMUNITY BOARD #5BK

### APPEARANCES -

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** - Laid over to March 2, 2004, at 1:30 P.M., for continued hearing.

---

## 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, Vincent Hanley, Peter Markie, Marianna Vadukuz, Elba Damast, Rafael Damast and Francis R. Angelino.

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 1:30 P.M., for continued hearing.

---

## 262-03-BZ

APPLICANT - Eric Palatnik, P.C., for Sam Dagan, owner.

SUBJECT - Application August 18, 2003 - under Z.R. §73-622 to

on a lot divided by an R7-2 and M1-1 district boundary, which requires a special permit.

PREMISES AFFECTED - 472 West 130<sup>th</sup> Street, southwesterly corner of the intersection of West 130th Street and Convent Avenue, Block 1969, Lots 64, 67 and 68, Borough of Manhattan.

## COMMUNITY BOARD #9M

### APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to March 2, 2004, at 1:30 P.M., for continued hearing.

---

## 217-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Mr. Vincenzo Adragna, owner.

SUBJECT - Application June 24, 2003 - under Z.R. §72-21 to permit the proposed one story and cellar expansion, of an existing one story and cellar retail building, Use Group 6, located in an R5 zoning district, which is contrary to Z.R. §52-22.

permit the legalization of an enlargement to an existing one family dwelling, which does not comply with the zoning requirements for floor area and rear yard, is contrary to Z.R. §23-47 and §23-142.  
PREMISES AFFECTED - 1564 East 28th Street, west side, between Avenue "P" and Kings Highway, Block 7688, Lot 82, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

### APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 1:30 P.M., for continued hearing.

---

## 273-03-BZ thru 285-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

### PREMISES AFFECTED -

211-51 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 92, Borough of Queens.

211-49 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 93, Borough of Queens.

211-47 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 94, Borough of Queens.

---

# MINUTES

---

211-45 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 95, Borough of Queens.

211-43 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 96, Borough of Queens.

211-41 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 97, Borough of Queens.

211-54 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 98, Borough of Queens.

211-52 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 99, Borough of Queens.

211-50 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 100, Borough of

For Opposition: Nagassar Ramgarib, Thomas Burton, Ray Cloutier, Gabriella Krill, John Stiller and Robert Hellenbrecht.

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

### 337-03-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for 340 Madison Owner, LLC c/o Macklowe Properties, 142 West 57th Street, owners.

SUBJECT - Application October 31, 2003 - under Z.R. §72-21 to permit the proposed enlargement of an existing 21-story office, retail and church building with irregular E-shaped floor plates, will require variances to modify the Special Street Wall requirement of the Grand Central subdistrict, and permit the transfer of floor area across a zoning district boundary, which is not permitted as per Z.R. §81-621, §77-02, §33-17 and §81-211.

PREMISES AFFECTED - 342 Madison Avenue,(a/k/a 16 East 44th Street), west blockfront, between East 43rd and 44th Streets, Block 1278, Lots 8, 14, 15, 17, 62, 63 and 65, Borough of Manhattan.

### COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Robert E. Flahive and Gary Tarnoff.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 1:30 P.M., for decision, hearing closed.

### 354-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Edelman, Edward &

Queens.

211-48 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 101, Borough of Queens.

211-46 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 102, Borough of Queens.

211-44 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 103, Borough of Queens.

211-42 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 104, Borough of Queens.

### COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Richard Lobel, Sheldon Lobel, Jerry Caliendo, Marc Esrig, Haim Levy, and Akiva Emergi.

UNED Associates, LLC, owner.

SUBJECT - Application November 18, 2003 - under Z.R. §72-21 to permit the proposed physical culture establishment, in the cellar of a multi-story mixed -use building which sits on property divided by an R8-B and a C6-6/R8-B district boundary, which is contrary to Z.R. §22-10 and §32-10.

PREMISES AFFECTED - 209/15 East 51st Street, between Second and Third Avenues, Block 1325, Lot6, Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Janice Calahane.

**ACTION OF THE BOARD** - Laid over to March 9, 2004, 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

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 8

February 19, 2004

---

### DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

PETER CALIENDO

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**

### CONTENTS

DOCKET .....138

CALENDAR of March 10, 2004

Morning .....141

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, February 10, 2004**

Morning Calendar .....141

**Affecting Calendar Numbers:**

867-55-BZ, Vol. II	66-11 Borden Avenue, Queens
994-77-BZ	89-43/49 Doran Avenue, Queens
1043-80-BZ	1680/88 Albany Avenue, Brooklyn
101-92-BZ	68-98 E. Burnside Avenue, The Bronx
27-00-BZ	110-35 Horace Harding Expressway, Queens
191-00-BZ	184 Kent Avenue, Brooklyn
200-00-BZ	107-24 37 <sup>th</sup> Avenue, Queens
279-01-BZ	2106-2130 McDonald Avenue, Brooklyn
290-02-BZ thru	
314-02-BZ	Taipei Court, Queens
351-03-A	23 Pelham Walk, Queens
352-03-A	362-1/2 Sea Breeze Avenue, Queens
353-03-A	396 Sea Breeze Avenue, Queens
99-01-A	37-18 74 <sup>th</sup> Street, Queens

Afternoon Calendar.....146

**Affecting Calendar Numbers:**

276-02-BZ	160 Norfolk Street, Brooklyn
85-03-BZ	922/26 Bedford Avenue, Brooklyn
108-03-BZ	135 Coffey Street, Brooklyn
109-03-BZ	71 Walcott Street, Brooklyn
110-03-BZ	79 Walcott Street, Brooklyn
310-03-BZ	2233 Avenue M, Brooklyn
327-03-BZ	175-35 148 <sup>th</sup> Road, Queens
329-03-BZ	142 Coffey Street, Brooklyn
330-03-A	79 Wolcott Street, Brooklyn
80-03-BZ	602 39 <sup>th</sup> Street, Brooklyn
142-03-BZ	140-20 Farmers Boulevard, Queens
255-03-BZ	1019 Surf Avenue, Brooklyn
270-03-BZ	108-36/50 Queens Boulevard, Queens
333-03-BZ	371 Stockholm Street, Brooklyn

**CORRECTION**.....162

**Affecting Calendar Number:**

366-02-BZ	2702 Avenue M, Brooklyn
-----------	-------------------------

---

# DOCKETS

---

New Case Filed Up to February 10, 2004

---

**18-04-A** B.Q. 10 Irving Walk, west side, 105.69' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens. Alt.1#401746063. Proposed addition of a second floor, to an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 5 of the General City Law.

---

Briggs Avenue, Poe Place and Coles Lane, Block 3293, Lots 21 and 90, Borough of The Bronx. N.B.#200759508. 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.

**COMMUNITY BOARD #7BX**

---

**19-04-BZ** B.BX. 1217 East 233rd Street, aka 3923 Baychester Avenue, Block 4954, Lot 68, Borough of The Bronx. Alt.1#200742296. The reestablishment of an expired variance previously granted by the Board under Cal. No. 423-54-BZ, for a gasoline service station in a C2-1 within an R-4 zoning district, also the legalization of the conversion of a portion of the gas station to an accessory retail convenience store, is contrary to Z.R. §22-10 and §32-10.

**COMMUNITY BOARD #12BX**

---

**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.**

---

**20-04-BZ** B.K. 5723 17th Avenue, corner of 58th Street, Block 5498, Lot 1, Borough of Brooklyn. Alt.1#301550774. 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.

**COMMUNITY BOARD #12BK**

---

**21-04-A** B.Q. 634 Bayside Avenue, eastside, 267.40' south of Bayside Drive, Block 16350, Lot 300, Borough of Queens. Alt.1#401751154. Proposed enlargement of an existing one family dwelling, located partially within the bed of a mapped street, and not fronting on a legally mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

---

**22-04-BZ** B.BX. 2556 Briggs Avenue, fronting on

---

# CALENDAR

---

**MARCH 10, 2004, 10:00 A.M.**

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

---

## **DISMISSAL CALENDAR**

### **722-68-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: Matthew Pines  
SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 388-392 Kings Highway, West 3rd Street and Kings Place, Block 6678, Lot 68, Borough of Brooklyn.  
**COMMUNITY BOARD #11**

---

### **16-99-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: Milton Elbogen  
SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 1116 East 26th Street, between Avenue K and Avenue L, Block 7625, Lot 52, Borough of Brooklyn.  
**COMMUNITY BOARD #14**

---

### **147-02-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: Joseph Pizzonia  
SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 201-06 Hillside Avenue, corner of 201st Street and Hillside Avenue, Block 10495, Lot 52, Borough of Queens.  
**COMMUNITY BOARD #12**

---

### **229-03-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: PIC Legacy Realty, Inc.  
SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 303 Crystal Avenue, Block 472, Lot  
**304-03-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: Woodlawn Heights Realty  
SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 4299 Katonah Avenue, fronting on Katonah Avenue between East 236th and East 237th Streets, Block 3377, Lot 59, Borough of The Bronx.  
**COMMUNITY BOARD #12**

---

149, Borough of Staten Island.  
**COMMUNITY BOARD #1**

---

### **327-02-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: Frank Galeano.  
SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 82 Union Street, south side, 266' west of Columbia Street, east of Van Brunt Street, Block 341, Lot 18, Borough of Brooklyn.  
**COMMUNITY BOARD #6**

---

### **352-02-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: Peter Likourentzos  
SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 2801 Emmons Avenue, northeast corner East 28th Street to East 29th Street, Block 8792, Lot 63, Borough of Brooklyn.  
**COMMUNITY BOARD #15**

---

### **229-03-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: PIC Legacy Realty, Inc.  
SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 303 Crystal Avenue, Block 472, Lot 149, Borough of Staten Island.  
**COMMUNITY BOARD #1**

---

### **295-03-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: Luis Parrales  
SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 860-862 Castle Hill Avenue/2201 Hermany Avenue, northeast corner of Castle Hill Avenue and Hermany Avenue, Block 3692, Lot 1, Borough of The Bronx.  
**COMMUNITY BOARD #9**

---

### **343-03-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: Pasquale Pescatore  
SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 90 Havemeyer Street, fronting on the west side of Havemeyer Street between Hope Street and Metropolitan Avenue, Block 2368, Lot 26, Borough of Brooklyn.  
**COMMUNITY BOARD #1**

---

# CALENDAR

---

---

## **358-03-BZ**

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Rita Citronenbaum

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 1651 52nd Street, northside 334'-4 west of 17th Avenue, between 16th and 17th Avenues, Block 5466, Lot 69, Borough of Brooklyn.

**COMMUNITY BOARD #12**

---

*Pasquale Pacifico, Executive Director*

## **REGULAR MEETING TUESDAY MORNING, FEBRUARY 10, 2004 10:00 A.M.**

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, December 9, 2003, were approved as printed in the Bulletin of Volume 88, No. 48-50.

---

## **SPECIAL ORDER CALENDAR**

## **867-55-BZ, Vol. II**

APPLICANT - Carl A. Sulfaro, Esq., for 66-15 JR Realty Corp., owner.

SUBJECT - Application June 17, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired June 19, 2001.  
PREMISES AFFECTED - 66-11 Borden Avenue, northeast corner of Clinton Avenue, Block 2394, Lot 8, Maspeth, Borough of Queens.

**COMMUNITY BOARD #5Q**

APPEARANCES -

For Applicant: Carl A. Sulfaro.

ACTION OF THE BOARD - Rules of Practice and Procedure waived, application reopened, resolution amended

---

# MINUTES

---

and term of variance extended.

**THE VOTE TO GRANT -**

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

**THE RESOLUTION-**

WHEREAS, a public hearing was held on this application on August 12, 2003, after due notice by publication in The City Record, and laid over to October 21, 2003, January 13, 2004 and then to February 10, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, an extension of the term of the variance which expired on June 19, 2001; and

WHEREAS, the applicant also seeks an amendment to the resolution to permit the erection of a new metal canopy over the fuel dispensing area, to relocate the ground sign structure to the westerly end of the lot and to provide a new full width concrete sidewalk on the Clinton Avenue frontage, a new 5'-0" high, 100% closed chain-link fencing, and a new planting area.

Resolved, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, reopens and amends the resolution, pursuant to Zoning Resolution §11-412, extends the term of the variance which expired on June 19, 2001, 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 June 19, 2001 expiring on June 19, 2011, and to permit the erection of a new metal canopy over the fuel dispensing area, to relocate the ground sign structure to the westerly end of the lot and to provide a new full width concrete sidewalk on the Clinton Avenue frontage, a new 5'-0" high 100% closed chain-link fencing, and a new planting area; 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 24, 2004"- (4) sheets; and on further condition;

**COMMUNITY BOARD #5Q**

APPEARANCES -

For Applicant: Joseph P. Morsellino.

**THE VOTE TO CLOSE HEARING -**

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

Negative:.....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD -** Laid over to March 9, 2004, at 10 A.M., for decision, hearing closed.

---

**1043-80-BZ**

**APPLICANT -** Rothkrug & Rothkrug Weinberg & Spector for RANS 1680 Building Corp., owner.

**SUBJECT -** Application December 17, 2001 - request for a waiver of the Rules of Practice and Procedure and reopening

**THAT** there shall be no overnight parking of vehicles of the site, with the exception of cars awaiting service;

**THAT** no automatic car washing shall occur on the premises, and all car wash modules shall be removed;

**THAT** there shall be no use of automatic vacuums on the 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** landscaping shall be provided and maintained in accordance with BSA approved plans;

**THAT** lighting shall be positioned down and away from any adjacent residential uses;

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

**THAT** a certificate of occupancy will 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 #401750128)

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

---

**994-77-BZ**

**APPLICANT -** Joseph P. Morsellino, for Rutledge Apartments, owner; DNS Automotive Inc., lessee.

**SUBJECT -** Application June 12, 2003 - reopening for an extension of term of variance which expired May 23, 2003.

**PREMISES AFFECTED -** 89-43/49 Doran Avenue, northside of Woodhaven Boulevard, Block 3872, Lot 49, Borough of Queens. for an extension of term of variance which expired May 3, 2000.

**PREMISES AFFECTED -** 1680/88 Albany Avenue a/k/a 4024 Marginal Street, southwest corner of Albany Avenue and Marginal Street, Block 7744, Lots 47, 49, 50, Borough of Brooklyn.

**COMMUNITY BOARD #18BK**

APPEARANCES -

For Applicant: Adam Rothkrug.

**THE VOTE TO CLOSE HEARING -**

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

Negative:.....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD -** Laid over to March 23, 2004, at 10 A.M., for decision, hearing closed.

---

# MINUTES

---

---

## 101-92-BZ

APPLICANT - Sheldon Lobel, P.C., for Portrem Realty Co., owner.

SUBJECT - Application August 13, 2003 - reopening for an extension of term of variance which expired October 26, 2003.

PREMISES AFFECTED - 68-98 E. Burnside Avenue (aka 2036 Walton Avenue and 2035 Morris Avenue) south side of East Burnside Avenue, between Walton Avenue and Morris Avenue, Block 2829, Lot 45, Borough of The Bronx.

### COMMUNITY BOARD #5BX

#### APPEARANCES -

**For Applicant: Jordan Most.**

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 10 A.M., for continued hearing.

---

## 27-00-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Emanuel N. Hartofilis, owner; VanDoren Oil Co., Inc. Lessee.

SUBJECT - Application October 28, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to obtain a Certificate of Occupancy.

PREMISES AFFECTED - 110-35 Horace Harding Expressway, northwest corner of VanDoren Street, Block 1970, Lot39, Borough of Queens.

### COMMUNITY BOARD #4Q

#### APPEARANCES -

**For Applicant: Carl Sulfaro.**

#### THE VOTE TO CLOSE HEARING -

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

**Negative:.....0**

**Absent: Commissioner Chin.....1**

**ACTION OF THE BOARD** - Laid over to February 24, 2004, at 10 A.M., for decision, hearing closed.

---

## 279-01-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Magen David Yeshivah, owner.

SUBJECT - Application December 8, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 2106-2130 McDonald Avenue, through lot with frontage on Lake Street & McDonald Avenue, between Avenue S & T, Block 7087, Lots 14, 22, 24, 73, 76, Borough of Brooklyn.

### COMMUNITY BOARD #11BK

#### APPEARANCES -

**For Applicant: Howard Hornstein and Barbara Hair.**

**ACTION OF THE BOARD** - Laid over to March 9, 2004, at 10 A.M., for continued hearing.

---

## 290-02-BZ thru 314-02-BZ

APPLICANT - New York City Board of Standards and Appeals.

---

## 191-00-BZ

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

SUBJECT - Application December 12, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 184 Kent Avenue, northwest corner of intersection of Kent Avenue and North 3rd Street, Block 2348, Lot 1, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

#### APPEARANCES -

**For Applicant: Howard Hornstein, Barbara Hair and Ken Fischer.**

**ACTION OF THE BOARD** - Laid over to April 13, 2004, at 10 A.M., for continued hearing.

---

## 200-00-BZ

APPLICANT - The Agusta Group, for Blans Development Corp., owner.

SUBJECT - Application August 28, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 107-24 37th Avenue, aka 37-16 108th Street, southwest corner of 108th Street and 37th Avenue, Block 1773, Lot 10, Borough of Queens.

### COMMUNITY BOARD #3Q

#### APPEARANCES -

**For Applicant: Sheldon Leffler.**

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 10 A.M., for continued hearing.

---

OWNER OF PREMISES: Edgewater Development, Inc.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED -

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

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

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

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

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

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

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

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

---

# MINUTES

---

114-21 Taipei Court, north side, 501' west of 115th Street, Block 4019, Lot 133, Borough of Queens.  
114-23 Taipei Court, north side, 491' west of 115th Street, Block 4019, Lot 134, Borough of Queens.  
114-25 Taipei Court, north side, 471' west of 115th Street, Block 4019, Lot 135, Borough of Queens.  
114-27 Taipei Court, north side, 451' west of 115th Street, Block 4019, Lot 136, Borough of Queens.  
114-29 Taipei Court, north side, 421' west of 115th Street, Block 4019, Lot 137, Borough of Queens.  
114-31 Taipei Court, north side, 411' west of 115th Street, Block 4019, Lot 138, Borough of Queens.  
114-33 Taipei Court, northwest corner of 115th Street, Block 4019, Lot 139, Borough of Queens.  
114-35 Taipei Court, north side, 371' west of 115th Street, Block 4019, Lot 141, Borough of Queens.  
114-20 Taipei Court, south side, 501' west of 115th Street, Block 4019, Lot 124, Borough of Queens.  
114-22 Taipei Court, south side, 491' west of 115th Street, Block 4019, Lot 123, Borough of Queens.  
114-24 Taipei Court, south side, 471' west of 115th Street, Block 4019, Lot 122, Borough of Queens.  
114-26 Taipei Court, south side, 451' west of 115th Street, Block 4019, Lot 121, Borough of Queens.  
114-28 Taipei Court, south side, 431' west of 115th Street, Block 4019, Lot 119, Borough of Queens.  
114-30 Taipei Court, south side, 411' west of 115th Street, Block 4019, Lot 117, Borough of Queens.  
114-32 Taipei Court, south side, 391' west of 115th Street, Block 4019, Lot 116, Borough of Queens.  
114-34 Taipei Court, south side, 371' west of 115th Street, Block 4019, Lot 115, Borough of Queens.  
114-36 Taipei Court, south side, 391' west of 115th Street, Block 4019, Lot 114, Borough of Queens.

## COMMUNITY BOARD #7Q

- 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.";
- and

WHEREAS, by the letter dated, February 4, 2004, the Fire Department has reviewed the above project and has no objections; and

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

Resolved, that the decision of the Queens Borough Commissioner, dated November 10, 2003 acting on Department of Buildings Alt. 1 Application No. 401721455 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 13, 2004"- (1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules,

## APPEARANCES -

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 10 A.M., for continued hearing.

---

## 351-03-A

**APPLICANT** - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Dawn & Joseph Henderson, lessees.  
**SUBJECT** - Application November 18, 2003 - Proposed reconstruction and enlargement of the first floor, and the addition of a 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** - 23 Pelham Walk, east side, 240.61' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

## APPEARANCES -

For Applicant: Gary Lenhart.

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

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

Negative:.....0

Absent: Commissioner Chin.....1

## THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated November 10, 2003, acting on Department of Buildings Alt. 1 Application No. 401721455, 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:

and regulations shall be complied with; on further condition  
THAT the premises shall be maintained free of debris and graffiti;

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

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

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

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

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

---

## 352-03-A

**APPLICANT** - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Kerry & Larry Gresser, lessees.

**SUBJECT** - Application November 18, 2003 - Proposed

---

# MINUTES

---

reconstruction and enlargement of the first floor, and the addition of a second story, to an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

**PREMISES AFFECTED** - 362-1/2 Sea Breeze Avenue, south side, 43.19' west of Beach 181st Street, Block 16340, Part of Lot 50, Borough of Queens.

**COMMUNITY BOARD #14Q**

**APPEARANCES** -

For Applicant: Gary Lenhart.

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

**THE VOTE TO GRANT**-

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

Negative:.....0

Absent: Commissioner Chin.....1

**THE RESOLUTION** -

WHEREAS, the decision of the Queens Borough Commissioner, dated November 10, 2003, acting on Department of Buildings Alt. 1 Application No. 401732354, reads in pertinent part:

"A-1 The existing building to be altered lies within a bed of a mapped street contrary to General City Law Section 35"; and

WHEREAS, by letter dated February 4, 2004, the Fire Department has reviewed the above project and has no objections; and

WHEREAS, by letter dated December 10, 2003 the Department of Environmental Protection has reviewed the above project and has no objections; and

WHEREAS, by letter dated January 12, 2004 the Department of Transportation reviewed the above project and has no objections; and

353-03-A

**APPLICANT** - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Clifford Ris, lessee.

**SUBJECT** - Application November 18, 2003 - Proposed reconstruction and enlargement of an existing one family dwelling, situated 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** - 396 Sea Breeze Avenue, east side, of Beach 182nd 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 Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

**THE RESOLUTION** -

WHEREAS, the decision of the Queens Borough Commissioner, dated November 05, 2003, acting on Department of Buildings Alt. 1 Application No. 4017712401

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

Resolved, that the decision of the Queens Borough Commissioner, dated November 10, 2003 acting on Department of Buildings Alt. 1 Application No. 401732354 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 November 1, 2003"-(1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; on further condition

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

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

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

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

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

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

reads, in pertinent part:

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

WHEREAS, by letter dated, February 4, 2004, the Fire Department has reviewed the above project and has no objections; and

WHEREAS, by letter dated, December 11, 2003 the Department of Environmental Protection has reviewed the above project and has no objections; and

WHEREAS, by letter dated, January 12, 2004 the Department of Transportation reviewed the above project and has no objections; and

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

---

# MINUTES

---

Resolved, that the decision of the Queens Borough Commissioner, dated November 5, 2003 acting on Department of Buildings Alt. 1 Application No. 401712401 is modified under the power vested in the Board by Section 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 18, 2003"-(1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; on further condition

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

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

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

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

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

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

---

## REGULAR MEETING

TUESDAY AFTERNOON, FEBRUARY 10, 2004  
2:00 P.M.

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

---

## ZONING CALENDAR

276-02-BZ

**APPLICANT** - Harold Weinberg, P.E., for Morton Osterman, owner.

**SUBJECT** - Application October 10, 2002 - under Z.R. §73-622 to permit the proposed erection of a second story, and a rear yard enlargement, to an existing one-family dwelling (Use Group 1) in an R3-1 zoning district, which creates and increases non-compliance with regard to floor area ratio, open space ratio, lot coverage, and rear and side yard requirements, and which is contrary to Z.R §§23-141, 23-47, 54-31 and 23-461.

**PREMISES AFFECTED** - 160 Norfolk Street, west side, 300'0 north of Oriental Boulevard and south of Shore Boulevard, Block 8756, Lot 22, Borough of Brooklyn.

99-01-A, Vol. II

**APPLICANT** - The Agusta Group, for Nicolo Balducci, Executor for Serafina Balducci, owner.

**SUBJECT** - Application August 7, 2003 - To restore to calendar- proposed to legalize the conversion of a two story and cellar frame two (2) family dwelling to stores (U.G. 6).  
**PREMISES AFFECTED** - 37-18 74th Street, west of 74th Street, 161.107' south of 37th Avenue, Block 1284, Lot 47, Borough of Queens.

**COMMUNITY BOARD #3Q**

**APPEARANCES** -

For Applicant: Sheldon S. Leffler.

For Opposition: Janine Gaylard.

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

**THE VOTE TO WITHDRAW** -

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

Negative:.....0

Absent: Commissioner Chin.....1

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

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director.*

Adjourned: 10:50 A.M.

**COMMUNITY BOARD #15BK**

**APPEARANCES** -

For Applicant: Harold Weinberg and Emmanuel Smith.

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

**THE VOTE TO GRANT** -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated October 7, 2002, acting on Department of Buildings Application No. 301415706 reads:

"1. Creates non-compliances with respect to floor area ratio (FAR) and open space ratio and is contrary to Section 23-141;

2. Increases the degree of non-compliance with respect to lot coverage and is contrary to sections 23-141 ZR and Section 54-31;

3. Increases the degree of non-compliance with respect to rear yard and is contrary to section 23-47 ZR &54-31;

4. Increases the degree of non-compliance with respect to side yards and is contrary to section 23-461 & 54-31."; and

---

# MINUTES

---

WHEREAS, a public hearing was held on this application on August 13, 2003, laid over to October 21, 2003, January 13, 2004 and then to February 10, 2004 for decision; and

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

WHEREAS, a special permit is sought under Z.R. §73-622 to permit the proposed erection of a second story, and a rear yard enlargement, to an existing one-family dwelling (Use Group 1) in an R3-1 zoning district, which creates and increases non-compliance with regard to floor area ratio, open space ratio, lot coverage, and rear and side yard requirements, and which is contrary to Z.R §§23-141, 23-47, 54-31 and 23-461; 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

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622 to permit the proposed erection of a second story, and a rear yard enlargement, to an existing one-family dwelling (Use Group 1) in an R3-1 zoning district, which creates and increases non-compliance with regard to floor area ratio, open space ratio, lot coverage, and rear and side yard requirements, and which is contrary to Z.R §§23-141, 23-47, 54-31 and 23-461, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received October 3, 2003"-(6) sheets, "October 10, 2003"-(1) sheet, "January 14, 2004"-(1) sheet; and on further condition;

THAT there shall be no habitable room in the cellar;

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 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;

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

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

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

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

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

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

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

Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted;

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

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

85-03-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for 926 Bedford LLC, owner; Department of General Services, lessee.

SUBJECT - Application March 13, 2003 - under Z.R. 72-21 to permit the proposed construction of a two-story and mezzanine manufacturing use building in an R6 zoning district, which is contrary to Z.R.§22-10.

PREMISES AFFECTED - 922/26 Bedford Avenue, a/k/a 371 Willoughby Avenue, northwest corner, Block 1914, Lots 43, 44 and 46 (Tentative Lot 43), Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

---

# MINUTES

---

Absent: Commissioner Chin.....1

## THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 12, 2003, acting on Department of Buildings Application No. 301469453, reads:

"Proposed enlargement of existing manufacturing facility in an R6 Zoning District is contrary to section 22-10, and must be referred back to the Board of Standards and Appeals"; 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 December 9, 2003, January 13, 2004 and then to February 10, 2004 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a two-story and

WHEREAS, the proposed building will contain a cellar used for storage and mechanical equipment; a first floor used for loading and unloading, accessory parking, offices, a retail/wholesale showroom and assembly; and a mezzanine and second floor also used for storage and assembly; and

WHEREAS, the applicant asserts that the existing building is in an extreme state of disrepair, and largely unstable due to its advanced age, as well as deterioration resulting from the demolition of the adjacent building; and

WHEREAS, under Calendar No. 1067-86-BZ, the Board granted a variance to permit the conversion of the upper floors for office and storage use; and

WHEREAS, the applicant states that despite the variance, the upper floors of the building were never altered, most likely due to the extreme state of disrepair of the building; and

WHEREAS, the Board finds that the aforementioned unique conditions create practical difficulties in developing the site in conformity with the current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; 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 there is an M1-2 zoning district located directly across the street from the subject premises, with a gasoline service station on the northeast corner of Willoughby Avenue and Bedford Street; and

mezzanine manufacturing use building in an R6 zoning district, which is contrary to Z.R. § 22-10; and

WHEREAS, the subject premises consists of a corner lot, with 73 feet of frontage on Willoughby Avenue and 76.17 feet of frontage on Bedford Avenue, with a total area of 5,714.2 square feet; and

WHEREAS, the record indicates that the subject premises is currently comprised of three separate tax lots (numbers 43, 44 and 46) which are proposed to be combined into a single zoning lot (number 43) and developed with the proposed two-story manufacturing building; and

WHEREAS, lots 43 and 44 are vacant and owned by the City of New York, while lot 46 is developed with a three-story building that was previously the subject of a variance application approved under BSA Cal. No. 1067-86-BZ; and

WHEREAS, the applicant represents that the existing building and use became legally non-conforming and non-complying when the current zoning took effect in 1961; and

WHEREAS, the Board notes that within the R6 zoning district, there are several manufacturing and commercial uses; and

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

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

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

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

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

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

Resolved that the Board of Standards and Appeals issues a Type II Determination under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, to permit the proposed construction of a two-story and mezzanine manufacturing use building in an R6 zoning district, which is contrary to Z.R. §22-10, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 13, 2003"-(8) sheets and "July 29, 2003"-(1) sheet; and on further

---

# MINUTES

---

condition;

THAT the term of this variance shall be limited to 10 years from the date of this resolution to expire on February 10, 2014;

THAT any change in use from the specific use of the property as Material handling Equipment and Accessory Wholesale Establishment and Assembly (Use Group 17), or change in ownership or lessee shall require Board approval;

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

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

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

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

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

THAT this approval is limited to the relief granted by the SUBJECT - Application April 4, 2003 - under Z.R. §72-21 to permit the proposed construction of a four-story residential building (Use Group 2), located in an R5 zoning district, which does not comply with the zoning requirements for height, setback, front yards, and accessory parking, contrary to Z.R. §§23-631, 23-45, and 25-23.

PREMISES AFFECTED - 135 Coffey Street, between Conover and Van Brunt Streets, Block 597, Tentative Lots 9 and 11, Former Lots Numbers, 9-11, 13, 14, 37 and 38, Borough of Brooklyn.

## COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Eric Palatnikk.

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

### THE VOTE TO REOPEN HEARING-

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

**Negative:.....0**

**Absent: Commissioner Chin.....1**

### THE VOTE TO CLOSE HEARING-

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

**Negative:.....0**

**Absent: Commissioner Chin.....1**

### THE VOTE TO GRANT-

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

**Negative:.....0**

**Absent: Commissioner Chin.....1**

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 2, 2003, acting on Department of Buildings

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

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

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

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

---

## 108-03-BZ

APPLICANT - Eric Palatnik, P.C., for FAC Homeownership HDFC, owners.

Application No. 301500481, reads:

"1) Proposed Building Height is contrary to ZR Section 23-631(d) & (e) and therefore must be referred to the Board of Standards and Appeals.

2) Proposed Front Yard is contrary to ZR Section 23-45 and therefore must be referred to the Board of Standards and Appeals.

3) Proposed Accessory Parking is contrary to ZR Section 25-23 and therefore must be referred to the Board of Standards and Appeals"; and

WHEREAS, a public hearing was held on this application on November 18, 2003 after due notice by publication in the City Record; decisions were scheduled for December 9, 2003 and January 27, 2004 and were then deferred; the decision date was laid over to February 10, 2004; and

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

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

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a four-story residential building (Use Group 2), located in an R5 zoning district, which does not comply with the zoning requirements for height, setback, front yards, and accessory parking, contrary to Z.R. §§23-631(d)(e), 23-45, and 25-23; and

WHEREAS, the Board notes that there are related variance applications under BSA Calendar Nos. 109-03-BZ and 110-03-BZ, for construction of buildings that will be part of the same affordable housing development, and a companion variance application under BSA Calendar No. 329-03-BZ (142 Coffey

---

# MINUTES

---

Street) that would permit the construction of an accessory parking lot serving the building to be created; and

WHEREAS, the subject lots are currently vacant and unoccupied; and

WHEREAS, the applicant proposes the construction of a four-story residential structure, containing 21,447 square feet of floor area and 20 dwelling units; 6 accessory parking spaces will be provided on-site and 8 more parking spaces will be provided at a lot to be created at 142 Coffey Street; and

WHEREAS, the applicant represents that the basis of the uniqueness of the premises relates to its programmatic needs as a not-for-profit corporation founded for the express purposes of developing and managing housing for persons of low income, and

WHEREAS, the applicant has submitted photo surveys depicting the surrounding neighborhood and demonstrating that there are many residential buildings near the subject site with equal or more bulk, including some with a height of 3 to 4 stories; and

WHEREAS, the applicant states that there are many vacant lots and abandoned buildings in the vicinity, and that the proposal, if granted, will have a beneficial effect on the surrounding community by bringing families to the community and rejuvenating the immediate area; and

WHEREAS, based on the above, the Board finds 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

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 determined that the proposed project is consistent with the City's Local Waterfront Revitalization Program policies; 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 construction of a four-story residential building (Use Group 2), located in an R5 zoning district, which does not comply with the

generally assisting in the betterment of the community through promotion of safe and clean low income housing options; and

WHEREAS, the applicant represents that the requested variances will assist in the creation of viable, sustainable residential development for low income individuals, and that such development is needed given the demand for affordable housing in the vicinity; and

WHEREAS, the Board finds that the aforementioned unique conditions create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning; and

WHEREAS, the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the legalization will be in furtherance of its programmatic needs; and zoning requirements for height, setback, front yards, and accessory parking, contrary to Z.R. §§23-631, 23-45, 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 November 26, 2003"-(7) sheets and "Received February 6, 2004"-(2) sheets; and on further condition:

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

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

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

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

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, February 10, 2004.

---

## 109-03-BZ

APPLICANT - Eric Palatnik, P.C., for FAC Homeownership HDFC, owners.

SUBJECT - Application April 4, 2003 - under Z.R. §72-21 to permit the proposed construction of a four story residential building (Use Group 2), located in an R5 zoning district, which does not comply with the zoning requirements for height, setback, front yards,

---

# MINUTES

---

and accessory parking, contrary to Z.R. §§23-631, 23-45, and 25-23.

PREMISES AFFECTED - 71 Walcott Street, between Richard and Van Brunt Streets, Block 596, Tentative Lot 24, Former Lots Numbers, 23-29 and 43, Borough of Brooklyn.

## COMMUNITY BOARD #2BK

### APPEARANCES -

For Applicant: Eric Palatnikk.

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

### THE VOTE TO REOPEN HEARING-

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

**Negative:.....0**

**Absent: Commissioner Chin.....1**

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 2, 2003, acting on Department of Buildings Application No. 301500506, reads:

"1) Proposed Building Height is contrary to ZR Section 23-631(d) & (e) and therefore must be referred to the Board of Standards and Appeals.

2) Proposed Front Yard is contrary to ZR Section 23-45 and therefore must be referred to the Board of Standards and Appeals.

3) Proposed Accessory Parking is contrary to ZR Section 25-23 and therefore must be referred to the Board of Standards and Appeals"; and

WHEREAS, a public hearing was held on this application on November 18, 2003 after due notice by publication in the City Record; decisions were scheduled for December 9, 2003 and January 27, 2004 and were deferred; the decision was then laid over to February 10, 2004;

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

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

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a four-story residential building (Use Group 2), located in an R5 zoning district, which does not comply with the zoning requirements for height, setback, front yards, and accessory parking, contrary to Z.R. §§23-631, 23-45, and 25-23; and

WHEREAS, the Board notes that there are related variance applications under BSA Calendar Nos. 108-03-BZ and 110-03-BZ, for construction of buildings that will be part of the same overall three building low income housing development; and

WHEREAS, the applicant notes that lot 23 was, at the time of filing, under City ownership; and

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

**Negative:.....0**

**Absent: Commissioner Chin.....1**

### THE VOTE TO CLOSE HEARING-

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

**Negative:.....0**

**Absent: Commissioner Chin.....1**

### THE VOTE TO GRANT-

WHEREAS, the applicant represents that the New York City Department of Housing Preservation and Development will submit an application for the disposition of the City-owned property pursuant to ULURP; and

WHEREAS, the subject site is 15,643 square feet in size, and is currently vacant and unoccupied, with the exception of a small, dilapidated, two story residence on lot 24; and WHEREAS, the applicant proposes the demolition of the two-story residence and the construction of a four-story residential structure, containing 24,826 square feet of floor area and 20 dwelling units; accessory parking spaces will be provided on-site; and an outdoor play space of approximately 2000 square feet will also be provided; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in developing the site in conformity with underlying district regulations: it is primarily undeveloped, improved with an existing and obsolete structure, and is located in close proximity to a Coast Flood Plain, which prevents the use of a full cellar and/or a partial basement and leads to the need for the increase in height, as a partial basement would have contained some residential units that must now be relocated to the upper floors; and

WHEREAS, the applicant represents that an additional basis of the uniqueness of the premises relates to its programmatic needs as a not-for-profit corporation founded for the express purposes of developing and managing housing for persons of low income, and generally assisting in the betterment of the community through promotion of safe and clean low income housing options; and

WHEREAS, the applicant represents that the requested variances will assist in the creation of viable, sustainable residential development for low income individuals, and that such development is needed given the demand for affordable housing in the vicinity; and

WHEREAS, the Board finds that the aforementioned unique conditions create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning; and

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

WHEREAS, the applicant has submitted photo surveys depicting the surrounding neighborhood and demonstrating that there are many residential buildings near the subject site with equal or

---

# MINUTES

---

more bulk, including some with a height of 3 to 4 stories; and

WHEREAS, the applicant states that there are many vacant lots and abandoned buildings in the vicinity, and that the proposal, if granted, will have a beneficial effect on the surrounding community by bringing families to the community and rejuvenating the immediate area; 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

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 determined that the proposed project is consistent with the City's Local Waterfront Revitalization Program policies; 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 with archaeological conditions as stated 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 ZR. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit the proposed construction of a four story residential building (Use Group 2), located in an R5 zoning district, which does not comply with the zoning requirements for height, setback, front yards, and accessory parking, contrary to Z.R. §§23-631, 23-45, 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 November 26, 2003"- (7) sheets and "Received February 6, 2004"- (2) sheets; and on further condition:

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

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

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

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

THAT (1) A scope-of-work for archaeological field testing should be submitted to the Landmarks Preservation Commission's ("LPC") for review and approval; (2) After the scope-of-work is approved by LPC, archaeological field testing should be conducted (prior to obtaining DOB permits) on Block 576/Lots 23, 24, 25, 26, 27, 29 and 43 in accordance with the Guidelines for

WHEREAS, based on the above, the Board finds 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

Archaeological Work in New York City; (3) Two copies of the Stage IA report, scope-of-work and the field testing report should be submitted to LPC's library and the Municipal Library; the Applicant shall also submit one copy of the aforementioned documents and LPC's approval of the field testing report to the BSA;

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, February 10, 2004.

---

## 110-03-BZ

APPLICANT - Eric Palatnik, P.C., for FAC Homeownership HDFC, owners.

SUBJECT - Application April 4, 2003 - under Z.R. §72-21 to permit the proposed construction of a four story residential building (Use Group 2), located in an R5 zoning district, which does not comply with the zoning requirements for height, setback, front and rear yards, and distance from a window to a rear lot line, contrary to Z.R. §§23-631, 23-45, 25-23, and 23-861.

PREMISES AFFECTED - 79 Walcott Street, between Richard and Van Brunt Streets, Block 596, Tentative Lot 12, Former Lots Numbers, 12-15, 22, 23, 49 and 50, Borough of Brooklyn.

## COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Eric Palatnikk.

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

## THE VOTE TO REOPEN HEARING-

**Affirmative: Chair Srinivasan, Vice-Chair Babbar,**

**Commissioner Caliendo and Commissioner Miele.....4**

**Negative:.....0**

**Absent: Commissioner Chin.....1**

---

# MINUTES

---

## THE VOTE TO CLOSE HEARING-

**Affirmative:** Chair Srinivasan, Vice-Chair Babbar,

**Negative:**.....0

**Absent: Commissioner Chin**.....1

## THE VOTE TO GRANT-

**Affirmative:** Chair Srinivasan, Vice-Chair Babbar,

**Commissioner Caliendo and Commissioner Miele**.....4

**Negative:**.....0

**Absent: Commissioner Chin**.....1

## THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 2, 2003, acting on Department of Buildings Application No. 301499974, reads, in part:

- "1) Proposed Building Height is contrary to ZR section 23-631(d) & (e) and therefore must be referred to the Board of Standards and Appeals
- 2) Proposed front yard is contrary to ZR 23-45 and therefore must be referred to the Board of Standards and Appeals.
- 3) Proposed rear yard is contrary to ZR Section 23-45 and therefore must be referred to the Board of Standards and Appeals.
- 4) Proposed distance from a window to a rear lot line is contrary to ZR Section 23-861 and therefore must be referred to the Board of Standards and Appeals"; and

WHEREAS, a public hearing was held on this application on November 18, 2003 after due notice by publication in the City Record; decisions were scheduled for December 9, 2003 and January 27, 2004 and were deferred; the decision was then laid over to February 10, 2004;

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

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

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a four-story residential building (Use Group 2), located in an R5 zoning district, which does not comply with the zoning requirements for height, setback, front and rear yards, and distance from a window to a rear lot line, contrary to Z.R. §§23-631, 23-45, 25-23, and 23-861; and

WHEREAS, the Board notes that there are related variance applications under BSA Calendar Nos. 108-03-BZ and 109-03-BZ, for construction of buildings that will be part of the same overall three building low-income housing development, as

WHEREAS, the applicant has submitted photo surveys depicting the surrounding neighborhood and demonstrating that there are many residential buildings near the subject site with equal or more bulk, including some with a height of 3 to 4 stories; and

## Commissioner Caliendo and Commissioner Miele.....4

well as a companion administrative appeal under BSA Calendar No. 330-03-A, which would allow for a waiver of a provisions in the Multiple Dwelling Law and New York City Building Code; and

WHEREAS, the applicant notes that lots 15, 22, 23 & 49 were, at the time of filing, under City ownership, but that the developer was in the process of purchasing the lots; and

WHEREAS, the applicant represents that the New York City Department of Housing Preservation and Development will submit an application for the disposition of the City-owned property pursuant to ULURP; and

WHEREAS, the subject site is 17,208 square feet in size, and is currently vacant and undeveloped; and

WHEREAS, the site possesses an irregular rear lot line; and

WHEREAS, the applicant proposes the construction of a four-story residential structure, containing 24,826 square feet of floor area and 21 dwelling units; accessory parking spaces will be provided onsite; and an outdoor play space of approximately 2000 square feet will also be provided; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in developing the site in conformity with underlying district regulations: it is primarily undeveloped and is located in close proximity to a Coast Flood Plain, which prevents the use of a full cellar and/or a partial basement and leads to the need for the increase in height, as a partial basement would have contained some residential units that must now be relocated to the upper floors; and

WHEREAS, the applicant represents that an additional basis of the uniqueness of the premises relates to its programmatic needs as a not-for-profit corporation founded for the express purposes of developing and managing housing for persons of low income, and generally assisting in the betterment of the community through promotion of safe and clean low income housing options; and

WHEREAS, the applicant represents that the requested variances will assist in the creation of viable, sustainable residential development for low income individuals, and that such development is needed given the demand for affordable housing in the vicinity; and

WHEREAS, the Board finds that the aforementioned unique conditions, and the irregular angle of the rear lot line, create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning; and

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

WHEREAS, the applicant states that there are many vacant lots and abandoned buildings in the vicinity, and that the proposal, if granted, will have a beneficial effect on the surrounding community by bringing families to the community and rejuvenating the immediate

---

# MINUTES

---

area; and

WHEREAS, based on the above, the Board finds 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

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 determined that the proposed project is consistent with the City's Local Waterfront Revitalization Program policies; 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 with archaeological conditions as stated 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 the proposed construction of a four story residential building (Use Group 2), located in an R5 zoning district, which does not comply with the zoning requirements for height, setback, front and rear yards, and distance from a window to a rear lot line, contrary to Z.R. §§23-631, 23-45, 25-23, and 23-861; 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 26, 2003" - (6) sheets, "Received January 30, 2004" - (1) sheet and "Received February 6, 2004" - (2) sheets; and on further condition:

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

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

**APPEARANCES -**

**For Applicant Richard Lobel.**

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

**THE VOTE TO GRANT -**

**Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3**

**Negative:.....0**

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

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

THAT (1) A scope-of-work for archaeological field testing should be submitted to the Landmarks Preservation Commission's ("LPC") for review and approval; (2) After the scope-of-work is approved by LPC, archaeological field testing should be conducted (prior to obtaining DOB permits) on Block 576/Lots 23, 24, 25, 26, 27, 29 and 43 in accordance with the Guidelines for Archaeological Work in New York City; (3) Two copies of the Stage IA report, scope-of-work and the field testing report should be submitted to LPC's library and the Municipal Library; the Applicant shall also submit one copy of the aforementioned documents and LPC's approval of the field testing report to the BSA;

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, February 10, 2004.

**310-03-BZ**

**APPLICANT - Sheldon Lobel, P.C., for Albert Dweck, owner. SUBJECT - Application October 6, 2003 - under Z.R. §73-622 to permit the 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.**

**PREMISES AFFECTED - 2223 Avenue "M", corner of East 23rd Street, Block 7640, Lot 1, Borough of Brooklyn.**

**COMMUNITY BOARD #14BK**

**Abstain: Chair Srinivasan.....1**

**Absent: Commissioner Chin.....1**

**THE RESOLUTION -**

**WHEREAS, the decision of the Borough Commissioner, dated September 10, 2003, acting on Application No. 301626701 reads:**

**"THE PROPOSED ENLARGEMENT OF THE EXISTING ONE FAMILY RESIDENCE IN AN R2**

---

# MINUTES

---

**ZONING DISTRICT:**

1. **CREATES NON-COMPLIANCE WITH RESPECT TO FLOOR AREA RATIO 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."**; and

WHEREAS, a public hearing was held on this application on January 13, 2004, laid over to February 10, 2004 for decision; and

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

WHEREAS, a special permit is sought under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliance with regard to floor area ratio and open space ratio, contrary to Z.R §23-141; and

WHEREAS, the subject zoning lot is a corner lot located at the southwest corner of the intersection formed by Avenue M and East 23rd Street; and

WHEREAS, the applicant represents that the proposed enlargement will not create any non-compliance with regard to side yards; and

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

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

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

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

327-03-BZ

APPLICANT - Sheldon Lobel, P.C., for New Century Limited Partnership, owner.

SUBJECT - Application November 12, 2003 - under Z.R. §73-53 to permit, in an M1-1 zoning district, the enlargement to an existing warehouse.

PREMISES AFFECTED - 175-35 148th Road, between Guy Brewer Boulevard and 175th Street, Block 13379, Lot 21, Borough of Queens.

COMMUNITY BOARD #13Q

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

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliance with regard to floor area ratio and open space ratio, which is 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 marked "Received October 6, 2003"-(2) sheets and "November 19, 2003" -(10) sheets; and on further condition;

THAT there shall be no habitable room in the cellar;

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 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;

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

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

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

**APPEARANCES -**

For Applicant: Richard Lobel.

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

**THE VOTE TO GRANT -**

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

---

# MINUTES

---

## THE RESOLUTION

WHEREAS, the decision of the Borough Commissioner, dated September 19, 2003 acting on Department of Buildings Alt. 1 Application No. 401706196 reads, in pertinent part:

"The proposed F.A.R. is 1.4, exceed permitted F.A.R. as per ZR 43-12. Refer to BSA."

WHEREAS, a public hearing was held on this application on January 13, 2004 and then laid over to February 10, 2004 for decision; and

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

WHEREAS, a special permit is sought under Z.R. §§73-03 and 73-53 to legalize, in an M1-1 zoning district, the enlargement to an existing warehouse; and

WHEREAS, the subject site is located on 148th Road between Guy Brewer Boulevard and 175th Street; and

WHEREAS, this application seeks a 2,252 square foot extension of the second floor; and

WHEREAS, the applicant represents that the building will be used for warehouse and storage on the first floor, with accessory office use on the second floor; and

WHEREAS, the applicant has demonstrated that: the premises is not subject to termination pursuant to Z.R. §52-70; that the use for which the special permit is being sought has lawfully existed for more than 5 years; that the subject building has not received an enlargement pursuant to Z.R. §§11-412, 43-121 or 72-21; and that the subject use is listed in Use Groups 6, 16 & 17, not Use Group 18; and

WHEREAS, the Board notes that Z.R. §73-53(a)(5) is not applicable because the premises is located in an M1-1 zoning district; and

WHEREAS, the requested legalization is of an enlargement that is both less than 45% of the floor area occupied by such use on December 17, 1987 and is less than a 2,500 square feet addition to the floor area occupied by such use on December 17, 1987, and does not exceed 10,000 square feet; and

WHEREAS, the applicant represents that the enlargement, and the use generated by the enlargement, will

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 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

be housed in an entirely enclosed building and will meet applicable performance standards; and

WHEREAS, the applicant further states that there will be no open uses of any kind; and

WHEREAS, the Board notes that Z.R. §73-53(b)(4),(5),(6),(7),(8), and (9) are not applicable to the instant application because the side lot lines do not coincide with a rear lot line of a residential district; and

WHEREAS, the record indicates that the subject enlargement has not generated significant increases in vehicular or pedestrian traffic, nor caused congestion in the surrounding area, and that there is adequate parking to accommodate vehicles generated by the enlargement; and

WHEREAS, the Board notes that there are no required side yards; and

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

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

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

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §73-53 and 73-03.

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-53 and 73-03; to permit, in an M1-1 zoning district, the enlargement to an existing warehouse, 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 20, 2003"-(3) sheets; 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;

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

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

---

# MINUTES

---

## 329-03-BZ

APPLICANT - Eric Palatnik, P.C., for FAC Homeownership HDFC; contract vendee.

SUBJECT - Application October 24, 2003 - under Z.R. §72-21 to permit the proposed off-site residential accessory parking, for the proposed development at 135 Coffey Street, is contrary to Z.R. §25-52.

PREMISES AFFECTED - 142 Coffey Street, between Conover and Van Brunt Streets, Block 586, Lots 37 and 38 (Tentative Lot 37), Borough of Brooklyn.

## COMMUNITY BOARD #6BK

### 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 Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

### THE VOTE TO CLOSE HEARING-

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

Negative:.....0

Absent: Commissioner Chin.....1

### THE VOTE TO GRANT-

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

Negative:.....0

Absent: Commissioner Chin.....1

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 2, 2003, acting on Department of Buildings Application No. 301153347, reads, in part:

"Proposed Residential Accessory Off Site Parking is contrary to ZR Section 25-52 and therefore must be referred to the Board of Standards and Appeals."; and

WHEREAS, the Board finds that the aforementioned unique conditions create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning; and

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

WHEREAS, the applicant has shown on the plans adequate and contextual screening of the proposed parking lot; and

WHEREAS, the applicant states that there are many vacant lots and abandoned buildings in the vicinity, and that the proposal, if granted, will have a beneficial effect on the

WHEREAS, a public hearing was held on this application on January 27, 2004 after due notice by publication in the City Record and then laid over to February 10, 2004 for decision; and

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

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

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of an off-site residential parking lot for the proposed development at 135 Coffey Street, contrary to Z.R. §25-52; and

WHEREAS, the Board notes that there is a companion variance application under BSA Calendar No. 108-03-BZ, for construction of the four-story building at 135 Coffey Street, which will be part of a larger, three building low income housing development; and

WHEREAS, the subject site is 4,000 square feet in size, and is currently vacant and undeveloped; and

WHEREAS, the applicant proposes the construction of a parking lot with space for eight (8) cars, to be used by the residents of the proposed building at 135 Coffey Street; and

WHEREAS, the applicant represents that the basis of the uniqueness of the premises relates to its programmatic needs as a not-for-profit corporation founded for the express purposes of developing and managing housing for persons of low income, and generally assisting in the betterment of the community through promotion of safe and clean low income housing options; and

WHEREAS, the applicant represents that the requested variances will assist in the creation of viable, sustainable residential development for low income individuals, and that such development is needed given the demand for affordable housing in the vicinity; and

surrounding community by brining families to the community and rejuvenating the immediate area; and

WHEREAS, based on the above, the Board finds 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

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

---

# MINUTES

---

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 objection cited, to permit the proposed construction of an off-site residential parking lot for the proposed development at 135 Coffey Street, contrary to Z.R. §25-52; 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 "January 30, 2004" (2) sheets; and on further condition:

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

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

THAT all lighting will be directed downwards and away from any adjacent use;

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

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 THE VOTE TO GRANT-

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

Negative:.....0

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated October 2, 2003, acting on Department of Buildings NB Application No. 301499974, reads, in part:

"Proposed Area of Opening in the Rear Wall is contrary to Article 15 - Table 3-4 of the New York City Building Code and therefore must be referred to the Board of Standards and Appeals.

Proposed Distance From a Window to a Rear Lot Line is contrary to Article 3 Title 1 Section 26 of the Multiple Dwelling Law, Article 3, Title 1 Section 30 of the

compliance 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 10, 2004.

330-03-A

APPLICANT - Eric Palatnik, P.C., for FAC Homeownership HDFC; contract vendee.

SUBJECT - Application October 24, 2003 - Proposed area of openings in the rear wall, and distance from a window to a rear lot line, for a proposed four story residential building, is contrary to Article 15, Table 3-4 of the NYC Building Code, and Article 3, Title 1, Sections 26 and 30 of the Multiple Dwelling Law.

PREMISES AFFECTED - 79 Wolcott Street, between Van Brunt and Richard Streets, Block 576, Tentative Lot 12, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD -

THE VOTE TO REOPEN HEARING-

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

Negative:.....0

Absent: Commissioner Chin.....1

THE VOTE TO CLOSE HEARING-

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

Negative:.....0

Absent: Commissioner Chin.....1

Multiple Dwelling Law and therefore must be referred to the Board of Standards and Appeals."; and

WHEREAS, the applicant brings this appeal pursuant to Section 648 and 666 of the New York City Charter (the "Charter"), and Section 310 of the New York State Multiple Dwelling Law (the "MDL"), and requests waivers of the objections cited above; and

WHEREAS, the Board notes that there is a companion application related to the instant application, brought under BSA Calendar No. 110-03-BZ, which would permit the construction of a four-story residential building with bulk variances as part of a larger three building development; and

WHEREAS, the applicant states that the proposed development is located on Wolcott Street in the Red Hook section of Brooklyn, on a vacant, undeveloped parcel of land 17,208 square feet in size, consisting of eight (8) separate tax

---

# MINUTES

---

lots that are in the process of being merged, within an R-5 zoning district; and

WHEREAS, the proposed development consists of a four-story residential structure, with on-site parking and a shared outdoor play space; and

WHEREAS, pursuant to Charter §666(7), the Board may grant an appeal related to a final determination from DOB as to a Building Code provision provided that the Board finds that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the law, so that the spirit of the law shall be observed, public safety secured and substantial justice done; and

WHEREAS, pursuant to MDL §310, the Board may grant a waiver request of an MDL light and air provision where the Board finds that compliance with the strict letter of the MDL causes practical difficulties or unnecessary hardships, provided that the spirit and intent of the MDL are maintained and public health, safety and welfare preserved and substantial justice done, and provided that open areas for light and air are made available which are at least equivalent in area to those required by the applicable provisions of the MDL; and

WHEREAS, the applicant represents that the subject site is burdened with a rear lot line that runs at a steep pitch, reducing the rear yard from its maximum length of in excess of 30 feet to just 10 feet at its smallest length, and that this angle causes practical difficulty in complying with MDL §§26 and 30 and Building Code, Article 15, Table 3-4; and

WHEREAS, at the Board's request, the applicant has submitted revised plans highlighting the portion of the proposed residential structure that will have less than the required distance from the building to the lot line, as well as the distance of the existing buildings on the lots to the rear to

Resolved, that the decision of the Brooklyn Borough Commissioner, dated October 2, 2003, acting on Department of Buildings NB Application No. 3014999742 is modified 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 24, 2003"-(6) sheets, "January 30, 2004"-(1) sheet and "February 6, 2004"-(2) 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.

the rear lot line of the subject property; and

WHEREAS, the submitted plans also show that as-of-right development would result in an awkward angular carve-out in the center of an as-of-right building, which would likely be difficult and expensive to construct, and lead to less livable dwelling units; and

WHEREAS, the submitted plans show, and testimony at hearing stated, that five residential units will be affected by the practical difficulty resulting from the angle of the rear lot line; and

WHEREAS, the submitted plans show that although the angle of the rear lot line does diminish the depth of the rear yard at certain points, such that there is a triangular shaped wedge of the rear yard that is non-complying, there is also a triangular shaped wedge of rear yard that exceeds what is required at certain points, due to the angle of the rear yard lot; and

WHEREAS, based upon its review of the plans, the Board has determined that open areas for light and air are made available at the rear of the subject property which are at least equivalent in area to those required by the applicable provisions of the MDL, and that the area provided will mitigate the effect of the angle of the rear lot line on light and air for the affected units of the apartment; and

WHEREAS, the Board finds that the applicant has submitted adequate evidence in support of the findings required to be made under Charter §666(7) and MDL §310; and

WHEREAS, in reaching this determination, the Board notes that its finding is based on the unique facts related to the physical conditions of the site as presented in the instant application, and that this decision does not have general applicability to any pending or future Board application.

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

80-03-BZ

APPLICANT - Fredrick A. Becker, Esq., for C & L Pioneer Enterprises LLC, owner.

SUBJECT - Application March 4, 2003 - under Z.R. §72-21 to permit the proposed construction of two multi-story multiple dwellings, also the use of a community facility (school), in one of the buildings, Use Groups 2 and 4, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 602 39<sup>th</sup> Street, southeast corner of Sixth Avenue, Block 914, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD - Laid over to February 24, 2004, at 1:30 P.M., for continued hearing.

---

# MINUTES

---

## 142-03-BZ

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

SUBJECT - Application May 1, 2003 - under Z.R. §§11-412 & 11-413

to permit the proposed auto repair shop, Use Group 16, located in a C2-2 zoning district, is contrary to Z.R. §32-00.

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** - Laid over to March 9, 2004, at 1:30 P.M., for continued hearing.

## 255-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Surf Avenue Enterprise, owner.

SUBJECT - Application August 11, 2003- under Z.R. §72-21 to permit the legalization of an existing furniture store, Use Group 10, located in a C7 zoning district, also a request to vary the requirement of maintaining a loading berth on the premises, is contrary to Z.R. §32-10 and §36-62.

PREMISES AFFECTED - 1019 Surf Avenue, between West 8th and West 12th Streets, Block 7628, Lot 236, Borough of Brooklyn.

## 333-03-BZ

APPLICANT - Rampulla Associates, Architects, for Cobra Realty, Inc., owner; Wycoff Heights Medical Center; lessee.

SUBJECT - Application October 29, 2003- under Z.R. §72-21 to permit the reestablishment of a variance previously granted under Cal. No. 18-77-BZ, which permitted a 40 car parking lot in an R6 zoning district.

PREMISES AFFECTED - 371 Stockholm Street, between Wyckoff and St. Nicholas Avenues, Block 3249, Lot 35, Borough of Brooklyn.

## COMMUNITY BOARD #4BK

APPEARANCES -

For Applicant: Philip L. Rampulla.

### THE VOTE TO CLOSE HEARING-

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

**Negative:.....0**

**Absent: Commissioner Chin.....1**

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

## COMMUNITY BOARD #13BK

APPEARANCES -

For Applicant: Richard Lobel, Leo Turio and Guy Ronkouski.

For Administration: Anthony Scattoro, Fire Department.

**ACTION OF THE BOARD** - Laid over to April 13, 2004, at 1:30 P.M., for continued hearing.

## 270-03-BZ

APPLICANT - Joseph P. Morsellino, for Cord Meyer Development, LLC, owner.

SUBJECT - Application August 26, 2003 - under Z.R. §72-21 to permit the proposed erection and maintenance of a mixed use building, Use Groups 2 and 6, with less than the required open space, and which exceeds the permitted floor area ratio, located on a site that is divided by two zoning districts (C4-2 and R7-1), is contrary to §35-23, §23-142, §35-33 and §35-32.

PREMISES AFFECTED - 108-36/50 Queens Boulevard, southeast corner of 71st Road, Block 3257, Lot 1 (formerly 1 and 42), Borough of Queens.

## COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Joseph P. Morsellino, Council Member Melinda Katz, Francis Pisani, Sal Panico, Anthony Colletti and Manish Chasha.

For Opposition: Peter Geis.

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

## 382-03-BZ

APPLICANT - Raymond H. Levin, Esq., for 406 Realty, LLC, owner; FIT Student Housing Corporation, lessee.

SUBJECT - Application December 8, 2003 - under Z.R. §72-21 to permit the proposed conversion of a fifteen-story with cellar and basement manufacturing loft building, to a dormitory, Use Group 3A, located in an M1-5 zoning district, which is contrary to Z.R. §42-12.

PREMISES AFFECTED - 406 West 31st Street, south side, between Ninth and Tenth Avenues, Block 728, Lot 42, Borough of Manhattan.

## COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Joyce Brown, Ray Levin and Jerry Johnson.

For Administration: Chief Carty, Fire Department.

### THE VOTE TO CLOSE HEARING-

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

**Negative:.....0**

**Absent: Commissioner Chin.....1**

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

---

# MINUTES

---

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director.*

Adjourned: 6:10 P.M.

---

## CORRECTIONS

---

**\*CORRECTION**

These resolution adopted on August 12, 2003, under Calendar No. 366-02-BZ and printed in Volume 88, Bulletin No. 33, is hereby corrected to read as follows:

**366-02-BZ**

**CEQR#03-BSA-106K**

APPLICANT - Moshe M. Friedman, P.E., for Nahum Z. Rabinowitz, owner; Chevra Nachlas Joshua Chasidei Monastrich, lessee.

SUBJECT - Application December 18, 2002 - under Z.R. §72-21 t to permit, in an R2 zoning district, the conversion of a 2 story and attic, two-family dwelling to Use Group 4 synagogue and rabbi's apartment (rectory), which does not comply with the zoning requirements for floor area, front yards, lot coverage, and side

yards and is contrary to Z.R. §§24-111, 23-141, 24-34, and 24-35.

PREMISES AFFECTED - 2702 Avenue "M" aka 1301 East 27th Street, southeast corner, Block 7663, Lot 44, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Josef Friedman.

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

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

THE VOTE TO GRANT -

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

Negative: .....0

THE RESOLUTION

WHEREAS, the decision of the Borough Commissioner, dated December 12, 2002 acting on ALT I. Application No. 301476203 reads:

"PROPOSED CONVERSION OF EXISTING NON-CONFORMING TWO (2) FAMILY RESIDENCE TO CONFORMING SYNAGOGUE AND RABBI'S APARTMENT (RECTORY) IS CONTRARY TO Z.R. SEC- 24-111 & 23-141 FLOOR AREA, Z.R. SEC 24-11 MAXIMUM LOT COVERAGE, Z.R. SEC 24-34 FRONT YARD, Z.R. SEC 24-35 SIDE YARDS AND REQUIRES A VARIANCE FROM THE BOARD OF STANDARDS AND APPEALS AS PER Z.R. SEC 72-21"; and

WHEREAS, a public hearing was held on this application on May 6, 2003 after due notice by publication in The City Record, and laid over to June 17, 2003 and July 22, 2003 and then to August 12, 2003 for decision; and

WHEREAS, Community Board No. 14 in Brooklyn recommended conditional approval of this application; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit in an R2 zoning district the conversion of a 2 story and attic, two-family dwelling to Use Group 4 synagogue and Rabbi's apartment (rectory), which does not comply with the zoning requirements for floor area, front yards, lot coverage, and side yards and is contrary to Z.R. §§24-111, 23-141, 24-34, and 24-35; and

WHEREAS, the subject parcel is a 30' by 100' corner lot,

which is currently improved with a two and one-half story with cellar, two-family dwelling, a porch and a garage; and

WHEREAS, the owner proposes the construction of a one and two story extension to the existing building and a cellar Mikva and Synagogue, a synagogue on the first floor, and a Rabbi's apartment on the second floor and in the attic; and

WHEREAS, the applicant represents that the Synagogue located on the first floor will not be used simultaneously with the Synagogue located in the cellar; and

WHEREAS, the applicant asserts that the "as of right" conditions require two 11' side yards and two 15' front yards, therefore permitting only a 4' wide building, which makes a complying or conforming development difficult thus posing an unnecessary hardship on the owner; and

WHEREAS, the applicant asserts that religious custom, namely the location of the Synagogue and the parsonage on the same lot and religious requirements, namely separate private entrances for both male and female members of the congregation, create the practical difficulty in the construction of a conforming development; and

WHEREAS, the Board finds that the programmatic needs of the community facility create an undue hardship with strict compliance with the provisions of the Zoning Resolution; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, namely the narrowness of the narrowness of the subject lot, create an unnecessary undue hardship in developing the site in conformity with the current zoning regulations; and

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

---

## CORRECTIONS

---

WHEREAS, the record indicates that the surrounding area consists largely of residential uses mixed with some community facility uses; and

WHEREAS, the applicant represents that the existing synagogue and cellar have been upgraded to Iic construction and that the proposed addition will be Ic construction; and

WHEREAS, the applicant has submitted, in response to the Board's Executive session of July 21, 2003, a copy of the prepared deed for the subject property; and

WHEREAS, the applicant represents that the entire building will contain a wet sprinkler system, with a hard-wired smoke detectors which will be connected to an approved Fire Department central station; and

WHEREAS, therefore, Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties

nor be detrimental to the public welfare; and

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

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

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

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

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

Therefore, it is Resolved that the Board of Standards and

Appeals issues a Negative Declaration, under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, in an R2 zoning district, the conversion of a 2 story and attic, two-family dwelling to Use Group 4 synagogue and rabbi's apartment (rectory), which does not comply with the zoning requirements for floor area, front yards, lot coverage, and side yards and is contrary to Z.R. §§24-111, 23-141, 24-34, and 24-35, 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 19, 2003"- (3) sheets, "Received May 29, 2003"-(2) sheets, "Received July 29, 2003"-(3) sheets, "Received December 18, 2002"-(1) sheet and on further condition;

THAT the maximum occupancy of the subject building shall be limited to 120 persons;

THAT the side exit door is to only be used for the Rabbi's private family use;

THAT there shall be no cooking in the synagogue portion of the building (excluding the rabbi's apartment);

THAT the Mikva hours shall be limited to between 6:15 AM and 8:15 AM in the morning and from about 2 hours before sunset to sunset, Fridays and Holiday eve;

THAT the rectory (apartment) at the second story and attic shall be limited to occupancy of the Rabbi and the immediate family (single family only). The plans have been updated to show New York City Building Code Occupancy Group "J3";

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, August 12, 2003.

**shall be no cooking on the premises and the kitchen shall be used for warming food only; now reads: "THAT there shall be no cooking in the synagogue portion of the building (excluding the rabbi's apartment); Corrected in Bulletin No. 8, Vol. 89, dated February 19, 2004.**

---

*Pasquale Pacifico, Executive Director.*

**\*\*The resolution has been corrected to remove from the 17<sup>th</sup> WHEREAS the part which read: ...fire alarm system directly connected to a central station.; and also, to correct the part of the conditions which read: THAT there**

---

# BULLETIN

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

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, Nos. 9-10

March 4, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN**, *Chair*

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

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	166-167
<b>CALENDAR</b> of March 23, 2004	
Morning .....	168
Afternoon .....	169

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, February 24, 2004**

Morning Calendar .....170

**Affecting Calendar Numbers:**

731-61-BZ	9620 Third Avenue, Brooklyn
772-67-BZ, Vol. II	1234 Forest Avenue, Staten Island
149-84-BZ	244 Madison Avenue, Manhattan
633-87-BZ	216 Grand Street, Brooklyn
27-00-BZ	110-35 Horace Harding Expressway, Queens
1073-62-BZ	301-313 East 40 <sup>th</sup> Street, Manhattan
34-94-BZ	401, 403, 405 Castle Hill Avenue, Bronx
87-94-BZ	321-325 East 73 <sup>rd</sup> Street, Manhattan
4-00-BZ	243 West 30 <sup>th</sup> Street, Manhattan
311-03-A thru 313-03-A	140/144/146 Jackson Avenue, Staten Island

Afternoon Calendar.....174

**Affecting Calendar Numbers:**

286-03-BZ	148 Beach 116 <sup>th</sup> Street, Queens
360-02-BZ	130 North Fourth Street, Brooklyn
77-03-BZ & 78-03-BZ	260-32/260-34 Grand Central Parkway, Queens
80-03-BZ	602 39 <sup>th</sup> Street, Brooklyn
82-03-BZ	51 North 8 <sup>th</sup> Street, a/k/a 91 Kent Avenue, Brooklyn
84-03-BZ	35-40 30 <sup>th</sup> Street, a/k/a 35-37 29 <sup>th</sup> Street, Queens
102-03-BZ	291 Kent Avenue, Brooklyn
118-03-BZ	1101 Prospect Avenue, a/k/a 1677 11 <sup>th</sup> Avenue, Brooklyn
150-03-BZ	136 Metropolitan Avenue, Brooklyn
186-03-BZ	525 Union Avenue, Brooklyn
208-03-BZ	2555 Shell Road, Brooklyn
266-03-BZ	1710/12 McDonald Avenue, Brooklyn
340-03-BZ	408 Greenwich Street, a/k/a 22/24 Hubert Street, Manhattan
342-03-BZ	92/94 Greene Street, a/k/a 109 Mercer Street, Manhattan
346-03-BZ	156-05 Cross Island Parkway, Queens
377-03-BZ	25 Bond Street, Manhattan
387-03-BZ	1100 Leggett Avenue, Bronx

---

# DOCKETS

---

New Case Filed Up to February 24, 2004

---

**23-04-BZ**            **B.BK.**            **1150 East 23<sup>rd</sup> Street,**  
west side, 380'-0" north of Avenue "L", Block 7622, Lot 66,  
Borough of Brooklyn.    **Applic. #301693852.** 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 yard and minimum required side yard,  
is contrary to Z.R.§23-141(a), §23-47 and §23-48.  
**COMMUNITY BOARD #14BK**

---

**24-04-BZ**            **B.BK.**            **1129 East 27<sup>th</sup> Street,**  
east side, 220' south of Avenue "K", Block 7627, Lot 33,  
Borough of Brooklyn.    **Applic. #301693362.** 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 §23-461(a).  
**COMMUNITY BOARD #14BK**

---

**25-04-A**            **B.S.I.**            **506 Bradford Avenue,**  
south side, 148' south of Drumgoole Road, Block 6946, Lot  
36, Borough of Staten Island.    **Applic. #500647222.**  
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.

---

**26-04-A**            **B.S.I.**            **510 Bradford Avenue,**  
south side, 108' south of Drumgoole Road, Block 6946, Lot  
38, Borough of Staten Island.    **Applic. #500647213.**  
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.

---

**27-04-A**            **B.M.**            **755 12<sup>th</sup> Avenue,**  
west side, between West 53<sup>rd</sup> and 55<sup>th</sup> Streets, Block 1109,  
Lot 5, Borough of Manhattan.    **Applic. #103671411.**  
Proposed rehabilitation and renovation of Pier 94, for use as  
an exhibition hall for mid-size trade shows, which seeks relief  
from the requirements of §27-369(f) of the NYC Building  
Code with respect to protection of an exterior corridor, and  
§27-771.01(b) of the NYC Building Code with respect to  
mechanical system providing less than 6 air changes per  
hour.

---

**28-04-BZ**            **B.BK.**            **427 Logan Street,**  
east side, between Pitkin and Glenmore Avenues, Block  
4209, Lot 11, Borough of Brooklyn.    **Applic. #301363290.**  
The legalization of an existing two family dwelling, Use  
Group 2, located in an R5 zoning district, which does not  
comply with the zoning requirements for side yard, is  
contrary to §23-461(b).  
**COMMUNITY BOARD #5BK**

---

**29-04-BZ**            **B.BK.**            **499 Logan Street,**  
east side, between Belmont and Pitkin Avenues, Block  
4228, Lot 1, Borough of Brooklyn.    **Applic. #301363389.**  
The legalization of an existing two family dwelling, Use  
Group 2, located in an R5 zoning district, which does not  
comply with the zoning requirements for side yard, is  
contrary to §23-461(b).  
**COMMUNITY BOARD #5BK**

---

**30-04-BZ**            **B.BK.**            **1109 Sutter Avenue,**  
south side, between Montauk and Atkins Avenues, Block  
4039, Lot 36, Borough of Brooklyn.    **Applic. #301363496.**  
The legalization of an existing two family dwelling, Use  
Group 2, located in an R5 zoning district, which does not  
comply with the zoning requirements for side yard, is  
contrary to §23-461(b).  
**COMMUNITY BOARD #5BK**

---

**31-04-BZ**            **B.BK.**            **842 Glenmore Avenue,**  
between Atkins and Montauk Avenues, Block 4007, Lot 15,  
Borough of Brooklyn.    **Applic. #301363487.** The legalization  
of an existing two family dwelling, Use Group 2, located in an  
R5 zoning district, which does not comply with the zoning  
requirements for side yard, is contrary to §23-461(b).  
**COMMUNITY BOARD #5BK**

---

**32-04-BZ**            **B.BK.**            **860 Glenmore Avenue,**  
south side, between Atkins and Montauk Avenues, Block  
4007, Lot 22, Borough of Brooklyn.    **Applic. #301363012.**  
The legalization of an existing two family dwelling, Use  
Group 2, located in an R5 zoning district, which does not  
comply with the zoning requirements for side yard, is  
contrary to §23-461(b).  
**COMMUNITY BOARD #5BK**

---

---

# DOCKETS

---

**33-04-BZ**            **B.BK.**            **896 Glenmore Avenue,**  
south side, between Logan and Milford Streets, Block  
4208, Lot 22, Borough of Brooklyn. Applic. #301363236.  
The legalization of an existing two family dwelling, Use  
Group 2, located in an R5 zoning district, which does not  
comply with the zoning requirements for side yard, is  
contrary to §23-461(b).  
**COMMUNITY BOARD #5BK**

---

**34-04-BZ**            **B.BK.**            **910 Glenmore Avenue,**  
south side, between Logan Street and Fountain Avenue,  
Block 4209, Lot 12, Borough of Brooklyn. Applic.  
#301363307. The legalization of an existing two family  
dwelling, Use Group 2, located in an R5 zoning district, which  
does not comply with the zoning requirements for side yard,  
is contrary to §23-461(b).  
**COMMUNITY BOARD #5BK**

---

**35-04-BZ**            **B.BK.**            **247 Montauk Avenue,**  
east side, between Belmont and Sutter Avenues Block  
4040, Lot 10, Borough of Brooklyn. Applic. #301363183.  
The legalization of an existing two family dwelling, Use  
Group 2, located in an R5 zoning district, which does not  
comply with the zoning requirements for side yard, is  
contrary to §23-461(b).  
**COMMUNITY BOARD #5BK**

---

**36-04-BZ**            **B.BK.**            **30 Carlton Avenue,**  
west side, 240' south of Flushing Avenue, Block 2030, Lot  
40, Borough of Brooklyn. Applic. #301684835. 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.  
**COMMUNITY BOARD #2BK**

---

**37-04-BZ**            **B.BK.**            **32 Carlton Avenue,**  
west side, 264' south of Flushing Avenue, Block 2030, Lot  
41, Borough of Brooklyn. Applic. #301684844. 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.  
**COMMUNITY BOARD #2BK**

---

**38-04-BZ**            **B.Q.**                **70-15 164<sup>th</sup> Street,**  
east side, between Jewel and 71<sup>st</sup> Avenues, Block 6933, Lot  
78, Borough of Queens. Alt.1 #401601245. The legalization  
of the northern side yard at an existing dentist's office, Use  
Group 4, located in an R3-2 zoning district, which is in non-

compliance with Z.R. §23-464 and §24-35.  
**COMMUNITY BOARD #8Q**

---

**39-04-BZ**            **B.BK.**            **1418 East 29<sup>th</sup> Street,**  
between Avenue "N" and Kings Highway, Block 7682, Lot  
57, Borough of Brooklyn. Applic. #301685745. Proposed  
enlargement of a single family residence, Use Group 1,  
located in an R2 zoning district, which does not comply with  
the zoning requirements for floor area, open space and rear  
yard, is contrary to Z.R. §23-141, §23-461 and §23-47.  
**COMMUNITY BOARD #14BK**

---

**40-04-BZ**            **B.BK.**            **2252 Linden Boulevard,**  
southeast corner of Cleveland Street, Block 4360, Lot 1,  
Borough of Brooklyn. N.B. #301574053. Proposed change of  
use from an automobile repair and used vehicles sales( Use  
Group 16), previously approved by the Board under Cal. No.  
56-95-BZ, to a retail store(Use Group 6), located in an R5  
zoning district, is contrary to Z.R. §22-00.  
**COMMUNITY BOARD #5BK**

---

**41-04-BZ**            **B.M.**                **338 East 109<sup>th</sup> Street,**  
aka 2113 First Avenue, Block 1680, Lots 27 and 32, Borough  
of Manhattan. Applic. #103427267. The legalization of an  
existing car wash, lubricatorium, and an accessory retail store,  
located within a C2-5 overlay within an R7-2 zoning district,  
is contrary to Z.R. §22-00 and 32-00  
**COMMUNITY BOARD #11M**

---

**42-04-BZ**            **B.BK.**            **1264 East 27<sup>th</sup> Street,**  
between Avenues "L" and "M", Block 7644, Lot 71,  
Borough of Brooklyn. Applic. #301687306. Proposed  
enlargement of an existing single family residence, Use  
Group 1, located in an R2 zoning district, which does not  
comply with the zoning requirements for floor area ratio,  
open space ratio, side and rear yards, is contrary to Z.R.  
§23-141, §23-461 and §23-47.  
**COMMUNITY BOARD #14BK**

---

**43-04-A**                **B.Q.**                **39-04 Stuart Lane,**  
north side of Depew Avenue, 142' west of 243<sup>rd</sup> Street, Block  
8103, Lot 7, Borough of Queens. N.B. #401618932.  
Proposed one family dwelling, 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.-

---

# CALENDAR

---

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 23, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, March 23, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## SPECIAL ORDER CALENDAR

### **519-57-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for BP Amoco Corporation, owner.

SUBJECT - Application November 24, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired June 19, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 2071 Victory Boulevard, northwest corner of Bradley Avenue, Block 462, Lot 35, Borough of Staten Island.

**COMMUNITY BOARD #1**

---

### **116-68-BZ**

APPLICANT - Stephen Rizzo, for 40 Central Park South Inc., owner; Café Atlas, lessee.

SUBJECT - Application December 19, 2003 - reopening for an extension of time to obtain a certificate of occupancy which expired on December 21, 2003.

PREMISES AFFECTED - 40 Central Park South, south side, 120' east of Sixth Avenue, Block 1274, Lot 6, Borough of Manhattan.

**COMMUNITY BOARD #5**

---

### **399-70-BZ**

APPLICANT - Walter T. Gorman, P.E., for Sunoco, Inc., owner.

SUBJECT - Application December 24, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 630 Arthur Kill Road, southwest corner of Armstrong Avenue, Block 5494, Lot 88, Borough of Staten Island.

**COMMUNITY BOARD #3**

---

### **982-83-BZ**

APPLICANT - H. Irving Sigman, for Barone Properties Inc., owner.

SUBJECT - Application December 5, 2003 - reopening for an extension of time to complete construction and obtain a certificate of occupancy and for an amendment to the resolution.

PREMISES AFFECTED - 191-20 Northern Boulevard, southwest corner of 192nd Street, Block 5513, Lot 27, Borough of Queens.

**COMMUNITY BOARD #11**

---

### **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 #10**

---

### **392-03-A**

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

SUBJECT - Application December 23, 2003 - 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 - 20 Janet Lane, south side, 206' east of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

---

**MARCH 23, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, March 23, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## ZONING CALENDAR

### **361-02-BZ**

---

# CALENDAR

---

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

SUBJECT - Application December 13, 2002 and updated January 5, 2004 - under Z.R. §72-21 to permit the proposed renovation and conversion of an existing factory building, to create 15 unit loft type apartments, with five parking spaces in the mews, a 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**

---

## **81-03-BZ**

APPLICANT - Timothy M. Rice, for Vinicio Ramirez, owner;

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

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

**COMMUNITY BOARD #3**

---

## **299-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Josette Said, owner.

SUBJECT - Application September 15, 2003 - under Z.R. §72-21 to permit the proposed construction of a detached one-family dwelling, Use Group 1, located in an R1-2 zoning district, which does not comply with the zoning requirements for front yard, rear yard and setback, is contrary to Z.R. §23-45, §23-52 and §23-631.

PREMISES AFFECTED - 179-16 Grand Central Parkway, between Midland Parkway and Edgerton Boulevard, Block 9943, Lot 43, Borough of Queens.

**COMMUNITY BOARD #8**

---

## **305-03-BZ**

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

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

### **REGULAR MEETING**

**TUESDAY MORNING, FEBRUARY 24, 2004**

**10:00 A.M.**

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, December 23, 2003, were

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

**COMMUNITY BOARD #2**

---

*Pasquale Pacifico, Executive Director*

approved as printed in the Bulletin of Volume 88, No. 53.

---

### **SPECIAL ORDER CALENDAR**

## **731-61-BZ**

APPLICANT - Richard A. Kaplin, Esq., for McLaughlin & Sons, Inc., owner.

---

# MINUTES

---

SUBJECT - Application October 24, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired October 31, 2001.

PREMISES AFFECTED - 9620 Third Avenue, 97th Street and Third Avenue, Block 6121, Lots 31 and 33, Borough of Brooklyn.

## COMMUNITY BOARD #10BK

APPEARANCES - None.

**ACTION OF THE BOARD - Rules of Practice and Procedure waived, application reopened, and term of the variance extended.**

### THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Chin.....1

### THE RESOLUTION -

WHEREAS, a public hearing was held on this application on December 23, 2003, after due notice by publication in The City Record, with continued hearings on February 3, 2004, and then to February 24, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the variance, which expired on October 31, 2001; and

WHEREAS, October 31, 1961, the Board granted an application permitting the erection of a two-story and cellar building for use as a funeral parlor with the second floor used as a caretaker's apartment and parking of three motor vehicles in the open area.

Resolved, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, *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 variance for an additional (10) years, from October 31, 2001 to expire on October 31, 2011, *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 "October 24, 2003"- (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 and all conditions from prior WHEREAS, on July 24, 2001, the Board granted an application to permit a 612 square foot enlargement to the accessory building of a gasoline service station to accommodate an additional repair bay and an attendant's area.

Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and *reopens and amends* the resolution pursuant to Section 1-05(g) of the Board's Rules of Practice and Procedure, 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 February 24, 2006, *on condition*;

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

resolutions shall appear on the certificate of occupancy;

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

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

(DOB Application #971/61)

Adopted by the Board of Standards and Appeals, February 24, 2004.

## 772-67-BZ Vol. II

APPLICANT - Carl A. Sulfaro, Esq., for 1234 Forest Avenue Realty Corp., owner.

SUBJECT - Application September 9, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to complete construction which expired January 24, 2003.

PREMISES AFFECTED - 1234 Forest Avenue, southeast corner of Jewett Avenue, Block 354, Lot 32, Borough of Staten Island.

## COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Carl A. Sulfaro.

**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 and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

### THE RESOLUTION -

WHEREAS, the applicant requested a waiver of the Rules of Practice and Procedure and an extension of time to complete construction, which expired on January 24, 2003, for an enlargement to a gasoline service station; and

WHEREAS, a public hearing was held on this application on December 16, 2003 after due notice by publication in *The City Record*, then laid over to February 3, 2004, and then to February 24, 2004 for decision; and

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

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

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

THAT the Department of Buildings must ensure compliance 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. 500455027)

Adopted by the Board of Standards and Appeals,

---

# MINUTES

---

February 24, 2004.

**149-84-BZ**

APPLICANT - The New York City Board of Standards and Appeals

OWNER OF PREMISES - 244 Madison Avenue

SUBJECT - reopening for Compliance.

PREMISES AFFECTED - 244 Madison Avenue, Block 867, Lot 57, Borough of Manhattan.

APPEARANCES - None.

**ACTION OF THE BOARD** - Application withdrawn from compliance calendar and special permit revoked.

**THE VOTE TO GRANT** -

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

Negative:.....0

Absent: Commissioner Chin.....1

**THE RESOLUTION** -

WHEREAS, the subject premises was subject to a special permit for a Physical Culture Establishment (“PCE”) granted pursuant to Z.R. §73-36 on June 26, 1984 under the subject calendar number, and extended on July 20, 1993 and June 25, 1996 under the same calendar number; and

WHEREAS, the subject special permit allowed the creation of a PCE in the cellar of the existing 16 story building located at the subject premises, and, upon information and belief, was operated most recently by an establishment functioning as a private club; and

WHEREAS, in early December 2003, the Board’s Compliance Officer was notified by the New York City Office of Midtown Enforcement (“OME”) that a violation had been issued to the owner of the building, subsequent to an inspection in which it was observed that unlicensed massages were occurring; and

WHEREAS, the issued violation (DOB No. 34399948N) stated the following observed conditions “Occupancy of cellar as an adult physical culture establishment where cross gender body massage was observed by unlicensed therapists (female) to (male) patrons. Therapists were fully unclothed or in bra and panties.”; and

**WHEREAS, Commissioner Peter Caliendo and 633-87-BZ**

APPLICANT - Martyn & Don Weston, for The Fristachi Trust, owner.

SUBJECT - Application October 1, 2003 - reopening for an extension of term of variance which expired September 7, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 216 Grand Street, southwest corner of Driggs Avenue, Block 2393, Lots 27 & 29, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Don Weston and Frank Fristachi.

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

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

Commissioner Joel Miele subsequently conducted a site visit of the premises, and determined that the interior configuration and layout of the PCE had been rearranged such that it deviated significantly from BSA approved plans; and

WHEREAS, the Board then determined that the case should be reopened for compliance; and

WHEREAS, a public hearing was held on this application on February 24, 2004 after due notice by publication in the City Record; and

WHEREAS, notice of said hearing was provided to the owner of the subject building; the owner’s attorney and the attorney for the lessee then submitted a notice of appearance acknowledging the scheduled hearing date and allowing the substitution of the lessee in the place of the owner for the hearing; and

WHEREAS, no representative of the owner or the lessee provided testimony at the hearing; and

WHEREAS, based upon the OME violation and the results of the site visit, the Board determines that the nature and manner of operations of the subject PCE use had been altered from that authorized, and that the terms and conditions of the special permit had been violated; and

WHEREAS, therefore, the Board finds that the subject special permit must be revoked and that the subject matter must be withdrawn from the compliance calendar.

Resolved, pursuant to Section 666(11) of the New York City Charter and Z.R. §73-36, that the special permit for the PCE previously granted and extended under the subject calendar number is hereby revoked, and the subject matter is hereby withdrawn from the compliance calendar.

Adopted by the Board of Standards and Appeals, February 24, 2004.

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

Absent: Commissioner Chin.....1

**THE RESOLUTION** -

WHEREAS, a public hearing was held on this application on November 25, 2003, after due notice by publication in *The City Record*, and laid over to February 3, 2004, and then to February 24, 2004 for decision; and

WHEREAS, the applicant requests a re-opening, an extension of the term of the variance which expired on September 6, 2003, and an amendment to the resolution; and

WHEREAS, on September 6, 1988, the Board granted a variance to permit, in a C8-2 zoning district, the legalization of residential and fine art studio use on the second and third floors of an existing building; and

---

# MINUTES

---

WHEREAS, the applicant now seeks approval for changes to the layout on the first and third floors; and

WHEREAS, the applicant represents that on the first floor, a partition was erected to create a living space at the south end of the building, a new kitchen was added, two existing toilets were converted into one bath, an opening in the south exterior wall was created to open onto the adjoining vacant lot (lot 29), which was combined with the existing lot, a storage closet was added, and the existing carpentry shop was converted into an art studio with minor partition changes; and

WHEREAS, the applicant represents that on the third floor, a new bedroom was created along the east wall of the building and a storage closet was created on the west wall.

*Resolved*, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, *reopens and amends* the resolution, pursuant to Zoning Resolution §§72-01 and 72-22, extends the term of the variance which expires on May 9, 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 September 6, 2003, expiring on September 6, 2013, and to permit, on the first floor, erection of a partition to create a living space at the south end of the building, the addition of a new kitchen, the conversion of two existing toilets into one bath, the creation of an opening in the south exterior wall, the addition of a storage closet, and the conversion of the existing carpentry shop into an art studio with minor partition changes; and on the third floor, the creation of a new bedroom along the east wall and a storage closet on the west wall; *on condition* that all work shall substantially conform to drawings as filed with this application marked "Received January 22, 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 the above conditions and all conditions from prior resolutions shall appear on the certificate of occupancy;

WHEREAS, the applicant requested a waiver of the Rules of Practice and Procedure and an extension of time to obtain a Certificate of Occupancy, which expired on October 17, 2002, for a gasoline service station with accessory uses; and

WHEREAS, a public hearing was held on this application on December 23, 2003 after due notice by publication in *The City Record*, then laid over to February 10, 2004, and then to February 24, 2004 for decision; and

WHEREAS, on October 17, 2000, the Board granted an application under Z.R. §§11-411 and 11-412 to permit the reestablishment of an expired variance in an R6/C2-2 zoning district, for a gasoline service station with accessory uses.

*Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and *reopens and amends* the resolution pursuant to Section 1-05(g) of the Board's Rules of Practice and Procedure, 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 February

THAT egress from each floor of the subject building shall be as approved by the Department of Buildings;

THAT a certificate of occupancy will 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 #301654984)

Adopted by the Board of Standards and Appeals, February 24, 2004.

---

## 27-00-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Emanuel N. Hartofilis, owner; VanDoren Oil Co., Inc. Lessee.

SUBJECT - Application October 28, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to obtain a Certificate of Occupancy.

PREMISES AFFECTED - 110-35 Horace Harding Expressway, northwest corner of VanDoren Street, Block 1970, Lot39, Borough of Queens.

## COMMUNITY BOARD #4Q

### APPEARANCES -

For Applicant: Carl A. Sulfaro.

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

### THE VOTE TO GRANT -

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

Negative:.....0

Absent: Commissioner Chin.....1

### THE RESOLUTION -

24, 2006, *on condition*;

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

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

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

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

THAT the Department of Buildings must ensure compliance 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. 401049655)

Adopted by the Board of Standards and Appeals, February 24, 2004.

---

# MINUTES

---

## 1073-62-BZ

APPLICANT - Sheldon Lobel, P.C., for 305 East 40th Owner's Corporation, owner; Innovative Parking, LLC, lessee.

SUBJECT - Application January 13, 2004- request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired March 5, 2003.

PREMISES AFFECTED - 301-313 East 40th Street, north side of East 40th Street, Block 1333, Lot 1, Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Darren Guyer and Richard Lobel.

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 10 A.M., for continued hearing.

---

## 34-94-BZ

APPLICANT - Maduakolam M. Nnabuihe, for Kenny Collado, owner.

SUBJECT - Application October 3, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired June 6, 2003.

PREMISES AFFECTED - 401, 403, 405 Castle Hill Avenue, aka 2181 Norton Avenue, northwest corner of Castle Avenue and Norton Avenue, Block 3510, Lot 1, Borough of The Bronx.

### COMMUNITY BOARD #9BX

APPEARANCES -

For Applicant: Nnabihe Mish Maduakolam.

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 10 A.M., for continued hearing.

---

## 87-94-BZ

APPLICANT - The Law Office of Fredrick A. Becker, Esq., for **311-03-A thru 313-03-A**

APPLICANT - Rudolf J. Beneda, A.I.A., for M.Y.H.P. Building Corp., owner.

SUBJECT - Application October 9, 2003 - Proposed two-story, two family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED -

140 Jackson Avenue, west side, 103.90' south of Robin Road, Block 3124, Lot 500, Borough of Staten Island.

144 Jackson Avenue, west side, 137.33' south of Robin Road, Block 3124, Lot 502, Borough of Staten Island.

146 Jackson Avenue, west side, 154.95' south of Robin Road, Block 3124, Lot 180, Borough of Staten Island.

### COMMUNITY BOARD #1S.I.

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to March 16, 2004, at 10 A.M., for postponed hearing.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 10:50 A.M.

Czech Republic, owner.

SUBJECT - Application November 13, 2003 - reopening for an extension of time to complete construction and for an amendment to the resolution.

PREMISES AFFECTED - 321-325 East 73rd Street, north side of 73<sup>rd</sup> Street, Block 1448, Lot 16, Borough of Manhattan.

### COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Fredrick A. Becker, Acan Chasan and David Olsa.

**THE VOTE TO CLOSE HEARING** -

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

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to March 9, 2004, at 10 A.M., for decision, hearing closed.

---

## 4-00-BZ

APPLICANT - Noel Im, for 243 West 30th Realty, LLC, c/o New York Equity, LLC, owner; Anie Yang, Yhung Kang & Cong Yan d/b/a West Garden, Inc., lessees.

SUBJECT - Application October 21, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 243 West 30th Street, north side of West 30th Street, 325' east of 8th Avenue, Block 780, Lot 15, Borough of Manhattan.

### COMMUNITY BOARD #5M

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 10 A.M., for postponed hearing.

---

---

# MINUTES

---

**REGULAR MEETING  
TUESDAY AFTERNOON, FEBRUARY 24, 2004  
2:00 P.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.

**ZONING CALENDAR**

**286-03-BZ**

**CEQR #04-BSA-039Q**

APPLICANT - Sheldon Lobel, P.C., for Classic Closeouts, LLC, owner.

SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit the proposed renovation of an existing building with a retail store and offices, both with accessory storage, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 148 Beach 116th Street, 200' north of the Ocean Promenade, Block 16188, Lot 30, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Jordan Most.

WHEREAS, the subject premises has a total lot area of 16,000 square feet, is mapped within an R5 zoning district and partially within a C1-2 overlay, and is currently occupied by a vacant building; and

WHEREAS, the premises has historically been occupied by commercial uses, including a movie theater and store, and the most recent certificate of occupancy lists a roller skating rink (Use Group 12), a game room (UG 15), an eating and drinking establishment plus retail store (UG 6), as well as accessory dancing (UG 12); and

WHEREAS, the premises has been the subject of a prior Board action, under Calendar No. 726-79-BZ, decided on November 20, 1979, which allowed the change in use of the building to roller skating rink; and

WHEREAS, under the same calendar number, on March 13, 1984, the Board rescinded the above grant, finding that the terms and conditions of the grant had been continuously violated; and

WHEREAS, on, April 3, 1984, the Board then revoked the certificate of occupancy under Calendar No. 56-84-A; and

WHEREAS, the applicant represents that the building has been vacant since around the time of the revocation of the certificate of occupancy; and

WHEREAS, the applicant states that the proposed development involves the renovation of the existing building to facilitate a retail store with accessory storage, and offices with accessory storage; off-site parking will be provided on an adjacent lot; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated August 22, 2003, acting on Department of Buildings Application No. 401703402, reads:

“Proposed retail store with accessory storage and offices with accessory storage are not permitted in a building located in C1-2 and R5 zones; and are contrary to Section 22-00 of the Zoning Resolution.”; and

WHEREAS, a public hearing was held on this application on December 16, 2003 after due notice by publication in the City Record; with continued hearings on January 27, 2004, and then to decision on February 24, 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. §72-21, to permit the proposed renovation of an existing building with a retail store and offices, both with accessory storage, which is contrary to Z.R. §22-00; and

difficulties and unnecessary hardships in constructing the proposed building in conformity with underlying district regulations: the lot is irregular in size and shape, and is a through lot; the building contains unusually high ceiling heights designed for a movie theater; and the lot is divided by a district boundary; and

WHEREAS, the Board finds that certain of the unique conditions mentioned above, namely the fact that the lot is one of the only through lots in the district and is developed with a building designed for a movie theater, when considered in the aggregate, create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; 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 part of the building is within a commercial zone (a C1-2 overlay within an R5 zoning district), and that there are many nearby retail uses in this C1-2 overlay; and

WHEREAS, the entrances to the proposed retail stores and offices will be located on the Beach 116<sup>th</sup> Street side of the building, which is within the C1-2 overlay; and

WHEREAS, the applicant represents that all applicable

---

# MINUTES

---

fire safety measures have been incorporated into the plans for the proposed building; and

WHEREAS, the Board has determined that the proposed project is consistent with the City's Local Waterfront Revitalization Program policies; and

WHEREAS, based on the above, the Board finds 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

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

THAT the premises shall comply with all applicable fire safety measures;

THAT the above conditions shall be noted in the Certificate of Occupancy;

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, February 24, 2004.

---

## 360-02-BZ

APPLICANT - Law offices of Howard Goldman, PLLC, for S & Y Enterprises, LLC, owner.

SUBJECT - Application December 13, 2002 - under Z.R. §72-21 to permit the proposed conversion and enlargement of an existing warehouse, into a residential building with 83 units and 41 parking spaces, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 130 North Fourth Street, between Berry Street and Bedford Avenue, Block 2351, Lot 6, Borough of Brooklyn.

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 objection cited, to permit the proposed renovation of an existing building with a retail store and offices, both with accessory storage, which is contrary to Z.R. §22-00; 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 "February 10, 2004"-(8) sheets; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

## COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Chris Wright.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to March 9, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 77-03-BZ & 78-03-BZ

APPLICANT - Gerald J. Caliendo, R.A., A.I.A., for Better Luxury Homes, Inc., owner.

SUBJECT - Application March 3, 2003 - under Z.R. §72-21 to permit the proposed construction of a one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirement for minimum rear yard, and is contrary to Z.R. §23-47.

PREMISES AFFECTED -

260-32 Grand Central Parkway, east side, 9' south of 267th Street, Block 8443, Lot 123, Borough of Queens.

260-34 Grand Central Parkway, east side, 9' south of 267th Street, Block 8443, Lot 120, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to March 2, 2004, at 1:30 P.M., for deferred decision.

---

# MINUTES

---

## 80-03-BZ

APPLICANT - Fredrick A. Becker, Esq., for C & L Pioneer Enterprises LLC, owner.

SUBJECT - Application March 4, 2003 - under Z.R. §72-21 to permit the proposed construction of two multi-story multiple dwellings, also the use of a community facility (school), in one of the buildings, Use Groups 2 and 4, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 602 39<sup>th</sup> Street, southeast corner of Sixth Avenue, Block 914, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Fredrick A. Becker and Paula Chen.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to March 9, 2004, at 1:30 P.M., for continued hearing.

---

## 84-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Nissan Perla, Partner: N.P. Holdings, LLC, owner.

SUBJECT - Application October 24, 2003 - under Z.R. §72-21 to permit the proposed nine (9) story plus penthouse residential building, Use Group 2, located in an R5, C1-2 overlay zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, lot coverage, total height, perimeter wall height, lot area per dwelling unit and the required number of parking spaces, is contrary to Z.R. §23-141, §23-631, §23-222 and §25-521.

PREMISES AFFECTED - 35-40 30th Street, a/k/a 35-37 29th Street, between 35th and 36th Avenues, Block 341, Lot 6, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Jordan Most.

For Opposition: Caroline C. Adams and other.

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 1:30 P.M., for continued hearing.

---

## 102-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Southside Realty Holdings, LLC, owner.

SUBJECT - Application April 3, 2003 - under Z.R. §72-21 to permit the proposed development of two residential buildings with underground accessory parking and an open recreation space between the two buildings, Use Group 2, located in an M3-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 291 Kent Avenue, 35/37 South Second

**ACTION OF THE BOARD** - Laid over to March 9, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 82-03-BZ

APPLICANT - Sullivan Chester & Gardner LLP, for Diamond Street Properties, Inc., owners.

SUBJECT - Application March 5, 2003 - under Z.R. §72-21 to permit the proposed enlargement of an existing two story building, to four stories, and the change of use from manufacturing/ warehouse facility, to mixed use (residential and commercial), located in an M3-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 51 North 8th Street, a/k/a 91 Kent Avenue, northeast corner, Block 2309, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES - None.

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 and Bruck Tedzano.

For Opposition: Howard Slatkin, John McNulty, Janyce Stefan-Cole, Steven Frankel, David Brody, Tara Bahrapour, Stephanie Elsinberg and Gregory Baramian.

**ACTION OF THE BOARD** - Laid over to April 13, 2004, at 1:30 P.M., for continued hearing.

---

## 118-03-BZ

APPLICANT - Slater & Beckerman, LLP, for 1101 Prospect LLC, owner.

SUBJECT - Application April 11, 2003 - under Z.R. §72-21 to permit the proposed construction of a six-story residential and community facility building, Use Group 2 and 4, located in an R5B zoning district, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage, number of dwelling units, community facility bulk regulations, front and yards, height and setback, is contrary to Z.R. §23-141(b), §23-22, §24-01, §24-162, §23-45, §24-34, §24-35 and §24-521.

PREMISES AFFECTED - 1101 Prospect Avenue, a/k/a 1677 11<sup>th</sup> Avenue, northeast corner, Block 5256, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Stuart Beckerman.

**ACTION OF THE BOARD** - Laid over to April 13, 2004, at 1:30 P.M., for continued hearing.

---

# MINUTES

---

**150-03-BZ**

**APPLICANT - Sheldon Lobel, P.C., for Bolshy Gulliver, Inc., owner.**

**SUBJECT - Application May 15, 2003 - under Z.R. §72-21 to permit the proposed construction of three additional floors above a one story and basement building, to form a mixed-use building, to contain as of right uses on the first floor and basement level, and a nine residential units on the remaining three floors, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.**

**PREMISES AFFECTED - 136 Metropolitan Avenue, between Wythe Avenue and Berry Street, Block 2364, Lot 17, Borough of Brooklyn.**

**186-03-BZ**

**APPLICANT - Sheldon Lobel, P.C., for Mount Carmel Plaza, LLC, owner.**

**SUBJECT - Application June 4 2003 - under Z.R. §72-21 to permit the proposed seven story multiple dwelling, Use Group 2, with a total of sixty residential units and twenty-four parking spaces, located in an M1-2 zoning district, which is contrary to Z.R. §42-00. PREMISES AFFECTED - 525 Union Avenue, west side, 48' south of Withers Street, Block 2315, Lot 14, Borough of Brooklyn.**

**COMMUNITY BOARD #1BK**

**APPEARANCES -**

**For Applicant: Jordan Most.**

**For Opposition: Howard Slatkin, Steven Fankel, Lisa Bamonte, Pally Fioruce and Linda Zambiatto.**

**ACTION OF THE BOARD - Laid over to April 13, 2004, at 1:30 P.M., for continued hearing.**

---

**208-03-BZ**

**APPLICANT - Law Offices of Stuart A. Klein for Shell Road, LLC, owner; Orion Caterers, Inc., lessee.**

**SUBJECT - Application June 19, 2003 - under Z.R. §72-21 to permit the legalization of an expansion of an existing catering hall, Use Group 9, located in a split C1-2(overlay of R-4) and M1-1 zoning district, which does not comply with the zoning requirements for floor area ratio, rear yard, and parking, is contrary to Z.R. §33-121, 33-292, §36-21, §43-26 and §44-20. PREMISES AFFECTED - 2555 Shell Road, east side, between Avenue "X" and Bouck Court, Block 7192, Lot 74, Borough of Brooklyn.**

**COMMUNITY BOARD #11BK**

**APPEARANCES -**

**For Applicant: Stuart Klein.**

**ACTION OF THE BOARD - Laid over to March 23, 2004, at 1:30 P.M., for continued hearing.**

---

**COMMUNITY BOARD #1BK**

**APPEARANCES -**

**For Applicant: Janice Cahalane.**

**THE VOTE TO CLOSE HEARING -**

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4**

**Negative: .....0**

**Absent: Commissioner Chin.....1**

**ACTION OF THE BOARD - Laid over to March 23, 2004, at 1:30 P.M., for decision, hearing closed.**

---

**266-03-BZ**

**APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for 1710-2 McDonald Realty, LLC, owner.**

**SUBJECT - Application August 21, 2003 - under Z.R. §73-50 to permit the proposed enlargement of an existing warehouse (furniture), situated in an M1-1 zoning district, by constructing a one-story addition at the rear, that will encroach into the required yard between district boundaries, is contrary to Z.R. §43-302.**

**PREMISES AFFECTED - 1710/12 McDonald Avenue, west side, 60' south of Avenue "O", Block 6607, Lot 10, Borough of Brooklyn.**

**COMMUNITY BOARD #11BK**

**APPEARANCES -**

**For Applicant: Eric Palatnik.**

**ACTION OF THE BOARD - Laid over to March 23, 2004, at 1:30 P.M., for continued hearing.**

---

**340-03-BZ**

**APPLICANT - Davidoff & Malito, LLP, by Howard B. Weiss, Esq., for Ramirez Properties, LLC, owner.**

**SUBJECT - Application November 5, 2003 - under Z.R. §72-21 to permit the proposed nine story mixed use building, commercial and residential (Use Groups 2 and 6), located in an M1-5 zoning district, which does not comply with the zoning requirements for floor area ratio, setback, perimeter wall height, sky exposure plane and open space, is contrary to Z.R. §42-00, §43-12 and §43-42.**

**PREMISES AFFECTED - 408 Greenwich Street, a/k/a 22/24 Hubert Street, between Laight and Hubert Streets, Block 217, Lot 23, Borough of Manhattan.**

**COMMUNITY BOARD #1M**

**APPEARANCES -**

**For Applicant: Howard Weiss.**

**For Opposition: Sadie Dyer, Office of Assembly Member,**

---

# MINUTES

---

**Doris Diether, Kenneth McCallion, Carole Desaram, Ekkehart Schwarz, Jon Steinberg, Joseph Reidy and Donald Foest.**

**ACTION OF THE BOARD - Laid over to March 9, 2004, at 1:30 P.M., for continued hearing.**

---

**342-03-BZ**

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 For Opposition: Barry Mallin, Vanita Solomon, James Solomon, Martin Hechtman, Lynn Reiser, Stephen Posen, Timothy Wilson, Elizabeth Weatherford, Murray Retch, Oliver Harris, Peter Bosch, Regina Nadelson and others.

**ACTION OF THE BOARD - Laid over to April 13, 2004, at 1:30 P.M., for continued hearing.**

---

**346-03-BZ**

APPLICANT - Joseph P. Morsellino, Esq., for Roadco, LLC, owner.

SUBJECT - Application November 13, 2003 - under Z.R. §72-21 to permit the legalization of an existing two family dwelling, Use Group 2, located in an R2 zoning district, which does not comply with the zoning requirements, regarding the number of units permitted on the zoning lot, is contrary to Z.R. §23-22.

PREMISES AFFECTED - 156-05 Cross Island Parkway, east of 156th Street, Block 4566, Lot 78 (tentative Lot No. 94), Borough of Queens.

**COMMUNITY BOARD #7Q**

APPEARANCES -

For Applicant: Joseph Morsellino.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD - Laid over to March 23, 2004, at 1:30 P.M., for decision, hearing closed.**

---

**377-03-BZ**

APPLICANT - Fischbein Badillo Wagner Harding, for Bond Street Garage I, LLC, owner; Tribeach Holdings, LLC, contract vendee.

SUBJECT - Application December 4, 1993 - under Z.R. §72-21 to permit the proposed mixed-use building, located in an M1-5B zoning district, which creates non-compliance with regards to residential and retail uses, also public parking and floor area, which is contrary to Z.R. §42-00, §42-14, §32-17 and §43-12.

PREMISES AFFECTED - 25 Bond Street, south side, 70' east of Lafayette Street, Block 529, Lot 21, Borough of Manhattan.

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 -

For Applicant: Jay Segal, Joseph Lombardi, Bruce Terzano and Bill McQuillan.

**COMMUNITY BOARD #2M**

APPEARANCES -

For Applicant: Howard Hornstein, Peter Geis, Jack Freeman and Chris Berg.

For Opposition: Sadie Dyer for Assembly Member Deborah Glick, David R. Ree for Community Board #2 and Susan Rosenthal.

**ACTION OF THE BOARD - Laid over to March 30, 2004, at 1:30 P.M., for continued hearing.**

---

**387-03-BZ**

APPLICANT - Steven M. Sinacori/Stadtmauer Bailkin, for 1100 Leggett Avenue, Inc., owner; Green Office Systems, Inc., lessee.

SUBJECT - Application December 15, 2003 - under Z.R. §72-21 to permit the proposed expansion and reconstruction of a functionally obsolete one-story industrial building, thereby creating a modern climate controlled eight-story manufacturing and storage of office furniture facility, Use Groups 16 and 17, located in an M3-1 zoning district, which does not comply with the zoning requirements for floor area ratio, setbacks, sky exposure plane, street wall height and parking spaces, which is contrary to Z.R. §43-12, §43-43, §44-21.

PREMISES AFFECTED - 1100 Leggett Avenue, south side, between Barry and Dupont Streets, Block 2606, Lot 125, Borough of the Bronx.

**COMMUNITY BOARD #2BX**

APPEARANCES -

For Applicant: Steven Sinacori.

**ACTION OF THE BOARD - Laid over to March 23, 2004, at 1:30 P.M., for continued hearing.**

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 6:55 P.M.

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 11

March 11, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**SATISH BABBAR, *Vice-Chair***

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	182-183
<b>CALENDAR</b> of March 30, 2004	
Morning .....	184
Afternoon .....	185

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, March 2, 2004**

Morning Calendar .....186

**Affecting Calendar Numbers:**

1050-38-BZ	1301/1319 65 <sup>th</sup> Street, Brooklyn
465-55-BZ	486/496 Coney Island Avenue, Brooklyn
889-55-BZ, Vol.II	69-13/25 164 <sup>th</sup> Street, Queens
85-58-BZ	20/24 2 <sup>nd</sup> Avenue, Manhattan
923-77-BZ	1905 McDonald Avenue, Brooklyn
245-90-BZ	1054 43 <sup>rd</sup> Street, Brooklyn
59-96-BZ	32-02 Linden Place, Queens
281-99-BZ	6055 Strickland Avenue, Brooklyn
123-03-A thru	
127-03-A	Beach 28 <sup>th</sup> Street, Queens
128-03-A thru	
130-03-A	Brookside Loop, Staten Island
331-03-A	37-44 103 <sup>rd</sup> Street, Queens
263-03-A	1638 Eight Avenue, Brooklyn

Afternoon Calendar.....189

**Affecting Calendar Numbers:**

77-03-BZ	
&78-03-BZ	260-32 & 260-34 Grand Central Parkway, Queens
239-03-BZ	468 West Broadway and 140 Thomson Street, Manhattan
60-02-BZ	3849 Bedford Avenue, Brooklyn
92-03-BZ	472 West 130 <sup>th</sup> Street, Manhattan
139-03-BZ	247-54 90 <sup>th</sup> Avenue, Queens
183-03-BZ	118 Berry Street, Brooklyn
199-03-BZ thru	
205-03-BZ	Classon Avenue, Brooklyn
217-03-BZ	140/42 Pennsylvania Avenue, Brooklyn
223-03-BZ	115-15 Farmers Boulevard, Queens
224-03-BZ	139-19 109 <sup>th</sup> Avenue, Queens
240-03-BZ	83-10 and 83-16 188 <sup>th</sup> Street, Queens
258-03-BZ	47 Thames Street, Brooklyn
260-03-BZ	20 Grand Avenue, Brooklyn
291-03-BZ	1380 62 <sup>nd</sup> Street, Brooklyn
302-03-BZ	1212 East 23 <sup>rd</sup> Street, Brooklyn
307-03-BZ	543/45 West 110 <sup>th</sup> Street, Manhattan
309-03-BZ	744/48 Greenwich Street, Manhattan
386-03-BZ	326 East 18 <sup>th</sup> Street, Manhattan

---

# DOCKETS

---

New Case Filed Up to March 2, 2004

---

**44-04-A** B.S.I. 1491 Richmond Road, bounded by Norden Street and Forest Road, Block 869, Lot 374, Borough of Staten Island. Applic.#500353422. Application to review and modify Certificate of Occupancy No. 500353422, issued on 2/28/00, on the grounds that the CO was issued with the mistakenly understanding that the non-conforming use was continuous, thus improperly allowing a retail store in a residential zoning district.

---

**45-04-A** B.S.I. 4 Tompkins Place, 125' east of Court Street, Block 522, Lot 20, Borough of Staten Island. Applic.#500648294. Borough of Staten Island. Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**46-04-A** B.S.I. 8 Tompkins Place, 125' east of Court Street, Block 522, Lot 18, Borough of Staten Island. Applic.#500648301. Borough of Staten Island. Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**47-04-A** B.S.I. 12 Tompkins Place, 125' east of Court Street, Block 522, Lot 17, Borough of Staten Island. Applic.#500648310. Borough of Staten Island. Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**48-04-A** B.S.I. 16 Tompkins Place, 125' east of Court Street, Block 522, Lot 16, Borough of Staten Island. Applic.#500648329. Borough of Staten Island. Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**49-04-A** B.S.I. 20 Tompkins Place, 125' east of Court Street, Block 522, Lot 15, Borough of Staten Island. Applic.#500648338. Borough of Staten Island.

Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

**50-04-A** B.Q. 101-20 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 22, Borough of Queens. Applic.#401770570. Proposed three family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

---

**51-04-A** B.Q. 101-22 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 23, Borough of Queens. Applic.#401770589. Proposed three family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

---

**52-04-A** B.Q. 101-24 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 24, Borough of Queens. Applic.#401770561. Proposed three family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

---

**53-04-A** B.Q. 140-26A 34th Avenue, Block 4994, Lot 24, Borough of Queens. Applic.#401223289. 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.

---

---

# DOCKETS

---

**54-04-A** B.Q. 140-28 34th Avenue, Block 4994, Lot 224, Borough of Queens. Applic.#401223243. Application to revoke Certificate of Occupancy No. 401223243. 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.

\_\_\_\_\_

**55-04-A** B.Q. 140-28A 34th Avenue, Block 4994, Lot 224, Borough of Queens. Applic.#401223243. Application to revoke Certificate of Occupancy No. 401223243. 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.

\_\_\_\_\_

**56-04-A** B.Q. 140-30 34th Avenue, Block 4994, Lot 125, Borough of Queens. Applic.#401223332. Application to revoke Certificate of Occupancy No. 401223332. 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.

\_\_\_\_\_

**57-04-A** B.Q. 140-30A 34th Avenue, Block 4994, Lot 225, Borough of Queens. Applic.#401223314. Application to revoke Certificate of Occupancy No. 401223314. 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.

\_\_\_\_\_

**58-04-A** B.Q. 140-32 34th Avenue, Block 4994, Lot 126, Borough of Queens. Applic.#401224714. Application to revoke Certificate of Occupancy No. 401224714. 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.

\_\_\_\_\_

**59-04-A** B.Q. 140-32A 34th Avenue, Block 4994, Lot 27, Borough of Queens. Applic.#401224705. Application to revoke Certificate of Occupancy No. 401224705 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.

\_\_\_\_\_

**60-04-A** B.Q. 140-34 34th Avenue, Block 4994, Lot 127, Borough of Queens. Applic.#401224698. Application to revoke Certificate of Occupancy No. 401224698 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.

\_\_\_\_\_

**61-04-A** B.Q. 140-34A 34th Avenue, Block 4994, Lot 227, Borough of Queens. Applic.#401230011. Application to revoke Certificate of Occupancy No. 401230011 on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative

\_\_\_\_\_

**62-04-A** B.Q. 140-36 34th Avenue, Block 4994, Lot 327, Borough of Queens. Applic.#401202444. Application to revoke Certificate of Occupancy No. 401202444 on the basis that the Certificate of Occupancy allows conditions at the referenced premises that are contrary to the Zoning Resolution and the Administrative

\_\_\_\_\_

**63-04-BZ** B.Q. 108-24 Astoria Boulevard , southwest corner of 110th Street, Block 1703, Lots 94, 97, 98 and 99, Borough of Queens. Alt.#401815167. 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.

## **COMMUNITY BOARD #3Q**

\_\_\_\_\_

**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 30, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, March 30, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

**724-56-BZ**

APPLICANT - Vassalotti Associates Architects, LLP, for Anthony Nicovic, owner.

SUBJECT - Application December 18, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired November 19, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 42-42 Francis Lewis Boulevard, south of 42nd Road, Block 5373, Lot 26, Borough of Queens.

**COMMUNITY BOARD #11Q**

\_\_\_\_\_

**144-00-BZ**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for Birch Wathen Lenox School, owner.

SUBJECT - Application January 28, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 210 East 77th Street, south side of 77th Street, 145 East of Third Avenue, Block 1431, Lot 41, Borough of Manhattan.

**COMMUNITY BOARD #8M**

\_\_\_\_\_

**103-02-BZ**

APPLICANT - Sheldon Lobel, P.C., for Bnei Aharon, Inc., owner.

SUBJECT - Application December 2, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1516 East 24th Street, East 24th Street, 105' south of Avenue O and Kings Highway, Block 6770, Lot 12, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

\_\_\_\_\_

**44-04-A**

APPLICANT - NYC Department of Buildings.

OWNER OF RECORD: Martin Suss

LESSEE: William J. Newstad; Endeavor Abstract; Paladin Abstract.

**339-03-BZ**

APPLICANT - Snyder and Snyder, LLP, for United Hebrew Cemetery, Inc., owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application October 31, 2003 - under Z.R. §73-30 to

SUBJECT - Application February 25, 2004 - Application to revoke or modify Certificate of Occupancy No. 500353422, issued on 2/28/00, on the grounds that the CO was issued with the mistaken understanding that the non-conforming use was continuous, thus improperly allowing a retail store in a residential zoning district. PREMISES AFFECTED - 1491 Richmond Road, bounded by Norden Street and Forest Road, Block 869, Lot 374, Borough of Staten Island.

**COMMUNITY BOARD #2**

\_\_\_\_\_

**MARCH 30, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, March 30, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

**ZONING CALENDAR**

**194-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for B'nos Menachem Inc., owner.

SUBJECT - Application June 13, 2003 - under Z.R. §72-21 to permit the proposed catering establishment, Use Group 9, in the cellar of an existing one story, basement and cellar building (school for girls), located in an R6 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 739 East New York Avenue, between Troy and Albany Avenues, Block 1428, Lot 47, Borough of Brooklyn.

**COMMUNITY BOARD #9BK**

\_\_\_\_\_

**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**

\_\_\_\_\_

permit the proposed installation of a non-accessory radio tower, disguised as an eighty-two feet (82') flagpole, together with related equipment at the base thereof ("facility"), on said premises, located in an R3-2 zoning district, which requires a special permit.

---

# CALENDAR

---

PREMISES AFFECTED - 122 Arthur Kill Road, between Clarke and Newvale Avenues, Blocks 4475 and 4463, Lots 1 and 175, Borough of Staten Island.

**COMMUNITY BOARD #3S.I.**

---

**363-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Audubon Housing Development Fund Corp., owner.

SUBJECT - Application November 21, 2003 - under Z.R. §72-21 to permit the proposed seven story residential building, Use Group 2, containing 116 units, located in an M1-4 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 480 East 176th Street, between Bathgate and Washington Avenues, Block 2917, Lots 17, 20, 23, 25 and 27, Borough of The Bronx.

**COMMUNITY BOARD #6BX**

---

**384-03-BZ**

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for Renewal Arts Realty Corp., owner; Albert Einstein College of Medicine of Yeshiva University, lessee.

SUBJECT - Application December 10, 2003 - under Z.R. §72-21 to permit the proposed operation of a Use Group 4A health facility, on a portion of a zoning lot, located in an M1-2 zoning district, which is contrary to Z.R. §42-11.

PREMISES AFFECTED - 804 East 138th Street, south side, 155.52' east of Willow Avenue, Block 2589, Lots 15 and 16, Borough of The Bronx.

**COMMUNITY BOARD #1BX**

---

*Pasquale Pacifico, Executive Director*

**REGULAR MEETING  
TUESDAY MORNING, MARCH 2, 2004  
10:00 A.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, January 6, 2004, were approved as printed in the Bulletin of January 15, 2004, Volume 89, Nos. 1-3.

---

---

# MINUTES

---

## SPECIAL ORDER CALENDAR

### 1050-38-BZ, Vol. II

APPLICANT - Walter T. Gorman, P.E., for Sovereign Realty Associates, LLC, owner; Amoco Oil Company, lessee.  
SUBJECT - Application - November 20, 2003 - reopening for an extension of term of variance which expires June 30, 2004.  
PREMISES AFFECTED - 1301/1319 65th Street a/k/a 6411/23 13th Avenue, northeast corner of 13th Avenue, Block 5747, Lot 1, Borough of Brooklyn.

#### COMMUNITY BOARD #10BK

#### APPEARANCES -

For Applicant: **John Ronan.**

#### 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 23, 2004, at 1:30 P.M., for decision, hearing closed.**

---

### 465-55-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for 325 North Macquesten Parkway Corporation, owner; Abko Inc dba Carwash Associates, lessee.  
SUBJECT - Application June 13, 2003 - reopening for an amendment to the resolution.  
PREMISES AFFECTED - 486/496 Coney Island Avenue aka 804/826 Church Avenue, west side of Coney Island Avenue 91'9 1/8" south of the corner of Church Avenue and Coney Island Avenue) Block 5341, Lot 17, Borough of Brooklyn.

#### COMMUNITY BOARD #12BK

#### APPEARANCES -

For Applicant: Fredrick A. Becker.

**ACTION OF THE BOARD - Laid over to April 13, 2004, at 10 A.M., for continued hearing.**

---

### 889-55-BZ, Vol. II

APPLICANT - J & H Management Corp., for Everything Auto Repair, lessee.  
SUBJECT - Application October 21, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 1, 2003  
PREMISES AFFECTED - 69-13/25 (69-15 Official) 164th  
**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5**  
**Negative: .....0**

**ACTION OF THE BOARD - Laid over to March 30, 2004, at 1:30 P.M., for decision, hearing closed.**

---

### 245-90-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for

Street, east side 110' south of 69th Avenue, Block 6931, Lot 38, Borough of Queens.

#### COMMUNITY BOARD #8

#### APPEARANCES -

For Applicant: **Miles Fisher, Janice Cahalane and Wayne Weinstein.**

**ACTION OF THE BOARD - Laid over to April 27, 2004, at 10 A.M., for continued hearing.**

---

### 85-58-BZ

APPLICANT - Maxfield Blaufeux & Heywood Blaufeux, for Estate of Hyman Badzanower, owner; Westfield second Associates, owner  
SUBJECT - Application October 7, 2003 - reopening for an extension of term of variance which expired September 9, 2003.  
PREMISES AFFECTED - 20/24 2nd Avenue a/k/a 30/32 East 1st Street, northeast corner of 2nd Avenue and East 1st Street, Block 443, Lot 1, Borough of Manhattan.

#### COMMUNITY BOARD #3M

#### APPEARANCES -

For Applicant: Heywood Blaufeux.

#### 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 30, 2004, at 1:30 P.M., for decision, hearing closed.**

---

### 923-77-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for Matthew Percia, owner.  
SUBJECT - Application September 9, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 31, 2003.  
PREMISES AFFECTED - 1905 McDonald Avenue, east side of McDonald Avenue, 105' south of Quentin Road, Block 6658, Lot 86, Borough of Brooklyn.

#### COMMUNITY BOARD #15BK

#### APPEARANCES -

For Applicant: **Adam W. Rothkrug.**

#### THE VOTE TO CLOSE HEARING -

Margarita Herskovich and Lyubov Herskovich, owners.

SUBJECT - Application June 12, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 29, 2001.

PREMISES AFFECTED - 1054 43<sup>rd</sup> Street, south side of 43rd Street, Block 5602, Lot 51, Borough of Brooklyn.

#### COMMUNITY BOARD #12BK

#### APPEARANCES -

For Applicant: Fredrick A. Becker.

**ACTION OF THE BOARD - Laid over to April 13, 2004, at 10 A.M., for continued hearing.**

---

# MINUTES

---

59-96-BZ

APPLICANT - The Agusta Group by Philip P. Agusta, R.A., for Yong Brothers Trading, Inc., owner; Pine Village Corp., lessee.

SUBJECT - Application November 14, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to obtain a Certificate of Occupancy which expired January 9, 2003.

PREMISES AFFECTED - 32-02 Linden Place aka 135-20 32nd Avenue, southwest corner of Linden Place and 32nd Avenue, Block 4950, Lot 48, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to March 23, 2004, at 10 A.M., for continued hearing.

281-99-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF THE PREMISES: Enopac Holding LLC.

SUBJECT - On remand from the New York County Supreme Court.

PREMISES AFFECTED - 6055 Strickland Avenue, west side of Strickland Avenue roughly between the prolongation of Mayfair Avenue and East 59th Place, Block 8470, Lots 1060, 1070, 1076, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Jay Segal.

For Opposition: Lewis Fidler.

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

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative: .....0

THE RESOLUTION-

WHEREAS, the decision of the Department of Buildings Borough Commissioner dated March 17, 2003, acting on Department of Buildings N.B. Applications Nos. 401618861, 401618870, 401261889, 401618736, and 401618745 reads, in pertinent part:

"No Construction is permitted in the bed of a mapped street as per Section 35 of the General City Law, refer to the Board of Standards and Appeals"; and

WHEREAS, this appeal is filed to allow five two-family dwellings to be built in a portion of the bed of a mapped street

Commissioner Chin.....5

Negative: .....0

ACTION OF THE BOARD - Laid over to March 16, 2004, at 1:30 P.M., for decision, hearing closed.

123-03-A thru 127-03-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Collier Realty, LLC., owner.

SUBJECT - Application April 17, 2003 - Proposed construction of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -

437 Beach 28th Street, west side, 141.5" south of Brookhaven Avenue, Block 15793, Lot 9, Borough of Queens.

435 Beach 28th Street, west side, 174.9" south of Brookhaven Avenue, Block 15793, Lot 10, Borough of Queens.

431 Beach 28th Street, west side, 200.2" south of Brookhaven Avenue, Block 15793, Lot 12, Borough of Queens.

434 Beach 29th Street, east side, 10" south of Brookhaven Avenue, Block 15793, Lot 48, Borough of Queens.

436 Beach 29th Street, east side, 39.3" south of Brookhaven Avenue, Block 15793, Lot 50, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD - Appeals 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 -

known as Collier Avenue, between Beach 28th Street and Beach 29th Street, in Queens; and

WHEREAS, by letter date January 20, 2004, the Fire Department has reviewed the above project and has no objections; and

WHEREAS, by the letter dated January 27, 2004, the Department of Transportation has reviewed the above project and has no objections; and

WHEREAS, by the letter dated December 5, 2003, the Department of Environmental Protection has reviewed the above revised project and has advised that the latest adapted City Drainage Plan dp 50S(55)-2 for the above referenced location calls for a future 12" storm sewer to be installed in Collier Avenue starting from Beach 29th Street; there are existing houses on both sides of Collier Avenue between Beach 29th Street and Beach 28th Street

---

# MINUTES

---

which front other mapped streets; neither the existing house nor the new proposed development will need to be connected to the above mentioned storm sewer; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Resolved, that the decision of the DOB Borough Commissioner, dated March 17, 2003, acting on N.B. Application Nos. 401618861, 401618870, 401261889, 401618736, and 401618745 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 16, 2004"-(1) sheet; and that the proposal comply with all applicable zoning requirements; that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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 2, 2004.

---

## 128-03-A thru 130-03-A

### 263-03-A

APPLICANT - John W. Carroll, Wolfson & Carroll, for Ben Bobker, owner.

SUBJECT - Application August 20, 2003 - An administrative appeal challenging the Department of Buildings' final determination dated August 13, 2003, in which the Department refused to revoke the certificate of occupancy, on the basis that the applicant had satisfied all objections regarding said premises.

PREMISES AFFECTED - 1638 Eighth Avenue, west side, 110-5' east of Prospect Avenue, Block 1112, Lot 52, Borough of Brooklyn.

### COMMUNITY BOARD #7BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to March 30, 2004, at 10 A.M., for postponed hearing.

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Brookside Development Corp., owner.

SUBJECT - Application April 18, 2003 - Proposed construction of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -

22 Brookside Loop, west side, 162' south of Woodrow Road, Block 7022, Lot 5, Borough of Staten Island.

26 Brookside Loop, west side, 25.5' south of Woodrow Road, Block 7022, Lot 8, Borough of Staten Island.

30 Brookside Loop, west side, 341.5' south of Woodrow Road, Block 7022, Lot 10, Borough of Staten Island.

### COMMUNITY BOARD #3S.I.

APPEARANCES -

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 10 A.M., for continued hearing.

---

### 331-03-A

APPLICANT - The Agusta Group, for Nelson Catano, owner.

SUBJECT - Application October 27, 2003 - The legalization of an existing mercantile occupancy, within a frame class IID construction building, located within the fire district, is not permitted as per §27-296 and Table 4-1 of the NYC Building Code.

PREMISES AFFECTED - 37-44 103<sup>rd</sup> Street, west side, 410.75' south of 37th Avenue, Block 1768, Lot 32, Borough of Queens.

### COMMUNITY BOARD #3Q

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to April 13, 2004, at 10 A.M., for continued hearing.

---

Adjourned: 11:10 A.M.

*Pasquale Pacifico, Executive Director.*

---

# MINUTES

---

**REGULAR MEETING  
TUESDAY AFTERNOON, MARCH 2, 2004  
2:00 P.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.

**ZONING CALENDAR**

**77-03-BZ & 78-03-BZ**

APPLICANT - Gerald J. Caliendo, R.A., A.I.A., for Better Luxury Homes, Inc., owner.

SUBJECT - Application March 3, 2003 - under Z.R. §72-21 to permit the proposed construction of a one family dwelling, Use

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R2 zoning district, the proposed construction of two (2) one family, two story dwellings (UG 1) on a combined zoning lot, which does not comply with the zoning requirements for minimum rear yard and maximum number of dwelling units, contrary to Z.R. §§23-47 and 23-22; and WHEREAS, the subject site is currently vacant, and comprises two tax lots that are proposed to be merged as one zoning lot; when combined, the zoning lot will be approximately 6,200 square feet in area; and

WHEREAS, the applicant represents that the two proposed dwellings will have the required minimum distance between them; and

WHEREAS, the applicant states 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 shallow depth of the lot, the proximity of the site to the Grand Central Parkway, and the site's topography, which includes rocks, pools and stone outcroppings; and

WHEREAS, the Board finds that certain of the aforementioned unique physical conditions, namely the lot's shallowness and its topography, when considered in the aggregate, create practical difficulties and unnecessary hardships in developing the site in strict compliance with current zoning; and

WHEREAS, the applicant has submitted a feasibility study

Group 1, located in an R2 zoning district, which does not comply with the zoning requirement for minimum rear yard, and is contrary to Z.R. §23-47.

PREMISES AFFECTED -

260-32 Grand Central Parkway, east side, 9' south of 267th Street, Block 8443, Lot 123, Borough of Queens.

260-34 Grand Central Parkway, east side, 9' south of 267th Street, Block 8443, Lot 120, Borough of Queens.

**COMMUNITY BOARD #13Q**

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO GRANT -

**Affirmative:** Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....4

**Negative:** .....0

Not Voting: Chair Srinivasan .....1

THE RESOLUTION-

WHEREAS, the decision of the Borough Commissioner, dated January 22, 2004, acting on Department of Buildings NB Application No. 401464857 reads:

"1. Proposed rear yard is contrary to section 23-47 Z.R. 30'-0 minimum rear yard is required in an R2 Zoning District.

2. Proposed number of dwelling units exceeds the maximum number of dwelling units permitted on the zoning lot and does not comply with section 23-22 Z.R."; and

WHEREAS, a public hearing was held on this application on October 28, 2003 and then hid over to November 25, 2003, January 6, 2004, February 3, 2004, February 24, 2004 and then to March 2, 2004 for decision; and

WHEREAS, the premises and surrounding area had site and neighborhood examination by a committee of the Board; and

demonstrating that developing the entire premises with complying building would not yield the owner a reasonable return; and

WHEREAS, the applicant states that a complying building would be inhabitable due to its narrow size, as illustrated on the submitted "Complying Conditions" plan; 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 states that the neighborhood had been developed predominantly with ranch homes, but that the area is undergoing constant change, with some of the ranch homes being expanded to two stories, and in some cases being demolished and replaced with two story brick veneered homes; and

WHEREAS, the applicant further states that the site fronts on the service road to the Grand Central Parkway, and that it does not appear to be part of the ranch home development; the homes to the west of the subject site are also two stories; and

WHEREAS, based on the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, this proposal is the minimum necessary to afford

---

# MINUTES

---

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.

Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, to permit, in an R2 zoning district, the proposed construction of two (2) one family, two story dwellings (UG 1) on a combined zoning lot, which does not comply with the zoning requirements for minimum rear yard and maximum number of dwelling units, contrary to Z.R. §§23-47 and 23-22; 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 3, 2003" - (8) sheets; "December 30, 2003" -(1) sheet; and "January 26, 2004" -(1) sheet; and on further condition:

## **239-03-BZ**

APPLICANT - Jay A. Segal, Greenberg Traurig, LLP, for West Broadway Arches c/o Mr. Chuck Seltzer, owner.

SUBJECT - Application July 10, 2003 - under Z.R. § §73-01 & 73-53 to permit the proposed extension of the uses (studios with accessory living/sleeping accommodations) allowed on floors two through six of the West Broadway portion of the subject building, which is located partially in a M1-5A zoning district and partially in a R7-2 zoning district, contrary to Z.R. §42-14D.

PREMISES AFFECTED - 468 West Broadway and 140 Thompson Street, fronting on West Broadway and Thompson Street, between West Houston and Prince Streets, Block 516, Lot 7, 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 and Commissioner Miele .....4

**Negative:** .....0

Not Voting: Commissioner Chin.....1

## **THE RESOLUTION**

WHEREAS, the decision of the Borough Commissioner, dated July 3, 2003, acting on Department of Buildings Application No. 103459570, reads:

"1. Proposed cellar and first floor use on West Broadway `Studios, art music, dancing or theatrical with accessory sleeping accommodations for employees in connection with commercial or manufacturing use' (Use

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT the premises shall comply with all applicable fire safety measures;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 2, 2004.

Group 9), not permitted pursuant to ZR 42-14."; and

WHEREAS, a public hearing was held on this application on January 27, 2004, and then to March 2, 2004 for decision; and

WHEREAS, the premises and surrounding area had site and neighborhood examination by a committee of the Board; and

WHEREAS, a special permit is sought under Z.R. §§73-03 and 73-53 to permit the proposed extension of the uses (studios with accessory living/sleeping accommodations) allowed on floors two through six of the West Broadway portion of the subject building, which is located partially in a M1-5A zoning district and partially in a R7-2 zoning district, contrary to Z.R. §42-14D; and

WHEREAS, the subject zoning lot is a through lot fronting both on West Broadway and Thompson Street; that part of the lot fronting on West Broadway (the eastern part) is within a M1-5A zoning district, and the western part is within an R7-2 zoning district; and

WHEREAS, the lot is improved with a six-story with cellar building, which has a separate Certificate of Occupancy ("CO") for its West Broadway portion (the "Eastern Portion"); and

WHEREAS, the CO for the Eastern Portion allows studios for art, music dancing or theatrical, with accessory living/sleeping accommodation for employees in connection with commercial or manufacturing uses (the "Uses"), on floors two through six; the CO allows an art gallery or store use on the ground floor and an art gallery and store storage rooms in the cellar; and

WHEREAS, the applicant now seeks to extend the Uses

---

# MINUTES

---

to the ground floor; and

WHEREAS, the applicant represents that the CO, amended in 1983, provides that 50 percent of the units in the Eastern Portion are to be used for Joint Living Working Quarters for Artists ("JLWQA"), and that the extension would allow the use of the ground floor for a use similar to JLWQA; and

WHEREAS, the applicant, through testimony and submission of supporting documentation, has demonstrated that: the premises is not subject to termination pursuant to Z.R. §52-70; that the use for which the special permit is being sought has lawfully existed for more than 5 years; that the subject building has not received an enlargement pursuant to Z.R. §§11-412, 43-121 or 72-21; and that the subject use is listed in Use Group 9, not Use Group 18; and

WHEREAS, the Board notes that Z.R. §73-53(a)(5) is not applicable because the premises is located in an M1-5A

WHEREAS, the record indicates that the subject extension will not generate significant increases in vehicular or pedestrian traffic, nor cause congestion in the surrounding area, and that the adequate parking requirement is not applicable to the subject extension, as no parking is provided on the subject lot and the extension of the Uses to the ground floor would likely decrease the need for parking through elimination of the retail use; and

WHEREAS, the Board notes that there are no required side yards; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, therefore, the Board determines that the evidence in the record supports the findings required to be made under Z.R. §73-53 and 73-03.

Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §§73-53 and 73-03 to permit the proposed extension of the uses (studios with accessory living/sleeping accommodations) allowed on floors two through six of the West Broadway portion of the subject building, which is located partially in a M1-5A zoning district and partially in a R7-2 zoning district, contrary to Z.R. §42-14D, on condition that all work shall substantially

zoning district; and

WHEREAS, the requested proposal is for an extension that results in less than 45% of the floor area occupied by such use on December 17, 1987 and is less than a 2,500 square feet addition to the floor area occupied by such use on December 17, 1987, and does not exceed 10,000 square feet; and

WHEREAS, the applicant represents that the extension will be housed in an entirely enclosed building, and that the performance standards are inapplicable; and

WHEREAS, the applicant further states that there will be no open uses of any kind; and

WHEREAS, the applicant represents, and the Board agrees, that that the requirements set forth at Z.R. §73-53(b)(4),(5),(6),(7),(8), and (9) are either satisfied, or not applicable to the instant application; and

conform to drawings as they apply to the objection above-noted, filed with this application marked "Received July 10, 2003" -(1) sheet and "February 6, 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 all applicable fire safety measure will be complied with;

THAT the above conditions shall appear on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted; 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 2, 2004.

---

## 60-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Naomi Kunin, owner.  
SUBJECT - Application February 15, 2002 - under Z.R. §72-21, to permit the legalization of an interior enlargement in an existing one family dwelling, Use Group 1, which creates non-compliance with respect to floor area ratio and rear yard, which is contrary to Z.R.

---

# MINUTES

---

§§23-141 and 23-47.

PREMISES AFFECTED - 3849 Bedford Avenue, east side, 380.0' south of Quentin Road, Block 6808, Lot 71, Borough of Brooklyn

**COMMUNITY BOARD #15BK**

APPEARANCES -

For Applicant: Jordan Most.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

---

**92-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Parkside Inc., owner.  
SUBJECT - Application March 25, 2003 - under Z.R. §73-52 to permit the proposed residential development of an entire zoning lot,

**139-03-BZ**

APPLICANT - Alfonso Duarte, for Sanjoy Augustine, owner.  
SUBJECT - Application April 29, 2003 - under Z.R. §72-21 to permit the proposed erection of a two family dwelling, Use Group 2A, located in an R3-A zoning district, which does not comply with the zoning requirements, for rear yard and floor area ratio, is contrary to Z.R. §23-47 and §23-141(b).

PREMISES AFFECTED - 247-54 90th Avenue, south side, 225.51' west of Commonwealth Boulevard, Block 8662, Lot 28, Borough of Queens.

**COMMUNITY BOARD #13Q**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to March 30, 2004, at 1:30 P.M., for continued hearing.

---

**183-03-BZ**

APPLICANT - Agusta & Ross, for North Berry Capital Group, LLC, owner.

SUBJECT - Application June 3, 2003 - under Z.R. §72-21 to permit the proposed forty-three unit multiple dwelling, with retail space on the ground floor, and underground accessory parking throughout for twenty-two vehicles, Use Groups 2 and 6, located in an M1-2 zoning district, which is contrary to Z.R. §42-10.

PREMISES AFFECTED - 118 Berry Street, 116 North Seventh Street, a/k/a 116/26 North Seventh Street and 118/20 Berry Street, northwest corner, Block 2326, Lots 18 and 19 (tentative Lot 18), Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 1:30 P.M., for continued hearing.

---

on a lot divided by an R7-2 and M1-1 district boundary, which requires a special permit.

PREMISES AFFECTED - 472 West 130<sup>th</sup> Street, southwesterly corner of the intersection of West 130th Street and Convent Avenue, Block 1969, Lots 64, 67 and 68, Borough of Manhattan.

**COMMUNITY BOARD #9M**

APPEARANCES -

For Applicant: Janice Cahalane.

**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 30, 2004, at 1:30 P.M., for decision, hearing closed.

---

**199-03-BZ thru 205-03-BZ**

APPLICANT - Stuart A. Klein, Esq., for Classon Holding Co., owner.

SUBJECT - Application June 17, 2003 - under Z.R. §72-21 to permit the proposed seven story residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

**PREMISES AFFECTED -**

148 Classon Avenue, between Myrtle and Park Avenues, Block 1895, Proposed Lot 42, Borough of Brooklyn.

152 Classon Avenue, between Myrtle and Park Avenues, Block 1895, Proposed Lot 46, Borough of Brooklyn.

156 Classon Avenue, between Myrtle and Park Avenues, Block 1895, Proposed Lot 47, Borough of Brooklyn.

77 Emerson Place, between Myrtle and Park Avenues, Block 1895, Proposed Lot 117, Borough of Brooklyn.

81 Emerson Place, between Myrtle and Park Avenues, Block 1895, Proposed Lot 116, Borough of Brooklyn.

85 Emerson Place, between Myrtle and Park Avenues, Block 1895, Proposed Lot 115, Borough of Brooklyn.

89 Emerson Place, between Myrtle and Park Avenues, Block 1895, Proposed Lot 114, Borough of Brooklyn.

**COMMUNITY BOARD #3BK**

APPEARANCES -

For Applicant: Stuart Klein.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 1:30 P.M., for continued hearing.

---

# MINUTES

---

---

## 217-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Mr. Vincenzo Adragna, owner.

SUBJECT - Application June 24, 2003 - under Z.R. §72-21 to permit the proposed one story and cellar expansion, of an existing one story and cellar retail building, Use Group 6, located in an R5 zoning district, which is contrary to Z.R. §52-22.

PREMISES AFFECTED - 140/42 Pennsylvania Avenue, southeast corner of Liberty Avenue, Block 3703, Lot 21, Borough of Brooklyn.

### COMMUNITY BOARD #5BK

## 223-03-BZ

APPLICANT - C Anthony Mulrain c/o Greenberg Traurig, LLP, for Majority Baptist Church, owner; Ominpoint Communications, Inc., lessee.

SUBJECT - Application July 1, 2003 - under Z.R. §73-30 to permit the proposed installation of a wireless telecommunications facility, located in a C2-2 within an R3-2 zoning district, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 115-15 Farmers Boulevard, bounded by 115th Road and 115th Avenue, Block 11032, Lot 4, Borough of Queens.

### COMMUNITY BOARD #12

APPEARANCES - None.

**ACTION OF THE BOARD - Laid over to April 20, 2004, at 1:30 P.M., for postponed hearing.**

---

## 224-03-BZ

APPLICANT - C Anthony Mulrain c/o Greenberg Traurig, LLP, for Mal Pal Realty Corp., owner; Ominpoint Communications, Inc., lessee.

SUBJECT - Application July 1, 2003 - under Z.R. §73-30 to permit the proposed installation of a wireless telecommunications facility, located in an R3-2 zoning district, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 139-19 109th Avenue, bounded by 139th and 142nd Streets, Block 10068, Lots 210, 213, 214 and 215, Borough of Queens.

### COMMUNITY BOARD #12

APPEARANCES - None

**ACTION OF THE BOARD - Laid over to April 20, 2004, at 1:30 P.M., for postponed hearing.**

---

## 240-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Young Israel of

APPEARANCES -

For Applicant: Janice Cahalane.

### 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 30, 2004, at 1:30 P.M., for decision, hearing closed.**

---

Jamaica Estates, Inc., owner.

SUBJECT - Application July 10, 2003 - under Z.R. §72-21 to permit the proposed enlargement of an existing two story synagogue, Use Group 4, located in an R1-2 zoning district, which does not comply with the zoning requirements for floor area ratio, building height, side yards, rear yard, also the proposed addition of lot 39 to the existing building, is contrary to Z.R. §24-10, §24-111, §24-521, §24-35 and §24-36, and a previous variance granted under Cal. No. 815-85-BZ.

PREMISES AFFECTED - 83-10 and 83-16 188th Street, south side, between Midland Parkway and Radnor Road, Block 7263, Lots 35 and 39, Borough of Queens.

### COMMUNITY BOARD #8Q

APPEARANCES -

For Applicant: Jordan Most, Rabbi Hochberg, Sheldon Lobel and Councilmember David Weprin.

For Opposition: Leo Weinberger, Shirl Basehore, Dr. Clifford Feiner, Mariko Conway and Doreen Fusco.

**ACTION OF THE BOARD - Laid over to May 11, 2004, at 1:30 P.M., for continued hearing.**

---

## 258-03-BZ

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 -

For Applicant: Howard Goldman.

**ACTION OF THE BOARD - Laid over to April 13, 2004, at 1:30 P.M., for continued hearing.**

---

# MINUTES

---

**260-03-BZ**

APPLICANT - Law Offices of Howard Goldman, PLLC, for 376 East 94th Street, Realty LLC, owner.

SUBJECT - Application August 14, 2003 - under Z.R. §72-21 to permit the legalization of sixty (60) residential units, in an existing seven story building, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 20 Grand Avenue, between Flushing

**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 #10**

**APPEARANCES –**

**For Applicant: Stuart Klein.**

**ACTION OF THE BOARD - Laid over to April 20, 2004, at 1:30 P.M., for continued hearing.**

**302-03-BZ**

APPLICANT - Harold Weinberg, P.E., for Albert Gonter, owner.

SUBJECT - Application September 22, 2003 - under Z.R. §73-622 to permit the proposed erection of a rear enlargement to an existing one family dwelling, also an extension of the residential use into the attic, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio and rear yard, is contrary to Z.R. §23-141, §23-47 and §54-31.

PREMISES AFFECTED - 1212 East 23rd Street, west side, 100' south of Avenue "L", Block 7640, Lot 51, Borough of Brooklyn.

**COMMUNITY BOARD #14**

**APPEARANCES –**

**For Applicant: Howard Weinberg, Miriam Gonter and Albert Gonter.**

**ACTION OF THE BOARD - Laid over to April 20, 2004, at 1:30 P.M., for continued hearing.**

**307-03-BZ**

APPLICANT - Fried, Frank Harris, Shriver & Jacobson, by Adrienne W. Bernard, Esq., for Clatco Company, LLC, 543 Realty Co., LLC and Broadway 110 Developers, LLC, owners.

SUBJECT - Application October 2, 2003 - under Z.R. §72-21

and Park Avenues, Block 1877, Lot 35, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

**APPEARANCES –**

**For Applicant: Howard Goldman.**

**ACTION OF THE BOARD - Laid over to April 13, 2004, at 1:30 P.M., for continued hearing.**

**to permit the proposed construction of a 15-story residential building, Use Group 2, located in R-8 and C1-4 zoning districts, which does not comply with the zoning requirements for lot coverage, maximum building height, street walls and setback, and is contrary to Z.R. §35-24, §23-633 and §23-145. PREMISES AFFECTED - 543/45 West 110th Street, (aka Cathedral Parkway), and 2840/46 Broadway, northeast corner, Block 1882, Lots 1 and 6, Borough of Manhattan.**

**COMMUNITY BOARD #9M**

**APPEARANCES –**

**For Applicant: Steven Leikowitz, Paul Byard and Barbara Hokol.**

**For Opposition: Jonathan Schachter, Jeffery Chester, John Lipsett, Carol Kerb, Walter S., Carolyn Birden, Nathan Gebert, Brat Taylor, Danny Vega, Steven Goldschmidt and Daniel Katz.**

**ACTION OF THE BOARD - Laid over to March 30, 2004, at 1:30 P.M., for continued hearing.**

**309-03-BZ**

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 setback limit per table A, which is contrary to Z.R. §23-145 and 23-633.

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 -**

**For Applicant: Howard Zipser, Sean Basler and Abbas Shah.**

**For Opposition: Barry Mallin, Daniel Lane and Barbara Schlachet.**

**THE VOTE TO CLOSE HEARING -**

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and**

**Commissioner Chin.....5**

---

# MINUTES

---

Negative: .....0

**ACTION OF THE BOARD - Laid over to March 30, 2004, at 1:30 P.M., for decision, hearing closed.**

**386-03-BZ**

APPLICANT - Steven M. Sinacori/Stadtmauer Bailkin, for Jean E. Manas & Rebecca Haile, owners.

SUBJECT - Application December 12, 2003 - under Z.R. §72-21 to permit the proposed conversion of a vacant doctor's office in the basement of the building, to residential use, and to incorporate that space into the existing one-family residential use, Use Group 2, located in an R7B zoning district, which does not comply with the zoning requirements for rear yard, floor area and lot coverage, is contrary to Z.R. §23-145, §23-44 and §54-31.

PREMISES AFFECTED - 326 East 18th Street, south side, between First and Second Avenues, Block 923, Lot 50, Borough of Manhattan.

**COMMUNITY BOARD #6**

APPEARANCES -

For Applicant: Steven Sinacori and Michael Inovi.

**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 30, 2004, at 1:30 P.M., for decision, hearing closed.**

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 6:20 P.M.

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89. No. 12

March 18, 2004

---

### DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

PETER CALIENDO

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**

### CONTENTS

DOCKET .....	200
<b>CALENDAR</b> of April 13, 2004	
Morning .....	201
Afternoon .....	202

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, March 9, 2004**

Morning Calendar .....203

**Affecting Calendar Numbers:**

994-77-BZ	89-43/49 Doran Avenue, Queens
628-39-BZ	1531/41 Plimpton Avenue, Bronx
671-56-BZ	1249-1265 Sutter Avenue, Brooklyn
973-57-BZ	60-04 Metropolitan Avenue, Manhattan
1068-64-BZ	202-01 Northern Boulevard, Queens
198-66-BZ	300 East 74 <sup>th</sup> Street, Manhattan
400-70-BZ	134-07 Cross Bay Boulevard, Queens
62-83-BZ, Vol. II	696 Pacific Street, 529/39 & 549/59 Dean Street, Brooklyn
234-98-BZ	2600-2614 7 <sup>th</sup> Avenue, Manhattan
269-98-BZ	70 East 184 <sup>th</sup> Street, a/k/a 2363 Morris Avenue, Bronx
263-01-BZ	85-101 N. 3 <sup>rd</sup> Street, Brooklyn
279-01-BZ	2106-2130 McDonald Avenue, Brooklyn
32-02-BZ	176-182 Johnson Street, Brooklyn
193-03-BZ	824-834 Kent Avenue, Brooklyn
235-01-BZ	2009 Mermaid Avenue, Brooklyn
91-03-A	349 Broadway, a/k/a 93 Leonard Street, Manhattan
45-03-A thru 64-03-A	69/67/65/63/61/59/55/51/49/45/43/41/39/37/35/31/29 Hall Avenue, Staten Island

Afternoon Calendar.....207

**Affecting Calendar Numbers:**

360-02-BZ	130 North Fourth Street, Brooklyn
80-03-BZ	602 39 <sup>th</sup> Street, Brooklyn
243-03-BZ	2420 Amsterdam Avenue, Manhattan
289-03-BZ	440 Morgan Avenue, Brooklyn
333-03-BZ	371 Stockholm Street, Brooklyn
382-03-BZ	406 West 31 <sup>st</sup> Street, Manhattan
164-02-BZ	1913 Hobart Avenue, Bronx
222-02-BZ	2547 East 12 <sup>th</sup> Street, Brooklyn
82-03-BZ	51 North 8 <sup>th</sup> Street, a/k/a 91 Kent Avenue, Brooklyn
142-03-BZ	140-20 Farmers Boulevard, Queens
211-03-BZ	529-535 48 <sup>th</sup> Avenue, Queens
249-03-BZ	265 Bedford Avenue, Brooklyn
270-03-BZ	108-36/50 Queens Boulevard, Queens
288-03-BZ	109-17 Horace Harding Expressway, Queens
296-03-BZ	1619 Kings Highway, Brooklyn
303-03-BZ	433 Columbia Street, Brooklyn
306-03-BZ	192 Water Street, Brooklyn
340-03-BZ	408 Greenwich Street, Manhattan
354-03-BZ	209/15 East 51 <sup>st</sup> Street, Manhattan
5-04-BZ	595 Gerard Avenue, Bronx

---

# CONTENTS

---

**DISMISSAL CALENDAR.....220**

**Wednesday, March 10, 2004**

**Affecting Calendar Numbers:**

327-02-BZ	82 Union Street, Brooklyn
229-03-BZ	303 Crystal Avenue, Staten Island
295-03-BZ	860-862 Castle Hill Avenue and Hermany Avenue, Bronx
304-03-BZ	4299 Katonah Avenue, Bronx
343-03-BZ	90 Havemeyer Street, Brooklyn
722-68-BZ	388-392 Kings Highway, Brooklyn
16-99-BZ	1116 East 26 <sup>th</sup> Street, Brooklyn
147-02-BZ	201-06 Hillside Avenue, Queens
352-02-BZ	2801 Emmons Avenue, Brooklyn
156-03-BZ	135-35 Northern Boulevard, Queens
358-03-BZ	1651 52 <sup>nd</sup> Street, Brooklyn

**COMPLIANCE CALENDAR.....222**

**Wednesday, March 10, 2004**

**Affecting Calendar Numbers:**

55-91-BZ	96-10 Corona Avenue, Queens
705-81-BZ	1433/37 York Avenue, Manhattan
69-03-BZ	32/40 Bond Street, Manhattan

---

# DOCKETS

---

New Case Filed Up to March 9, 2004

---

**64-04-A** B.Q. 22 Hudson Walk,  
west side, 132.76' north of Breezy Point Boulevard, Block  
16350, Lot 400, Borough of Queens. Alt. #401748882.  
Proposed enlargement to an existing one family dwelling,  
not fronting on a legally mapped street, and has a private  
disposal system in the bed of a private service road, is  
contrary to Section 36, Article 3 of the General City Law,  
and Department of Buildings' policy.

---

**65-04-A** B.Q. 8 Beach 221<sup>st</sup>  
Street,  
south side, 127.34' east of Rockaway Point Boulevard,  
Block 16350, Lot 400, Borough of Queens. Alt.  
#401764621. 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.

---

**66-04-A** B.Q. 976 Bay  
side,  
southeast corner of Bayside Connection, Block 16350, Lot  
300, Borough of Queens. Alt. #401752386. Proposed  
enlargement to an existing one family dwelling, not fronting  
on a legally mapped street, and has a private disposal  
system in the bed of a mapped street, is contrary to  
Section 36, Article 3 of the General City Law and  
Department of Buildings' policy.

---

**67-04-A** B.Q. 20 Queens Walk,  
west side, 368.85' north of Breezy Point Boulevard, Block  
16350, Lot 400, Borough of Queens. Alt. #401748873.  
Proposed enlargement to an existing one family dwelling,  
not fronting on a legally mapped street, and has a private  
disposal system in the bed of a private service road, is  
contrary to Section 36, Article 3 of the General City Law,  
and Department of Buildings' policy.

---

**68-04-A** B.S.I. 96 Driggs  
Street,  
Block 5275, Tentative Lot 10, Borough of Staten Island.  
N.B.# 500664453. Proposed erection of a two family  
dwelling, located within the bed of a mapped street, is  
contrary to Section 35, Article 3 of the General City Law.

---

**69-04-A** B.S.I. 23 Lillian Place,  
Block 5275, Tentative Lot 11, Borough of Staten Island.  
N.B. #500664444. Proposed erection of a two family  
dwelling, located within the bed of a mapped street, is  
contrary to Section 35, Article 3 of the General City Law.

---

**70-04-BZ** B.Q. 69-91 75<sup>th</sup>  
Street,  
a/k/a 75-13 71<sup>st</sup> Avenue, northeast corner, Block 3794, Lot  
77, Borough of Queens. Alt.#401719556. The  
legalization of a change in occupancy from a "factory and  
storage" building, to a physical culture establishment,  
located in an M1-1 zoning district, requires a special  
permit from the Board as per §73-36.

**COMMUNITY BOARD #5Q**

---

**71-04-BZ** B.BK. 720 East 86<sup>th</sup>  
Street,  
between Glenwood Road and Flatlands Avenue, Block  
8006, Lot 47, Borough of Brooklyn. Applic. #301498216.  
Proposed construction of a three family residence, Use  
Group 2, located in an R5 zoning district, which does not  
comply with the zoning requirements for floor area ratio  
and side yard, is contrary to Z.R. §23-141(b) and §23-  
462(a).

**COMMUNITY BOARD #18BK**

---

**72-04-BZ** B.Q. 141-54 Northern Boulevard,  
southwest corner of Parsons Boulevard, Block 5012, Lot  
45, Borough of Queens. Alt.1 #401827564. The  
reestablishment of an expired variance, previously granted  
by the Board under Calendar Number 436-59-BZ, which  
permitted the erection and maintenance of a gasoline  
service station with accessory uses, in an R6/C1-2 and R6  
zoning district.

**COMMUNITY BOARD #7Q**

---

**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 13, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, April 13, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## SPECIAL ORDER CALENDAR

### **735-59-BZ**

APPLICANT - Walter T. Gorman, P.E., for 902 Soundview Realty LLC, owner; Palisades Fuel, lessee.

SUBJECT - Application January 12, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired and for an amendment to the resolution.

PREMISES AFFECTED - 902 Soundview Avenue northeast corner of Story Avenue, Block 3662, Lots 1 and 59, Borough of The Bronx.

### **COMMUNITY BOARD #18**

---

### **85-91-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for Scott R. Benson, DVM, owner; Bayside Veterinary Center, lessee.

SUBJECT - Application January 9, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired July 21, 2002.

PREMISES AFFECTED - 204-18 46th Avenue, south side of 46th Avenue, 142.91' east of 204th Street, Block 7304, Lot 17, Borough of Queens.

### **COMMUNITY BOARD #11**

---

### **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 34<sup>th</sup> Avenue, Block 4994, Lot 24, Borough of Queens.

140-28 34<sup>th</sup> Avenue, Block 4994, Lot 224, Borough of Queens.

140-28A 34<sup>th</sup> Avenue, Block 4994, Lot 224, Borough of Queens.

140-30 34<sup>th</sup> Avenue, Block 4994, Lot 125, Borough of Queens.

309 Hamden Avenue, north side, 130' east of Boundary Avenue, Block 3687, Lot 8, Borough of Staten Island.

### **COMMUNITY BOARD #2**

---

140-30A 34<sup>th</sup> Avenue, Block 4994, Lot 225, Borough of Queens.

140-32 34<sup>th</sup> Avenue, Block 4994, Lot 126, Borough of Queens.

140-32A 34<sup>th</sup> Avenue, Block 4994, Lot 27, Borough of Queens.

140-34 34<sup>th</sup> Avenue, Block 4994, Lot 127, Borough of Queens.

140-34A 34<sup>th</sup> Avenue, Block 4994, Lot 227, Borough of Queens.

140-36 34<sup>th</sup> Avenue, Block 4994, Lot 327, Borough of Queens.

### **COMMUNITY BOARD #11**

---

**APRIL 13, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, April 13, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## ZONING CALENDAR

### **300-03-BZ**

APPLICANT - Slater & Beckerman, for TC Interprises, LLC, owner.

SUBJECT - Application September 18, 2003 - under Z.R. §72-21 to permit the proposed construction of a six (6) story residential building, Use Group 2, located in an M1-2 zoning district which is contrary to Z.R. §42-10.

PREMISES AFFECTED - 326 East 126th Street, south side, between First and Second Avenues, Block 1802, Lot 36, Borough of Manhattan.

### **COMMUNITY BOARD #11M**

---

### **325-03-BZ & 326-03-BZ**

APPLICANT - Walter T. Gorman, for LT Land Development Corp., owner.

SUBJECT - Application October 21, 2003 - under Z.R. §§72-11 & 72-21 to permit the proposed construction of a one family dwelling, Use Group 2, located in an R3-2 zoning district, which does not comply with the zoning requirement for front yard, is contrary to Z.R. §23-45.

PREMISES AFFECTED -

307 Hamden Avenue, north side, 90' east of Boundary Avenue, Block 3687, Lot 6, Borough of Staten Island.

### **347-03-BZ**

APPLICANT - Eric Palatnik, P.C., for Shaul and Sara Taub, owners.

---

# MINUTES

---

SUBJECT - Application November 14, 2003 - under Z.R. § 73-622 to permit the 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 ratio and open space ratio, is contrary to Z.R. §23-141(a).

PREMISES AFFECTED - 2611 Avenue "N", between East 26th and East 27th Streets, Block 7662, Lot 5, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

---

### **362-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Reiss Realty Corp., owner.

SUBJECT - Application November 20, 2003 - under Z.R. §11-411 to permit the continued use of the premises for private parking, accessory to commercial use, and for storage accessory to commercial use, changed from previously approved storage of combustible chemical solvents, is contrary to a previously Cal. No. 1071-40-BZ Vol.II and Z.R. §22-00.

PREMISES AFFECTED - 428 West 45th Street, between Ninth and Tenth Avenues, Block 1054, Part of Lot 48, Borough of Manhattan.

**COMMUNITY BOARD #4**

---

### **365-03-BZ**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Avi Mansher, owner.

SUBJECT - Application November 25, 2004 - under Z.R. §72-21 to permit the construction of a two story, two family dwelling, Use Group 2, which does not provide the required side yard which is contrary to Z.R. §23-462.

PREMISES AFFECTED - 224-20 Prospect Court, a/k/a 225th Street, northwest corner, Block 13071, Lot 74, Borough of Queens.

**COMMUNITY BOARD #13Q**

---

### **371-03-BZ & 372-03-BZ**

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for 655 Properties, LLC, owner; Cornelia Fifth Avenue LLC, lessee.

SUBJECT - Application December 2, 2003 - under Z.R. §73-36 to permit the legalization of the eighth floor, and the roof, of an existing eight story building, for use as a physical culture establishment, located in a C5-3(MiD) zoning district, is contrary to Z.R. §32-10.

PREMISES AFFECTED -

655 Fifth Avenue, southwest corner, block bounded by Fifth and Madison Avenues, and East 52nd and East 53rd Streets, Block 1288, Lot 1, Borough of Manhattan.

663 Fifth Avenue, southwest corner, block bounded by Fifth and Madison Avenues, and East 52nd and East 53rd Streets, Block

1288, Lot 3, Borough of Manhattan.

**COMMUNITY BOARD #5M**

---

### **7-04-BZ**

APPLICANT - Lawrence Whiteside dba Construction/Codes Consultants, for Rev. Dr. Sheldon E. Williams/Coop City Baptist Church, owner.

SUBJECT - Application January 9, 2004 - under Z.R. §72-21 to permit the proposed construction of a Church/Community Outreach Center, Use Group 4, located in an R3-2 zoning district, which does not comply with the zoning requirements for open space ratio, floor area ratio, height and setback, and encroaches onto the front and side yards, is contrary to Z.R. §24-11, §24-34, §24-35 and §24-521.

PREMISES AFFECTED - 2208 Boller Avenue, property fronting on Boller and Hunter Avenues and Erskine Place, Block 5135, Lot 1, Borough of The Bronx.

**COMMUNITY BOARD #10X**

---

*Pasquale Pacifico, Executive Director*

---

# MINUTES

---

**REGULAR MEETING  
TUESDAY MORNING, MARCH 9, 2004  
10:00 A.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliend, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, January 13, 2003, were approved as printed in the Bulletin of January 22, 2004, Volume 89, No. 4.

---

## SPECIAL ORDER CALENDAR

### 994-77-BZ

APPLICANT - Joseph P. Morsellino, for Rutledge Apartments, owner; DNS Automotive Inc., lessee.

SUBJECT - Application June 12, 2003 - reopening for an extension of term of variance which expired May 23, 2003.

PREMISES AFFECTED - 89-43/49 Doran Avenue, northside of Woodhaven Boulevard, Block 3872, Lot 49, Borough of Queens.

### COMMUNITY BOARD #5Q

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD - Application reopened, and term of variance extended.**

**THE VOTE TO GRANT -**

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliend, Commissioner Miele and Commissioner Chin.....5**

**Negative:.....0**

**THE RESOLUTION -**

**WHEREAS, a public hearing was held on this application on September 9, 2003 after due notice by publication in *The City Record*, and laid over to November 18, 2003, January 6, 2004, February 10, 2004 and then to March 9, 2004 for decision; and**

**WHEREAS, the applicant requests an extension of the term of the granted variance, which expired on May 23, 2003; and**

**WHEREAS, on May 23, 1976, the Board granted an application for a variance made pursuant to Z.R. §§72-01 and 72-22, permitting the maintenance of an accessory residential garage as an accessory storage facility for an adjoining retail store, located partially within a C2-2 zoning district and partially within an R4 zoning district; and**

**WHEREAS, on October 7, 1997, the Board granted an amendment to the variance to legalize the machine shop on the premises.**

**Resolved, that the Board of Standards and Appeals, reopens and amends the resolution, and extends the term of the variance which expired on May 23, 2003, pursuant to Z.R.**

### 671-56-BZ

APPLICANT - Walter T. Gorman, P.E., for Benjamin Siegel Properties, LLC, owner; Euclid Enterprises, Inc., lessee.

SUBJECT - Application December 5, 2003 - request for a waiver of

§§72-01 and 72-22, 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 May 23, 2003 expiring on May 23, 2013; *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 24, 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 the above conditions and all conditions from prior resolutions under the subject calendar number shall appear on the certificate of occupancy;**

**THAT the open parking layout in the accessory garage for the residential buildings will be as approved by the Department of Buildings;**

**THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;**

**THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."**

**(DOB # 401604910)**

**Adopted by the Board of Standards and Appeals, March 9, 2004.**

---

### 628-39-BZ

APPLICANT - Rothkrug, Rothkrug Weinberg & Spector, for R-9-2 Inc., owner; D2 Developers Inc., lessee.

SUBJECT - Application October 10, 2003 - reopening for an extension of term of variance which expired December 12, 2003.

PREMISES AFFECTED - 1531/41 Plimpton Avenue, northwest corner of Plimpton Avenue and Featherbed Lane, Block 2875, Lots 51 and 56, Borough of The Bronx.

### COMMUNITY BOARD #5BX

APPEARANCES -

For Applicant: Simon H. Rothkrug.

**THE VOTE TO CLOSE HEARING -**

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliend, Commissioner Miele and Commissioner Chin.....5**

**Negative:.....0**

**ACTION OF THE BOARD - Laid over to March 23, 2004, at 10 A.M., for decision, hearing closed.**

---

the Rules of Practice and Procedure, reopening for an extension of term of variance which expired September 14, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 1249-1265 Sutter Avenue, northside

---

# MINUTES

---

blockfront from Euclid Avenue to Doscher Street, Block 4249, Lots 55 and 59, Borough of Brooklyn.

**COMMUNITY BOARD #5BK**

APPEARANCES -

For Applicant: John Ronan.

For Opposition: James Tillman.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 10 A.M., for continued hearing.

---

**973-57-BZ**

APPLICANT - Sheldon Lobel, P.C., for Bill Wolf Petroleum Corp., owner.

SUBJECT - Application October 16, 2003 - reopening for an extension of term of variance which expired October 28, 2003.

PREMISES AFFECTED - 60-04 Metropolitan Avenue on the southwest corner of 60th Street, Block 3492, Lot 45, Borough of Manhattan.

**COMMUNITY BOARD #5M**

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**

**ACTION OF THE BOARD** - Laid over to March 30, 2004, at 10 A.M., for decision, hearing closed.

---

**1068-64-BZ**

APPLICANT - Alfonse Duarte, P.E., for NWRE 202 Corp., owner; Xiaomeng Li, lessee.

SUBJECT - Application November 13, 2003 - request for a rehearing.

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, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5**

**Negative:.....0**

**ACTION OF THE BOARD** - Laid over without date, 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.

**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 74<sup>th</sup> Street, southeast corner of 2<sup>nd</sup> Avenue and East 74<sup>th</sup> Street, Block 1448, Lot 3, Borough of Manhattan.

**COMMUNITY BOARD #8M**

APPEARANCES -

For Applicant: Eric Palatnik, Bill Mamian and Khalid Mohammad.

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 10 A.M., for continued hearing.

---

**400-70-BZ**

APPLICANT - Sheldon Lobel, P.C., for Amerada Hess Corporation, owner.

SUBJECT - Application November 7, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 134-07 Cross Bay Boulevard (formerly 134-15 Croo Bay Boulevard) Cross Bay Boulevard at northeast corner of Linden Boulevard, Block 11493, Lots 79 and 87, Borough of Queens.

**COMMUNITY BOARD #10Q**

APPEARANCES -

For Applicant: Janice Cahalane.

**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 30, 2004, at 10 A.M., for decision, hearing closed.

---

**62-83-BZ, Vol. II**

APPLICANT - New York City Board of Standards and Appeals. OWNER OF PREMISES: Shaya B. Pacific, LLC.

SUBJECT - Reopening for possible rescindment.

PREMISES AFFECTED - 696 Pacific Street, 529/39 Dean Street and 549/59 Dean Street, Block 1128, Lots 16, 18, 37, 65, 68, 70, Borough of Brooklyn.

**COMMUNITY BOARD #8BK**

APPEARANCES -

For Applicant: Chris Wright.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 10 A.M., for continued hearing.

---

Boulevard, a/k/a 2600-2614 7<sup>th</sup> Avenue, west side of Adam Clayton Powell Jr. Boulevard, blockfront from W. 150<sup>th</sup> Street to W. 151<sup>st</sup> Street, Block 2036, Lot 29, Borough of Manhattan.

**COMMUNITY BOARD #10M**

APPEARANCES -

For Applicant: John Ronan.

**ACTION OF THE BOARD** - Laid over to April 27, 2004,

---

# MINUTES

---

at 10 A.M., for continued hearing.

---

## 269-98-BZ

APPLICANT - Mothiur Rahman, for Mothiur Rahman, owner.  
SUBJECT - Application December 9, 2003 - reopening for an extension of time to obtain a Certificate of Occupancy.  
PREMISES AFFECTED - 70 East 184<sup>th</sup> Street, a/k/a 2363 Morris Avenue, south side of East of East 184<sup>th</sup> Street, corner formed by the intersection of Morris Avenue, Block 3183, Lot 42, Borough of The Bronx.

## COMMUNITY BOARD #5BX

APPEARANCES -

For Applicant: Mothiur Rahman.

**ACTION OF THE BOARD** - Laid over to March 20, 2004, at 10 A.M., for continued hearing.

---

## 263-01-BZ

APPLICANT - Francis R. Angelino, Esq., for Lee & Wythe Realty Corp., owner; 85-101 North Third Street Associates, Inc., Lessee.  
SUBJECT - Application January 7, 2004 - reopening for an extension of time to obtain a Certificate of Occupancy which expired on January 7, 2003.

PREMISES AFFECTED - 85-101 N. 3<sup>rd</sup> Street, northeast corner of intersection of North 3<sup>rd</sup> Street and Whythe Avenue, Block 2350, Lot 1, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Francis R. Angelino.

**ACTION OF THE BOARD** - Laid over to March 30, 2004, at 10 A.M., for continued hearing.

---

## 279-01-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Magen David Yeshivah, owner.

SUBJECT - Application December 8, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 2106-2130 McDonald Avenue, through lot with frontage on Lake Street and McDonald Avenue, between Avenue S & T, Block 7087, Lots 14, 22, 24, 73, 76, Borough of Brooklyn.

## 235-01-BZ

APPLICANT - Rothkrug & Rothkrug for Mermaid Commons, LLC, owner; Coney Island Memorial Chapel, Inc., lessee.

SUBJECT - Application July 10, 2001 - reopening for a rehearing for reconsideration.

PREMISES AFFECTED - 2009 Mermaid Avenue, a/k/a 2879 West 21<sup>st</sup> Street, a/k/a 2882 West 20<sup>th</sup> Street, northwest corner of West 20<sup>th</sup> Street and Mermaid Avenue, Block 7018, Lot 42 (Tentatively), Borough of Brooklyn.

## COMMUNITY BOARD #13BK

## COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Barbara Hair.

**ACTION OF THE BOARD** - Laid over to April 13, 2004, at 10 A.M., for continued hearing.

---

## 32-02-BZ

APPLICANT - Martyn & Don Weston, for Winchester Realty Group, LLC, owner.

SUBJECT - Application December 12, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 176-182 Johnson Street, southwest corner of 92-102 Prince Street, Block 2049, Lot 15, Borough of Brooklyn.

## COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Don Weston.

**ACTION OF THE BOARD** - Laid over to March 30, 2004, at 10 A.M., for continued hearing.

---

## 193-03-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Park and Kent Associates, Inc.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 824-834 Kent Avenue, south side of Park Avenue, east of Taafee Place, Block 1897, Lot 31, Borough of Brooklyn.

## COMMUNITY BOARD #3BK

APPEARANCES -

For Favor: Jim Plotkin.

**ACTION OF THE BOARD** - Laid over to March 30, 2004, at 10 A.M., for continued hearing.

---

APPEARANCES

For Applicant: Simon Rothkrug.

**ACTION OF THE BOARD** - Technical amendment, see corrected resolution.

---

## 91-03-A

APPLICANT - Paul Gregory, R.A., for 349 Broadway Group LP, owner.

SUBJECT - Application March 21, 2003 - Proposed increase in the

---

# MINUTES

---

number of loft dwelling units in an existing nine story mixed use building, must comply with Local Law 10/99 regarding sprinklers.  
PREMISES AFFECTED - 349 Broadway, a/k/a 93 Leonard Street, northwest corner, Block 174, Lot 37, Borough of Manhattan.

**COMMUNITY BOARD #1M**

APPEARANCES -

For Opposition: John Yacovone, Fire Department.

For Administration: Janine A. Gaylard, Department of Buildings.

**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, March 9, 2004.

\_\_\_\_\_

**45-03-A thru 64-03-A**

APPLICANT - Robert E. Englert, A.I.A., for Sleepy Hollow Development Corp., owner.

35 Hall Avenue, north side, 200.62' west of Willowbrook Road, Block 2091, Lot 66, Borough of Staten Island.

31 Hall Avenue, north side, 267.12' west of Willowbrook Road, Block 2091, Lot 65, Borough of Staten Island.

29 Hall Avenue, north side, 143.62' west of Willowbrook Road, Block 2091, Lot 63, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

APPEARANCES -

For Applicant: Robert E. Englert.

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 10 A.M., for continued hearing.

\_\_\_\_\_

*Pasquale Pacifico, Executive Director.*

Adjourned: 11:30 A.M.

**REGULAR MEETING  
TUESDAY AFTERNOON, MARCH 9, 2004**

SUBJECT - Application February 10, 2003 - Proposed two family attached frame building, not fronting on a legally mapped street, and located within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED -

69 Hall Avenue, north side, 595.62' west of Willowbrook Road, Block 2091, Lot 85, Borough of Staten Island.

67 Hall Avenue, north side, 570.62' west of Willowbrook Road, Block 2091, Lot 80, Borough of Staten Island.

65 Hall Avenue, north side, 545.62' west of Willowbrook Road, Block 2091, Lot 79, Borough of Staten Island.

63 Hall Avenue, north side, 520.62' west of Willowbrook Road, Block 2091, Lot 78, Borough of Staten Island.

61 Hall Avenue, north side, 495.62' west of Willowbrook Road, Block 2091, Lot 77, Borough of Staten Island.

59 Hall Avenue, north side, 465.62' west of Willowbrook Road, Block 2091, Lot 76, Borough of Staten Island.

55 Hall Avenue, north side, 435.62' west of Willowbrook Road, Block 2091, Lot 75, Borough of Staten Island.

53 Hall Avenue, north side, 410.62' west of Willowbrook Road, Block 2091, Lot 74, Borough of Staten Island.

51 Hall Avenue, north side, 385.62' west of Willowbrook Road, Block 2091, Lot 73, Borough of Staten Island.

49 Hall Avenue, north side, 355.62' west of Willowbrook Road, Block 2091, Lot 72, Borough of Staten Island.

45 Hall Avenue, north side, 325.62' west of Willowbrook Road, Block 2091, Lot 71, Borough of Staten Island.

43 Hall Avenue, north side, 300.62' west of Willowbrook Road, Block 2091, Lot 70, Borough of Staten Island.

41 Hall Avenue, north side, 275.62' west of Willowbrook Road, Block 2091, Lot 69, Borough of Staten Island.

39 Hall Avenue, north side, 250.62' west of Willowbrook Road, Block 2091, Lot 68, Borough of Staten Island.

37 Hall Avenue, north side, 225.62' west of Willowbrook Road, Block 2091, Lot 67, Borough of Staten Island.

**2:00 P.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

**ZONING CALENDAR**

**360-02-BZ**

**CEQR #03-BSA-100K**

APPLICANT - Law offices of Howard Goldman, PLLC, for S & Y Enterprises, LLC, owner.

SUBJECT - Application December 13, 2002 - under Z.R. §72-21 to permit the proposed conversion and enlargement of an existing warehouse, into a residential building with 83 units and 41 parking spaces, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 130 North Fourth Street, between Berry Street and Bedford Avenue, Block 2351, Lot 6, Borough of Brooklyn.

---

# MINUTES

---

## COMMUNITY BOARD #1BK

### APPEARANCES -

For Applicant: Chris Wright.

### 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 14, 2002, acting on Application No. 301395078, reads:

“Proposed conversion of the building into residential dwellings is not permitted in a manufacturing district as per Section 42-00 of the Zoning Resolution.”; and

WHEREAS, a public hearing was held on this application on June 17, 2003 after due notice by publication in *The City Record*, with continued hearings on August 5, 2003, September 30, 2003, October 21, 2003, and October 28, 2003; with a deferred decision date on November 18, 2003; the hearing was continued on December 16, 2003, February 3, 2004 and February 24, 2004; and then to March 9, 2004 for decision; and

WHEREAS, the site 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 the conversion and enlargement of an existing vacant one-story with mezzanine warehouse into a three-story residential building (two full stories and one partial) with 53 units and 31 parking spaces, and 64,000 square feet of total

WHEREAS, the applicant asserts that the building has a deficient amount of loading docks, and that one of the loading docks is obsolete and possesses inadequate capacity for modern manufacturing concerns; and

WHEREAS, the Board finds that the aforementioned unique physical conditions create an unnecessary hardship in developing the site in conformity with the current zoning regulations; and

WHEREAS, evidence in the record, including a feasibility study, demonstrates that developing the site with a conforming development would not yield a reasonable return; and

WHEREAS, the applicant states that the area is mixed-use, containing residential, manufacturing and commercial uses, and that the subject site borders residential neighborhoods on the south, and is directly across the street from a row of multiple dwellings; and

WHEREAS, the applicant will provide a courtyard in the building that will provide sufficient light and air to the prospective tenants; and

WHEREAS, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties nor be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that the variance is the

floor area, within a M1-2 zoning district, which is contrary to Z.R. §42-00; and

WHEREAS, the applicant originally proposed a building with 83 dwelling units and 41 parking spaces, and requested a bulk variance to two full floors to the existing building, for a total floor area of 87,312 square feet; and

WHEREAS, in response to concerns expressed by the Board as to the requested bulk variance, the applicant modified the proposal over the course of the public hearing process; the scope of the conversion is now limited primarily to the envelope of the existing building; the conversion entails the creation of a second floor within the existing building, and the enlargement is limited to a penthouse floor set back, thus minimizing the impact on the context of the street; and the Floor Area Ratio of the conversion does not exceed what is permitted in an M1-2 zoning district; and

WHEREAS, the subject zoning lot is 32,000 square feet, situated on North 4<sup>th</sup> Street, between Berry Street and Bedford Avenue, and is entirely within the Bedford North Third Street Urban Renewal Area; and

WHEREAS, by letter dated October 17, 2003, the applicant states that it will pursue approval of an Urban Renewal Plan amendment, as well as a land disposition action, with the NYC Department of Housing and Preservation, in order to permit the residential use of the subject premises; and

WHEREAS, the applicant represents that the subject zoning lot has an irregular L-shaped configuration that creates irregular floor plates between the Berry Street and Bedford Avenue sides of the buildings; and

minimum variance 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; 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 objection cited above, to permit the conversion and enlargement of an existing vacant one-story with mezzanine warehouse into a three-story residential building (two full stories and one partial) with 53 units and 31 parking spaces, and 64,000 square feet of total floor area, within a M1-2 zoning district, which is contrary to Z.R. §42-00, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received February 10, 2004”- (12) sheets, and “Received

---

# MINUTES

---

March 2, 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 any retail uses at the premises will comply with Local Law 10/87 and the Americans with Disabilities Act;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT, prior to obtaining a building permit from the Department of Buildings, the applicant will obtain approval from the NYC Department of Housing and Preservation for an amendment to the Bedford North Third Street Urban Renewal Plan and approval of a land disposition;

THAT the premises shall comply with all applicable fire safety measures;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure 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 June 11, 2002 and updated February 4, 2003, acting on Department of Buildings Application No. 301361130, reads: "Proposed residential use/community facility-school are not permitted in M1-2 zone as per Zoning Resolution section 42-00"; and

WHEREAS, a public hearing was held on this application on October 7, 2003 after due notice by publication in the City Record; with continued hearings on November 18, 2003, December 16, 2003, January 13, 2004, February 10, 2004, and February 24, 2004; and then to decision on March 9, 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. §72-21, to permit the proposed construction of one 3-story with cellar multiple dwelling, with 36 dwelling units and 35,154 square feet of floor area, located within an M1-2 zoning district, which is contrary to Z.R. §42-00; and

WHEREAS, the applicant notes that the original proposal before the Board was for the construction of two multiple

compliance 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 9, 2004.

80-03-BZ

CEQR #03-BSA-146X

APPLICANT - Fredrick A. Becker, Esq., for C & L Pioneer Enterprises LLC, owner.

SUBJECT - Application March 4, 2003 - under Z.R. §72-21 to permit the proposed construction of two multi-story multiple dwellings, also the use of a community facility (school), in one of the buildings, Use Groups 2 and 4, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 602 39<sup>th</sup> Street, southeast corner of Sixth Avenue, Block 914, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD - Application granted on condition.

dwellings, one with four stories and one with six stories, with a total 56 dwelling units and 59,000 square feet of floor area; one of the dwellings also would have contained a community facility use; but that over the course of the public hearing process, due to Board and community concerns and developer decisions, the scope of the project has been reduced; and

WHEREAS, the subject premises is situated on the southeast corner of 39<sup>th</sup> Street and 6<sup>th</sup> Avenue, has a total lot area of 22,500 square feet, is mapped within an M1-2 zoning district, and is currently occupied by a gasoline service station no longer in use, with garages for approximately 41 automobiles; and

WHEREAS, the applicant states that the existing gas station use was discontinued because it could not operate profitably; and

WHEREAS, the applicant represents that the proposal also includes on-site parking for 18 vehicles; 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 configuration of the site for gas station use makes conversion of the lot to a conforming use impractical given that there is no existing structure for other uses to occupy; and the costs involved with tank removal; and

WHEREAS, the Board notes that the lot has been historically developed as a gas station, and there are no existing buildings on the lot suitable for a conforming use to

---

# MINUTES

---

occupy; and

WHEREAS, the Board finds that the unique conditions mentioned above, namely, the increased costs of development due to tank removal and the historical development of the subject lot as a gas station, when considered in the aggregate, create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; 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 the immediate area has a significant amount of residential uses, including the majority of structures located on the southerly side of the 39<sup>th</sup> Street block front between 6<sup>th</sup> and 7<sup>th</sup> Avenue, to the east of the subject premises; and

WHEREAS, the applicant further states that the façade

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement. *Resolved, that the Board find that the applicant has not demonstrated a negative impact to the objection cited, to permit the proposed construction of one 3-story with cellar multiple dwelling, with 36 dwelling units, located within an M1-2 zoning district, which is contrary to Z.R. '42-00; 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 February 11, 2004" -(8) sheets and "Received March 2, 2004"-(7) sheets and on further condition:*

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT the premises shall comply with all applicable fire safety measures;

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

Adopted by the Board of Standards and Appeals, March 9, 2004.

and height of the building have been designed to be contextual with the adjacent and nearby structures; and

WHEREAS, the Board notes that in the immediate vicinity of the site there are three and four story buildings; and

WHEREAS, based on the above, the Board finds 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

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

243-03-BZ  
CEQR #04-BSA-013M

THE BOARD OF STANDARDS AND APPEALS ISSUES A NEGATIVE DECLARATION

owner.  
SUBJECT - Application July 16, 2003 - under Z.R. §11-412 to permit the reestablishment of a previous variance granted by the Board, Under Cal. No. 8-78-BZ, which permitted a gasoline service station with accessory uses, Use Group 16, on a site that is divided by an R7-2 and C8-3 district boundary, also the conversion of a portion of the building to an accessory convenient store, is contrary to Z.R. §22-10.

PREMISES AFFECTED - 2420 Amsterdam Avenue, between West 180<sup>th</sup> and West 181<sup>st</sup> Streets, Block 2152, Lots 77 and 83, Borough of Manhattan.

COMMUNITY BOARD #12M

APPEARANCES -

For Applicant: Janice Cahalane.

THE ACTION OF 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 Board of Standards and Appeals, acting on Department of Buildings Alt. 1 Application No. 103311925, reads:

“Proposed automotive service station with accessory convenience store in residential zone R7-2 is

---

# MINUTES

---

contrary to ZR Sec 22-10”; and

WHEREAS, a public hearing was held on this application on November 5, 2003 after due notice by publication in the *City Record*, laid over to November 25, 2003, January 6, 2004, January 27, 2004, and then to March 9, 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, on a site previously before the Board, to permit the reestablishment of a previously granted variance allowing a gasoline service station with accessory uses, and to permit the

WHEREAS, most recently, on January 16, 1990, under calendar number 8-78-BZ, the Board granted an application to waive the rules of practice and procedure and to reopen and amend the resolution to extend the term of the variance for ten (10) years from October 17, 1988; and

WHEREAS, the subject site is a 32,925 square foot through lot that fronts on Amsterdam Avenue and 181<sup>st</sup> Street, and is currently improved with a 5,752 square foot building containing an office, sales and attendant area, two service rooms, an employee locker room and bathrooms; and

WHEREAS, the most recent Certificate of Occupancy, issued on March 2, 1990, lists the use of the site as a “gasoline service station, lubricatorium, storage of more than five motor vehicles awaiting service on vacant portion of the premises, offices, storage, employees toilet and locker room”; and

WHEREAS, the applicant seeks to convert the office, sales and attendant area into a 1,098 square feet accessory convenience store; and

WHEREAS, the record indicates that the automotive service/repair/lubricatorium use has been continuous since 1936; 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 with accessory sales and lubricatorium 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 in the vicinity; 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

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

conversion of a portion of the existing building to an accessory convenience store, on a lot partially within an R7-2 zoning districts and partially within a C8-3 zoning district, which is contrary to Z.R. §22-10; and

WHEREAS, on July 2, 1935, under Calendar Number 556-26-BZ, the Board permitted the erection and maintenance of a gasoline service station for a term of 5 years, in a former business use district; and

WHEREAS, since the original grant in 1935, the Board has granted several extensions of term and amendments under calendar numbers 556-26-BZ, 240-38-BZ, 8-78-BZ, and 314-82-A; and

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, on a site previously before the Board, to permit in R7-2 and C8-3 zoning districts, the reestablishment of a variance granted by the board, permitting a gasoline service station with accessory uses, and to permit the conversion of a portion of the building to an accessory convenience store, which is contrary to Z.R. §22-10; *on condition* that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked “Received January 9, 2004” -(3) sheets and “July 16, 2003”-(4) sheets; and *on further condition*;

THAT the term of the variance shall be limited to ten (10) years from October 17, 1998, expiring on October 17, 2008;

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

---

# MINUTES

---

Certificate of Occupancy be obtained in accordance with Z.R. §73-70.

Adopted by the Board of Standards and Appeals, March 9, 2004.

**289-03-BZ**

**CEQR #04-BSA-040K**

APPLICANT - Sheldon Lobel, P.C., for Aldo Paronich, owner.  
SUBJECT - Application August 29, 2003 - under Z.R. §73-53 to  
**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 August 26, 2003, acting on Department of Buildings Application No. 301391802, reads:

“THE PROPOSED LEGALIZATION OF A BUILDING, THEREBY RESULTING IN AN F.A.R. GREATER THAN 1.0 IN AN M1-1 DISTRICT IS CONTRARY TO 43-12.”; and

WHEREAS, a public hearing was held on this application on December 9, 2003, laid over to January 27, 2003 and then to March 9, 2004 for decision; and

WHEREAS, on November 12, 2003, Community Board 1, Brooklyn, unanimously recommended approval of this application; and

WHEREAS, a special permit is sought under Z.R. §§73-03 and 73-53 to permit the legalization of an existing contractors establishment, Use Group 16, located in an M1-1 zoning district, which is currently overbuilt by approximately 21% of the permitted floor area ratio of 1.0, and is therefore contrary to Z.R. §43-12; and

WHEREAS, the subject zoning lot is located on the southeasterly corner of Morgan Street and Frost Street, is 5,000 square feet in area and is currently improved with a one story and mezzanine building with 6,057 of floor area, which is overbuilt by 1,057 square feet (21%); and

WHEREAS, the applicant, through testimony and submission of supporting documentation, has demonstrated that: the premises is not subject to termination pursuant to Z.R. §52-70; that the use for which the special permit is being sought has lawfully existed for more than 5 years; that the subject building has not received an enlargement pursuant to Z.R. §§11-412, 43-121 or 72-21; and that the subject use is listed in Use Group 16, not Use Group 18; and

WHEREAS, the Board notes that Z.R. §73-53(a)(5) is not applicable because the premises is located in an M1-1 zoning district; and

permit the legalization of an existing contractors establishment, Use Group 16, located in an M1-1 zoning district, which is currently overbuilt by approximately 21% of the permitted floor area ratio of 1.0, and is therefore contrary to Z.R. §43-12.

PREMISES AFFECTED - 440 Morgan Avenue, southeast corner of Frost Street, Block 2869, Lot 5, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Janice Cahalane.

WHEREAS, the requested proposal is for an extension that results in less than 45% of the floor area occupied by such use on December 17, 1987 and is less than a 2,500 square feet addition to the floor area occupied by such use on December 17, 1987, and does not exceed 10,000 square feet; and

WHEREAS, the applicant represents that the extension to be legalized is housed in an entirely enclosed building, and that the performance standards are inapplicable; and

WHEREAS, the applicant further states that there will be no open uses of any kind; and

WHEREAS, the applicant represents, and the Board agrees, that that the requirements set forth at Z.R. §73-53(b)(4),(5),(6),(7),(8), and (9) are either satisfied, or not applicable to the instant application; and

WHEREAS, the record indicates that the subject extension will not generate significant increases in vehicular or pedestrian traffic, nor cause congestion in the surrounding area, and that the adequate parking requirement is not applicable to the subject extension because the required parking would be seven (7) spaces which is less than the 15 and therefore may be waived pursuant to §44-23; and

WHEREAS, the Board notes that there are no required side yards; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, therefore, the Board determines that the evidence in the record supports the findings required to be made under Z.R. §73-53 and 73-03.

*Resolved* that the Board of Standards and Appeals issues a negative declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-53

---

# MINUTES

---

and 73-03 to permit the legalization of an existing contractors establishment, Use Group 16, located in an M1-1 zoning district, which is currently overbuilt by approximately 21% of the permitted floor area ratio of 1.0, and is therefore contrary to Z.R. §43-12, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked “Received August 29, 2003” -(3) sheets and “December 30, 2003”-(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;

THAT the Department of Buildings must ensure compliance 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 9, 2004.

---

## 333-03-BZ

### CEQR #04-BSA-068K

APPLICANT - Rampulla Associates, Architects, for Cobra Realty, Inc., owner; Wyckoff Heights Medical Center; lessee.

SUBJECT - Application October 29, 2003 - under Z.R. §72-21 to permit the reestablishment of a variance previously granted under BSA Calendar no. 18-77-BZ, which permitted a 40 car parking lot in an R6 zoning district.

PREMISES AFFECTED - 371 Stockholm Street, between Wyckoff and St. Nicholas Avenues, Block 3249, Lot 35, Borough of Brooklyn.

### COMMUNITY BOARD #4BK

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 October 2, 2003, acting on Department of Buildings Application No. 301571243, reads:

“Proposed public parking lot not permitted in an R-6 zoning district as per Zoning Resolutions section 22-11 to 22-14”; and

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT all applicable fire safety measure will be complied with;

THAT the above conditions shall appear on the certificate of occupancy;

WHEREAS, a public hearing was held on this application on February 10, 2004 after due notice by publication in the City Record, and then laid over to March 9, 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. §72-21, to permit the reestablishment of a variance previously granted under BSA Calendar no. 18-77-BZ, which permitted a 40 car parking lot in an R6 zoning district; and

WHEREAS, the applicant notes that the original grant was for a five year term, which expired in 1982, but that the parking lot use has continued since that date; and

WHEREAS, the subject premises is situated on Stockholm Street between Wyckoff Avenue and St. Nicholas Avenue, has a total lot area of 8,000 square feet, is located within an R6 zoning district, and is currently occupied by a parking lot with an accessory attendant’s booth; and

WHEREAS, the applicant states that the parking lot provides off street parking spaces for the Wyckoff Heights Medical Center (“WHMC”), a not for profit entity, located across the street from the subject premises; and

WHEREAS, the applicant also states that WHMC has experienced rapid growth and its parking needs have increased as a result; and

WHEREAS, the applicant claims that the subject lot is necessary to meet WHMC’s increased parking needs, especially in light of the on-street timed no-parking zones for trash pick up and street cleaning on streets surrounding WHMC, which lead to employees having to move their vehicles during the day, thereby increasing traffic and parking congestion, as well as interrupting WHMC’s outpatient service provision; and

WHEREAS, the applicant represents that the above programmatic concerns, when considered in conjunction with the on-street parking regulations, constitute unique physical conditions which create practical difficulties and unnecessary hardships in developing or using the subject lot in conformity with underlying district regulations; and

WHEREAS, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardships in developing or using the site in strict conformity with current zoning; and

---

# MINUTES

---

WHEREAS, the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the variance will be in furtherance of its programmatic needs; and

WHEREAS, the applicant states that the immediate area

WHEREAS, based on the above, the Board finds 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

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 objection cited, to permit the reestablishment of a variance previously granted under BSA Calendar no. 18-77-BZ, which permitted a 40 car parking lot in an R6 zoning district; *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 "October 29, 2003"-(1) sheet; and *on further condition*:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT the number of cars parked shall not exceed 40;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT the layout of the parking lot 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

contains other community facility uses near the subject site, and that the parking lot has been in existence for the past 26 years, and has become an integral part of the immediate vicinity without any adverse impacts; and 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 9, 2004.

382-03-BZ

CEQR #DASNY-03-1M

APPLICANT - Raymond H. Levin, Esq., for 406 Realty, LLC, owner; FIT Student Housing Corporation, lessee.

SUBJECT - Application December 8, 2003 - under Z.R. §72-21 to permit the proposed conversion of a fifteen-story with cellar and basement manufacturing loft building to Dormitory Use (UG 3A), which is contrary to Z.R. §42-12.

PREMISES AFFECTED - 406 West 31<sup>st</sup> Street, south side, between Ninth and Tenth Avenues, Block 728, Lot 42, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Jerry Johnson.

**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 7, 2003, acting on Department of Buildings Application No. 103586193, reads:

"The proposed conversion to a dormitory (Use Group 3A) in an M1-5 zoning district is contrary to ZR 42-12, not permitted."; and

WHEREAS, a public hearing was held on this application on February 10, 2004 after due notice by publication in the City Record, and then laid over to March 9, 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. §72-21, to permit the proposed conversion of a fifteen-story with cellar and basement manufacturing loft building to Dormitory Use (UG 3A), which is contrary to Z.R. §42-12; and

WHEREAS, the subject premises is situated on the south side of West 31<sup>st</sup> Street between Ninth and Tenth avenues and

---

# MINUTES

---

has a total lot area of 23,916 square feet, is located within an M1-5 zoning district, and is currently occupied by a fifteen story, partially occupied building with 299,334 square feet of floor area; and

WHEREAS, the applicant states that the premises was historically developed as a manufacturing loft building and contained various manufacturing and printing establishments, but now contains general office uses on only two out of the fifteen floors; and

WHEREAS, the applicant represents that the proposed converted building would be used by the Fashion Institute of Technology Student Housing Corporation (“FIT SHC”) as accommodations for approximately 1,200 students, with accessory services such as a fitness center and laundry facilities; and

WHEREAS, the building is in proximity to the Fashion Institute of Technology’s (“FIT”) primary campus on West 27<sup>th</sup> Street; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in using the building in conformity with underlying district regulations: the building’s large size; the irregular shape of the lot; the history of the building’s development and use; its location distant from mass transit and other local services, as well as its location in relation to an access road to the Lincoln Tunnel; and the building’s unfinished and non-upgraded interior space; and

WHEREAS, the applicant claims that the above conditions have led to difficulty in attracting conforming tenants and a significant vacancy rate within the building; and

WHEREAS, the applicant represents that FIT is faced with programmatic needs that are well-served by the proposed conversion of the building, namely: the proximity of the building to the FIT main campus allows easy access for the prospective student residents; the provision of over 1,100 beds doubles FIT’s inventory of available beds in one development project; the size of the building allows for the inclusion of accessory support services for the dormers; and the building’s dimensions and column spacing provide an ideal floor plate for conversion to a residence hall, maximizing the number of rooms possible and making for an efficient building; and

WHEREAS, the Board finds that the unique conditions mentioned above, when considered in the aggregate and in conjunction with the programmatic needs of FIT, create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning; and

WHEREAS, the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the proposed conversion will be in furtherance of its programmatic needs; and

WHEREAS, the applicant states that the immediate area is currently characterized by large institutional uses such as

WHEREAS, the applicant states that the subject lot is irregularly shaped, extending to a depth of between 10 feet on the east side of the lot and 85 feet on the west side; and

the US Postal Service and Pennsylvania Station, and is surrounded by access road to the Lincoln Tunnel; and

WHEREAS, the applicant further states that residential uses are located adjacent to the site along West 31<sup>st</sup> Street, and that a mixed-use district with various mixed-use developments exists east of Ninth Avenue; and

WHEREAS, the applicant represents that no negative impact is anticipated due to the proposed conversion; rather, the proposed conversion will provide a residential link between the residential uses west of the site with the mixed-use neighborhoods to the east, and, through the addition of the student residents, provide life and activity on a typically empty street; and

WHEREAS, the applicant represents that a synopsis of all fire safety measures applicable to the proposed dormitory use will be incorporated into the plans for the proposed building; and

WHEREAS, in response to the concerns of Community Board 4 regarding noise and air quality impacts from the Lincoln Tunnel on the project, the applicant states that: no impact is anticipated and that the project has received a Negative Declaration pursuant to the CEQR regulations; that the project incorporates window and wall attenuation measures; and alternate means of ventilation will be provided in the building; and

WHEREAS, in response to the concerns of Community Board 4 regarding development of the adjacent lot and potential impact on light and air for the proposed dormitory, that applicant states that: a 22 feet light and air easement has been entered into by FIT SHC and the Port Authority for the adjacent lot, which will provide for legal light and air for the subject lot should the adjacent lot be developed; said easement has not been finally approved by the Board of the Port Authority, but the grant herein shall be conditioned upon such approval and submission of the approved easement to the BSA; and

WHEREAS, in response to the concerns of Community Board 4 regarding pedestrian and traffic safety, the applicant states that: FIT has agreed to work with the Community Board on pedestrian safety issues for the surrounding area; and

WHEREAS, based on the above, the Board finds 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

---

# MINUTES

---

WHEREAS, this proposal is the minimum necessary to  
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 adopts the Negative Declaration issued by the Dormitory Authority of the State of New York and makes each and every one of the required findings under Z.R. §72-21, and grants a variation in the application of the Zoning Resolution, limited to the objection cited, to permit the proposed conversion of a fifteen-story with cellar and basement manufacturing loft building to Dormitory Use (UG 3A), which is contrary to Z.R. §42-12; *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 "March 1, 2004"- (12) sheets; and *on further condition*:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT the applicant will submit to the Board within six (6) months from the date of this grant an authorized and executed 22 foot easement between FIT SHC and the Port Authority, providing light and air to the subject lot should the adjacent lot be developed;

THAT the premises shall comply with all applicable fire safety measures;

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

## 82-03-BZ

APPLICANT - Sullivan Chester & Gardner LLP, for Diamond

afford the owner relief; and  
9, 2004.

## 164-02-BZ

APPLICANT - Stuart A. Klein, Esq, for Marian Begley, owner.  
SUBJECT - Application May 23, 2002 - under Z.R. §72-21 to permit the legalization of an enlargement to an existing two family dwelling, which does not comply with the zoning requirements for side yards, is contrary to Z.R. §23-48(b), §23-48 and §23-461(a).  
PREMISES AFFECTED - 1913 Hobart Avenue, west side, bounded by St. Theresa Avenue to the south and Wilkinson Avenue to the north, Block 4234, Lot 58, Borough of The Bronx.

### COMMUNITY BOARD #10BX

APPEARANCES -

For Applicant: Richard Budd.

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 20, 2004, at 1:30 P.M., for decision, hearing closed.

## 222-02-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Eugene & Francine Simonetti, owner.  
SUBJECT - Application August 5, 2002 - under Z.R. §72-21 to permit the proposed nine family residential development, Use Group 2, located in an R4 zoning district, which exceeds the permitted floor area and number of dwelling units, and provide less than the required parking, which is contrary to Z.R. §23-141b, §23-22 and §25-23.  
PREMISES AFFECTED - 2547 East 12<sup>th</sup> Street, east side, 280' north of Avenue "Z", Block 7433, Lot 159, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Adam Rothkrug and Harold Weinberg.

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 20, 2004, at 1:30 P.M., for decision, hearing closed.

Street Properties, Inc., owners.

SUBJECT - Application March 5, 2003 - under Z.R. §72-21 to permit the proposed enlargement of an existing two story building, to

---

# MINUTES

---

four stories, and the change of use from manufacturing/ warehouse facility, to mixed use (residential and commercial), located in an M3-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 51 North 8<sup>th</sup> Street, a/k/a 91 Kent Avenue, northeast corner, Block 2309, Lot 1, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to April 13, 2004, at 1:30 P.M., for continued hearing.

---

## 142-03-BZ

APPLICANT - George Sirinakis/Phanuel Soba, for Ishamael Miller, owner.

SUBJECT - Application May 1, 2003 - under Z.R. §§11-412 and 11-413, to permit the proposed auto repair shop, Use Group 16, located in a C2-2 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 140-20 Farmers Boulevard, northwest corner of 142<sup>nd</sup> Avenue, Block 12592, Lot 315, Borough of Queens.

## COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Phanuel Soba

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 20, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 211-03-BZ

APPLICANT - Eric Palatnik, P.C., for Simon Blitz, Contract Vendee.

SUBJECT - Application June 20, 2003 - under Z.R. §72-21 to permit the proposed expansion and also the conversion of an existing warehouse, to residential use, Use Group 2, located in an M1-4(Special LIC District), which does not comply with the zoning requirements for the new use, floor area and total height, is contrary to Z.R. §43-12, §43-43 and §42-10.

PREMISES AFFECTED - 529-535 48<sup>th</sup> Avenue, between Vernon Boulevard and Fifth Street, Block 30, Lot 9, Borough of Queens.

PREMISES AFFECTED - 108-36/50 Queens Boulevard, southeast corner of 71st Road, Block 3257, Lot 1 (formerly 1 and 42), Borough of Queens.

## COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Joseph P. Morsellino, Francis Pisani, Anthony Colletti, Frank A. Luz, Steve Lin, Peter Pisani, Peter Galletta, Annie Wood and Chuck Liheureux.

**ACTION OF THE BOARD** - Laid over to April 13, 2003, at

## COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Eric Palatnik and Gerrano D. Massaro.

For Opposition: China Marks.

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 30, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 249-03-BZ

APPLICANT - Sheldon Lobel, P.C., for D & J Herms Realty, Inc., owner.

SUBJECT - Application July 31, 2003 - under Z.R. §72-21 to permit the proposed four story building, with penthouse and cellar, to contain nine residential units on the second, third and fourth floors, and one commercial unit on the ground floor, on a site that is located in C8-2 zoning district, which does not permit residential use, is contrary to §32-10.

PREMISES AFFECTED - 265 Bedford Avenue, southeast corner of North First Street, Block 2381, Lot 1, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane.

For Opposition: James Esber.

For Administration: John Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 1:30 P.M., for continued hearing.

---

## 270-03-BZ

APPLICANT - Joseph P. Morsellino, for Cord Meyer Development, LLC, owner.

SUBJECT - Application August 26, 2003 - under Z.R. §72-21 to permit the proposed erection and maintenance of a mixed use building, Use Groups 2 and 6, with less that the required open space, and which exceeds the permitted floor area ratio, located on a site that is divided by two zoning districts (C4-2 and R7-1), is contrary to §35-23, §23-142, §35-33 and §35-32.

1:30 P.M., for continued hearing.

---

## 288-03-BZ

APPLICANT - H. Irving Sigman, for Aggressive Realty Corp., owner.

SUBJECT - Application August 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a three story vertical and horizontal enlargement to an existing two story hotel, Use Group 5,

---

# MINUTES

---

located in a C2-2 within an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, height and non-complying signs, is contrary to Z.R. §33-121, §33-341, §32-641-643, §32-652 and §32-655.

PREMISES AFFECTED - 109-17 Horace Harding Expressway, northeast corner of Saultell Avenue, Block 1969, Tentative Lot 2, Borough of Queens.

**COMMUNITY BOARD #4Q**

APPEARANCES -

For Applicant: H Irving Sigman and Hiram Monserritz.

For Administration: Battalion Chief Eugene Carty, Fire Department.

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 1:30 P.M., for continued hearing.

---

**296-03-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Kigsway Realty, LLC, owner.

SUBJECT - Application September 10, 2003 - under Z.R. §72-21 to permit the proposed extension of an existing two story (2) commercial building, Use Group 6, to three stories, located in a C4-3 zoning district, which is in compliance with the NYC Zoning Resolution for the addition, but does not comply with the required parking requirements, as per Z.R. §36-21.

PREMISES AFFECTED - 1619 Kings Highway, a/k/a 1601/1621 Kings Highway and 1639/1651 East 17<sup>th</sup> Street, Block 6779, Lot 22, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES -

For Applicant: Moshe Friedman.

For Administration: Battalion Chief Eugene Carty, Fire Department.

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 1:30 P.M., for continued hearing.

---

**303-03-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Leon Farhi, owner.

SUBJECT - Application December 8, 2004 - under Z.R. §72-21 to permit the proposed reconstruction of a four story residential

**340-03-BZ**

APPLICANT - Davidoff & Malito, LLP, by Howard B. Weiss, Esq., for Ramirez Properties, LLC, owner.

SUBJECT - Application November 5, 2003 - under Z.R. §72-21 to permit the proposed nine story mixed use building, commercial and residential (Use Groups 2 and 6), located in an M1-5 zoning district, which does not comply with the zoning requirements for floor area ratio, setback, perimeter wall height, sky exposure plane and open space, is contrary to Z.R. §42-00, §43-12 and §43-42.

PREMISES AFFECTED - 408 Greenwich Street, a/k/a 22/24 Hubert Street, between Laight and Hubert Streets, Block 217,

building, Use Group 2, that had existed at this location and was demolished by the City of New York, which does not comply with the zoning requirements for floor area, lot size, perimeter wall, dwelling units, side yards and parking, is contrary to Z.R. §23-141(a), §23-32, §23-631(d), §23-22, §23-462 and §25-23.

PREMISES AFFECTED - 433 Columbia Street, northeast corner of Columbia Street and West 9<sup>th</sup> Street, Block 534, Lot 4, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

APPEARANCES - None.

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 30, 2004, at 1:30 P.M., for decision, hearing closed.

---

**306-03-BZ**

APPLICANT - Law Offices of Howard Goldman, LLC, for Kay Water Properties, LLC, owner.

SUBJECT - Application September 29, 2003 - under Z.R. §72-21 to permit the proposed conversion of a four story industrial building, located in an M1-2 zoning district, into a residential dwelling, also the addition of two floors, for a total of 18 loft-style dwelling units, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 192 Water Street, between Jay and Bridge Streets, Block 41, Lot 11, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

APPEARANCES -

For Applicant: Emily Simons, Roben B. Cauls.

For Administration: Battalion Chief Eugene Carty, Fire Department.

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 1:30 P.M., for continued hearing.

---

**Lot 23, Borough of Manhattan.**

**COMMUNITY BOARD #1M**

APPEARANCES -

For Applicant: Howard Weiss.

For Opposition: Alan J. Gerson, Sadie Dyer, Office of Assembly Member, Doris Diether, Richard Hersehlay, Ekkehart Schwarz, Jon Steinberg, Joseph Reidy, Robin Forst, Starr Ockenga, Donald Foest, Amy Poehler, David Reynolds, Richard Dean, Mathias Chouranki and Carole DeSaram.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

---

# MINUTES

---

Negative: .....0

**ACTION OF THE BOARD** - Laid over to March 30, 2004, at 1:30 P.M., for decision, hearing closed.

---

## **354-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Edelman, Edward & UNED Associates, LLC, owner.

SUBJECT - Application November 18, 2003 - under Z.R. §72-21 to permit the proposed physical culture establishment, in the cellar of a multi-story mixed-use building which sits on property divided by an R8-B and a C6-6/R8-B district boundary, which is contrary to Z.R. §22-10 and §32-10.

PREMISES AFFECTED - 209/15 East 51<sup>st</sup> Street, between Second and Third Avenues, Block 1325, Lot 6, Borough of Manhattan.

## **COMMUNITY BOARD #6M**

APPEARANCES -

For Applicant: Janice Calahane and Tod Weinberg.

For Administration: John Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to March 9, 2004, at 1:30 P.M., for continued hearing.

---

## **5-04-BZ**

APPLICANT - Bryan Cave, LLP, for Gerard Avenue LLC, c/o American Self Storage Management Associates, Inc. owner.

SUBJECT - Application January 7, 2004 - under Z.R. §73-19 to permit the proposed construction and operation of a school, without sleeping accommodations on the site, Use Group 3, to be located in an M1-2 zoning district, requires a special permit as per Z.R. §73-19.

PREMISES AFFECTED - 595 Gerard Avenue, a/k/a 587/95 River Avenue, between 150<sup>th</sup> and 151<sup>st</sup> Streets, Block 2354, Lot 1, Borough of The Bronx.

## **COMMUNITY BOARD #4BX**

APPEARANCES -

For Applicant: Judith Gallent and other.

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 13, 2004, at 1:30 P.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 6:00 P.M.

**DISMISSAL CALENDAR  
WEDNESDAY MORNING, MARCH 10, 2004**

**10:00 A.M.**

---

# MINUTES

---

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

\_\_\_\_\_

**327-02-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: Frank Galeano.

SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 82 Union Street, south side, 266' west of Columbia Street, east of Van Brunt Street, Block 341, Lot 18, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

APPEARANCES -

In Favor: Harold Weinberg.

**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, March 10, 2004.

\_\_\_\_\_

**229-03-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: PIC Legacy Realty, Inc.

SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 303 Crystal Avenue, Block 472, Lot 149, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES -

In Favor: David L. Businelli.

**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, March 10, 2004.

\_\_\_\_\_

**295-03-BZ**

**COMMUNITY BOARD #1BK**

APPEARANCES -

In Favor: Janice Cahalane.

**ACTION OF THE BOARD** - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Luis Parrales

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 860-862 Castle Hill Avenue/2201 Hermany Avenue, northeast corner of Castle Hill Avenue and Hermany Avenue, Block 3692, Lot 1, Borough of The Bronx.

**COMMUNITY BOARD #9BX**

APPEARANCES - None.

**ACTION OF THE BOARD** - Application dismissed.

THE VOTE TO DISMISS -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative: .....0

Adopted by the Board of Standards and Appeals, March 10, 2004.

\_\_\_\_\_

**304-03-BZ**

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Woodlawn Heights Realty

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 4299 Katonah Avenue, fronting on Katonah Avenue between East 236<sup>th</sup> and East 237<sup>th</sup> Streets, Block 3377, Lot 59, Borough of The Bronx.

**COMMUNITY BOARD #12BX**

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, March 10, 2004.

\_\_\_\_\_

**343-03-BZ**

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Pasquale Pescatore.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 90 Havemeyer Street, fronting on the west side of Havemeyer Street between Hope Street and Metropolitan Avenue, Block 2368, Lot 26, Borough of Brooklyn.

Chin.....5

Negative: .....0

Adopted by the Board of Standards and Appeals, March 10, 2004.

\_\_\_\_\_

**722-68-BZ**

---

# MINUTES

---

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: Matthew Pines  
SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 388-392 Kings Highway, West 3rd Street and Kings Place, Block 6678, Lot 68, Borough of Brooklyn.

**COMMUNITY BOARD #11BK**

APPEARANCES -

In Favor: Irving E. Minkin.

**ACTION OF THE BOARD** - Laid over to May 18, 2004, at 10 A.M., SOC Calendar, for continued hearing.

---

**16-99-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: Milton Elbogen.  
SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 1116 East 26<sup>th</sup> Street, between Avenue K and Avenue L, Block 7625, Lot 52, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES -

In Favor: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 10 A.M., SOC Calendar, for continued hearing.

---

**147-02-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: Joseph Pizzonia  
SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 201-06 Hillside Avenue, corner of 201st Street and Hillside Avenue, Block 10495, Lot 52, Borough of Queens.

**COMMUNITY BOARD #12Q**

APPEARANCES -

**358-03-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: Rita Citronenbaum  
SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 1651 52<sup>nd</sup> Street, northside 334'-4 west of 17<sup>th</sup> Avenue, between 16<sup>th</sup> and 17<sup>th</sup> Avenues, Block 5466, Lot 69, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

APPEARANCES -

In Favor: Harold Weinberg.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at

In Favor: Sandy Anagnostou.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 10 A.M., SOC Calendar, for continued hearing.

---

**352-02-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: Peter Likourentzos  
SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 2801 Emmons Avenue, northeast corner East 28<sup>th</sup> Street to East 29<sup>th</sup> Street, Block 8792, Lot 63, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES -

In Favor: Harold Weinberg.

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 10 A.M., for continued hearing.

---

**156-03-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: RKO Plaza LLC & Farrington Street Developers, LLC.  
SUBJECT - to dismiss the application for lack of prosecution.  
PREMISES AFFECTED - 135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard, Block 4958, Lots 48 and 38, Borough of Queens.

**COMMUNITY BOARD #7Q**

APPEARANCES -

In Favor: Howard Goldman.

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 10 A.M., SOC Calendar, for continued hearing.

---

10 A.M., SOC Calendar, for continued hearing.

---

## COMPLIANCE CALENDAR

**55-91-BZ**

APPLICANT - The New York City of Standards and Appeals.  
OWNER OF PREMISES: Exxon Company USA and Sue Francy Realty.

SUBJECT - Application - reopening for compliance.

---

# MINUTES

---

PREMISES AFFECTED - 96-10 Corona Avenue, southeast corner of Junction Boulevard, Block 1878, Lots 1 and 4, Borough of Queens.

**COMMUNITY BOARD #4Q**

APPEARANCES -

In Favor: Hiram A. Rothkrug.

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, March 10, 2004.

**ACTION OF THE BOARD** - Laid over to April 20, 2004, at 10 A.M., for decision, hearing closed.

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director.*

Adjourned: 11:30 A.M.

**705-81-BZ**

APPLICANT - The New York City Board of Standards and Appeals

OWNER OF PREMISES: Fraydun Enterprises.

LESSEE: New York Health and Racquet Club.

SUBJECT - Application - reopening for compliance.

PREMISES AFFECTED - 1433/37 York Avenue, northeast corner of East 76<sup>th</sup> Street, Block 1471, Lots 21, 22 and 23, Borough of Manhattan.

**COMMUNITY BOARD #8M**

APPEARANCES -

In Favor: Jeff Bodner.

In Opposition: Mary Noonan, Ellen Stigman.

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 10 A.M., Compliance Calendar, for continued hearing.

**69-03-BZ**

APPLICANT - Friedman & Gotbaum, LLP, by Shelly S. Friedman, Esq., for Bond Street, LLC, owner.

SUBJECT - Application February 12, 2003 - under Z.R. § 72-21 to permit the proposed development of a 15-story mixed-use building, consisting of residential apartments and local retail usage, located in an M1-5B zoning district, where residential use is not permitted is contrary to Z.R. §42-10.

PREMISES AFFECTED - 32/40 Bond Street, mid-block portion fronting on north side, of Bond Street between Lafayette and the Bowery, Block 530, Lot 48, Borough of Manhattan.

**COMMUNITY BOARD #2M**

APPEARANCES -

In Favor: Shelly Friedman, Mary Clarke and others.

In Opposition: S. Klein.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative: .....0

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, Nos. 13-14

April 1, 2004

---

### DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

PETER CALIENDO

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**

### CONTENTS

DOCKET .....	224-230
<b>CALENDAR</b> of April 20, 2004	
Morning .....	231
Afternoon .....	
<b>CALENDAR</b> of April 27, 2004	
Morning .....	232
Afternoon .....	

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, March 23, 2004**

Morning Calendar .....233

**Affecting Calendar Numbers:**

1050-38-BZ, Vol. II 1301/1319 65<sup>th</sup> Street, Brooklyn  
628-39-BZ 1531/41 Plimpton Avenue, The Bronx  
1043-80-BZ 1680/88 Albany Avenue, Brooklyn  
87-94-BZ 321-325 East 73<sup>rd</sup> Street, Manhattan  
519-57-BZ 2071 Victory Boulevard, Staten Island  
1073-62-BZ 301-313 East 40<sup>th</sup> Street, Manhattan  
116-68-BZ 40 Central Park South, Manhattan  
399-70-BZ 630 Arthur Kill Road, Staten Island  
982-83-BZ 191-20 Northern Boulevard, Queens  
101-92-BZ 68-98 E. Burnside Avenue, The Bronx  
34-94-BZ 401, 403, 405 Castle Hill Avenue, The Bronx  
59-96-BZ 32-02 Linden Place, Queens  
200-00-BZ 107-24 37<sup>th</sup> Avenue, Queens  
290-02-BZ thru  
314-02-BZ Tapei Court, Queens  
178-03-BZ 114-02 Van Wyck Expressway, Queens  
128-03-A thru  
130-03-A Brookside Loop, Staten Island  
392-03-A 20 Janet Lane, Queens

Afternoon Calendar.....228

**Affecting Calendar Numbers:**

150-03-BZ 136 Metropolitan Avenue, Brooklyn  
337-03-BZ 342 Madison Avenue, Manhattan  
346-03-BZ 156-05 Cross Island Parkway, Queens  
203-02-BZ 110-18 Northern Boulevard, Queens  
361-02-BZ 214 25<sup>th</sup> Street, Brooklyn  
81-03-BZ 857 East 169<sup>th</sup> Street, The Bronx  
84-03-BZ 35-40 30<sup>th</sup> Street, Queens  
208-03-BZ 2555 Shell Road, Brooklyn  
221-03-BZ 253/55 West 28<sup>th</sup> Street, Manhattan  
231-03-BZ 63 and 65 Columbia Street, Brooklyn  
262-03-BZ 1564 East 28<sup>th</sup> Street, Brooklyn  
266-03-BZ 1710/12 McDonald Avenue, Brooklyn  
267-03-BZ 2/6 Berry Street, Brooklyn  
271-03-BZ 976 Metropolitan Avenue, Brooklyn  
299-03-BZ 179-16 Grand Central Parkway, Queens  
305-03-BZ 2, 8, 10 Grand Avenue, Brooklyn

**CORRECTION**.....248

**Affecting Calendar Numbers:**

235-01-BZ 2009 Mermaid Avenue, Brooklyn  
239-03-BZ 468 West Broadway, Manhattan

---

# DOCKET

---

New Case Filed Up to March 23, 2004

---

**73-04-A** B.BK. 11 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2001, Borough of Brooklyn. Applic.#301815542. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**78-04-A** B.BK. 39 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2006, Borough of Brooklyn. Applic.#301812439. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law

---

**74-04-A** B.BK. 23 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2002, Borough of Brooklyn. Applic.#301815490. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**79-04-A** B.BK. 41 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2007, Borough of Brooklyn. Applic.#301812448. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law

---

**75-04-A** B.BK. 25 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2003, Borough of Brooklyn. Applic.#301812402. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**80-04-A** B.BK. 47 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2008, Borough of Brooklyn. Applic.#301812457. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law

---

**76-04-A** B.BK. 31 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2004, Borough of Brooklyn. Applic.#301812411. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**81-04-A** B.BK. 49 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2009, Borough of Brooklyn. Applic.#301812466. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law

---

**77-04-A** B.BK. 33 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2005, Borough of Brooklyn. Applic.#301812420. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**82-04-A** B.BK. 57 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2010, Borough of Brooklyn. Applic.#301812475. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law

---

---

# DOCKET

---

**83-04-A** B.BK. 59 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2011, Borough of Brooklyn. Applic.#301812484. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

\_\_\_\_\_

**84-04-A** B.BK. 65 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2012, Borough of Brooklyn. Applic.#301812493. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

\_\_\_\_\_

**85-04-A** B.BK. 67 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2013, Borough of Brooklyn. Applic.#301812509. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

\_\_\_\_\_

**86-04-A** B.BK. 73 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2014, Borough of Brooklyn. Applic.#301812518. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

\_\_\_\_\_

**87-04-A** B.BK. 5 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2015, Borough of Brooklyn. Applic.#301812527. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

\_\_\_\_\_

**88-04-A** B.BK. 83 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2016, Borough of Brooklyn. Applic.#301812581. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to

Section 36, Article 3 of the General City Law.

\_\_\_\_\_

**89-04-A** B.BK. 5 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2017, Borough of Brooklyn. Applic.#301809657. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

\_\_\_\_\_

**90-04-A** B.BK. 15 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2018, Borough of Brooklyn. Applic.#301805338. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

\_\_\_\_\_

**91-04-A** B.BK. 31 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2019, Borough of Brooklyn. Applic.#301801539. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

\_\_\_\_\_

**92-04-A** B.BK. 39 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2020, Borough of Brooklyn. Applic.#301815356. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

\_\_\_\_\_

**93-04-A** B.BK. 47 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2021, Borough of Brooklyn. Applic.#301815347. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

\_\_\_\_\_

---

# DOCKET

---

**94-04-A** B.BK. 55 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2022, Borough of Brooklyn. Applic.#301815365. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**95-04-A** B.BK. 63 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2023, Borough of Brooklyn. Applic.#301809675. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**96-04-A** B.BK. 71 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2024, Borough of Brooklyn. Applic.#301809538. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**97-04-A** B.BK. 79 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2024, Borough of Brooklyn. Applic.#301809516. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**98-04-A** B.BK. 87 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2026, Borough of Brooklyn. Applic.#301810725. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**99-04-A** B.BK. 64 Harbor Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2027, Borough of Brooklyn. Applic.#301815472. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**100-04-A** B.BK. 62 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2028, Borough of Brooklyn. Applic.#301815536. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**101-04-A** B.BK. 56 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2029, Borough of Brooklyn. Applic.#301815506. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**102-04-A** B.BK. 54 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2030, Borough of Brooklyn. Applic.#301815515. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**103-04-A** B.BK. 48 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2031, Borough of Brooklyn. Applic.#301815524. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**104-04-A** B.BK. 46 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2032, Borough of Brooklyn. Applic.#301815551. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**105-04-A** B.BK. 38 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2033, Borough of Brooklyn. Applic.#301815560. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

---

# DOCKET

---

**106-04-A** B.BK. 36 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2034, Borough of Brooklyn. Applic.#301815579. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**107-04-A** B.BK. 30 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2035, Borough of Brooklyn. Applic.#301815588. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**108-04-A** B.BK. 28 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2036, Borough of Brooklyn. Applic.#301815597. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**109-04-A** B.BK. 50 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2037, Borough of Brooklyn. Applic.#301815631. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**110-04-A** B.BK. 48 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2038, Borough of Brooklyn. Applic.#301815622. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**111-04-A** B.BK. 86 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2039, Borough of Brooklyn. Applic.#301815604. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**112-04-A** B.BK. 84 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2040, Borough of Brooklyn. Applic.#301815613. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**113-04-A** B.BK. 78 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2041, Borough of Brooklyn. Applic.#301810734. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**114-04-A** B.BK. 76 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2042, Borough of Brooklyn. Applic.#301810743. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**115-04-A** B.BK. 70 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2043, Borough of Brooklyn. Applic.#301810752. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**116-04-A** B.BK. 68 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2044, Borough of Brooklyn. Applic.#301810761. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**117-04-A** B.BK. 60 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2045, Borough of Brooklyn. Applic.#301810770. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

---

## DOCKET

---

**118-04-A** B.BK. 58 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2046, Borough of Brooklyn.

Applic.#301810789. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**119-04-A** B.BK. 22 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2047, Borough of Brooklyn. Applic.#301810798. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**120-04-A** B.BK. 16 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2048, Borough of Brooklyn. Applic.#301810805. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**121-04-A** B.BK. 14 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2049, Borough of Brooklyn. Applic.#301810814. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**122-04-A** B.BK. 6 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2050, Borough of Brooklyn. Applic.#301810814. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**123-04-A** B.BK. 22 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2051, Borough of Brooklyn. Applic.#301810841. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**124-04-A** B.BK. 10 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2052, Borough of Brooklyn.

---

dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**125-04-BZ** B.Q. 247-39 Jamaica Avenue, north side, between 91st Avenue and Commonwealth Boulevard, Block 8662, Lot 50, Borough of Queens. Applic.#401766601. Proposed two story expansion of an existing one story commercial building, for residential use, Use Groups 2 and 6, located in R4, C2-2 and R3A zoning districts, which does not comply with the zoning requirements for floor area, lot coverage, open space, number of dwelling units and height of building, is contrary to Z.R. §23-141, §35-31, §23-22 and §23-631.

**COMMUNITY BOARD #13Q**

---

**126-04-BZ** B.BK. 66 87th Street, south side, between Narrows Avenue and Colonial Road, Block 6046, Lot 19, Borough of Brooklyn. Alt.1#301685610. 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.

**COMMUNITY BOARD #10BK**

---

**127-04-BZ** B.BK. 5313/23 Fifth Avenue, between 53rd and 54th Streets, Block 816, Lot 1, Borough of Brooklyn. Alt.1#301366590. 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, requires a special permit from the Board as per Z.R. §73-36.

**COMMUNITY BOARD #7BK**

---

**128-04-BZ** B.M. 162/68 East 68th Street, south side, 100' west of Third Avenue, Block 1402, Lots 41 and 42 (Tent. Lot 42), Borough of Manhattan. Applic.#103412807. Proposed horizontal enlargement of an existing school and culture center, Use Group 3, previously approved by the Board under Calendar No. 658-72-BZ, which violates height, setback, floor area, lot coverage and rear yard requirements, is contrary to Z.R. §23-633, §24-11, §24-33 and §24-552.

**COMMUNITY BOARD #8M**

---

---

## DOCKET

---

Applic.#301810832. Proposed construction of a one family

**129-04-A** B.Q. 30 Marion Walk, west side, 44.56' north of West End Avenue, Block 16350, Lot 400, Borough of Queens. Alt.1#401815050. Proposed alteration of an existing one family dwelling, and the addition of a second floor, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**130-04-A** B.Q. 181 Reid Avenue, west side, of Beach 201st Street, 129.55' north of Breezy Point Boulevard, Block

---

# CALENDAR

---

16350, Part of Lot 400, Borough of Queens. Alt.1#401804357.  
Proposed alteration and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

**B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.**

---

**131-04-A** B.M. 217 West 20th Street, between Seventh and Eighth Avenues, Block 770, Lot 30, Borough of Manhattan. Applic.#116501. Application to revoke Certificate of Occupancy No. 116501, on the basis that the CO authorized the Premises to be occupied as a Use Group 6, eating and drinking establishment, a non-conforming use that had been discontinued for a period greater than two years.

---

**132-04-BZ** B.M. 310 East Houston Street, southeast corner of Avenue "P", Block 384, Lot 4, Borough of Manhattan. Applic.#103673473. Proposed commercial (Use Group 6), use of the ground floor of the otherwise as-of-right proposed mixed use building, located in an R7-2 zoning district, is contrary to Z.R. §32-15.

**COMMUNITY BOARD #3M**

---

**133-04-BZ** B.M. 866 Third Avenue, west side, between 52nd and 53rd Streets, Block 1307, Lot 1004, Borough of Manhattan. Applic.#103701353. Proposed conversion of floors 12 through 30, and a portion of the lobby of a 30 story building, to be converted from hotel use to residential use (Use Group 6), located in a C6-6/C6-4-5 zoning district, which does not comply with the zoning requirements for rear yard, is contrary to Z.R. §23-47 and §54-31.

**COMMUNITY BOARD #6M**

---

**134-04-BZ** B.BK. 184 Kent Avenue, northwest corner of North Third Street, Block 2348, Lot 1, Borough of Brooklyn. Applic.#301050403. 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 by the Board, under Cal. No. 191-00-BZ.

**COMMUNITY BOARD #1BK**

---

**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;**

---

# CALENDAR

---

**APRIL 20, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, April 20, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## **SPECIAL ORDER CALENDAR**

### **844-57-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for Ozone Auto Service, Inc., owner.

SUBJECT - Application January 13, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired October 9, 2003.

PREMISES AFFECTED - 87-19 Rockaway Boulevard, aka 97-18/58 88th Street, northwest corner of Rockaway Boulevard and 88th Street, Block 9060, Lot 25, Borough of Queens.

**COMMUNITY BOARD #9Q**

---

### **138-87-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for Philip Cataldi Trust, owner; Enterprise Car Rental Co., lessee.

SUBJECT - Application January 9, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired January 12, 2003.

PREMISES AFFECTED - 218-36 Hillside Avenue southeast corner of Hillside Avenue and 218th Place, Block 10678, Lot 14, Hollis, Borough of Queens.

**COMMUNITY BOARD #14Q**

---

### **16-93-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for 110 Christopher Street, LLC, owner.

SUBJECT - Application January 13, 2004 - reopening for an extension of term of variance which expired February 24, 2004 and for an amendment to the resolution.

PREMISES AFFECTED - 110 Christopher Street, south side, 192'-6.25" west of Bleeker Street, Block 588, Lot 51, Borough of Manhattan.

**COMMUNITY BOARD #2M**

---

### **367-03-BZ**

APPLICANT - Eric Palatnik, P.C., for 1224 Brunswick Realty Corp., owner.

SUBJECT - Application November 25, 2003 - under Z.R. §72-21 to permit the proposed conversion of a former movie theater, to

**APRIL 20, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, April 20, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## **ZONING CALENDAR**

### **287-03-BZ**

APPLICANT - Stuart A. Klein, Esq., for First Step Realty, LLC, owner.

SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit the proposed construction of a six-story residential building, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 430 Keap Street, southeast corner of Hope Street, Block 2387, Lot 2, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

---

### **356-03-BZ**

APPLICANT - Law Office of Fredrick A. Becker, for Eliezer Jeidel and Rachele Jeidel, owners.

SUBJECT - Application February 9, 2004 - under Z.R. §73-622 to permit the proposed enlargement to 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 yard, is contrary to Z.R. §23-141 and §23-461.

PREMISES AFFECTED - 2311 Avenue "J", between East 23rd and East 24th Streets, Block 7587, Lot 6, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

---

### **361-03-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, for Joseph Chakkalo and Ninett Chakkalo, owner.

SUBJECT - Application November 20, 2003 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R4 (OP) zoning district, which does not comply with the zoning requirements for open space ratio, lot coverage and rear yard, is contrary to Z.R. §23-141 and §23-47.

PREMISES AFFECTED - 2277 East 2nd Street, between Avenue "W" and Gravesend Neck Road, Block 7154, Lot 62, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

---

a warehouse with ancillary retail space, located in C1-2, C4-2 and R-5 zoning districts, with loading occurring within the R-5 portion of the site, does not comply with the zoning requirements, for perimeter wall height, total height, side and rear yards, sky exposure, off-street parking and loading, is contrary to Z.R. §32-00, §22-00, §23-

---

# CALENDAR

---

631d, §23-461, §23-543, §36-21 and §36-681.

PREMISES AFFECTED - 714 Beach 20th Street, between New Haven and Cornaga Avenues, Block 15564, Lots 25 and 55, Borough of Queens.

**COMMUNITY BOARD #14Q**

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director*

**APRIL 27, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, April 27, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_  
**SPECIAL ORDER CALENDAR**

**274-90-BZ**

APPLICANT - George E. Berger, for Long Island University, owner.

SUBJECT - Application December 22, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired January 27, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 85 DeKalb Avenue, north side DeKalb Avenue, west of Ashland Place, Block 2086, Lot 34, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

\_\_\_\_\_  
**APRIL 27, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, April 27, 2004, at 1:30 P.M., at 40 Rector

**REGULAR MEETING**

**TUESDAY MORNING, MARCH 23, 2004**

**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, January 27, 2004, were approved

Street, 6<sup>h</sup> Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_  
**ZONING CALENDAR**

**341-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Chelsea Ventura, LLC, owner.

SUBJECT - Application November 6, 2003 - under Z.R. §72-21 to permit the proposed construction of a new residential building, on a merged zoning lot with an existing multiple dwelling, which creates non-compliances with respect, floor area ratio, number of dwelling units, and rear yard equivalent, is contrary to Z.R. §23-145, §23-22 and §23-533.

PREMISES AFFECTED - 343 West 16th Street, between Eighth and Ninth Avenues, Block 740, Lot 12, Borough of Manhattan.

**COMMUNITY BOARD #4M**

\_\_\_\_\_  
as printed in the Bulletin of February 5, 2004, Volume 89, Nos. 5 and 6.

\_\_\_\_\_  
**SPECIAL ORDER CALENDAR**

**1050-38-BZ, Vol. II**

---

# MINUTES

---

APPLICANT - Walter T. Gorman, P.E., for Sovereign Realty Associates, LLC, owner; Amoco Oil Company, lessee.

SUBJECT - Application - November 20, 2003 - reopening for an extension of term of variance which expires June 30, 2004.

PREMISES AFFECTED - 1301/1319 65th Street a/k/a 6411/23 13th Avenue, northeast corner of 13th Avenue, Block 5747, Lot 1, Borough of Brooklyn.

## COMMUNITY BOARD #10BK

### APPEARANCES -

For Applicant: John Ronan.

**ACTION OF THE BOARD - Application reopened, and term of variance extended.**

### THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative: .....0

### THE RESOLUTION -

WHEREAS, a public hearing was held on this application on March 2, 2004 after due notice by publication in The City Record, and laid over to March 23, 2004 for decision; and

WHEREAS, the applicant requests an extension of the term of the granted variance, which expires on June 30, 2004; and

WHEREAS, on June 30, 1959, the Board granted an application for the erection of a gasoline service station with an accessory motor vehicle repair shop, non-automatic auto laundry and lubratorium, without the required rear yard.

Resolved, that the Board of Standards and Appeals, reopens and amends the resolution, and, pursuant to Z.R. §11-411, extends the term of the variance which expires on June 30, 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 June 30, 2004 expiring on June 30, 2014; on condition that all work shall substantially conform to drawings as filed with this application marked "Received November 20, 2004"- (4) sheets; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT any vacuums located on the premises shall be in

WHEREAS, the applicant requests a re-opening, an extension of the term of the variance which expired on December 12, 2003, and an amendment to the resolution; and

WHEREAS, the applicant also seeks to legalize an attendant's booth on the premises, as well as provide 6 reservoir spaces as indicated on the plans submitted with the instant application; and

WHEREAS, since February 6, 1940, the Board has exercised jurisdiction over the premises under the subject calendar number, with further actions occurring since that date; and

WHEREAS, on December 2, 1958, the Board granted an application under the subject calendar number to permit the construction and maintenance of a non-commercial parking lot for more than five (5) vehicles; and

WHEREAS, the record indicates that the premises has been

operation only from 9 a.m. to 8 p.m.;

THAT the above conditions and all conditions from prior resolutions under the subject calendar number shall appear on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB # 301658604)

Adopted by the Board of Standards and Appeals, March 23, 2004.

## 628-39-BZ

APPLICANT - Rothkrug, Rothkrug Weinberg & Spector, for R-9-2 Inc., owner; D2 Developers Inc., lessee.

SUBJECT - Application October 10, 2003 - reopening for an extension of term of variance which expired December 12, 2003.

PREMISES AFFECTED - 1531/41 Plimpton Avenue, northwest corner of Plimpton Avenue and Featherbed Lane, Block 2875, Lots 51 and 56, Borough of The Bronx.

## COMMUNITY BOARD #5BX

### APPEARANCES -

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD - Application re-opened, resolution amended and term of variance extended.**

### THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative: .....0

### THE RESOLUTION -

WHEREAS, a public hearing was held on this application on January 27, 2004, after due notice by publication in The City Record, with continued hearings on March 9, 2004, and then to March 23, 2004 for decision; and

continuously occupied as a parking lot since 1958.

Resolved, that the Board of Standards and Appeals reopens and amends the resolution, pursuant to Zoning Resolution §11-411, extends the term of the variance which expires on May 9, 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 five (5) years from December 12, 2003 expiring on December 12, 2008, and to legalize the addition of an attendant's booth, and the addition of six reservoir spaces; on condition that all work shall substantially conform to drawings as filed with this application, marked "Received February 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

---

# MINUTES

---

within 48 hours;

THAT landscaping shall be provided and maintained in accordance with BSA approved plans;

THAT lighting shall be directed down and away from any adjacent residential uses;

THAT the above conditions and all conditions from prior resolutions shall appear on the certificate of occupancy;

THAT the parking layout shall be 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 #200805888)

Adopted by the Board of Standards and Appeals, March 23, 2004.

---

## 1073-62-BZ

APPLICANT - Sheldon Lobel, P.C., for 305 East 40th Owner's Corporation, owner; Innovative Parking, LLC, lessee.

SUBJECT - Application January 13, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired March 5, 2003.

PREMISES AFFECTED - 301-313 East 40th Street, north side of

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 March 5, 1963 as amended through February 8, 1994, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional (10) years from March 5, 2003 to expire on March 5, 2013, on condition that all work shall substantially conform to drawings as filed with this application marked "Received March 9, 2004"- (2) sheets; and on further condition;

THAT the capacity of the parking in the subject garage shall be no more than 108 spaces;

THAT all tenants/units owners in the subject building shall receive an annual mailing informing them of their parking space recapture rights under the Multiple Dwelling Law and/or other applicable laws;

THAT the parking layout in the subject garage 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; and

THAT the Department of Buildings must ensure compliance 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."

East 40th Street, Block 1333, Lot 1, Borough of Manhattan.

## COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, and term of variance extended.

## 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, a public hearing was held on this application on February 24, 2004, after due notice by publication in The City Record, and laid over to March 23, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the variance which expired on March 5, 2003; and

WHEREAS, on March 5, 1963, the BSA granted an application under Section 60(3) of the Multiple Dwelling Law to permit the use of surplus and unused tenants' parking spaces, within the required accessory garage of a twenty-story and penthouse building, as transient parking for a term of twenty years; and

WHEREAS, on July 6, 1983 and again on February 8, 1994 the BSA granted extensions of the term of the variance for ten years.

(DOB Application #103634658)

Adopted by the Board of Standards and Appeals, March 23, 2004.

---

## 519-57-BZ

APPLICANT - Carl A. Sulfaro, Esq., for BP Amoco Corporation, owner.

SUBJECT - Application November 24, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired June 19, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 2071 Victory Boulevard, northwest corner of Bradley Avenue, Block 462, Lot 35, Borough of Staten Island.

## COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Carl A. Sulfaro, Esq.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 10 A.M., for continued hearing.

---

## 116-68-BZ

APPLICANT - Stephen Rizzo, for 40 Central Park South Inc., owner; Café Atlas, lessee.

SUBJECT - Application December 19, 2003 - reopening for an

---

# MINUTES

---

extension of time to obtain a certificate of occupancy which expired on December 21, 2003.

PREMISES AFFECTED - 40 Central Park South, south side, 120' east of Sixth Avenue, Block 1274, Lot 6, Borough of Manhattan.

**COMMUNITY BOARD #5**

**APPEARANCES -**

**For Applicant: Stephen Rizzo, ATCO.**

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 10 A.M., for continued hearing.

---

**399-70-BZ**

APPLICANT - Walter T. Gorman, P.E., for Sunoco, Inc., owner.  
SUBJECT - Application December 24, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 630 Arthur Kill Road, southwest corner of Armstrong Avenue, Block 5494, Lot 88, Borough of Staten Island.

**COMMUNITY BOARD #3**

**APPEARANCES -**

**For Applicant: John Ronan.**

**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 13, 2004, at 10 A.M., for decision, hearing closed.

---

**1043-80-BZ**

**APPEARANCES -**

**For Applicant: H. I. Sigman.**

**ACTION OF THE BOARD** - Laid over to April 20, 2004, at 10 A.M., for continued hearing.

---

**101-92-BZ**

APPLICANT - Sheldon Lobel, P.C., for Portrem Realty Co., owner.

SUBJECT - Application August 13, 2003 - reopening for an extension of term of variance which expired October 26, 2003.

PREMISES AFFECTED - 68-98 E. Burnside Avenue (aka 2036 Walton Avenue and 2035 Morris Avenue) south side of East Burnside Avenue, between Walton Avenue and Morris Avenue, Block 2829, Lot 45, Borough of The Bronx.

**COMMUNITY BOARD #5BX**

**APPEARANCES -**

**For Applicant: Richard Lobel.**

**ACTION OF THE BOARD** - Laid over to April 13, 2004, at 10 A.M., for continued hearing.

---

**34-94-BZ**

**APPLICANT - Rothkrug & Rothkrug Weinberg & Spector for RANS 1680 Building Corp., owner.**

**SUBJECT - Application December 17, 2001 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 3, 2000.**

**PREMISES AFFECTED - 1680/88 Albany Avenue a/k/a 4024 Marginal Street, southwest corner of Albany Avenue and Marginal Street, Block 7744, Lots 47, 49, 50, Borough of Brooklyn.**

**COMMUNITY BOARD #18BK**

**APPEARANCES -**

**For Applicant: Adam Rothkrug.**

**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 April 20, 2004, at 10 A.M., for continued hearing.

---

**982-83-BZ**

APPLICANT - H. Irving Sigman, for Barone Properties Inc., owner.

SUBJECT - Application December 5, 2003 - reopening for an extension of time to complete construction and obtain a certificate of occupancy and for an amendment to the resolution.

PREMISES AFFECTED - 191-20 Northern Boulevard, southwest corner of 192nd Street, Block 5513, Lot 27, Borough of Queens.

**COMMUNITY BOARD #11**

APPLICANT - Maduakolam M. Nnabuihe, for Kenny Collado, owner.

SUBJECT - Application October 3, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired June 6, 2003.

PREMISES AFFECTED - 401, 403, 405 Castle Hill Avenue, aka 2181 Norton Avenue, northwest corner of Castle Avenue and Norton Avenue, Block 3510, Lot 1, Borough of The Bronx.

**COMMUNITY BOARD #9BX**

**APPEARANCES - None.**

**ACTION OF THE BOARD** - Laid over to April 20, 2004, at 10 A.M., for continued hearing.

---

**87-94-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, Esq., for Czech Republic, owner.

SUBJECT - Application November 13, 2003 - reopening for an extension of time to complete construction and for an amendment to the resolution.

PREMISES AFFECTED - 321-325 East 73rd Street, north side of 73<sup>rd</sup> Street, Block 1448, Lot 16, Borough of Manhattan.

**COMMUNITY BOARD #8M**

**APPEARANCES -**

---

# MINUTES

---

For Applicant: Fredrick A. Becker.

**ACTION OF THE BOARD** - Laid over to April 20, 2004, at 10 A.M., for deferred decision.

---

## 59-96-BZ

**APPLICANT** - The Agusta Group by Philip P. Agusta, R.A., for Yong Brothers Trading, Inc., owner; Pine Village Corp., lessee.

**SUBJECT** - Application November 14, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to obtain a Certificate of Occupancy which expired January 9, 2003.

**PREMISES AFFECTED** - 32-02 Linden Place aka 135-20 32nd Avenue, southwest corner of Linden Place and 32nd Avenue, Block 4950, Lot 48, Borough of Queens.

**COMMUNITY BOARD #7Q**

**APPEARANCES** - None.

**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 13, 2004, at 10 A.M., for decision, hearing closed.

114-03 Taipei Court, west side, 576' west of 115th Street, Block 4019, Lot 126, Borough of Queens.

114-05 Taipei Court, west side, 576' west of 115th Street, Block 4019, Lot 127, Borough of Queens.

114-07 Taipei Court, west side, 576' west of 115th Street, Block 4019, Lot 128, Borough of Queens.

114-09 Taipei Court, west side, 576' west of 115th Street, Block 4019, Lot 129, Borough of Queens.

114-11 Taipei Court, west side, 576' west of 115th Street, Block 4019, Lot 130, Borough of Queens.

114-13 Taipei Court, west side, 576' west of 115th Street, Block 4019, Lot 131, Borough of Queens.

114-15 Taipei Court, west side, 576' west of 115th Street, Block 4019, Lot 132, Borough of Queens.

114-21 Taipei Court, north side, 501' west of 115th Street, Block 4019, Lot 133, Borough of Queens.

114-23 Taipei Court, north side, 491' west of 115th Street, Block 4019, Lot 134, Borough of Queens.

114-25 Taipei Court, north side, 471' west of 115th Street, Block 4019, Lot 135, Borough of Queens.

114-27 Taipei Court, north side, 451' west of 115th Street, Block 4019, Lot 136, Borough of Queens.

114-29 Taipei Court, north side, 421' west of 115th Street, Block 4019, Lot 137, Borough of Queens.

114-31 Taipei Court, north side, 411' west of 115th Street, Block 4019, Lot 138, Borough of Queens.

114-33 Taipei Court, northwest corner of 115th Street, Block 4019, Lot 139, Borough of Queens.

114-35 Taipei Court, north side, 371' west of 115th Street, Block 4019, Lot 141, Borough of Queens.

114-20 Taipei Court, south side, 501' west of 115th

---

## 200-00-BZ

**APPLICANT** - The Agusta Group, for Blans Development Corp., owner.

**SUBJECT** - Application August 28, 2003 - reopening for an amendment to the resolution.

**PREMISES AFFECTED** - 107-24 37th Avenue, aka 37-16 108th Street, southwest corner of 108th Street and 37th Avenue, Block 1773, Lot 10, Borough of Queens.

**COMMUNITY BOARD #3Q**

**APPEARANCES** -

**For Applicant: Sol Korman.**

**ACTION OF THE BOARD** - Laid over to April 20, 2004, at 10 A.M., for continued hearing.

---

## 290-02-BZ thru 314-02-BZ

**APPLICANT** - New York City Board of Standards and Appeals. **OWNER OF PREMISES:** Edgewater Development, Inc.

**SUBJECT** - to dismiss the application for lack of prosecution.

**PREMISES AFFECTED** -

114-01 Taipei Court, west side, 576' west of 115th Street, Block 4019, Lot 125, Borough of Queens.

Street, Block 4019, Lot 124, Borough of Queens.

114-22 Taipei Court, south side, 491' west of 115th Street, Block 4019, Lot 123, Borough of Queens.

114-24 Taipei Court, south side, 471' west of 115th Street, Block 4019, Lot 122, Borough of Queens.

114-26 Taipei Court, south side, 451' west of 115th Street, Block 4019, Lot 121, Borough of Queens.

114-28 Taipei Court, south side, 431' west of 115th Street, Block 4019, Lot 119, Borough of Queens.

114-30 Taipei Court, south side, 411' west of 115th Street, Block 4019, Lot 117, Borough of Queens.

114-32 Taipei Court, south side, 391' west of 115th Street, Block 4019, Lot 116, Borough of Queens.

114-34 Taipei Court, south side, 371' west of 115th Street, Block 4019, Lot 115, Borough of Queens.

114-36 Taipei Court, south side, 391' west of 115th Street, Block 4019, Lot 114, Borough of Queens.

**COMMUNITY BOARD #7Q**

**APPEARANCES** -

**For Applicant: Adam W. Rothkrug.**

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 10 A.M., for continued hearing.

---

## 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.

---

# MINUTES

---

## COMMUNITY BOARD #10

### APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to May 18, 2004, at 10 A.M., for continued hearing.

---

## 128-03-A thru 130-03-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Brookside Development Corp., owner.

SUBJECT - Application April 18, 2003 - Proposed construction of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

### PREMISES AFFECTED -

22 Brookside Loop, west side, 162' south of Woodrow Road, Block 7022, Lot 5, Borough of Staten Island.

26 Brookside Loop, west side, 25.5' south of Woodrow Road, Block 7022, Lot 8, Borough of Staten Island.

30 Brookside Loop, west side, 341.5' south of Woodrow Road, Block 7022, Lot 10, Borough of

### 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 13, 2004, at 10 A.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 11:10 A.M.

## REGULAR MEETING TUESDAY AFTERNOON, MARCH 23, 2004 2:00 P.M.

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

---

## ZONING CALENDAR

Staten Island.

## COMMUNITY BOARD #3S.I.

### APPEARANCES -

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** - Laid over to April 13, 2004, at 10 A.M., for continued hearing.

---

## 392-03-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Susan Vernon, lessee.

SUBJECT - Application December 23, 2003 - 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 - 20 Janet Lane, south side, 206' east of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14Q

### APPEARANCES -

For Applicant: Anthony Papa.

## 150-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Bolshy Gulliver, Inc., owner.

SUBJECT - Application May 15, 2003 - under Z.R. §72-21 to permit the proposed construction of three additional floors above a one story and basement building, to form a mixed-use building, to contain as of right uses on the first floor and basement level, and a nine residential units on the remaining three floors, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 136 Metropolitan Avenue, between Wythe Avenue and Berry Street, Block 2364, Lot 17, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

### 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, the decision of the Borough Commissioner, dated July 18, 2002, acting on Department of Buildings Application No. 301341402, reads:

"Submit Board of Standards and Appeals Approval for:

1. U.G. 2 not permitted in M-1 Zone per ZR 42-10."; and

WHEREAS, a public hearing was held on this application on September 30, 2003 after due notice by publication in the City Record, with continued hearings on October 28, 2003, November 18, 2003, December 16, 2003, January 13, 2004, and February 24, 2004, and then to March 23, 2004 for decision; and

---

# MINUTES

---

WHEREAS, Community Board No. 1 in Brooklyn has recommended approval of the subject application; 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 in an M1-1 zoning district the proposed construction of three additional floors above a portion of an existing one-story and basement building, containing nine residential units, which is contrary to Z.R. §42-00; and

WHEREAS, the subject premises is a through lot, fronting on both Metropolitan Avenue and North 1st Street, between Wythe Avenue and Berry Street, and is currently improved with a vacant one-story and basement building; and

WHEREAS, the Board finds that the aforementioned unique physical conditions create an unnecessary hardship in developing the site in conformity with the current zoning regulations; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises in compliance with the applicable zoning regulations would not yield the owner a reasonable return; 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 conformity with applicable zoning regulations will provide a reasonable return; and

WHEREAS, the applicant states that the surrounding area is mixed use in nature, with a majority of buildings in the immediate area being occupied with residential uses; and

WHEREAS, as the request of the Fire Department of the City of New York, the applicant has inserted certain fire safety measures on the plans for the proposed building; and

WHEREAS, the Board finds 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

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.

WHEREAS, a Certificate of Occupancy issued in 1952 indicates that the existing building was constructed in 1952 and occupied as a factory; and

WHEREAS, the applicant represents that there is a grade elevation change on the lot - the first floor is approximately eight feet above grade fronting Metropolitan Avenue, approximately three feet above grade fronting North 1st Street, and the basement is approximately three feet above grade fronting Metropolitan Avenue; and

WHEREAS, the applicant states that the existing building is obsolete for as-of-right uses due to its low ceiling heights, as well as its lack of modern amenities such as an elevator or a lift to alleviate the grade elevation discrepancies; 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 variation in the application of the Zoning Resolution, limited to the objection cited, to permit in an M1-1 zoning district, the proposed construction of three additional floors above an existing one-story and basement building, which would contain nine residential units and is contrary to Z.R. §42-00; 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 February 9, 2004" - (4) sheets and "Received May 15, 2003" - (6) sheets; and on further condition:

THAT any requirement for an elevator or for compliance with Local Law 58 of 87 will be reviewed and determined by the Department of Buildings; the BSA does not herein grant any waiver of said requirements; and

THAT the premises shall comply with all applicable fire safety measures;

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 23, 2004.

---

# MINUTES

---

## 262-03-BZ

APPLICANT - Eric Palatnik, P.C., for Sam Dagan, owner.  
SUBJECT - Application August 18, 2003 - under Z.R. §73-622 to permit the legalization of an enlargement to an existing one family dwelling, which does not comply with the zoning requirements for floor area and rear yard, is contrary to Z.R. §23-47 and §23-142.  
PREMISES AFFECTED - 1564 East 28th Street, west side, between Avenue "P" and Kings Highway, Block 7688, Lot 82, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES -

**Commissioner Chin**.....5

**Negative:** .....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 7, 2003, acting on Application No. 300686096, reads, in part:

1. Proposed floor area contrary to ZR 23-142.
2. Proposed rear yard contrary to ZR 23-47."; and

WHEREAS, a public hearing was held on this application on February 3, 2003 with a continued hearing on March 23, 2004, on which date a decision was rendered; and

WHEREAS, a special permit is sought under Z.R. §73-622 to permit the legalization of an enlargement of an existing single-family dwelling in an R3-2 zoning district, which creates non-compliances with regard to floor area and rear yard requirements, and which is contrary to Z.R §§23-47 and 23-142; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the perimeter wall height will comply with all applicable zoning regulations; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-622 and 73-03.

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622 to permit the legalization of an enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliances with regard to floor area

For Applicant: Eric Palatnik.

**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**

and rear yard requirements, and which is contrary to Z.R §§23-47 and 23-142, on condition that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "March 1, 2004"-(9) sheets; and on further condition;

THAT there shall be no habitable room in the cellar;

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 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;

THAT the Department of Buildings must ensure compliance 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 23 2004.

---

## 337-03-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for 340 Madison Owner, LLC c/o Macklowe Properties, 142 West 57th Street, owners.

SUBJECT - Application October 31, 2003 - under Z.R. §72-21 to permit the proposed enlargement of an existing 21-story office, retail and church building with irregular E-shaped floor plates, will require variances to modify the Special Street Wall requirement of the Grand Central subdistrict, and permit the transfer of floor area across a zoning district boundary, which is not permitted as per

---

# MINUTES

---

Z.R. §81-621, §77-02, §33-17 and §81-211.

PREMISES AFFECTED - 342 Madison Avenue,(a/k/a 16 East 44th Street), west blockfront, between East 43rd and 44th Streets, Block 1278, Lots 8, 14, 15, 17, 62, 63 and 65, Borough of Manhattan.

**COMMUNITY BOARD #5M**

APPEARANCES - None.

**ACTION OF THE BOARD - Application granted on**

**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 October 22, 2003, acting on Application No. 103434230, reads:

"1. Streetwall height of the proposed enlargement does not comply with ZR Section 81-621.

2. Proposed transfer of floor area across zoning district boundary (i.e. from C5-2.5 zone to C5-3 zone) is not permitted pursuant to ZR Sections 77-02, 33-17 and 81-211."; and

WHEREAS, a public hearing was held on this application on February 3, 2004 after due notice by publication in The City Record, and laid over to March 23, 2004 for decision; and

WHEREAS, the site 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 the proposed enlargement of an existing 21-story office, retail and church building with irregular "E"-shaped floor plates, which requires variances to modify the Special Street Wall requirement of the Grand Central Subdistrict regulations and to permit the transfer of floor area across a zoning district boundary, which is contrary to Z.R. §§81-621, 81-211, 77-02, and 33-17; and

WHEREAS, the proposed subject zoning lot is 48,265 square feet, situated on the west blockfront of Madison Avenue, between East 43rd and 44th Streets, and is located partially within a C5-3 zoning district (within the Midtown Special District/Grand Central Subdistrict) and partially within a C5-2.5 zoning district (within the Midtown Special District); and

WHEREAS, the subject lot is currently occupied by a 21 story plus penthouse mixed-use building (commercial offices, retail, church) with 503,487 square feet of floor area; and

WHEREAS, the applicant represents that the building

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**

was originally built with an irregular "E"-shaped floor plate to accommodate and surround two hold out parcels, each with 25 feet of frontage along Madison Avenue and a depth of 95 feet; and

WHEREAS, the applicant states that the proposed enlargement of the building will, contrary to applicable zoning regulations (1) exceed the maximum permitted streetwall height along Madison Avenue, East 43rd Street and East 44th Street and (2) transfer unused floor area generated by the portion of the zoning lot in C5-2.5 district (12 FAR maximum) to enlarge the portion of the building located in the C5-3 district (15 FAR maximum); and

WHEREAS, the proposed enlargement will result in the addition of 76,384 square feet of floor area over and above what would be permitted in an as of right enlargement without the transfer, but the site itself will remain under built, and the Board has not been asked for a bulk variance in the instant application; and

WHEREAS, the proposed enlargement will result in the increase in degree of non-compliance of the streetwall height on the three frontages of the building; specifically, the height of the West 43rd Street streetwall is increased from 177.13 feet to 187.94 feet for a distance of 95 feet from the Madison Avenue intersection, the height of the streetwall along the southern 100.41 feet Madison Avenue is increased to a uniform height of 187.94 feet, and the height of the East 44th Street streetwall is increased to a height of 187.94 feet; and

WHEREAS, in response to concerns expressed by the Board, the applicant has made a supplemental submission which concludes that the proposed relocation of the delivery entrance for the building from Madison Avenue to East 43rd Street will represent an operational improvement over previous conditions; and

WHEREAS, the applicant states 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 history of development and functional obsolescence of the existing building resulting from its irregular and undersized floor plates, and its outdated and inadequate air-conditioning, electrical and telecommunication systems and building services; additionally, the applicant notes that the building lacks a loading dock and freight elevator, which results in the mixing of tenant traffic with deliveries and building services;

---

# MINUTES

---

and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardships and practical difficulties in developing the site in compliance with the applicable zoning

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 conformity with applicable zoning regulations will provide a reasonable return; and

WHEREAS, the applicant states that the immediate area surrounding the building is characterized by short blocks and narrow avenues that contribute to a dense urban fabric, reinforced by high coverage commercial buildings, and that the proposed enlargement of the building will reinforce this context by expanding the upper floors of the building on its Madison Avenue side, while preserving the scale of the lower-rise buildings in the midblock; and

WHEREAS, the applicant further states that the proposed enlargement will reinforce the high streetwall tradition of the neighborhood; and

WHEREAS, in response to concerns expressed by the Board, the applicant made a supplemental submission showing an axonometric projection of the buildings along Madison Avenue between East 41st and East 47th Street and the elevations of these buildings with their total height indicated in stories and feet, which the applicant contends supports their position that the proposed streetwalls will be consistent with the character of the neighborhood; and

WHEREAS, the applicant submitted a revised elevation drawing indicating the heights above curb level at which the various front setbacks occur for buildings along Madison Avenue between East 41st and East 47th Streets; and

WHEREAS, the Board has reviewed these two submissions and find that they show that the design of the proposed building, including its total height and streetwall height, will be contextual with surrounding buildings; and

WHEREAS, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties nor be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that the variance is the minimum variance necessary to afford relief; and

WHEREAS, 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 applicant represents that the transfer of floor area has been approved by the City Planning Commission; and

regulations; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises in compliance with the applicable zoning regulations would not yield the owner a reasonable return; 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 above, to permit the proposed enlargement of an existing 21-story office, retail and church building with irregular "E"-shaped floor plates, which requires variances to modify the Special Street Wall requirement of the Grand Central Subdistrict regulations and to permit the transfer of floor area across a zoning district boundary, which is contrary to Z.R. §§81-621, 81-211, 77-02, and 33-17, 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 31, 2003"- (31) sheets; and on further condition;

THAT the premises shall comply with all applicable fire safety measures;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 23, 2004.

346-03-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Roadco, LLC, owner.

SUBJECT - Application November 13, 2003 - under Z.R. §72-21 to permit the legalization of an existing two family dwelling, Use

---

# MINUTES

---

Group 2, located in an R2 zoning district, which does not comply with the zoning requirements, regarding the number of units permitted on the zoning lot, is contrary to Z.R. §23-22.

PREMISES AFFECTED - 156-05 Cross Island Parkway, east of APPEARANCES -

For Applicant: Joseph Morsellino.

**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 October 24, 2003, acting on Application No. 401484773, reads:

"1. Proposed number of dwelling units is contrary to section 23-22 in that the maximum permitted number of dwelling units is two. The proposed number of dwelling units is three."; and

WHEREAS, a public hearing was held on this application on February 24, 2004 after due notice by publication in The City Record, and laid over to March 23, 2004 for decision; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the Queens Borough President has recommended approval of this application; and

WHEREAS, this is an application under Z.R. §72-21 to permit the proposed legalization of an existing two family home, situated on a zoning lot comprised of two tax lots, located within an R2 zoning district, that also contains a one family dwelling, for a total of three dwelling units on a single zoning lot, which is contrary to Z.R. §23-22; and

WHEREAS, the subject zoning lot is a through lot comprising tax lot 78 and tentative tax lot 94, with the one family home on lot 78 and the two family home on lot 94; the total lot area is 7,042 square feet; the lot is situated on the Cross Island Parkway east of 156th Street, with frontage on both Cross Island Parkway and Cryders Lane; and

WHEREAS, the applicant states that the two family home became a pre-existing, non-conforming dwelling when the area was rezoned to R2 in 1961; and

WHEREAS, the applicant states that the owner of the zoning lot filed for and obtained approval from the Department of Buildings for the construction of the one family home, built the home, and subsequently received notice from DOB that the two family home would have to be converted to a one family home in order to comply with Z.R. §23-22; and

156th Street, Block 4566, Lot 78 (tentative Lot No. 94), Borough of Queens.

**COMMUNITY BOARD #7Q**

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in using the existing building in conformity with underlying district regulations: the history of development of the zoning lot with a two family home, and the irregular shape of the zoning lot; and

WHEREAS, the Board finds that certain of the aforementioned unique physical conditions, specifically the long history of the lot's development with a two family home, create unnecessary hardships and practical difficulties in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant states that conversion of the two family home to one family would cost a substantial amount, but decrease the home's value, and would be difficult to market due to its large size; 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 conformity with applicable zoning regulations will provide a reasonable return; and

WHEREAS, the applicant states that the retention of the two family home as two family is in keeping with other two family homes directly adjacent to the subject site and in the surrounding area, and notes that the use of the structure for a two family home has not had any adverse impacts on neighboring properties for decades; and

WHEREAS, the Board notes, based on the record before it, that both structures on the lot comply and conform in all respects to applicable zoning regulations aside from Z.R. §23-22; and

WHEREAS, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties nor be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that the variance is the minimum variance necessary to afford relief; and

WHEREAS, 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

---

# MINUTES

---

significant environmental impacts that would require the

Resolved that the Board of Standards and Appeals issues a Negative Declaration, under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited above, to permit the proposed legalization of an existing two family home, situated on a zoning lot comprised of two tax lots, located within an R2 zoning district, that also contains a one family dwelling, for a total of three dwelling units on a single zoning lot, which is contrary to Z.R. §23-22, 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 13, 2003"- (4) sheets; and on further condition;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 23, 2004.

---

## 203-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Marcello Porcelli, owner; BP Amoco, PLC, lessee.

SUBJECT - Application July 1, 2002 - under Z.R. §72-21 to permit the proposed construction of a new automotive service station with an accessory convenience store, Use Group 16, that is located in a C1-2 within an R5 zoning district, is contrary to §32-31.

PREMISES AFFECTED - 110-18 Northern Boulevard, between 110th and 111th Streets, Block 1725, Lots 1, 3, 4, 7, 8, 11, 12 and 13, (Tentative Lot 1), Borough of Queens.

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to May 18, 2004,

preparation of an Environmental Impact Statement.

## COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Janice Cahalane.

For Opposition: G. Lawrence

**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 13, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 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 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 -

For Applicant: Peter Hirshman.

For Opposition: Phaedra Thomas.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 1:30 P.M., for continued hearing.

---

## 81-03-BZ

APPLICANT - Timothy M. Rice, for Vinicio Ramirez, owner;

SUBJECT - Application March 24, 2003 and updated December 15, 2003 - under Z.R. §32-30 to reestablish and amend an expired variance, for an auto repair (auto-body) shop, parking for more than five(5) vehicles, storage, and the legalization of a new one story structure on the same lot, which is contrary to a previous variance granted under Cal. No.843-46-BZ, Vol. II, and Z.R. §§22-00 and 32-00.

PREMISES AFFECTED - 857 East 169th Street, and 1351 Lyman Place, northwest corner, Block 2970, Lot 1, Borough of The Bronx.

## COMMUNITY BOARD #3

at 1:30 P.M., for postponed hearing.

---

# MINUTES

---

---

## 84-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Nissan Perla, Partner: N.P. Holdings, LLC, owner.

SUBJECT - Application October 24, 2003 - under Z.R. §72-21 to permit the proposed nine (9) story plus penthouse residential building, Use Group 2, located in an R5, C1-2 overlay zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, lot coverage, total height, perimeter wall height, lot area per dwelling unit and the required number of parking spaces, is contrary to Z.R. §23-141, §23-631, §23-222 and §25-521.

PREMISES AFFECTED - 35-40 30th Street, a/k/a 35-37 29th Street, between 35th and 36th Avenues, Block 341, Lot 6, Borough of Queens.

### COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Jordan Most.

For Opposition: Caroline Adams.

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 1:30 P.M., for continued hearing.

---

## 208-03-BZ

APPLICANT - Law Offices of Stuart A. Klein for Shell Road, LLC, owner; Orion Caterers, Inc., lessee.

SUBJECT - Application June 19, 2003 - under Z.R. §72-21 to permit the legalization of an expansion of an existing catering hall, Use Group 9, located in a split C1-2(overlay of R-4) and M1-1 zoning district, which does not comply with the zoning requirements for floor area ratio, rear yard, and parking, is contrary to Z.R. §33-121, 33-292, §36-21, §43-26 and §44-20.

PREMISES AFFECTED - 2555 Shell Road, east side, between Avenue "X" and Bouck Court, Block 7192, Lot 74, Borough of Brooklyn.

### COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Stuart Klein, Tiffany Raspberry, Council Democratic Recchia and Mel Berfond.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 1:30 P.M., for continued hearing.

---

## 221-03-BZ

APPLICANT - Martyn & Don Weston, for 253 West 28th Street,

### COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to April 20, 2004, at 1:30 P.M., for continued hearing.

---

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, Francis R. Angelino and Vincent Hanley.

For Opposition: Howard Hornstein, Vikki Barbero and Alan Fierstein.

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 1:30 P.M., for continued hearing.

---

## 231-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Isaac Douek Jacqueline Douek Maurice Douek, owners.

SUBJECT - Application July 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a six story building, with a mezzanine and cellar, to contain eighteen residential units, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 63 and 65 Columbia Street, southeast corner of Congress Street, Block 299, Lots 7 and 8, Borough of Brooklyn.

### COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 1:30 P.M., for continued hearing.

---

## 266-03-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for 1710-2 McDonald Realty, LLC, owner.

SUBJECT - Application August 21, 2003 - under Z.R. §73-50 to permit the proposed enlargement of an existing warehouse (furniture), situated in an M1-1 zoning district, by constructing a one-story addition at the rear, that will encroach into the required yard between district boundaries, is contrary to Z.R. §43-302.

PREMISES AFFECTED - 1710/12 McDonald Avenue, west side, 60' south of Avenue "O", Block 6607, Lot 10, Borough of Brooklyn.

---

## 267-03-BZ

APPLICANT - Stuart A. Klein, Esq., for North 14th Street Realty

---

# MINUTES

---

Associates, LLC, owner.

SUBJECT - Application August 21, 2003 - under Z.R. §72-21 to permit the proposed construction of three attached six and seven story buildings, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 2/6 Berry Street, 194/96 North 14th Street, south side, between Wythe Avenue to the west and Berry Street to the east, Block 2279, Lot 13, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Stuart Klein, Harold Weinberg, Robert B. Pauls and Ken Fisher.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 1:30 P.M., for continued hearing.

---

**271-03-BZ**

APPLICANT - Law Office of Fredrick A. Becker, for Frank Scelta, owner.

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a five family, three-story multiple dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10, §42-11 and §42-12.

PREMISES AFFECTED - 976 Metropolitan Avenue, between Catherine Street and Morgan Avenue, Block 2918, Lot 3, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Fredrick Becker and Everett Parker.

**ACTION OF THE BOARD** - Laid over to April 20, 2004, at 1:30 P.M., for continued hearing.

---

**299-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Josette Said, owner.

SUBJECT - Application September 15, 2003 - under Z.R. §72-21 to permit the proposed construction of a detached one-family dwelling, Use Group 1, located in an R1-2 zoning district, which does not comply with the zoning requirements for front yard, rear

SUBJECT - Application December 15, 2003 - under Z.R. §72-21 to permit the proposed expansion and reconstruction of a functionally obsolete one-story industrial building, thereby creating a modern climate controlled eight-story manufacturing and storage of office furniture facility, Use Groups 16 and 17, located in an M3-1 zoning district, which does not comply with the zoning requirements for floor area ratio, setbacks, sky exposure plane, street wall height and parking spaces, which is contrary to Z.R. §43-12, §43-43, §44-21.

PREMISES AFFECTED - 1100 Leggett Avenue, south side, between Barry and Dupont Streets, Block 2606, Lot 125, Borough of the Bronx.

**COMMUNITY BOARD #2BX**

yard and setback, is contrary to Z.R. §23-45, §23-52 and §23-631. PREMISES AFFECTED - 179-16 Grand Central Parkway, between Midland Parkway and Edgerton Boulevard, Block 9943, Lot 43, Borough of Queens.

**COMMUNITY BOARD #8**

APPEARANCES -

For Applicant: Jordan Most.

For Opposition: Pazia Siev.

**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 13, 2004, at 1:30 P.M., for decision, hearing closed.

---

**305-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for 10 Grand Avenue, LLC, owner.

SUBJECT - Application September 25, 2003 - under Z.R. §72-21 to permit the legalization of residential occupancy, Use Group 2, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 2, 8, 10 Grand Avenue, southwest corner of Flushing Avenue, Block 1877, Lots 27 and 30, Borough of Brooklyn.

**COMMUNITY BOARD #2**

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

---

**387-03-BZ**

APPLICANT - Steven M. Sinacori/Stadtmauer Bailkin, for 1100 Leggett Avenue, Inc., owner; Green Office Systems, Inc., lessee.

APPEARANCES -

For Applicant: Steven Sinacori.

**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 13, 2004, at 1:30 P.M., for decision, hearing closed.

---

---

# MINUTES

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 7:00 P.M.

---

## CORRECTIONS

---

**\*CORRECTION**

This resolution adopted on April 9, 2002, under Calendar No. 71-99-BZ and printed in Volume 87, Bulletin Nos. 15-16, is hereby corrected to read as follows:

**71-99-BZ**

**CEQR # 99-BSA-126Q**

APPLICANT - Philip P. Agusta, R.A., M.U.P., for Maspeth Federal Savings Bank and Loan Center, owner.

SUBJECT - Application April 8, 1999 - under Z.R. §72-21, to permit the proposed second story enlargement to an existing bank (Use Group) located in a C1-2 within an R6B zoning district, which will not comply with rear yard requirements, and is contrary to Z.R. §33-26 and 33-27.

PREMISES AFFECTED - 56-05 69<sup>th</sup> Street, east side, 130.55' north of Grand Avenue, Block 2500, Lot 7, Borough of Queens.

**COMMUNITY BOARD #5Q**

APPEARANCES -

For Applicant: Janice Cahalane.

For Administration: Battalion Chief Phil Parr and John Yacovone, Fire Department.

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey and Commissioner Caliendo.....4

Negative: .....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey and Commissioner Caliendo.....4

Negative: .....0

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey and Commissioner Caliendo....4

Negative: .....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 4, 2002 acting on Applic. No. 400913179 reads:

“1. The proposed 2<sup>nd</sup> story enlargement encroaches on the rear yard and is therefore contrary to section 33-26 & 33-27 of the zoning Resolution.”

WHEREAS, a public hearing was held on this application on September 28, 1999 after due notice by publication in *The City Record* and laid over to October 19, 1999, November 23, 1999, January 16, 2001, December 4, 2001, January 8, 2002, February 26, 2002, March 19, 2002 and then to April 9, 2002 for decision. On April 9, 2002 the case was reopened and decision rendered; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-Chair Satish Babbar, Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed second story enlargement to an existing bank (Use Group 6) located in a C1-2 within an R6B zoning district, which will not comply with rear yard requirements, and is contrary to Z.R. §33-26 and §33-27; and

WHEREAS, the subject site is Lot 7 of Block 2500, Queens County, on the New York City Tax Map, commonly known as 56-05 69<sup>th</sup> Street, Queens, NY, and is located approximately 100 feet from the northeasterly intersection of Grand Avenue and 69<sup>th</sup> Street; and

WHEREAS, the applicant contends that the lot area of the site is 5,834 square feet, and is currently improved with a one story and cellar office building that covers 5,696 square feet of the lot; and

WHEREAS, the applicant states that the building is an odd shape built out to the odd shape lot, and has a dimension of 22.95' by 54.73' by 70.81' by 59.39' by 101.93'; and

WHEREAS, the applicant proposes that the second floor is to be the exact shape of the first floor and built out over first floor; and

WHEREAS, Community Board 5 has recommended approval of this application but with off street parking to be provided for an additional (11) employees' vehicles, which together with the four (4) employee parking spaces in the bank lot on 69<sup>th</sup> Street will bring the total available and designated for employee parking in this lot to fifteen (15) spaces; and

WHEREAS, the subject lot is located within an R6B/C1-2 zoning district; and

WHEREAS, the applicant represents that the proposed additional second floor will eliminate the practical difficulty associated with the existing building; and

WHEREAS, the applicant states that currently, the employees work in the existing one story and cellar area, but when the second floor is completed, two of the existing departments will be located to the second floor and a conference room will be added; and

WHEREAS, the applicant also states that the proposed two

story building will contain 11,392 feet of floor area that will require 19 parking spaces under zoning requirements; and

WHEREAS, the applicant represents that as the subject lot is 98% covered, there is no space for the required parking; and

WHEREAS, according to the applicant, the proposed building on the subject lot is required to provide 19 parking spaces and 8 spaces on another nearby lot utilized by the bank; and

---

# CORRECTIONS

---

WHEREAS, the applicant states that the bank owns lots with 54 parking spaces and will add 11 parking spaces; and

WHEREAS, the applicant claims that the 65 parking spaces will accommodate the 27 required parking spaces and have an excess of 38 parking spaces to be provided; and

WHEREAS, the applicant states that the lot is oddly shaped; and

WHEREAS, the applicant claims that the lot has a frontage along the east side of 69<sup>th</sup> Street and extends easterly at a 90 degree angle on the northerly side of the lot 59.9 feet; the lot extends easterly at a 90 degree angle on the southerly side of the lot 11.607 feet, then extends northeasterly at an approximate 150 degree angle 54.73 feet; then northwesterly at an approximate 130 degree angle, where it meets the eastern bound extension on the northerly side of the lot; and

WHEREAS, the applicant states that the subject building is built out over the 98% of the lot along the odd dimensions; and

WHEREAS, the applicant claims that the use of the building is diminished by the reduction of efficiency of the odd shaped lot; and

WHEREAS, the factors that under Z.R. § 33-27, this lot is an interior lot less than 70 feet in depth and as such is considered a shallow interior lot, combined with its irregularity, contribute to the finding of a unique physical condition; and

WHEREAS, according to the applicant, the existing one-story building is built out over 98% of the lot and covers the portion of the lot that would be the required rear yard area for the second floor enlargement; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, the site's history of conforming commercial use, site's uniquely oddly shaped lot, present a practical difficulty and unnecessary hardship for the existing Use Group 6 use, which does not comply with rear yard requirements; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the premises with a complying bulk would not yield the owner a reasonable return; and

WHEREAS, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, under Z.R. §33-27, since this lot is an interior lot less than 70 feet in depth and as such is considered a shallow interior lot, the required rear yard of twenty feet may be reduced by one foot for each two feet by which the maximum depth of such interior lot is less than 70 feet; and

WHEREAS, in addition, the degree of non-compliance to the rear yard requirement is not as great as it would be if it were greater than 70', and is therefore a minimal variance; and

WHEREAS, the Board find that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under §72-21 of the Zoning Resolution; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

*Resolved* that the Board of Standards and Appeals issues a Negative Determination under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, to permit the proposed second story enlargement to an existing bank (Use Group) located in a C1-2 within an R6B zoning district, which will not comply with rear yard requirements, and is contrary to Z.R. §33-26 and §33-27, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received April 4, 2002"-(6) sheets; and on further condition;

THAT the Certificate of Occupancy will state that the facility shall provide the required accessory parking spaces for employees and customers;

THAT the Certificate of Occupancy for the subject lot shall note the specific address, block and lot number for the accessory parking facility;

THAT the Certificate of Occupancy for the accessory parking facility shall note that the parking provided is reserved for employees and customers of the subject facility;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 9, 2002.

**\*\*The resolution has been corrected to remove the part of the conditions which read: "...THAT the Certificate of Occupancy be obtained within two years;". Corrected in Bulletin Nos. 13-14, Vol. 89, dated April 1, 2004.**

---

# CORRECTIONS

---

**\*CORRECTION**

This resolution adopted on December 9, 2003, under Calendar No. 235-01-BZ and printed in Volume 88, Bulletin Nos. 48-50, is hereby corrected to read as follows:

**235-01-BZ**

APPLICANT - Rothkrug & Rothkrug for Mermaid Commons, LLC, owner; Coney Island Memorial Chapel, Inc., lessee.

SUBJECT - Application July 10, 2001 - reopening for a rehearing for reconsideration.

PREMISES AFFECTED - 2009 Mermaid Avenue, a/k/a 2879 West 21<sup>st</sup> Street, a/k/a 2882 West 20<sup>th</sup> Street, northwest corner of West 20<sup>th</sup> Street and Mermaid Avenue, Block 7018, Lot 42 (Tentatively), Borough of Brooklyn.

**COMMUNITY BOARD #13BK**

APPEARANCES - Adam Rothkrug.

**ACTION OF THE BOARD - Application denied.**

**THE VOTE TO GRANT -**

Affirmative: Vice-Chair Babbar and Commissioner Caliendo.....2

Negative: Chairman Chin and Commissioner Miele.....2

**THE RESOLUTION -**

WHEREAS, the decision of the Borough Commissioner, dated July 2, 2001, acting on Application No. 301162328 reads:

**“PROPOSED FUNERAL ESTABLISHMENT, USE GROUP 7, IN A C1-2/R5 DISTRICT REQUIRES A SPECIAL PERMIT FROM THE BOARD OF STANDARDS & APPEALS”;** and

WHEREAS, previously, a public hearing was held on this application on December 18, 2001, after due notice by publication in *The City Record*, and laid over to February 5, 2002 and March 19, 2002, and then to May 7, 2002 for decision when it was re-opened and laid over for continued hearing to June 11, 2002, and then to July 16, 2002 for decision; and

WHEREAS, the subject application was denied on July 16, 2002, based on a two affirmative, two negative and one abstention vote; and

WHEREAS, the Board’s July 16, 2002 decision was appealed to the Supreme Court of New York State in an Article 78 proceeding, and subsequently remanded back to the Board on June 2, 2003 for a full vote of every member; and

WHEREAS, the application was then reopened and placed on the Special Order calendar; and

WHEREAS, a public hearing was held on the remanded application on September 9, 2003, after due notice by publication in *The City Record* and then to October 28, 2003

for continued hearing, and then to November 18, 2003 and December 9, 2003 for decision; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-Chair Satish Babbar, Commissioner Joel Miele and Commissioner Peter Caliendo; and

WHEREAS, this is an application for a special permit, under Z.R. §73-27 to permit, in a C1-2/R5 zoning district, the proposed construction of a one-story funeral establishment (Use Group 7), contrary to Z. R. §32-21; and

WHEREAS, the subject premises is a parcel on the southern part of a larger block, with a total area of 26,503 square feet, consisting of eleven vacant tax lots and a portion of one additional tax lot (lot no. 38); and

WHEREAS, this application entails the proposed amalgamation of these separate tax lots into a single tax lot (lot no. 42); and

WHEREAS, the proposed funeral establishment would have a total floor area of 5,316 sq. ft., with a first floor containing four chapels, the largest of which would be approximately 800 square feet, as well as offices, an embalming room and storage; and

WHEREAS, the applicant states that a total of 35 off-street parking spaces would be provided; and

WHEREAS, pursuant to Z.R. §73-27(a), the Board may permit funeral establishments in a C1 or C4 district provided that there are serious difficulties involved in placing such use within a district wherein such use is permitted as-of-right and from which it could serve the needs of its prospective clientele, which make it necessary to locate such use in a C1 or C4 district; and

WHEREAS, the opposition to the application contends that there are numerous sites in the Coney Island neighborhood where the proposed funeral establishment could be sited; and

WHEREAS, the opposition also contends that there are homeowners in the neighborhood who would be willing to sell their property for siting of the proposed funeral establishment; and

WHEREAS, the applicant claims that Coney Island is a geographically segregated area, with limited availability of zones in which the proposed funeral establishment would be a permitted use, and that Mermaid Avenue is the principal commercial strip, with the street frontage predominantly zoned C1-2; and

WHEREAS, the applicant maintains that none of the parcels of land suggested by the opposition as alternative sites are attainable or viable for the proposed use as they are either too small or improperly zoned; and

WHEREAS, the applicant argues that the “serious

---

# CORRECTIONS

---

applicant to initiate sale negotiations with parties who do not

WHEREAS, a majority of the Board, based upon their inspection of the subject area and review of the evidence in the record, find that the applicant has sufficiently refuted the existence of appropriate parcels in the Coney Island neighborhood other than the subject parcel for siting of the proposed funeral establishment; and

WHEREAS, accordingly, this majority of the Board finds that there are serious difficulties in locating such use in a district where it is permitted as-of-right and, therefore, that the applicant’s proposal meets the requirements of ZR §73-27(a); and

WHEREAS, pursuant to Z.R. §73-27(b), the Board must find that the site for the proposed funeral establishment is located so as to cause minimum interruption of the continuity of the frontage devoted to retail shopping uses; and

WHEREAS, the opposition contends that there is significant retail activity in the immediate neighborhood, and that the proposed funeral establishment would interrupt the continuity of the retail frontage; and

WHEREAS, the applicant maintains that there is no continuity of frontage devoted to retail shopping uses for the proposed funeral establishment to interrupt; and

WHEREAS, two members of the Board, based upon their inspection of the subject area and review of evidence in the record, find that the proposed funeral establishment would cause only minimum interruption of the continuity of the frontage devoted to retail shopping uses, as there are only a few retail stores on the street frontage; and

WHEREAS, however, two other members of the Board, based upon their inspection of the subject area and review of evidence in the record, find that the proposed funeral establishment would cause more than minimal interruption of continuity of the retail shopping use frontage, in that the proposed funeral establishment would envelope another retail establishment on the same block, surrounding it on both sides, and would also interrupt the continuity of frontage on the north side of Mermaid Avenue devoted to retail shopping use, which starts with the subject block and extends due west for eleven (11) more blocks to West 33rd Street; and

WHEREAS, these same two members of the Board note that the existence of actual retail shopping on the frontage is not relevant; rather, what matters is that the frontage is zoned commercial (C1-2), and is therefore devoted to retail shopping use; and

WHEREAS, pursuant to Z.R. §73-27(c), the Board must find that the proposed use is so located as to draw a minimum of vehicular traffic to and through local streets in residential

areas; and

WHEREAS, based upon its review of the record and its site inspection, the Board in its entirety finds that the applicant has met the finding set forth at Z.R. §73-27(c), in that its location will not lead to any significant increase in traffic on the immediate local streets; and

WHEREAS, only two members of the Board find that the applicant has met all of the findings necessary for a grant of a special permit pursuant to Z.R. §73-27; and

WHEREAS, pursuant to the Board’s Rules of Practice and Procedure §1-01.1(e) and New York City Charter §663, a special permit may not be granted unless there is a concurring vote of at least three members of the Board, and an action that fails to receive the requisite three votes will be deemed a denial.

*Resolved* that the decision of the Borough Commissioner, described above, is sustained and the subject application is hereby denied.

Adopted by the Board of Standards and Appeals, December 9, 2003.

**\*\*The resolution has been corrected in that the 25<sup>th</sup> WHEREAS which read: “...create a 200 foot, block long separation between the retail frontage of the block directly to the west and the retail frontage of the block directly to the east...” now reads: “interrupt the continuity of frontage on the north side of Mermaid Avenue devoted to retail shopping use, which starts with the subject block and extends due west for eleven (11) more blocks to West 33rd Street”. Corrected in Bulletin No. 12, Vol. 89, dated March 18, 2004.**

\_\_\_\_\_

This resolution adopted on March 2, 2004, under Calendar No. 239-03-BZ and printed in Volume 89, Bulletin No. 11, is hereby corrected to read as follows:

\_\_\_\_\_

**239-03-BZ**

**CEQR#04-BSA-009M**

APPLICANT - Jay A. Segal, Greenberg Traurig, LLP, for West Broadway Arches c/o Mr. Chuck Seltzer, owner.

SUBJECT - Application July 10, 2003 - under Z.R. § 73-01 & 73-53 to permit the proposed extension of the uses (studios with accessory living/sleeping accommodations) allowed on

floors two through six of the West Broadway portion of the subject building, which is located partially in a M1-5A zoning district and partially in a R7-2 zoning district, contrary to Z.R. §42-14D.

PREMISES AFFECTED - 468 West Broadway and 140

Street, between West Houston and Prince Streets, Block 516, Lot 7, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

# CORRECTIONS

Thompson Street, fronting on West Broadway and Thompson

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and

Commissioner Miele .....4

Negative: .....0

Not Voting: Commissioner Chin.....1

THE RESOLUTION

WHEREAS, the decision of the Borough Commissioner, dated July 3, 2003, acting on Department of Buildings Application No. 103459570, reads:

"1. Proposed cellar and first floor use on West Broadway `Studios, art music, dancing or theatrical with accessory sleeping accommodations for employees in connection with commercial or manufacturing use' (Use Group 9), not permitted pursuant to ZR 42-14."; and

WHEREAS, a public hearing was held on this application on January 27, 2004, and then to March 2, 2004 for decision; and

WHEREAS, the premises and surrounding area had site and neighborhood examination by a committee of the Board; and

WHEREAS, a special permit is sought under Z.R. §§73-03 and 73-53 to permit the proposed extension of the uses (studios with accessory living/sleeping accommodations) allowed on floors two through six of the West Broadway portion of the subject building, which is located partially in a M1-5A zoning district and partially in a R7-2 zoning district, contrary to Z.R. §42-14D; and

WHEREAS, the subject zoning lot is a through lot fronting both on West Broadway and Thompson Street; that part of the lot fronting on West Broadway (the eastern part) is within a M1-5A zoning district, and the western part is within an R7-2 zoning district; and

WHEREAS, the lot is improved with a six-story with cellar building, which has a separate Certificate of Occupancy ("CO") for its West Broadway portion (the "Eastern Portion"); and

WHEREAS, the CO for the Eastern Portion allows studios for art, music dancing or theatrical, with accessory living/sleeping accommodation for employees in connection with commercial or manufacturing uses (the "Uses"), on floors two through six; the CO allows an art gallery or store use on the ground floor and an art gallery and store storage

rooms in the cellar; and

WHEREAS, the applicant now seeks to extend the Uses to the ground floor; and

WHEREAS, the applicant represents that the CO, amended in 1983, provides that 50 percent of the units in the Eastern Portion are to be used for Joint Living Working Quarters for Artists ("JLWQA"), and that the extension would allow the use of the ground floor for a use similar to JLWQA; and

WHEREAS, the applicant, through testimony and submission of supporting documentation, has demonstrated that: the premises is not subject to termination pursuant to Z.R. §52-70; that the use for which the special permit is being sought has lawfully existed for more than 5 years; that the subject building has not received an enlargement pursuant to Z.R. §§11-412, 43-121 or 72-21; and that the subject use is listed in Use Group 9, not Use Group 18; and

WHEREAS, the Board notes that Z.R. §73-53(a)(5) is not applicable because the premises is located in an M1-5A zoning district; and

WHEREAS, the requested proposal is for an extension that results in less than 45% of the floor area occupied by such use on December 17, 1987 and is less than a 2,500 square feet addition to the floor area occupied by such use on December 17, 1987, and does not exceed 10,000 square feet; and

WHEREAS, the applicant represents that the extension will be housed in an entirely enclosed building, and that the performance standards are inapplicable; and

WHEREAS, the applicant further states that there will be no open uses of any kind; and

WHEREAS, the applicant represents, and the Board agrees, that that the requirements set forth at Z.R. §73-53(b)(4),(5),(6),(7),(8), and (9) are either satisfied, or not applicable to the instant application; and

WHEREAS, the record indicates that the subject extension will not generate significant increases in vehicular or pedestrian traffic, nor cause congestion in the surrounding area, and that the adequate parking requirement is not applicable to the subject extension, as no parking is provided on the subject lot and the extension of the Uses to the ground floor would likely decrease the need for parking through elimination of the retail use; and

WHEREAS, the Board notes that there are no required

side yards; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, therefore, the Board determines that the evidence in the record supports the findings required to be made under Z.R. §73-53 and 73-03.

Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §§73-53 and 73-03 to permit the proposed extension of the uses (studios with accessory living/sleeping accommodations) allowed on floors two through six of the West Broadway portion of the

---

# CORRECTIONS

---

subject building, which is located partially in a M1-5A zoning district and partially in a R7-2 zoning district, contrary to Z.R. §42-14D, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received July 10, 2003" -(1) sheet and "February 6, 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 all applicable fire safety measure will be complied with;

THAT the above conditions shall appear on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted; and

Adopted by the Board of Standards and Appeals March 2, 2004.

**\*\*The resolution has been corrected to remove the part of the conditions which read: "...THAT substantial construction be completed and a new Certificate of Occupancy be obtained in accordance with Z.R. §73-70". Corrected in Bulletin Nos. 13-14, Vol. 89, dated April 1, 2004.**

---

*Pasquale Pacifico, Executive Director.*

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 15

April 8, 2004

---

### DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

PETER CALIENDO

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**

### CONTENTS

DOCKET .....	256
<b>CALENDAR</b> of May 11, 2004	
Morning .....	257
Afternoon .....	258

---

# CONTENTS

---

**MINUTES** of Regular Meetings,  
**Tuesday, March 30, 2004**

Morning Calendar .....259

**Affecting Calendar Numbers:**

973-57-BZ	60-04 Metropolitan Avenue, Manhattan
85-58-BZ	20/24 2 <sup>nd</sup> Avenue, a/k/a 30/32 East 1 <sup>st</sup> Street, Manhattan
400-70-BZ	134-07 Cross Bay Boulevard, Queens
923-77-BZ	1905 McDonald Avenue, Brooklyn
724-56-BZ	42-42 Francis Lewis Boulevard, Queens
269-98-BZ	70 East 184 <sup>th</sup> Street, a/k/a 2363 Morris Avenue, Bronx
144-00-BZ	210 East 77 <sup>th</sup> Street, Manhattan
263-01-BZ	85-101 N. 3 <sup>rd</sup> Street, Brooklyn
32-02-BZ	176-182 Johnson Street, Brooklyn
103-02-BZ	1516 East 24 <sup>th</sup> Street, Brooklyn
193-03-BZ	824-834 Kent Avenue, Brooklyn
263-03-A	1638 Eighth Avenue, Brooklyn
311-03-A thru 313-03-A	140/144/146 Jackson Avenue, Brooklyn
44-04-A	1491 Richmond Road, Staten Island

Afternoon Calendar.....263

**Affecting Calendar Numbers:**

92-03-BZ	472 West 130 <sup>th</sup> Street, Manhattan
142-03-BZ	140-20 Farmers Boulevard, Queens
217-03-BZ	140-42 Pennsylvannia Avenue, Brooklyn
303-03-BZ	433 Columbia Street, Brooklyn
309-03-BZ	744/48 Greenwich Street, Manhattan
340-03-BZ	408 Greenwich Street, Manhattan
386-03-BZ	326 East 18 <sup>th</sup> Street, Manhattan
139-03-BZ	247-54 90 <sup>th</sup> Avenue, Queens
194-03-BZ	739 East New York Avenue, Brooklyn
211-03-BZ	529-535 48 <sup>th</sup> Avenue, Queens
218-03-BZ	19-73 38 <sup>th</sup> Street, Queens
261-03-BZ	1404/06 Stebbins Avenue, Bronx
273-03-BZ thru 285-03-BZ	211-51/49/47/45/43/41/54/52/50/48/46/44/42 94 <sup>th</sup> Road, Queens
290-03-BZ	1097 Second Avenue, Manhattan
307-03-BZ	543/45 West 110 <sup>th</sup> Street, Manhattan
308-03-BZ	557/71 Grand Concourse, Bronx
339-03-BZ	122 Arthur Kill Road, Staten Island
363-03-BZ	480 East 176 <sup>th</sup> Street, Bronx
377-03-BZ	25 Bond Street, Manhattan
384-03-BZ	804 East 138 <sup>th</sup> Street, Bronx

---

# DOCKETS

---

New Case Filed Up to March 30, 2004

**135-04-BZ** B.Q. 91-22 188<sup>th</sup>  
Street,  
northeast corner of Jamaica Avenue, Block 9910,  
Tentative Lot 43 (part of lot 1), N.B. 401598829.  
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.  
**COMMUNITY BOARD #12BK**

---

**136-04-BZ** B.BK. 3132 Fort Hamilton  
Parkway, between McDonald Avenue and East Second  
Street, Block 5315, Lot 1, Borough of Brooklyn. N.B.  
301272833. 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.  
**COMMUNITY BOARD #12BK**

---

**137-04-BZ** B.BK. 1755 East 28<sup>th</sup>  
Street,  
between Quentin Road and Avenue "R", Borough of  
Brooklyn. Applic. #301677031. Proposed enlargement of  
an existing single family residence, located within an R3-2  
zoning district, which exceeds the allowable floor area, lot  
coverage, perimeter wall height, and side yard and rear  
yards, is contrary to Z.R. §23-141, §23-631, §23-48 and  
§23-47.  
**COMMUNITY BOARD #15BK**

---

**138-04-BZ** B.BK. 6101/23 16<sup>th</sup>  
Avenue,  
between 61<sup>st</sup> and 62<sup>nd</sup> Streets, Block 5524, Lot 1, Borough  
of Brooklyn. Applic. #301444168. Proposed school, Use  
Group 3, located within an M1-1 zoning district, is contrary  
to Z.R. §42-00.  
**COMMUNITY BOARD #11BK**

---

**139-04-BZ** B.BK. 1259 East 28<sup>th</sup>  
Street,  
between Avenues "M" and "L", Block 7646, Lot 21,  
Borough of Brooklyn. Alt. #301688911. Proposed  
enlargement of an existing single family residence, located  
within an R2 zoning district, which does not comply with the  
zoning requirement for allowable floor area, open space  
and rear yard, is contrary to Z.R. §23-141 and §23-47.  
**COMMUNITY BOARD #14BK**

---

**140-04-A** B.BK. 500 Clinton Street,  
southwest corner of Third Place, Block 320, Lot 27,  
Borough of Brooklyn. Applic. #301562903. Appeal of the

Department of Buildings' letter dated March 18, 2004, in  
which the Department refused to revoke approval and  
underlying permit for subject premises.

---

**141-04-BZ** B.Q. 94-34 45<sup>th</sup> Avenue,  
south side, between Junction Boulevard and 94<sup>th</sup> Street,  
Block 1602, Lot 18, Borough of Queens. Applic.  
#401759548. Proposed second story enlargement to an  
existing one-story warehouse building, Use Group 6,  
located within an R6-B zoning district, is contrary to §52-  
40.  
**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

---

**MAY 11, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, May 11, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## SPECIAL ORDER CALENDAR

### **707-56-BZ, Vol. II**

APPLICANT - Walter T. Gorman, P.E., for Jewell Mallinson/Leonard Mallinson, owners; Amoco Oil Company, lessee.

SUBJECT - Application January 13, 2004 - reopening for an extension of term of variance which expired April 21, 2004.

PREMISES AFFECTED - 1500/10 Williamsbridge Road, northeast corner of Eastchester Road, Block 4082, Lot 5, Borough of The Bronx.

**COMMUNITY BOARD #11BX**

---

### **40-80-BZ**

APPLICANT - Sheldon Lobel, P.C., for 35 West 23rd Street Corp., owner; Patrick Montgomery, lessee.

SUBJECT - Application February 9, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 35-37 West 23rd Street, between Fifth Avenue and Avenue of the Americas, Block 825, Lot 7501, Borough of Manhattan.

**COMMUNITY BOARD #5M**

---

### **1038-80-BZ**

APPLICANT - Davidoff & Malito, LLP, for Feinrose Downing, LLC, owner; Expressway Arcade Corp., lessee.

SUBJECT - Application January 29, 2004 - reopening for an extension of term of variance which expired January 6, 2004.

PREMISES AFFECTED - 31-07/09/11 Downing Street, Block 4327-4367, Lot 1, Borough of Queens.

**COMMUNITY BOARD #7Q**

---

### **295-01-BZ**

APPLICANT - Fischbein Badillo Wagner Harding, for Yeled V'Yalda Early Childhood Center, owner.

SUBJECT - Application January 22, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1257-1263 38th Street, between 12th Avenue and 13th Avenue, Block 5295, Lots 47, 48, 49, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

---

**MAY 11, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday*

### **393-03-A**

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative Inc., owner; Phillip & Stacey Benoit, owners.

SUBJECT - Application December 23, 2003 - Proposed enlargement and alteration to an existing one family dwelling, not fronting on a legally mapped street, which is contrary to Section 36, Article 3 of the General City Law. The building is not considered within 100' of a corner, therefore, 30'0" rear yard is required for second story enlargement.

PREMISES AFFECTED - 2 Roxbury Avenue, southeast corner of Marshall Avenue, Block 16340, Lot 50, Borough of Queens.

**COMMUNITY BOARD #14Q**

---

### **395-03-A & 396-03-A**

APPLICANT - Zaki Turkieh, for Aryeh Realty, LLC, owner.

SUBJECT - Application December 26, 2003 - proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 253-06 Rockaway Boulevard, located on Rockaway Boulevard and corner of East Dock Street, Block 13921, Lot 84, Borough of Queens.

---

### **27-04-A**

APPLICANT - Steven Sinacori/Stadtmauer Bailkin, LLP, for City of New York, owner; Unconvention Center, Inc., lessee.

SUBJECT - Application February 11, 2004 - Proposed rehabilitation and renovation of Pier 94, for use as an exhibition hall for mid-size trade shows, which seeks relief from the requirements of §27-369(f) of the NYC Building Code with respect to protection of an exterior corridor, and §27-771.01(b) of the NYC Building Code with respect to mechanical system providing less than (6) six air changes per hour.

PREMISES AFFECTED - 755 12th Avenue, west side, between West 53rd and 55th Streets, Block 1109, Lot 5, Borough of Manhattan.

**COMMUNITY BOARD #4M**

---

*afternoon*, May 11, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>h</sup> Floor, New York, N.Y. 10006, on the following matters:

---

---

# MINUTES

---

## ZONING CALENDAR

### 229-03-BZ

APPLICANT - David L. Businelli, for PIC Legacy Realty, Inc., owner.

SUBJECT - Application July 3, 2003 - under Z.R. §72-21 to permit the proposed erection of a one family detached residence, Use Group 1, located in an R-2 zoning district, which does not comply with the zoning requirements for front yard is contrary to Z.R. §23-45.

PREMISES AFFECTED - 303 Crystal Avenue, southeast corner of Watchogue Road, Block 472, Lot 149, Borough of Staten Island.

**COMMUNITY BOARD #ISI**

---

### 314-03-BZ

APPLICANT - Deirdre A. Carson, Esq., for 17-18 Management Co. LLC, c/o White, Inc., owner; AMAC, lessee.

SUBJECT - Application October 16, 2003 - under Z.R. §§73-01, 73-03 & 73-19 to permit the legalization of an existing school, Use Group 3A, located in an 11 story loft building, in an M1-6M zoning district, is contrary to Z.R. §42-00 and §42-12.

PREMISES AFFECTED - 18 West 18th Street, a/k/a 25 West 17th Street, a through lot, 356' west of the intersection of Fifth Avenue and 17th and 18th Streets, Block 819, Lot 56, Borough of Manhattan.

**COMMUNITY BOARD #5M**

---

### 327-03-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**

---

### 343-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Pasquale Pescatore, owner.

SUBJECT - Application November 12, 2003 - under Z.R. §72-21 to permit the proposed construction of seven story, nineteen unit, residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 90 Havemeyer Street, between Hope Street and Metropolitan Avenue, Block 2368, Lot 26(Former Lots 26, 27 and 28), Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

---

### 390-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Dobbins Street, LLC, owner.

SUBJECT - Application December 18, 2003 - under Z.R. §72-21 to permit the legalization of residential use on the second floor, of a two story mixed use building, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 95 Dobbins Street, between Norman and Messerole Avenues, Block 2616, Lot 18, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

---

*Pasquale Pacifico, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, MARCH 30, 2004  
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, February 3, 2004, were approved as printed in the Bulletin of February 12, 2004, Volume 89, No. 7.

**SPECIAL ORDER CALENDAR**

**973-57-BZ**

APPLICANT - Sheldon Lobel, P.C., for Bill Wolf Petroleum Corp., owner.

SUBJECT - Application October 16, 2003 - reopening for an extension of term of variance which expired October 28, 2003.

PREMISES AFFECTED - 60-04 Metropolitan Avenue on the southwest corner of 60th Street, Block 3492, Lot 45, Borough of Manhattan.

**COMMUNITY BOARD #5M**

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Application re-opened and term of the variance extended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on January 27, 2004, after due notice by publication in *The City Record*, with a continued hearing on March 9, 2004 and laid over to March 30, 2004 for decision; and

WHEREAS, the applicant has requested a re-opening and an extension of the term of the variance which expired on October 28, 2003; and

WHEREAS, on October 28, 1958, the Board granted an application to permit, in a retail and residential use district, the erection and maintenance of a gasoline service station, lubritorium, motor vehicle repairs of minor adjustment with hand tools only, automatic auto laundry, simonizing room and parking of vehicles awaiting service; and

WHEREAS, the applicant seeks to extend the term of the variance for an additional ten (10) years.

Resolved, that the Board of Standards and Appeals, pursuant to §Z.R. 11-411, *reopens and extends the term of the variance*, said resolution having been adopted October 28, 1958, so that as amended this portion of the resolution

WHEREAS, a public hearing was held on this application on February 3, 2004, after due notice by publication in *The City Record*, with a continued hearing on March 2, 2004, and then laid over to March 30, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules

shall read: "to permit the extension of the term of the variance for an additional ten (10) years from the October 28, 2003 to expire on October 28, 2013, *on condition* that the premises shall be maintained in substantial compliance with the proposed drawings submitted with the application marked "Received February 24, 2004"-(1) sheet; and that other than as herein amended the resolution above cited shall be complied with in all respects; *and on further condition*;

THAT the conditions from all prior BSA resolutions for this site shall remain in effect;

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 six feet high buffering in the form of appropriate fencing will be provided on the sides of the subject lot abutting residential uses;

THAT 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 # 401712107)

Adopted by the Board of Standards and Appeals, March 30, 2004.

**85-58-BZ**

APPLICANT - Maxfield Blaufeux & Heywood Blaufeux, for Estate of Hyman Badzanower, owner; Westfield second Associates, owner

SUBJECT - Application October 7, 2003 - reopening for an extension of term of variance which expired September 9, 2003.

PREMISES AFFECTED - 20/24 2nd Avenue a/k/a 30/32 East 1st Street, northeast corner of 2nd Avenue and East 1st Street, Block 443, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #3M**

APPEARANCES - None.

**ACTION OF THE BOARD - Rules of Practice and Procedure waived, application re-opened, resolution amended and term of variance extended.**

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

of Practice and Procedure, a re-opening, an extension of the term of the variance which expired on September 9, 2003, and an amendment to the resolution; and

WHEREAS, the applicant seeks to legalize an accessory convenience store on the premises; and

---

# MINUTES

---

WHEREAS, on July 24, 1958, the Board granted an application to permit the erection of a gasoline service station with accessory uses; 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 July 7, 1994; and

WHEREAS, by letter dated November 26, 2003, Community Board No. 3, Manhattan, recommends approval of this application, provided that the station make a better effort to keep the sidewalks to which it is adjacent unobstructed.

*Resolved*, that the Board of Standards and Appeals *reopens and amends* the resolution, pursuant to Zoning Resolution §11-411, extends the term of the variance which expired on September 9, 2003, so that as amended this portion of the resolution shall read: “to permit the extension of the term of the variance for an additional ten (10) years from September 9, 2003 expiring on September 9, 2013, and to legalize the addition of an accessory convenience store; *on condition* that all work shall substantially conform to drawings as filed with this application, marked “Received October 7, 2003”-(1) sheet and “March 30, 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 the sidewalks abutting the subject property will be kept unobstructed and that no parking of vehicles is allowed on the sidewalks;

THAT a legible sign be posted in the convenience store in a location visible to customers stating “Customers parking on the sidewalk will NOT be served”;

THAT 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 #103571733)

Adopted by the Board of Standards and Appeals, March 30, 2004.

## 400-70-BZ

APPLICANT - Sheldon Lobel, P.C., for Amerada Hess Corporation, owner.

SUBJECT - Application November 7, 2003 - reopening for an

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 will be as approved by the Department of Buildings;

THAT landscaping shall be provided and maintained in accordance with BSA approved plans, as submitted with the

amendment to the resolution.

PREMISES AFFECTED - 134-07 Cross Bay Boulevard (formerly 134-15 Cross Bay Boulevard) Cross Bay Boulevard at northeast corner of Linden Boulevard, Block 11493, Lots 79 and 87, Borough of Queens.

## COMMUNITY BOARD #10Q

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Application re-opened and resolution amended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on January 27, 2004, after due notice by publication in The City Record, with a continued hearing on March 9, 2004, and then laid over to March 30, 2004 for decision; and

WHEREAS, the applicant has requested a re-opening and an amendment to the resolution; and

WHEREAS, on November 24, 1970, the BSA granted a variance under §72-21 to permit in a C1-2 within an R4 zoning district, the erection and maintenance of an automotive service station with accessory uses; and

WHEREAS, on November 25, 1997, the resolution was amended to permit modernization of the site; and

WHEREAS, the subject application seeks to demolish the existing kiosk on the site and construct a 2,480 square foot convenience store, of which 1,354 square feet will be used as sales area, to relocate the existing gasoline dispensers and canopy, alter the existing signage and to include nine (9) parking spaces.

*Resolved*, that the Board of Standards and Appeals *reopens and amends* the resolution, pursuant to Zoning Resolution §§72-01 and 72-22, so that as amended this portion of the resolution shall read: “to permit the to demolition of the existing kiosk on the site and construction of a 2,480 square foot convenience store, of which 1,354 square feet will be used as sales area, relocation the existing gasoline dispensers and canopy, alteration of the existing signage and the inclusion of nine (9) parking spaces; on condition that all work shall substantially conform to drawings as filed with this application, marked “Received March 12, 2004”- (7) sheets; and on further condition;

THAT the term of this variance shall be limited to ten (10) years from the date of this resolution to expire on March 30, 2014;

instant application on Sheet 2, dated “Received March 12, 2004”;

THAT all lighting shall be directed toward Cross Bay Boulevard, and away from residential homes;

THAT 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

---

# 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) and/or configuration(s) not related to the relief granted.”

(DOB Application #401636253)

Adopted by the Board of Standards and Appeals, March 30, 2004.

---

## 923-77-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for Matthew Percia, owner.

SUBJECT - Application September 9, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 31, 2003.

PREMISES AFFECTED - 1905 McDonald Avenue, east side of McDonald Avenue, 105' south of Quentin Road, Block 6658, Lot 86, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Adam W. Rothkrug.

ACTION OF THE BOARD - Rules of Practice and Procedure waived and term of variance extended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on March 2, 2004 after due notice by publication in *The City Record*, and laid over to March 30, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure and an extension of the term of the granted variance, which expired on May 31, 2003; and

WHEREAS, on July 2, 1963, the Board permitted an erection of a one story manufacturing building in an R5 zoning district for a term of 15 years; and

WHEREAS, the on March 8, 1994 the Board amended the variance to permit maintenance of an interior mezzanine and to extend the term for 10 years, to expire May 31, 2003.

Resolved, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, and extends the term of the variance which expired on May 31, 2003, pursuant to Z.R. §72-21, so that as amended this portion of the resolution shall read:

“to permit the extension of the term of the variance

PREMISES AFFECTED - 70 East 184<sup>th</sup> Street, a/k/a 2363 Morris Avenue, south side of East of East 184<sup>th</sup> Street, corner formed by the intersection of Morris Avenue, Block 3183, Lot 42, Borough of The Bronx.

COMMUNITY BOARD #5BX

APPEARANCES - None.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

for an additional ten (10) years from May 31, 2003 expiring on May 31, 2013; 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 13, 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 the parking layout in the subject garage will be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

(DOB # 301549377)

Adopted by the Board of Standards and Appeals, March 30, 2004.

---

## 724-56-BZ

APPLICANT - Vassalotti Associates Architects, LLP, for Anthony Nicovic, owner.

SUBJECT - Application December 18, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired November 19, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 42-42 Francis Lewis Boulevard, south of 42nd Road, Block 5373, Lot 26, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD - Laid over to May 11, 2004, at 10 A.M., for continued hearing.

---

## 269-98-BZ

APPLICANT - Mothiur Rahman, for Mothiur Rahman, owner.

SUBJECT - Application December 9, 2003 - reopening for an extension of time to obtain a Certificate of Occupancy.

Negative:.....0

ACTION OF THE BOARD - Laid over to April 13, 2004, at 10 A.M., for decision, hearing closed.

---

## 144-00-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for Birch Wathen Lenox School, owner.

SUBJECT - Application January 28, 2004 - reopening for an amendment to the resolution.

---

# MINUTES

---

PREMISES AFFECTED - 210 East 77th Street, south side of 77th Street, 145 East of Third Avenue, Block 1431, Lot 41, Borough of Manhattan.

## COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Adam Rothkrug, Michael Specter, Michael Delsordo, Frank Carnabuci, Elizabeth Levethal, Janine Hopley, Chris Carlin and Jonathan Theobald.

### 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 13, 2004, at 10 A.M., for decision, hearing closed.

---

## 263-01-BZ

APPLICANT - Francis R. Angelino, Esq., for Lee & Wythe Realty Corp., owner; 85-101 North Third Street Associates, Inc., Lessee. SUBJECT - Application January 7, 2004 - reopening for an extension of time to obtain a Certificate of Occupancy which expired on January 7, 2003.

PREMISES AFFECTED - 85-101 N. 3<sup>rd</sup> Street, northeast corner of intersection of North 3<sup>rd</sup> Street and Whythe Avenue, Block 2350, Lot 1, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Francis R. Angelino.

### 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 13, 2004, at 10 A.M., for decision, hearing closed.

---

## 32-02-BZ

APPLICANT - Martyn & Don Weston, for Winchester Realty Group, LLC, owner.

SUBJECT - Application December 12, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 176-182 Johnson Street, southwest corner of 92-102 Prince Street, Block 2049, Lot 15, Borough of

## 263-03-A

APPLICANT - John W. Carroll, Wolfson & Carroll, for Ben Bobker, owner.

SUBJECT - Application August 20, 2003 - An administrative appeal challenging the Department of Buildings' final determination dated August 13, 2003, in which the Department refused to revoke the certificate of occupancy, on the basis that the applicant had satisfied all objections regarding said premises.

PREMISES AFFECTED - 1638 Eighth Avenue, west side, 110-5' east of Prospect Avenue, Block 1112, Lot 52, Borough of Brooklyn.

## COMMUNITY BOARD #7BK

APPEARANCES -

Brooklyn.

## COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Don Weston.

### 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 20, 2004, at 10 A.M., for decision, hearing closed.

---

## 103-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Bnei Aharon, Inc., owner. SUBJECT - Application December 2, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1516 East 24th Street, East 24th Street, 105'south of Avenue O and Kings Highway, Block 6770, Lot 12, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to April 13, 2004, at 10 A.M., for continued hearing.

---

## 193-03-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Park and Kent Associates, Inc. SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 824-834 Kent Avenue, south side of Park Avenue, east of Taafee Place, Block 1897, Lot 31, Borough of Brooklyn.

## COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Jim Plotkin.

**ACTION OF THE BOARD** - Laid over to April 13, 2004, at 10 A.M., for continued hearing.

---

For Administration: Lisa M. Orrantia, Department of Buildings.

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 10 A.M., for postponed hearing.

---

## 311-03-A thru 313-03-A

APPLICANT - Rudolf J. Beneda, A.I.A., for M.Y.H.P. Building Corp., owner.

SUBJECT - Application October 9, 2003 - Proposed two-story, two family dwelling, not fronting on a legally mapped street, in contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED -

---

# MINUTES

---

140 Jackson Avenue, west side, 103.90' south of Robin Road, Block 3124, Lot 500, Borough of Staten Island.  
144 Jackson Avenue, west side, 137.33' south of Robin Road, Block 3124, Lot 502, Borough of Staten Island.  
146 Jackson Avenue, west side, 154.95' south of Robin Road, Block 3124, Lot 180, Borough of Staten Island.

*Pasquale Pacifico, Executive Director.*

Adjourned: 11:05 A.M.

## COMMUNITY BOARD #1S.I.

APPEARANCES -

For Applicant: R. J. Beneda.

### 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 13, 2004, at 10 A.M., for decision, hearing closed.

## REGULAR MEETING

TUESDAY AFTERNOON, MARCH 30, 2004

2:00 P.M.

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

---

## ZONING CALENDAR

### 44-04-A

APPLICANT -NYC Department of Buildings.

OWNER OF RECORD: Martin Suss

LESSEE: William J. Newstad; Endeavor Abstract; Paladin Abstract.  
SUBJECT - Application February 25, 2004 - Application to revoke or modify Certificate of Occupancy No. 500353422, issued on 2/28/00, on the grounds that the CO was issued with the mistaken understanding that the non-conforming use was continuous, thus improperly allowing a retail store in a residential zoning district.

PREMISES AFFECTED - 1491 Richmond Road, bounded by Norden Street and Forest Road, Block 869, Lot 374, Borough of Staten Island.

### COMMUNITY BOARD #2SI

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 10 A.M., for postponed hearing.

### 92-03-BZ

#### CEQR #03-BSA-152M

APPLICANT - Sheldon Lobel, P.C., for Parkside Inc., owner.

SUBJECT - Application March 25, 2003 - under Z.R. §73-52 to permit the proposed residential development of an entire zoning lot with 3 three story, three family attached dwellings, on a vacant lot divided by an R7-2 and M1-1 district boundary, which is contrary to Z.R. §43-10 and which requires a special permit to allow the extension of the residential use to a 25 foot portion of the lot within the M1-1 zoning district.

PREMISES AFFECTED - 472 West 130<sup>th</sup> Street, southwesterly corner of the intersection of West 130<sup>th</sup> Street and Convent Avenue, Block 1969, Lots 64, 67 and 68, Borough of Manhattan.

### COMMUNITY BOARD #9M

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Application granted on condition.

WHEREAS, the Housing Land Use Committee of Community Board 9, Manhattan, does not object to the subject proposal; and

WHEREAS, this is an application under Z.R. §73-52 to permit the proposed residential development of an entire zoning lot with 3 three story, three family attached dwellings, on a vacant lot divided by an R7-2 and M1-1 district boundary, which is contrary to Z.R. §43-10 and which requires a special permit to allow the extension of the residential use to a 25 foot portion of the lot within the M1-1 zoning district; and

### 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 11, 2003, acting on Department of Buildings Application No. 103157003, reads:

“1. Proposed residential use is not permitted as of right in a M1-1 district. It is contrary to Section 43-10 Z.R.”; and

WHEREAS, a public hearing was held on this application on November 5, 2003 after due notice by publication in the City Record; with continued hearings on December 9, 2003, December 23, 2003, February 3, 2004, March 2, 2004, and then laid over for decision to March 30, 2004; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the zoning lot has an area of 5,140 square feet, and is comprised of three tax lots (lot 64, 67 and 68); these lots have been combined into one zoning lot through a Zoning Lot Merger; and

WHEREAS, tax lot 64 is 2,405 square feet in area and is located in that section of the zoning lot that is within the M1-1 zoning district; tax lots 67 and 68 have a combined area of 2,735 square feet and are located in that section of the zoning lot that is within the R7-2 zoning district; and

---

# MINUTES

---

WHEREAS, the applicant proposes the erection of 3 three story, three family dwellings, one on each tax lot; the three dwellings will be attached; 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; and

WHEREAS, the applicant has provided sufficient evidence showing that the zoning lot was in common ownership prior to 1961 and continuously from that time onward; and

WHEREAS, the applicant represents that without the extension of the R7-2 zoning district provisions into the tax lot within the M1-1 zoning district (tax lot 64), this tax lot would not be feasible to develop with a conforming use; and

WHEREAS, the Board notes that it would not be feasible to develop tax lot 64 with a conforming M1-1 use on such a small parcel of land, and in close proximity to conforming residential buildings; and

WHEREAS, the applicant represents that tax lot 64 will be developed in accordance with the uses currently in the surrounding area; and

WHEREAS, the Board finds that the surrounding area is best characterized as mixed use, with multiple dwellings

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 residential development of an entire zoning lot with 3 three story, three family attached dwellings, on a vacant lot divided by an R7-2 and M1-1 district boundary, which is contrary to Z.R. §43-10 and which requires a special permit to allow the extension of the residential use 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 drawings as they apply to the objections above noted, filed with this application marked "Received July 9, 2003"-(1) sheet and "March 25, 2004"-(10) sheets; and *on further condition*:

adjoining the zoning lot, and across the street, and with some warehouse uses and a public school in the immediate vicinity; and

WHEREAS, the Board notes that the grant of the special permit would allow the entire zoning lot to be developed for residential use, which would add to the mixed-use character of the neighborhood; and

WHEREAS, the Board finds that the proposed extension will not cause impairment of the essential character or the future use or 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 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 applicant has answered to the Board's satisfaction its concerns regarding the applicability of Z.R. §23-711(c), which regulates the minimum distance between buildings on a single zoning lot; and

WHEREAS, the Board notes that any development on the subject zoning lot must conform to all applicable R7-2 zoning district regulations and other zoning and Building Code requirements, as determined and approved by the Department of Buildings; and

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT 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.

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

---

# MINUTES

---

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 142<sup>nd</sup> Avenue, Block 12592, Lot 315, Borough of Queens.

## COMMUNITY BOARD #12Q

### APPEARANCES -

For Applicant: Phaniel 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 -

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 142<sup>nd</sup> 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

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  
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 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.

---

# MINUTES

---

*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 142<sup>nd</sup> 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;

## 217-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Mr. Vincenzo Adragna, owner.

SUBJECT - Application June 24, 2003 - under Z.R. §72-21 to permit in an R5 zoning district, the proposed expansion of a one story and cellar building which was the subject of a variance previously granted by the Board under calendar number 48-90-BZ, and which is contrary to Z.R. §52-22.

PREMISES AFFECTED - 140/42 Pennsylvania Avenue, southeast corner of Liberty Avenue, Block 3703, Lot 21, Borough of Brooklyn.

## COMMUNITY BOARD #5BK

### APPEARANCES -

For Applicant: Richard Lobel.

**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 May 28, 2003, acting on Department of Buildings Application No. 301521333, reads

“Enlargement of existing building in R-5 district is contrary to section 52-22 of the zoning resolution”;  
and

WHEREAS, a public hearing was held on this application on December 23, 2003 after due notice by publication in *The*

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.

*City Record*, with continued hearings on February 3, 2004 and March 2, 2004 and then 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. §72-21, to permit, in an R5 zoning district, the proposed expansion of a one story and cellar building which was the subject of a variance previously granted by the Board under calendar number 48-90-BZ, and which is contrary to Z.R. §52-22; and

WHEREAS, the subject lot is a corner lot adjacent to a subway entrance and an M1-1 district, and across the street from a C8-2 zoning district; and

WHEREAS, a portion of the lot is improved with a non-conforming commercial building with frontages on Liberty Avenue and Pennsylvania Avenue; and

WHEREAS, on June 29, 1993, the Board granted an application under Calendar number 48-90-BZ, to permit the proposed enlargement of an existing non-conforming food store; and

WHEREAS, the applicant now seeks to improve the existing building and add additional retail space; and

WHEREAS, the applicant represents that in addition to the proximity to commercial and manufacturing zoning districts, the site is burdened with a building which is functionally inadequate for its existing use; and

WHEREAS, the applicant states that the proposed enlargement is located on the corner of two busy commercial thoroughfares; and

---

# MINUTES

---

WHEREAS, the Board finds that the aforementioned unique physical conditions, including the location of the lot on the corner of two heavily trafficked commercial thoroughfares, and the history of development on the site, when considered in the aggregate as to this particular building, create practical difficulties in developing the site in strict conformity with current zoning; 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, the applicant has presented evidence of explored as-of-right alternatives and has subsequently determined that no such alternative was feasible, thus necessitating the need for a variance; 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 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 objection cited, under Z.R. §-21, to permit, in an R5 zoning district, the proposed expansion of a one story and cellar building which was the subject of a variance previously granted by the Board under calendar number 48-90-BZ, and which is contrary to Z.R. §52-22; *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 29, 2003"- (5) sheets and "Received February 17, 2004"- (2) sheets, and *on further condition*:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT the premises shall comply with all applicable fire safety measures;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure

WHEREAS, the applicant claims that the location of the site near two busy commercial thoroughfares minimizes any adverse affect on other uses in the immediate vicinity; and

WHEREAS, based on the above and its site visit, the Board finds that this action will not alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, 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

compliance 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.

---

## 303-03-BZ

### CEQR #04-BSA-053K

APPLICANT - Moshe M. Friedman, P.E., for Leon Farhi, owner.  
SUBJECT - Application December 8, 2004 - under Z.R. §72-21 to permit the proposed reconstruction of a four-story residential building, Use Group 2, within an R5 zoning district, which does not comply with the zoning requirements for floor area, lot size, perimeter wall height, number of dwelling units, front and side yards, and parking, and is contrary to Z.R. §§23-141(a), 23-22, 23-32, 23-45, 23-462, 23-631 and 25-23.

PREMISES AFFECTED - 433 Columbia Street, northeast corner of Columbia Street and West 9<sup>th</sup> Street, Block 534, Lot 4, Borough of Brooklyn.

### COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Moshe Friedman.

**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-

---

# MINUTES

---

WHEREAS, the decision of the Borough Commissioner, dated November 13, 2003, acting on Application No. 301643327, reads:

“Proposed reconstruction of four story residential building that existed at this location and was demolished by the City of New York is contrary to  
ZR 23-141(a) Floor Area,  
ZR 23-22 Dwelling Units  
ZR 23-32 Lot Size,  
ZR 23-45 Front Yard  
ZR 23-462 Side Yards  
ZR 23-631 Height & Setback, and  
ZR 25-23 Parking

and requires a variance from the Board of Standards and Appeals as per ZR 72-21.”; and

WHEREAS, a public hearing was held on this application

WHEREAS, the record indicates that the premises had previously been improved with a four story residential building which was altered in 1961, and issued a Certificate of Occupancy (number 178344) by the Department of Buildings (“DOB”) on January 22, 1962; and

WHEREAS, the building sustained damage during a fire in 1996 and issued an unsafe building violation # 060396UB3130; and

WHEREAS, subsequently, an application was filed with DOB in 1997 to restore and renovate the building (DOB application no. 300607868); and

WHEREAS, the applicant represents that after the current owner purchased the building in September 2000, a change of the owner of record was approved by DOB on April 18, 2001; and

WHEREAS, the applicant states that while the owner then began to negotiate with contractors for the renovation to the building, the City of New York (“City”) began proceedings to demolish the building, unbeknownst to the owner; and

WHEREAS, the applicant further states that the owner did not receive any notice of these proceedings, because the City claimed that it did not have the correct mailing address for the owner; and

WHEREAS, the record indicates that when the City began to demolish the building in January of 2002, the owner saw the demolition crews working at the site and immediately hired an engineer to meet with the Brooklyn Borough Commissioner and prevent the demolition of the building; and

WHEREAS, the applicant represents that although the City halted the demolition, the building had already been damaged beyond repair by the demolition crews; and

WHEREAS, the applicant asserts that the 20’ width of the site is well short of the 40’ minimum lot width for an R5 district and creates a practical difficulty in complying with the 8’ side yard; and

WHEREAS, the Board finds that the aforementioned

on March 9, 2004 after due notice by publication in *The City Record* and then to March 30, 2004 for decision; and

WHEREAS, on December 10, 2003, Community Board #6, Brooklyn, recommended approval of this application; and

WHEREAS, the site 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 the proposed reconstruction of a four story residential building, Use Group 2, within an R5 zoning district, which does not comply with the zoning requirements for floor area, lot size, perimeter wall height, number of dwelling units, front and side yards, and parking, and is contrary to Z.R. §§23-141(a), 23-22, 23-32, 23-45, 23-462, 23-631 and 25-23; and

WHEREAS, the subject zoning lot is located on the East Side of Columbia Street, 60 feet north of the northeast corner of Columbia Street and West 9<sup>th</sup> Street; and history of the site and the narrowness of the lot create a unique physical condition resulting in an unnecessary hardship in developing the site in conformity with the current zoning regulations; and

WHEREAS, evidence in the record, including a feasibility study, demonstrates that developing the site with a conforming development would not yield a reasonable return; and

WHEREAS, the applicant states that the proposed building does not have a front yard because the Community Board requested that the building line up with the existing buildings on the street frontage; and

WHEREAS, the Board notes that other buildings on the block are built to the property line in a similar manner; and

WHEREAS, the Board notes that the site is located in a residential district and was formerly improved with a building of nearly identical size; 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 minimum variance 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; 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

---

# MINUTES

---

a Negative Declaration, under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and *grants* a variation in the application of the Zoning Resolution, limited to the objection cited above, to permit the proposed reconstruction of a four-story residential building, Use Group 2, within an R5 zoning district, which does not comply with the zoning requirements for floor area, lot size, perimeter wall height, number of dwelling units, front and side yards, and parking, and is contrary to Z.R. §§23-141(a), 23-22, 23-32, 23-45, 23-46, 23-631 and 25-23, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked

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.

## 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 11<sup>th</sup> 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

“Received December 8, 2003”- (6) sheets; and *on further condition*;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the premises shall comply with all applicable fire safety measures;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

(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 11<sup>th</sup> Streets, has a total lot area of approximately 4,650 square feet, is located partially within an R6 zoning district and partially within an 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. 995-BZ, the Board 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

---

# MINUTES

---

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

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 onestory 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

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 3,477 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

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 wit 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

---

# MINUTES

---

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

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

*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.

340-03-BZ

CEQR #04-BSA-072M

APPLICANT - Davidoff & Malito, LLP, by Howard B. Weiss, Esq., for Ramirez Properties, LLC, owner.

SUBJECT - Application November 5, 2003 - under Z.R. §72-21 to permit the proposed erection of a nine-story mixed use building, Use Groups 2 and 6, located in an M1-5 zoning district, which does not comply with the zoning requirements for floor area ratio, setback, perimeter wall height, sky exposure plane and open space, contrary to Z.R. §§42-00, 43-12 and 43-42.

PREMISES AFFECTED - 408 Greenwich Street, a/k/a 22/24 Hubert Street, between Laight and Hubert Streets, Block 217,

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.

Lot 23, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: Howard Weiss and David Malito.

For Opposition: Doris Diether, Robin Forst, Richard Barreit, Jon Steinberg, Donald Foest, Adam R. Dresner, Gloria Jacobs and Carole DeSaram.

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 October 20, 2003, acting on Department of Buildings Application No. 103447646, reads:

1. Proposed building is not a permitted obstruction in (setback) as per Section 43-42(ZR).
2. The proposed (Use Group (2), Class (A) apartments is not permitted within a M1-5 (M2-4 as per Section 111-104d) zoning district as per Section 42-00.
3. The F.A.R. for the proposed commercial use is contrary to Section 43-12 (ZR) in that it exceeds the (Max) rectify.
4. The proposed building front wall (Max) height and setback in a (M1-5), (M2-4) as per Section 111-104(D) (ZR) is contrary to Sec. 43-12 (ZR)

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 February 24, 2004, March 9, 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, recommended disapproval of this application; and

WHEREAS, the following elected officials appeared in opposition to this application: Assemblymember Glick and Councilmember Gerson; and

WHEREAS, this application received support from the

---

# MINUTES

---

Lower Manhattan Development Corporation; and

WHEREAS, this is an application under Z.R. §72-21 to permit the proposed erection of a nine story mixed use building, Use Groups 2 and 6, located in an M1-5 zoning

WHEREAS, the subject premises is a corner lot, located on the north side of Greenwich Street between Laight and Hubert Streets, has a total lot area of approximately 4,296 square feet, is located within an M1-5 zoning district, and is currently occupied by a one story (with mezzanine), 18 feet high garage building; and

WHEREAS, the applicant represents that the existing building was used a freight terminal in the 1950s, an auto repair shop in the 1960s, and was most recently used as a glass sales and installation shop; and

WHEREAS, the subject zoning lot is within the Special Tribeca Mixed-Use District ("TMU"); and

WHEREAS, the zoning lot is also within the Tribeca North Historic District, and a Certificate of Appropriateness was issued for the proposed building on June 13, 2003 from the City's Landmarks Preservation Commission ("LPC"); and

WHEREAS, the subject zoning lot is proposed to be developed with a nine-story mixed use building, with a gross floor area of 40,064 square feet, including 17,203 square feet of commercial space; retail space will be located on the ground floor of the building, offices will be located on floors two through five, and the residences will be located on floors six through nine; the height to the roof line is 114 feet, and to the top of the mechanical penthouse is 131 feet; and

WHEREAS, five accessory parking spaces will be provided in the cellar of the proposed building; and

WHEREAS, the applicant states that the requested variance would: (1) allow an increase in the total permitted FAR on the site from 5.0 to 7.99, with the inclusion of a residential FAR of 3.66 that is not permitted as of right; (2) waive the setbacks along Greenwich and Hubert Streets required by the TMU regulations; (3) allow a perimeter wall height 30 feet higher than allowed; and (4) allow a waiver of the sky exposure plane requirements; 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: (1) the lot is small in shape, does not allow for development of the larger floor plates manufacturing and commercial uses typically require, and results in increased development costs due to the high façade to floor area ratio; (2) the site's subsurface conditions consist of loose fill material underlain by loose to medium dense sand, which results in the necessity of an expensive deep foundation system; (3) a single underground storage tank must be closed and removed in accordance with applicable NYC Department of Environmental Protection procedures; and (4) the basement will require

district, which does not comply with the zoning requirements for floor area ratio, setback, perimeter wall height, sky exposure plane and open space, contrary to Z.R. §§42-00, 43-12 and 43-42; and

dewatering during construction, resulting in premium costs; and

WHEREAS, opposition to the subject application contends that: (1) the lot size is not unique to the immediate vicinity; (2) the subsurface conditions are not unique to properties in the immediate vicinity; (3) the need for underpinning is not unusual given that most buildings in Manhattan are built to the property line; (4) the allegation of an underground tank is unsupported by documentation; and (5) the dewatering required is due to a generally applicable condition found on most properties in the neighborhood; and

WHEREAS, in response to the contentions of the opposition, the applicant states: (1) that a site investigation was undertaken by an engineering firm which showed that the soil conditions discovered on the lot are found in less than 20% of properties in the neighborhood; (2) the subsurface conditions necessitate the drilling of piles into sand at a cost of three times the cost of driving piles; (3) that the need for the underpinning and the dewatering arises from the conditions inherent to the sites to the east and the north of the site, which possess similar soil conditions, thus creating the need for more intensive underpinning; (4) the existence of an underground tank is evidenced by an environmental site evaluation and the presence of vent pipes within the building; and (5) the lot is one of less than 10% of lots in the immediate neighborhood affected by the 100-year flood zone, and one of less than 15% of the lots so affected within the 500-year flood zone, and that foundation waterproofing, at a premium cost, is therefore required; and

WHEREAS, the Board notes that although other lots in the neighborhood are as small or smaller than the lot in question, as opposition contends, most of these lots are not underdeveloped to the degree that the subject lot is, and the smaller lots are narrower and deeper than the subject lot, and are not on a corner, and thus do not pose the same problematic construction issues; and

WHEREAS, the applicant has consistently maintained that the subject lot is uniquely afflicted by the specific combination of the various physical features outlined above, and the degree to which they affect the site; and

WHEREAS, the Board finds unpersuasive opposition's argument that there are other lots in the immediate neighborhood that possess most of the above-mentioned physical conditions, and notes that no evidence of other similar lots was presented during hearing; and

WHEREAS, the Board has reviewed the supplemental submissions of the applicant, particularly the engineering report, and finds that they are sufficient and credible and

---

# MINUTES

---

support the applicant's statements regarding the subsurface soil conditions, as well as the need for extensive and premium

WHEREAS, therefore, 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, due to the unique physical conditions existing on the zoning lot; and

WHEREAS, during the course of the public hearing process, various opponents to the proposed development made contentions or expressed doubts concerning the credibility of, or methodology of, the financial analysis of the proposal as provided by the applicant's financial expert; and

WHEREAS, the applicant has provided a detailed written response to each of these contentions, as set forth in their March 16, 2004 submission; and

WHEREAS, the Board finds sufficient and credible the applicant's written responses as set forth in the March 16 submission; and

WHEREAS, in response to concerns expressed by the Board regarding the cost impact of the proposed accessory parking in the cellar, the applicant has submitted a separate letter from the applicant's financial expert, dated March 10, 2004, explaining that elimination of the accessory parking would not affect the profitability of the proposal, and would not affect the feasibility analysis; and

WHEREAS, other concerns of the Board concerning square footage cost and purchase price were also responded to by the applicant to the Board's satisfaction; and

WHEREAS, the Board finds sufficient and credible the explanation given as to the accessory parking issues as contained in the applicant's feasibility expert's March 10 letter; and

WHEREAS, the applicant's feasibility study also showed that alternative variances, such as a nine story office building or eight story mixed use business, did not bring a reasonable return on equity; and

WHEREAS, based upon its review of the record, the Board determines 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 the proposed building is compatible with immediately surrounding uses and buildings in the Tribeca neighborhood; that there are other similar mixed use buildings on the western portion of the subject block; and that the proposal is compatible with office uses located on blocks to the east and southwest, as well as

cost dewatering, underpinning, and foundation construction; and  
the mixed uses on surrounding blocks to the southeast, west and north; and

WHEREAS, the applicant further states that the building is similar in height or shorter than: a nine story building and 40 story building directly across Hubert Street, eleven, ten and nine story buildings across Washington Street, as well as other buildings to the north and northeast of the site; and

WHEREAS, the applicant notes that the building has been designed to be compatible with the character of both the TMU and the Tribeca North and Tribeca West Historic Districts, and that a Certificate of Appropriateness has been issued by LPC; and

WHEREAS, the proposal contemplates creation of a light well of 250 square feet in area between the proposed building and the building at 399 Washington Street; and

WHEREAS, the applicant has submitted plans showing that the shadow impacts of the proposed building will not be perceptibly greater than the impacts of an as-of-right development; and

WHEREAS, opposition has made various claims about the proposed building's impact on the character of the neighborhood, suggesting that the applicant cited buildings only in the adjacent C6-4 zoning district to establish neighborhood context; and

WHEREAS, the applicant, through its March 16 submission, has responded to these concerns to the satisfaction of the Board; and

WHEREAS, the Board has conducted its own site visit and has ascertained that the proposed building will be contextual with the as built conditions in the immediate and surrounding area; and

WHEREAS, the Board finds that the residential use of the proposed building is not incompatible with other uses in the area, and notes that there are other mixed use and residential buildings in the immediate and surrounding area; and

WHEREAS, the Board notes that the massing and height of the proposed building has been approved by LPC, in terms of its compatibility with the historic district; and

WHEREAS, in response to expressed concerns of the community as to the potential problems related to the proposed dewatering, the applicant has stated that all appropriate measures will be taken to ensure safety and protection of adjoining property, and has agreed to a condition in this resolution mandating the use of appropriate construction sensors; and

WHEREAS, in response to expressed concerns of the opposition as to the requirements related to separation of commercial and residential uses, the applicant has agreed to a condition in this resolution deferring an evaluation of such

---

# MINUTES

---

requirements to the Department of Buildings; 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

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 nine-story mixed use building, Use Groups 2 and 6, located in an M1-5 zoning district, which does not comply with the zoning requirements for floor area ratio, setback, perimeter wall height, sky exposure plane and open space, contrary to Z.R. §§42-00, 43-12 and 43-42; 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 "November 5, 2003"- (10) sheets, "February 3, 2004"- (2) sheets, "February 12, 2004"- (1) sheet and "March 16, 2004"- (1) sheet; and on further condition:

THAT the Department of Buildings will review and determine the applicability of all requirements related to the separation of commercial and residential uses;

THAT appropriate construction sensors to monitor and minimize changes in ground water elevation; seismic impact on adjoining existing structures; and movement of adjoining existing structures will be utilized during construction of the building pursuant to standard construction industry practice;

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.

---

## 386-03-BZ

### CEQR #04-BSA-105M

APPLICANT - Steven M. Sinacori/Stadtmauer Bailkin, for Jean E. Manas & Rebecca Haile, owners.

SUBJECT - Application December 12, 2003 - under Z.R. §72-21 to permit within an R7B zoning district, the proposed conversion of approximately 630 square feet of vacant medical office space located at the rear of the basement level within an existing residential building to living space which is contrary to Z.R. sections 23-44, 23-145 and 54-31. PREMISES AFFECTED - 326 East 18th Street, south side, between First and Second Avenues, Block 923, Lot 50, Borough of Manhattan.

### COMMUNITY BOARD #6M

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 December 9, 2003, acting on Department of Buildings Alt 1 No. 103513672, reads:

"1. ZR 23-44 PORTION OF PROPOSED RESIDENTIAL FLOOR AREA IS LOCATED WITHIN 30' REQUIRED REAR YARD [AS PER ZR 23-47] AND THEREFORE IS CONTRARY TO ZR 23-44, RESIDENTIAL FLOOR AREA IS NOT PERMITTED OBSTRUCTION IN A REQUIRED REAR YARD AND CREATES A NEW DEGREE OF NON COMPLIANCE IS CONTRARY TO ZR 54-31.

2. ZR 23-145 AS PER ZR 23-145 PROPOSED LOT COVERAGE OF 73% EXCEEDS ALLOWABLE COVERAGE OF 65% AND CREATES A NEW DEGREE OF NON COMPLIANCE IS CONTRARY TO ZR 54-31."; and

---

# MINUTES

---

WHEREAS, a public hearing was held on this application on March 2, 2004 after due notice by publication in *The City Record*, and 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. §72-21, to permit, within an R7B zoning district, the proposed conversion of approximately 630 square feet of vacant medical office space located at the rear of the basement level within an existing residential building to living space which is contrary to Z.R. sections 23-44, 23-145 and 54-31; and

WHEREAS, Community Board #6, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is a 1,932 square foot zoning lot, located on the south side of 18<sup>th</sup> Street between First and Second Avenue, and is improved with a landmarked building, currently occupied as a single family residence; and

WHEREAS, the record indicates that the subject lot is 92 feet deep, and that the existing building is set back approximately 24 feet 7 inches from the front zoning lot line; and

WHEREAS, the existing building is a three story and cellar building, constructed in 1853 with a legally non-complying 20 foot, 1 inch rear yard; and

WHEREAS, the applicant represents that in 1985, the original basement level was extended 20 feet 1 inch to the zoning lot's rear line for use as a doctor's office, with a terrace on the roof of the basement extension serving as the building's rear yard; and

WHEREAS, the applicant now seeks to convert the vacant doctor's office in the basement of the Building to residential use and to incorporate that basement space into the one-family residential use on the first and second floors; and

WHEREAS, the applicant notes that the proposed conversion of the doctor's office into residential use would be as-of-right, except that a portion of the building's existing basement encroaches into the zoning lot's rear yard and the conversion would also result in a exceedance of the underlying lot coverage regulation; and

WHEREAS, the basement level consists of approximately 1416 square feet, of which 630 square feet would be required to remain medical office use without approval of this variance; and

WHEREAS, the applicant represents that without this variance, this 620 square foot space would remain vacant due to its small size, or alternatively, the owner would have to demolish the space and restore the rear wall of the building; and

WHEREAS, the Board finds that the history of

development of the lot creates a practical difficulty in developing the site in strict conformity with current zoning; and

WHEREAS, the Board notes that this application pertains to a single family home which does not trigger the need for a feasibility study as per §72-21(b); and

WHEREAS, the proposed conversion would be consistent with the character of the neighborhood as well as the underlying residential zoning district; and

WHEREAS, based on the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, 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.

*Resolved*, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, under Z.R. §72-21, to permit, within an R7B zoning district, the proposed conversion of approximately 630 square feet of vacant medical office space located at the rear of the basement level within an existing residential building to living space which is contrary to Z.R. sections 23-44, 23-145 and 54-31; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "December 12, 2003"- (5) sheets, "February 13, 2004"- (1) sheet and "March 9, 2004"- (1) sheet and *on further condition*:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

---

# 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;

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.

---

## 139-03-BZ

APPLICANT - Alfonso Duarte, for Sanjoy Augustine, owner.

SUBJECT - Application April 29, 2003 - under Z.R. §72-21 to permit the proposed erection of a two family dwelling, Use Group 2A, located in an R3-A zoning district, which does not comply with the zoning requirements, for rear yard and floor area ratio, is contrary to Z.R. §23-47 and §23-141(b).

PREMISES AFFECTED - 247-54 90th Avenue, south side, 225.51' west of Commonwealth Boulevard, Block 8662, Lot 28, Borough of Queens.

### COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Alfonso Duarte.

For Opposition: Angela Angregliaso, Carol Gomez, Richard Hellenbrecht and others.

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 1:30 P.M., for continued hearing.

---

## 194-03-BZ

APPLICANT - Sheldon Lobel, P.C., for B'nos Menachem Inc., owner.

SUBJECT - Application June 13, 2003 - under Z.R. §72-21 to permit the proposed catering establishment, Use Group 9, in the cellar of an existing one story, basement and cellar building (school for girls), located in an R6 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 739 East New York Avenue, between Troy and Albany Avenues, Block 1428, Lot 47, Borough of Brooklyn.

### COMMUNITY BOARD #9BK

APPEARANCES -

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 1:30 P.M., for continued hearing.

## 261-03-BZ

APPLICANT - Sheldon Lobel, P.C., for PLK Realty Corp., owner.

SUBJECT - Application August 18, 29003 - under Z.R. §72-21 to permit the legalization of an existing one story building, as an auto

---

## 211-03-BZ

APPLICANT - Eric Palatnik, P.C., for Simon Blitz, Contract Vendee.

SUBJECT - Application June 20, 2003 - under Z.R. §72-21 to permit the proposed expansion and also the conversion of an existing warehouse, to residential use, Use Group 2, located in an M1-4(Special LIC District), which does not comply with the zoning requirements for the new use, floor area and total height, is contrary to Z.R. §43-12, §43-43 and §42-10.

PREMISES AFFECTED - 529-535 48<sup>th</sup> Avenue, between Vernon Boulevard and Fifth Street, Block 30, Lot 9, Borough of Queens.

### COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Eric Palatnik.

#### 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 May 11, 2004, 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: Gerald J. Caliendo.

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 1:30 P.M., for continued hearing.

---

repair shop, Use Group 16, located in an R7-1 zoning district, which is contrary to Z.R. §23-00.

PREMISES AFFECTED - 1404/06 Stebbins Avenue, northeast corner of East 170th Street, Block 2965, Lot 36, Borough of The

---

# MINUTES

---

Bronx.

## COMMUNITY BOARD #3BX

APPEARANCES -

For Applicant: Richard Lobel, Eugene Pelle and Elsworth Elvin.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 1:30 P.M., for continued hearing.

---

## 273-03-BZ thru 285-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED -

211-51 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 92, Borough of Queens.

211-49 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 93, Borough of Queens.

211-47 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 94, Borough of Queens.

211-45 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 95, Borough of Queens.

211-43 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 96, Borough of Queens.

211-41 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 97, Borough of Queens.

211-54 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 98, Borough of Queens.

211-52 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 99, Borough of Queens.

211-50 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 100, Borough of Queens.

## 307-03-BZ

APPLICANT - Fried, Frank Harris, Shriver & Jacobson, by Adrienne W. Bernard, Esq., for Clatco Company, LLC, 543 Realty Co., LLC and Broadway 110 Developers, LLC, owners.

SUBJECT - Application October 2, 2003 - under Z.R. §72-21 to permit the proposed construction of a 15-story residential building, Use Group 2, located in R-8 and C1-4 zoning districts, which does not comply with the zoning requirements for lot

Queens.

211-48 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 101, Borough of Queens.

211-46 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 102, Borough of Queens.

211-44 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 103, Borough of Queens.

211-42 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 104, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Opposition: Amelia A. Kent, Joseph Gormlez, Thomas Burton, Marc R. Cloutier, R.A. Clouter, John Stiller and Robert Hellenbrecht.

**ACTION OF THE BOARD** - Laid over to May 18, 2004, at 1:30 P.M., for continued hearing.

---

## 290-03-BZ

APPLICANT - Petraro & Jones, LLP, for Graceful Services, Inc., owner; Joseph B. Rosenblatt, lessee.

SUBJECT - Application September 3, 2003 - under Z.R. §73-36 to permit the legalization of an existing physical culture establishment, located on the second floor of a four story building, in a C2-8 (TA special district), which requires a special permit as per Z.R. §73-36. PREMISES AFFECTED - 1097 Second Avenue, west side, 40' south of East 56<sup>th</sup> Street, Block 1331, Lot 126, Borough of Manhattan.

## COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Patrick Jones.

**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 20, 2004, at 1:30 P.M., for decision, hearing closed.

---

coverage, maximum building height, street walls and setback, and is contrary to Z.R. §35-24, §23-633 and §23-145.

PREMISES AFFECTED - 543/45 West 110th Street, (aka Cathedral Parkway), and 2840/46 Broadway, northeast corner, Block 1882, Lots 1 and 6, Borough of Manhattan.

## COMMUNITY BOARD #9M

APPEARANCES -

For Applicant: Steven Lelkowitz, Jack Freeman, Adrienne

---

# MINUTES

---

**Bernard, Ray Dove, Erin McCluskey, Paul Byard and Barbara Mohol.**

**For Opposition: Marta B. Varela, Walter South, Carol Kent, Daniel Margulies, Jonathan Schachter, Sara Giller, Michael Bernard, Robert E. Roistacher, Steven Goldschmidt and Jack Weeser.**

**ACTION OF THE BOARD - Laid over to May 18, 2004, at 1:30 P.M., for continued hearing.**

---

### **308-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Grand Concourse Realty Corp., owner.

SUBJECT - Application October 6, 2003 - under Z.R. §73-211 to permit the proposed extension to an existing gasoline service station, to include an accessory convenience store, also the addition of another lot that, will be used for accessory parking, which is contrary to a previous variance granted under Cal. No.193-50-BZ and Z.R. §32-25.

PREMISES AFFECTED - 557/71 Grand Concourse, west side, 31.6' north of East 149th Street, Block 2347, Lots 24 and 19, Borough of The Bronx.

#### **COMMUNITY BOARD #4BX**

APPEARANCES -

For Applicant: Janice Cahalane.

For Opposition: Livingstone Gibson, Keith Walcott and James Williams.

**ACTION OF THE BOARD - Laid over to May 18, 2004, at 1:30 P.M., for continued hearing.**

---

### **339-03-BZ**

APPLICANT - Snyder and Snyder, LLP, for United Hebrew Cemetery, Inc., owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application October 31, 2003 - under Z.R. §73-30 to permit the proposed installation of a non-accessory radio tower, disguised as an eighty-two feet (82') flagpole, together with related equipment at the base thereof ("facility"), on said premises, located in  
SUBJECT - Application December 4, 1993 - under Z.R. §72-21 to permit the proposed mixed-use building, located in an M1-5B zoning district, which creates non-compliance with regards to residential and retail uses, also public parking and floor area, which is contrary to Z.R. §42-00, §42-14, §32-17 and §43-12.

PREMISES AFFECTED - 25 Bond Street, south side, 70' east of Lafayette Street, Block 529, Lot 21, Borough of Manhattan.

#### **COMMUNITY BOARD #2M**

APPEARANCES -

For Applicant: Howard Hornstein, Peter Geis, Jack Freeman and William Fegan.

For Opposition: Marilynn Geyer.

an R3-2 zoning district, which requires a special permit.

PREMISES AFFECTED - 122 Arthur Kill Road, between Clarke and Newvale Avenues, Blocks 4475 and 4463, Lots 1 and 175, Borough of Staten Island.

#### **COMMUNITY BOARD #3S.I.**

APPEARANCES -

For Applicant: Robert Gaudiano.

**ACTION OF THE BOARD - Laid over to April 27, 2004, at 1:30 P.M., for continued hearing.**

---

### **363-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Audubon Housing Development Fund Corp., owner.

SUBJECT - Application November 21, 2003 - under Z.R. §72-21 to permit the proposed seven story residential building, Use Group 2, containing 116 units, located in an M1-4 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 480 East 176<sup>th</sup> Street, between Bathgate and Washington Avenues, Block 2917, Lots 17, 20, 23, 25 and 27, Borough of The Bronx.

#### **COMMUNITY BOARD #6BX**

APPEARANCES -

For Applicant: Sheldon Lobel, Carol Jackson, Diane C. Louard-Michel and Amy Larovere.

For Opposition: Mivna Muniz, Migual A. Muniz, Leslie Lyga and Amy Lamirce.

#### **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 May 11, 2004, at 1:30 P.M., for decision, hearing closed.**

---

### **377-03-BZ**

APPLICANT - Fischbein Badillo Wagner Harding, for Bond Street Garage I, LLC, owner; Tribeach Holdings, LLC, contract vendee.

**ACTION OF THE BOARD - Laid over to April 20, 2004, at 1:30 P.M., for continued hearing.**

---

### **384-03-BZ**

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for Renewal Arts Realty Corp., owner; Albert Einstein College of Medicine of Yeshiva University, lessee.

SUBJECT - Application December 10, 2003 - under Z.R. §72-21

---

# MINUTES

---

to permit the proposed operation of a Use Group 4A health facility, on a portion of a zoning lot, located in an M1-2 zoning district, which is contrary to Z.R. §42-11.

PREMISES AFFECTED - 804 East 138<sup>th</sup> Street, south side, 155.52' east of Willow Avenue, Block 2589, Lots 15 and 16, Borough of The Bronx.

**COMMUNITY BOARD #1BX**

APPEARANCES -

For Applicant: Albert Fredericks, Gary Tarnoff, Lawrence Watts and Ira Marion.

For Opposition: Leslie Lyga and Boyd Adelman.

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 1:30 P.M., for continued hearing.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 8:40 P.M.

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, Nos. 16-17

April 22, 2004

---

### DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

PETER CALIENDO

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**

### CONTENTS

DOCKET .....	284
<b>CALENDAR</b> of May 11, 2004	
Morning .....	285
Afternoon .....	286
<b>CALENDAR</b> of May 18, 2004	
Morning .....	287
Afternoon .....	288

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, April 13, 2004**

Morning Calendar .....289

**Affecting Calendar Numbers:**

399-70-BZ	630 Arthur Kill Road, Staten Island
56-96-BZ	32-02 Linden Place, Queens
269-98-BZ	70 East 184 <sup>th</sup> Street, The Bronx
144-00-BZ	210 East 77 <sup>th</sup> Street, Manhattan
191-00-BZ	184 Kent Avenue, Brooklyn
263-01-BZ	85-101 N 3 <sup>rd</sup> Street, Brooklyn
193-03-BZ	824-834 Kent Avenue, Brooklyn
281-99-BZ	6055 Strickland Avenue, Brooklyn
465-55-BZ	486/496 Coney Island Avenue, Brooklyn
735-59-BZ	902 Soundview Avenue, The Bronx
245-90-BZ	1054 43 <sup>rd</sup> Street, Brooklyn
85-91-BZ	204-18 46 <sup>th</sup> Avenue, Queens
101-92-BZ	68-98 E. Burnside Avenue, The Bronx
279-01-BZ	2106-2130 McDonald Avenue, Brooklyn
103-02-BZ	1516 East 24 <sup>th</sup> Street, Brooklyn
128-03-A thru	
130-03-A	22 , 26, 30 Brookside Loop, Staten Island
311-03-A thru	
313-03-A	140, 144 & 146 Jackson Avenue, Staten Island
392-03-A	20 Janet Lane, Queens
331	
53-04-A thru	
62-04-A	34 <sup>th</sup> Avenue, Queens

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, April 27, 2004**

Afternoon Calendar.....297

**Affecting Calendar Numbers:**

203-02-BZ	110-18 Northern Boulevard, Queens
354-03-BZ	209/15 East 51 <sup>st</sup> Street, Manhattan
387-03-BZ	1100 Leggett Avenue, The Bronx
5-04-BZ	595 Gerard Avenue, The Bronx
161-02-BZ	2433 Knapp Street, Brooklyn
68-03-BZ	649 39 <sup>th</sup> Street, Brooklyn
82-03-BZ	51 North 8 <sup>th</sup> Street, aka 91 Kent Avenue, Brooklyn
102-03-BZ	291 Kent Avenue, Brooklyn
118-03-BZ	1101 Prospect Avenue, Brooklyn
186-03-BZ	525 Union Avenue, Brooklyn
255-03-BZ	1019 Surf Avenue, Brooklyn
258-03-BZ	47 Thames Street, Brooklyn
260-03-BZ	20 Grand Avenue, Brooklyn
270-03-BZ	108-36/50 Queens Boulevard, Queens
299-03-BZ	179-16 Grand Central Parkway, Queens
300-03-BZ	326 East 126 <sup>th</sup> Street, Manhattan
325-03-BZ thru	
326-03-BZ	307 & 309 Hamden Avenue, Staten Island
342-03-BZ	92/94 Greene Street, aka 109 Mercer Street, Manhattan
347-03-BZ	2611 Avenue N, Brooklyn
362-03-BZ	428 West 45 <sup>th</sup> Street, Manhattan
365-03-BZ	224-20 Prospect Court, Queens
371-03-BZ &	
372-03-BZ	655 & 663 Fifth Avenue, Manhattan
7-04-BZ	2208 Boller Avenue, The Bronx

**CORRECTION**.....308

**Affecting Calendar Numbers:**

400-70-BZ	134-07 Cross Bay Boulevard, Queens
92-03-BZ	472 West 130 <sup>th</sup> Street, Manhattan

---

# DOCKET

---

New Case Filed Up to April 13, 2004

---

**142-04-BZ** B.S.I. 516 Arbutus Avenue, north side, at the intersection of Shore Avenue and Trout Place, Block 6529, Lot 15, Borough of Staten Island. N.B.#500668164. Proposed single family detached residence, Use Group 1, located within the required front yard, is contrary to Z.R. §23-45.

**COMMUNITY BOARD #3SI**

---

**143-04-BZ** B.S.I. 522 Arbutus Avenue, north side, at the intersection of Shore Avenue and Trout Place, Block 6529, Lot 10, Borough of Staten Island. N.B.#500668155. Proposed in-ground pool, located within the required front yard, is contrary to Z.R. §23-12.

**COMMUNITY BOARD #3SI**

---

**144-04-BZ** B.M. 286 Hudson Street, east side, between Dominick and Spring Streets, Block 579, Lot 3, Borough of Manhattan. Applic.#103694236. Proposed development, Use Groups 2 and 6, which will contain residential uses at the second through ninth floors, is not permitted as of right within the an M1-6 zoning district, is contrary to §43-10.

**COMMUNITY BOARD #2M**

---

**145-04-BZ** B.M. 526 West 22nd Street, south side, 340' west of Tenth Avenue, Block 693, Lot 48, Borough of Manhattan. Applic.#103674276. 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.

**COMMUNITY BOARD #4M**

---

**146-04-BZ** B.S.I. 191 Edgewater Street, between Sylvaton Terrace and Sylvia Lane, Borough of Staten Island. Alt.1# 500632880. Proposed conversion of an existing vacant seven-story manufacturing building, to residential use, Use Group 2, located in an M3-1 zoning district, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #1SI**

---

**147-04-BZ** B.BK. 459 Carroll Street, 175' west of the corner of Carroll Street and Third Avenue, Block 447, Lot 46, Borough of Brooklyn. Alt.1#301691364. 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.

**COMMUNITY BOARD #6BK**

---

**148-04-A** B.BK. 133 Sterling Place, aka 22 Seventh Avenue, northwest corner, Block 942, lots 48 and 52, Borough of Brooklyn. Applic.#s 301571261 and 300854920. An appeal seeking to reverse the Department of Buildings' decision dated March 5, 2004, which revoked permits that were issued regarding subject premises.

---

**149-04-BZ** B.Q. 14 Gotham Walk, west side, 167.23' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens. Alt.1#401827902. 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.

---

**150-04-BZ** B.M. 129 Elizabeth Street, west side, 60'-5' south of Broome Street, Block 470, Lot 17, Borough of Manhattan. Applic.#103299048. Proposed six story plus cellar mixed use building, on an undersized lot, located in a C6-2G zoning district, which does not comply with the zoning requirements for floor area ratio and lot coverage, is contrary to Z.R. §109-121, §109-122 and §23-32.

**COMMUNITY BOARD #2M**

---

**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 11, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, May 11, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## SPECIAL ORDER CALENDAR

### **707-56-BZ, Vol. II**

**APPLICANT** - Walter T. Gorman, P.E., for Jewell Mallimson/Leonard Mallimson, owners; Amoco Oil Company, lessee.

**SUBJECT** - Application January 13, 2004 - reopening for an extension of term of variance which expired April 21, 2004.

**PREMISES AFFECTED** - 1500/10 Williamsbridge Road, northeast corner of Eastchester Road, Block 4082, Lot 5, Borough of The Bronx.

**COMMUNITY BOARD #11BX**

---

### **40-80-BZ**

**APPLICANT** - Sheldon Lobel, P.C., for 35 West 23rd Street Corp., owner; Patrick Montgomery, lessee.

**SUBJECT** - Application February 9, 2004 - reopening for an amendment to the resolution.

**PREMISES AFFECTED** - 35-37 West 23rd Street, between Fifth Avenue and Avenue of the Americas, Block 825, Lot 7501, Borough of Manhattan.

**COMMUNITY BOARD #5M**

---

### **1038-80-BZ**

**APPLICANT** - Davidoff & Malito, LLP, for Feinrose Downing, LLC, owner; Expressway Arcade Corp., lessee.

**SUBJECT** - Application January 29, 2004 - reopening for an extension of term of variance which expired January 6, 2004.

**PREMISES AFFECTED** - 31-07/09/11 Downing Street, Block 4327-4367, Lot 1, Borough of Queens.

**COMMUNITY BOARD #7Q**

---

### **295-01-BZ**

**APPLICANT** - Fischbein Badillo Wagner Harding, for Yeled V'Yalda Early Childhood Center, owner.

**SUBJECT** - Application January 22, 2004 - reopening for an amendment to the resolution.

**MAY 11, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing,

**PREMISES AFFECTED** - 1257-1263 38th Street, between 12th Avenue and 13th Avenue, Block 5295, Lots 47, 48, 49, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

---

### **393-03-A**

**APPLICANT** - Joseph A. Sherry, for Breezy Pt. Cooperative Inc., owner; Phillip & Stacey Benoit, owners.

**SUBJECT** - Application December 23, 2003 - Proposed enlargement and alteration to an existing one family dwelling, not fronting on a legally mapped street, which is contrary to Section 36, Article 3 of the General City Law. The building is not considered within 100' of a corner, therefore, 30'0" rear yard is required for second story enlargement.

**PREMISES AFFECTED** - 2 Roxbury Avenue, southeast corner of Marshall Avenue, Block 16340, Lot 50, Borough of Queens.

**COMMUNITY BOARD #14Q**

---

### **395-03-A & 396-03-A**

**APPLICANT** - Zaki Turkieh, for Aryeh Realty, LLC, owner.

**SUBJECT** - Application December 26, 2003 - proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

**PREMISES AFFECTED** - 253-06 Rockaway Boulevard, located on Rockaway Boulevard and corner of East Dock Street, Block 13921, Lot 84, Borough of Queens.

---

### **27-04-A**

**APPLICANT** - Steven Sinacori/Stadtmauer Bailkin, LLP, for City of New York, owner; Unconvention Center, Inc., lessee.

**SUBJECT** - Application February 11, 2004 - Proposed rehabilitation and renovation of Pier 94, for use as an exhibition hall for mid-size trade shows, which seeks relief from the requirements of §27-369(f) of the NYC Building Code with respect to protection of an exterior corridor, and §27-771.01(b) of the NYC Building Code with respect to mechanical system providing less than (6) six air changes per hour.

**PREMISES AFFECTED** - 755 12th Avenue, west side, between West 53rd and 55th Streets, Block 1109, Lot 5, Borough of Manhattan.

**COMMUNITY BOARD #4M**

---

*Tuesday afternoon*, May 11, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

# CALENDAR

---

## ZONING CALENDAR

### 229-03-BZ

APPLICANT - David L. Businelli, for PIC Legacy Realty, Inc., owner.

SUBJECT - Application July 3, 2003 - under Z.R. §72-21 to permit the proposed erection of a one family detached residence, Use Group 1, located in an R-2 zoning district, which does not comply with the zoning requirements for front yard is contrary to Z.R. §23-45.

PREMISES AFFECTED - 303 Crystal Avenue, southeast corner of Watchogue Road, Block 472, Lot 149, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

### 314-03-BZ

APPLICANT - Deirdre A. Carson, Esq., for 17-18 Management Co. LLC, c/o White, Inc., owner; AMAC, lessee.

SUBJECT - Application October 16, 2003 - under Z.R. §§73-01, 73-03 & 73-19 to permit the legalization of an existing school, Use Group 3A, located in an 11 story loft building, in an M1-6M zoning district, is contrary to Z.R. §42-00 and §42-12.

PREMISES AFFECTED - 18 West 18th Street, a/k/a 25 West 17th Street, a through lot, 356' west of the intersection of Fifth Avenue and 17th and 18th Streets, Block 819, Lot 56, Borough of Manhattan.

**COMMUNITY BOARD #5M**

### 327-03-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**

SUBJECT - Application February 3, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired June 7, 2003.

PREMISES AFFECTED - 232 East 50th Street, East 50th Street between Second Avenue and Third Avenue, Block 1323, Lot 35, Borough of Manhattan.

**COMMUNITY BOARD #6M**

### 343-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Pasquale Pescatore, owner.

SUBJECT - Application November 12, 2003 - under Z.R. §72-21 to permit the proposed construction of seven story, nineteen unit, residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 90 Havemeyer Street, between Hope Street and Metropolitan Avenue, Block 2368, Lot 26(Former Lots 26, 27 and 28), Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

### 390-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Dobbins Street, LLC, owner.

SUBJECT - Application December 18, 2003 - under Z.R. §72-21 to permit the legalization of residential use on the second floor, of a two story mixed use building, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 95 Dobbin Street, between Norman and Messerole Avenues, Block 2616, Lot 18, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

*Pasquale Pacifico, Executive Director.*

**MAY 18, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, May 18, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

## SPECIAL ORDER CALENDAR

### 811-81-BZ

APPLICANT - Sheldon Lobel, P.C., for Eva Ezrovics, owner.

### 585-91-BZ

APPLICANT - Tarek M. Zeid, for Luis Mejia, owner.

SUBJECT - Application December 10, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired March 30, 2003 and for an amendment to the resolution.

---

# CALENDAR

---

PREMISES AFFECTED - 222-44 Braddock Avenue, Braddock Avenue between Winchester Boulevard and 222nd Street, Block 10740, Lot 12, Borough of Queens.

**COMMUNITY BOARD #13Q**

---

**199-00-BZ**

APPLICANT - The Agusta Group, for En Ping, Ltd., owner; The Atlantis 2010, lessee.

SUBJECT - Application March 10, 2004 - reopening for an extension of term of variance which expired March 13, 2004.

PREMISES AFFECTED - 76-19 Roosevelt Avenue, northwest corner of Roosevelt Avenue and 77th Street, Block 1287, Lot 37, Borough of Queens.

**COMMUNITY BOARD #3Q**

---

**11-04-A**

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; James McGovern, lessee.

SUBJECT - Application January 13, 2004 - Proposed reconstruction 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.

PREMISES AFFECTED - 25 Fulton Walk, east side, 64.30' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

---

**12-04-A**

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Jeanne & Michael Byrnes, lessees.

SUBJECT - Application January 13, 2004 - Proposed reconstruction 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.

PREMISES AFFECTED - 310 Hillside Avenue, south side, 350.0' west of Beach 178th Street, Block 16340, Lot 50, Borough of Queens.

**COMMUNITY BOARD #14Q**

SUBJECT - Application November 24, 2003 - under Z.R. §72-21 to permit the proposed construction of an automotive car wash and Lubritorium, Use Group 2, located in a C2-2(R6) zoning district, which is contrary to Z.R. §32-00.

PREMISES AFFECTED - 34-11 Far Rockaway Boulevard, southeast corner of Sea Girt Boulevard, Block 15950, Lots 14 and 24, Borough of Queens.

**COMMUNITY BOARD #14Q**

---

**328-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Mike Biagioni and Frank Biagioni, owners.

SUBJECT - Application October 24, 2003 - request for withdrawal.

PREMISES AFFECTED - 930-936 Richmond Avenue, between Forest Avenue and Monsey Place, Block 1706, Lots 36 & 39, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

---

**MAY 18, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, May 18, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

**ZONING CALENDAR**

**338-03-BZ**

APPLICANT - Eric Palatnik, P.C., for Michael Kohl, owner.

SUBJECT - Application October 31, 2003 - under Z.R. §72-21 to permit the legalization of commercial offices and a dental laboratory on the second floor of a two story building, located in an R5 zoning district, is contrary to Z.R. §22-11.

PREMISES AFFECTED - 726 Avenue "Z", south side, 203.56' east of Ocean Parkway, Block 7238, Lot 32, Borough of Brooklyn.

**COMMUNITY BOARD #13BK**

---

**364-03-BZ**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Alprof Realty LLC/VFP Realty LLC, owners.

**40-04-BZ**

APPLICANT - Agusta & Ross, for Steven Witriol, owner.

SUBJECT - Application February 13, 2004 - under Z.R. §72-21 to permit the proposed change of use from an automobile repair and used vehicles sales (Use Group 16), previously approved by the Board under Cal. No. 56-95-BZ, to a retail store (Use Group 6), located in an R5 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 2252 Linden Boulevard, southeast corner of Cleveland Street, Block 4360, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #5BK**

---

---

# CALENDAR

---

*Pasquale Pacifico, Executive Director.*

**REGULAR MEETING  
TUESDAY MORNING, APRIL 13, 2004  
10:00 A.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.

**Absent:** Commissioner Miele.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, February 10, 2004, were approved as printed in the Bulletin of February 19, 2004, Volume 89, No. 8.

---

**SPECIAL ORDER CALENDAR**

**399-70-BZ**

APPLICANT - Walter T. Gorman, P.E., for Sunoco, Inc., owner.  
SUBJECT - Application December 24, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 630 Arthur Kill Road, southwest corner of Armstrong Avenue, Block 5494, Lot 88, Borough of Staten Island.

**COMMUNITY BOARD #3**

---

# MINUTES

---

## APPEARANCES -

For Applicant: John Ronan.

**ACTION OF THE BOARD -** Application reopened and resolution amended

## THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

## THE RESOLUTION -

WHEREAS, a public hearing was held on this application on March 23, 2004, after due notice by publication in The City Record, and laid over to April 13, 2004 for decision; and

WHEREAS, Staten Island Community Board 3 recommends approval of this application.

WHEREAS, on December 15, 1970, the Board permitted the erection and maintenance of an automotive service station with accessory uses;

WHEREAS, on September 17, 1974, the Board amended the resolution to permit additional gasoline dispensers; and

WHEREAS, on May 7, 1991, the Board amended the resolution to permit a change in the design and arrangement of the service station, the erection of a new canopy over four (4) new gasoline pump islands with new MGB self serve pumps and the alteration of the existing office area to accommodate an attendant's booth; and

WHEREAS, the applicant requests a re-opening, and an amendment to the resolution to permit the removal of the existing canopy and dispenser islands, the installation of three new concrete dispenser islands, the erection of a new steel canopy, the removal of a portion of the existing service building, and the conversion of the remainder of the building to an accessory convenience store.

Resolved, that the Board of Standards and Appeals, reopens and amends the resolution, said resolution having been adopted on December 15, 1970, as amended through May 7, 1991, so that as amended this portion of the resolution shall read: "to permit the removal of the existing canopy and dispenser islands, the installation of three new concrete dispenser islands, the erection of a new steel

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 and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

## THE RESOLUTION -

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 2, 2004 and March 23, 2004, and then laid over to April 13, 2004 for decision; and

WHEREAS, the applicant has requested a waiver of the Rules of Practice and Procedure and reopening for an

canopy, the removal of a portion of the existing service building, and the conversion of the remainder of the building to an accessory convenience store, 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 24, 2003"- (6) 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 above conditions and all conditions from prior resolutions required to be on the certificate of occupancy shall appear on the new certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application Nos. 500656444 & 500656453)

Adopted by the Board of Standards and Appeals, April 13, 2004.

---

## 56-96-BZ

**APPLICANT -** The Agusta Group by Philip P. Agusta, R.A., for Yong Brothers Trading, Inc., owner; Pine Village Corp., lessee.

**SUBJECT -** Application November 14, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to obtain a Certificate of Occupancy which expired January 9, 2003.

**PREMISES AFFECTED -** 32-02 Linden Place aka 135-20 32nd Avenue, southwest corner of Linden Place and 32nd Avenue, Block 4950, Lot 48, Borough of Queens.

**COMMUNITY BOARD #7Q**

extension of time to obtain a Certificate of Occupancy which expired January 9, 2003; and

WHEREAS, on September 23, 1997, the Board granted an application permitting the legalization of an existing physical culture establishment located on the second floor of an existing one and two story manufacturing and office building; and

WHEREAS, on October 12, 1999, the Board extended the time to obtain a Certificate of Occupancy to October 23, 2000 and amended the resolution to permit the replacement of the previously approved hard wired smoke detector with a wireless smoke detector and the removal of the counterbalance stair and handicap lift on condition that sprinkler systems on both the first and second floor be connected to a Fire Department approved central station; and

WHEREAS, the applicant represents that delays in obtaining construction approvals necessitate the instant

---

# MINUTES

---

request for an extension of time to obtain a Certificate of Occupancy; and

WHEREAS, the Board notes that with the exception of the wireless smoke detection system, all work has been completed.

Resolved, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, and reopens the resolution, said resolution having been adopted on September 23, 1997 as amended through January 9, 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 a period of eighteen (18) months from the date of this resolution to expire on October 13, 2005; on condition;

THAT all conditions from prior resolutions required to be on the certificate of occupancy shall appear on the new certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application #400604459)

Adopted by the Board of Standards and Appeals, April 13, 2004.

---

## 269-98-BZ

APPLICANT - Mothiur Rahman, for Mothiur Rahman, owner.

SUBJECT - Application December 9, 2003 - reopening for an extension of time to obtain a Certificate of Occupancy.

PREMISES AFFECTED - 70 East 184<sup>th</sup> Street, a/k/a 2363

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 time to complete construction and obtain a certificate of occupancy for a period of two (2) years from the date of this resolution to expire on April 13, 2006, on condition;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions and all conditions from prior resolutions required to be on the certificate of occupancy shall appear on the new certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application No. 200483422)

Morris Avenue, south side of East of East 184<sup>th</sup> Street, corner formed by the intersection of Morris Avenue, Block 3183, Lot 42, Borough of The Bronx.

## COMMUNITY BOARD #5BX

APPEARANCES -

For Applicant: Mothiur Rahman.

**ACTION OF THE BOARD - Application reopened and time to obtain a Certificate of Occupancy extended.**

**THE VOTE TO GRANT -**

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**

**Negative: .....0**

**Absent: Commissioner Miele .....1**

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on March 9, 2004, after due notice by publication in The City Record, with a continued hearing on March 30, 2004, and then laid over to April 13, 2004 for decision; and

WHEREAS, the applicant requests a reopening for an extension of time to complete construction and obtain a Certificate of Occupancy which expired January 11, 2004; and

WHEREAS, on January 11, 2000, the Board granted an application to permit the proposed construction of a two-story commercial building in an R8 zoning district, contrary to Z.R. Section 22-00; and

WHEREAS, the applicant represents that the instant request for an extension of time to complete construction and obtain a Certificate of Occupancy is due to financial problems that have delayed construction; the applicant states that construction will commence this summer and should be finished within two years from the date of this grant; and

WHEREAS, the applicant has submitted a letter from its lender stating that they are processing an application for financing for the proposed construction.

Adopted by the Board of Standards and Appeals, April 13, 2004.

---

## 144-00-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for Birch Wathen Lenox School, owner.

SUBJECT - Application January 28, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 210 East 77th Street, south side of 77th Street, 145 East of Third Avenue, Block 1431, Lot 41, Borough of Manhattan.

## COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Adam Rothkrug, Michael Spector, Michael Delsordo, Frank Carnabuci, Elizabeth Levethal, Janine Hopley, Chris Carlin and Jonathan Theobald.

**ACTION OF THE BOARD - Application reopened and resolution amended.**

**For Applicant: Adam W. Rothkrug.**

**THE VOTE TO GRANT -**

---

# MINUTES

---

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**  
**Negative: .....0**  
**Absent: Commissioner Miele .....1**  
THE RESOLUTION -

WHEREAS, a public hearing was held on this application on March 30, 2004, after due notice by publication in The City Record, and laid over to April 13, 2004 for decision; and

WHEREAS, on September 12, 2000, the Board granted a variance under the subject calendar number to permit the enlargement of an existing school, which increased the degree of non-compliance with respect to floor area, lot coverage, height, setbacks and side yard; and

WHEREAS, the applicant represents that after the original variance was granted, the project engineers determined that the existing structure could not support the loads generated in connection with construction of the proposed gymnasium on the roof; and

WHEREAS, subsequently, the plans were redesigned to maintain and enlarge the existing gymnasium on the 2nd floor, and reconfigure the areas on the 8th, 9th and 10th floors for other school uses; and

WHEREAS, the applicant represents that the non-complying setback from the existing street wall of the building (as authorized in the previous grant) would be eliminated as a result of the reconfiguration of 8th, 9th and 10th floors; and

WHEREAS, the applicant states that the proposed changes will not change the footprint of the building and will result in a decrease in the proposed additional floor area from 13,616 square feet to 10,965 square feet-a reduction in F.A.R. from 8.55 to 8.12, as well as a decrease in the overall height of the building from 125 feet to 120.4 feet.

Resolved, that the Board of Standards and Appeals, waives PREMISES AFFECTED - 184 Kent Avenue, northwest corner of intersection of Kent Avenue and North 3rd Street, Block 2348, Lot 1, Borough of Brooklyn.

## **COMMUNITY BOARD #1BK**

### **APPEARANCES -**

**For Applicant: Barbara Hair.**

### **ACTION OF THE BOARD -**

### **THE VOTE TO WITHDRAW -**

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**  
**Negative: .....0**  
**Absent: Commissioner Miele .....1**

Adopted by the Board of Standards and Appeals, April 13, 2004.

## **263-01-BZ**

APPLICANT - Francis R. Angelino, Esq., for Lee & Wythe Realty Corp., owner; 85-101 North Third Street Associates, Inc., Lessee. SUBJECT - Application January 7, 2004 - reopening for an extension of time to obtain a Certificate of Occupancy which expired on January 7, 2003. PREMISES AFFECTED - 85-101 N. 3<sup>rd</sup> Street, northeast corner

the Rules of Practice and Procedure, and reopens and amends the resolution, pursuant to Zoning Resolution §§72-01 and 72-22, so that as amended this portion of the resolution shall read: "to permit a modification of approved plans to reflect a decrease in square footage and a change in interior arrangement and design, on condition that all work shall substantially conform to drawings as filed with this application marked "January 28, 2004"- (20) sheets; and on further condition;

THAT all conditions from prior resolutions required to be on the certificate of occupancy shall appear on the new certificate of occupancy;

THAT appropriate soundproofing measures shall be installed and maintained in accordance with the March 24, 2004 submission from Cerami and Associates;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB# 103628111)

Adopted by the Board of Standards and Appeals, April 13, 2004.

## **191-00-BZ**

APPLICANT - Fischbein Badillo Wagner Harding, for 184 Kent Avenue Associates, owner.

SUBJECT - Application December 12, 2003 - reopening for an amendment to the resolution.

of intersection of North 3<sup>rd</sup> Street and Whythe Avenue, Block 2350, Lot 1, Borough of Brooklyn.

## **COMMUNITY BOARD #1BK**

### **APPEARANCES -**

For Applicant: Francis R. Angelino.

**ACTION OF THE BOARD - Application reopened and time to obtain a Certificate of Occupancy extended.**

### **THE VOTE TO GRANT -**

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**  
**Negative: .....0**  
**Absent: Commissioner Miele .....1**

### **THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on March 9, 2004, after due notice by publication in The City Record, with a continued hearing on March 30, 2004, and then laid over to April 13, 2004 for decision; and

WHEREAS, the applicant requests a reopening for an extension of time to obtain a Certificate of Occupancy which expired January 7, 2004; and

WHEREAS, on January 7, 2003, the Board permitted the creation of 59 residential units, located on floors 2 through 6 of an existing six-story building, contrary to Z.R. Section 42-00; and

WHEREAS, the applicant represents that an extension of time

---

# MINUTES

---

is needed because construction has been delayed due to protracted sale/purchase negotiations; and

WHEREAS, the applicant has submitted a letter dated March 23, 2004 stating that construction will likely take 9 to 12 months to complete.

Resolved, that the Board of Standards and Appeals, reopens the resolution, said resolution having been adopted on January 7, 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 a period of two (2) years from the date of this resolution to expire on April 13, 2006, on condition

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions and all conditions from prior resolutions required to be on the certificate of occupancy shall appear on the new certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application #300128047)

Adopted by the Board of Standards and Appeals, April 13, 2004.

## **281-99-BZ**

**APPLICANT - New York City Board of Standards and Appeals.**

**OWNER OF THE PREMISES: Enopac Holding LLC.**

**SUBJECT - On remand from the New York County Supreme Court.**

**PREMISES AFFECTED - 6055 Strickland Avenue, west side of Strickland Avenue roughly between the prolongation of Mayfair Avenue and East 59th Place, Block 8470, Lots 1060, 1070, 1076, Borough of Brooklyn.**

**COMMUNITY BOARD #18BK**

**APPEARANCES - None.**

**ACTION OF THE BOARD - Laid over to April 27, 2004, at 1:30 P.M., for continued hearing.**

---

## **465-55-BZ**

**APPLICANT - The Law Office of Fredrick A. Becker, for 325 North Macquesten Parkway Corporation, owner; Abko Inc dba Carwash Associates, lessee.**

**SUBJECT - Application June 13, 2003 - reopening for an amendment to the resolution.**

**PREMISES AFFECTED - 486/496 Coney Island Avenue aka 804/826 Church Avenue, west side of Coney Island Avenue 91'9**

---

## **193-03-BZ**

**APPLICANT - New York City Board of Standards and Appeals.**

**OWNER OF PREMISES: Park and Kent Associates, Inc.**  
**SUBJECT - to dismiss the application for lack of prosecution.**

**PREMISES AFFECTED - 824-834 Kent Avenue, south side of Park Avenue, east of Taafee Place, Block 1897, Lot 31, Borough of Brooklyn.**

**COMMUNITY BOARD #3BK**

**APPEARANCES - None.**

**ACTION OF THE BOARD - Application withdrawn.**

**THE VOTE TO WITHDRAW -**

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**

**Negative: .....0**

**Absent: Commissioner Miele .....1**

Adopted by the Board of Standards and Appeals, April 13, 2004.

---

1/8" south of the corner of Church Avenue and Coney Island Avenue) Block 5341, Lot 17, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

**APPEARANCES -**

For Applicant: Fredrick A. Becker.

**ACTION OF THE BOARD - Laid over to April 27, 2004, at 10 A.M., for continued hearing.**

---

## **735-59-BZ**

**APPLICANT - Walter T. Gorman, P.E., for 902 Soundview Realty LLC, owner; Palisades Fuel, lessee.**

**SUBJECT - Application January 12, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired and for an amendment to the resolution.**

**PREMISES AFFECTED - 902 Soundview Avenue northeast corner of Story Avenue, Block 3662, Lots 1 and 59, Borough of The Bronx.**

**COMMUNITY BOARD #18BX**

**APPEARANCES -**

For Applicant: John Ronan.

**ACTION OF THE BOARD - Laid over to May 18, 2004, at 10 A.M., for continued hearing.**

---

---

# MINUTES

---

## 245-90-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Margarita Herskovich and Lyubov Herskovich, owners.

SUBJECT - Application June 12, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 29, 2001.

PREMISES AFFECTED - 1054 43<sup>rd</sup> Street, south side of 43rd Street, Block 5602, Lot 51, Borough of Brooklyn.

### COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Fredrick A. Becker.

### THE VOTE TO CLOSE HEARING -

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**

**Negative: .....0**

**Absent: Commissioner Miele .....1**

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 10 A.M., for decision, hearing closed.

---

## 85-91-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Scott R. Benson, DVM, owner; Bayside Veterinary Center, lessee.

SUBJECT - Application January 9, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired July 21, 2002.

**Negative: .....0**

**Absent: Commissioner Miele .....1**

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 10 A.M., for decision, hearing closed.

---

## 279-01-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Magen David Yeshivah, owner.

SUBJECT - Application December 8, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 2106-2130 McDonald Avenue, through lot with frontage on Lake Street and McDonald Avenue, between Avenue S & T, Block 7087, Lots 14, 22, 24, 73, 76, Borough of Brooklyn.

### COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Barbara Hair.

### THE VOTE TO CLOSE HEARING -

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**

**Negative: .....0**

**Absent: Commissioner Miele .....1**

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 10 A.M., for decision, hearing closed.

---

## 103-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Bnei Aharon, Inc.,

PREMISES AFFECTED - 204-18 46th Avenue, south side of 46th Avenue, 142.91' east of 204th Street, Block 7304, Lot 17, Borough of Queens.

### COMMUNITY BOARD #11

APPEARANCES -

For Applicant: Carl A. Sulfaro.

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 10 A.M., for continued hearing.

---

## 101-92-BZ

APPLICANT - Sheldon Lobel, P.C., for Portrem Realty Co., owner.

SUBJECT - Application August 13, 2003 - reopening for an extension of term of variance which expired October 26, 2003.

PREMISES AFFECTED - 68-98 E. Burnside Avenue (aka 2036 Walton Avenue and 2035 Morris Avenue) south side of East Burnside Avenue, between Walton Avenue and Morris Avenue, Block 2829, Lot 45, Borough of The Bronx.

### COMMUNITY BOARD #5BX

APPEARANCES -

For Applicant: Janice Cahalane.

### THE VOTE TO CLOSE HEARING -

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**

owner.

SUBJECT - Application December 2, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1516 East 24th Street, East 24th Street, 105'south of Avenue O and Kings Highway, Block 6770, Lot 12, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 10 A.M., for continued hearing.

---

## 128-03-A thru 130-03-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Brookside Development Corp., owner.

SUBJECT - Application April 18, 2003 - Proposed construction of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -

22 Brookside Loop, west side, 162' south of Woodrow Road, Block 7022, Lot 5, Borough of Staten Island.

26 Brookside Loop, west side, 25.5' south of Woodrow Road, Block 7022, Lot 8, Borough of Staten Island.

30 Brookside Loop, west side, 341.5' south of Woodrow Road, Block 7022, Lot 10, Borough of Staten Island.

### COMMUNITY BOARD #3S.I.

APPEARANCES -

---

# MINUTES

---

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD - Appeals granted.**

**THE VOTE TO CLOSE HEARING -**

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**

**Negative: .....0**

**Absent: Commissioner Miele .....1**

**THE VOTE TO GRANT -**

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**

**Negative: .....0**

**Absent: Commissioner Miele .....1**

**THE RESOLUTION-**

WHEREAS, the decision of the Department of Buildings Borough Commissioner dated March 31, 2003, acting on N.B. Application Nos. 500602902, 500602911, and 500602920, reads in pertinent part:

"Proposed Construction is located in the bed of a final mapped street is contrary to Article 111, Section 35 of the General City Law and is referred to the Board of Standards and Appeals"; and

WHEREAS, by letter dated January 20, 2004, the Fire

Resolved, that the decision of the DOB Borough Commissioner, dated March 31, 2003, acting on N.B. Application Nos. 500602902, 500602911, and 500602920 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 26, 2004 - (1) sheet; and that the proposal comply with all applicable R3X (SRD) zoning requirements; that all other applicable laws, rules, and regulations shall be complied with; and on further condition:

THAT a Homeowners Agreement be established to maintain the private roadway;

THAT pursuant to the instruction of the Fire Department, no parking shall be permitted within the proposed private road, and "No Parking-Fire Lane" signs will be posted throughout the development;

THAT the above conditions be noted on the Certificate of Occupancy;

THAT the 35 foot wide clearance for the "Sewer Corridor" that is acceptable to DEP is created and recorded prior to the issuance of 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, April 13, 2004.

Department has reviewed the above project and has no objections; and

WHEREAS, by letter dated March 31, 2004 the Department of Transportation has reviewed the above project and has recommended that the development's proposed driveway be configured to include the emergency by-pass approved by the Fire Department, and that a Homeowner's Association be established to maintain the private roadway, and

WHEREAS, by the letter dated July 15, 2003, the Department of Environmental Protection has reviewed the above revised project and requires the applicant to provide a 35 ft. wide clearance located in the bed of Winant Avenue for the "Sewer Corridor" with no permanent structures being built on both lots within this "Sewer Corridor" for the purpose of future drainage and installation, maintenance and/or reconstruction of the 10 inch dia. Sanitary and 42 inch dia. Storm Sewer in Winant Avenue; and

WHEREAS, the applicant has agreed with DEP's request and has revised the site plan to provide for the subject "Sewer Corridor Easement"; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

**311-03-A thru 313-03-A**

APPLICANT - Rudolf J. Beneda, A.I.A., for M.Y.H.P. Building Corp., owner.

SUBJECT - Application October 9, 2003 - Proposed two-story, two family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

**PREMISES AFFECTED -**

140 Jackson Avenue, west side, 103.90' south of Robin Road, Block 3124, Lot 500, Borough of Staten Island.

144 Jackson Avenue, west side, 137.33' south of Robin Road, Block 3124, Lot 502, Borough of Staten Island.

146 Jackson Avenue, west side, 154.95' south of Robin Road, Block 3124, Lot 180, Borough of Staten Island.

**COMMUNITY BOARD #1S.I.**

APPEARANCES - None.

**ACTION OF THE BOARD - Appeals granted on condition.**

**THE VOTE TO GRANT -**

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**

**Negative: .....0**

**Absent: Commissioner Miele .....1**

**THE RESOLUTION -**

WHEREAS, the decision of the Staten Island Borough Commissioner, dated October 2, 2003, acting on N.B. Application Nos. 500596170,500596161,500596152, reads in pertinent part:

"1. Street giving access to the proposed building is not placed on an official map of the City of New York therefore:

A. No Certificate of Occupancy can be issued as per Article 3,Section 36 of the General City Law

B. Permit may not be issued since the proposed construction does not have at least 8% of the total perimeter of 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 York." and

---

# MINUTES

---

WHEREAS, the Fire Department has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Resolved, that the decision of the Staten Island Borough Commissioner, dated October 2, 2003, acting on N.B. Application Nos. 500596170, 500596161, and 500596152 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 5, 2004" - (1) sheet; and that the proposal comply with all applicable R3-1 zoning district requirements; and that all applicable laws, rules, and regulations shall be complied with; and on further condition:

**392-03-A**

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Susan Vernon, lessee.

SUBJECT - Application December 23, 2003 - 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 - 20 Janet Lane, south side, 206' east of Beach 203rd Street, 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, Commissioner Caliendo and Commissioner Chin.....4**

**Negative: .....0**

**Absent: Commissioner Miele .....1**

**THE RESOLUTION -**

WHEREAS, the decision of the Queens Borough Commissioner, dated December 9, 2003 acting on N.B. Application No. 401737741, reads in pertinent part:

"For Board of Standards & Appeals Only

A1- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law ; also no permit can be issued since the proposed construction does not have at least 8% of the total perimeter of 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 York."; and

WHEREAS, by letter dated February 2, 2004, the Fire Department has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Resolved, that the decision of the Queens Borough Commissioner, dated December 9, 2003, acting on N.B. Application No. 401737741 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 23, 2003"- (1) sheet; and that the proposal comply with all applicable R4 zoning

THAT 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 on April 13, 2004

\_\_\_\_\_ district requirements; that all applicable laws, rules, and regulations shall be complied with; 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 on April 13, 2004

**331-03-A**

APPLICANT - The Agusta Group, for Nelson Catano, owner.

SUBJECT - Application October 27, 2003 - The legalization of an existing mercantile occupancy, within a frame class IID construction building, located within the fire district, is not permitted as per §27-296 and Table 4-1 of the NYC Building Code.

PREMISES AFFECTED - 37-44 103<sup>rd</sup> Street, west side, 410.75' south of 37th Avenue, Block 1768, Lot 32, Borough of Queens.

**COMMUNITY BOARD #3Q**

**APPEARANCES -**

For Opposition: Janine Gaylard.

**ACTION OF THE BOARD -** Laid over to July 13, 2004, at 10 A.M., for continued hearing.

**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 -

---

# MINUTES

---

140-26A 34<sup>th</sup> Avenue, Block 4994, Lot 24, Borough of Queens.

ugh of  
Quee

140-28 34<sup>th</sup> Avenue, Block 4994, Lot 224, Borough of Queens.

ns.

140-28A 34<sup>th</sup> Avenue, Block 4994, Lot 224, Borough of Queens.

140-30A 34<sup>th</sup> Avenue, Block 4994, Lot 225, Borough of Queens.

140-30 34<sup>th</sup> Avenue, Block  
4994  
, Lot  
125,  
Boro

140-32 34<sup>th</sup> Avenue, Block 4994, Lot 126, Borough of Queens.

140-32A 34<sup>th</sup> Avenue, Block 4994, Lot 27, Borough of Queens.

140-34 34<sup>th</sup> Avenue, Block 4994, Lot 127, Borough of Queens.

located in a C1-2 within an R5 zoning district, is contrary to §32-31.

140-34A 34<sup>th</sup> Avenue, Block 4994, Lot 227, Borough of Queens.

PREMISES AFFECTED - 110-18 Northern Boulevard, between 110th and 111th Streets, Block 1725, Lots 1, 3, 4, 7, 8, 11, 12 and 13, (Tentative Lot 1), Borough of Queens.

140-36 34<sup>th</sup> Avenue, Block 4994, Lot 327, Borough of Queens.

## COMMUNITY BOARD #3Q

### COMMUNITY BOARD #11Q

#### APPEARANCES -

#### APPEARANCES -

For Applicant: Janice Cahalane.

For Opposition: Adam Rothkrug, Gerald Caliendo and Tom Berinato.

**For Administration: Lisa Orrantia, Department of Buildings.**  
**ACTION OF THE BOARD - Application granted on condition.**

For Administration: Lisa Orrantia, Department of Buildings.

#### THE VOTE TO GRANT -

**ACTION OF THE BOARD -** Laid over to May 18, 2004, at 10 A.M., for continued hearing.

**Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....3**  
**Negative: .....0**  
**Not Voting: Chair Srinivasan .....1**  
**Absent: Commissioner Miele .....1**

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director.*

#### THE RESOLUTION -

Adjourned: 11:10 A.M.

WHEREAS, the decision of the Borough Commissioner, dated December 31, 2003 acting on Application No. 401444772 reads:

"Proposed Construction of a New Building to be operated as a gasoline filling station with an accessory convenience store, located in a C2-4 within an R-6 Zoning district, is not permitted as of right as per ZR Sec 32-00 and therefore must be referred to the BSA."; and

### REGULAR MEETING TUESDAY AFTERNOON, APRIL 13, 2004 2:00 P.M.

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.

WHEREAS, a public hearing was held on this application on December 16, 2003 after due notice by publication in The City Record, with continued hearings on February 3, 2004, and March 23, 2004, and then laid over to April 13, 2004 for decision; and

**Absent:** Commissioner Miele.

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 a special permit pursuant to Z.R. §§73-211 and 73-03, on a site previously the subject of applications before the Board, to permit in a R6/C2-4 zoning District, the continuance of an automotive service station use, as well as an enlargement of the zoning lot upon which the existing automotive service station is situated; and

### ZONING CALENDAR

#### 203-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Marcello Porcelli, owner; BP Amoco, PLC, lessee.

WHEREAS, the record indicates that the combined site has a lot area of 20,435 square feet; and

SUBJECT - Application July 1, 2002 - under Z.R. §72-21 to permit the proposed construction of a new automotive service station with an accessory convenience store, Use Group 16, that is

WHEREAS, the Board finds that the instant application meets the requirements of Z.R. §§73-211(a), which requires that the site contain a minimum lot area of 7,500 square feet; and

WHEREAS, Z.R. §73-211(b) limits the proposed use to

---

# MINUTES

---

15,000 square feet for sites not located on an arterial highway or major street; and

WHEREAS, the subject site is located on Northern Boulevard, which the Board finds is a major street; and

WHEREAS, therefore, the Board finds that Z.R. §73-211(b) is not applicable to the subject application; and

WHEREAS, the Board has also determined that the entrances

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, 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.

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings to grant a special permit pursuant to Z.R. §§73-211 and 73-03, on a site previously before the Board, to permit in a C2-2/R5 zoning District, the legalization of an enlargement of the zoning lot housing an existing automotive service station, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received March 1, 2004"-(7) 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 landscaping be provided and maintained in accordance with BSA approved plans;

THAT there shall be no used car sales on the premises;

THAT there shall be no parking of cars on the sidewalk at any time;

THAT any automobile vacuums shall only be operated between the hours of 9:00 A.M.- 7:00 P.M.;

THAT the term of this special permit shall be limited to ten (10) years from the date of this grant, expiring April 13, 2004;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT construction shall be completed in accordance with Z.R. §73-70;

THAT 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 13, 2004.

and exits have been designed 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 applicant further represents that there will be no lubrication, repair or washing of cars at the subject premises; and

WHEREAS, the Board finds that the existing screening at the subject premises complies with Z.R. §73-211(4); and

## 354-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Edelman, Edward & UNED Associates, LLC, owner.

SUBJECT - Application November 18, 2003 - under Z.R. §72-21 to permit the proposed physical culture establishment, in the cellar of a multi-story mixed-use building which sits on property divided by an R8-B and a C6-6/R8-B district boundary, which is contrary to Z.R. §22-10 and §32-10.

PREMISES AFFECTED - 209/15 East 51<sup>st</sup> Street, between Second and Third Avenues, Block 1325, Lot 6, Borough of Manhattan.

## COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Janice Calahane.

**ACTION OF THE BOARD - Application granted on condition.**

## THE VOTE TO GRANT -

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**

**Negative: .....0**

**Absent: Commissioner Miele .....1**

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner dated September 10, 2003, acting on Department of Buildings Alt. I Application number 103548626, reads;

"Proposed Physical Culture Establishment is not permitted in R8B and C6-6 zoning district as per Section 22-10 and Section 32-10 of the Zoning Resolution"; and

WHEREAS, a public hearing was held on this application on February 3, 2004 after due notice by publication in The City Record, with a continued hearing on March 9, 2004, and then laid over to April 13, 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 for under Z.R. §72-21, to permit a proposed physical culture establishment ("PCE") use in the cellar of an existing mixed-use building, located partially within an R8B zoning district and partially within a C6-6 overlay, which is contrary to Z.R. §§32-10 and 22-10; and

WHEREAS, the subject building is located on the north side of East 51st Street, between First and Second Avenues, and is situated within the Special Transit Land Use District and Special Midtown District; and

WHEREAS, the applicant represents that 40 feet of the subject building is located within the C6-6 commercial overlay along Second Avenue, while 50 feet of the subject building is located within the underlying R8-B zoning district; and

---

# MINUTES

---

WHEREAS, a variance, rather than a special permit, is required because 1,211.5 square feet of the proposed PCE (27.92

WHEREAS, the proposed PCE would occupy a total of 4,338.8 square feet of area in the cellar; and

WHEREAS, the record indicates that the cellar area and the ground floor of the subject building have been used for commercial use since 1960; and

WHEREAS, through a supplemental submission dated March 29, 2004, the applicant reiterates that the subject cellar area has always been maintained as one commercial unit, and that the rear portion of the cellar area is only accessible through the front portion; thus, to gain access to the rear portion in some other way would require relocation of the boiler, storage room, laundry room, locker room and workshop, causing an unfair burden to the owner; and

WHEREAS, the Board finds that there are unique physical conditions inherent to the existing building, namely the division of the lot by a district zoning boundary, the history of commercial use in the cellar, and the limitations of the cellar in terms of use, which create an unnecessary hardship in complying strictly with the applicable use provisions of the Zoning Resolution; and

WHEREAS, the applicant has submitted a letter, dated March 29, 2004, from a commercial real estate broker involved with marketing of the cellar area, which states that the space was difficult to lease and that it is only suitable for use as a health club type facility due to its size, configuration, cellar location and lack of street visibility; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the cellar with a conforming use would not yield the owner a reasonable return on the cellar space; and

WHEREAS, the applicant represents that many of the buildings in the area are mixed-use with commercial use on the ground and cellar levels and residential occupancy above; and

WHEREAS, the ground floor commercial use acts a buffer between the proposed PCE and the residential uses in the building, and the portion of the cellar to be used as a PCE within the R8B zoning district would not be visible from adjacent properties or lots; and

WHEREAS, the hours of operation for the proposed PCE will be 10 AM to 10 PM Monday through Friday, 9 AM to 8 PM Saturday, and 9 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 unnecessary hardship associated with a conforming use of the zoning lot was not caused by the owner, nor by a predecessor in interest, but is inherent in the site; and

WHEREAS, the hardship results from the strict application of the Zoning Resolution to the subject zoning lot; and

WHEREAS, therefore, the Board finds that this proposal is the

THAT substantial construction shall be completed in accordance with Z.R. §72-23; 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

% of the total PCE floor area) would be in the R8B zoning district in which a special permit may not be granted; and 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 physical cultural establishment will contain facilities for the practice of massage by New York State licensed masseurs or masseuses; 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 Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-03 & 73-36; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, to permit a proposed physical culture establishment use, in the cellar of an existing mixed-use building, located partially within an R8B zoning district and partially within a C6-6 overlay, which is contrary to Z.R. §§32-10 and 22-10, 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 18, 2004"-(3) sheets; and on further condition;

THAT the term of this variance will be ten (10) years, starting on April 13, 2004 and expiring on April 13, 2014;

THAT a minimum 4 foot wide path of travel to all exits shall be maintained and kept free of any equipment or obstructions at all times;

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 10 AM to 10 PM Monday through Friday, 9 AM to 8 PM Saturday, and 9 AM to 7 PM Sunday;

THAT the above conditions shall appear on the Certificate of Occupancy;

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.

---

# MINUTES

---

Adopted by the Board of Standards and Appeals, April 13, 2004.

## 387-03-BZ

APPLICANT - Steven M. Sinacori/Stadtmauer Bailkin, for 1100 Leggett Avenue, Inc., owner; Green Office Systems, Inc., lessee. SUBJECT - Application December 15, 2003 - under Z.R. §72-21 to permit the proposed expansion and reconstruction of a functionally obsolete one-story industrial building, thereby creating a modern climate controlled eight-story manufacturing and storage of office furniture facility, Use Groups 16 and 17, located in an M3-1 zoning district, which does not comply with the zoning requirements for floor area ratio, setbacks, sky exposure plane, street wall height and parking spaces, which is contrary to Z.R. §43-12, §43-43, §44-21.

PREMISES AFFECTED - 1100 Leggett Avenue, south side, between Barry and Dupont Streets, Block 2606, Lot 125, Borough of the Bronx.

## COMMUNITY BOARD #2BX

APPEARANCES - None.

**ACTION OF THE BOARD - Application granted on condition.**

## THE VOTE TO GRANT -

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**

**Negative: .....0**

**Absent: Commissioner Miele .....1**

## THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated December 11, 2003, acting on Department of Buildings Application No. 200815092, reads:

"A. Proposed Floor Area of 260,121 sq/ft is contrary to ZR 43-12. FAR has been increased from 2.2 to 4.35.

B. Proposed setbacks are contrary to ZR 43-43. Provide required setbacks. Front setback @ Barry Street - 20 ft. Dupont Street - 20 ft. Leggett Avenue - 15 ft.

C. Provide sky exposure plane in accordance with ZR 43-43. Sky exposure plane @ Barry Street - 2.7-1. @ Dupont Street - 2.7-1. @ Leggett Avenue - 5.6-1.

D. Maximum Street wall height (134/8 stories) is contrary to

WHEREAS, the applicant states that they evaluated the possibility of extending the floor area over the entire first floor of the existing building, thereby increasing the size of the floor plate and decreasing overall height, but that such extension would necessitate reconstruction of the entire site at an increased cost; and

WHEREAS, the applicant also states that the smaller 35,000 square foot tower floor configuration addresses the future user's operational requirements better than a larger floor plate, which would lead to inefficient operations; 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: (1) the existing building is obsolete due its poor construction, antiquated design, deteriorating building systems, failing masonry walls, warped floor

section 43-43. 60 ft./4 stories.

E. Proposed 138 parking spaces is contrary to section . . . 44-21."; and

WHEREAS, a public hearing was held on this application on February 24, 2004 after due notice by publication in the City Record; with a continued hearing on March 23, 2004, and then laid over for decision on April 5, 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, Bronx, and the Bronx Borough President recommend approval of this application; and

WHEREAS, this is an application under Z.R. §72-21 to permit the proposed expansion and reconstruction of a one story industrial building, creating an eight story building used for manufacturing and storage of office furniture (Use Groups 16 and 17), located in an M3-1 zoning district, which does not comply with the zoning requirements for floor area ratio, setbacks, sky exposure plane, street wall height and parking spaces, contrary to Z.R. §§43-12, 43-43 and 44-21; and

WHEREAS, the subject premises is located on the south side of Leggett Avenue between Barry and Dupont Streets, has a total lot area of approximately 59,801 square feet, is located within an M3-1 zoning district, and is currently occupied by a one story building with a legal use of manufacturing and storage; and

WHEREAS, the subject zoning lot is proposed to be developed with an eight story expanded building, with a floor area of approximately 260,121 square feet, and a height of 134 feet; and

WHEREAS, approximately 19,801 square feet of the existing building will be retained and remodeled to modern standards, and incorporated into the new, expanded building; and

WHEREAS, the expanded building will be owned and operated by a furniture re-builder and re-furbisher, and will be utilized for manufacturing, refinishing and warehouse purposes; and

WHEREAS, the requested bulk waiver is for an increase in the Floor Area Ratio ("FAR") to 4.35, an increase of 2.15 over the permitted FAR of 2.2 (the permitted Floor Area is 131,563 sq. ft., and the proposed Floor Area is 260,121 sq. ft.); the requested setback and sky exposure plane waivers will allow for the total waiver of these requirements; the requested street wall height waivers allow for 134 feet (8 story) street walls versus the 60 feet (4 story) maximum; the requested parking waiver allows for the creation of 130 parking spaces versus the 260 that are required; and slab, lack of HVAC system and undermined foundation wall at the corner of Barry Street; and (2) the spacing of the existing building's interior columns hinder efficient manufacturing use, and when combined with the absence of an exterior loading berth, makes the movement of materials and finished product difficult; 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 that demonstrates that developing the entire premises with a complying building would not yield the owner a reasonable return; and

WHEREAS, based upon its review of the record, the Board

---

# MINUTES

---

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 the immediate neighborhood surrounding the zoning lot is mixed-use, with manufacturing, automotive and commercial uses; and

WHEREAS, the applicant further states that to the south of a zoning lot there is a 6 story loft building comparable in height to the subject building; and

WHEREAS, the applicant represents that: (1) the facility is close to public transportation; (2) most employees of the facility will not drive to work; and (3) the proposed amount of spaces should be sufficient to meet the facility's parking needs; and

WHEREAS, the applicant notes that at least 50 percent of the facility will be used for storage, which would generate a lesser parking need than a building used only for manufacturing; and

WHEREAS, at the request of the Board, the applicant has relocated the entrance to the loading and parking area to Dupont Street, which is less heavily trafficked than Leggett Avenue; 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

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

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, April 13, 2004.

## 5-04-BZ

APPLICANT - Bryan Cave, LLP, for Gerard Avenue LLC, c/o American Self Storage Management Associates, Inc. owner.

SUBJECT - Application January 7, 2004 - under Z.R. §73-19 to permit the proposed construction and operation of a school, without

WHEREAS, the applicant conducted a Phase I Environmental Site Assessment Report which recommended that a ground-penetrating radar survey be conducted to determine if there are existing underground gasoline storage tanks on the subject site; 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 expansion and reconstruction of a one story industrial building, creating an eight story building used for manufacturing and storage of office furniture (Use Groups 16 and 17), located in an M3-1 zoning district, which does not comply with the zoning requirements for floor area ratio, setbacks, sky exposure plane, street wall height and parking spaces, contrary to Z.R. §§43-12, 43-43 and 44-21; 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 15, 2003"- (15) sheets and "March 9, 2004"- (1) sheet; and on further condition:

THAT a ground-penetrating radar survey be conducted to determine if there are any existing underground gasoline storage tanks on the subject site; the results of this survey should be sent to the BSA's CEQR Examiner;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT the premises shall comply with all applicable fire safety measures;

THAT any change in ownership of the building must be approved by the BSA, and may trigger the elimination or reduction of the parking waiver; sleeping accommodations on the site, Use Group 3, to be located in an M1-2 zoning district, requires a special permit as per Z.R. §73-19.

PREMISES AFFECTED - 595 Gerard Avenue, a/k/a 587/95 River Avenue, between 150<sup>th</sup> and 151<sup>st</sup> Streets, Block 2354, Lot 1, Borough of The Bronx.

## COMMUNITY BOARD #4BX

APPEARANCES -

For Applicant: Judith Gallent.

**ACTION OF THE BOARD - Application granted on condition.**

## THE VOTE TO GRANT -

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**

**Negative: .....0**

**Absent: Commissioner Miele .....1**

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 6, 2004, acting on Department of Buildings Application No. 200821780, reads:

"In an M-1 district a Special Permit by the Board of Standards and Appeals may be granted to a school having no residential

---

# MINUTES

---

accommodations as per Sec. 73-19 of the Zoning Resolution."; and

WHEREAS, a public hearing was held on this application on March 9, 2004 after due notice by publication in the City Record; and then laid over for decision on April 13, 2004; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the subject application has the support of various social service agencies and New York State offices; and

WHEREAS, this is an application to permit the proposed construction and operation of a school without sleeping accommodations (Use Group 3), located within an M1-2 zoning district, which requires a special permit under Z.R. §73-19; and

WHEREAS, the subject premises is located on Gerard Avenue between 150th and 151st Streets, has a total lot area of approximately 99,110 square feet, is located within an M1-2 zoning district, and is currently occupied by a two and three story building (with cellar) with a legal use of light manufacturing and storage; the subject lot also has a 101 space parking lot, enclosed by chain-link fence and

WHEREAS, the majority of the ground floor of the existing building is and will continue to be occupied by a storage facility, which has its loading area on River Avenue; and

WHEREAS, the second floor of the existing building is proposed to be renovated, and will be leased to and operated by a school for children with psychiatric issues (without sleeping accommodations), addressing the children's educational and treatment needs; and

WHEREAS, evidence in the record indicate that the proposed school is located within 400 feet of an R6 zoning district, where the 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 states that the subject premises is surrounded by a mix of light manufacturing and institutional uses, as well as parking lots and garages;

WHEREAS, the applicant has submitted an Environmental Assessment Statement indicating that the level of noise and traffic from the area is light; the applicant also notes that the subject building's walls are thick and its windows are double-paned, double-glazed and thermally insulated, resulting in significant sound attenuation; and

WHEREAS, the Board finds 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 students will arrive and leave school by school buses and will be supervised at all times; and

WHEREAS, the applicant represents that the location of the school's entrance on Gerard Avenue is the safest point of entry for the students, allowing them to enter the school quickly and without waiting on line outside the building; and

WHEREAS, to minimize traffic congestion on Gerard Avenue, a "No Standing Zone" will be established during school hours, and signage reflecting the zone will be obtained; in addition, to avoid

WHEREAS, a small portion of the ground floor would be renovated to serve as a reception/security area for the school; and

WHEREAS, the applicant states that the school will serve a maximum of 115 children, between the ages of 7 and 17; that there is a significant need for such a school in the Bronx area; and that the school will be operated by a joint City/State government agency partnership; and

WHEREAS, the school will operate from 8:00 A.M. to 2:30 P.M., with arrival and dismissal of students supervised by school staff; and

WHEREAS, the applicant represents that extensive efforts to identify and secure a site for the school within a district where it would be permitted as of right took place over a two year period; and

WHEREAS, certain sites were ultimately rejected due to cost prohibitions, potential public opposition, lack of appropriate size, operational concerns, poor building condition or poor transportation access;

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 school bus congestion, buses will wait in the on-site parking lot prior to loading or unloading when too many buses are already waiting on Gerard Avenue; 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 are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §73-03; 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.

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.

---

# MINUTES

---

§73-19 and grants a Special Permit, to allow the proposed construction and operation of a school without sleeping accommodations (Use Group 3), located within an M1-2 zoning district; 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 "January 7, 2004" - (5) sheets and "March 29, 2004" - (3) sheets; and on further condition:

THAT the applicant shall obtain from the New York City Department of Transportation appropriate signage to establish a No Standing zone in front of the Gerard Avenue entrance to the building during school hours;

THAT the premises shall comply with all applicable fire safety measures;

THAT 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 13,

## **68-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Torah M. Sinai, Inc., owner.

SUBJECT - Application February 11, 2003 - under Z.R. §72-21 to permit the proposed conversion of an existing building, which is located in an area designated as a manufacturing district, to be used for a day care center, Use Group 3, and office use, Use Group 6, without the required parking, and is contrary to Z.R. §42-00 and §44-21.

PREMISES AFFECTED - 649 39<sup>th</sup> Street, northwest corner of Seventh Avenue, Block 903, Lots 79, 80 and 83, Borough of Brooklyn.

## **COMMUNITY BOARD #7BK**

APPEARANCES -

For Applicant: Janice Cahalane and Charles Defonsort.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

---

## **82-03-BZ**

APPLICANT - Sullivan Chester & Gardner LLP, for Diamond Street Properties, Inc., owners.

SUBJECT - Application March 5, 2003 - under Z.R. §72-21 to permit the proposed enlargement of an existing two story building, to four stories, and the change of use from manufacturing/warehouse facility, to mixed use (residential and commercial), located in an M3-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 51 North 8<sup>th</sup> Street, a/k/a 91 Kent Avenue, northeast corner, Block 2309, Lot 1, Borough of Brooklyn.

## **COMMUNITY BOARD #1BK**

2004.

---

## **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, S.B. Pauls and Donald Lentner.

For Opposition: George Breadhead, Roberta Sherman, Kathryn Manitt, Ray Schifan and Dan Cavanagh.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

---

APPEARANCES -

For Applicant: Jeffrey Chester and J. Conaty.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

---

## **102-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Southside Realty Holdings, LLC, owner.

SUBJECT - Application April 3, 2003 - under Z.R. §72-21 to permit the proposed development of two residential buildings with underground accessory parking and an open recreation space between the two buildings, Use Group 2, located in an M3-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 291 Kent Avenue, 35/37 South Second Street and 29/33 South Third Street, east side of Kent Avenue, between South Second and Third Streets, Block 2415, Lots 10, 14, 15, 41-43, 114 and 116, Borough of Brooklyn.

## **COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 1:30 P.M., for continued hearing.

---

## **118-03-BZ**

APPLICANT - Slater & Beckerman, LLP, for 1101 Prospect LLC, owner.

SUBJECT - Application April 11, 2003 - under Z.R. §72-21 to permit the proposed construction of a six-story residential and community facility building, Use Group 2 and 4, located in an R5B zoning district, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage, number of dwelling

---

# MINUTES

---

units, community facility bulk regulations, front and yards, height and setback, is contrary to Z.R. §23-141(b), §23-22, §24-01, §24-162, §23-45, §24-34, §24-35 and §24-521.

PREMISES AFFECTED - 1101 Prospect Avenue, a/k/a 1677 11<sup>th</sup> Avenue, northeast corner, Block 5256, Lot 1, Borough of Brooklyn.

## COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Stuart Beckerman and Daniel Plank.

For Opposition: John Keefe, Assemblymember Brenan and Kenneth K. Fisher.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

---

## 186-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Mount Carmel Plaza, LLC, owner.

SUBJECT - Application June 4, 2003 - under Z.R. §72-21 to permit the legalization of an existing furniture store, Use Group 10, located in a C7 zoning district, also a request to vary the requirement of maintaining a loading berth on the premises, is contrary to Z.R. §32-10 and §36-62.

PREMISES AFFECTED - 1019 Surf Avenue, between West 8th and West 12th Streets, Block 7628, Lot 236, Borough of Brooklyn.

## COMMUNITY BOARD #13BK

APPEARANCES -

For Applicant: Howard Goldman.

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 1:30 P.M., for continued hearing.

---

## 258-03-BZ

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 -

For Applicant: Howard Goldman.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

---

## 260-03-BZ

APPLICANT - Law Offices of Howard Goldman, PLLC, for 376 East 94th Street, Realty LLC, owner.

SUBJECT - Application August 14, 2003 - under Z.R. §72-21 to permit the legalization of sixty (60) residential units, in an existing

permit the proposed seven story multiple dwelling, Use Group 2, with a total of sixty residential units and twenty-four parking spaces, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 525 Union Avenue, west side, 48' south of Withers Street, Block 2315, Lot 14, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Richard Lobel.

For Opposition: Patty Giovenco, Anthony B. Amonte and Stephanie Eisenberg.

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 1:30 P.M., for continued hearing.

---

## 255-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Surf Avenue Enterprise, owner.

seven story building, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 20 Grand Avenue, between Flushing and Park Avenues, Block 1877, Lot 35, Borough of Brooklyn.

## COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Howard Goldman.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

---

## 270-03-BZ

APPLICANT - Joseph P. Morsellino, for Cord Meyer Development, LLC, owner.

SUBJECT - Application August 26, 2003 - under Z.R. §72-21 to permit the proposed erection and maintenance of a mixed use building, Use Groups 2 and 6, with less than the required open space, and which exceeds the permitted floor area ratio, located on a site that is divided by two zoning districts (C4-2 and R7-1), is contrary to §35-23, §23-142, §35-33 and §35-32.

PREMISES AFFECTED - 108-36/50 Queens Boulevard, southeast corner of 71st Road, Block 3257, Lot 1 (formerly 1 and 42), Borough of Queens.

## COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

**ACTION OF THE BOARD** - Laid over to April 27, 2003, at 1:30 P.M., for continued hearing.

---

## 299-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Josette Said, owner.

SUBJECT - Application September 15, 2003 - under Z.R. §72-21 to permit the proposed construction of a detached one-family dwelling, Use Group 1, located in an R1-2 zoning district, which does not comply with the zoning requirements for front yard, rear yard and setback, is contrary to Z.R. §23-45, §23-52 and §23-631.

---

# MINUTES

---

PREMISES AFFECTED - 179-16 Grand Central Parkway, between Midland Parkway and Edgerton Boulevard, Block 9943, Lot 43, Borough of Queens.

**COMMUNITY BOARD #8**

APPEARANCES -

For Applicant: Irving E. Minkin.

**THE VOTE TO REOPEN HEARING -**

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**

**Negative: .....0**

**Absent: Commissioner Miele .....1**

**ACTION OF THE BOARD -** Laid over to April 27, 2004, at 1:30 P.M., for continued hearing.

---

**300-03-BZ**

**325-03-BZ & 326-03-BZ**

APPLICANT - Walter T. Gorman, for LT Land Development Corp., owner.

SUBJECT - Application October 21, 2003 - under Z.R. §§72-11 & 72-21 to permit the proposed construction of a one family dwelling, Use Group 2, located in an R3-2 zoning district, which does not comply with the zoning requirement for front yard, is contrary to Z.R.§23-45.

PREMISES AFFECTED -

307 Hamden Avenue, north side, 90' east of Boundary Avenue, Block 3687, Lot 6, Borough of Staten Island.

309 Hamden Avenue, north side, 130' east of Boundary Avenue, Block 3687, Lot 8, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

APPEARANCES -

For Applicant: John Ronan and Anthony J. Tucci.

**ACTION OF THE BOARD -** Laid over to May 18, 2004, at 1:30 P.M., for continued hearing.

---

**342-03-BZ**

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 -

For Applicant: Jay Segal, Jack Freeman, Joe Lombardi, D. McCall and Matt Viggiano.

For Opposition: Barry Mallin, Daniel L. C. M. Gerson of Senator Martin Connor, Assemblyman Glick, James Solomon, Susan Posen, Robert Buxbaum, Regina Nadelson and others.

**ACTION OF THE BOARD -** Laid over to June 9, 2004, at

APPLICANT - Slater & Beckerman, for TC Interprises, LLC, owner.

SUBJECT - Application September 18, 2003 - under Z.R. §72-21 to permit the proposed construction of a six (6) story residential building, Use Group 2, located in an M1-2 zoning district which is contrary to Z.R. §42-10.

PREMISES AFFECTED - 326 East 126th Street, south side, between First and Second Avenues, Block 1802, Lot 36, Borough of Manhattan.

**COMMUNITY BOARD #11M**

APPEARANCES -

For Applicant: Stuart Beckerman.

**ACTION OF THE BOARD -** Laid over to May 25, 2004, at 1:30 P.M., for continued hearing.

---

10:00 A.M., for continued hearing on the Special Calendar.

---

**347-03-BZ**

APPLICANT - Eric Palatnik, P.C., for Shaul and Sara Taub, owners.

SUBJECT - Application November 14, 2003 - under Z.R. § 73-622 to permit the 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 ratio and open space ratio, is contrary to Z.R. §23-141(a).

PREMISES AFFECTED - 2611 Avenue "N", between East 26th and East 27th Streets, Block 7662, Lot 5, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Adam Rothkrug.

**THE VOTE TO CLOSE HEARING -**

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**

**Negative: .....0**

**Absent: Commissioner Miele .....1**

**ACTION OF THE BOARD -** Laid over to April 27, 2004, at 1:30 P.M., for decision, hearing closed.

---

**362-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Reiss Realty Corp., owner.

SUBJECT - Application November 20, 2003 - under Z.R. §11-411 to permit the continued use of the premises for private parking, accessory to commercial use, and for storage accessory to commercial use, changed from previously approved storage of combustible chemical solvents, is contrary to a previously Cal. No. 1071-40-BZ Vol.II and Z.R. §22-00.

PREMISES AFFECTED - 428 West 45th Street, between Ninth and Tenth Avenues, Block 1054, Part of Lot 48, Borough of Manhattan.

**COMMUNITY BOARD #4**

APPEARANCES -

---

# MINUTES

---

For Applicant: Jordan Most.

**THE VOTE TO CLOSE HEARING -**

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**

**Negative: .....0**

**Absent: Commissioner Miele .....1**

**ACTION OF THE BOARD - Laid over to May 11, 2004, at 1:30 P.M., for decision, hearing closed.**

---

**APPEARANCES -**

**For Applicant: Adam Rothkrug.**

**For Opposition: Catherine DeSantis, Loretta DeSantis and Linda DeSantis.**

**ACTION OF THE BOARD - Laid over to May 25, 2004, at 1:30 P.M., for continued hearing.**

---

**371-03-BZ & 372-03-BZ**

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for 655 Properties, LLC, owner; Cornelia Fifth Avenue LLC, lessee.

SUBJECT - Application December 2, 2003 - under Z.R. §73-36 to permit the legalization of the eighth floor, and the roof, of an existing eight story building, for use as a physical culture establishment, located in a C5-3(MiD) zoning district, is contrary to Z.R. §32-10.

**PREMISES AFFECTED -**

655 Fifth Avenue, southwest corner, block bounded by Fifth and Madison Avenues, and East 52nd and East 53rd Streets, Block 1288, Lot 1, Borough of Manhattan.

663 Fifth Avenue, southwest corner, block bounded by Fifth and Madison Avenues, and East 52nd and East 53rd Streets, Block 1288, Lot 3, Borough of Manhattan.

**COMMUNITY BOARD #5M**

**APPEARANCES -**

**For Applicant: Robert Flahive and Steve Rowland.**

**For Administration: Anthony Scaduto, Fire Department.**

**THE VOTE TO CLOSE HEARING -**

**Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4**

**Negative: .....0**

**Absent: Commissioner Miele .....1**

**ACTION OF THE BOARD - Laid over to May 11, 2004, at 1:30 P.M., for decision, hearing closed.**

---

**7-04-BZ**

APPLICANT - Lawrence Whiteside dba Construction/Codes Consultants, for Rev. Dr. Sheldon E. Williams/Coop City Baptist Church, owner.

**365-03-BZ**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Avi Mansher, owner.

SUBJECT - Application November 25, 2004 - under Z.R. §72-21 to permit the construction of a two story, two family dwelling, Use Group 2, which does not provide the required side yard which is contrary to Z.R. §23-462.

PREMISES AFFECTED - 224-20 Prospect Court, a/k/a 225th Street, northwest corner, Block 13071, Lot 74, Borough of Queens.

**COMMUNITY BOARD #13Q**

SUBJECT - Application January 9, 2004 - under Z.R. §72-21 to permit the proposed construction of a Church/Community Outreach Center, Use Group 4, located in an R3-2 zoning district, which does not comply with the zoning requirements for open space ratio, floor area ratio, height and setback, and encroaches onto the front and side yards, is contrary to Z.R. §24-11, §24-34, §24-35 and §24-521.

PREMISES AFFECTED - 2208 Boller Avenue, property fronting on Boller and Hunter Avenues and Erskine Place, Block 5135, Lot 1, Borough of The Bronx.

**COMMUNITY BOARD #10X**

**APPEARANCES -**

**For Applicant: Lawrence Whiteside, Rev. Sheldon Williams and Victor Body-Lawson.**

**For Administration: Anthony Scaduto, Fire Department.**

**ACTION OF THE BOARD - Laid over to May 18, 2004, at 1:30 P.M., for continued hearing.**

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 8:40P.M.

---

# MINUTES

---

---

## CORRECTIONS

---

### \*CORRECTION

This resolution adopted on March 30, 2004, under Calendar No. **400-70-BZ** and printed in Volume 89, Bulletin No. 15, is hereby corrected to read as follows:

#### **400-70-BZ**

APPLICANT - Sheldon Lobel, P.C., for Amerada Hess Corporation, owner.

SUBJECT - Application November 7, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 134-07 Cross Bay Boulevard (formerly 134-15 Croo Bay Boulevard) Cross Bay Boulevard at northeast corner of Linden Boulevard, Block 11493, Lots 79 and 87, Borough of Queens.

#### **COMMUNITY BOARD #10Q**

#### APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Application re-opened and resolution amended.

#### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

#### THE RESOLUTION -

WHEREAS, a public hearing was held on this application on January 27, 2004, after due notice by publication in The City Record, with a continued hearing on March 9, 2004, and then laid over to March 30, 2004 for decision; and

WHEREAS, the applicant has requested a re-opening and an amendment to the resolution; and

WHEREAS, on November 24, 1970, the BSA granted a variance under §72-21 to permit in a C1-2 within an R4 zoning district, the erection and maintenance of an automotive service station with accessory uses; and

WHEREAS, on November 25, 1997, the resolution was amended to permit modernization of the site; and

WHEREAS, the subject application seeks to demolish the existing kiosk on the site and construct a 2,480 square foot convenience store, of which 1,354 square feet will be used as sales area, to relocate the existing gasoline dispensers and canopy, alter the existing signage and to include nine (9) parking spaces.

Resolved, that the Board of Standards and Appeals reopens

and amends the resolution, pursuant to Zoning Resolution §§72-01 and 72-22, so that as amended this portion of the resolution shall read: "to permit the to demolition of the existing kiosk on the site and construction of a 2,480 square foot convenience store, of which 1,354 square feet will be used as sales area, relocation the existing gasoline dispensers and canopy, alteration of the existing signage and the inclusion of nine (9) parking spaces; on condition that all work shall substantially conform to drawings as filed with this application, marked "Received March 12, 2004"- (7) sheets; and on further condition;

THAT the term of this variance shall be limited to ten (10) years from the date of this resolution to expire on March 30, 2014;

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 will be as approved by the Department of Buildings;

THAT landscaping shall be provided and maintained in accordance with BSA approved plans, as submitted with the instant application on Sheet 2, dated "Received March 12, 2004";

THAT all lighting shall be directed toward Cross Bay Boulevard, and away from residential homes;

THAT 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 #401636253)

Adopted by the Board of Standards and Appeals, March 30, 2004.

**\*\*The resolution has been corrected in the part which read: "...ten (10) parking spaces...." now reads: "... nine (9) parking spaces..." . Corrected in Bulletin Nos. 16-17, Vol. 89, dated April 22, 2004.**

**\*CORRECTION**

This resolution adopted on March 30, 2004, under Calendar No. 92-03-BZ and printed in Volume 89, Bulletin No. 15, is hereby corrected to read as follows:

**92-03-BZ  
CEQR #03-BSA-152M**

permit the proposed residential development of an entire zoning lot with 3 three story, three family attached dwellings, on a vacant lot divided by an R7-2 and M1-1 district boundary, which is contrary to Z.R. §43-10 and which requires a special permit to allow the extension of the residential use to a 25 foot portion of the lot within the M1-1 zoning district.

**PREMISES AFFECTED - 472 West 130th Street, southwesterly corner of the intersection of West 130th Street and Convent Avenue, Block 1969, Lots 64, 67 and 68, Borough of Manhattan.  
COMMUNITY BOARD #9M  
APPEARANCES -**

---

# CORRECTIONS

---

APPLICANT - Sheldon Lobel, P.C., for Parkside Inc., owner.  
SUBJECT - Application March 25, 2003 - under Z.R. §73-52 to

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, the decision of the Borough Commissioner, dated March 11, 2003, acting on Department of Buildings Application No. 103157003, reads:

“1. Proposed residential use is not permitted as of right in a M1-1 district. It is contrary to Section 43-10 Z.R.”; and

WHEREAS, a public hearing was held on this application on November 5, 2003 after due notice by publication in the City Record; with continued hearings on December 9, 2003, December 23, 2003, February 3, 2004, March 2, 2004, and then laid over for decision to March 30, 2004; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the Housing Land Use Committee of Community Board 9, Manhattan, does not object to the subject proposal; and

WHEREAS, this is an application under Z.R. §73-52 to permit the proposed residential development of an entire zoning lot with 3 three story, three family attached dwellings, on a vacant lot divided by an R7-2 and M1-1 district boundary, which is contrary to Z.R. §43-10 and which requires a special permit to allow the extension of the residential use to a 25 foot portion of the lot within the M1-1 zoning district; and

WHEREAS, the zoning lot has an area of 5,140 square feet, and is comprised of three tax lots (lot 64, 67 and 68); these lots have been combined into one zoning lot through a Zoning Lot Merger; and

WHEREAS, tax lot 64 is 2,405 square feet in area and is located in that section of the zoning lot that is within the M1-1 zoning district; tax lots 67 and 68 have a combined area of 2,735 square feet and are located in that section of the zoning lot that is within the R7-2 zoning district; and

WHEREAS, the applicant proposes the erection of 3 three story, three family dwellings, one on each tax lot; the three dwellings will be attached; 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; and

WHEREAS, the applicant has provided sufficient evidence showing that the zoning lot was in common ownership prior to 1961 and continuously from that time onward; and

WHEREAS, the applicant represents that without the extension of the R7-2 zoning district provisions into the tax lot within the M1-1 zoning district (tax lot 64), this tax lot would not be feasible to develop with a conforming use; and

WHEREAS, the Board notes that it would not be feasible to develop tax lot 64 with a conforming M1-1 use on such a small parcel of land, and in close proximity to conforming residential buildings; and

WHEREAS, the applicant represents that tax lot 64 will be developed in accordance with the uses currently in the surrounding area; and

WHEREAS, the Board finds that the surrounding area is best characterized as mixed use, with multiple dwellings adjoining the zoning lot, and across the street, and with some warehouse uses and a public school in the immediate vicinity; and

WHEREAS, the Board notes that the grant of the special permit would allow the entire zoning lot to be developed for residential use, which would add to the mixed-use character of the neighborhood; and

WHEREAS, the Board finds that the proposed extension will not cause impairment of the essential character or the future use or 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 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 applicant has answered to the Board’s satisfaction its concerns regarding the applicability of Z.R. §23-711(c), which regulates the minimum distance between buildings on a single zoning lot; and

WHEREAS, the Board notes that any development on the subject zoning lot must conform to all applicable R7-2 zoning district regulations and other zoning and Building Code requirements, as determined and approved by the Department of Buildings; 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. §73-52 and grants a special permit to allow the proposed residential development of an entire zoning lot with 3 three story, three family attached dwellings, on a vacant lot divided by an R7-2 and M1-1 district boundary, which is contrary to Z.R. §43-10 and which requires a special permit to allow the extension of the residential use 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 drawings as they apply to the objections above noted, filed with this application marked "Received July 9, 2003"-(1) sheet and "March 25, 2004"-(10) sheets; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

---

## CORRECTIONS

---

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 30, 2004.

**\*\*The resolution has been corrected to remove the part of the Resolved which read: "... under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit the....." now reads: "...under Z.R. §73-52 and grants a special permit to allow the..." . Corrected in Bulletin Nos. 16-17, Vol. 89, dated April 22, 2004.**

---

*Pasquale Pacifico, Executive Director.*

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 18

April 29, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN**, *Chair*

**SATISH BABBAR**, *Vice-Chair*

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	313
<b>CALENDAR</b> of May 25, 2004	
Morning .....	314
Afternoon .....	314

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, April 20, 2004**

Morning Calendar .....315

**Affecting Calendar Numbers:**

32-02-BZ	176-182 Johnson Street, Brooklyn
844-57-BZ	87-19 Rockaway Boulevard, a/k/a 97-18/58 88 <sup>th</sup> Street, Queens
1043-80-BZ	1680/88 Albany Avenue, a/k/a 4024 Marginal Street, Brooklyn
982-83-BZ	191-20 Northern Boulevard, Queens
138-87-BZ	218-36 Hillside Avenue, Queens
16-93-BZ	110 Christopher Street, Manhattan
34-94-BZ	401, 403, 405 Castle Hill Avenue, Bronx
87-94-BZ	321-325 East 73 <sup>rd</sup> Street, Manhattan
173-94-BZ	165-10 144 <sup>th</sup> Road, Queens
200-00-BZ	107-24 37 <sup>th</sup> Avenue, a/k/a 37-16 108 <sup>th</sup> Street, Queens

Afternoon Calendar.....317

**Affecting Calendar Numbers:**

164-02-BZ	1913 Hobart Avenue, Bronx
222-02-BZ	2547 East 12 <sup>th</sup> Street, Brooklyn
290-03-BZ	1097 Second Avenue, Manhattan
363-03-BZ	480 East 176 <sup>th</sup> Street, Bronx
69-03-BZ	32/40 Bond Street, Manhattan
223-03-BZ	115-15 Farmers Boulevard, Queens
224-03-BZ	139-19 109 <sup>th</sup> Avenue, Queens
266-03-BZ	1710/12 McDonald Avenue, Brooklyn
271-03-BZ	976 Metropolitan Avenue, Brooklyn
287-03-BZ	430 Keap Street, Brooklyn
291-03-BZ	1380 62 <sup>nd</sup> Street, Brooklyn
302-03-BZ	1212 East 23 <sup>rd</sup> Street, Brooklyn
356-03-BZ	2311 Avenue "J", Brooklyn
361-03-BZ	2277 East 2 <sup>nd</sup> Street, Brooklyn
367-03-BZ	714 Beach 20 <sup>th</sup> Street, Queens
377-03-BZ	25 Bond Street, Manhattan

---

# DOCKETS

---

New Case Filed Up to April 20, 2004

**151-04-BZ** B.BX. 1385 Commerce Avenue,  
southwest corner of Butler Place, Block 3856, Lot 13, Borough of The Bronx. Alt.1 #200801016. Proposed physical culture establishment, on the first floor and mezzanine level of the subject premises, located in an M3-1 zoning district, requires a special permit from the Board as per Z.R. §73-36 and §32-31.

**COMMUNITY BOARD #10BX**

**152-04-BZ** B.BX. 3213 Edson Avenue, bounded on the north by East 222<sup>nd</sup> Street, south by Burke Avenue and west by Grace Avenue, Block 4758, Lot 25, Borough of The Bronx. N.B. #200815029. Proposed construction of four, one-story warehouses (Use Group 16,) for warehouse/storage/distribution uses, located in an R5 zoning district, is contrary to Z.R. §22-00.

**COMMUNITY BOARD #10BX**

**153-04-BZ** B.BK. 2948 Voorhies Avenue, a/k/a 2710 Haring Street, southwest corner, Block 8794, Lot 10, Borough of Brooklyn. Applic. #301632936. 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.

**COMMUNITY BOARD #15BK**

**154-04-BZ** B.BK. 63 Rapeleye Street, north side, 116' east of Hamilton Avenue, Block 363, Lot 48, Borough of Brooklyn. N.B. #301645245. Proposed construction of a four family dwelling, Group 2, located in M1-1 zoning district, is contrary to Z.R. §42-10.

**COMMUNITY BOARD #6BK**

**155-04-A** B.Q. 4 Marion Walk, southwest corner of West End Avenue, Block 16350, Part of Lot 400, Borough of Queens. Applic. #401841316. Proposed enlargement of the first floor, and the addition of a new second floor, 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.

**156-04-BZ** B.BK. 9712 Flatlands Avenue, between East 98<sup>th</sup> Street and Rockaway Parkway, Block 8205, Lot 40, Borough of Brooklyn. Alt.1 #301810128. The legalization of an existing insurance brokerage business, Use Group 6, located in an R5 zoning district, is contrary to Z.R. §22-00.

**COMMUNITY BOARD #18BK**

**157-04-BZ** B.BK. 28 Roebling Street, westerly blockfront, between North Ninth and Tenth Streets, Block 2306, Lot 18, Borough of Brooklyn. Applic. #301431546. Proposed conversion of an existing four story and basement former manufacturing building, to residential use, Use Group 2, located in an M1-2 zoning district, is contrary to Z.R. §42-10.

**COMMUNITY BOARD #1BK**

**158-04-BZ** B.BK. 1035 Ocean Parkway,  
between Avenues "I" and "K", Block 6527, Lot 76, Borough of Brooklyn. Applic. #301817256. Proposed horizontal enlargement, to a detached one-family dwelling, Use Group 1, on a narrow lot with non-complying side yards, and also encroaches in the required rear yard, located in an R5 zoning district, is contrary to Z.R. §23-48, §54-31 and §23-47.

**COMMUNITY BOARD #12BK**

**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.**

---

# MINUTES

---

**MAY 25, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, May 25, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## SPECIAL ORDER CALENDAR

### **371-29-BZ**

APPLICANT - Maduakolam Mish. Nnabuihe, for Getty Petroleum Corp., owner; Besan Trading Inc., lessee.

SUBJECT - Application January 9, 2004 - reopening for an amendment to the resolution for tire shop as an accessory use to the existing automotive service station.

PREMISES AFFECTED - 1210-1230 East 233rd Street, northwest corner of Grenada Place and Edson Avenue, Block 4934, Lot 66, Borough of The Bronx.

**COMMUNITY BOARD #13BX**

---

### **753-63-BZ**

APPLICANT - Anthony N. Borowiec, P.E., for Warren Kurtz, P.E. of NYC Department of Environmental Protection, owner.

SUBJECT - Application March 5, 2004 - reopening for an amendment to the resolution to add three additional stories to the station.

PREMISES AFFECTED - 184 Avenue D, east side of Avenue D, 20' south of 13th Street, Block 367, Lot 25, Borough of Manhattan.

**COMMUNITY BOARD #3M**

**MAY 25, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, May 25, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## ZONING CALENDAR

### **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**

---

### **389-03-BZ**

APPLICANT - Harold Weinberg, P.E., for Miriam Katz, owner.

SUBJECT - Application December 16, 2003 - under Z.R. §73-622 to permit the proposed erection of a two story rear 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 ratio, open space, rear yard, lot coverage and side yards, is contrary to Z.R. §23-141, §23-461, §23-47 and §54-31.

PREMISES AFFECTED - 1959 East 24th Street, east side, 460'0" south of Avenue "S", Block 7303, Lot 64, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

---

### **38-04-BZ**

APPLICANT - Eric Palatnik, P.C., for Sanford Becker and Howard Ochs, owner.

SUBJECT - Application February 13, 2004- under Z.R. §72-21 to permit the legalization of the northern side yard at an existing dentist's office, Use Group 4, located in an R3-2 zoning district, which is in non-compliance with Z.R. §23-464 and §24-35.

PREMISES AFFECTED - 70-15 164th Street, east side, between Jewel and 71st Avenues, Block 6933, Lot 78, Borough of Queens.

**COMMUNITY BOARD #8Q**

---

*Pasquale Pacifico, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, APRIL 20, 2004  
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, February 24, 2004, were approved as printed in the Bulletin of March 4, 2004, Volume 89, No. 9-10.

**SPECIAL ORDER CALENDAR**

**32-02-BZ**

APPLICANT - Martyn & Don Weston, for Winchester Realty Group, LLC, owner.

SUBJECT - Application December 12, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 176-182 Johnson Street, southwest corner of 92-102 Prince Street, Block 2049, Lot 15, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

APPEARANCES -

For Applicant: Don Weston.

**ACTION OF THE BOARD** - Application reopened and resolution amended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo Commissioner Chin and Commissioner Miele.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on March 9, 2004, after due notice by publication in The City Record, with a continued hearing on March 30, 2004 and then laid over to April 20, 2004 for decision; and

WHEREAS, on October 8, 2002, under the subject calendar number, the Board granted a variance permitting the conversion of a former industrial building located in an M1-1 zoning district to residential use; and

WHEREAS, the applicant represents that the building owner has since obtained an easement from the adjoining property making the west wall windows usable for legal light and air; and

WHEREAS, therefore, the apartments are proposed to be rearranged to take advantage of this new condition; in addition, there is a reduction in the proposed total number of apartments, from 63 to 56; and

WHEREAS, the applicant further represents that the first floor will remain commercial.

*Resolved*, that the Board of Standards and Appeals, *reopens and amends* the resolution so that as amended this  
**1043-80-BZ**

APPLICANT - Rothkrug & Rothkrug Weinberg & Spector for RANS 1680 Building Corp., owner.

SUBJECT - Application December 17, 2001 - request for a

portion of the resolution shall read: "to permit a modification of approved plans to reflect an easement from the adjoining property making the west wall windows usable for legal light and air, and to reflect the rearrangement of the apartments and the reduction in their total number from 63 to 56, *on condition* that all work shall substantially conform to drawings as filed with this application marked "Received December 12, 2003"- (4) sheets and "March 11, 2004"-(2) sheets; and *on further condition*;

THAT the first floor of the premises will be limited to commercial Use Group 6 uses;

THAT the above condition, and all relevant conditions from prior resolutions required to be on the certificate of occupancy, shall appear on the new certificate of occupancy;

THAT the submitted light and air easement will be reviewed and approved by the Department of Buildings;

THAT all Multiple Dwelling Law requirements applicable to the proposal will be 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 Department of Buildings must ensure compliance 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# 301116664)

Adopted by the Board of Standards and Appeals, April 20, 2004.

**844-57-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for Ozone Auto Service, Inc., owner.

SUBJECT - Application January 13, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired October 9, 2003.

PREMISES AFFECTED - 87-19 Rockaway Boulevard, a/k/a 97-18/58 88<sup>th</sup> Street, northwest corner of Rockaway Boulevard and 88<sup>th</sup> Street, Block 9060, Lot 25, Borough of Queens.

**COMMUNITY BOARD #9Q**

APPEARANCES -

For Applicant: Carl A. Sulfaro.

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 May 11, 2004, at 10 A.M., for decision, hearing closed.

waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 3, 2000.

PREMISES AFFECTED - 1680/88 Albany Avenue a/k/a

---

# MINUTES

---

4024 Marginal Street, southwest corner of Albany Avenue and Marginal Street, Block 7744, Lots 47, 49, 50, Borough of Brooklyn.

**COMMUNITY BOARD #18BK**

APPEARANCES -

For Applicant: Adam Rothkrug.

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 May 11, 2004, at 10 A.M., for decision, hearing closed.

---

**982-83-BZ**

APPLICANT - H. Irving Sigman, for Barone Properties Inc., owner.

SUBJECT - Application December 5, 2003 - reopening for an extension of time to complete construction and obtain a certificate of occupancy and for an amendment to the resolution.

PREMISES AFFECTED - 191-20 Northern Boulevard, southwest corner of 192<sup>nd</sup> Street, Block 5513, Lot 27, Borough of Queens.

**COMMUNITY BOARD #11Q**

APPEARANCES -

For Applicant: H. I. Sigman.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 10 A.M., for continued hearing.

---

**138-87-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for Philip Cataldi Trust, owner; Enterprise Car Rental Co., lessee.

SUBJECT - Application January 9, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired January 12, 2003.

PREMISES AFFECTED - 218-36 Hillside Avenue southeast corner of Hillside Avenue and 218<sup>th</sup> Place, Block 10678, Lot 14, Hollis, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Carl A. Sulfaro.

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 May 25, 2004, at 10 A.M., for decision, hearing closed.

**87-94-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, Esq., for Czech Republic, owner.

SUBJECT - Application November 13, 2003 - reopening for an extension of time to complete construction and for an amendment to the resolution.

PREMISES AFFECTED - 321-325 East 73<sup>rd</sup> Street, north side of 73<sup>rd</sup> Street, Block 1448, Lot 16, Borough of Manhattan.

**COMMUNITY BOARD #8M**

**16-93-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for 110 Christopher Street, LLC, owner.

SUBJECT - Application January 13, 2004 - reopening for an extension of term of variance which expired February 24, 2004 and for an amendment to the resolution.

PREMISES AFFECTED - 110 Christopher Street, south side, 192'-6.25" west of Bleecker Street, Block 588, Lot 51, Borough of Manhattan.

**COMMUNITY BOARD #2M**

APPEARANCES -

For Applicant: Carl A. Sulfaro.

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 May 25, 2004, at 10 A.M., for decision, hearing closed.

---

**34-94-BZ**

APPLICANT - Maduakolam M. Nnabuihe, for Kenny Collado, owner.

SUBJECT - Application October 3, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired June 6, 2003.

PREMISES AFFECTED - 401, 403, 405 Castle Hill Avenue, a/k/a 2181 Norton Avenue, northwest corner of Castle Avenue and Norton Avenue, Block 3510, Lot 1, Borough of The Bronx.

**COMMUNITY BOARD #9BX**

APPEARANCES -

For Applicant: Larry Atah and Dr. Michael Maduakolam.

**ACTION OF THE BOARD** - Laid over to May 18, 2004, at 10 A.M., for continued hearing.

---

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 10 A.M., for deferred decision.

---

**173-94-BZ**

APPLICANT - Board of Standards and Appeals

OWNER OF PREMISES: Richard Shelala.

SUBJECT - Application reopening for compliance to the resolution.

# MINUTES

PREMISES AFFECTED - 165-10 144<sup>th</sup> Road, Block 13271, Lot 17, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 10 A.M., for continued hearing.

## 200-00-BZ

APPLICANT - The Agusta Group, for Blans Development Corp., owner.

SUBJECT - Application August 28, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 107-24 37<sup>th</sup> Avenue, a/k/a 37-16 108<sup>th</sup> Street, southwest corner of 108<sup>th</sup> Street and 37<sup>th</sup> Avenue, Block 1773, Lot 10, Borough of Queens.

## COMMUNITY BOARD #3Q

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 May 11, 2004, at 10 A.M., for decision, hearing closed.

*Pasquale Pacifico, Executive Director.*

Adjourned: 10:30 A.M.

## REGULAR MEETING

**TUESDAY AFTERNOON, APRIL 20, 2004**

**2:00 P.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

WHEREAS, this is an application under Z.R. §72-21, to permit the legalization of an enlargement to an existing two story dwelling, located in an R6 zoning district, which does not comply with the zoning requirements for side yards, contrary to Z.R. §§23-48 and 23-461(a); and

WHEREAS, the subject premises is located 80 feet north from the northwest corner of Hobart Avenue and St. Theresa Avenue with a width of approximately 24' and a depth of 95'1", and is currently improved with a two story dwelling; and

WHEREAS, the applicant represents that the subject zoning lot was previously improved with a smaller two story dwelling; and

WHEREAS, in 1991, the dwelling was enlarged with a two story addition on both the east and west sides; and

WHEREAS, the applicant states that the dwelling that

## ZONING CALENDAR

### 164-02-BZ

#### CEQR #02-BSA-207X

APPLICANT - Stuart A. Klein, Esq, for Marian Begley, owner.  
SUBJECT - Application May 23, 2002 - under Z.R. §72-21 to permit the legalization of an enlargement to an existing two story dwelling, located in an R6 zoning district, which does not comply with the zoning requirements for side yards, contrary to Z.R. §§23-48 and 23-461(a).

PREMISES AFFECTED - 1913 Hobart Avenue, west side, bounded by St. Theresa Avenue to the south and Wilkinson Avenue to the north, Block 4234, Lot 58, Borough of The Bronx.

#### COMMUNITY BOARD #10BX

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT -**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo Commissioner Chin and Commissioner Miele.....5

Negative:.....0

**THE RESOLUTION -**

WHEREAS, the decision of the Borough Commissioner, dated August 27, 2002, acting on Application No. 200592037, reads:

"In an R6 Zoning District on a 24 ft wide zoning lot (meeting the requirements of 23-48(B) Z.R.) a two family detached residence requires 2 side yards at least 5 ft wide. 23-461(A) and 23-48 Z.R."; and

WHEREAS, a public hearing was held on this application on December 16, 2003 after due notice by publication in *The City Record*, with continued hearings on February 3, 2004 and March 9, 2004, and then laid over to April 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 10, Bronx, recommends approval of this application; and

existed before the additions was approximately 19'4" wide and 30' deep, resulting in a foot print of approximately 585 square feet; and

WHEREAS, the applicant further states that along the original section of the home, the existing side yards measure approximately 3' and 10", while adjacent to the additions, the side yards measure 3'6" and 1'6"; and

WHEREAS, Z.R. §23-461 provides that the required total width of side yards in an R6 district is 13', with no side yard less than 5'; and

WHEREAS, however, Z.R. §23-48 - Special Provisions for Existing Narrow Zoning Lots - provides that the required total width of the side yards may be reduced by 4" for every foot by which the width of a zoning lot is less than required under the provisions of Z.R. §23-32; and

WHEREAS, applying the formula set forth in Z.R. §23-

# MINUTES

48, in conjunction with the 40' minimum lot width in an R6 zoning district listed in Z.R. §23-32, results in a reduction of the total required side yards from 13' to 7'8"; and

WHEREAS, however, Z.R. §§23-461 and 23-48 both provide that no side yard shall be less than 5'; and

WHEREAS, the Board notes that a complying building would result in a home only 14 feet wide; and

WHEREAS, the applicant states that the very narrow width of the zoning lot combined with the requirements and conditions of Z.R. §§23-32, 23-48 and 23-461 present a practical difficulty for the homeowner; and

WHEREAS, the Board finds that the aforementioned unique physical condition, namely the irregular narrowness of the subject lot, creates a practical difficulty in developing the site in conformity with the current 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 zoning will provide a reasonable return; and

WHEREAS, the record indicates that narrow side yards already exist on other zoning lots in close proximity to the site; and

WHEREAS, the applicant asserts that the extensions to the home are entirely in keeping with the sightlines and overall architectural look of the neighboring homes; 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 has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

**222-02-BZ**

**CEQR #03-BSA-017K**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Eugene & Francine Simonetti, owner.

SUBJECT - Application August 5, 2002 - under Z.R. §72-21 to permit in an R4 zoning district, the proposed construction of a three story and cellar, nine family residential building, Use Group 2, which exceeds the permitted floor area and number of dwelling units, provides less than the required parking, and provides less than the required distance from a window to a side lot line, contrary to Z.R. §§23-141b, 23-22, 25-23, and 23-861.

PREMISES AFFECTED - 2547 East 12<sup>th</sup> Street, east side, 280' north of Avenue "Z", Block 7433, Lot 159, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES -

For Applicant: Adam Rothkrug.

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. §72-21 and grants a variance, to permit the legalization of an enlargement to an existing two story dwelling, located in an R6 zoning district, which does not comply with the zoning requirements for side yards, contrary to Z.R. §§23-48 and 23-461(a); *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 "April 13, 2004"-(3) sheets; and *on further condition*:

THAT substantial construction be completed in accordance with Z.R. §72-23;

THAT compliance with all applicable light and air and ventilation requirements will be as determined 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;

THAT the Department of Buildings must ensure compliance 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 20, 2004.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO REOPEN HEARING** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo Commissioner Chin and Commissioner Miele.....5  
Negative:.....0

**THE VOTE TO CLOSE HEARING** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo Commissioner Chin and Commissioner Miele.....5  
Negative:.....0

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo Commissioner Chin and Commissioner Miele.....5  
Negative:.....0

---

# MINUTES

---

## THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, revised and updated on March 25, 2004, acting on Application No. 301377169, reads:

“PROPOSED RESIDENTIAL DEVELOPMENT EXCEEDS PERMITTED FLOOR AREA REQUIREMENTS (Z.R. SECT. 23-141b), EXCEEDS PERMITTED NUMBER OF DWELLING UNITS (Z.R. SECT. 23-22,) AND PROPOSES ACCESSORY PARKING IN REQUIRED OPEN SPACE (Z.R. SECT. 23-141e), AND PROPOSES LEGALLY REQUIRED WINDOWS WITH A DISTANCE OF 8 FEET TO A SIDE LOT LINE (Z.R. SECT 23-861), AND REQUIRES A VARIANCE FROM THE B.S.A.” and

WHEREAS, a public hearing was held on this application on January 28, 2003 after due notice by publication in The City Record, with continued hearings on March 4, 2003, March 25, 2003, May 20, 2003, July 15, 2003 (Adjourned), September 9, 2003 (Adjourned), October 17, 2003 (Adjourned) and then to November 25, 2003 for decision; the decision was deferred to January 6, 2004; the decision was again deferred to April 20, 2004; and

WHEREAS, Community Board No. 15, Brooklyn, recommends approval of the subject application; and

WHEREAS, the site 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, in an R4 zoning district, the proposed construction of a three story and cellar, nine family residential building, Use Group 2, which exceeds the permitted floor area and number of dwelling units, provides less than the required parking, and provides less than the required distance from a window

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the site in conformity with underlying district regulations: (1) the subject property is located in a block with a unique history (as described above), resulting in the site being excluded from consideration as a property within a PBA; (2) the property is developed with two obsolete frame dwellings, one of which was designed as a garage structure; (3) the property is adversely affected by a significant change in grade; and (4) the site is immediately adjacent to an R5 zoning district; and

WHEREAS, the Board finds that certain of the aforementioned unique physical conditions of the site, namely the significant change in grade affecting the lot and the unique history of the block, create unnecessary hardship and practical difficulties in developing the site in compliance with the current zoning; and

WHEREAS, the applicant states that a complying use on the premises cannot generate sufficient square footage to offset the development cost associated with the unique conditions inherent to the zoning lot; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a complying building would not yield the owner a reasonable

to a side lot line, contrary to Z.R. §§23-141b, 23-22, 25-23, and 23-861; and

WHEREAS, at the March 8, 2004 hearing, the applicant was instructed by the Board to obtain an updated DOB objection, addressing the fact that the proposed building, if erected, would violate Z.R. §23-861, which provides that required windows in the subject zoning district must be at least 15 feet from a side lot line; and

WHEREAS, the subject property is a 70 x 120 ft. lot developed with two existing one family dwellings, which are proposed to be demolished; and

WHEREAS, the applicant proposes to erect a three story, nine family dwelling that does not strictly comply with the underlying R4 bulk regulations, but which has been designed to comply with the provisions that would apply were the site in a Predominantly Built-up Area (“PBA”); and

WHEREAS, the permissible Floor Area Ratio (“FAR”) in the subject zoning district is 0.9, and the FAR of the proposed building is 1.35; and

WHEREAS, the permissible number of dwelling units for one building in the subject zoning district is eight and the proposed building contains nine; and

WHEREAS, the required number of off-street parking spaces in the subject zoning district is nine and the proposal provides nine; and

WHEREAS, the applicant notes that prior to 1961, Homecrest Avenue, between East 12<sup>th</sup> and East 13<sup>th</sup> Streets, was removed from the City map, making the area oversized and consequently ineligible for PBA status, which applies only to an area up to a maximum size of 4 acres; and

WHEREAS, the subject lot is directly adjacent to an R5 zoning district, as East 12<sup>th</sup> Street is divided by a district boundary; and  
return; and

WHEREAS, based upon its review of the record, the Board determines 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 record indicates that the surrounding area is predominantly residential; and

WHEREAS, the record indicates that subject property is immediately adjacent to an R5 zoning district, and to two seven story apartment buildings within this R5 district; and

WHEREAS, the applicant represents that the proposed building will be consistent with development which would be permitted on almost every other similar block in the area; and

WHEREAS, the Board notes that the use of the premises for a residential building is as of right; and

WHEREAS, therefore, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, nor impair the use of development of adjacent properties nor be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that the variance

# MINUTES

application is the minimum variance necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under §72-21 of the Zoning Resolution; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

*Resolved*, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, to permit, in an R4 zoning district, the proposed construction of a three story and cellar, nine family residential building, Use Group 2, which exceeds the permitted floor area and number of dwelling units, provides less than the required parking, and provides less than the required distance from a window to a side lot line, contrary to Z.R. §§23-141b, 23-22, 25-23, and 23-861, *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 2, 2003"- (5) sheets, and *on further condition*;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

THAT all applicable fire safety measures shall 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

WHEREAS, the decision of the Manhattan Borough Commissioner, dated August 13, 2003, acting on Department of Buildings Alt-1 Application No. 103523457, reads:

"Proposed Physical Culture Establishment is not permitted as-of-right in C5-3 Midtown zoning district (5<sup>th</sup> Av. Subdistrict) and its contrary to ZR 32-15"; and

WHEREAS, a public hearing was held on this application on January 27, 2004, after due notice by publication in *The City Record*, with a continued hearing on March 30, 2004, and then laid over to April 9, 2004 for decision; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, this is an application under Z.R. §§73-36 and 73-03 to permit the legalization of an existing physical culture establishment ("PCE"), located on the second floor of a four story building, within a C2-8 (TA special district), where such use is only allowed by special permit; and

WHEREAS, the subject premises is a 20 by 60 ft. lot, is located on the west side of Second Avenue approximately 40 feet south of the intersection with East 58<sup>th</sup> Street, and is

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 20, 2004.

## 290-03-BZ

### CEQR #03-BSA-066M

APPLICANT - Petraro & Jones, LLP, for Graceful Services, Inc., owner; Joseph B. Rosenblatt, lessee.

SUBJECT - Application September 3, 2003 - under Z.R. §73-36 to permit the legalization of an existing physical culture establishment, located on the second floor of a four story building, within a C2-8(TA special district), where such use is only allowed by special permit.

PREMISES AFFECTED - 1097 Second Avenue, west side, 40' south of East 56<sup>th</sup> Street, Block 1331, Lot 126, Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo Commissioner Chin and Commissioner Miele.....5

Negative:.....0

**THE RESOLUTION** -

currently occupied by a four story, 44 ft. high commercial and residential building; and

WHEREAS, the ground floor of the building is occupied by a commercial use, and the third and fourth floors are occupied by residential uses; and

WHEREAS, the PCE currently occupies, and will continue to occupy, 988 square feet of floor area on the second floor of the building; and

WHEREAS, the PCE opened for business on September 26, 2001; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals of the owner and operator of such facility and issued a report which the Board has determined to be satisfactory; and

WHEREAS, pursuant to Z.R. §73-36(a)(1), a PCE must be located so as to not impair the essential character or future use or the development of the surrounding area; and

WHEREAS, the applicant represents that the character of the surrounding area is mixed use, with many non-residential uses along Second Avenue, including along the subject block's Second Avenue frontage, which contains a café, a restaurant, a deli, and a video rental store; and

WHEREAS, the proposed hours of operation of the

---

# MINUTES

---

PCE will be 10 AM to 10 PM, seven days a week; and

WHEREAS, the record indicates that the proposed PCE will have no adverse impact on the privacy, light, quiet, and air of the surrounding area, as the facility is to be located at the second floor of an existing four story commercial and residential building; and

WHEREAS, therefore, the Board finds that the proposed PCE 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, pursuant to Z.R. §73-36(a)(2), a PCE must contain one of the designated health and fitness uses set forth in this provision, including facilities for the practice of massage by New York State licensed masseurs or masseuses; and

WHEREAS, the proposed PCE will provide licensed massage services; copies of the licenses of the massage practitioners have been submitted to the Board; 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 advantage 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. §§73-36 and 73-03; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered

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 signage shall comply with the underlying signage regulations;

THAT the hours of operation shall be limited to 10 AM to 10 PM, seven days a week;

THAT the above conditions shall appear on the certificate of occupancy;

THAT no approval is given as to the metal storage shed present at the property; this shed shall comply with all applicable laws, as determined by the Department of Buildings;

THAT a 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 the specifically cited and filed Department of Buildings objection 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.

all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

WHEREAS, therefore, the Board has determined that the proposed action will not result in any significant environmental effects.

*Resolved* that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-36, and 73-03, to permit the legalization of an existing physical culture establishment, located on the second floor of a four story building, within a C2-8(TA special district), where such use is only allowed by 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 "November 12, 2004"- (6) sheets; and *on further condition*;

THAT the term of this special permit shall be limited to ten (10) years from September 26, 2001, expiring on September 26, 2011;

THAT a minimum 4 foot wide path of travel to all exits shall be maintained on the floors and kept free of any equipment or obstructions at all times;

THAT any and all massages will be performed by New York State licensed massage therapists;

Adopted by the Board of Standards and Appeals, April 20, 2004.

### **363-03-BZ**

#### **CEQR #03-BSA-103K**

APPLICANT - Sheldon Lobel, P.C., for Audubon Housing Development Fund Corp., owner.

SUBJECT - Application November 21, 2003 - under Z.R. §72-21 to permit the proposed eight-story residential building, Use Group 2, containing 118 units, located in an M1-4 zoning district, which is contrary to Z.R. §§42-00.

PREMISES AFFECTED - 480 East 176<sup>th</sup> Street, between Bathgate and Washington Avenues, Block 2917, Lots 17, 20, 23, 25 and 27, Borough of The Bronx.

#### **COMMUNITY BOARD #6BX**

APPEARANCES -

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo Commissioner Chin and Commissioner Miele.....5

---

# MINUTES

---

Negative:.....0

## THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 22, 2003, acting on Department of Buildings Application No. 200808199, reads:

“Proposed (7) seven story residential building in an M1-4 zoning district is contrary to section 42-00 ZR.”; and

WHEREAS, a public hearing was held on this application on March 30, 2004 after due notice by publication in the City Record; and then laid over for decision on April 20, 2004; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 6, Bronx, recommends approval of this application; and

WHEREAS, the application also has the support of the New York City Department of Housing, Preservation and Development and the Corporation for Supportive Housing; and

WHEREAS, this is an application under Z.R. §72-21 to permit a proposed eight-story residential building, Use Group 2, containing 118 units, located in an M1-4 zoning district, which is contrary to Z.R. §42-00; and

WHEREAS, approximately 30 percent of the units will be allocated to individuals referred from the New York City shelter system, and the remainder will be allocated to low-income individuals; and

WHEREAS, in addition to residential units, the building will contain 5000 square feet of supportive service space at the cellar level, to be used for case management, as well as employment and financial counseling; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the site in conformity with underlying district regulations: (1) the subject site contains an uneven distribution of underlying rock; and (2) the site is sloped at a 10 degree grade down East 176<sup>th</sup> Street; and

WHEREAS, the applicant submitted a supplemental architectural report discussing the above two physical conditions, and represents that they lead to design difficulties and premium construction costs; and

WHEREAS, the applicant submitted a supplemental letter explaining that the R7-X equivalent floor area is needed to allow for a specific number of units sufficient to generate annual income from rent to cover operating costs and debt servicing; and

WHEREAS, the Board finds that the applicant submitted sufficient information explaining the programmatic needs of the applicant and their relation to the requested variance; and

WHEREAS, based upon the foregoing, the Board finds

WHEREAS, the applicant is a not-for-profit entity with experience in development of low-income housing and the site and the proposed building will be owned and operated by it; and

WHEREAS, the subject premises is a vacant lot situated between Bathgate and Washington Avenues along East 176<sup>th</sup> Street, is comprised of five tax lots, and has a total lot area of approximately 24,607 square feet; and

WHEREAS, the subject zoning lot is proposed to be developed with a eight-story, 118 unit residential building, with a gross floor area of approximately 122,384 square feet and a height of approximately 88.5 feet, to be used for housing for low-income and formerly homeless individuals; no parking spaces will be provided on site; and

WHEREAS, the bulk of the proposed building will be comparable to development in an R7-X zoning district, with a Floor Area Ratio of 5; and

WHEREAS, the applicant represents that though normally the R7-X zoning district regulations require the provision of on site parking spaces for residential uses, such parking will not be provided because: 35 of the units in the proposed building qualify as community facility use, which is exempt from the parking requirements, and the remaining units generate a 12 space requirement, an amount that may be waived under Z.R. §25-261; and

that the unique conditions mentioned above, when considered in conjunction with the programmatic needs of the applicant, create practical difficulties and unnecessary hardship in developing the site in strict conformity with current applicable zoning regulations; and

WHEREAS, the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the proposed application will be in furtherance of its programmatic needs; and

WHEREAS, the applicant states that the proposed building will not conflict with the light manufacturing uses in the vicinity, and that the neighborhood contains both residential development and community facilities; and

WHEREAS, the Board finds that the residential use of the proposed building is not incompatible with other uses in the area, and notes that there are other residential buildings in the surrounding area; and

WHEREAS, the Board also finds that the bulk and height of the proposed building is not out of context with surrounding buildings, given the variety of building types existing in the vicinity; 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 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

---

# MINUTES

---

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.

*Resolved*, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, to permit the proposed eight-story residential building, Use Group 2, containing 118 units, located in an M1-4 zoning district, which is contrary to Z.R. §§42-00; *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 **69-03-BZ**

APPLICANT - Friedman & Gotbaum, LLP, by Shelly S. Friedman, Esq., for Bond Street, LLC, owner.

SUBJECT - Application February 12, 2003 - under Z.R. § 72-21 to permit the proposed development of a 15-story mixed-use building, consisting of residential apartments and local retail usage, located in an M1-5B zoning district, where residential use is not permitted is contrary to Z.R. §42-10.

PREMISES AFFECTED - 32/40 Bond Street, mid-block portion fronting on north side, of Bond Street between Lafayette and the Bowery, Block 530, Lot 48, Borough of Manhattan.

## COMMUNITY BOARD #2M

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to April 27, 2004, at 10 A.M., for deferred decision.

---

## 223-03-BZ

APPLICANT - C Anthony Mulrain c/o Greenberg Traurig, LLP, for Majority Baptist Church, owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application July 1, 2003 - Under Z.R. §73-30 to permit the proposed installation of a wireless telecommunications facility, located in a C2-2 within an R3-2 zoning district, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 115-15 Farmers Boulevard, bounded by 115<sup>th</sup> Road and 115<sup>th</sup> Avenue, Block 11032, Lot 4, Borough of Queens.

## COMMUNITY BOARD #12Q

APPEARANCES -

“March 16, 2004”-(10) sheets; and *on further condition*:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

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, April 20, 2004.

---

For Applicant: Robert Gandioso.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 1:30 P.M., for postponed hearing.

---

## 224-03-BZ

APPLICANT - C Anthony Mulrain c/o Greenberg Traurig, LLP, for Mal Pal Realty Corp., owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application July 1, 2003 - under Z.R. §73-30 to permit the proposed installation of a wireless telecommunications facility, located in an R3-2 zoning district, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 139-19 109<sup>th</sup> Avenue, bounded by 139<sup>th</sup> and 142<sup>nd</sup> Streets, Block 10068, Lots 210, 213, 214 and 215, Borough of Queens.

## COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Robert Gandioso.

For Opposition: L. Benjamin, Lorraine Daniels and Jane Lashley.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

---

## 266-03-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for 1710-2 McDonald Realty, LLC, owner.

SUBJECT - Application August 21, 2003 - under Z.R. §73-50 to permit the proposed enlargement of an existing warehouse (furniture), situated in an M1-1 zoning district, by

---

# MINUTES

---

constructing a one-story addition at the rear, that will encroach into the required yard between district boundaries, is contrary to Z.R. §43-302.

PREMISES AFFECTED - 1710/12 McDonald Avenue, west side, 60' south of Avenue "O", Block 6607, Lot 10, Borough of Brooklyn.

**COMMUNITY BOARD #11BK**

APPEARANCES -

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** - Laid over to May 11, 2004, at 1:30 P.M., for continued hearing.

---

**271-03-BZ**

APPLICANT - Law Office of Fredrick A. Becker, for Frank Scelta, owner.

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a five family, three-story multiple

**287-03-BZ**

APPLICANT - Stuart A. Klein, Esq., for First Step Realty, LLC, owner.

SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit the proposed construction of a six-story residential building, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 430 Keap Street, southeast corner of Hope Street, Block 2387, Lot 2, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Stuart Klein and Robert Paulo.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

---

**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 62<sup>nd</sup> Street, northwest corner of 14<sup>th</sup> Avenue, Block 5733, Lot 36, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

---

**302-03-BZ**

APPLICANT - Harold Weinberg, P.E., for Albert Gonter, owner.

SUBJECT - Application September 22, 2003 - under Z.R. §73-622 to permit the proposed erection of a rear enlargement to an existing one family dwelling, also an extension of the residential use into the

dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10, §42-11 and §42-12.

PREMISES AFFECTED - 976 Metropolitan Avenue, between Catherine Street and Morgan Avenue, Block 2918, Lot 3, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Fredrick Becker, Frank Scala and Everett Parker.

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 May 11, 2004, at 1:30 P.M., for decision, hearing closed.

---

attic, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio and rear yard, is contrary to Z.R. §23-141, §23-47 and §54-31.

PREMISES AFFECTED - 1212 East 23<sup>rd</sup> Street, west side, 100' south of Avenue "L", Block 7640, Lot 51, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Harold Weinberg.

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 1:30 P.M., for continued hearing.

---

**356-03-BZ**

APPLICANT - Law Office of Fredrick A. Becker, for Eliezer Jeidel and Rachele Jeidel, owners.

SUBJECT - Application February 9, 2004 - under Z.R. §73-622 to permit the proposed enlargement to 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 yard, is contrary to Z.R. §23-141 and §23-461.

PREMISES AFFECTED - 2311 Avenue "J", between East 23<sup>rd</sup> and East 24<sup>th</sup> Streets, Block 7587, Lot 6, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Lyra Altman and David Shteierman.

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 May 18, 2004, at 1:30 P.M., for decision, hearing closed.

---

**361-03-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, for Joseph

---

# MINUTES

---

Chakkalo and Ninett Chakkalo, owner.

SUBJECT - Application November 20, 2003 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R4 (OP) zoning district, which does not comply with the zoning requirements for open space ratio, lot coverage and rear yard, is contrary to Z.R. §23-141 and §23-47. PREMISES AFFECTED - 2277 East 2<sup>nd</sup> Street, between Avenue "W" and Gravesend Neck Road, Block 7154, Lot 62, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES -

For Applicant: Lyra Altman and David Shteierman.

**367-03-BZ**

APPLICANT - Eric Palatnik, P.C., for 1224 Brunswick Realty Corp., owner.

SUBJECT - Application November 25, 2003 - under Z.R. §72-21 to permit the proposed conversion of a former movie theater, to a warehouse with ancillary retail space, located in C1-2, C4-2 and R-5 zoning districts, with loading occurring within the R-5 portion of the site, does not comply with the zoning requirements, for perimeter wall height, total height, side and rear yards, sky exposure, off-street parking and loading, is contrary to Z.R. §32-00, §22-00, §23-631d, §23-461, §23-543, §36-21 and §36-681.

PREMISES AFFECTED - 714 Beach 20<sup>th</sup> Street, between New Haven and Cornaga Avenues, Block 15564, Lots 25 and 55, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Eric Palatnik and David Shteierman.

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 1:30 P.M., for continued hearing.

**ACTION OF THE BOARD** - Laid over to May 18, 2004, at 1:30 P.M., for continued hearing.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for decision, hearing closed.

*Pasquale Pacifico, Executive Director.*

Adjourned: 5:10 P.M.

**377-03-BZ**

APPLICANT - Fischbein Badillo Wagner Harding, for Bond Street Garage I, LLC, owner; Tribeach Holdings, LLC, contract vendee.

SUBJECT - Application December 4, 1993 - under Z.R. §72-21 to permit the proposed mixed-use building, located in an M1-5B zoning district, which creates non-compliance with regards to residential and retail uses, also public parking and floor area, which is contrary to Z.R. §42-00, §42-14, §32-17 and §43-12.

PREMISES AFFECTED - 25 Bond Street, south side, 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.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative: .....0

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 19

May 6, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN**, *Chair*

**SATISH BABBAR**, *Vice-Chair*

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	329
<b>CALENDAR</b> of May 25, 2004	
Morning .....	330
Afternoon .....	330
<b>CALENDAR</b> of June 8, 2004	
Morning .....	331
Afternoon .....	333

# CONTENTS

**MINUTES of Regular Meetings,**

**Tuesday, April 27, 2004**

Morning Calendar .....334

**Affecting Calendar Numbers:**

101-92-BZ	68-98 E. Burnside Avenue, The Bronx
87-94-BZ	321-325 East 73 <sup>rd</sup> Street, Manhattan
281-99-BZ	6055 Strictland Avenue, Brooklyn
279-01-BZ	2106-2130 McDonald Avenue, Brooklyn
352-02-BZ	2801 Emmons Avenue, Brooklyn
156-03-BZ	135-35 Northern Boulevard, Queens
465-55-BZ	486/496 Coney Island Avenue, Brooklyn
889-55-BZ	69-13/25 (69-15 Official) 164 <sup>th</sup> Street, Queens
116-68-BZ	40 Central Park South, Manhattan
705-81-BZ	1433/37 York Avenue, Manhattan
234-98-BZ	2600-2614 Adam Clayton Powell Jr. Boulevard, Manhattan
274-90-BZ	85 DeKalb Avenue, Brooklyn
45-03-A thru	
64-03-A	Hall Avenue, Staten Island

Afternoon Calendar.....344

**Affecting Calendar Numbers:**

69-03-BZ	32/40 Bond Street, Manhattan
299-03-BZ	179-16 Grand Central Parkway, Queens
347-03-BZ	2611 Avenue N, Brooklyn
84-03-BZ	35-40 30 <sup>th</sup> Street, Queens
139-03-BZ	247-54 90 <sup>th</sup> Avenue, Queens
183-03-BZ	118 Berry Street, Brooklyn
186-03-BZ	525 Union Avenue, Brooklyn
249-03-BZ	265 Bedford Avenue, Brooklyn
270-03-BZ	108-36/50 Queens Boulevard, Queens
288-03-BZ	109-17 Horace Harding Expressway, Queens
296-03-BZ	1619 Kings Highway, Brooklyn
306-03-BZ	192 Water Street, Brooklyn
339-03-BZ	122 Arthur Kill Road, Staten Island
341-03-BZ	343 West 16 <sup>th</sup> Street, Manhattan
384-03-BZ	804 East 138 <sup>th</sup> Street, The Bronx
10-04-BZ	54-14 74 <sup>th</sup> Street, Queens
23-04-BZ	1150 East 23 <sup>rd</sup> Street, Brooklyn
24-04-BZ	1129 East 27 <sup>th</sup> Street, Brooklyn
134-04-BZ	184 Kent Avenue, Brooklyn

**DISMISSAL CALENDAR**.....353

**Wednesday, April 28, 2004**

**Affecting Calendar Numbers:**

406-03-BZY	
thru 409-03-BZY	Wenlock Street, Staten Island
410-03-BZY	
thru 412-03-BZY	Lansing Street, Staten Island
1-04-BZY	
thru 2-04-BZY	Webster Avenue, Staten Island
283-90-BZ	1400 Clove Road, Staten Island

**CORRECTIONS**.....355

**Affecting Calendar Numbers:**

354-03-BZ	209/15 East 51 <sup>st</sup> Street, Manhattan
-----------	--

---

# DOCKETS

---

New Case Filed Up to April 27, 2004

- 159-04-BZ** B.BX. 950/60 Longfellow Avenue, east side, between Bruckner Boulevard and Garrison Avenue, Block 2755, Lots 125 and 127, Borough of Bronx. Alt.#200772930. Proposed construction of a charter school, Use Group 3 and located within an M2-1 zoning district, is contrary to Z.R. §42-00.  
**COMMUNITY BOARD #2BX**
- 160-04-BZ** B.BK. 73 Washington Avenue, east side, 170' north of Avenue, Block 1875, Lot 5, Borough of Brooklyn. Alt.#301215325. Proposed conversion of a former loft building, into eight (8) dwelling units, located in an M1-2 zoning district, is contrary to Z.R. §42-10.  
**COMMUNITY BOARD #2BK**
- 161-04-A** B.BK. 73 Washington Avenue, east side, 170' north of Avenue, Block 1875, Lot 5, Borough of Brooklyn. Alt.#301215325. 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.  
**COMMUNITY BOARD #15BK**
- 162-04-BZ** B.Q. 90-06 Pitkin Avenue, southwest corner of Pitkin Avenue and Boulevard, Block 11401, Lot 1, Borough of Queens. Alt.#401294675. Proposed reestablishment of an expired variance, previously granted by the Board of Zoning Cal.#147-52-BZ, which permitted a factory (specialty woodworking for custom and molds), in an R-4 zoning district.  
**COMMUNITY BOARD #10Q**
- 163-04-BZ** B.BK. 677/91 Fulton Street, north side, 28' east of Fulton Place, Block 2096, Lot 69, Borough of Brooklyn. Alt.#301441296. 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, is contrary to Z.R. §32-00.  
**COMMUNITY BOARD #2BK**
- 164-04-BZ** B.BX. 2241 Westchester Avenue, aka 2101 Glebe Avenue, Block 3963, Lot 57, Borough of The Bronx. Applic.#200827132. 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.  
**COMMUNITY BOARD #10BX**
- 165-04-BZ** B.Q. 153-01 Northern Boulevard, north side, between 153rd and 154th Streets, Block 5264, Lot 1, Borough of Bronx. Applic.#401583372. Proposed construction of a two story commercial building with cellar parking, (effectively the reconstruction of a building that recently down), located in a C2-2 within an R-2 zoning district, which exceeds the permitted floor area and does not provide the minimum required parking spaces contrary to Z.R. §54-41, §33-121 and §36-21.  
**COMMUNITY BOARD #7Q**
- 166-04-BZ** B.BK. 1765 East 23rd Street, east side, between Queen and Avenue "R", Block 6806, Lot 65, Borough of Brooklyn. Applic.#301215325. 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 area, lot coverage, side yard, rear yard and perimeter wall height, is contrary to Z.R. §23-141, §23-461A, §23-47 and §23-631.  
**COMMUNITY BOARD #15BK**
- 167-04-BZ** B.BK. 1336 East 22nd Street, West side, 180.0' Avenue "M", Block 7639, Lot 76, Borough of Brooklyn. Applic.#301215325. Proposed enlargement of an existing single family detached residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for lot area ratio, open space ratio and the required rear yard, is contrary to Z.R. §23-14 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, Health Department.**

---

# CALENDAR

---

**MAY 25, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, May 25, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## **SPECIAL ORDER CALENDAR**

### **371-29-BZ**

APPLICANT - Maduakolam Mish. Nnabuihe, for Getty Petroleum Corp., owner; Besan Trading Inc., lessee.

SUBJECT - Application January 9, 2004 - reopening for an amendment to the resolution for tire shop as an accessory use to the existing automotive service station.

PREMISES AFFECTED - 1210-1230 East 233rd Street, northwest corner of Grenada Place and Edson Avenue, Block 4934, Lot 66, Borough of The Bronx.

### **COMMUNITY BOARD #13BX**

---

### **753-63-BZ**

APPLICANT - Anthony N. Borowiec, P.E., for Warren Kurtz, P.E. of NYC Department of Environmental Protection, owner.

SUBJECT - Application March 5, 2004 - reopening for an amendment to the resolution to add three additional stories to the station.

PREMISES AFFECTED - 184 Avenue D, east side of Avenue D, 20' south of 13th Street, Block 367, Lot 25, Borough of Manhattan.

### **COMMUNITY BOARD #3M**

---

**MAY 25, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, May 25, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## **ZONING CALENDAR**

### **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**

---

### **120-93-BZ**

APPLICANT - Sheldon Lobel, P.C., for Harry McNulty, owner.

SUBJECT - Application December 17, 2003 - reopening for an extension of term of variance which expired May 10, 2004 and for an amendment to allow the elimination of gasoline sales, permitting the sale of used automobiles and increase on site parking to 9 spaces

### **389-03-BZ**

APPLICANT - Harold Weinberg, P.E., for Miriam Katz, owner.

SUBJECT - Application December 16, 2003 - under Z.R. §73-622 to permit the proposed erection of a two story rear 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 ratio, open space, rear yard, lot coverage and side yards, is contrary to Z.R. §23-141, §23-461, §23-47 and §54-31.

PREMISES AFFECTED - 1959 East 24th Street, east side, 460'0" south of Avenue "S", Block 7303, Lot 64, Borough of Brooklyn.

### **COMMUNITY BOARD #15BK**

---

### **38-04-BZ**

APPLICANT - Eric Palatnik, P.C., for Sanford Becker and Howard Ochs, owner.

SUBJECT - Application February 13, 2004- under Z.R. §72-21 to permit the legalization of the northern side yard at an existing dentist's office, Use Group 4, located in an R3-2 zoning district, which is in non-compliance with Z.R. §23-464 and §24-35.

PREMISES AFFECTED - 70-15 164th Street, east side, between Jewel and 71st Avenues, Block 6933, Lot 78, Borough of Queens.

### **COMMUNITY BOARD #8Q**

---

*Pasquale Pacifico, Executive Director*

**JUNE 8, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, June 8, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## **SPECIAL ORDER CALENDAR**

### **125-92-BZ**

APPLICANT - Rampulla Associates Architects, for Nicholas Criscitelli, owner.

SUBJECT - Application April 7, 2004 - reopening for an amendment to the resolution - to eliminate the retail sales portion of the building and modify the number of persons to occupy the eating and drinking establishment.

PREMISES AFFECTED - 3333 Hylan Boulevard, north side Hylan Boulevard between Spratt Avenue and Hopkins Avenue, Block 4987, Lot 1, Borough of Staten Island.

### **COMMUNITY BOARD #3SI**

---

PREMISES AFFECTED - 222-19 Linden Boulevard, northwest corner of Linden Boulevard and 223rd Street, Block 11323, Lot 1, Borough of Queens.

### **COMMUNITY BOARD #13Q**

---

---

# CALENDAR

---

## 95-97-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Lavin Brothers Austin, LLC, owner; TSI Forest Hills, Inc., lessee.

SUBJECT - Application January 20, 2004 - reopening for an amendment to the resolution to permit the legalization of an expansion in floor area of a previously granted special permit to allow the operation of a physical culture establishment on the first floor.

PREMISES AFFECTED - 69-47 Austin Street, northwest corner of Austin Street and 70th Avenue, Block 3237, Lot 30, Borough of Queens.

## COMMUNITY BOARD #6Q

---

### APPEALS CALENDAR

#### 73-04-A thru 124-04-A

APPLICANT - Fischbein Badillo Wagner Harding for Strickland Realty, LLC, owner.

SUBJECT - Application March 9, 2004 - Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED -

11 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2001, Borough of Brooklyn. Applic.#301815542.

23 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2002, Borough of Brooklyn. Applic.#301815490.

25 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2003, Borough of Brooklyn. Applic.#301812402.

31 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2004, Borough of Brooklyn. Applic.#301812411.

33 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2005, Borough of Brooklyn. Applic.#301812420.

15 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2018, Borough of Brooklyn. Applic.#301805338.

31 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2019, Borough of Brooklyn. Applic.#301801529

39 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2020, Borough of Brooklyn. Applic.#301815356.

47 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2021, Borough of Brooklyn. Applic.#301815347.

55 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2022, Borough of Brooklyn. Applic.#301815365

63 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2023, Borough of Brooklyn. Applic.#301809675.

71 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470,

39 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2006, Borough of Brooklyn. Applic.#301812439.

41 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2007, Borough of Brooklyn. Applic.#301812448.

47 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2008, Borough of Brooklyn. Applic.#301812457.

49 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2009, Borough of Brooklyn. Applic.#301812466.

57 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2010, Borough of Brooklyn. Applic.#301812475.

59 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2011, Borough of Brooklyn. Applic.#301812484.

65 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2012, Borough of Brooklyn. Applic.#301812493.

67 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2013, Borough of Brooklyn. Applic.#301812509.

73 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2014, Borough of Brooklyn. Applic.#301812518.

5 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2015, Borough of Brooklyn. Applic.#301812527.

83 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2016, Borough of Brooklyn. Applic.#301815481.

5 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2017, Borough of Brooklyn. Applic.#301809657.

Lot 2024, Borough of Brooklyn. Applic.#301809538.

79 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2024, Borough of Brooklyn. Applic.#301810716.

87 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2026, Borough of Brooklyn. Applic.#301810725.

64 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2027, Borough of Brooklyn. Applic.#301815472.

62 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2028, Borough of Brooklyn. Applic.#301815536.

56 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2029, Borough of Brooklyn. Applic.#301815506.

54 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2030, Borough of Brooklyn. Applic.#301815515.

48 Harbor Drive, west side of Strickland Avenue, between

---

# CALENDAR

---

prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2031, Borough of Brooklyn. Applic.#301815524.

46 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2032, Borough of Brooklyn. Applic.#301815551.

38 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2033, Borough of Brooklyn. Applic.#301815560.

36 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2034, Borough of Brooklyn. Applic.#301815579.

30 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2035, Borough of Brooklyn. Applic.#301815588.

28 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2036, Borough of Brooklyn. Applic.#301815597.

50 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2037, Borough of Brooklyn. Applic.#301815631.

48 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470,

58 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2046, Borough of Brooklyn. Applic.#301810789.

22 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2047, Borough of Brooklyn. Applic.#301810798.

16 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2048, Borough of Brooklyn. Applic.#301810805.

14 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2049, Borough of Brooklyn. Applic.#301810814.

6 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2050, Borough of Brooklyn. Applic.#301810823.

22 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2051, Borough of Brooklyn. Applic.#301810841.

10 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2052, Borough of Brooklyn. Applic.#301810832.

## COMMUNITY BOARD #18BK

---

**JUNE 8, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, June 8, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## ZONING CALENDAR

Lot 2038, Borough of Brooklyn. Applic.#301815622.

86 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2039, Borough of Brooklyn. Applic.#301815604.

84 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2040, Borough of Brooklyn. Applic.#301815613.

78 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2041, Borough of Brooklyn. Applic.#301810734.

76 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2042, Borough of Brooklyn. Applic.#301810743.

70 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2043, Borough of Brooklyn. Applic.#301810752.

68 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2044, Borough of Brooklyn. Applic.#301810761.

60 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2045, Borough of Brooklyn. Applic.#301810770.

## 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

---

## 14-04-BZ

APPLICANT - Alfonso Duarte, for Angelo Mordini, owner; Punto Zero, lessee.

SUBJECT - Application January 13, 2004 - under Z.R. §73-244 to permit the proposed conversion of an existing restaurant (Use Group 6), to an eating and drinking establishment with entertainment(Use Group 12A), located in a C2-3 within an R6 zoning district, is contrary to Z.R. §32-31.

PREMISES AFFECTED - 76-07 Roosevelt Avenue, northeast corner of 76th Street, Block 1287, Lot 43, Borough of Queens.

## COMMUNITY BOARD #3Q

---

## 39-04-BZ

APPLICANT - Eric Palatnik, P.C., for Mordechai Bistrizky, owner.

SUBJECT - Application February 13, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space and rear yard, is contrary to Z.R. §23-141, §23-461 and §23-47.

---

# CALENDAR

---

PREMISES AFFECTED - 1418 East 29th Street, between Avenue "N" and Kings Highway, Block 7682, Lot 57, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director*

**REGULAR MEETING  
TUESDAY MORNING, APRIL 27, 2004  
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, March 2, 2004, were approved as printed in the Bulletin of March 11, 2004, Volume 89, No. 11.

\_\_\_\_\_  
**SPECIAL ORDER CALENDAR**

**101-92-BZ**

APPLICANT - Sheldon Lobel, P.C., for Portrem Realty Co., owner.

SUBJECT - Application August 13, 2003 - reopening for an extension of term of variance which expired October 26, 2003.

PREMISES AFFECTED - 68-98 E. Burnside Avenue (aka 2036 Walton Avenue and 2035 Morris Avenue) south side of East Burnside Avenue, between Walton Avenue and Morris Avenue, Block 2829, Lot 45, Borough of The Bronx.

**COMMUNITY BOARD #5BX**

**APPEARANCES -**

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD -**

**THE VOTE TO GRANT -**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative: .....0

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on February 10, 2004, after due notice by publication in The City Record, with continued hearings on March 23, 2004 and April 13, 2004 and then laid over to April 27, 2004 for decision; and

WHEREAS, the applicant has requested a re-opening and an extension of the term of the variance which expired on October 26, 2003; and

WHEREAS, on May 7, 1957, under calendar number 754-56-BZ, the Board granted an application to permit the use of a parking lot for non-commercial, non-transient parking; and

WHEREAS, the variance was subsequently extended for five year terms, under calendar number 754-56-BZ, on January 9, 1962, February 15, 1967, and May 2, 1972; and

WHEREAS, the variance subsequently lapsed, but the applicant represents that the lot was used for non-commercial, non-transient parking as per the prior Board grant on a continuous basis even after the lapse; and

WHEREAS, on October 26, 1993, the Board granted an application under the current calendar number to permit renewal of an expired variance for the use of the parking lot for non-commercial, non-transient parking, for a period of ten (10) years; and

WHEREAS, the applicant represents that the lot is used for parking of employees and patron's cars, without charge and for parking by other persons in the neighborhood who desire such parking; and

WHEREAS, the applicant currently seeks to extend the term of this variance for an additional ten (10) years; and

WHEREAS, in accordance with the license issued by the Department of Consumer Affairs, the applicant has agreed to limit the number of parking spaces on the site to no more than twenty five (25).

Resolved, that the Board of Standards and Appeals, reopens and extends the term of the variance as granted by Board resolution, said resolution having been adopted October 26, 1993, 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 the October 26, 2003 to expire on October 26, 2013, on condition that the premises shall be maintained in substantial compliance with the proposed drawings submitted with the application marked `Received March 30, 2004' -(1) sheet; and that other than as herein amended the resolution above cited shall be complied with in all respects; and on further condition;

THAT all applicable conditions from all prior BSA resolutions for this site shall remain in effect;

THAT the number of parking spaces on the site shall be limited to a maximum of 25, of which 11 spaces shall be made available for rental to neighborhood people as indicated on the previous certificate of occupancy;

---

# MINUTES

---

THAT the parking layout shall be approved by the Department of Buildings;

THAT the above conditions shall appear on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with **87-94-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, Esq., for Czech Republic, owner.

SUBJECT - Application November 13, 2003 - reopening for an extension of time to complete construction and for an amendment to the resolution.

PREMISES AFFECTED - 321-325 East 73<sup>rd</sup> Street, north side of 73<sup>rd</sup> Street, Block 1448, Lot 16, Borough of Manhattan.

## COMMUNITY BOARD #8M

### APPEARANCES -

For Applicant: Fredrick A. Becker.

**ACTION OF THE BOARD** - Application reopened, time to complete construction extended and resolution amended.

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative: .....0

### THE RESOLUTION -

WHEREAS, the applicant requested an extension of time to complete construction which expired on November 12, 2003, and an amendment to permit minor changes to the approved plans; and

WHEREAS, a public hearing was held on this application on February 14 after due notice by publication in The City Record, and then laid over to March 23, 2004 for decision; the decision was then deferred to April 20, 2004, and deferred again to April 27, 2004; and

WHEREAS, Community Board 8, Manhattan, recommends approval of the subject proposal; and

WHEREAS, on March 28, 1995, the Board granted an application for an enlargement to an existing non-complying five-story and cellar community facility building and for the re-establishment of an eating and drinking establishment on the ground floor and cellar; and

WHEREAS, under the subject calendar number, the Board granted two extensions of time to complete construction, on November 12, 1997 and September 10, 2002; and

WHEREAS, the applicant represents that the delayed construction is a result of a change in the financial circumstances of the building's original owner as well as a change in occupant; the occupant is now a foreign consulate; and

WHEREAS, the applicant seeks to make three amendments to the approved plans: 1) a change in use of a portion of the cellar from an office and storage space to four dressing rooms for diplomatic personnel; 2) the creation of a 300 square foot mezzanine at the rear wall on the fourth floor for the secure storage of diplomatic papers; and 3) the removal of 600 square feet of existing floor area at the

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 # 200795096)

Adopted by the Board of Standards and Appeals, April 27, 2004.

rear wall of the building on the fifth floor and the creation of another secure storage area; and

WHEREAS, the net result of the proposed amendment would be the creation of 430 square feet of additional floor area in the interior of the existing building; and

WHEREAS, the applicant states that the proposed changes are necessary because the owner of the premises, a foreign consulate, has realized that existing BSA approved plans do not provide adequate space for certain uses that are essential for it to properly operate at the premises and to meet its programmatic needs; and

WHEREAS, the Board notes that the proposed changes are minimal and would not have any effect on the scale and character of the surrounding neighborhood.

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 time to complete construction for an additional two (2) years from the date of this resolution to expire on April 27, 2006, and to permit a change in use in a portion of the cellar from an office and storage space to four dressing rooms for diplomatic personnel, the creation of a 300 square foot mezzanine at the rear wall on the fourth floor for the secure storage of diplomatic papers and the removal of 600 square feet of existing floor area at the rear wall of the building on the fifth floor and the creation of a new secure storage area; on condition that all work shall substantially conform to drawings as filed with this application marked "Received November 13, 2003"- (5) sheets and "March 9, 2004"- (6) sheets; and on further condition;

THAT all relevant conditions from prior resolutions required to be on the certificate of occupancy shall appear on the new certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application No. 100800153)

Adopted by the Board of Standards and Appeals, April 27, 2004.

## 281-99-BZ

APPLICANT - New York City Board of Standards and Appeals.

---

# MINUTES

---

OWNER OF THE PREMISES: Enopac Holding LLC.  
SUBJECT - On remand from the New York County Supreme Court.

PREMISES AFFECTED - 6055 Strickland Avenue, west  
APPEARANCES - None.

**ACTION OF THE BOARD** - Application denied.

THE VOTE GRANT -

Affirmative: .....0  
Negative: Vice-Chair Babbar, Commissioner Caliendo,  
Commissioner Miele and Commissioner Chin.....4  
Not Voting: Chair Srinivasan.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 15, 1999, acting on Application No. 300865482, reads:

1. Proposed Mini-storage warehouse (U.G. 16) is not a permitted use in the R3-1 zone. (section 22-10ZR). Variance needed from Board of Standards and Appeals.
2. Bulk regulation not provided in R3-1 zoning district for Mini-storage warehouse B.S.A. must provide.
3. Proposed Mini-storage facility does not comply with provisions of Article 6 Chapter 2 regarding Water Front Area regulations. Variance needed from Board of Standards and Appeals."; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a mini-storage facility (Use Group 16), located in an R3-1 zoning district, which is contrary to Z.R. §22-00; and

WHEREAS, the premises and surrounding area had several site and neighborhood examinations by a committee of the Board, consisting of Vice Chair Satish Babbar, Commissioner Peter Caliendo, Commissioner Joel Miele, Commissioner James Chin, and former Commissioner Mitchell Korbey; and

WHEREAS, previously, a public hearing was held on this application on July 25, 2000 after due notice by publication in The City Record, laid over to September 12, 2000, May 15, 2001, September 25, 2001, October 16, 2001, December 4, 2001, February 12, 2002, March 5, 2002, March 19, 2002, May 7, 2002, July 9, 2002, October 8, 2002, November 12, 2002 and then to January 28, 2003 for decision; the decision was deferred until February 25, 2003; and

WHEREAS, on February 25, 2003, the Board determined: (1) that unique physical conditions inherent to the subject premises (specifically, the irregular shape of the lot and subsurface soil conditions stemming from a history of industrial uses) created an unnecessary hardship in developing the site under applicable R3-1 zoning regulations, thus satisfying the finding set forth at §72-21(a); and (2) that the applicant provided a feasibility study sufficiently demonstrating that a development under R3-1 zoning regulations would not yield the owner a reasonable return, thus satisfying the finding set forth at Z.R. §72-21(b); and

WHEREAS, however, the Board also determined that the proposed use variance would undermine the intent of the residential rezoning of the area and thus alter the essential

side of Strickland Avenue roughly between the prolongation of Mayfair Avenue and East 59th Place, Block 8470, Lots 1060, 1070, 1076, Borough of Brooklyn.

## COMMUNITY BOARD #18BK

character of the neighborhood and district, and that therefore the finding set forth at Z.R. 72-21(c) was not met; and

WHEREAS, accordingly, by a 5-0 vote, the Board denied the subject application, and issued a resolution outlining the reasons for its decision; and

WHEREAS, the Board's denial of the subject application was challenged in an Article 78 proceeding before the Supreme Court of the State of New York, New York County; and

WHEREAS, the subject application was remanded back to the Board pursuant to an order of the Supreme Court; and

WHEREAS, the court order directed the Board to reconsider its determination that the subject application failed to meet the finding set forth at Z.R. §72-21(c); and

WHEREAS, the order also directed the Board to make a determination as to Z.R. §72-21(d) and (e); and

WHEREAS, subsequent to receiving the court order, the Board, through its staff, indicated to the applicant its intent to hold a public hearing on remand, pursuant to normal Board practice on remanded matters; and

WHEREAS, the applicant filed a motion with the Supreme Court, challenging the Board's decision to hold a public hearing; the Board, represented by the City's Law Department, opposed this motion, and by order dated January 8, 2004, the court denied applicant's motion and directed that testimony at any of the public hearings on remand be limited to matters relevant to Z.R. §72-21(c), (d) and (e); and

WHEREAS, the Board again held a public hearing on the subject application on January 14, 2004 after due notice by publication in The City Record, and then to decision on March 2, 2004, when the matter was reopened for testimony and submissions and a new decision date was set for April 13, 2004; the decision was then deferred to April 27, 2004; and

WHEREAS, Chair Srinivasan, appointed to the Board in January of 2004, abstained from the vote on the instant matter because it dates back to 1999 and involves a voluminous record; and

WHEREAS, the record indicates that the subject premises is an irregularly-shaped parcel, fronting on both Strickland Avenue and the east side of Mill Basin, comprised of Lots 1060, 1064, 1070 and 1076 on Block 8470, with a total area of approximately 121,846 square feet; and

WHEREAS, the applicant represents that the property is located on the eastern portion of a large "superblock" of more than 50 acres, which is bounded by Flatbush Avenue, Avenue U, Mill Avenue and Strickland Avenue; and

WHEREAS, evidence in the record indicates that the subject property has historically been used for various industrial uses until the early 1990s, when it was utilized as a waste treatment facility; and

---

# MINUTES

---

WHEREAS, the waste treatment use on the subject property was terminated in 1995, and the site has since

WHEREAS, the Board notes that the blocks across Strickland Avenue from the subject site (Blocks 8651, 8650, 8644 and 8645) are characterized by residential development, predominantly one and two story, one and two family dwellings, including a significant amount of detached homes; and

WHEREAS, in 1996 the "superblock" area was rezoned from M3-1 to R3-1; and

WHEREAS, the subject proposal seeks to erect six two-story structures to be used as mini-storage, and a two-story 30' x 40' building to be used as office space and living area for a caretaker; the proposed facility is a Use Group 16 use; and

WHEREAS, at the January 14, 2004 remand hearing, the applicant stated its position that the proposed mini-storage facility would represent an improvement over the existing use of the site and would not affect the neighboring residential uses across the street; and

WHEREAS, the applicant acknowledged that Strickland Avenue was not a six lane highway; and

WHEREAS, Councilmember Fidler testified in opposition, and stated that the mini-storage proposal, if built, would impact the residential neighborhood across Strickland Avenue; and

WHEREAS, pursuant to Z.R. §72-21(c), the Board may properly consider whether the proposed variance, if granted, would substantially impair the appropriate use or development of adjacent property; and

WHEREAS, pursuant to Z.R. §72-21, the Board, in determining whether one of the five findings is supported by substantial evidence, may draw upon its personal knowledge; and

WHEREAS, the Board noted at the January 14, 2004 hearing that it had become aware of a filing at the BSA by a developer who sought a General City Law §36 waiver (which, if granted, allows a building or development to be constructed not fronting on a mapped street) to build conforming development on the lot adjacent to the subject lot, on the same side of Strickland Avenue, known as 6097 Strickland Avenue (hereinafter, the "Copolla Property"); and

WHEREAS, the Board notes that this property was discussed numerous times over the prior public hearing process, well before the matter was remanded, and had been identified at that time as a site that could potentially sustain conforming residential development; and

WHEREAS, specifically, this property was discussed on the following hearing dates: July 25, 2000, October 8, 2002, and November 12, 2002; and

WHEREAS, by the conclusion of the prior public hearing process in February of 2003, the Copolla Property had been placed in bankruptcy, and no further testimony was

WHEREAS, the applicant made a submission dated April 7, 2004, which summarized the applicant's position regarding the 'C' and 'E' findings; and

WHEREAS, in the April 7 submission, the applicant argues, in sum and substance, that the Board should not

been used as overnight storage for buses; and

submitted indicating that it would be developed; and

WHEREAS, in November of 2003, a committee of the Board and Board staff held a pre-application meeting pursuant to its normal procedures with a representative of a new owner of the Copolla Property, at which time this representative stated that they would seek multiple GCL §36 waivers from the Board, in order to proceed with as of right development; and

WHEREAS, pursuant to GCL §36, the Board may grant a waiver to a property owner to allow construction to occur when there is no mapped street fronting the buildings to be constructed; such application typically contemplates the creation of a private roadway system; and

WHEREAS, an application for a GCL §36 waiver is a straightforward application, and the Board typically requires that the Fire Department sign off on the proposal; once such sign off is obtained, the Board invariably grants the waiver; and

WHEREAS, such an application is not a variance of the normal zoning requirements applicable to a site; subsequent development must conform to applicable zoning regulations for the underlying zoning district; and

WHEREAS, the Board was made aware at the pre-application meeting that assuming GCL waivers were obtained, the owners of the Copolla property would pursue acquisition of building permits from the Department of Buildings for as of right development in conformance with the underlying R3-1 use and bulk regulations; and

WHEREAS, in addition to its knowledge of conforming development of the Copolla Property gained at the pre-application meeting, the Board became aware in February 2004 that the representatives of the Copolla Property were planning on actually filing formal applications at the BSA for the GCL waivers; and

WHEREAS, accordingly, at the March 2, 2004 hearing, the Board asked the applicant to address the impact of the proposed mini-storage facility on the conforming development on the Copolla Property; the applicant made a brief statement, and then the Board set a submission schedule and a decision date; and

WHEREAS, on March 9, 2004, the Board received the applications for the GCL waivers from the new owners of the Copolla Property, made through their counsel (the "Copolla Applicant"); and

WHEREAS, in the GCL waiver applications, the Copolla Applicant proposes 52 R3-1 conforming dwellings, with a private road system; the units will be a combination of detached and semi-detached homes; and

WHEREAS, the GCL waiver applications include a plot plan and a zoning analysis, showing compliance with the R3-1 zoning district regulations; and

consider the proposal of conforming development on the Copolla Property persuasive for two reasons: (1) prior submissions in the record show that significant environmental remediation of the Copolla Property's soil is required, at a cost of \$10 million, and that, consequently, the

---

# MINUTES

---

Board should not assume that conforming development will take place merely because a GCL waiver application was filed with the BSA; and (2) even if the Copolla Property were to be developed with a conforming residential development, the proposed mini-storage facility would be less objectionable than the existing bus storage use because it would generate less traffic, would be more "tastefully designed", and would be screened from the residential uses; and

WHEREAS, as to the applicant's first argument, the amount of money expended by a developer in obtaining a GCL waiver relative to alleged environmental clean up costs is not the basis by which a proposed variance's impact on the development of adjacent property is determined; rather, absent some evidence before the Board that the proposed conforming development is not being credibly and diligently pursued, the Board must evaluate the possible impairment by the proposed variance on the appropriate adjacent development; and

WHEREAS, the applicant's assertion that the Board may not assume residential development will take place on the Copolla Property until DEP approved environmental remediation has occurred is also not an appropriate basis for a Board determination as to the potential adverse impacts of a variance on conforming development; the Board notes that DEP approval on remediation is but one component of the development process; and

WHEREAS, if the Board were to accept the applicant's proposed standard of assessment of substantial impairment of development of adjacent property for purposes of the 'C' finding, then the Board would be required: (1) to acquire and evaluate all materials related to the conforming developer's due diligence as to the adjacent site, so as to ensure that the conforming proposal was made in good faith; and (2) to defer its analysis of the 'C' finding until another regulatory agency's sign off was obtained, where it was alleged that such sign off was needed prior to commencement of construction; and

WHEREAS, the Board has not conducted this specific type of overreaching review in any prior variance application; nor is the Board aware of any case law interpreting the 'C' finding in such a manner; and

WHEREAS, additionally, the Board has not deferred analysis of the 'C' finding pending sign off from another agency, even though the Board occasionally acknowledges that another agency's sign off may be required prior to

WHEREAS, the Board finds that a mini-storage facility of the size proposed is likely to generate traffic and noise which is objectionable when in such close proximity to a residential development of detached or semi-detached homes; and

WHEREAS, even though the applicant represents that the mini-storage facility will be "tastefully designed" and would be screened, the Board finds that the facility would nevertheless be out of context in terms of its design and bulk,

issuance of building permits; and

WHEREAS, the Board notes that, in any event, the applicant has not suggested, or provided evidence proving, that the developer of the Copolla Property is acting in bad faith, has failed to conduct appropriate due diligence, did not consider the environmental remediation issues (which are well-known and documented in the public record related to the instant matter), or is ignorant of the potential financial risks inherent to the proposed development; and

WHEREAS, the Board has before it a complete GCL §36 waiver application that contains, among other things, a site plan showing the outline of 52 conforming dwellings and the proposed private road, a supporting statement, and a zoning analysis; and

WHEREAS, the Board is aware that a significant filing fee was paid to the City for the GCL waiver applications, and that the developer of the adjacent property has retained counsel to provide representation before the Board; and

WHEREAS, the Board notes that the Copolla Property is a large parcel and, based upon the GCL waiver filing before it, finds no reason to disbelieve the developer's apparent conclusion that it could support conforming development sufficient to make a reasonable financial return; and

WHEREAS, while a small amount of waivers and grants made by the Board do not proceed to actual development, this fact in no way is dispositive in the instant matter; and

WHEREAS, in the experience of the individual Board members, a significant majority of developments that require a GCL §36 waiver commence subsequent to the grant of the waiver and issuance of a building permit; the developers rarely return to the Board for further discretionary relief, but instead proceed with conforming development; and

WHEREAS, as to the applicant's second argument, the Board notes that the proposed mini-storage use falls within the Use Group 16 category in the Zoning Resolution, which, pursuant to Z.R. §32-25, includes semi-industrial uses that involve "objectionable influences, making such uses incompatible with residential uses"; and

WHEREAS, the Board finds that a mini-storage facility and a large conforming residential development of the type proposed for the Copolla Property are inherently incompatible; and

given that it would consist of six long, unbroken structures, whereas the conforming development on the Copolla Property would consist of 52 detached or semi-detached homes; and

WHEREAS, the applicant also contends that the proposed mini-storage facility would generate less traffic and be more aesthetically pleasing than the existing bus storage use; and

WHEREAS, the Board notes that consideration of an

---

# MINUTES

---

existing non-conforming use on the subject parcel, proposed to be discontinued and replaced, is not relevant to its evaluation of the 'C' finding; rather, what is relevant is whether the proposed variance use will substantially impair the appropriate use of adjacent property; and

WHEREAS, the Board notes that the existing bus storage use is a non-conforming use; and

WHEREAS, Z.R. §51-00 provides that the purpose of regulations governing non-conforming uses is, in part, "to restrict further investment in such uses, which would make them more permanent establishments in inappropriate locations"; and

WHEREAS, pursuant to Z.R. §52-32, a non-conforming use that exists on a parcel of land which meets the definition of land with minor improvements, such as the subject parcel, may be changed only to a conforming use; and

WHEREAS, given the disfavor under the applicable zoning regulations for long-term continuation of, or a change to another manufacturing use from, the existing non-conforming use, the Board concludes that it lacks the permanency of the proposed mini-storage use, which could continue in perpetuity once granted by the Board; and

WHEREAS, the Board believes that the permanent aspect of the mini-storage use is further evidenced by the proposed erection of six permanent storage structures on land that is currently vacant; and

WHEREAS, the Board concludes that it is the proposed mini-storage facility's permanency which makes its negative impact more far reaching in time and thus more objectionable than the existing non-conforming use; and

WHEREAS, the Board also finds the mini-storage variance, if granted, would lower the price that a prospective purchaser might pay to live in homes planned for the Copolla Property, which, in turn, could diminish the viability of the Copolla development such that it could not proceed as of right; and

WHEREAS, accordingly, the Board finds that the mini-storage proposal, if granted, would substantially impair the appropriate development of the adjacent property; and

WHEREAS, the record also contains evidence that a conforming development is proposed for 5922 Strickland Avenue, which is to the southwest of the subject parcel on the same superblock; and

WHEREAS, the Board notes that the alleged remediation costs related to the Copolla Property are, as reported by the applicant, significantly higher (approximately 10 million) than the alleged remediation costs related to the subject property (approximately 3.4 million); and

WHEREAS, in light of the above, the Board questions how the applicant can reasonably maintain that a Use Group 16 use is the minimum variance necessary to realize a reasonable return on the property, notwithstanding the fact that the Copolla Property is larger than the subject parcel; and

WHEREAS, the Board notes that at one point in the

WHEREAS, the Board finds that the superblock on the west side of Strickland Avenue now appears to be in the process of being residentially developed, and further finds that the proposed mini-storage facility, if granted, would negatively impact the conforming residential development at 5922 Strickland Avenue; and

WHEREAS, moreover, the Board does not view the superblock on which the subject property is located to be isolated from the existing residential neighborhood on the other side of Strickland Avenue, such that a determination of the essential character of the entire neighborhood can not encompass this residential neighborhood; and

WHEREAS, the Board notes that it often looks to uses across a street, even a wide street, to ascertain the essential character of a particular neighborhood, especially when the zoning district is the same or comparable; and

WHEREAS, accordingly, the Board finds that the subject parcel and the residential neighborhood across Strickland Avenue can be considered to be similar components of one neighborhood for purposes of evaluating the 'C' finding; and

WHEREAS, there are existing detached homes in the blocks across from the subject property; and

WHEREAS, the Board finds that the proposed mini-storage facility, which consists of 6 large, unbroken garage-type structures, would not be contextual to these detached homes, in terms of bulk and use; and

WHEREAS, the Board finds that the proposed mini-storage facility, if granted, would alter the essential character of the neighborhood, in that it would introduce a permanent Use Group 16 use directly across the street from a residential neighborhood which consists in part of detached homes; and

WHEREAS, therefore, the Board again finds that the subject application fails to meet the requirements of Z.R. §72-21(c); and

WHEREAS, the hardship claimed in the instant application was not self-created; therefore, the application meets the finding set forth at Z.R. §72-21(d); and

WHEREAS, the Board notes that conforming development now appears to be slated for the Copolla Property and the property at 5922 Strickland Avenue; and

public hearing process, the applicant proposed various residential scenarios that would require a bulk waiver from the Board; and

WHEREAS, the Board also notes that given the conforming development planned for the Copolla Property and at 5922 Strickland Avenue, the value of the subject parcel for residential development is likely enhanced, such that a reasonable return from either a conforming residential development or a residential scenario that includes additional Board-granted bulk may now be feasible; and

WHEREAS, based upon the above, the Board concludes that the mini-storage proposal is not the

# MINUTES

minimum variance; therefore, the subject application fails to meet the finding set forth at Z.R. §72-21(e); and

WHEREAS, pursuant to Z.R. §72-21, the Board may only grant a variance upon a showing that each and every finding of Z.R. §72-21 is supported by substantial evidence or other documentation; and

WHEREAS, the subject application does not meet the findings set forth at Z.R. §72-21(c) and (e).

Therefore, it is resolved that the decision of the Borough Commissioner dated October 15, 1999, acting on Application No. 300865482 is upheld and this application is denied.

Adopted by the Board of Standards and Appeals, April 27, 2004.

## 279-01-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Magen David Yeshivah, owner.

SUBJECT - Application December 8, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 2106-2130 McDonald Avenue, through lot with frontage on Lake Street and McDonald Avenue, between Avenue S & T, Block 7087, Lots 14, 22, 24, 73, 76, Borough of Brooklyn.

### COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Barbara Hair.

**ACTION OF THE BOARD** - Application reopened and resolution amended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative: .....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on February 10, 2004, after due notice by

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB# 301521529)

Adopted by the Board of Standards and Appeals, April 27, 2004.

## 352-02-BZ

APPLICANT - New York City Board of Standards and Appeals.

publication in The City Record, with continued hearings on March 9, 2004 and April 13, 2004 and then to April 27, 2004 for decision; and

WHEREAS, on March 26, 2002, the Board granted a variance under the subject calendar number to permit a proposed school, Use Group 3, located in an M1-1 and an R5 zoning district, which created non-conformance with M1-1 district use regulations and non-compliance with R5 district bulk regulations, contrary to Z.R. §§42-00, 24-11, 24-34, 24-35, 24-36 and 24-521; and

WHEREAS, the applicant now seeks the installation of non-standard curb cuts to facilitate the smoother flow of school bus, mini-van and passenger vehicle traffic ingress to, and egress from, the site; and

WHEREAS, the proposed curb cuts are non-standard in that: (1) the driveway intersects the street line at a non-standard angle; (2) the width of the splays exceed the maximum permitted; (3) the driveway cuts through the sidewalk, necessitating curb cuts along the driveway and sidewalk for accessibility required pursuant to the Americans with Disabilities Act; and

WHEREAS, the applicant has revised the proposal to address the concerns of the Department of Transportation ("DOT") and by letter dated April 21, 2004, the DOT has indicated it has no objection to the proposal; and

WHEREAS, at the request of the DOT, the applicant has provided a sidewalk pedestrian ramp for accessibility, as well as DOT recommended signage.

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 installation of non-standard curb cuts on a site previously before the Board, on condition that all work shall substantially conform to drawings as filed with this application marked "March 29, 2004"- (1) sheet; and on further condition;

THAT all DOT required items, including the ramp for ADA accessibility and signage, will be provided as shown on approved plans;

OWNER OF PREMISES: Peter Likourentzos

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 2801 Emmons Avenue, northeast corner East 28<sup>th</sup> Street to East 29<sup>th</sup> Street, Block 8792, Lot 63, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Application dismissed for lack of prosecution.

THE VOTE TO DISMISS -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative: .....0

---

# MINUTES

---

THE RESOLUTION -

WHEREAS, this is an application, pursuant to ZR §72-21 to permit, in a C2-2 in and R5 (Sheepshead Bay Special Zoning District), the addition of a wedding chapel or banquet hall, Use Group 9, to an existing eating and drinking establishment, Use Group 6, with restrictions on entertainment which is contrary to §94-061; and

WHEREAS, this application was originally filed on December 5, 2002 without a financial feasibility study; and

WHEREAS, an initial Notice of Objections was sent by the BSA examiner on January 14, 2003 requesting that a financial feasibility study be submitted as soon as it was available; and

WHEREAS, the applicant submitted a financial feasibility study on May 29, 2003 which the BSA examiner addressed in a Second Notice of Objections sent on June 5, 2003; and

WHEREAS, the June 5, 2003 Notice of Objections indicated that the financial feasibility study submitted was not satisfactory in that the comparable properties provided were insufficient and the study failed to link any unique physical characteristics of the site to economic hardship-pursuant to ZR §72-21(b); and

WHEREAS, in response the applicant's failure to provide a satisfactory feasibility study, the subject application was placed on the Dismissal Calendar on March 10, 2004; and

WHEREAS, at the March 10, 2004 Dismissal Calendar hearing, the applicant was once again informed that a satisfactory feasibility study had yet to be submitted; and

WHEREAS, the applicant was then granted approximately a month and a half adjournment to submitted the required material and the case was placed on the Board's Special Order Calendar for April 27, 2004; and

WHEREAS, the Board notes that there were no submissions by the applicant following the March 10, 2004 hearing and that the applicant failed to appear at the April 27, 2004 hearing.

APPLICANT - The Law Office of Fredrick A. Becker, for 325 North Macquesten Parkway Corporation, owner; Abko Inc dba Carwash Associates, lessee.

SUBJECT - Application June 13, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 486/496 Coney Island Avenue aka 804/826 Church Avenue, west side of Coney Island Avenue 91' 9 1/8" south of the corner of Church Avenue and Coney Island Avenue) Block 5341, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Fredrick A. Becker.

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 May 18, 2004, at 10 A.M., for decision, hearing closed.

WHEREAS, therefore, due to the applicant's continued failure to respond to the Board's numerous requests for information necessary to the instant application, the Board finds that it must dismiss this case for lack of prosecution.

Adopted by the Board of Standards and Appeals, April 27, 2004.

---

**156-03-BZ**

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: RKO Plaza LLC & Farrington Street Developers, LLC.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard, Block 4958, Lots 48 and 38, Borough of Queens.

**COMMUNITY BOARD #7Q**

APPEARANCES -

For Applicant: Chris Wright.

**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, April 27, 2004.

---

**465-55-BZ**

---

**889-55-BZ, Vol. II**

APPLICANT - J & H Management Corp., for Everything Auto Repair, lessee.

SUBJECT - Application October 21, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 1, 2003

PREMISES AFFECTED - 69-13/25 (69-15 Official) 164th Street, east side 110' south of 69th Avenue, Block 6931, Lot 38, Borough of Queens.

**COMMUNITY BOARD #8**

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 10 A.M., for continued hearing.

---

**116-68-BZ**

APPLICANT - Stephen Rizzo, for 40 Central Park South Inc.,

---

# MINUTES

---

owner; Café Atlas, lessee.

SUBJECT - Application December 19, 2003 - reopening for an extension of time to obtain a certificate of occupancy which expired on December 21, 2003.

PREMISES AFFECTED - 40 Central Park South, south side, 120' east of Sixth Avenue, Block 1274, Lot 6, Borough of Manhattan.

## COMMUNITY BOARD #5

APPEARANCES -

For Applicant: Stephen Rizzo.

**ACTION OF THE BOARD** - Laid over to May 18, 2004, at 10 A.M., for continued hearing.

---

## 705-81-BZ

APPLICANT - The New York City Board of Standards and Appeals

OWNER OF PREMISES: Fraydun Enterprises.

LESSEE: New York Health and Racquet Club.

SUBJECT - Application - reopening for compliance.

PREMISES AFFECTED - 1433/37 York Avenue, northeast corner of East 76<sup>th</sup> Street, Block 1471, Lots 21, 22 and 23, Borough of Manhattan.

## COMMUNITY BOARD #8M

APPEARANCES -

In Favor: Mitchell Ross.

In Opposition: Ellen Stigman.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 10 A.M. for continued hearing.

---

## 234-98-BZ

APPLICANT - Walter T. Gorman, P.E., for Jose Vasquez, owner;  
**45-03-A thru 64-03-A**

APPLICANT - Robert E. Englert, A.I.A., for Sleepy Hollow Development Corp., owner.

SUBJECT - Application February 10, 2003 - Proposed two family attached frame building, not fronting on a legally mapped street, and located within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED -

69 Hall Avenue, north side, 595.62' west of Willowbrook Road, Block 2091, Lot 85, Borough of Staten Island.

67 Hall Avenue, north side, 570.62' west of Willowbrook Road, Block 2091, Lot 80, Borough of Staten Island.

65 Hall Avenue, north side, 545.62' west of Willowbrook Road, Block 2091, Lot 79, Borough of Staten Island.

63 Hall Avenue, north side, 520.62' west of Willowbrook Road, Block 2091, Lot 78, Borough of Staten Island.

61 Hall Avenue, north side, 495.62' west of Willowbrook Road, Block 2091, Lot 77, Borough of Staten Island.

59 Hall Avenue, north side, 465.62' west of Willowbrook Road, Block 2091, Lot 76, Borough of Staten Island.

55 Hall Avenue, north side, 435.62' west of Willowbrook

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 7<sup>th</sup> Avenue, west side of Adam Clayton Powell Jr. Boulevard, blockfront from W. 150<sup>th</sup> Street to W. 151<sup>st</sup> Street, Block 2036, Lot 29, Borough of Manhattan.

## COMMUNITY BOARD #10M

APPEARANCES -

For Applicant: L. Kmomu.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 10 A.M., for continued hearing.

---

## 274-90-BZ

APPLICANT - George E. Berger, for Long Island University, owner.

SUBJECT - Application December 22, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired January 27, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 85 DeKalb Avenue, north side DeKalb Avenue, west of Ashland Place, Block 2086, Lot 34, Borough of Brooklyn.

## COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: George Berger.

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 10 A.M., for continued hearing.

---

Road, Block 2091, Lot 75, Borough of Staten Island.  
53 Hall Avenue, north side, 410.62' west of Willowbrook Road, Block 2091, Lot 74, Borough of Staten Island.  
51 Hall Avenue, north side, 385.62' west of Willowbrook Road, Block 2091, Lot 73, Borough of Staten Island.  
49 Hall Avenue, north side, 355.62' west of Willowbrook Road, Block 2091, Lot 72, Borough of Staten Island.  
45 Hall Avenue, north side, 325.62' west of Willowbrook Road, Block 2091, Lot 71, Borough of Staten Island.  
43 Hall Avenue, north side, 300.62' west of Willowbrook Road, Block 2091, Lot 70, Borough of Staten Island.  
41 Hall Avenue, north side, 275.62' west of Willowbrook Road, Block 2091, Lot 69, Borough of Staten Island.  
39 Hall Avenue, north side, 250.62' west of Willowbrook Road, Block 2091, Lot 68, Borough of Staten Island.  
37 Hall Avenue, north side, 225.62' west of Willowbrook Road, Block 2091, Lot 67, Borough of Staten Island.  
35 Hall Avenue, north side, 200.62' west of Willowbrook Road, Block 2091, Lot 66, Borough of Staten Island.  
31 Hall Avenue, north side, 267.12' west of Willowbrook Road, Block 2091, Lot 65, Borough of Staten Island.

---

# MINUTES

---

29 Hall Avenue, north side, 143.62' west of Willowbrook Road, Block 2091, Lot 63, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Robert E. Englert.

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 May 11, 2004, at 10 A.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 11:20 A.M.

## REGULAR MEETING TUESDAY AFTERNOON, APRIL 27, 2004 2:00 P.M.

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

---

## ZONING CALENDAR

### 69-03-BZ

APPLICANT - Friedman & Gotbaum, LLP, by Shelly S. Friedman, Esq., for Bond Street, LLC, owner.

SUBJECT - Application February 12, 2003 - under Z.R. § 72-21 to permit the proposed development of a 15-story mixed-use building, consisting of residential apartments and local retail usage, located in an M1-5B zoning district, where residential use is not permitted is contrary to Z.R. §42-10.

PREMISES AFFECTED - 32/40 Bond Street, mid-block portion fronting on north side, of Bond Street between Lafayette and the Bowery, Block 530, Lot 48, 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 March 11, 2004, acting on Department of Buildings Application No. 103340396, reads, in part:

"1) The proposed 10 story plus penthouse building containing residential use in an M1-5B zoning district is not permitted as of right and its contrary to ZR 42-10"; and

WHEREAS, the above DOB decision is a new, revised version, obtained by the applicant at the request of the Board; DOB issued an earlier objection on July 10, 2003 based on a prior iteration of the application, which requested bulk, height and setback waivers, in addition to the use change; and

WHEREAS, the Department of Buildings also issued the following objection to the subject application: "Proposed commercial use (UG6) below the level of the 2nd floor in an M1-5B zoning district is not permitted pursuant to ZR 42-14(D)(2)(b)"; the applicant represents that this objection was waived by the City Planning Commission through a special permit granted on November 20, 2002; and

WHEREAS, a public hearing was held on this application on October 8, 2003 after due notice by publication in the City Record; with continued hearings on November 12, 2003, December 10, 2003, February 3, 2004, and March 10, 2004 and then laid over for decision on April 20, 2004; the decision was deferred on April 20, 2004 and laid over for decision on April 27, 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, Commissioner Caliendo, Commissioner Miele, and Commissioner Chin; and

WHEREAS, Community Board 2, Manhattan, recommended disapproval of the earlier version of this application; and

WHEREAS, the Department of City Planning appeared in opposition to the earlier version of the subject

---

# MINUTES

---

application, objecting to the FAR increase request but not to the proposed use change; and

WHEREAS, Councilmember Gerson submitted letters in opposition to the earlier and current version of the subject application; and

WHEREAS, the majority of the community based opposition was to the earlier version of the proposal, which, as noted above, requested bulk waivers in addition to the use variance; and

WHEREAS, this is an application under Z.R. §72-21 to permit the proposed erection of a 120' high, ten-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 subject premises: is a vacant lot situated in the mid-block and fronting for 136 feet on the

WHEREAS, the initial proposal was for a 15-story, 205' high building (including mechanicals), with 122,322 square feet of floor area, 20' rear yard, and an 8.57 FAR; and

WHEREAS, the first amended proposal, submitted July of 2003, was for a 14-story, 194' high building (including mechanicals), with 108,870 square feet of floor area, 30' rear yard, and a 7.6 FAR; and

WHEREAS, the second amended proposal, submitted November of 2003, was for a 12- story (plus penthouse), 179' high building (including mechanicals), with 97,543 square feet of floor area, 30' rear yard, and a 6.83 FAR; and

WHEREAS, the third amended proposal, submitted December of 2003, was for a 11-story (plus penthouse), 151' high building (including mechanicals), with 96,254 square feet of floor area, 30' rear yard, and a 6.74 FAR; and

WHEREAS, the Board continued to express reservations about the proposed bulk of the building, and urged the applicant to further reduce the FAR to what is permitted in the zoning district (5.0 FAR); the applicant then made the subject proposal; and

WHEREAS, the only variance required under the final version of the application is for conversion of the building from manufacturing to residential use; 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: (1) the site is a mid-block vacant lot within an M1-5B zoning district; and (2) the surrounding over-built conditions; specifically, the site is surrounded by buildings with high walls on its side and rear property lines; and

WHEREAS, the applicant argues that the physical conditions of the site and its immediate surroundings converge with the zoning regulations applicable to the M1-5B zoning district and the market conditions for conforming commercial and manufacturing development in the vicinity to create a hardship in developing the site as of right; and

WHEREAS, the applicant argues also that the permitted

north side of Bond Street between Lafayette Street and the Bowery, has a total lot area of approximately 14,276 square feet, and is currently used as an open air parking lot; and

WHEREAS, the site borders on the NoHo Historic District and is approximately one block north of the newly designated NoHo East Historic District; and

WHEREAS, the proposed ten-story mixed use building will have 71,348 square feet of floor area, with retail space to be located on the ground floor; rise 74 feet along the Bond Street property line before setting back 20 feet (at the seventh floor); and have an overall height on 134 feet (including mechanicals); and

WHEREAS, since initially submitted to the Board in February 2003, the proposal has been amended four times, in response to Board and community objections to the proposed height and additional bulk; and

FAR is far lower than the existing built conditions surrounding the site and no residential alternatives are allowed for new construction on vacant land in the M1-5B zoning district; and

WHEREAS, the applicant claims that the overbuilt conditions surrounding the site necessitate the provision of a deep rear yard, which overcomes the hardship created by the surrounding conditions but then reduces the floor plate of the building, creating a building footprint that is too narrow to permit the construction of a building suitable and marketable for either commercial or manufacturing use; and

WHEREAS, the applicant claims that if a deep rear yard was not provided, the lower floors of the building would only have windows on the front, and these lower floors would be less marketable and greatly diminish the overall viability of a conforming development; and

WHEREAS, the applicant states that none of the factors set forth above, standing alone, would qualify as the basis for a claim of a unique physical condition leading to hardship; rather, it is the combination of the factors which prevent as of right development of the subject site from generating a reasonable return; and

WHEREAS, the applicant further represents that the above combination of conditions do not occur on any other site within the subject zoning district aside from two others; and

WHEREAS, the Board's site visit confirmed the applicant's representation regarding the over-built conditions surrounding the site; and

WHEREAS, the Board recognizes that the regulations of the M1-5B zoning district may be onerous as applied to vacant lots, but emphasizes that vacant lots situated within M1-5B zoning districts are not inherently unique; an actual unique physical condition must be present; and

WHEREAS, the Board also concludes that market conditions do not constitute a unique physical condition, either standing alone or in combination with other factors, for purposes of meeting the finding set forth at Z.R. §72-21(a), but may be relevant for purposes of meeting the

---

# MINUTES

---

finding set forth at Z.R. §72-21(b); and

WHEREAS, based upon the foregoing, the Board finds that the fact that the land is one of the few vacant parcels in the subject zoning district surrounded by significantly overbuilt buildings to be a unique physical condition that creates 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

WHEREAS, the applicant, through submissions from its financial consultant, has adequately addressed concerns from the community regarding the proposed unit size that the Board requested the applicant investigate, concluding that the proposed unit sizes were necessary to obtain a reasonable return; and

WHEREAS, based upon its review of the record, the Board determines that because of the subject lot's unique physical conditions, there is no reasonable possibility that development of the site in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant states that the proposed building would be an appropriate addition to the mixed use neighborhood surrounding the site, which is characterized by residential, commercial and manufacturing buildings, and community facility uses; and

WHEREAS, the applicant further states that a street level residential and retail façade will enhance the Bond Street frontage, and the retail use will provide new jobs and expanded neighborhood services; and

WHEREAS, the Board notes that the applicant has committed to creating a façade that is contextual with the district; and

WHEREAS, opposition has made various claims about the proposed building's impact on the character of the neighborhood, suggesting that the height of the building is excessive given the height of neighboring buildings; and

WHEREAS, the Board notes that no height waiver is sought by the applicant, and that an as of right building would have the same alleged impact; and

WHEREAS, the Board has conducted its own site visit and has ascertained that the proposed building will be contextual with the as built conditions in the immediate and surrounding area; and

WHEREAS, the Board finds that the residential use of the proposed building is not incompatible with other uses in the area, and notes that there are other mixed use and residential buildings in the immediate and surrounding 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 Board finds that the hardship herein

premises with a conforming use would not yield the owner a reasonable return, due to the unique physical conditions existing on the zoning lot; and

WHEREAS, the feasibility study analyzed two as of right scenarios (office building and hotel) and showed that neither produced a reasonable rate of return; and

WHEREAS, the applicant maintains that the current market conditions in the Lower Manhattan area do not support manufacturing, office or hotel use at the site; and

was not created by the owner or a predecessor in title; and

WHEREAS, after taking guidance from the Board as to the need for additional bulk and height, the applicant has drastically reduced the scope of the proposal, limiting the requested variance to conversion from manufacturing to residential use; and

WHEREAS, consequently, 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, a Restrictive Declaration was requested by the New York City Department of Environmental Protection ("DEP") to address potential hazardous materials concerns on the subject site prior to development of the proposed project; the Restrictive Declaration was submitted to DEP's Legal Affairs Office for review and approval and following DEP's approval, the Restrictive Declaration was executed and recorded on April 5, 2004; and

WHEREAS, DEP conducted a review of the Applicant's Air Quality and Noise Assessments and submitted a letter dated March 11, 2004 to the BSA stating there would not be any potential adverse air quality or noise impacts due to the proposed project; and

WHEREAS, the applicant has submitted a revised shadow analysis assessment, previously submitted to the Landmarks Preservation Commission ("LPC") and the BSA on April 5, 2004, in addition to plans showing that the potential shadow impacts of the proposed building will not be perceptibly greater than the potential impacts of an as-of-right development; the applicant also submitted revisions to LPC and the BSA regarding Attachment A, "Historic Resources" in the Environmental Assessment Statement; on April 6, 2004, LPC approved the revised shadows analysis assessment and revised Historic Resources section; and

WHEREAS, the applicant's Stage 1A Archaeological Assessment had determined that there was the potential for the site to host historical archaeological resources dating from the 1830s-1850s; based on LPC's review of the Stage 1A Archaeological Assessment, they determined that field testing was necessary to address potential archaeological concerns identified on the site; in response to LPC's

---

# MINUTES

---

determination, the applicant's consultant prepared an archaeological field testing protocol which LPC approved on March 17, 2004; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement and has carefully considered all

Resolved, that the Board of Standards and Appeals issues a Negative Declaration with the conditions 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 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; 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 22, 2004" - (10) sheets and on further condition:

THAT no retail/commercial use will be permitted in the rear yard; no retail/commercial access will be permitted to the rear yard;

THAT the above condition will appear on the certificate of occupancy;

THAT any non-retail/commercial use of, or access to, the rear yard as may be required by the Building Code or any other applicable law is subject to approval of the Department of Buildings;

THAT the applicant shall comply with the conditions stipulated in the Restrictive Declaration;

THAT archaeological field testing of the project site shall take place before construction of the proposed project commences; upon completion of field testing, a report on the field investigation shall be submitted to LPC for review;

THAT the proposal shall comply with all applicable fires safety regulations;

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, April 27, 2004.

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.

## 299-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Josette Said, owner.

SUBJECT - Application September 15, 2003 - under Z.R. §72-21 to permit the proposed construction of a detached one-family dwelling, Use Group 1, located in an R1-2 zoning district, which does not comply with the zoning requirements for front yard, rear yard and setback, is contrary to Z.R. §23-45, §23-52 and §23-631. PREMISES AFFECTED - 179-16 Grand Central Parkway, between Midland Parkway and Edgerton Boulevard, Block 9943, Lot 43, Borough of Queens.

## COMMUNITY BOARD #8

APPEARANCES -

For Applicant: Irving E. Minkin.

**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, the decision of the Borough Commissioner, dated December 9, 2003 acting on Application No. 401588242 reads:

"A Zoning Variance will be required by the Board of Standards and Appeals as follows:

Z1. Proposed 15 foot front yard is contrary to Section 23-45, Z.R.

Z2. Proposed 8 foot rear yard in interior lot portion of site is contrary to Section 23-47, Z.R.

Z3. Proposed 5 foot encroachment of the front wall into the required front yard is contrary to the setback requirements of Section 23-631, Z.R."; and

WHEREAS, a public hearing was held on this application on March 23, 2004 after due notice by publication in The City Record, with a continued hearing on April 13, 2004, and then to April 27, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, Community Board 8, Queens, recommends conditional approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a one family dwelling (Use

# MINUTES

Group 1) located in an R1-2 zoning district, which does not comply with the zoning requirements for front yard, rear yard and setback,

WHEREAS, the subject premises is a corner lot located at the southwest corner of the Grand Central Parkway and Midland Parkway, with a frontage of 405.84 feet along Grand Central Parkway and 15.15 feet along Midland Parkway; and

WHEREAS, the applicant represents that the subject zoning lot is irregularly shaped with varying depth-the narrowest portion of the site is only 15 feet and the widest is only 57 feet; and

WHEREAS, the applicant further represents that the zoning lot is also burdened with a steep slope upwards from Grand Central Parkway of approximately 20 degrees; and

WHEREAS, the unique physical conditions, namely the irregular shape and steep slope of the subject lot, necessitate that the building be located on the lot in such a way that provision of complying front and rear yards is impractical; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, namely the irregular shape and steep slope of the subject lot, create an unnecessary hardship and practical difficulty in developing the site in conformity with the current 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 zoning will provide a reasonable return; and

WHEREAS, the record indicates that the use and floor area of the subject proposal are consistent with the surrounding residential uses and the underlying zoning regulations; and

WHEREAS, the Board observes that as presented by the applicant, the adjacent parcel to the rear of the subject premises is developed with a building that sets back from the lot line approximately 58 feet, and the adjacent parcel to the side of the subject premises is developed with a building that sets back from the lot line approximately 35 feet; 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 has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation  
Negative: .....0

**THE RESOLUTION -**

WHEREAS, the decision of the Borough Commissioner, dated

contrary to Z.R. §§23-45, 23-47 and 23-631; and

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 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 front yard, rear yard and setback, which is contrary to Z.R. §§23-45, 23-47 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 "April 16, 2004" - (1) sheet; and on further condition:

THAT substantial construction 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;

THAT the Department of Buildings must ensure compliance 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 27, 2004.

**347-03-BZ**

APPLICANT - Eric Palatnik, P.C., for Shaul and Sara Taub, owners.

SUBJECT - Application November 14, 2003 - under Z.R. § 73-622 to permit the 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 ratio and open space ratio, is contrary to Z.R. §23-141(a).

PREMISES AFFECTED - 2611 Avenue "N", between East 26th and East 27th Streets, Block 7662, Lot 5, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

**APPEARANCES -**

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD -** Application granted on condition.

**THE VOTE TO GRANT -**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

November 3, 2003, acting on Alt. 1 Application No. 301654430, reads:

"1. Plans are contrary to Z.R. 23-141(a) in that the proposed

---

# MINUTES

---

Floor Area Ratio (FAR) exceeds the permitted .5.

- 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."; and

WHEREAS, a public hearing was held on this application April 13, 2004 and laid over for decision to April 27, 2004; and

WHEREAS, a special permit is sought under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliances with regard to floor area ratio and open space ratio, contrary to Z.R. §23-141(a); and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Commissioner Caliendo, Commissioner Miele, and Commissioner Chin; and

WHEREAS, Community Board 14, Brooklyn recommends approval of this application; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the perimeter wall height will comply with all applicable zoning regulations; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-622 and 73-03.

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliances with regard to floor area ratio and open space ratio, and which is contrary to Z.R. §23-141(a), on condition that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and SUBJECT - Application April 29, 2003 - under Z.R. §72-21 to permit the proposed erection of a two family dwelling, Use Group 2A, located in an R3-A zoning district, which does not comply with the zoning requirements, for rear yard and floor area ratio, is contrary to Z.R. §23-47 and §23-141(b).

PREMISES AFFECTED - 247-54 90th Avenue, south side, 225.51' west of Commonwealth Boulevard, Block 8662, Lot 28, Borough of Queens.

**COMMUNITY BOARD #13Q**

marked "January 14, 2004"-(12) sheets; and on further condition;

THAT there shall be no habitable room in the cellar;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT 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;

THAT the Department of Buildings must ensure compliance 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 27 2004.

---

## 84-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Nissan Perla, Partner: N.P. Holdings, LLC, owner.

SUBJECT - Application October 24, 2003 - under Z.R. §72-21 to permit the proposed nine (9) story plus penthouse residential building, Use Group 2, located in an R5, C1-2 overlay zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, lot coverage, total height, perimeter wall height, lot area per dwelling unit and the required number of parking spaces, is contrary to Z.R. §23-141, §23-631, §23-222 and §25-521.

PREMISES AFFECTED - 35-40 30th Street, a/k/a 35-37 29th Street, between 35th and 36th Avenues, Block 341, Lot 6, Borough of Queens.

## COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Jordan Most.

For Opposition: Maura Stone and Caroline Adams.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

---

## 139-03-BZ

APPLICANT - Alfonso Duarte, for Sanjoy Augustine, owner.

APPEARANCES -

For Applicant: Alfonso Duarte, Sanjoy Augustine, Hari Nainami and others.

For Opposition: Angela Angregliaso, Carol Gomez and others.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

---

## 183-03-BZ

---

# MINUTES

---

APPLICANT - Agusta & Ross, for North Berry Capital Group, LLC, owner.

SUBJECT - Application June 3, 2003- under Z.R. §72-21 to permit the proposed forty-three unit multiple dwelling, with retail space on the ground floor, and underground accessory parking throughout for twenty-two vehicles, Use Groups 2 and 6, located in an M1-2 zoning district, which is contrary to Z.R. §42-10.

PREMISES AFFECTED - 118 Berry Street, 116 North Seventh Street, a/k/a 116/26 North Seventh Street and 118/20 Berry Street, northwest corner, Block 2326, Lots 18 and 19 (tentative Lot 18), Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Mitchell Ross.

**ACTION OF THE BOARD**- Laid over to May 25, 2004, at 1:30 P.M., for continued hearing.

---

**186-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Mount Carmel Plaza, LLC, owner.

SUBJECT - Application June 4, 2003 - under Z.R. §72-21 to permit the proposed seven story multiple dwelling, Use Group 2, with a total of sixty residential units and twenty-four parking spaces, located in an M1-2 zoning district, which is contrary to Z.R. §42-00. PREMISES AFFECTED - 525 Union Avenue, west side, 48' south of Withers Street, Block 2315, Lot 14, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Jordan Most and Robert B. Pauls.

For Opposition: Rep. Assemblyman Joseph R. Lentoe, Jos Linda Zambrutta, Patty Gioverco, Anthony B., Guido Cianciotti, Pat Iandiorio, Theresa Cianciotta and others.

**ACTION OF THE BOARD**- Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

---

**249-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for D & J Herms Realty, Inc., owner.

**288-03-BZ**

APPLICANT - H. Irving Sigman, for Aggressive Realty Corp., owner.

SUBJECT - Application August 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a three story vertical and horizontal enlargement to an existing two story hotel, Use Group 5, located in a C2-2 within an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, height and non-complying signs, is contrary to Z.R. §33-121, §33-341, §32-641-643, §32-652 and §32-655.

PREMISES AFFECTED - 109-17 Horace Harding Expressway, northeast corner of Saultell Avenue, Block 1969, Tentative Lot 2,

SUBJECT - Application July 31, 2003 - under Z.R. §72-21 to permit the proposed four story building, with penthouse and cellar, to contain nine residential units on the second, third and fourth floors, and one commercial unit on the ground floor, on a site that is located in C8-2 zoning district, which does not permit residential use, is contrary to §32-10.

PREMISES AFFECTED - 265 Bedford Avenue, southeast corner of North First Street, Block 2381, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

---

**270-03-BZ**

APPLICANT - Joseph P. Morsellino, for Cord Meyer Development, LLC, owner.

SUBJECT - Application August 26, 2003 - under Z.R. §72-21 to permit the proposed erection and maintenance of a mixed use building, Use Groups 2 and 6, with less than the required open space, and which exceeds the permitted floor area ratio, located on a site that is divided by two zoning districts (C4-2 and R7-1), is contrary to §35-23, §23-142, §35-33 and §35-32.

PREMISES AFFECTED - 108-36/50 Queens Boulevard, southeast corner of 71st Road, Block 3257, Lot 1 (formerly 1 and 42), Borough of Queens.

**COMMUNITY BOARD #6Q**

APPEARANCES -

For Applicant: Joseph P. Morsellino, Sal Panico.

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 May 11, 2003, at 1:30 P.M., for decision, hearing closed.

---

Borough of Queens.

**COMMUNITY BOARD #4Q**

APPEARANCES -

For Applicant: H Irving Sigman and Hiram Monserritz.

For Administration: Battalion Chief Eugene Carty, Fire Department.

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 1:30 P.M., for continued hearing.

---

**296-03-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Kigsway Realty,

---

# MINUTES

---

LLC, owner.

SUBJECT - Application September 10, 2003 - under Z.R. §72-21 to permit the proposed extension of an existing two story (2) commercial building, Use Group 6, to three stories, located in a C4-3 zoning district, which is in compliance with the NYC Zoning Resolution for the addition, but does not comply with the required parking requirements, as per Z.R. §36-21.

PREMISES AFFECTED - 1619 Kings Highway, a/k/a 1601/1621 Kings Highway and 1639/1651 East 17<sup>th</sup> Street, Block 6779, Lot 22, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES -

For Applicant: Moshe Friedman.

For Administration: Battalion Chief Eugene Carty, Fire Department.

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 May 18, 2004, at 1:30 P.M., for decision, hearing closed.

---

**306-03-BZ**

APPLICANT - Law Offices of Howard Goldman, LLC, for Kay Water Properties, LLC, owner.

SUBJECT - Application September 29, 2003 - under Z.R. §72-21 to permit the proposed conversion of a four story industrial building, located in an M1-2 zoning district, into a residential dwelling, also the addition of two floors, for a total of 18 loft-style dwelling units, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 192 Water Street, between Jay and Bridge Streets, Block 41, Lot 11, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

APPEARANCES -

For Applicant: Emily Simons, Roben B. Caults.

PREMISES AFFECTED - 343 West 16th Street, between Eighth and Ninth Avenues, Block 740, Lot 12, Borough of Manhattan.

**COMMUNITY BOARD #4M**

APPEARANCES -

For Applicant:

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

---

**384-03-BZ**

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for Renewal Arts Realty Corp., owner; Albert Einstein College of Medicine of Yeshiva University, lessee.

SUBJECT - Application December 10, 2003 - under Z.R. §72-21 to permit the proposed operation of a Use Group 4A health facility, on a portion of a zoning lot, located in an M1-2 zoning district, which

For Administration: Battalion Chief Eugene Carty, Fire Department.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

---

**339-03-BZ**

APPLICANT - Snyder and Snyder, LLP, for United Hebrew Cemetery, Inc., owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application October 31, 2003 - under Z.R. §73-30 to permit the proposed installation of a non-accessory radio tower, disguised as an eighty-two feet (82') flagpole, together with related equipment at the base thereof ("facility"), on said premises, located in an R3-2 zoning district, which requires a special permit.

PREMISES AFFECTED - 122 Arthur Kill Road, between Clarke and Newvale Avenues, Blocks 4475 and 4463, Lots 1 and 175, Borough of Staten Island.

**COMMUNITY BOARD #3S.I.**

APPEARANCES -

For Applicant: Robert Gaudio.

**ACTION OF THE BOARD** - Laid over to May 18, 2004, at 1:30 P.M., for continued hearing.

---

**341-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Chelsea Ventura, LLC, owner.

SUBJECT - Application November 6, 2003 - under Z.R. §72-21 to permit the proposed construction of a new residential building, on a merged zoning lot with an existing multiple dwelling, which creates non-compliances with respect, floor area ratio, number of dwelling units, and rear yard equivalent, is contrary to Z.R. §23-145, §23-22 and §23-533.

is contrary to Z.R. §42-11.

PREMISES AFFECTED - 804 East 138<sup>th</sup> Street, south side, 155.52' east of Willow Avenue, Block 2589, Lots 15 and 16, Borough of The Bronx.

**COMMUNITY BOARD #1BX**

APPEARANCES -

For Applicant: Albert Fredericks, Gary Tarnoff, Lawrence Watts and Ira Marion.

For Opposition: Leslie Lyga and Boyd Adelman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative: .....0

Abstain: Commissioner Caliendo.....1

**ACTION OF THE BOARD** - Laid over to May 11, 2003, at 1:30 P.M., for decision, hearing closed.

---

---

# MINUTES

---

## 10-04-BZ

APPLICANT - Paul Hasting Janofsky & Walker LLP, for AFP Holding Inc., owner; Aldona Fire Protection, Inc., lessee.

SUBJECT - Application January 12, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing building, located in an M1-1 zoning district, which does not comply with the zoning requirements for floor area ratio, rear yards, height of front wall and required setback, also accessory off-street parking, is contrary to Z.R. §43-12, §43-26, §43-43 and §43-20.

PREMISES AFFECTED - 54-14 74th Street, west of Grand Avenue, Block 2803, Lot 28, Borough of Queens.

### COMMUNITY BOARD #5Q

APPEARANCES -

For Applicant:

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 1:30 P.M., for continued hearing.

---

## 23-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Yossi Kraus, owner.

SUBJECT - Application February 10, 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 yard and minimum required side yard, is contrary to Z.R. §23-141(a), §23-47 and §23-48.

PREMISES AFFECTED - 1150 East 23rd Street, west side, 380'-0" north of Avenue "L", Block 7622, Lot 66, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

SUBJECT - Application March 19, 2004 - under Z.R. § 72-22 & 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:

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 7:40 P.M.

## SPECIAL CALENDAR

APPEARANCES -

For Applicant:

**ACTION OF THE BOARD** - Laid over to May 18, 2004, at 1:30 P.M., for continued hearing.

---

## 24-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Rachel Edelstein, owner.

SUBJECT - Application February 10, 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 §23-461(a).

PREMISES AFFECTED - 1129 East 27th Street, east side, 220' south of Avenue "K", Block 7627, Lot 33, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant:

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

---

## 134-04-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for 184 Kent Avenue Associates, owner.

**WEDNESDAY MORNING, APRIL 28, 2004**

**10:00 A.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

---

## 406-03-BZY thru 409-03-BZY

APPLICANT - Eric Palatnik, Esq., for Morning Star Development Corp., owner.

SUBJECT - Application December 31, 2003 - Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R. §11-331.

PREMISES AFFECTED -

2 Wenlock Street, south side, 30' west of Morning Star Road, Block 1179, Lot 32, Tentative Lot 33, Borough of Staten Island.

4 Wenlock Street, south side, 48' west of Morning Star Road, Block 1179, Lot 32, Tentative Lot 32, Borough of Staten Island.

8 Wenlock Street, south side, 56' west of Morning Star Road, Block 1179, Lot 32, Tentative Lot 30, Borough of Staten Island.

10 Wenlock Street, south side, 82' west of Morning Star Road,

---

# MINUTES

---

Block 1179, Lot 32, Tentative Lot 20, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES -

In Favor: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to May 18, 2004, at 10:00 A.M., for continued hearing on the SOC Calendar.

---

**410-03-BZY thru 412-03-BZY**

APPLICANT - Ciro Asperti, R.A., for Alan Christofferson, owner.

SUBJECT - Application December 31, 2003 - Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R. §11-331.

PREMISES AFFECTED -

95 Lansing Street, southwest corner of South Beach Avenue, Block 3404, Lots 31 and 34, Borough of Staten Island.

97 Lansing Street, southwest corner of South Beach Avenue, Block 3404, Lot 36, Borough of Staten Island.

99 Lansing Street, southwest corner of South Beach Avenue, Block 3404, Lot 37, Borough of Staten Island.

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 May 11, 2004, at 10:00 A.M., for continued hearing on the SOC Calendar.

---

## COMPLIANCE CALENDAR

**283-90-BZ**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for OPM Holdings, LLC, owner.

SUBJECT - Application January 7, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1400 Clove Road, a/k/a Oswego Street, southwest corner of Clove Road and Oswego Street, Block 658, Lot 1, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES -

For Applicant: Adam W. Rothkrug and Ali Alsaede

For Opposition: Mary Ann McGowan.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 10:00 A.M., for continued hearing on the SOC Calendar.

---

**COMMUNITY BOARD #1SI**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 10:00 A.M., for continued hearing on the SOC Calendar.

---

**1-04-BZY thru 2-04-BZY**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLC, for Woodrow Estates North, LLC, owners.

SUBJECT - Application January 2, 2004 - Proposed extension of time to complete construction for a major development for a period of six months pursuant to Z.R. §11-331.

PREMISES AFFECTED -

28 Webster Avenue, west side, 34.4' north of Stanley Avenue, Block 111, Lot 15, Borough of Staten Island.

32 Webster Avenue, northwest corner of Stanley Avenue, Block 111, Lot 16, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES -

In Favor: Adam W. Rothkrug.

*Pasquale Pacifico, Executive Director.*

---

# MINUTES

---

---

# CORRECTIONS

---

## \*CORRECTION

This resolution adopted on April 13, 2004, under Calendar No. 354-03-BZ and printed in Volume 89, Bulletin Nos. 16-17, is hereby corrected to read as follows:

### 354-03-BZ

#### CEQR#04-BSA-081M

APPLICANT - Sheldon Lobel, P.C., for Edelman, Edward & UNED Associates, LLC, owner.

SUBJECT - Application November 18, 2003 - under Z.R. §72-21 to permit the proposed physical culture establishment, in the cellar of a multi-story mixed-use building which sits on property divided by an R8-B and a C6-6/R8-B district boundary, which is contrary to Z.R. §22-10 and §32-10.

PREMISES AFFECTED - 209/15 East 51<sup>st</sup> Street, between Second and Third Avenues, Block 1325, Lot 6, Borough of Manhattan.

#### COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Janice Calahane.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele ..... 1

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner dated September 10, 2003, acting on Department of Buildings Alt. I Application number 103548626, reads;

"Proposed Physical Culture Establishment is not permitted in R8B and C6-6 zoning district as per Section 22-10 and Section 32-10 of the Zoning Resolution"; and

WHEREAS, a public hearing was held on this application on February 3, 2004 after due notice by publication in The City Record, with a continued hearing on March 9, 2004, and then laid over to April 13, 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 for under Z.R. §72-21, to permit a proposed physical culture establishment ("PCE") use in the cellar of an existing mixed-use building, located partially within an R8B zoning district and partially within a C6-6 overlay, which is contrary to Z.R. §§32-10 and 22-10; and

WHEREAS, the subject building is located on the north side of East 51st Street, between Second and Third Avenues, and is situated within the Special Transit Land Use District and Special Midtown District; and

WHEREAS, the applicant represents that 40 feet of the subject building is located within the C6-6 commercial overlay along Third Avenue, while 50 feet of the subject building is located within the underlying R8-B zoning district; and

WHEREAS, a variance, rather than a special permit, is required because 1,211.5 square feet of the proposed PCE (27.92 % of the total PCE floor area) would be in the R8B zoning district in which a special permit may not be granted; and

WHEREAS, the proposed PCE would occupy a total of 4,338.8 square feet of area in the cellar; and

WHEREAS, the record indicates that the cellar area and the ground floor of the subject building have been used for commercial use since 1960; and

WHEREAS, through a supplemental submission dated March 29, 2004, the applicant reiterates that the subject cellar area has always been maintained as one commercial unit, and that the rear portion of the cellar area is only accessible through the front portion; thus, to gain access to the rear portion in some other way would require relocation of the boiler, storage room, laundry room, locker room and workshop, causing an unfair burden to the owner; and

WHEREAS, the Board finds that there are unique physical conditions inherent to the existing building, namely the division of the lot by a district zoning boundary, the history of commercial use in the cellar, and the limitations of the cellar in terms of use, which create an unnecessary hardship in complying strictly with the applicable use provisions of the Zoning Resolution; and

WHEREAS, the applicant has submitted a letter, dated March 29, 2004, from a commercial real estate broker involved with marketing of the cellar area, which states that the space was difficult to lease and that it is only suitable for use as a health club type facility due to its size, configuration, cellar location and lack of street visibility; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the cellar with a conforming use would not yield the owner a reasonable return on the cellar space; and

WHEREAS, the applicant represents that many of the buildings in the area are mixed-use with commercial use on the ground and cellar levels and residential occupancy above; and

WHEREAS, the ground floor commercial use acts a buffer between the proposed PCE and the residential uses in the building, and the portion of the cellar to be used as a PCE within the R8B zoning district would not be visible from adjacent properties or lots; and

WHEREAS, the hours of operation for the proposed PCE will be 10 AM to 10 PM Monday through Friday, 9 AM to 8 PM Saturday, and 9 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

---

# CORRECTIONS

---

WHEREAS, the unnecessary hardship associated with a conforming use of the zoning lot was not caused by the owner, nor by a predecessor in interest, but is inherent in the site; and

WHEREAS, the hardship results from the strict application of the Zoning Resolution to the subject zoning lot; 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 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 physical cultural establishment will contain facilities for the practice of massage by New York State licensed masseurs or masseuses; 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 Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-03 & 73-36; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, to permit a proposed physical culture establishment use, in the cellar of an existing mixed-use building, located partially within an R8B zoning district and partially within a C6-6 overlay, which is contrary to Z.R. §§32-10 and 22-10, 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 18, 2004"- (3) sheets; and on further condition;

THAT the term of this variance will be ten (10) years, starting on April 13, 2004 and expiring on April 13, 2014;

THAT a minimum 4 foot wide path of travel to all exits shall be maintained and kept free of any equipment or obstructions at all times;

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 10 AM to 10 PM Monday through Friday, 9 AM to 8 PM Saturday, and 9 AM to 7 PM Sunday;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT substantial construction shall be completed in

accordance with Z.R. §72-23; 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, April 13, 2004.

**\*\*The resolution has been corrected in the part of the 5<sup>th</sup> WHEREAS which read: "...First and Second Avenues..." now reads: "...Second and Third Avenues..." and also in the part of the 6<sup>th</sup> WHEREAS which read: "...Second Avenue..." now reads: "...Third Avenue...". Corrected in Bulletin No. 19, Vol. 89, dated May 6, 2004.**

---

*Pasquale Pacifico, Executive Director.*

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, Nos. 20-21

May 20, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**SATISH BABBAR, *Vice-Chair***

**PETER CALIENDO**

**JOEL A. MIELE, SR.**

**JAMES CHIN**

*Commissioners*

**Pasquale Pacifico, *Executive Director***

**Roy Starrin, *Deputy Director***

**John E. Reisinger, *Counsel***

---

<b>OFFICE -</b>	<b>40 Rector Street, 9th Floor, New York, N.Y. 10006</b>
<b>HEARINGS HELD -</b>	<b>40 Rector Street, 6th Floor, New York, N.Y. 10006</b>
<b>BSA WEBPAGE @</b>	<b><a href="http://www.nyc.gov/html/bsa/home.html">http://www.nyc.gov/html/bsa/home.html</a></b>

<b>TELEPHONE - (212) 788-8500</b>
<b>FAX - (212) 788-8769</b>

### CONTENTS

DOCKET .....

CALENDAR of

Morning .....

Afternoon .....

# CONTENTS

**MINUTES of Regular Meetings,  
Tuesday, May 11, 2004**

Morning Calendar .....

**Affecting Calendar Numbers:**

844-57-BZ	87-19 Rockaway Boulevard, a/k/a 97-18/58 88 <sup>th</sup> Street, Queens
1043-80-BZ	1680/88 Albany Avenue, a/k/a 4024 Marginal Street, Brooklyn
245-90-BZ	1054 43 <sup>rd</sup> Street, Brooklyn
16-99-BZ	1116 East 26 <sup>th</sup> Street, Brooklyn
200-00-BZ	107-24 37 <sup>th</sup> Avenue, a/k/a 37-16 108 <sup>th</sup> Street, Queens
147-02-BZ	201-06 Hillside Avenue, Queens
358-03-BZ	1651 52 <sup>nd</sup> Street, Brooklyn
1-04-BZY thru 2-04-BZY	28, 32 Webster Avenue, Staten Island
671-56-BZ	1249-1265 Sutter Avenue, Brooklyn
707-56-BZ, Vol. II	1500/10 Williamsbridge Road, Bronx
724-56-BZ	42-42 Francis Lewis Boulevard, Queens
519-57-BZ	2071 Victory Boulevard, Staten Island
40-80-BZ	35-37 West 23 <sup>rd</sup> Street, Manhattan
1038-80-BZ	31-07/09/11 Downing Street, Queens
62-83-BZ, Vol. II	696 Pacific Street, 529/539/549/559 Dean Street, Brooklyn
982-83-BZ	191-20 Northern Boulevard, Queens
4-00-BZ	243 West 30 <sup>th</sup> Street, Manhattan
295-01-BZ	1257-1263 38 <sup>th</sup> Street, Brooklyn
103-02-BZ	1516 East 24 <sup>th</sup> Street, Brooklyn
290-02-BZ thru 314-02-BZ	114-01/03/05/07/09/11/13/15/21/23/25/27/29/31/33/35/20/22/24/26/28/30/32/34/36 Taipei Court, Queens
45-03-A thru 64-03-A	69/67/65/63/61/59/55/53/51/49/45/43/41/39/37/35/31/29 Hall Avenue, Staten Island
393-03-A	2 Roxbury Avenue, Queens
395-03-A & 396-03-A	253-06 Rockaway Boulevard, Queens
27-04-A	755 12 <sup>th</sup> Avenue, Manhattan
44-04-A	1491 Richmond Road, Staten Island

---

# CONTENTS

---

Afternoon Calendar .....

**Affecting Calendar Numbers:**

266-03-BZ	1710/12 McDonald Avenue, Brooklyn
270-03-BZ	108-36/50 Queens Boulevard, Queens
271-03-BZ	976 Metropolitan Avenue, Brooklyn
362-03-BZ	428 West 45 <sup>th</sup> Street, Manhattan
371-03-BZ & 655/633	Fifth Avenue, Manhattan
372-03-BZ	
384-03-BZ	804 East 138 <sup>th</sup> Street, Bronx
327-02-BZ	82 Union Street, Brooklyn
361-02-BZ	214 25 <sup>th</sup> Street, Brooklyn
102-03-BZ	291 Kent Avenue, 35/37 South Second Street and 29/33 South Third Street, Brooklyn
194-03-BZ	739 East New York Avenue, Brooklyn
199-03-BZ thru	148/152/156 Classon Avenue, 77/81/85/89 Emerson Place, Brooklyn
205-03-BZ	
208-03-BZ	2555 Shell Road, Brooklyn
211-03-BZ	529-535 48 <sup>th</sup> Avenue, Queens
229-03-BZ	303 Crystal Avenue, Staten Island
231-03-BZ	63 and 65 Columbia Street, Brooklyn
240-03-BZ	83-10 and 83-16 188 <sup>th</sup> Street, Queens
261-03-BZ	1404/06 Stebbins Avenue, Bronx
267-03-BZ	2/6 Berry Street and 194/96 North 14 <sup>th</sup> Street, Brooklyn
314-03-BZ	18 West 18 <sup>th</sup> Street, a/k/a 25 West 17 <sup>th</sup> Street, Manhattan
343-03-BZ	90 Havemeyer Street, Brooklyn
390-03-BZ	95 Dobbin Street, Brooklyn

---

# DOCKETS

---

New Case Filed Up to May 11, 2004

---

**168-04-BZ** B.M. 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. Applic. #103723320. 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.

**COMMUNITY BOARD #1M**

---

**169-04-BZ** B.Q. 103-16 Roosevelt  
Avenue,  
(103-12/24 Roosevelt Avenue; 103-19/31 41<sup>st</sup> Avenue),  
mid-block on a through lot between Roosevelt Avenue, 41<sup>st</sup>  
Avenue, National Street and 104<sup>th</sup> Street, Block 1975, Lot  
9, Borough of Queens. Applic. #401858520. Proposed  
re-development of a mixed use building, which does not  
comply with the zoning requirements for commercial floor  
area, commercial uses above the second floor, off-street  
parking and loading berths, is contrary to Z.R. §54-31, §33-  
121, §33-431, §36-21 and §36-62.

**COMMUNITY BOARD #4Q**

---

**170-04-BZ** B.BK. 2409 Avenue "K",  
north side, 53.0' east of East 24<sup>th</sup> Street, Block 7606, Lot  
6, Borough of Brooklyn. Applic. #301773132. Proposed  
enlargement of an existing one family residence, which  
does not comply with the zoning requirements for floor area  
ratio and open space ratio, is contrary to Z.R. §23-141.

**COMMUNITY BOARD #14BK**

---

**171-04-A** B.Q. 42 Olive Walk,  
west side, 99.25' south of Oceanside Avenue, Block  
16350, Lot 400, Borough of Queens. Alt.1 #401833735.  
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.

---

**172-04-BZ** B.BK. 59 Kent Street,  
north side, 100' east of West Street, Block 2549, Lot 36,  
Borough of Brooklyn. Applic. #301431537. Proposed  
conversion a vacant warehouse building, into a residential  
building (22 dwelling units), Use Group 2, located in an M1-  
1 zoning district, is contrary to Z.R. §42-10.

**COMMUNITY BOARD #1BK**

---

**173-04-BZ** B.M. 5/9 West 37<sup>th</sup> Street,  
200' east of Fifth Avenue, Block 839, Lot 34, Borough of  
Manhattan. Applic. #103715838. The proposed utilization  
of a portion of the cellar level of said premises, as a  
physical culture establishment, located in an M1-6 zoning  
district, is contrary to Z.R. §42-10.

**COMMUNITY BOARD #5M**

---

**174-04-BZ** B.M. 124 West 24<sup>th</sup> Street,  
south side, between Sixth and Seventh Avenues, Block  
799, Lot 54, Borough of Manhattan. Applic. #103766596.  
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.

**COMMUNITY BOARD #4M**

---

**175-04-BZ** B.Q. 7-05 130<sup>th</sup> Street,  
east side, Block 3982, Lot 70, Borough of Queens. N.B.  
#401840941. 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.

**COMMUNITY BOARD #7Q**

---

**176-04-BZ** B.Q. 7-09 130<sup>th</sup> Street,  
east side, Block 3982, Lot 67, Borough of Queens. N.B.  
#401840923. 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.

**COMMUNITY BOARD #7Q**

---

**177-04-BZ** B.Q. 7-13 130<sup>th</sup>  
Street,  
east side, Block 3982, Lot 65, Borough of Queens. N.B.  
#401840932. 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.

**COMMUNITY BOARD #7Q**

---

---

# DOCKETS

---

**178-04-BZ** B.Q. 7-04 130<sup>th</sup>  
Street,  
west side, Block 3980, Lot 66, Borough of Queens. N.B. #401839926. 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.

**COMMUNITY BOARD #7Q**

---

**179-04-BZ** B.Q. 7-06 130<sup>th</sup> Street,  
west side, Block 3980, Lot 68, Borough of Queens. N.B. #401839917. 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.

**COMMUNITY BOARD #7Q**

---

**180-04-BZ** B.Q. 7-12 130<sup>th</sup>  
Street,  
west side, Block 3980, Lot 72, Borough of Queens. N.B. #401839908. 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.

**COMMUNITY BOARD #7Q**

---

**181-04-BZ** B.Q. 7-14 130<sup>th</sup>  
Street,  
west side, Block 3980, Lot 74, Borough of Queens. N.B. #401839891. 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.

**COMMUNITY BOARD #7Q**

---

**182-04-BZ** B.M. 351/53 West 14<sup>th</sup> Street,  
north side, between Eighth and Ninth Avenues, Block 738, Lot 8, Borough of Manhattan. Applic. #103733295. Proposed eating and drinking establishment (comedy theater), Use Group 12, on a zoning lot, split between a C6-2A and R8B zoning district, of which a portion is located in the R8B district, is contrary to Z.R. §22-10.

**COMMUNITY BOARD #4M**

---

**183-84-BZ** B.M. 206 West 23<sup>rd</sup>  
Street,  
south side, between Seventh and Eighth Avenues, Block 772, Lot 52, Borough of Manhattan. Applic. #103536023. Proposed physical culture establishment on the second floor of a five story commercial building, located in a C6-3X zoning district, requires a special permit as per Z.R. §32-10.

**COMMUNITY BOARD #4M**

---

**184-04-BZ** B.BX. 1824 Bronxdale Avenue,  
east side, 251' north of Morris Park Avenue, Block 4123, Lot 42, Borough of The Bronx. Alt. #200749538. Proposed addition of a second floor, to be used as accessory offices, in conjunction with the community center on the first floor, located in an R4 zoning district, which does not comply with the zoning requirements for lot coverage, front, side and rear yards, is contrary to Z.R. §54-31, §24-11, §24-34 and §24-37.

**COMMUNITY BOARD #11BX**

---

**185-04-BZ** B.BK. 2275 East Second  
Street,  
between Avenue "W" and Gravesend Neck Road, Block 7154, Lot 64, Borough of Brooklyn. Alt. #301664982. 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.

**COMMUNITY BOARD #15BK**

---

**186-04-A** B.Q. 252-18 Rockaway  
Boulevard, corner of Dock Street, Block 13921, Lot 73, Borough of Queens. Applic. #401843500. Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

**187-04-BZ** B.BK. 182 Malcolm X Boulevard,  
north west corner of Madison Street, Block 1642, Lot 48, Borough of Brooklyn. N.B. #301663313. 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.

**COMMUNITY BOARD #3BK**

---

# DOCKETS

---

---

**188-04-BZ**            B.BK.            1378 East 28<sup>th</sup>  
Street,

west side, 130' north of Avenue "N", Block 7663, Lot 82, Borough of Brooklyn. Applic. #301738813. The legalization of an 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, open space ratio, side and rear yards, is contrary to Z.R. §23-141(a), §23-47 and §23-48.

**COMMUNITY BOARD #14BK**

---

**189-04-BZ**            B.BX.            3445 White Plains Road,  
445.2' south of Magenta Street, Block 4628, Lot 47, Borough of The Bronx. Applic. #200774475, Borough of The Bronx. The legalization of an existing two story building, used for a school and day care center, Use Group 3, with an unenclosed use (open playground), located in a C8-1 zoning district, requires a special permit from the Board as per §32-30, §32-31, §32-12 and §32-412.

**COMMUNITY BOARD #12BX**

---

**190-04-BZ**            B.BK.            2184 Mill Avenue,  
a/k/a 6001 Strickland Avenue, southwest corner, Block 8470, Lot 1090, Part of Lot 1091, Borough of Brooklyn. Alt. #301660931. 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.

**COMMUNITY BOARD #18BK**

---

**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 8, 2004, 10:00 A.M.**

**COMMUNITY BOARD #6Q**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, June 8, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

**APPEALS CALENDAR**

---

**SPECIAL ORDER CALENDAR**

**125-92-BZ**

APPLICANT - Rampulla Associates Architects, for Nicholas Criscitelli, owner.

SUBJECT - Application April 7, 2004 - reopening for an amendment to the resolution - to eliminate the retail sales portion of the building and modify the number of persons to occupy the eating and drinking establishment.

PREMISES AFFECTED - 3333 Hylan Boulevard, north side Hylan Boulevard between Spratt Avenue and Hopkins Avenue, Block 4987, Lot 1, Borough of Staten Island.

**COMMUNITY BOARD #3SI**

---

**120-93-BZ**

APPLICANT - Sheldon Lobel, P.C., for Harry McNulty, owner.

SUBJECT - Application December 17, 2003 - reopening for an extension of term of variance which expired May 10, 2004 and for an amendment to allow the elimination of gasoline sales, permitting the sale of used automobiles and increase on site parking to 9 spaces

PREMISES AFFECTED - 222-19 Linden Boulevard, northwest corner of Linden Boulevard and 223rd Street, Block 11323, Lot 1, Borough of Queens.

**COMMUNITY BOARD #13Q**

---

**95-97-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, for Lavin Brothers Austin, LLC, owner; TSI Forest Hills, Inc., lessee.

SUBJECT - Application January 20, 2004 - reopening for an amendment to the resolution to permit the legalization of an expansion in floor area of a previously granted special permit to allow the operation of a physical culture establishment on the first floor.

PREMISES AFFECTED - 69-47 Austin Street, northwest corner of Austin Street and 70th Avenue, Block 3237, Lot 30, Borough of Queens.

65 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2012, Borough of Brooklyn. Applic.#301812493.

67 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2013, Borough of Brooklyn. Applic.#301812509.

73 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2014, Borough of Brooklyn. Applic.#301812518.

**73-04-A thru 124-04-A**

APPLICANT - Fischbein Badillo Wagner Harding for Strickland Realty, LLC, owner.

SUBJECT - Application March 9, 2004 - Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED -

11 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2001, Borough of Brooklyn. Applic.#301815542.

23 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2002, Borough of Brooklyn. Applic.#301815490.

25 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2003, Borough of Brooklyn. Applic.#301812402.

31 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2004, Borough of Brooklyn. Applic.#301812411.

33 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2005, Borough of Brooklyn. Applic.#301812420.

39 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2006, Borough of Brooklyn. Applic.#301812439.

41 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2007, Borough of Brooklyn. Applic.#301812448.

47 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2008, Borough of Brooklyn. Applic.#301812457.

49 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2009, Borough of Brooklyn. Applic.#301812466.

57 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2010, Borough of Brooklyn. Applic.#301812475.

59 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2011, Borough of Brooklyn. Applic.#301812484.

5 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2015, Borough of Brooklyn. Applic.#301812527.

83 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2016, Borough of Brooklyn. Applic.#301815481.

5 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2017, Borough of Brooklyn. Applic.#301809657.

15 Clear Water Road, west side of Strickland Avenue, between



---

# CALENDAR

---

Tuesday afternoon, June 8, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>h</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## ZONING CALENDAR

### 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**

---

### 14-04-BZ

APPLICANT - Alfonso Duarte, for Angelo Mordini, owner; Punto PREMISES AFFECTED - 1418 East 29th Street, between Avenue "N" and Kings Highway, Block 7682, Lot 57, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

---

*Pasquale Pacifico, Executive Director*

**JUNE 15, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, June 15, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## APPEALS CALENDAR

### 359-03-A

APPLICANT - The Agusta Group, for Joseph Atari, owner.

SUBJECT - Application November 20, 2003 - Proposed two story 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 - 220-43 135th Avenue, north side, 670' from 219th Street, Block 13101, Lot 15, Borough of Queens.

**COMMUNITY BOARD #13Q**

---

### 379-03-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Kathy Doherty, lessee.

SUBJECT - Application December 4, 2003 - Proposed reconstruction and enlargement of an existing one family dwelling, situated within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -127 Arcadia Walk, east side, 501.12' south of Rockaway Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens

Zero, lessee.

SUBJECT - Application January 13, 2004 - under Z.R. §73-244 to permit the proposed conversion of an existing restaurant (Use Group 6), to an eating and drinking establishment with entertainment(Use Group 12A), located in a C2-3 within an R6 zoning district, is contrary to Z.R. §32-31.

PREMISES AFFECTED - 76-07 Roosevelt Avenue,northeast corner of 76th Street, Block 1287, Lot 43, Borough of Queens.

**COMMUNITY BOARD #3Q**

---

### 39-04-BZ

APPLICANT - Eric Palatnik, P.C., for Mordechai Bistrizky, owner.

SUBJECT - Application February 13, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space and rear yard, is contrary to Z.R. §23-141, §23-461 and §23-47.

**COMMUNITY BOARD #14Q**

---

### 65-04-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative, Inc., owner; Gregory & Tara Fillingner, lessees.

SUBJECT - Application March 2, 2004 - 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 - 8 Beach 221st Street, south side, 127.34' east of Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

---

### 66-04-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative, Inc., owner; John & Patricia Brennan, lessee.

SUBJECT - Application March 2, 2004 - Proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a mapped street, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' policy.

PREMISES AFFECTED - 976 Bay side, southeast corner of Bayside Connection, Block 16350, Lot 300, Borough of Queens.

**COMMUNITY BOARD #14Q**

---

### 129-04-A

APPLICANT - Zygmunt Staszewski, for Breezy Point Co-op, Inc, owner; Robert Bainbridge, lessee.

SUBJECT - Application March 11, 2004 - Proposed alteration of an existing one family dwelling, and the addition of a second floor, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED -30 Marion Walk, west side, 44.56'

---

# CALENDAR

---

north of West End Avenue, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

\_\_\_\_\_

**JUNE 16, 2004, 2:00 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, June 16, 2004, at 2:00 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

**SPECIAL HEARING**

**140-04-A**

APPLICANT - Stuart A. Klein, Esq., for S.H.A.W.C. Housing  
**REGULAR MEETING**  
**TUESDAY MORNING, MAY 11, 2004**  
**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, March 9, 2004, were approved as printed in the Bulletin of March 18, 2004, Volume 89, No. 12.

\_\_\_\_\_

**SPECIAL ORDER CALENDAR**

**844-57-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for Ozone Auto Service, Inc., owner.

SUBJECT - Application January 13, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired October 9, 2003.

PREMISES AFFECTED - 87-19 Rockaway Boulevard, a/k/a 97-18/58 88<sup>th</sup> Street, northwest corner of Rockaway Boulevard and 88<sup>th</sup> Street, Block 9060, Lot 25, Borough of Queens.

**COMMUNITY BOARD #9Q**

APPEARANCES - None.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application re-opened and term of the variance extended.

**THE VOTE TO GRANT-**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Chin and Commissioner Miele.....5  
Negative:.....0

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on April 20, 2004, after due notice by publication in *The City Record*, and then to May 11, 2004 for decision; and

WHEREAS, the applicant has requested a waiver of the Rules of Practice and Procedure, a re-opening and an extension of the term of the variance, which expired on

Development Fund Corporation, owner.

SUBJECT - Application March 25, 2004 - Appeal of Department of Buildings refusal to revoke approval and underlying permit for the subject premises which is occupied contrary to the existing Certificate of Occupancy and the Zoning Resolution.

BUSINESS ADDRESS of PREMISES OWNER- S.H.A.W.C HOUSING DEVELOPMENT FUND CORP. -39 BOWERY STREET, Borough of Manhattan.

\_\_\_\_\_

*Pasquale Pacifico, Executive Director*

October 9, 2003; and

WHEREAS, on April 15, 1958, the Board granted a variance to permit, in a business use district, the erection and maintenance of a gasoline service station with accessory uses, the term of which was subsequently extended on October 9, 1973, March 20, 1984 and, most recently, February 7, 1995; and

WHEREAS, the resolution was also amended on March 20, 1984 to permit the use of an oxy-acetylene torch on the premises, for incidental work only, on auto exhaust systems; said torch when not used is to be stored in a closed tank room with the shutter closed; and

WHEREAS, the applicant represents that the subject site has been maintained in accordance with all Board conditions, and that there have been no new non-compliances since the last Board action.

*Resolved*, that the Board of Standards and Appeals, *reopens and extends* the term of the variance, said resolution having been adopted April 15, 1958, 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 the October 9, 2003 to expire on October 9, 2013, *on condition* that the premises shall be maintained in substantial compliance with the proposed drawings submitted with the application marked "Received January 9, 2004"- (1) sheet; and that other than as herein amended the resolution above cited shall be complied with in all respects; *and on further condition*;

THAT the conditions from all prior BSA resolutions for this site shall remain in effect;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or

---

# MINUTES

---

configuration(s) not related to the relief granted.”  
(DOB Application # 401762008)

Adopted by the Board of Standards and Appeals, May 11, 2004.

**1043-80-BZ**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLC, for RANS 1680 Building Corp., owner.

SUBJECT - Application December 17, 2001 - request for a **ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, and term of variance extended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Chin and Commissioner Miele.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on June 18, 2002, after due notice by publication in The City Record, with continued hearings on August 6, 2002, October 8, 2002, November 26, 2002, December 10, 2002, January 7, 2003, January 14, 2003, January 28 2003, March 18, 2003, May 20, 2003, July 22, 2003, September 9, 2003, October 21, 2003, January 13, 2004, February 10, 2004, March 23, 2004 and then to April 20, 2004 for decision; the decision was then deferred to May 11, 2004 and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the special permit which expired on May 3, 2000; and

WHEREAS, on April 14, 1981, the Board permitted a change in occupancy from storage of motor vehicles and auto repairs (including body and fender repairs) to warehouse facility under the subject calendar number; the original variance was granted under Cal. No. 396-38-BZ; and

WHEREAS, the premises is now occupied by a paint storage and mixing facility, which is a high hazard occupancy; and

WHEREAS, the applicant has agreed that the facility will comply with all applicable high hazard occupancy requirements as determined by the Department of Buildings; and

WHEREAS, the applicant has agreed that approval of compliance with such requirements will be obtained from DOB within 90 days from the date of this grant, and that proof of such approval will be forwarded to the Board; and

WHEREAS, the applicant has further agreed to obtain a certificate of occupancy within one year from the date of this grant.

Resolved, that the Board of Standards and Appeals, pursuant to Zoning Resolution §§72-01 and 72-22, waives the Rules of Practice and Procedure, reopens and amends the resolution, said resolution having been adopted on April 14, 1981 as amended through January 25, 1994, so that as

waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 3, 2000.

PREMISES AFFECTED - 1680/88 Albany Avenue a/k/a 4024 Marginal Street, southwest corner of Albany Avenue and Marginal Street, Block 7744, Lots 47, 49, 50, Borough of Brooklyn.

**COMMUNITY BOARD #18BK**

APPEARANCES -

For Applicant: Adam Rothkrug.

amended this portion of the resolution shall read: ‘to permit the extension of the term of the variance for an additional (10) years from May 3, 2000 to expire on May 3, 2010, on condition that all work shall substantially conform to drawings as filed with this application marked ‘Received April 13, 2004’- (2) sheets and ‘April 28, 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 all applicable high hazard occupancy regulations shall be complied with;

THAT the above conditions and all applicable conditions from prior resolutions shall appear on the certificate of occupancy;

THAT all exiting requirements will be as approved by the Department of Buildings;

THAT compliance with all applicable high hazard occupancy regulations will be reviewed and approved by the Department of Buildings;

THAT the applicant will obtain approval of compliance with all applicable high hazard occupancy regulations from the Department of Buildings within 90 days from the date of this grant;

THAT failure to provide the Board with proof of DOB approval of compliance with the high hazard occupancy requirements within the allotted time frame as set forth above may result in the revocation of this grant;

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 #301224379)

Adopted by the Board of Standards and Appeals, May 11, 2004.

**245-90-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, for Margarita Herskovich and Lyubov Herskovich, owners.

# MINUTES

SUBJECT - Application June 12, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 29, 2001.

PREMISES AFFECTED - 1054 43<sup>rd</sup> Street, south side of 43<sup>rd</sup> Street, Block 5602, Lot 51, Borough of Brooklyn.

## COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Fredrick A. Becker.

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on August 12, 2003, after due notice by publication in *The City Record*, with continued hearings on September 30, 2003, November 5, 2003, December 9, 2003, January 27, 2004, March 2, 2004, April 13, 2004, and then laid over to May 11, 2004 for decision; and

WHEREAS, the applicant has requested a waiver of the Rules of Practice and Procedure, a re-opening and an extension of the term of the variance which expired on May 29, 2001; and

WHEREAS, on May 29, 1991, the Board granted a variance to permit, in a C2-3 (R6) district, the legalization and enlargement of an auto repair shop, Use Group 16, for a term of ten (10) years; and

WHEREAS, the applicant represents that the untimely filing of this application was due to unforeseen health and financial problems experienced by the owners of the premises; and

WHEREAS, the applicant represents that since the time of the original grant, the subject site has been maintained in accordance with all Board conditions, but there have been certain interior configuration and exterior cosmetic changes such as the removal of interior partitions, the closing of two exterior windows, the addition of a door on the first floor and the division of the steel roll up door.

*Resolved*, that the Board of Standards and Appeals, *reopens and extends the* term of the variance, said resolution having been adopted May 29, 1991, 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 the May 29, 2001 to expire on May 29, 2011, *on condition* that the premises shall be maintained in substantial compliance with the proposed drawings submitted with the application marked "Received June 12, 2003" -(4) sheets and "April 28, 2004"-(1) sheet; and that other than as herein amended the resolution above cited shall be complied with in all respects; *and on further condition*;

THAT the conditions from all prior BSA resolutions for this site shall remain in effect;

THAT the hours of operation shall be limited to Monday through Friday 8:00 AM to 6:00 PM and Sunday, 8:00 AM to 3:00 PM;

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 Department of Buildings will review and approve egress from the first floor of the premises;

THAT this approval is limited to the relief granted by the

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application re-opened and term of the variance extended.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Chin and Commissioner Miele.....5

Negative:.....0

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 Appl. # 301554324)

Adopted by the Board of Standards and Appeals, May 11, 2004.

## 16-99-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Milton Elbogen.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 1116 East 26<sup>th</sup> Street, between Avenue K and Avenue L, Block 7625, Lot 52, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik

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, May 11, 2004.

## 200-00-BZ

APPLICANT - The Agusta Group, for Blans Development Corp., owner.

SUBJECT - Application August 28, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 107-24 37<sup>th</sup> Avenue, a/k/a 37-16 108<sup>th</sup> Street, southwest corner of 108<sup>th</sup> Street and 37<sup>th</sup> Avenue, Block 1773, Lot 10, Borough of Queens.

## COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Philip Agusta.

**ACTION OF THE BOARD** - Application re-opened and resolution amended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Chin and Commissioner Miele.....5

# MINUTES

Negative:.....0  
THE RESOLUTION -

WHEREAS, a public hearing was held on this application on December 23, 2003, after due notice by publication in The City Record, with continued hearings on

WHEREAS, on July 17, 2001, the BSA granted a variance under Z.R. §72-21 to permit in an R6 zoning district, the legalization of an existing physical culture establishment on the first floor and a portion of the second floor, in an existing two-story manufacturing and office building; and

WHEREAS, on November 25, 1997, the resolution was amended to permit modernization of the site; and

WHEREAS, the subject application seeks to legalize the relocation of the PCE from the first floor and a portion of the second floor to the entire second floor; and

WHEREAS, Community Board #3, Queens recommends conditional approval of this application; and

WHEREAS, by letter dated April 6, 2004, the applicant has agreed to comply with all of the Community Board's recommendations and has subsequently revised their plans to reflect such conditions.

*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 legalization of the relocation of the PCE from the first floor and a portion of the second floor to the entire second floor; on condition that all work shall substantially conform to drawings as filed with this application, marked 'Received April 6, 2004' - (5) sheets; and on further condition;

THAT the hours of operation shall be limited to Monday through Friday 6:00 AM to 10:00 PM and Saturday and Sunday, 8:00 AM to 10:00 PM;

THAT all landscaping and lighting shall be maintained in accordance with BSA approved plans;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance 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 #401008636)

Adopted by the Board of Standards and Appeals, May 11, 2004.

32 Webster Avenue, northwest corner of Stanley Avenue,  
Block 111, Lot 16, Borough of Staten Island.

## COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Adam Rothkrug.

February 10, 2004, March 23, 2004, April 20, 2004 and then laid over to May 11, 2004 for decision; and

WHEREAS, the applicant has requested a re-opening and an amendment to the resolution; and

## 147-02-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Joseph Pizzonia

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 201-06 Hillside Avenue, corner of 201<sup>st</sup> Street and Hillside Avenue, Block 10495, Lot 52, Borough of Queens.

## COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Sandy Anagnostou.

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, May 11, 2004.

## 358-03-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Rita Citronenbaum

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 1651 52<sup>nd</sup> Street, northside 334'-4 west of 17<sup>th</sup> Avenue, between 16<sup>th</sup> and 17<sup>th</sup> Avenues, Block 5466, Lot 69, Borough of Brooklyn.

## COMMUNITY BOARD #12BK

APPEARANCES - None.

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, May 11, 2004.

## 1-04-BZY thru 2-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLC, for Woodrow Estates North, LLC, owners.

SUBJECT - Application January 2, 2004 - Proposed extension of time to complete construction for a major development for a period of six months pursuant to Z.R. §11-331.

PREMISES AFFECTED -

28 Webster Avenue, west side, 34.4' north of Stanley Avenue, Block 111, Lot 15, Borough of Staten Island.

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo Commissioner Chin and

---

# MINUTES

---

Commissioner Miele.....5  
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 WHEREAS, a public hearing was held on this application on April 28, 2004 after due notice by publication in *The City Record*, and then to decision on May 11, 2004; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Commissioner Joel Miele and Commissioner James Chin; and

WHEREAS, Z.R. §11-331 authorizes the Board to grant a six month extension of time to complete foundations upon a finding that “on the effective date the building permit lapsed, excavation had been completed and substantial progress made on foundations”; and

WHEREAS, the subject premises is proposed to be developed as a single zoning lot with 2 two-story and basement, three-family dwellings, each located on a separate tax lot; and

WHEREAS, therefore, the proposed development is defined pursuant to Z.R. §11-31 as a major development, in that it consists of construction of two or more buildings on a single zoning lot which will be non-complying under the provisions of any applicable amendment to the zoning resolution; and

WHEREAS, the record shows that on October 21, 2003 a site preparation permit to allow for the clearing of the site for construction of a new building was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the record shows that on November 14, 2003 a full construction permit (DOB Permit No. 500650137) for the new buildings was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the record shows that the building permit was issued to Woodrow Estates North, LLC, which has a possessory interest in the zoning lot; and

WHEREAS, the applicant represents that construction *Therefore, it is resolved* that this application is granted to renew New Building permit No. 500650137-01-NB pursuant to Z.R. §11-331, and to extend the time to complete the required foundations for one term of six months from the date of this resolution, to expire on November 11, 2004; *on condition* that the Department of Buildings must ensure compliance 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 11, 2004.

commenced immediately after issuance of the full permits; excavation of, and pouring of the concrete for, the footings was complete on December 2nd, and the forms for the cellar walls were completed, and a portion of the concrete cellar walls were poured, as of the morning of December 3<sup>rd</sup>; and

WHEREAS, the applicant states that, for 28 Webster Street, \$10,000 of the budgeted \$13,000 cost of the foundations was expended prior to the effective date of the zoning change; and

WHEREAS, the applicant represents that the City Council rezoned the subject premises on December 3, 2003, from R4 to R3A(HS), and that the vote making such rezoning effective occurred in the afternoon, well after the work performed at the site in the morning; and

WHEREAS, the rezoning of the subject zoning district effectively caused the applicant’s building permit to lapse; all subsequent construction must comply with the new underlying zoning regulations; and

WHEREAS, on December 5, 2003, the Department of Buildings issued a stop-work order to the subject premises, halting construction thereon; and

WHEREAS, in support of the contention that excavation was complete and substantial progress had been made on foundations, the applicant has submitted various pieces of evidence, including: bills and invoices showing the dollar amount of expenditures on the excavation and foundations, photos of the completed work, and a timeline of completed work from the contractors; and

WHEREAS, the Board finds the submitted evidence sufficient and credible; and

WHEREAS, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, the Board finds that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, consequently, the Board finds that the applicant has adequately satisfied all the requirements of Z.R. §11-331.

## 671-56-BZ

APPLICANT - Walter T. Gorman, P.E., for Benjamin Siegel Properties, LLC, owner; Euclid Enterprises, Inc., lessee.

SUBJECT - Application December 5, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired September 14, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 1249-1265 Sutter Avenue, northside blockfront from Euclid Avenue to Doscher Street, Block 4249, Lots 55 and 59, Borough of Brooklyn.

**COMMUNITY BOARD #5BK**

---

# MINUTES

---

APPEARANCES -

For Applicant: John Ronan.

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 May 25, 2004, at 10 A.M., for decision, hearing closed.

---

**707-56-BZ, Vol. II**

APPLICANT - Walter T. Gorman, P.E., for Jewell Mallimson/Leonard Mallimson, owners; Amoco Oil Company, lessee.

SUBJECT - Application January 13, 2004 - reopening for an extension of term of variance which expired April 21, 2004.

PREMISES AFFECTED - 1500/10 Williamsbridge Road, northeast corner of Eastchester Road, Block 4082, Lot 5, Borough of The Bronx.

**COMMUNITY BOARD #11BX**

APPEARANCES -

For Applicant: John Ronan.

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 June 8, 2004, at 10 A.M., for decision, hearing closed.

---

**724-56-BZ**

APPLICANT - Vassalotti Associates Architects, LLP, for Anthony Nicovic, owner.

SUBJECT - Application December 18, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired November 19, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 42-42 Francis Lewis Boulevard, south of 42<sup>nd</sup> Road, Block 5373, Lot 26, Borough of Queens.

**1038-80-BZ**

APPLICANT - Davidoff & Malito, LLP, for Feinrose Downing, LLC, owner; Expressway Arcade Corp., lessee.

SUBJECT - Application January 29, 2004 - reopening for an extension of term of variance which expired January 6, 2004.

PREMISES AFFECTED - 31-07/09/11 Downing Street, Block 4327-4367, Lot 1, Borough of Queens.

**COMMUNITY BOARD #7Q**

APPEARANCES -

For Applicant: Juan Reyes.

THE VOTE TO CLOSE HEARING -

**COMMUNITY BOARD #11Q**

APPEARANCES -

For Applicant: Hiram A. Rothkrug.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 10 A.M., for continued hearing.

---

**519-57-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for BP Amoco Corporation, owner.

SUBJECT - Application November 24, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired June 19, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 2071 Victory Boulevard, northwest corner of Bradley Avenue, Block 462, Lot 35, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 10 A.M., for continued hearing.

---

**40-80-BZ**

APPLICANT - Sheldon Lobel, P.C., for 35 West 23rd Street Corp., owner; Patrick Montgomery, lessee.

SUBJECT - Application February 9, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 35-37 West 23<sup>rd</sup> Street, between Fifth Avenue and Avenue of the Americas, Block 825, Lot 7501, Borough of Manhattan.

**COMMUNITY BOARD #5M**

APPEARANCES -

For Applicant: Irving Minkin.

For Administration: Anthony Scaduto, Fire Department.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 10 A.M., for continued hearing.

---

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 10 A.M., for decision, hearing closed.

---

**62-83-BZ, Vol. II**

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Shaya B. Pacific, LLC.

---

# MINUTES

---

SUBJECT - Reopening for possible rescindment.  
PREMISES AFFECTED - 696 Pacific Street, 529/39 Dean Street and 549/59 Dean Street, Block 1128, Lots 16, 18, 37, 65, 68, 70, Borough of Brooklyn.

**COMMUNITY BOARD #8BK**

APPEARANCES -  
For Applicant: Emily Simons.  
For Opposition: Paul Sheridan.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 10 A.M., for continued hearing.

---

**982-83-BZ**

APPLICANT - H. Irving Sigman, for Barone Properties Inc., owner.  
SUBJECT - Application December 5, 2003 - reopening for an extension of time to complete construction and obtain a certificate of occupancy and for an amendment to the resolution.

PREMISES AFFECTED - 191-20 Northern Boulevard, southwest corner of 192<sup>nd</sup> Street, Block 5513, Lot 27, Borough of Queens.

**COMMUNITY BOARD #11Q**

APPEARANCES - None.  
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 May 25, 2004, at 10 A.M., for decision, hearing closed.

---

**4-00-BZ**

APPLICANT - Noel Im, for 243 West 30th Realty, LLC, c/o New York Equity, LLC, owner; Anie Yang, Yhung Kang & Cong Yan d/b/a West Garden, Inc., lessees.

SUBJECT - Application October 21, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 243 West 30<sup>th</sup> Street, north side of West

**COMMUNITY BOARD #14BK**

APPEARANCES -  
For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 10 A.M., for continued hearing.

---

**290-02-BZ thru 314-02-BZ**

APPLICANT - New York City Board of Standards and Appeals.  
OWNER OF PREMISES: Edgewater Development, Inc.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED -

114-01 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 125, Borough of Queens.

114-03 Taipei Court, west side, 576' west of 115<sup>th</sup>

30<sup>th</sup> Street, 325' east of 8<sup>th</sup> Avenue, Block 780, Lot 15, Borough of Manhattan.

**COMMUNITY BOARD #5M**

APPEARANCES -  
For Applicant: Mitchell Ross.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 10 A.M., for continued hearing.

---

**295-01-BZ**

APPLICANT - Fischbein Badillo Wagner Harding, for Yeled V'Yalda Early Childhood Center, owner.

SUBJECT - Application January 22, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1257-1263 38<sup>th</sup> Street, between 12<sup>th</sup> Avenue and 13<sup>th</sup> Avenue, Block 5295, Lots 47, 48, 49, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

APPEARANCES -  
For Applicant: Peter Geis.  
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 June 8, 2004, at 10 A.M., for decision, hearing closed.

---

**103-02-BZ**

APPLICANT - Sheldon Lobel, P.C., for Bnei Aharon, Inc., owner.  
SUBJECT - Application December 2, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1516 East 24<sup>th</sup> Street, East 24<sup>th</sup> Street, 105' south of Avenue O and Kings Highway, Block 6770, Lot 12, Borough of Brooklyn.

Street, Block 4019, Lot 126, Borough of Queens.

114-05 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 127, Borough of Queens.

114-07 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 128, Borough of Queens.

114-09 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 129, Borough of Queens.

114-11 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 130, Borough of Queens.

114-13 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 131, Borough of Queens.

114-15 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 132, Borough of Queens.

114-21 Taipei Court, north side, 501' west of 115<sup>th</sup> Street, Block 4019, Lot 133, Borough of Queens.

---

# MINUTES

---

114-23 Taipei Court, north side, 491' west of 115<sup>th</sup> Street, Block 4019, Lot 134, Borough of Queens.  
114-25 Taipei Court, north side, 471' west of 115<sup>th</sup> Street, Block 4019, Lot 135, Borough of Queens.  
114-27 Taipei Court, north side, 451' west of 115<sup>th</sup> Street, Block 4019, Lot 136, Borough of Queens.  
114-29 Taipei Court, north side, 421' west of 115<sup>th</sup> Street, Block 4019, Lot 137, Borough of Queens.  
114-31 Taipei Court, north side, 411' west of 115<sup>th</sup> Street, Block 4019, Lot 138, Borough of Queens.  
114-33 Taipei Court, northwest corner of 115<sup>th</sup> Street, Block 4019, Lot 139, Borough of Queens.  
114-35 Taipei Court, north side, 371' west of 115<sup>th</sup> Street, Block 4019, Lot 141, Borough of Queens.  
114-20 Taipei Court, south side, 501' west of 115<sup>th</sup> Street, Block 4019, Lot 124, Borough of Queens.  
114-22 Taipei Court, south side, 491' west of 115<sup>th</sup> Street, Block 4019, Lot 123, Borough of Queens.  
114-24 Taipei Court, south side, 471' west of 115<sup>th</sup> Street, Block 4019, Lot 122, Borough of Queens.  
114-26 Taipei Court, south side, 451' west of 115<sup>th</sup> Street, Block 4019, Lot 121, Borough of Queens.  
114-28 Taipei Court, south side, 431' west of 115<sup>th</sup> Street, Block 4019, Lot 119, Borough of Queens.  
114-30 Taipei Court, south side, 411' west of 115<sup>th</sup> Street, Block 4019, Lot 117, Borough of Queens.  
114-32 Taipei Court, south side, 391' west of 115<sup>th</sup> Street, Block 4019, Lot 116, Borough of Queens.  
114-34 Taipei Court, south side, 371' west of 115<sup>th</sup> Street, Block 4019, Lot 115, Borough of Queens.  
114-36 Taipei Court, south side, 391' west of 115<sup>th</sup> Street, Block 2091, Lot 72, Borough of Staten Island.  
47 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 71, Borough of Staten Island.  
45 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 70, Borough of Staten Island.  
41 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 69, Borough of Staten Island.  
39 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 68, Borough of Staten Island.  
35 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 67, Borough of Staten Island.  
33 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 66, Borough of Staten Island.  
29 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 65, Borough of Staten Island.  
27 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 64, Borough of Staten Island.  
23 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 63, Borough of Staten Island.  
21 Hall Avenue, north side, west of Willowbrook Road,

Street, Block 4019, Lot 114, Borough of Queens.

## COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 10 A.M., for continued hearing.

## 45-03-A thru 64-03-A

APPLICANT - Robert E. Englert, A.I.A., for Sleepy Hollow Development Corp., owner.

SUBJECT - Application February 10, 2003 - Proposed two family attached frame building, not fronting on a legally mapped street, and located within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED -

71 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 80, Borough of Staten Island.

69 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 78, Borough of Staten Island.

65 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 77, Borough of Staten Island.

63 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 76, Borough of Staten Island.

59 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 75, Borough of Staten Island.

57 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 74, Borough of Staten Island.

53 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 73, Borough of Staten Island.

Block 2091, Lot 62, Borough of Staten Island.

17 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 61, Borough of Staten Island.

15 Hall Avenue, north side, west of Willowbrook Road, Block 2091, Lot 60, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES - None.

**ACTION OF THE BOARD**- Appeals granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo Commissioner Chin and Commissioner Miele.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Department of Buildings Staten Island Borough Commissioner dated December 11, 2003 and December 16, 2003, acting on N.B. Application Nos. 500405019, and 500405028, 037, 046, 055, 064, 073, 082, 091, 108, 117, 126, 135, 144, 153, 162, 171, 180, 199, 206, reads in pertinent part:

“1. The streets given access to [the] proposed buildings are not duly placed on the official

---

# MINUTES

---

map of the City of New York therefore:

- a. No Certificate of Occupancy can be issued pursuant to Article 3, Section 36 of the General City Law.
  - b. Proposed construction does not have at least 8% of the total perimeter of buildings fronting directly upon a legally mapped street or frontage space contrary to Section 27-291 New York City Building Code.
2. Proposed development includes site appurtenances located in the bed of streets duly placed on the official map of the City of New York therefore:
- a. No permit can be issued pursuant to Article 3, Section 35 General City Law.”; and

WHEREAS, the proposed development contemplates the construction of twenty (20) three story one-family semi-detached dwellings in the bed of a mapped street, Hall Avenue between Willowbrook Road and Hawthorne Avenue; and

WHEREAS, by letter dated February 9, 2004, the Fire Department has reviewed the proposed project and has no objections provided that a 25 foot wide paved road will be maintained from Hall Avenue to Hawthorne Avenue for use by the Fire Department for emergency access; it is further understood that all buildings are to front on Hall Avenue

*Resolved*, that the decision of the Staten Island Borough Commissioner, dated December 11, 2003 and December 16, 2003, acting on N.B. Application Nos. 500405019, 500405028, 037, 046, 055, 064, 073, 082, 091, 108, 117, 126, 135, 144, 153, 162, 171, 180, 199, and 206 is modified under the 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 April 13, 2004”- (1) sheet; and that the proposal comply with all applicable R3-2 zoning requirements and all other applicable laws, rules, and regulations; and *on further condition*:

THAT a Homeowners Association be established to maintain the private roadway, the private storm/sanitary drains, street lighting, and to provide snow removal;

THAT pursuant to the instruction of the Fire Department, a 25-foot paved road will be maintained from Hall Avenue to Hawthorne Avenue for use by the Fire Department for emergency access.

THAT the above conditions be noted on the Certificate of Occupancy;

THAT all yard, parking, and street width conditions as shown on the approved plans be fully complied with;

THAT no certificate of occupancy be issued for any of the subject buildings prior to acceptance by DEP, and recording thereof, of the proposed substitute drainage plan;

which has a 38 foot curb to curb width for its entire length until it intersects with Willowbrook Road; and

WHEREAS, by letter dated November 17, 2003, the Department of Transportation has reviewed the above project and has recommended that a permanent Homeowner’s Association be established to maintain the private roadway, and that such a condition should be made a restriction on the property deeds; and

WHEREAS, by letter dated April 14, 2003, the Department of Environmental Protection has reviewed the proposed project and requires the applicant to provide a 38 ft. wide clearance located in Hall Avenue for a “Sewer Corridor”, with no permanent structures being constructed within this “Sewer Corridor”, for the purpose of future drainage and installation, maintenance and/or reconstruction of the 10 inch dia. Sanitary and 48 inch dia. Storm Sewer in Hall Avenue between Hawthorne Avenue and Willowbrook Road under a substitute drainage plan; and

WHEREAS, in response to DEP’s request the applicant has filed a drainage plan that will supercede the adopted NYC Drainage Plan (RDP-DP-9-5); the substitution of this drainage plan will satisfy the requirements of DEP and allow the construction of the referenced property; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

THAT 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 11, 2004.

---

## 393-03-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative Inc., owner; Phillip & Stacey Benoit, owners.

SUBJECT - Application December 23, 2003 - Proposed enlargement and alteration to an existing one family dwelling, not fronting on a legally mapped street, which is contrary to Section 36, Article 3 of the General City Law. The building is not considered within 100' of a corner, therefore, 30'0" rear yard is required for second story enlargement.

PREMISES AFFECTED - 2 Roxbury Avenue, southeast corner of Marshall Avenue, Block 16340, Lot 50, Borough of Queens.

## COMMUNITY BOARD #14Q

APPEARANCES -

---

# MINUTES

---

For Applicant: Joseph Sherry.

For Opposition: Zanine Gascard.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 10 A.M., for continued hearing.

\_\_\_\_\_

### 395-03-A & 396-03-A

APPLICANT - Zaki Turkieh, for Aryeh Realty, LLC, owner.

SUBJECT - Application December 26, 2003 - proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 253-06 Rockaway Boulevard, located on Rockaway Boulevard and corner of East Dock Street, Block 13921, Lot 84, Borough of Queens.

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 May 25, 2004, at 10 A.M., for decision, hearing closed.

\_\_\_\_\_

### 44-04-A

APPLICANT - NYC Department of Buildings.

OWNER OF RECORD: Martin Suss

LESSEE: William J. Newstad; Endeavor Abstract; Paladin Abstract.

SUBJECT - Application February 25, 2004 - Application to revoke or modify Certificate of Occupancy No. 500353422, issued on 2/28/00, on the grounds that the CO was issued with the mistaken understanding that the non-conforming use was continuous, thus improperly allowing a retail store in a residential zoning district.

PREMISES AFFECTED - 1491 Richmond Road, bounded by Norden Street and Forest Road, Block 869, Lot 374, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

APPEARANCES -

For Applicant: Stuart Klein.

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 10 A.M., for continued hearing.

\_\_\_\_\_

*Pasquale Pacifico, Executive Director.*

Adjourned: 1:30 P.M.

**REGULAR MEETING**  
**TUESDAY AFTERNOON, MAY 11, 2004**  
**2:00 P.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner

### 27-04-A

APPLICANT - Steven Sinacori/Stadtmauer Bailkin, LLP, for City of New York, owner; Unconvention Center, Inc., lessee.

SUBJECT - Application February 11, 2004 - Proposed rehabilitation and renovation of Pier 94, for use as an exhibition hall for mid-size trade shows, which seeks relief from the requirements of §27-369(f) of the NYC Building Code with respect to protection of an exterior corridor, and §27-771.01(b) of the NYC Building Code with respect to mechanical system providing less than (6) six air changes per hour.

PREMISES AFFECTED - 755 12<sup>th</sup> Avenue, west side, between West 53<sup>rd</sup> and 55<sup>th</sup> Streets, Block 1109, Lot 5, Borough of Manhattan.

**COMMUNITY BOARD #4M**

APPEARANCES -

For Applicant: Steven Sinacori, Paul Travis, Jeanette Rauch, Ann Marie Lewis, Joe Ragga and Alan Sheperd.

**ACTION OF THE BOARD** - Laid over to May 25, 2004, at 10 A.M., for continued hearing.

\_\_\_\_\_

Caliendo, Commissioner Miele and Commissioner Chin.

\_\_\_\_\_

## ZONING CALENDAR

### 266-03-BZ

**CEQR #04-BSA-031K**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for 1710-2 McDonald Realty, LLC, owner.

SUBJECT - Application August 21, 2003 - under Z.R. §73-50 to permit in an M1-1 zoning district, the proposed enlargement of an existing warehouse that will encroach into the required rear yard between district boundaries, contrary to §43-302.

PREMISES AFFECTED - 1710/12 McDonald Avenue, west side, 60' south of Avenue "O", Block 6607, Lot 10, Borough of Brooklyn.

**COMMUNITY BOARD #11BK**

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 Caliendo, Commissioner Chin and Commissioner Miele.....5

Negative:.....0

---

# MINUTES

---

## THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Chin and Commissioner Miele.....5  
Negative:.....0

## THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 28, 2003, acting on Application No. 301265244, reads:

“PROPOSED ENLARGEMENT IN REQUIRED YARD IS CONTRARY TO SECTION 43-302 ZR AND MUST BE REFERRED TO THE BOARD OF STANDARDS AND APPEALS.”; 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 13, 2004, February 24, 2004, March 23, 2004 and April 20, 2004; the hearing was then deferred to May 11, 2004, where the matter was closed and the application was granted; and

WHEREAS, under Z.R. §73-50, the Board may grant a waiver of rear yard requirements set forth in Z.R. §43-30 provided that such waiver will not have an adverse affect on the surrounding area; and

WHEREAS, the applicant represents that no active manufacturing use is proposed in the rear addition, nor will there be any openings within the masonry construction that would permit noise to be generated outside the building; and

WHEREAS, the applicant further states that the proposed warehouse use does not create any fumes, odors, particulate matter or other activity or substance that would impact on the adjacent residential zoning district; and

WHEREAS, the Board notes that the contemplated encroachment would not block or affect any legal windows of adjacent residential uses; and

WHEREAS, therefore, the Board finds that the rear yard waiver will not have an adverse affect on the surrounding area, 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 applicant has agreed to incorporate certain safety conditions proposed by the Fire Department into the approved plans; 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 advantage 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. §§73-50 and 73-03.

*Resolved* that the Board of Standards and Appeals

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 for a special permit pursuant to Z.R. §73-50, to allow in a M1-1 zoning district, the proposed enlargement of an existing warehouse that will encroach into the required rear yard, contrary to Z.R. §43-302; and

WHEREAS, the subject zoning lot has a width of 40 feet and a depth of 100 feet and is currently improved with a one story building used as a warehouse for a furniture store located on the same block, at 1762 McDonald Avenue; and

WHEREAS, the applicant seeks to enlarge the existing building by constructing a one story addition at the rear that will encroach into the yard required for a lot in a manufacturing district, where the rear lot line of said lot is adjacent to the rear lot line of a lot within an adjoining residential district; and

issues a Negative Declaration under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings to grant a special permit pursuant to Z.R. §§73-03 and 73-50, to allow in an M1-1 zoning district, the proposed enlargement of an existing warehouse that will encroach into the required rear yard between district boundaries, contrary to §43-302, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked “Received January 7, 2004”-(2) sheets, “April 6, 2004”-(1) sheet and “April 28, 2004”-(1) sheet; and *on further condition*;

THAT all fire safety measures as shown on the approved plans will be complied with;

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 construction shall be completed in accordance with Z.R. §73-70;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May

# MINUTES

11, 2004.

## 270-03-BZ

### CEQR #04-BSA-035Q

APPLICANT - Joseph P. Morsellino, for Cord Meyer Development, LLC, owner.

SUBJECT - Application August 26, 2003 - under Z.R. §72-21 to permit in a lot partially within a C4-2 zoning district and partially within an R7-1 zoning district, the proposed construction of a 21-story mixed use building, which exceeds the permitted residential floor area ratio, and provides less than the required open space, contrary to Z.R. §§ 21-142, 35-23, 35-32 and 35-33.

PREMISES AFFECTED - 108-36/50 Queens Boulevard, southeast

- “(1) Proposed new building in C4-2/R7-1 zoning district with less than the required open space is contrary to sections 21-142 Z.R., 35-23 Z.R. and 35-33 Z.R. and must be referred to the Board of Standards and Appeals for its determination.
- 2) Proposed new building in C4-2/R7-1 zoning district, exceeds the permitted F.A.R. [and] is contrary to sections 23-142 Z.R. and 35-32 Z.R. and must be referred to the Board of Standards and Appeals for its determination.”; and

WHEREAS, a public hearing was held on this application on January 6, 2004 after due notice by publication in *The City Record*, with continued hearings on February 10, 2004, March 9, 2004, April 13, 2004, and then to May 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 for a variance pursuant to Z.R. §72-21, to permit in a lot partially within a C4-2 zoning district and partially within an R7-1 zoning district, the proposed construction of a 21-story mixed use building, which exceeds the permitted residential floor area ratio (“FAR”), and provides less than the required open space, contrary to Z.R. §§ 21-142, 35-23, 35-32 and 35-33; and

WHEREAS, Community Board 6, Queens, recommends conditional approval of this application; and

WHEREAS, the Queens Borough President and Council Member Melinda Katz also support this application; and

WHEREAS, the subject zoning lot is located on the southeast corner of Queens Boulevard and 71<sup>st</sup> Road, partially within a C4-2 zoning district and partially within an

corner of 71<sup>st</sup> Road, Block 3257, Lot 1 (formerly 1 and 42), Borough of Queens.

## COMMUNITY BOARD #6Q

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 Caliendo, Commissioner Chin and Commissioner Miele.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 8, 2003, acting on DOB Application No. 401696562, reads:

R7-1 zoning district, has a total lot area of 27,425 sq. ft., and is occupied by a two-story, 35 ft. high legal commercial building; and

WHEREAS, the applicant seeks to construct a 215 ft. high, 21 story mixed use building with 161,008 total sq. ft. of floor area (the underlying zoning district allows a square footage of 131,640); and

WHEREAS, the proposed building would have a residential FAR of 4.54 (the underlying zoning district allows 2.43), a commercial FAR of 1.29 (the underlying zoning district allows 3.4), and a total FAR of 5.87 (the underlying zoning district allows 4.8 for community facilities); and

WHEREAS, the site is presently developed with a two-story commercial building, most of which will be retained; the new tower will be erected on the open area of the zoning lot; and

WHEREAS, the new building will provide 110 parking spaces on the cellar and sub-cellar levels, accessible via a curb cut on 71<sup>st</sup> Road; 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: (1) the subject site is an irregularly shaped lot divided by a district boundary; and (2) the condition of soil on the site is poor, in that it is sandy and thus requires an extensive and costly piles system to be constructed; and

WHEREAS, the applicant has provided the Board with various reports and submissions, including an engineering report, which purport to establish that the soil conditions present at the site are poor, and necessitate the construction of an expensive foundation utilizing a combination of deep piles and stabilizing piles; and

WHEREAS, the applicant has also submitted a report analyzing comparable neighboring properties, which purports to show that the soil conditions present at the site are not conditions generally applicable to the neighborhood, and do not affect the neighboring properties; and

WHEREAS, the Board has reviewed the reports and

---

# MINUTES

---

submissions, and agrees that the site is uniquely afflicted with poor soil conditions giving rise to the need for the above-mentioned foundation system; 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 that demonstrates that developing the entire premises with a complying building would not yield the owner a reasonable return; and

WHEREAS, the applicant has submitted supplemental materials breaking down the premium costs associated with

WHEREAS, the applicant claims that a mixed-use building which includes a large retail component will have less impact on the neighborhood than a conforming commercial building; and

WHEREAS, the applicant further states that the proposed height of the building is in keeping with other high-rise residential buildings along Queens Boulevard; and

WHEREAS, as noted in a supplemental letter from the applicant's architectural consultant, the proposed building will have a roof-top deck of approximately 1,649 sq. ft., an interior recreational facility of approximately 1,656 sq. ft., and a large common terrace area over the base of the building of approximately 6,026 sq. ft.; and

WHEREAS, in addition, the applicant states that several apartments will have private terraces, totaling approximately 2,362 sq. ft.; and

WHEREAS, the applicant notes that there are major parks in the vicinity of the site; and

WHEREAS, the applicant claims that these measures and conditions mitigate the effect of the reduced open space on the lot; and

WHEREAS, the Board finds that the measures in large part compensate for the reduced open space on the lot; and

WHEREAS, the Board notes that Queens Boulevard is among the widest avenues in the City, and is characterized by numerous high-rise buildings comparable in height to the proposed building, ranging in height from fourteen to twenty-eight stories; and

WHEREAS, the Board has conducted its own site visit and has reviewed the submitted land use map, and has determined that the proposed residential use is compatible with the surrounding neighborhood; and

WHEREAS, the Board notes that the proposed building does not require height or setback waivers, and that the applicant's analysis shows that an as-of-right building would be of approximately the same height; 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

the construction of the foundation system and other necessary site preparations; and

WHEREAS, an additional addendum to the feasibility study, dated February 12, 2004, shows that the return on a building that conforms to underlying bulk regulations but increases the residential FAR is not reasonable; and

WHEREAS, based upon its review of the record, the Board finds 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 adjacent to the site and throughout the neighborhood there are co-op, condominium and rental apartment houses; 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

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 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 of the Rules of Procedure for City Environmental Quality Review and makes the required findings to grant a variance pursuant to Z.R. §72-21, to permit in a lot partially within a C4-2 zoning district and partially within an R7-1 zoning district, the proposed construction of a 21-story mixed use building, which exceeds the permitted residential floor area ratio, and provides less than the required open space, contrary to Z.R. §§ 21-142, 35-23, 35-32 and 35-33, *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 2, 2004"- (3) sheets and "May 6, 2004"- (17) sheets; and *on further condition*;

THAT the building will contain a roof-top deck of approximately 1,649 sq. ft., an interior recreational facility of approximately 1,656 sq. ft., and a large common terrace area over the base of the building of approximately 6,026 sq. ft., as shown on approved plans;

THAT the above condition shall appear on the certificate of occupancy;

THAT the layout of the parking in the cellar and sub-cellar is to be reviewed and approved by the Department of Buildings;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

---

# 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;

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 SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit in an M1-1 zoning district, the proposed construction of a five-family, three-story multiple dwelling, contrary to Z.R. §42-10.

PREMISES AFFECTED - 976 Metropolitan Avenue, between Catherine Street and Morgan Avenue, Block 2918, Lot 3, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

### APPEARANCES -

For Applicant: Fredrick Becker.

**ACTION OF THE BOARD** - Application granted on condition.

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Chin and Commissioner Miele.....5

Negative:.....0

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 21, 2003, acting on DOB Application No. 301628969, reads:

“Proposed residential building, use group 2A, to be constructed is contrary to Zoning Resolution ZR 42-10, “Uses permitted as of right” as use group 2A is not included in the uses permitted under ZR 42-11 or 42-12 in an M1-1 zoning district.”; and

WHEREAS, a public hearing was held on this application on January 27, 2004 after due notice by publication in *The City Record*, with a continued hearing on March 23, 2004 and then laid over to April 20, 2004 for decision; the decision was then deferred to May 11, 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, Commissioner Caliendo, Commissioner Miele and Commissioner Chin; and

WHEREAS, Community Board 1, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application for a variance pursuant to Z.R. §72-21, to permit in an M1-1 zoning district, the proposed construction of a five-family, three-story multiple dwelling, contrary to Z.R. §42-10; and

WHEREAS, the subject zoning lot is located on Metropolitan Avenue between Catherine Street and Morgan

configuration(s) not related to the relief granted;

Adopted by the Board of Standards and Appeals, May 11, 2004.

---

## 271-03-BZ

### CEQR #04-BSA-036K

APPLICANT - Law Office of Fredrick A. Becker, for Frank Scelta, owner.

Avenue, 50 ft. east of Catherine Street, has a total lot area of 2,500 sq. ft., and is currently vacant, although it was formerly occupied by a residential structure; and

WHEREAS, the applicant seeks to construct a 32 ft. high, 3 story with cellar multiple dwelling with 4,653 sq. ft. of floor area; 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: (1) the substandard size of the lot results in a conforming floor plate that is impractical for office or industrial use, especially when considered against other, wider commercial/industrial properties in the surrounding neighborhood; and (2) the site has historically been developed with a residential structure; and

WHEREAS, the applicant has provided a Land Use Survey/Property Chart of all the zoning lots in the M1-1 zoning district, showing that almost all commercial/industrial sites within this district are larger than the subject site; and

WHEREAS, the Land Use Survey/Property Chart also shows that the combination of the vacant status and smallness of the lot is not a common condition within the district for non-residentially occupied lots; 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 that demonstrates that developing the entire premises with a complying building would not yield the owner a reasonable return; and

WHEREAS, the applicant has submitted an explanation to the Board as to why certain scenarios were not studied in the feasibility analysis, and the Board finds this explanation sufficient; 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 the immediate neighborhood contains a significant amount of residential uses despite the manufacturing zoning classification, with

# MINUTES

the several buildings to the east of the site, as well as across the street, being occupied by residential structures; and

WHEREAS, the applicant further states that the majority of commercially occupied sites on Metropolitan Avenue are either vacant or abandoned; and

WHEREAS, the Board has conducted its own site visit

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

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 of the Rules of Procedure for City Environmental Quality Review and makes the required findings to grant a variance pursuant to Z.R. §72-21, to permit in an M1-1 zoning district, the proposed construction of a five-family, three-story multiple dwelling, contrary to Z.R. §42-10, *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 5, 2004"- (3) sheets and "April 22, 2004"- (5) sheets; and *on further condition*;

THAT all applicable requirements regarding required court sizes, and light, air and ventilation to the residential units, shall be reviewed and approved by the Department of Buildings; no relief from such requirements is granted herein by the Board;

THAT 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 substantial construction shall be completed in accordance with Z.R. §72-23;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted;

Adopted by the Board of Standards and Appeals, May

and has reviewed the submitted land use map, and has determined that the proposed residential use is compatible with the surrounding neighborhood; and

WHEREAS, the Board notes that the width of the lot is typical of residentially developed lots; and

11, 2004.

## 362-03-BZ

### CEQR #04-BSA-088M

APPLICANT - Sheldon Lobel, P.C., for Reiss Realty Corp., owner.

SUBJECT - Application November 20, 2003 - under Z.R. §11-411 to permit the continued use of the premises for private parking, accessory to commercial use, and for storage accessory to commercial use, changed from previously approved storage of combustible chemical solvents, is contrary to a previously Cal. No. 1071-40-BZ Vol. II and Z.R. §22-00.

PREMISES AFFECTED - 428 West 45<sup>th</sup> Street, between Ninth and Tenth Avenues, Block 1054, Part of Lot 48, Borough of Manhattan.

### COMMUNITY BOARD #4

#### APPEARANCES -

For Applicant: Jordan Most.

**ACTION OF THE BOARD** - Application granted on condition.

#### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Chin and Commissioner Miele.....5  
Negative:.....0

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 20, 2003, acting on DOB Alt. 1 Application No. 103568827 reads:

"PROPOSED CONTINUED USE IN RESIDENCE DISTRICT FOR PRIVATE ACCESSORY TO COMMERCIAL USE, AND USE FOR STORAGE ACCESSORY TO COMMERCIAL USE, CHANGED FROM PREVIOUSLY APPROVED STORAGE OF INCOMBUSTIBLE CHEMICAL SOLVENTS, IS CONTRARY TO BSA CAL 1071-40-BZ VOL II, AND ALSO CONTRARY TO SECTION 22-00 OF THE ZONING RESOLUTION.;" and

WHEREAS, a public hearing was held on this application on April 13, 2004 after due notice by publication in The City Record, and laid over to May 11, 2004 for decision; and

WHEREAS, this is an application under Z.R. §11-411, to permit, on a site previously before the Board located

---

# MINUTES

---

within an R8 zoning district, the re-establishment of a variance, previously granted under Calendar Number 1071-40-BZ, which is contrary to Z.R. §22-00; and

WHEREAS, on April 15, 1941, the Board granted an application under Calendar Number 1071-40-BZ, to permit the parking of more than five motor vehicles which was subsequently amended to permit the storage of chemical solvents in a one-story structure on the rear of the lot; and

WHEREAS, since the original grant, the variance was extended a number of times, each for a term of five years, until January 28, 1986, when the Board extended the variance for a term of ten years from January 20, 1986, to expire on January 20, 1996; and

WHEREAS, the applicant represents that the grant lapsed in 1996 because ownership of the property was in transition, when one of the principals of the owning entity passed away; and

WHEREAS, however, the applicant asserts that the parking and storage has been continuous and uninterrupted since the time of the original grant, although no chemical solvents have been stored on the premises since the mid 1960's, when the abutting factory, which occupied the remainder of the zoning lot, was replaced with a movie supply company; and

WHEREAS, the applicant states that the owner of the premises does not store chemical solvents, but requests that the storage structure remain and be used for storage accessory to the abutting commercial use; and

WHEREAS, the applicant has consented to amending the Certificate of Occupancy to prohibit chemical storage on the premises and limit parking on the site to vehicles owned by employees or customers of the abutting commercial use; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under §11-411 of the Zoning Resolution; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

*Resolved* that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §11-411 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, to permit, on a site previously before the Board located within an R8 zoning district, the re-establishment of a variance, previously granted under Calendar Number 1071-40-BZ, which is contrary to Z.R. §22-00 *on condition* that all work shall substantially conform to

WHEREAS, Community Board No. 4, Manhattan, recommends approval of this application; and

drawings as they apply to the objection above noted, filed with this application marked "Received April 26, 2004"-(1) sheet; and *on further condition*;

THAT the term of the variance shall be limited to ten (10) years from the date of this grant expiring on May 11, 2014;

THAT the Certificate of Occupancy shall be amended to read: "Storage, not to include any chemical solvents, and private parking of more than five (5) motor vehicles, pleasure type cars only, limited to cars owned by employees and customers of the owner-tenant or lessee-tenant of the property known as and located at 430-436 West 45<sup>th</sup> Street, which address comprises the balance of Lot 48 (f/k/a Lots 49 and 50).";

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 new Certificate of Occupancy shall be obtained within two (2) years of the date of this resolution;

THAT the storage shed 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) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 11, 2004.

---

## **371-03-BZ & 372-03-BZ**

### **CEQR #04-BSA-097M & CEQR #04-BSA-098M**

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for 655 Properties, LLC, owner; Cornelia Fifth Avenue LLC, lessee.

SUBJECT - Application December 2, 2003 - under Z.R. §73-36 to permit the legalization of the eighth floor, and the roof, of an existing eight story building, for use as a physical culture establishment, located in a C5-3(MiD) zoning district, is contrary to Z.R. §32-10. PREMISES AFFECTED -

655 Fifth Avenue, southwest corner, block bounded by Fifth and Madison Avenues, and East 52<sup>nd</sup> and East 53<sup>rd</sup> Streets, Block 1288, Lot 1, Borough of Manhattan.

---

# MINUTES

---

663 Fifth Avenue, southwest corner,  
block bounded by Fifth and  
Madison Avenues, and  
East 52<sup>nd</sup> and East 53<sup>rd</sup>  
Streets, Block 1288, Lot 3,  
Borough of Manhattan.

## COMMUNITY BOARD #5M

### APPEARANCES -

For Applicant: Robert Flahive.

### ACTION OF THE BOARD - Application.

#### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Commissioner Caliendo, Commissioner Chin and  
Commissioner Miele.....5

Negative:.....0

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner dated November 21, 2003, acting on Department of Buildings Alt. I Application No. 103531830, reads;

“Proposed Physical Culture Establishment at 8<sup>th</sup>  
and 9<sup>th</sup> floors is not permitted in C5-3 District as  
per ZR 32-10”; and

WHEREAS, a public hearing was held on this application on April 13, 2004 after due notice by publication in *The City Record*, and then laid over to May 11, 2004 for decision; and

WHEREAS, this is an application for under Z.R. §§73-36 and 81-13, to permit the use of the eighth floor of, and a proposed ninth floor to, an existing commercial building in a C5-3 (Special Midtown District), for a proposed physical culture establishment (“PCE”), which is contrary to Z.R. §32-10; and

WHEREAS, a corresponding application has been filed under BSA Calendar Number 372-03-BZ for the subject PCE to also operate on the eighth floor and a portion of the roof level of the adjacent building at 663 Fifth Avenue (the “663 Building”); and

WHEREAS, Community Board No. 5, Manhattan has recommended approval of this application; and

WHEREAS, the subject eight story building (the “655 Building”) is located at the northeast corner of Fifth Avenue and East 52<sup>nd</sup> Street, with a frontage of 50 feet along Fifth Avenue, 115 feet along East 52<sup>nd</sup> Street and a total lot area of 5,750 square feet; and

WHEREAS, the record indicates that the first and second floors of the subject building are currently used for retail use, while floors three through seven are occupied by office uses; 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 the required findings under Z.R. §§73-36 and 81-13 to permit the use of the eighth floor and a

WHEREAS, the applicant represents that the PCE will occupy the eight floor and a new ninth floor addition in the subject building; and

WHEREAS, the wall separating the eight floors of 655 and 663 Buildings will be demolished, and the PCE will comprise a single, contiguous space; and

WHEREAS, the total proposed commercial floor area is below the maximum allowable floor area and the new ninth floor addition will comply with the special height and setback regulations of the Special Midtown District; and

WHEREAS, the applicant states that the proposed PCE will offer premium massage, facial and beauty treatments, with patrons entering the facility through the lobby of the 663 Building and employees entering through the East 52<sup>nd</sup> Street entrance to the 655 Building; and

WHEREAS, there will be no signage for the proposed PCE on the exterior of either building; and

WHEREAS, the record indicates that the proposed use will not contain any potential hazards that impact on the privacy, quiet, light, and air to residential uses; and

WHEREAS, the Board finds that the proposed use will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the PCE will have a lounge area that will be located on the roof of the 663 Building, immediately adjacent to the ninth floor portion of the 655 building, that complies with the roof level requirements of 73-36(b); and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals of the owner and operator of such facility and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-03 and 73-36; and

WHEREAS, the Board has also determined pursuant to Z.R. §81-13, that the proposed PCE will be consistent with the purposes and provisions of the Special Midtown District regulations; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

newly proposed ninth floor of an existing commercial building in a C5-3 (Special Midtown District), for a proposed physical culture establishment (“PCE”), 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-

# MINUTES

noted, filed with this application marked "Received December 2, 2003"- (4) sheets and "April 26, 2004"- (1) sheet; and *on further condition*;

THAT the term of this special permit shall be limited ten (10) years, to expire on May 11, 2014;

THAT a minimum 4 foot wide path of travel to all exits shall be maintained on the floors and kept free of any equipment or obstructions at all times;

THAT all massages will all be performed by New York State licensed massage therapists;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT fire protection measures, including measures to protect the openings between the two buildings, shall be provided and maintained in accordance with the BSA-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 11, 2004.

## 384-03-BZ

### CEQR #04-BSA-103X

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for Renewal Arts Realty Corp., owner; Albert Einstein College of Medicine of Yeshiva University, lessee.

SUBJECT - Application December 10, 2003 - under Z.R. §72-21 to permit the proposed operation of a Use Group 4A health facility on a portion of a zoning lot, located in an M1-2 zoning district, contrary to Z.R. §42-11.

PREMISES AFFECTED - 804 East 138<sup>th</sup> Street, south side, 155.52' east of Willow Avenue, Block 2589, Lots 15 and 16, Borough of The Bronx.

### COMMUNITY BOARD #1BX

APPEARANCES -

For Applicant: Robert Flahive.

### ACTION OF THE BOARD - Application.

WHEREAS, the Albert Einstein College of Medicine ("AECOM"), which is a not-for-profit entity and a part of Yeshiva University, seeks to relocate its three related substance abuse clinics (collectively, the "Clinic") to the subject site, leasing and occupying the first floor of the

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Miele.....4

Negative:.....0

Recused: Commissioner

Caliendo.....1

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated December 2, 2003 acting on Application No. 200812834 reads, in part:

"In an M1-2 Zoning District: The proposed use

"Independent out-of-hospital health facility incorporated pursuant to article VII of the New York State Social Services Law (Use Group 4A) is contrary to: 1) Section 42-11 Use Group 4A is NOT PERMITTED as of right . . . . Therefore, this proposed use under zoning use group 4A requires a variance from the 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 a continued hearing on April 27, 2004, and then laid over to May 11, 2004 for decision; 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 1, Bronx submitted a letter supporting the subject application (though no formal resolution was adopted); and

WHEREAS, the subject application also has the support of State Senator Espada, Bronx Borough President Carrión, Jr., the 40<sup>th</sup> Police Precinct Community Council, and the HUB Third Avenue Business Improvement District; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed operation of a Use Group 4A health facility on a portion of a zoning lot, located in an M1-2 zoning district, contrary to Z.R. §42-11; and

WHEREAS, the subject lot is located on the south side of East 138<sup>th</sup> Street, 115.52 feet east of the corner formed by East 138<sup>th</sup> Street and Willow Avenue, consists of two tax lots (Lots 15 and 16), and has a total lot area of 57,554.5 sq. ft.; Lot 16 is occupied by a 27 ft. high, 1 story building with a legal use as a contractor's establishment, Use Group 16A and 16E; and

WHEREAS, the existing one story building on Lot 16 will be enlarged as-of-right to a three story plus basement, 51 ft. high building, to be occupied as offices; and

expanded building on Lot 16; and

WHEREAS, the Clinic serves 1100 patients, ages 18 and above, providing them with comprehensive substance abuse treatment, as well as a combined and coordinated program of medical, psychiatric, family and social services;

---

# MINUTES

---

and

WHEREAS, the applicant represents that most of the patients live and/or work in the South Bronx; and

WHEREAS, the Clinic's core service is the provision of a methadone maintenance program; and

WHEREAS, the applicant states that the Clinic plays a significant role in AECOM's educational mission, providing basic training in substance abuse issues to AECOM students and other Yeshiva University students; residents also serve at the Clinic; and

WHEREAS, AECOM will not have an ownership interest in the building; ownership will be retained by the current owner; and

WHEREAS, the applicant states that the building in which the Clinic is currently located is inadequate, in that it lacks sufficient space for the amount of patients it serves and for many of the programs necessary for successful treatment of substance abuse disorders, and, as a consequence, the Clinic can not receive the full accreditation required under Federal law; and

WHEREAS, the applicant further states that the Clinic conducted a lengthy search for a suitable site in which to relocate and entered into a lease in the subject building for space that will address their needs; and

WHEREAS, the applicant represents that the first floor space of the expanded building will provide the Clinic with 31,000 sq. ft. of space, which will accommodate all of its important services and programs, individual offices for its practitioners, a main waiting area, rooms for supplemental treatment, a staffed children's room, and storage; and

WHEREAS, the applicant argues that the subject zoning lot possesses some unique features, namely an irregular shape and proximity to a large rail freight facility, but the applicant does not provide any statement or evidence suggesting that there are unique physical conditions inherent to the zoning lot that lead to practical difficulty or unnecessary hardship in strictly complying with the use provisions of the underlying zoning district; and

WHEREAS, rather, the applicant points to the hardship faced by the Clinic in remaining at its existing site; and

WHEREAS, the applicant argues that under existing case law, an educational institution need not address the uniqueness finding set forth at Z.R. §72-21(a); and

WHEREAS, under normal circumstances, the Board would not grant a variance based on hardship personal to a not-for-profit lessee of a building due to its programmatic

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 alleged by applicant 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

needs, given both the general proposition that a variance runs with land and the text of the 'A' finding; and

WHEREAS, however, the Board agrees that as an educational institution, the Clinic enjoys some deference under the case law in the strict application of zoning regulations; and

WHEREAS, because of the apparent legal standard applicable to the Clinic, the Board is not rendering a determination as to Z.R. §72-21(a); and

WHEREAS, the Board notes that this approach is necessitated by the special consideration given to educational institutions (notwithstanding the general land use principle precluding a grant of a variance based upon the identity of a proposed user of land), as well as the specific position of the applicant as a lessee rather than as an owner or contract vendee; and

WHEREAS, in order to ensure that the property owner does not realize a windfall should the Clinic cease to occupy the first floor of the building, the applicant has agreed to certain conditions, limiting the scope of the variance to the first floor space and the term of the variance to the term of the lease, and providing for surrender of the variance should the Clinic vacate prior to the expiration of the lease, and

WHEREAS, the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the proposed variance will be in furtherance of its programmatic needs; and

WHEREAS, the applicant represents that the neighborhood surrounding the subject site is predominantly industrial in nature and characterized by warehouses, garages, and automotive uses; and

WHEREAS, the neighborhood is bordered on the west by the Bruckner Expressway, and a large rail freight facility lies immediately to the east of the subject lot; and

WHEREAS, the site is well-served by public transportation; and

WHEREAS, the Clinic will employ staff to monitor patient activity in the neighborhood, and has committed to terminate disruptive patients from its services; uniformed security staff will also be present during facility operating hours; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map, and concludes that the proposed use is appropriate given the context of the neighborhood; 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 as modified under applicable case law; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the

---

# MINUTES

---

preparation of an Environmental Impact Statement.

*Resolved*, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §72-21 and applicable case law and grants a variance, to permit the proposed operation of a Use Group 4A health facility on a portion of a zoning lot, located in an M1-2 zoning district, contrary to Z.R. §42-11; *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 "April 8, 2004"- (8) sheets; and *on further condition*: THAT this variance is limited to the first floor of the premises, as shown on

THAT the term of the variance is limited to 20 years from the date of this grant, to expire on May 11, 2024;

THAT the first floor of the premises shall not be occupied by any other entity than the Clinic without the express approval of the Board;

THAT if the Clinic desires to vacate the premises at any time prior to the expiration of the grant, AECOM will notify the Board in writing and surrender this variance before actually vacating;

THAT the Clinic will be open to patients Monday through Friday, from 6:30 am to 7:00 pm, and Saturdays, from 8:00 am to 4:00 pm;

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 during the term of the variance, the Clinic's staff will monitor the surrounding area, in order to determine if any of the patients are loitering in the area or engaging in disruptive activities;

THAT at least four uniformed security guards will be stationed at the Clinic during hours of operation;

THAT all applicable fire safety measures as shown on the approved plans will be complied with;

THAT substantial construction be completed in accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the PREMISES AFFECTED - 214 25<sup>th</sup> 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 June 22, 2004, at 1:30 P.M., for continued hearing.

---

## **102-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Southside Realty Holdings, LLC, owner.

SUBJECT - Application April 3, 2003 - under Z.R. §72-21 to permit the proposed development of two residential buildings with

Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May

11, 2004.

---

## **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 - None.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

---

## **361-02-BZ**

APPLICANT - Marianne Russo, for 214 25<sup>th</sup> Street Corporation, owner.

SUBJECT - Application December 13, 2002 and updated January 5, 2004 - under Z.R. §72-21 to permit the proposed renovation and conversion of an existing factory building, to create 15 unit loft type apartments, with five parking spaces in the mews, a 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.

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: Jordon Most.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

---

---

# MINUTES

---

**194-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for B'nos Menachem Inc., owner.

SUBJECT - Application June 13, 2003 - under Z.R. §72-21 to permit the proposed catering establishment, Use Group 9, in the cellar of an existing one story, basement and cellar building (school for girls), located in an R6 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 739 East New York Avenue, between Troy and Albany Avenues, Block 1428, Lot 47, Borough of Brooklyn.

**COMMUNITY BOARD #9BK**

APPEARANCES -

For Applicant: Richard Lobel, Jack Segal and Rabbi David Mayhill.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

---

**199-03-BZ thru 205-03-BZ**

APPLICANT - Stuart A. Klein, Esq., for Classon Holding Co., owner.

SUBJECT - Application June 17, 2003 - under Z.R. §72-21 to permit the proposed seven story residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED -

148 Classon Avenue, between Myrtle and Park Avenues, Block 1895, proposed Lot 42, Borough of Brooklyn.

152 Classon Avenue, between Myrtle and Park Avenues, Block 1895, proposed Lot 46, Borough of Brooklyn.

156 Classon Avenue, between Myrtle and Park Avenues, Block 1895, proposed Lot 47, Borough of Brooklyn.

77 Emerson Place, between Myrtle and Park

**211-03-BZ**

APPLICANT - Eric Palatnik, P.C., for Simon Blitz, Contract Vendee.

SUBJECT - Application June 20, 2003 - under Z.R. §72-21 to permit the proposed expansion and also the conversion of an existing warehouse, to residential use, Use Group 2, located in an M1-4(Special LIC District), which does not comply with the zoning requirements for the new use, floor area and total height, is contrary to Z.R. §43-12, §43-43 and §42-10.

PREMISES AFFECTED - 529-535 48<sup>th</sup> Avenue, between Vernon Boulevard and Fifth Street, Block 30, Lot 9, Borough of Queens.

**COMMUNITY BOARD #1Q**

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for deferred decision.

Avenues, Block 1895, proposed Lot 117, Borough of Brooklyn.

81 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 116, Borough of Brooklyn.

85 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 115, Borough of Brooklyn.

89 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 114, Borough of Brooklyn.

**COMMUNITY BOARD #3BK**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

---

**208-03-BZ**

APPLICANT - Law Offices of Stuart A. Klein for Shell Road, LLC, owner; Orion Caterers, Inc., lessee.

SUBJECT - Application June 19, 2003 - under Z.R. §72-21 to permit the legalization of an expansion of an existing catering hall, Use Group 9, located in a split C1-2(overlay of R-4) and M1-1 zoning district, which does not comply with the zoning requirements for floor area ratio, rear yard, and parking, is contrary to Z.R. §33-121, 33-292, §36-21, §43-26 and §44-20.

PREMISES AFFECTED - 2555 Shell Road, east side, between Avenue "X" and Bouck Court, Block 7192, Lot 74, Borough of Brooklyn.

**COMMUNITY BOARD #11BK**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

---

**229-03-BZ**

APPLICANT - David L. Businelli, for PIC Legacy Realty, Inc., owner.

SUBJECT - Application July 3, 2003 - under Z.R. §72-21 to permit the proposed erection of a one family detached residence, Use Group 1, located in an R-2 zoning district, which does not comply with the zoning requirements for front yard is contrary to Z.R. §23-45.

PREMISES AFFECTED - 303 Crystal Avenue, southeast corner of Watchogue Road, Block 472, Lot 149, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES -

For Applicant: David Businelli.

**ACTION OF THE BOARD** - Laid over to June 22,

---

# MINUTES

---

2004, at 1:30 P.M., for continued hearing.

---

## **231-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Isaac Douek Jacqueline Douek Maurice Douek, owners.

SUBJECT - Application July 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a six story building, with a mezzanine and cellar, to contain eighteen residential units, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 63 and 65 Columbia Street, southeast corner of Congress Street, Block 299, Lots 7 and 8, Borough of Brooklyn.

## **COMMUNITY BOARD #6BK**

APPEARANCES -

For Applicant: Janice Cahalane and Gary Silver.

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 1:30 P.M., for continued hearing.

---

## **240-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Young Israel of Jamaica Estates, Inc., owner.

SUBJECT - Application July 10, 2003- under Z.R. §72-21 to permit the proposed enlargement of an existing two story synagogue, Use Group 4, located in an R1-2 zoning district, which does not comply with the zoning requirements for floor area ratio, building height, side yards, rear yard, also the proposed addition of lot 39 to the existing building, is contrary to Z.R. §24-10, §24-111, §24-521, §24-35 and §24-  
SUBJECT - Application August 21, 2003 - under Z.R. §72-21 to permit the proposed construction of three attached six and seven story buildings, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 2/6 Berry Street, 194/96 North 14th Street, south side, between Wythe Avenue to the west and Berry Street to the east, Block 2279, Lot 13, Borough of Brooklyn.

## **COMMUNITY BOARD #1BK**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

---

## **314-03-BZ**

APPLICANT - Deirdre A. Carson, Esq., for 17-18 Management Co. LLC, c/o White, Inc., owner; AMAC, lessee.

SUBJECT - Application October 16, 2003 - under Z.R. §§73-01, 73-03 and 73-19 to permit the legalization of an existing school, Use Group 3A, located in an 11 story loft building, in an M1-6M zoning district, is contrary to Z.R. §42-00 and §42-12.

36, and a previous variance granted under Cal. No. 815-85-BZ.

PREMISES AFFECTED - 83-10 and 83-16 188<sup>th</sup> Street, south side, between Midland Parkway and Radnor Road, Block 7263, Lots 35 and 39, Borough of Queens.

## **COMMUNITY BOARD #8Q**

APPEARANCES -

For Applicant: Jordan Most, Meir Mishtoff.

For Opposition: Leo Weinberger and Shirl Basehore.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

---

## **261-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for PLK Realty Corp., owner.

SUBJECT - Application August 18, 2003 - under Z.R. §72-21 to permit the legalization of an existing one story building, as an auto repair shop, Use Group 16, located in an R7-1 zoning district, which is contrary to Z.R. §23-00.

PREMISES AFFECTED - 1404/06 Stebbins Avenue, northeast corner of East 170th Street, Block 2965, Lot 36, Borough of The Bronx.

## **COMMUNITY BOARD #3BX**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

---

## **267-03-BZ**

APPLICANT - Stuart A. Klein, Esq., for North 14th Street Realty Associates, LLC, owner.

PREMISES AFFECTED - 18 West 18th Street, a/k/a 25 West 17<sup>th</sup> Street, a through lot, 356' west of the intersection of Fifth Avenue and 17th and 18th Streets, Block 819, Lot 56, Borough of Manhattan.

## **COMMUNITY BOARD #5M**

APPEARANCES -

For Applicant: Deirdre Carson and Bonnie Moses.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

---

## **343-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Pasquale Pescatore, owner.

SUBJECT - Application November 12, 2003 - under Z.R. §72-21 to permit the proposed construction of seven story, nineteen unit, residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 90 Havemeyer Street, between Hope Street and Metropolitan Avenue, Block 2368, Lot 26(Former Lots 26, 27 and 28), Borough of Brooklyn.

---

# MINUTES

---

**COMMUNITY BOARD #1BK**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

---

**390-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Dobbins Street, LLC, owner.

SUBJECT - Application December 18, 2003 - under Z.R. §72-21 to permit the legalization of residential use on the second floor, of a two story mixed use building, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 95 Dobbin Street, between Norman and Messerole Avenues, Block 2616, Lot 18, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Janice Cahalane, Kathryn Samalin and Mayer Friedman.

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 1:30 P.M., for continued hearing.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 4:50 P.M.

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 22

May 27, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**SATISH BABBAR, *Vice-Chair***

**PETER CALIENDO**

**JOEL A. MIELE, SR.**

**JAMES CHIN**

*Commissioners*

**Pasquale Pacifico, *Executive Director***

**Roy Starrin, *Deputy Director***

**John E. Reisinger, *Counsel***

---

<b>OFFICE -</b>	<b>40 Rector Street, 9th Floor, New York, N.Y. 10006</b>
<b>HEARINGS HELD -</b>	<b>40 Rector Street, 6th Floor, New York, N.Y. 10006</b>
<b>BSA WEBPAGE @</b>	<b><a href="http://www.nyc.gov/html/bsa/home.html">http://www.nyc.gov/html/bsa/home.html</a></b>

<b>TELEPHONE - (212) 788-8500</b>
<b>FAX - (212) 788-8769</b>

### CONTENTS

DOCKET .....	393
<b>CALENDAR</b> of June 22, 2004	
Morning .....	394
Afternoon .....	394

# CONTENTS

**MINUTES of Regular Meetings,  
Tuesday, May 18, 2004**

Morning Calendar .....395

**Affecting Calendar Numbers:**

465-55-BZ	486/496 Coney Island Avenue, Brooklyn
722-68-BZ	388-392 Kings Highway, Brooklyn
328-03-BZ	930-936 Richmond Avenue, Staten Island
735-59-BZ	902 Soundview Avenue, The Bronx
116-68-BZ	40 Central Park South, Manhattan
811-81-BZ	232 East 50 <sup>th</sup> Street, Manhattan
585-91-BZ	222-44 Braddock Avenue, Queens
34-94-BZ	401, 403, 405 Castle Hill Avenue, The Bronx
199-00-BZ	76-19 Roosevelt Avenue, Queens
178-03-BZ	114-02 Van Wyck Expressway, Queens
406-03-BZY	
thru 409-03-BZY	Wenlock Street, Staten Island
11-04-A	25 Fulton Walk, Queens
12-04-A	310 Hillside Avenue, Queens
53-04-A thru	
62-04-A	34 <sup>th</sup> Avenue, Queens

Afternoon Calendar.....399

**Affecting Calendar Numbers:**

296-03-BZ	1619 Kings Highway, Brooklyn
356-03-BZ	2311 Avenue J, Brooklyn
81-03-BZ	857 East 169 <sup>th</sup> Street, The Bronx
273-03-BZ thru	
285-03-BZ	94 <sup>th</sup> Road, Queens
307-03-BZ	543/45 West 110 <sup>th</sup> Street, Manhattan
308-03-BZ	557/71 Grand Concourse, The Bronx\
325-03-BZ &	
326-03-BZ	Hamden Avenue, Staten Island
338-03-BZ	726 Avenue Z, Brooklyn
339-03-BZ	122 Arthur Kill Road, Staten Island
361-03-BZ	2277 East 2 <sup>nd</sup> Street, Brooklyn
364-03-BZ	34-11 Far Rockaway Boulevard, Queens
366-03-BZ	2001 East 7 <sup>th</sup> Street, Brooklyn
7-04-BZ	2208 Boller Avenue, The Bronx
23-04-BZ	1150 East 23 <sup>rd</sup> Street, Brooklyn
40-04-BZ	2252 Linden Boulevard, Brooklyn

CORRECTION.....405

**Affecting Calendar Numbers:**

34-99-BZ	1189 East 29 <sup>th</sup> Street, Brooklyn
----------	---

---

# DOCKETS

---

New Case Filed Up to May 18, 2004

---

**191-04-BZ** B.BK. 1376 East 24th Street, between Avenues "N and "M", Block 7659, Lot 79, Borough of Brooklyn. Alt.1#301797893. Proposed enlargement of an existing single family residence, Use Group 2, located in R5 zoning district, which does not comply with the zoning requirements for floor area, open space and rear yard, is contrary to Z.R. §23-141(a) and §23-47.

**COMMUNITY BOARD #14BK**

---

**192-04-BZ** B.BK. 45 India Street, north side, 150' east of West Street, Block 2531, Lot 35 (Tentative), Borough of Brooklyn. Applic.#301816408. Proposed construction of residential building, to house ten families and one professional office, on a vacant lot that is fifty percent in a manufacturing zone and fifty percent in a residential zone, requires a special permit as per §73-52.

**COMMUNITY BOARD #1BK**

---

**193-04-BZ** B.BK. 92 Gotham Avenue, south side, 366'-0" east of Fane Court, Block 8923, Lot 936, Borough of Brooklyn. Applic.#301768763. Proposed one story enlargement over the existing first floor of a one family residential dwelling, which does not comply with the zoning requirements for rear yard, floor area ratio, side yards and lot coverage, is contrary to Z.R. §54-31, §23-141, §23-48 and §23-47.

**COMMUNITY BOARD #15BK**

---

**194-04-BZ** B.BK. 9029 Krier Place, aka 900 East 92nd Street, 142' west of East 92nd Street, Block 8124, Lot 75 (tentative 180), Borough of Brooklyn. N.B.#301692103. Proposed construction of a two family dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

**COMMUNITY BOARD #18BK**

---

**195-04-BZ** B.BK. 9031 Krier Place, aka 900 East 92nd Street, 113.5' west of East 92nd Street, Block 8124, Lot 75 (tentative 179) Borough of Brooklyn. N.B.#301692096. Proposed construction of a two family dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

**COMMUNITY BOARD #18BK**

---

**196-04-BZ** B.BK. 9033 Krier Place, aka 900 East 92nd Street, 93' west of East 92nd Street, Block 8124, Lot 75 (tentative 178) Borough of Brooklyn. N.B.#301692158. Proposed construction of a two family dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

**COMMUNITY BOARD #18BK**

**197-04-BZ** B.BK. 9035 Krier Place, aka 900 East 92nd Street, 72.5' west of East 92nd Street, Block 8124, Lot 75 (tentative 177) Borough of Brooklyn. N.B.#301692149.

Proposed construction of a two family dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

**COMMUNITY BOARD #18BK**

---

**198-04-BZ** B.BK. 9037 Krier Place, aka 900 East 92nd Street, 52' west of East 92nd Street, Block 8124, Lot 75 (tentative 176) Borough of Brooklyn. N.B.#301692130. Proposed construction of a two family dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

**COMMUNITY BOARD #18BK**

---

**199-04-BZ** B.BK. 9039 Krier Place, aka 900 East 92nd Street, corner of East 92nd Street, Block 8124, Lot 75 (tentative 175) Borough of Brooklyn. N.B.#301692005. Proposed construction of a two family dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

**COMMUNITY BOARD #18BK**

---

**200-04-BZ** B.M. 703 West 171st Street, Fort Washington Avenue on the east and Haven Avenue on the west, Block 2139, Lot 199, Borough of Manhattan. Applic.#103683426. Proposed construction of a nine story residential and community facility building, Use Groups 2 and 4, on a narrow vacant lot, encumbered by a massive rock outcropping, in an R8 zoning district, which does not comply with the zoning requirements for height and setback, is contrary to Z.R. §23-692 and §23-62.

**COMMUNITY BOARD #12M**

---

**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.**

---

# MINUTES

---

**JUNE 22, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, June 22, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## SPECIAL ORDER CALENDAR

### **16-99-BZ**

APPLICANT - Eric Palatnik, P.C., for Milton Elbogen, owner.  
SUBJECT - Application August 25, 2003- reopening for an extension of time to obtain a Certificate of Occupancy and for an amendment to the previous resolution to amend the interior layout and slightly modify the bulk.  
PREMISES AFFECTED - 1116 East 26th Street, between Avenue K and Avenue L, Block 7625, Lot 52, Borough of Brooklyn.  
**COMMUNITY BOARD #14BK**

---

**JUNE 22, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, June 22, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## ZONING CALENDAR

### **147-02-BZ**

APPLICANT - Gerald J. Caliendo, R.A., for Joseph Pizzonia, owner.  
SUBJECT - Application May 8, 2002 - under Z.R. §72-21 to permit the legalization of the change of use of covered parking area, to automobile repair service bays, and the addition of a mezzanine with an accessory office and storage area, located in a C1-2 within an R-4 zoning district, is contrary to a previous variance granted under Cal. No. 148-87-BZ and Z.R. §32-00.  
PREMISES AFFECTED - 201-06 Hillside Avenue, southeast corner of 201st Street, Block 10495, Lot 52, Borough of Queens.  
**COMMUNITY BOARD #12Q**

---

### **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**

---

### **133-04-BZ**

APPLICANT - Jay A. Segal, Esq., for 866 3rd Next Generation Hotel, LLC, c/o The Witkoff Group, owner.  
SUBJECT - Application March 16, 2004 - under Z.R. §72-21 to permit the proposed conversion of floors 12 through 30, and a portion of the lobby of a 30 story building, to be converted from hotel use to residential use (Use Group 6), located in a C6-6/C6-4-5 zoning district, which does not comply with the zoning requirements for rear yard, is contrary to Z.R. §23-47 and §54-31.  
PREMISES AFFECTED - 866 Third Avenue, west side, between 52nd and 53rd Streets, Block 1307, Lot 1004, Borough of Manhattan.  
**COMMUNITY BOARD #6M**

---

### **169-04-BZ**

APPLICANT - Paul Hastings Janofsky Walker, LLP, for R & M Co. LLC and Martin Zelman, LLC, owner.  
SUBJECT - Application April 26, 2004 - under Z.R. §72-21 to permit the proposed re-development of a mixed use building, which does not comply with the zoning requirements for commercial floor area, commercial uses above the second floor, off-street parking and loading berths, is contrary to Z.R. §54-31, §33-121, §33-431, §36-21 and §36-62.  
PREMISES AFFECTED - 103-16 Roosevelt Avenue, (103-12/24 Roosevelt Avenue; 103-19/31 41st Avenue), mid-block on a through lot between Roosevelt Avenue, 41st Avenue, National Street and 104th Street, Block 1975, Lot 9, Borough of Queens.  
**COMMUNITY BOARD #4Q**

---

*Pasquale Pacifico, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, MAY 18, 2004  
10:00 A.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele and Commissioner Chin.  
Absent: Commissioner Miele.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, March 23, 2004, were approved as printed in the Bulletin of April 1, 2004, Volume 89, Nos. 13-14.

**SPECIAL ORDER CALENDAR**

**465-55-BZ**

**APPLICANT** - The Law Office of Fredrick A. Becker, for 325 North Macquesten Parkway Corporation, owner; Abko Inc dba Carwash Associates, lessee.

**SUBJECT** - Application June 13, 2003 - reopening for an amendment to the resolution.

**PREMISES AFFECTED** - 486/496 Coney Island Avenue aka 804/826 Church Avenue, west side of Coney Island Avenue 91' 9 1/8" south of the corner of Church Avenue and Coney Island Avenue) Block 5341, Lot 17, Borough of Brooklyn.

**COMMUNITY BOARD** #12BK

**APPEARANCES** -

For Applicant: Fredrick A. Becker.

**ACTION OF THE BOARD** - Application reopened and resolution amended.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

**THE RESOLUTION** -

WHEREAS, the applicant requested a reopening and an amendment to permit minor changes to the approved plans; 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, March 2, 2004, April 13, 2004 and April 27, 2004, and then laid over to May 18, 2004 for decision; and

WHEREAS, Community Board 12, Brooklyn, recommends approval of the subject proposal; and

WHEREAS, on September 13, 1960, the Board granted an application to permit: (1) the extension of a parking lot used in conjunction with an existing gasoline service station, public garage and automobile laundry; and (2) the addition of a sale and storage of auto tires use; and

WHEREAS, the applicant represents that since the aforementioned grant, the subject property has continuously operated with all of the listed uses with the exception of the gasoline service

**722-68-BZ**

**APPLICANT** - New York City Board of Standards and Appeals.

**OWNER OF PREMISES:** Matthew Pines

station; and

WHEREAS, the applicant seeks to amend the previously granted variance to allow the expansion of the existing building to accommodate auto detailing and overnight off-street parking in conjunction with the existing automobile laundry and related automotive uses; and

WHEREAS, the proposal includes, and the plans submitted with the application reflect, an easement across the subject property to the adjacent lot 15 that will utilize an existing curb cut along Church Avenue; and

WHEREAS, the Board notes that the proposed changes are minimal and would not have a adverse effect on the character of the surrounding neighborhood provided that the conditions below are met.

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 expansion of the existing building to accommodate auto detailing and overnight off-street parking in conjunction with the existing automobile laundry and related automotive uses, and to permit the recording of an easement across the adjacent lot 15 that will utilize an existing curb cut on Church Avenue, for entrance to the site, not exit; 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 22, 2004' -(1) sheet and 'April 20, 2004' -(2) sheets; and on further condition;

THAT all automobiles utilizing detailing services shall exit only through the easement path as set forth on the approved plan, and exit from the curb cut on Coney Island Avenue;

THAT a "Do Not Block Sidewalk" sign shall be maintained at the entrance of the carwash;

THAT no machines shall be used for detailing after 6:00 P.M. in the outside area at the rear of the premises;

THAT the above conditions and all relevant conditions from prior resolutions required to be on the certificate of occupancy shall appear on the new certificate of occupancy;

THAT a concrete planter with evergreens and seasonal plantings shall be placed in the area adjacent to the new detailing area and toilets;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application No. 301554654)

Adopted by the Board of Standards and Appeals, May 18, 2004.

**SUBJECT** - to dismiss the application for lack of prosecution.

**PREMISES AFFECTED** - 388-392 Kings Highway, West 3rd Street and Kings Place, Block 6678, Lot 68, Borough of Brooklyn.

---

# MINUTES

---

## COMMUNITY BOARD #11BK

### APPEARANCES -

In Opposition: Irving E. Minkin.

**ACTION OF THE BOARD** - Application withdrawn.

### THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

Adopted by the Board of Standards and Appeals, May 18, 2004.

---

## 328-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Mike Biagioni and Frank Biagioni, owners.

SUBJECT - Application October 24, 2003 - request for withdrawal.

PREMISES AFFECTED - 930-936 Richmond Avenue, between Forest Avenue and Monsey Place, Block 1706, Lots 36 & 39, Borough of Staten Island.

## COMMUNITY BOARD #1SI

### APPEARANCES -

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** - Application withdrawn.

### THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

Adopted by the Board of Standards and Appeals, May 18, 2004.

---

## 735-59-BZ

APPLICANT - Walter T. Gorman, P.E., for 902 Soundview Realty LLC, owner; Palisades Fuel, lessee.

SUBJECT - Application January 12, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired and for an amendment to the resolution.

PREMISES AFFECTED - 902 Soundview Avenue northeast corner of Story Avenue, Block 3662, Lots 1 and 59, Borough of The Bronx.

## COMMUNITY BOARD #18BX

### APPEARANCES -

For Applicant: John Ronan.

### THE VOTE TO CLOSE HEARING -

## 585-91-BZ

APPLICANT - Tarek M. Zeid, for Luis Mejia, owner.

SUBJECT - Application December 10, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired March 30, 2003 and for an amendment to the resolution.

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliend and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 10 A.M., for decision, hearing closed.

---

## 116-68-BZ

APPLICANT - Stephen Rizzo, for 40 Central Park South Inc., owner; Café Atlas, lessee.

SUBJECT - Application December 19, 2003 - reopening for an extension of time to obtain a certificate of occupancy which expired on December 21, 2003.

PREMISES AFFECTED - 40 Central Park South, south side, 120' east of Sixth Avenue, Block 1274, Lot 6, Borough of Manhattan.

## COMMUNITY BOARD #5

### APPEARANCES -

For Applicant: Elliott Vilkas.

### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliend and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 10 A.M., for decision, hearing closed.

---

## 811-81-BZ

APPLICANT - Sheldon Lobel, P.C., for Eva Ezrovics, owner.

SUBJECT - Application February 3, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired June 7, 2003.

PREMISES AFFECTED - 232 East 50th Street, East 50th Street between Second Avenue and Third Avenue, Block 1323, Lot 35, Borough of Manhattan.

## COMMUNITY BOARD #6M

### APPEARANCES -

For Applicant: Eric Palatnik.

### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 10 A.M., for decision, hearing closed.

---

PREMISES AFFECTED - 222-44 Braddock Avenue, Braddock Avenue between Winchester Boulevard and 222nd Street, Block 10740, Lot 12, Borough of Queens.

## COMMUNITY BOARD #13Q

### APPEARANCES -

For Applicant: Paul Bonfilio.

---

# MINUTES

---

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 10 A.M., for continued hearing.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 10 A.M., for decision, hearing closed.

---

**34-94-BZ**

APPLICANT - Maduakolam M. Nnabuihe, for Kenny Collado, owner.

SUBJECT - Application October 3, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired June 6, 2003.

PREMISES AFFECTED - 401, 403, 405 Castle Hill Avenue, a/k/a 2181 Norton Avenue, northwest corner of Castle Avenue and Norton Avenue, Block 3510, Lot 1, Borough of The Bronx.

**COMMUNITY BOARD #9BX**

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliend and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 10 A.M., for decision, hearing closed.

---

**199-00-BZ**

APPLICANT - The Agusta Group, for En Ping, Ltd., owner; The Atlantis 2010, lessee.

SUBJECT - Application March 10, 2004 - reopening for an extension of term of variance which expired March 13, 2004.

PREMISES AFFECTED - 76-19 Roosevelt Avenue, northwest corner of Roosevelt Avenue and 77th Street, Block 1287, Lot 37, Borough of Queens.

**COMMUNITY BOARD #3Q**

APPEARANCES -

For Applicant: Sol Korman and Edwardo Valentino.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 10 A.M., for decision, hearing closed.

---

**11-04-A**

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; James McGovern, lessee.

SUBJECT - Application January 13, 2004 - Proposed reconstruction and enlargement of an existing one family dwelling, not

---

**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 #10**

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 10 A.M., for continued hearing.

---

**406-03-BZY thru 409-03-BZY**

APPLICANT - Eric Palatnik, Esq., for Morning Star Development Corp., owner.

SUBJECT - Application December 31, 2003 - Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R.§11-331.

PREMISES AFFECTED -

2 Wenlock Street, south side, 30' west of Morning Star Road, Block 1179, Lot 32, Tentative Lot 33, Borough of Staten Island.

4 Wenlock Street, south side, 48' west of Morning Star Road, Block 1179, Lot 32, Tentative Lot 32, Borough of Staten Island.

8 Wenlock Street, south side, 56' west of Morning Star Road, Block 1179, Lot 32, Tentative Lot 30, Borough of Staten Island.

10 Wenlock Street, south side, 82' west of Morning Star Road, Block 1179, Lot 32, Tentative Lot 20, 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 and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 25 Fulton Walk, east side, 64.30' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Gary Lenhart.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 10 A.M., for continued hearing.

---

# MINUTES

---

Queen  
s.

**12-04-A**

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Jeanne & Michael Byrnes, lessees.

SUBJECT - Application January 13, 2004 - Proposed reconstruction 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..

PREMISES AFFECTED - 310 Hillside Avenue, south side, 350.0' west of Beach 178th Street, Block 16340, Lot 50, Borough of Queens. .

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 10 A.M., for decision, hearing closed.

140-30A 34<sup>th</sup> Avenue, Block 4994, Lot 225, Borough of Queens.

140-32 34<sup>th</sup> Avenue, Block 4994, Lot 126, Borough of Queens.

140-32A 34<sup>th</sup> Avenue, Block 4994, Lot 27, Borough of Queens.

140-34 34<sup>th</sup> Avenue, Block 4994, Lot 127, Borough of Queens.

140-34A 34<sup>th</sup> Avenue, Block 4994, Lot 227, Borough of Queens.

140-36 34<sup>th</sup> Avenue, Block 4994, Lot 327, Borough of Queens.

**COMMUNITY BOARD #11Q**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 10 A.M., for continued hearing.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 11:00 A.M.

**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 34<sup>th</sup> Avenue, Block 4994, Lot 24, Borough of Queens.

140-28 34<sup>th</sup> Avenue, Block 4994, Lot 224, Borough of Queens.

140-28A 34<sup>th</sup> Avenue, Block 4994, Lot 224, Borough of Queens.

140-30 34<sup>th</sup> Avenue, Block  
4994,  
Lot  
125,  
Borou  
gh of

**REGULAR MEETING**

**TUESDAY AFTERNOON, MAY 18, 2004**

**2:00 P.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

**ZONING CALENDAR**

**296-03-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Kigsway Realty, LLC, owner.

SUBJECT - Application September 10, 2003 - under Z.R. §72-21 to permit, in a C4-3 zoning district, the proposed extension of an existing two-story commercial building (Use Group 6), to three

---

# MINUTES

---

stories, which does not comply with applicable parking requirements, contrary to Z.R. §36-21.

PREMISES AFFECTED - 1619 Kings Highway, a/k/a 1601/1621 Kings Highway and 1639/1651 East 17<sup>th</sup> Street, Block 6779, Lot 22, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

### APPEARANCES -

For Applicant: Moshe Friedman.

**ACTION OF THE BOARD** - Application granted on condition.

### THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated September 4, 2003, acting on DOB Application No. 301387498, reads:

"Proposed Extension of an existing Two (2) story Commercial (UG 6) building, to Three (3) stories without the Parking requirements is contrary to ZR Sec 36-21, Parking, 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 March 9, 2004 after due notice by publication in The City Record, with a continued hearing on April 27, 2004 and then to May 18, 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 15, Brooklyn, recommends approval of this application; and

WHEREAS, this is an application for a variance pursuant to

WHEREAS, the applicant also commissioned a parking study, which concludes that adequate off-street and on-street parking exists to accommodate any increased traffic generated by the proposed office expansion; and

WHEREAS, specifically, this parking study states that: (1) the proposed project would generate 15 vehicular trips during the AM peak hour time period, 18 during the Midday, and 17 during the PM; (2) the municipal parking lot has 113 spaces available during the 8am-9am peak hour time period, and 42 during the 10am-11am time period, which is sufficient to accommodate the anticipated parking needs generated by the proposed office expansion; (3) the MTA's 'Q' line has a stop directly adjacent to the project site; (4) the

Z.R. §72-21, to permit, in a C4-2 zoning district, the proposed extension of an existing two-story commercial building (Use Group 6), to three stories, which does not comply with applicable parking requirements, contrary to Z.R. §36-21; and

WHEREAS, the subject zoning lot is located on the northwest corner of Kings Highway and East 17th Street, is 170 ft. X 108 ft. and trapezoidal shaped, has a total lot area of 16,993 sq. ft., and is currently occupied by a two-story, 24 feet high commercial structure; and

WHEREAS, the applicant seeks to expand the building by adding one more floor for office space, and also to add an elevator (for handicapped accessibility); and

WHEREAS, said expansion and addition of an elevator is permitted as-of-right under the applicable C4-3 zoning district regulations; and

WHEREAS, however, the extension triggers a parking requirement (42 spaces), which the applicant states can not be provided on-site; 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: (1) the lot is fully built out; the existing building covers the entire lot; and (2) the lot is trapezoidal-shaped; and

WHEREAS, the applicant argues that the full lot coverage prevents the provision of on-site parking spaces; and

WHEREAS, the Board finds that one of the unique conditions mentioned above, namely the full lot coverage, create practical difficulties and unnecessary hardships in providing required parking in strict conformity with current applicable zoning regulations; and

WHEREAS, based upon its review of the record, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant states that the building is adjacent to mass transit (a subway stop), which mitigates the need for on-site parking, and also states that it is projected that most employees and visitors would arrive via mass transit; and

WHEREAS, the applicant, through a submission dated May 4, 2004, states that despite a diligent search, no properties were located in the immediate vicinity that could provide long-term parking leases; however, a nearby municipal parking lot has available daily parking; and

proposed project would generate 7 subway trips during the AM peak hour time period, 9 during the Midday, and 8 during the PM; and (5) the project, therefore, would not result in any adverse traffic and parking impacts; and

WHEREAS, the Board finds that the existence of the nearby municipal parking lots, six local City bus routes and one private bus route, and two adjacent subway stops mitigate the need for on-site parking; 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;

---

# MINUTES

---

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

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 of the Rules of Procedure for City Environmental Quality Review and makes the required findings to grant a variance pursuant to Z.R. §72-21, to permit, in a C4-3 zoning district, the proposed extension of an existing two-story commercial building (Use Group 6), to three stories, which does not comply with applicable parking requirements, contrary to Z.R. §36-21, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "May 13, 2004"- (7) sheets and on further condition;

THAT any cock-loft, if provided between the existing second floor and the proposed third floor, shall be 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;

THAT the Department of Buildings must ensure compliance 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 18, 2004.

WHEREAS, Community Board 14, Brooklyn recommends approval of this application; and

WHEREAS, the Board notes that there was no objection issued by the Department of Buildings regarding non-compliance with rear yard requirements because the subject premises is located within one-hundred feet of a corner; and

WHEREAS, the perimeter wall height will comply with all applicable zoning regulations; and

WHEREAS, the Board notes that the proposed enlargement would be similar to adjacent properties and smaller than the adjacent building, despite the addition of floor area; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and

## 356-03-BZ

APPLICANT - Law Office of Fredrick A. Becker, for Eliezer Jeidel and Rachele Jeidel, owners.

SUBJECT - Application February 9, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliances with regard to floor area ratio, open space ratio and side yards, contrary to Z.R. §§23-141 and 23-461.

PREMISES AFFECTED - 2311 Avenue "J", between East 23<sup>rd</sup> and East 24<sup>th</sup> Streets, Block 7587, Lot 6, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Lyra Altman and David Shteierman.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated November 10, 2003, acting on Alt. 1 Application No. 301664349, reads:

"Obtain special permit approval from the Board of Standards and Appeals for the following objections:

1. Proposed floor area contrary to zr 23-141.
2. Proposed open space ratio contrary to zr 23-141.
3. Proposed side yard contrary to zr 23-461."; and

WHEREAS a public hearing was held on this application on April 20, 2004 after due notice by publication in The City Record, and then laid over for a decision to May 18, 2004; and

WHEREAS, a special permit is sought under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliances with regard to floor area ratio, open space ratio and side yards, contrary to Z.R. §§23-141 and 23-461; and

safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-622 and 73-03.

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliances with regard to floor area ratio, open space ratio and side yards, contrary to Z.R. §§23-141 and 23-461, on condition that all work shall substantially conform to

---

# MINUTES

---

drawings as they apply to the objections above-noted, filed with this application and marked "Received May 4, 2004"- (8) sheets; and on further condition;

THAT there shall be no habitable room in the cellar;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT 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;

THAT the Department of Buildings must ensure compliance 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 18 2004.

---

## 81-03-BZ

APPLICANT - Timothy M. Rice, for Vinicio Ramirez, owner;  
SUBJECT - Application March 24, 2003 and updated December 15, 2003 - under Z.R. §32-30 to reestablish and amend an expired variance, for an auto repair (auto-body) shop, parking for more than five(5) vehicles, storage, and the legalization of a new one story structure on the same lot, which is contrary to a previous variance granted under Cal. No.843-46-BZ, Vol. II, and Z.R. §§22-00 and

211-45 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 95, Borough of Queens.

211-43 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 96, Borough of Queens.

211-41 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 97, Borough of Queens.

211-54 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 98, Borough of Queens.

211-52 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 99, Borough of Queens.

211-50 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 100, Borough of Queens.

211-48 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 101, Borough of Queens.

211-46 94th Road, center of the block between Jamaica

32-00.

PREMISES AFFECTED - 857 East 169th Street, and 1351 Lyman Place, northwest corner, Block 2970, Lot 1, Borough of The Bronx.

## COMMUNITY BOARD #3

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over without date, for postponed hearing.

---

## 273-03-BZ thru 285-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED -

211-51 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 92, Borough of Queens.

211-49 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 93, Borough of Queens.

211-47 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 94, Borough of Queens.

and 94th Avenues, Block 10546, Lot 102, Borough of Queens.

211-44 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 103, Borough of Queens.

211-42 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 104, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Richard Lobel and Gerald Caliendo

For Opposition: Richard Hellenbrecht, Joseph Gormley, P.E., Marc R. Cloutier, Nagassar Ramgaris, Thomas Burton, John Stiller and R Clouter.

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at 1:30 P.M., for continued hearing.

---

## 307-03-BZ

APPLICANT - Fried, Frank Harris, Shriver & Jacobson, by Adrienne W. Bernard, Esq., for Clatco Company, LLC, 543

---

# MINUTES

---

Realty Co., LLC and Broadway 110 Developers, LLC, owners.

SUBJECT - Application October 2, 2003 - under Z.R. §72-21 to permit the proposed construction of a 15-story residential building, Use Group 2, located in R-8 and C1-4 zoning districts, which does not comply with the zoning requirements for lot coverage, maximum building height, street walls and setback, and is contrary to Z.R. §35-24, §23-633 and §23-145.

PREMISES AFFECTED - 543/45 West 110th Street, (aka Cathedral Parkway), and 2840/46 Broadway, northeast corner, Block 1882, Lots 1 and 6, Borough of Manhattan.

## COMMUNITY BOARD #9M

APPEARANCES -

For Applicant: Adrienne Bernard, Chris Anastos, D.S. Byard, Daniel Vega for Assembly Member David O'Donnell, Jennifer Baldwin and Barbara Hokol.

For Opposition: Jeffrey Chester, Daniel Margulies, Daniel Katz, Robert E. Roistacher, John G. Lipsett, Carolyn Kent, Marta B. Varela, Michael Bernard, and Brad Taylor.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

**ACTION OF THE BOARD**- Laid over to July 13, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 308-03-BZ

307 Hamden Avenue, north side, 90' east of Boundary Avenue, Block 3687, Lot 6, Borough of Staten Island.

309 Hamden Avenue, north side, 130' east of Boundary Avenue, Block 3687, Lot 8, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: John Ronan and Anthony J. Tucci.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

**ACTION OF THE BOARD**- Laid over to June 8, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 338-03-BZ

APPLICANT - Eric Palatnik, P.C., for Michael Kohl, owner.

SUBJECT - Application October 31, 2003 - under Z.R. §72-21 to permit the legalization of commercial offices and a dental laboratory

APPLICANT - Sheldon Lobel, P.C., for Grand Concourse Realty Corp., owner.

SUBJECT - Application October 6, 2003 - under Z.R. §73-211 to permit the proposed extension to an existing gasoline service station, to include an accessory convenience store, also the addition of another lot that, will be used for accessory parking, which is contrary to a previous variance granted under Cal. No.193-50-BZ and Z.R. §32-25.

PREMISES AFFECTED - 557/71 Grand Concourse, west side, 31.6' north of East 149th Street, Block 2347, Lots 24 and 19, Borough of The Bronx.

## COMMUNITY BOARD #4BX

APPEARANCES -

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 1:30 P.M., for continued hearing.

---

## 325-03-BZ & 326-03-BZ

APPLICANT - Walter T. Gorman, for LT Land Development Corp., owner.

SUBJECT - Application October 21, 2003 - under Z.R. §§72-11 & 72-21 to permit the proposed construction of a one family dwelling, Use Group 2, located in an R3-2 zoning district, which does not comply with the zoning requirement for front yard, is contrary to Z.R. §23-45.

PREMISES AFFECTED -

on the second floor of a two story building, located in an R5 zoning district, is contrary to Z.R. §22-11.

PREMISES AFFECTED - 726 Avenue "Z", south side, 203.56' east of Ocean Parkway, Block 7238, Lot 32, Borough of Brooklyn.

## COMMUNITY BOARD #13BK

APPEARANCES -

For Applicant: Eric Palatnik, Alex ? and Michael Kohl.

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 1:30 P.M., for continued hearing.

---

## 339-03-BZ

APPLICANT - Snyder and Snyder, LLP, for United Hebrew Cemetery, Inc., owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application October 31, 2003 - under Z.R. §73-30 to permit the proposed installation of a non-accessory radio tower, disguised as an eighty-two feet (82') flagpole, together with related equipment at the base thereof ("facility"), on said premises, located in an R3-2 zoning district, which requires a special permit.

PREMISES AFFECTED - 122 Arthur Kill Road, between Clarke and Newvale Avenues, Blocks 4475 and 4463, Lots 1 and 175, Borough of Staten Island.

---

# MINUTES

---

## COMMUNITY BOARD #3S.I.

APPEARANCES - None.

### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 361-03-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Joseph Chakkalo and Ninett Chakkalo, owner.

SUBJECT - Application November 20, 2003 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R4 (OP) zoning district, which does not comply with the zoning requirements for open space ratio, lot coverage and rear yard, is contrary to Z.R. §23-141 and §23-47. PREMISES AFFECTED - 2277 East 2<sup>nd</sup> Street, between Avenue "W" and Gravesend Neck Road, Block 7154, Lot 62, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

APPEARANCES -

**ACTION OF THE BOARD**- Laid over to July 13, 2004, at 1:30 P.M., for continued hearing.

---

## 366-03-BZ

APPLICANT - Moshe M. Friedman, P.E., for Ahava Ve Ahava Yeshiva Ketana, Inc., owner.

SUBJECT - Application November 25, 2003 - under Z.R. §72-21 to permit the proposed vertical enlargement to an existing school, Use Group 3, located in an R5 Ocean Parkway-Subdistrict, which does not comply with the zoning requirements for floor area, floor area ratio, open space, lot coverage, front yard, side yards, minimum side yard, loading, height and setback, which is contrary to Z.R. §113-51, §24-11, §113-545, §23-45, §113-543, §23-461, §113-55, §23-631 and §113-22(a).

PREMISES AFFECTED - 2001 East 7th Street, southeast corner of Avenue "S", Block 7089, Lot 77, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Josef Friedman, Moshe ? and Lily Hasbani.  
For Opposition: Anto Hordon.

**ACTION OF THE BOARD**- Laid over to July 13, 2004, at 1:30 P.M., for continued hearing.

---

## 7-04-BZ

For Applicant: Lyra Altman.

### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

**ACTION OF THE BOARD**- Laid over to June 8, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 364-03-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Alprof Realty LLC/VFP Realty LLC, owners.

SUBJECT - Application November 24, 2003 - under Z.R. §72-21 to permit the proposed construction of an automotive car wash and Lubritorium, Use Group 2, located in a C2-2(R6) zoning district, which is contrary to Z.R. §32-00.

PREMISES AFFECTED - 34-11 Far Rockaway Boulevard, southeast corner of Sea Girt Boulevard, Block 15950, Lots 14 and 24, Borough of Queens.

## COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Adam W. Rothkrug.

For Opposition: Stephen A. Cooper and Marlen K. Waaser.

APPLICANT - Lawrence Whiteside dba Construction/Codes Consultants, for Rev. Dr. Sheldon E. Williams/Coop City Baptist Church, owner.

SUBJECT - Application January 9, 2004 - under Z.R. §72-21 to permit the proposed construction of a Church/Community Outreach Center, Use Group 4, located in an R3-2 zoning district, which does not comply with the zoning requirements for open space ratio, floor area ratio, height and setback, and encroaches onto the front and side yards, is contrary to Z.R. §24-11, §24-34, §24-35 and §24-521.

PREMISES AFFECTED - 2208 Boller Avenue, property fronting on Boller and Hunter Avenues and Erskine Place, Block 5135, Lot 1, Borough of The Bronx.

## COMMUNITY BOARD #10X

APPEARANCES -

For Applicant: Lawrence Whiteside.

### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

**ACTION OF THE BOARD**- Laid over to June 8, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 23-04-BZ

---

# MINUTES

---

APPLICANT - Moshe M. Friedman, P.E., for Yossi Kraus, owner.  
SUBJECT - Application February 10, 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 yard and minimum required side yard, is contrary to Z.R. §23-141(a), §23-47 and §23-48.

PREMISES AFFECTED - 1150 East 23rd Street, west side, 380'-0" north of Avenue "L", Block 7622, Lot 66, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Moshe Friedman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for decision, hearing closed.

**40-04-BZ**

APPLICANT - Agusta & Ross, for Steven Witriol, owner.

SUBJECT - Application February 13, 2004 - under Z.R. §72-21 to permit the proposed change of use from an automobile repair and used vehicles sales (Use Group 16), previously approved by the Board under Cal. No. 56-95-BZ, to a retail store (Use Group 6), located in an R5 zoning district, which is contrary to Z.R. §22-00. PREMISES AFFECTED - 2252 Linden Boulevard, southeast corner of Cleveland Street, Block 4360, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #5BK**

APPEARANCES -

For Applicant: Mitchell Ross

For Administration: Anthony Scaduto, Fire Department.

**ACTION OF THE BOARD** - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

*Pasquale Pacifico, Executive Director.*

---

# CORRECTIONS

---

**\*CORRECTION**

This resolution adopted on February 27, 2001, under Calendar No. 34-99-BZ and printed in Volume 86, Bulletin Nos. 9-10, is hereby corrected to read as follows:

**34-99-BZ**

**CEQR #99-BSA-097K**

APPLICANT - Sheldon Lobel, P.C., for Ruach Chaim Institute, owner.

SUBJECT - Application February 22, 1999 - under Z.R. §72-21, to permit, in an R2 zoning district, the proposed community facility (Use Group 4), which is contrary to the floor area, front yards, side yards, lot coverage, open space, height and setback, lot area and side setback as per Z.R. §§ 24-111, 24-34, 24-35, 24-521, and 25-31.

PREMISES AFFECTED - 1189 East 29th Street, corner of Avenue "L" and East 29th Street, Block 7629, Lot 6, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Eric Palatnik.

For Administration: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

Adjourned: 6:00 P.M.

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4

Negative: .....0

THE RESOLUTION -

WHEREAS, the decision of the Department of Buildings, dated November 30, 2000 acting on Applic. No. 300652531 reads:

“Obtain approval from the Board of Standards and Appeals for the following objections:

Proposed floor area is contrary to ZR 24-111

Proposed front yards are contrary to ZR 24-34

Proposed side yards are contrary to ZR 24-35

Proposed open space ratio is contrary to ZR 24-521

Proposed height & setback is contrary to ZR 24-521

Proposed side setback & sky exposure contrary to ZR 24-521

Proposed off street parking contrary to ZR 25-31”; and

WHEREAS, a public hearing was held on this application on January 18, 2000, after due notice by publication in The City Record, laid over to March 7, 2000, May 9, 2000, June 20, 2000, October 3, 2000, November 21, 2000, December 19, 2000, January 9, 2001, February 6, 2001 and then to February 27, 2001 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-Chair Paul Bonfilio, R.A., and Commissioner Mitchell Korbey; and

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R2 zoning district, the proposed community facility (Use Group 4), which is contrary to the floor area, front yards, side yards, lot coverage, open space, height and setback, lot area, side setback, and parking as per Z.R. §§ 24-111, 24-34, 24-35, 24-521, and 25-34; and

WHEREAS, the subject site is a rectangular shaped parcel of property located on the corners of both Avenue L and East 29th Street; and

WHEREAS the lot is presently developed with a two and one-half story dwelling and a separate garage; and

WHEREAS, the applicant seeks to replace the existing two and one-half story residence with a three-story with cellar Yeshiva; and

WHEREAS, the Yeshiva will provide secular and religious education to children ages three and above; and

WHEREAS, the subject building will house classrooms, kitchen, dining and office facilities; and

WHEREAS, the applicant notes that while a school facility is a permitted use in an R2 zoning district, Z.R. § 24-111 limits

WHEREAS, the applicant represents that the size of the present facility does not meet these increased programmatic needs; and

WHEREAS, the applicant demonstrated that the City Planning Commission's special permit would not be adequate to meet the programmatic needs of the Yeshiva; and

WHEREAS, in order to meet these increased programmatic needs, the applicant proposed a floor area ratio of 3.83; and

WHEREAS, in response to Board and opposition concerns, the proposal will provide a floor area ratio of 2.22; and

WHEREAS, a minimum of .40 open space ratio is required, the subject proposal provides for 2,100 square feet and 6,300 square feet of open space is required; and

WHEREAS, Z.R. §24-34 requires a front yard of fifteen (15) feet in depth, however, the subject proposal provides no front yard; and

WHEREAS, Z.R. §24-35 requires that a community facility in an R2 district provide two side yards, each having a minimum width of 8'; and

WHEREAS, the subject proposal one of the two required side yards; and

WHEREAS, the proposed structure would not have a side yard wide enough from which a setback would be possible; and

---

## CORRECTIONS

---

development to a floor area ratio of .5; and

WHEREAS, Z.R. §24-521, requires that a community facility in an R2 district where front yards are required, have a vertical horizontal frontal setback ratio of 1:1 for every 25' where the sky exposure plane is penetrated; and

WHEREAS, the subject proposal provides no frontal elevation setback and would not be modified to allow for a change in the sky exposure plane; and

WHEREAS, the Yeshiva use is currently housed in temporary rental quarters on Avenue K where classes for six different grades are held; and

WHEREAS, the record indicates that the Yeshiva's student population is growing annually with scores of potential students on a waiting-list; and

WHEREAS, the Yeshiva expects its enrollment to increase from the current 130 to 540 by 2003; and

WHEREAS, evidence in the record indicates that an as-of-right alternative would not meet the programmatic needs of the Yeshiva; and

WHEREAS, the applicant represents that the size, shape and location of the existing building create unique conditions which result in practical difficulty in redeveloping the site in accordance with the current zoning while meeting the increased programmatic needs of the Yeshiva; and

WHEREAS, the applicant need not address Z.R. §72-21(b)

since the applicant is a not-for-profit organization and the construction will be in furtherance of its programmatic needs; and

WHEREAS, a school use is permitted as-of-right in the subject R2 zoning district; and

WHEREAS, two other schools are situated within a five block radius of the subject site; and

WHEREAS, Avenue L is a densely populated area and the subject site borders on an R6 zoning district to the east and a C2-2 zoning district on the northeast along Nostrand Avenue; and

WHEREAS, the floor to ceiling heights of the original proposal have been reduced; and

WHEREAS, the applicant represents that there are other religious uses within the immediate area; and

WHEREAS, therefore, the Board finds that the proposed application, as modified, will not alter the essential character of the surrounding neighborhood, impair the use or development of adjacent property nor be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, 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 Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

*Resolved*, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, in an R2 zoning district, the proposed community facility (Use Group 4), which is contrary to the floor area, front yards, side yards, lot coverage, open space, height and setback, lot area and side setback as per Z.R. §§ 24-111, 24-34, 24-35, 24-521, and 25-31, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 2, 2001"- (9) sheets; and on further condition;

THAT all refuse shall be stored indoors in the cellar of the subject building;

THAT use of the rooftop be limited to the hours of 8:00 a.m. to 5:00 p.m.;

THAT all fire safety measures be in accordance with BSA approved plans;

THAT the development, as approved, is subject to verification by the Department of Buildings for compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department;

THAT substantial construction shall be completed in accordance with Z.R. §72-23.

Adopted by the Board of Standards and Appeals, February 27, 2001.

**\*\*The resolution has been corrected in the part of the resolution which read: "...floor area ratio 2.2..." now reads: "...floor area ratio 2.22...". Corrected in Bulletin No. 22, Vol. 89, dated May 27, 2004.**

---

*Pasquale Pacifico, Executive Director*

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 23

June 3, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**SATISH BABBAR, *Vice-Chair***

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	409-410
<b>CALENDAR</b> of July 13, 2004	
Morning .....	411
Afternoon .....	412

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, May 25, 2004**

Morning Calendar .....413

**Affecting Calendar Numbers:**

671-56-BZ	1249-1265 Sutter Avenue, Brooklyn
982-83-BZ	191-20 Northern Boulevard, Queens
138-87-BZ	218-36 Hillside Avenue, Queens
16-93-BZ	110 Christopher Street, Manhattan
371-29-BZ	1210-1230 East 233 <sup>rd</sup> Street, Bronx
889-55-BZ, Vol. II	69-13/25 164 <sup>th</sup> Street, Queens
753-63-BZ	184 Avenue D, Manhattan
198-66-BZ	300 East 74 <sup>th</sup> Street, Manhattan
274-90-BZ	85 DeKalb Avenue, Brooklyn
85-91-BZ	204-18 46 <sup>th</sup> Avenue, Queens
410-03-BZY thru 412-03-BZY	95/97/99 Lansing Street, Staten Island
395-03-A & 396-03-A	253-03/06 Rockaway Boulevard, Queens
263-03-A	1638 Eighth Avenue, Brooklyn
27-04-A	755 12 <sup>th</sup> Avenue, Manhattan

Afternoon Calendar .....419

**Affecting Calendar Numbers:**

183-03-BZ	118 Berry Street, 116 North Seventh Street, Brooklyn
193-03-BZ	824/34 Kent Avenue, Brooklyn
218-03-BZ	19-73 38 <sup>th</sup> Street, Queens
255-03-BZ	1019 Surf Avenue, Brooklyn
288-03-BZ	109-17 Horace Harding Expressway, Queens
300-03-BZ	326 East 126 <sup>th</sup> Street, Manhattan
302-03-BZ	1212 East 23 <sup>rd</sup> Street, Brooklyn
365-03-BZ	224-20 Prospect Court, Queens
367-03-BZ	714 Beach 20 <sup>th</sup> Street, Queens
389-03-BZ	1959 East 24 <sup>th</sup> Street, Brooklyn
10-04-BZ	54-14 74 <sup>th</sup> Street, Queens
38-04-BZ	70-15 164 <sup>th</sup> Street, Queens

---

# DOCKETS

---

New Case Filed Up to May 25, 2004

---

**201-04-BZ** B.M. 5 West 16<sup>th</sup> Street, between Fifth Avenue and Avenue of the Americas, Block 818, Lot 37, Borough of Manhattan. Alt. #103313022. 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, requires a special from the Board as per Z.R. §73-36.

**COMMUNITY BOARD #5M**

---

**202-04-BZ** B.BK. 100 Jewel Street, southeast corner of Meserole Street, Block 2626, Lot 1, Borough of Brooklyn. Applic. #301297344. 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.

**COMMUNITY BOARD #1BK**

---

**203-04-BZ** B.BK. 2801 Avenue "N", northeast corner of East 28<sup>th</sup> Street, Block 7664, Lot 9, Borough of Brooklyn. Applic. #301443873. 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.

**COMMUNITY BOARD #14BK**

---

**204-04-BZ** B.BK. 1116 East 22<sup>nd</sup> Street, west side, 340' south of Avenue "J", Block 7603, Lot 65, Borough of Brooklyn. Applic. #301797312. 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.

**COMMUNITY BOARD #14BK**

---

**205-04-BZ** B.S.I. 375 Tennyson Drive, southwest corner of Groton Street, Block 5317, Lot 48, Borough of Staten Island. Applic. #500690665. Proposed construction of a single family detached dwelling, Use Group 1, located within an R3-1 South Richmond District, which does not provide the required front yard and exceeds the floor area requirement, is contrary to Z.R. §107-461 and §23-14.

**COMMUNITY BOARD #3SI**

---

**206-04-BZ** B.BK. 1901 Ocean Parkway, southeast corner of Avenue "S", Block 7088, Lots 1, 14, 15, 16 and 89, Borough of Brooklyn. Applic. #301770509.

Proposed enlargement of an existing community facility, Use Group 4, located in an R5 within the Special Ocean Parkway zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, building's height and setback, also the rear yard, is contrary to Z.R. §23-141, §23-631, §113-55, §113-51 and §113-544.

**COMMUNITY BOARD #15BK**

---

**207-04-BZ** B.BK. 2721 Avenue "N", northwest corner of East 28<sup>th</sup> Street, Block 7663, Lot 1, Borough of Brooklyn. Applic. #301745967. 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.

**COMMUNITY BOARD #14BK**

---

**208-04-BZ** B.BK. 2822 Avenue "L", southwest corner of East 29<sup>th</sup> Street, Block 7646, Lot 51, Borough of Brooklyn. Alt.1 #301744511. 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.

**COMMUNITY BOARD #14BK**

---

**209-04-BZ** B.Q. 109-09 15<sup>th</sup> Avenue, northwest corner of 110<sup>th</sup> Street, Block 4044, Lot 60, Borough of Queens. Alt.1 #401843617. Proposed six story residential building, with 134 dwelling units, Use Group 2, located in an M2-1 zoning district, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #7Q**

---

**210-04-A** B.Q. 109-09 15<sup>th</sup> Avenue, northwest corner of 110<sup>th</sup> Street, Block 4044, Lot 60, Borough of Queens. Alt.1 #401843617. 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.

---

---

# DOCKETS

---

**211-04-A**            B.Q.            216-50/56 28<sup>th</sup> Avenue,  
southwest corner of Cross Island Parkway, Block 6019,  
Lot 108, Borough of Queens. N.B. #401619664.  
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.

---

**212-04-BZ**            B.S.I.            2360 Hylan Boulevard,  
a/k/a 333 Otis Avenue, between Otis and Bryant Avenues,  
Block 3905, Lot 17, Borough of Staten Island. N.B.#  
500680818. 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, is contrary to  
Z.R. §22-10.

**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

---

**JULY 13, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, July 13, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

## 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 #11**

\_\_\_\_\_

### **173-92-BZ**

APPLICANT - Law Offices of Howard Goldman LLC, for Bremen House, Inc., owner.

SUBJECT - Application February 20, 2004 - reopening for an extension of term of special permit granted pursuant to Z.R. §73-36 that permitted a physical culture establishment on the second floor of a building, located in a C2-8 zoning district.

PREMISES AFFECTED - 220 East 86th Street, between 2nd and 3rd Avenues, Block 1531, Lot 38, Borough of Manhattan.

**COMMUNITY BOARD #8M**

\_\_\_\_\_

### **176-99-BZ**

APPLICANT - The Agusta Group, for Marathon Parkway Assoc., LLC, owner.

SUBJECT - Application May 11, 2004 - reopening for an extension of time to complete construction.

PREMISES AFFECTED - 45-17 Marathon Parkway, east side 110.48' south of Northern Boulevard, Block 8226, Lot 10, Borough of Queens.

**COMMUNITY BOARD #11Q**

## APPEALS CALENDAR

**JULY 13, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday*

### **18-04-A**

APPLICANT - Robert Miller, for Breezy Point Co-op, Inc., owner; Mr. Ronald Kirsche, lessee.

SUBJECT - Application February 4, 2004 - Proposed addition of a second floor, to an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 5 of the General City Law.

PREMISES AFFECTED - 10 Irving Walk, west side, 105.69' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14**

\_\_\_\_\_

### **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, aka 22 Seventh Avenue, northwest corner, Block 942, lots 48 and 52, Borough of Brooklyn.

**COMMUNITY BOARD #6**

\_\_\_\_\_

*afternoon*, July, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>h</sup> Floor, New York, N.Y. 10006, on the following matters:

---

# MINUTES

---

Baychester Avenue, Block 4954, Lot 68, Borough of The Bronx.  
**COMMUNITY BOARD #12**

---

## ZONING CALENDAR

*Pasquale Pacifico, Executive Director*

### **358-03-BZ**

APPLICANT - Harold Weinberg, P.E., for Rita Citronenbaum, owner.

SUBJECT - Application November 19, 2003 - under Z.R. §72-21 to permit the proposed enlargement to an existing single family residence, Use Group 1, located in an R5 zoning district, which does not comply with the zoning requirements for lot coverage, also rear and side yards, is contrary to Z.R. §23-146 and §23-47.

PREMISES AFFECTED - 1651 52nd Street, north side, 334'-4 ½" west of 17th Avenue, Block 5466, Lot 69, Borough of Brooklyn.

### **COMMUNITY BOARD #12**

---

### **391-03-BZ**

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 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 #14**

---

### **19-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Motiva Enterprises, LLC, owner.

SUBJECT - Application February 6, 2004 - under Z.R. §11-412 to permit the reestablishment of an expired variance previously granted under Cal. No. 423-54-BZ, for a gasoline service station in a C2-1 within an R-4 zoning district, also the legalization of the conversion of a portion of the gas station to an accessory retail convenience store, is contrary to Z.R. §22-10 and §32-10.

PREMISES AFFECTED - 1217 East 233rd Street, aka 3923

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, MAY 25, 2004  
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, March 30, 2004, were approved as printed in the Bulletin of April 8, 2004, Volume 89, No. 15.

## SPECIAL ORDER CALENDAR

### 671-56-BZ

APPLICANT - Walter T. Gorman, P.E., for Benjamin Siegel Properties, LLC, owner; Euclid Enterprises, Inc., lessee.

SUBJECT - Application December 5, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired September 14, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 1249-1265 Sutter Avenue, northside blockfront from Euclid Avenue to Doscher Street, Block 4249, Lots 55 and 59, Borough of Brooklyn.

### COMMUNITY BOARD #5BK

#### APPEARANCES -

For Applicant: John Ronan.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application re-opened, resolution amended and term of the variance extended.

#### THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Chin and Commissioner Miele.....5

Negative:.....0

#### THE RESOLUTION -

WHEREAS, a public hearing was held on this application on March 9, 2004, after due notice by publication in *The City Record*, with a continued hearing on May 11, 2004 and laid over to May 25, 2004 for decision; and

WHEREAS, the applicant has requested a waiver of the Rules of Practice and Procedure, a re-opening, an amendment, and an extension of the term of the variance, which expired on September 24, 2002; and

WHEREAS, on September 24, 1957, the Board granted an application to permit, in a local retail and residence use district, a gasoline service station with accessory uses, the term of which grant was subsequently extended on January 23, 1973, March 20, 1984 and, most recently, December 5, 1995; and

WHEREAS, the applicant represents that the last certificate of occupancy issued was C.O. No. 244959 for a gasoline service station, lubratorium, high speed auto laundry, minor auto repairs, offices, store, storage room, locker room and parking storage of motor vehicles in an

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

open area; and

WHEREAS, the record indicates that the most recent certificate of occupancy expired on September 14, 2002 and the gasoline service station is not presently in operation; and

WHEREAS, the applicant currently seeks to re-establish the gasoline service station, and extend the term of the variance for a period of ten (10) years from September 24, 2002, and to amend the resolution to permit the erection of a new canopy, a one (1) story 420 square foot addition on the west side of the service building, a 192.32 square foot "L" shaped addition on the east side, the installation of two (2) concrete islands with one (1) multi-product dispenser on each island, and the conversion of an existing bay to an accessory convenience store; and

WHEREAS, the Board notes that the proposed changes are minimal and would not have a adverse effect on the character of the surrounding neighborhood provided that the conditions below are met.

**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 September 24, 1957, so that as amended this portion of the resolution shall read: "to permit the re-establishment of the gasoline service station, the erection of a new canopy, a one (1) story 420 square foot addition on the west side of the service building, a 192.32 square foot "L" shaped addition on the east side, the installation of two (2) concrete islands with one (1) multi-product dispenser on each island, the conversion of an existing bay to an accessory convenience store, and to extend the term of the variance for a period of ten (10) years from September 24, 2002, to expire on September 24, 2012, **on condition** that the premises shall be developed and maintained in substantial compliance with the proposed drawings submitted with the application, marked "Received April 22, 2004"- (5) sheets; and that other than as herein amended the resolution above cited shall be complied with in all respects; **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 operation of the car wash and/or any car washing activity, including the operation of vacuums, is only permitted between the hours of 8 A.M. and 6 P.M., seven days a week;

THAT the above conditions and all conditions from prior resolutions required to be on the certificate of occupancy shall appear on the new certificate of occupancy;

THAT the conditions from all prior BSA resolutions for this site shall 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

# MINUTES

Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

(DOB Application # 301658882 & #301664429)

Adopted by the Board of Standards and Appeals, May 25, 2004.

## 982-83-BZ

APPLICANT - H. Irving Sigman, for Barone Properties Inc., owner.  
SUBJECT - Application December 5, 2003 - reopening for an extension of time to complete construction and obtain a certificate of occupancy and for an amendment to the resolution.

PREMISES AFFECTED - 191-20 Northern Boulevard, southwest corner of 192<sup>nd</sup> Street, Block 5513, Lot 27, Borough of Queens.

### COMMUNITY BOARD #11Q

APPEARANCES - None.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, resolution amended and time to obtain a Certificate of Occupancy extended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Chin and Commissioner Miele.....5

Negative:.....0

THE RESOLUTION -

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 April 20, 2004, May 11, 2004, and then laid over to May 25, 2004 for decision; and

WHEREAS, the applicant has requested a waiver of the Rules of Practice and Procedure, a reopening for and amendment to the resolution and an extension of time to obtain a Certificate of Occupancy which expired December 7, 2000; and

WHEREAS, on March 6, 1984, the Board granted an application permitting the change of use of an existing one-story and mezzanine structure, from automotive sales and service to retail stores and offices; and

WHEREAS, the applicant represents that unforeseen changes in the tenant occupancies forestalled construction and prevented completion by the compliance date of December 7, 2000; and

WHEREAS, the applicant also seeks changes to the previously approved plans which include the reapportionment of the tenants' floor space within the building, the construction of demising walls, which increase the number of stores from three to four, the re-labeling from mezzanine to second floor on the plans and the addition of an exterior canopy fronting Northern Boulevard; and

WHEREAS, the applicant further asserts that the

## 138-87-BZ

APPLICANT - Carl. A. Sulfaro, Esq., for Philip Cataldi Trust, owner; Enterprise Car Rental Co., lessee.

SUBJECT - Application January 9, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired January 12, 2003.

previously approved BSA drawings incorrectly indicated 51 off-site open parking spaces when only 50 are actually provided, in accordance with the Board-adopted resolution; and

WHEREAS, Community Board Number 14, Queens, and the Queens Borough President both recommended conditional approval of the subject application.

*Resolved*, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, and *reopens* the resolution, said resolution having been adopted on March 6, 1984, so that as amended this portion of the resolution shall read: "to permit changes to the previously approved plans which include the reapportionment of the tenants' floor space within the building, the construction of demising walls, which increase the number of stores from three to four, the re-labeling from mezzanine to second floor on the plans and the addition of an exterior canopy fronting Northern Boulevard and an extension of the time to obtain a certificate of occupancy for a period of two (2) years from the date of this resolution to expire on May 25, 2006; *on condition* that the premises shall be developed and maintained in substantial compliance with the proposed drawings submitted with the application, marked "Received April 5, 2004"-(2) sheets and "April 27, 2004"-(2) sheets; and that other than as herein amended the resolution above cited shall be complied with in all respects; *and on further condition*;

THAT no trucks shall be allowed to park on the area of the 50 off-street parking spaces intended for customers;

THAT the parking lot shall be locked at night;

THAT the dry wells shall be maintained on a regular basis to prevent flooding;

THAT the debris behind the building adjacent to the homes be removed;

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 and all conditions from prior resolutions shall appear on the new certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

(DOB Application #401751369)

Adopted by the Board of Standards and Appeals, May 25, 2004.

PREMISES AFFECTED - 218-36 Hillside Avenue southeast corner of Hillside Avenue and 218<sup>th</sup> Place, Block 10678, Lot 14, Hollis, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Carl A. Sulfaro.

# MINUTES

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application re-opened, and term of the variance extended.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Chin and Commissioner Miele.....5

Negative:.....0

**THE RESOLUTION** -

WHEREAS, a public hearing was held on this application on April 20, 2004, after due notice by publication in *The City Record*, and then to May 25, 2004 for decision; and

WHEREAS, the applicant has requested a waiver of the Rules of Practice and Procedure, a re-opening and an extension of the term of the variance, which expired on January 12, 2003; and

WHEREAS, on January 12, 1988, the Board granted a application to permit, in a C2-2 within an R-2 district, the reestablishment of a gasoline service station with accessory uses and the legalization of a change in use to the sale of and minor repair of used cars for a term of five (5) years; and

WHEREAS, on June 12, 1990, the Board amended the January 12, 1988 resolution to permit a change in the height of the fence walls, the elimination of the planting area along 218<sup>th</sup> Place and the southerly lot line, and the substitution of potted plants; and

WHEREAS, on September 20, 1994, the Board extended the term of the variance for a period of ten (10) years from January 12, 1993, and amended the resolution to permit a change in use from used car sales with minor repairs to car rental with minor repairs and incidental sales; and

WHEREAS, the Queens Borough President and Community Board #14 have recommended approval of this application; and

WHEREAS, the Community Board recommended that the applicant improve the cleanliness of the premises, and subsequently, the applicant submitted an affidavit to the Community Board stating that the premises will be kept free of debris, that all snow and ice will promptly be removed, and that the buffer area between the subject use and adjacent residential uses will be continually maintained.

*Resolved*, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, *reopens and amends* the variance, said resolution having been adopted January 12, 1988, so that as amended this portion of the resolution shall read: "to extend the term of the variance for a period of ten (10) years from January 12, 2003, to expire on January 12, 2013, *on condition* that the premises shall be maintained in substantial compliance with the proposed

WHEREAS, a public hearing was held on this application on April 20, 2004, after due notice by publication in *The City Record*, and then to May 25, 2004 for decision; and

WHEREAS, the applicant has requested a re-opening, an amendment of the resolution and an extension of the term of the variance, which expired on February 24, 2004; and

WHEREAS, on February 24, 1994, the Board granted a

drawings submitted with the application marked "Received May 4, 2004"-(1) sheet; and that other than as herein amended the resolution above cited shall be complied with in all respects; *and on further condition*;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions and all conditions from prior resolutions required to be on the certificate of occupancy shall appear on the new certificate of occupancy;

THAT the conditions from all prior BSA resolutions for this site shall 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) and/or configuration(s) not related to the relief granted." (DOB Application # 401714846)

Adopted by the Board of Standards and Appeals, May 25, 2004.

## 16-93-BZ

APPLICANT - Carl A. Sulfaro, Esq., for 110 Christopher Street, LLC, owner.

SUBJECT - Application January 13, 2004 - reopening for an extension of term of variance which expired February 24, 2004 and for an amendment to the resolution.

PREMISES AFFECTED - 110 Christopher Street, south side, 192'-6.25" west of Bleeker Street, Block 588, Lot 51, Borough of Manhattan.

## COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Carl A. Sulfaro.

**ACTION OF THE BOARD** - Application re-opened, resolution amended and term of the variance extended.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Chin and Commissioner Miele.....5

Negative:.....0

**THE RESOLUTION** -

application to permit, in an R6 zoning district, the reestablishment of an expired variance, granted under BSA Calendar No. 50-60-BZ, which permitted use of the cellar space for three small offices; and

WHEREAS, the applicant currently seeks to legalize the conversion of the cellar office space to a custom dressmaking and sales shop (Use Group 6); and

WHEREAS, the Board notes that the proposed change

---

# MINUTES

---

is minimal and would not have an adverse effect on the character of the surrounding neighborhood provided that the conditions below are met.

*Resolved*, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, *reopens and amends* the variance, said resolution having been adopted February 24, 1994, so that as amended this portion of the resolution shall read: "to permit the conversion of the cellar office space to a custom dressmaking and sales shop (Use Group 6), and to extend the term of the variance for a period of ten (10) years from February 24, 2004, to expire on February 24, 2014, *on condition* that the premises shall be maintained in substantial compliance with the proposed drawings submitted with the application marked 'Received May 4, 2004'-(1) sheet; and that other than as herein amended the resolution above cited shall be complied with in all respects; *and on further condition*;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions and all conditions from prior resolutions required to be on the certificate of occupancy shall appear on the new certificate of occupancy;

THAT egress requirements shall be 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 # 103579487)

Adopted by the Board of Standards and Appeals, May 25, 2004.

---

## 371-29-BZ

APPLICANT - Maduakolam Mish. Nnabuihe, for Getty Petroleum Corp., owner; Besan Trading Inc., lessee.

SUBJECT - Application January 9, 2004 - reopening for an amendment to the resolution for tire shop as an accessory use to the existing automotive service station.

PREMISES AFFECTED - 1210-1230 East 233<sup>rd</sup> Street, northwest

## 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 74<sup>th</sup> Street, southeast corner of 2<sup>nd</sup> Avenue and East 74<sup>th</sup> Street, Block 1448, Lot 3, Borough of Manhattan.

## COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Eric Palatnik.

corner of Grenada Place and Edson Avenue, Block 4934, Lot 66, Borough of The Bronx.

## COMMUNITY BOARD #13BX

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to without date, for postponed hearing.

---

## 889-55-BZ, Vol. II

APPLICANT - J & H Management Corp., for Everything Auto Repair, lessee.

SUBJECT - Application October 21, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 1, 2003.

PREMISES AFFECTED - 69-13/25 (69-15 Official) 164<sup>th</sup> Street, east side 110' south of 69<sup>th</sup> Avenue, Block 6931, Lot 38, Borough of Queens.

## COMMUNITY BOARD #8

APPEARANCES -

For Applicant: Janice Cahalane and Miley Fisher.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 10 A.M., for continued hearing.

---

## 753-63-BZ

APPLICANT - Anthony N. Borowiec, P.E., for Warren Kurtz, P.E. of NYC Department of Environmental Protection, owner.

SUBJECT - Application March 5, 2004 - reopening for an amendment to the resolution to add three additional stories to the station.

PREMISES AFFECTED - 184 Avenue D, east side of Avenue D, 20' south of 13<sup>th</sup> Street, Block 367, Lot 25, Borough of Manhattan.

## COMMUNITY BOARD #3M

APPEARANCES -

For Applicant: Michael Stallone, Thomas Raihl and Bern Lal.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 10 A.M., for continued hearing.

---

**ACTION OF THE BOARD** - Laid over to August 17, 2004, at 10 A.M., for continued hearing.

---

## 274-90-BZ

APPLICANT - George E. Berger, for Long Island University, owner.

SUBJECT - Application December 22, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired January 27, 2002 and for an amendment to the resolution.

---

# MINUTES

---

PREMISES AFFECTED - 85 DeKalb Avenue, north side DeKalb Avenue, west of Ashland Place, Block 2086, Lot 34, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

APPEARANCES -

For Applicant: George Berger.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 10 A.M., for continued hearing.

---

**85-91-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for Scott R. Benson, DVM, owner; Bayside Veterinary Center, lessee.

SUBJECT - Application January 9, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired July 21, 2002.

PREMISES AFFECTED - 204-18 46<sup>th</sup> Avenue, south side of 46<sup>th</sup> Avenue, 142.91' east of 204<sup>th</sup> Street, Block 7304, Lot 17, Borough of Queens.

**COMMUNITY BOARD #11**

APPEARANCES -

For Applicant: Carl A. Sulfaro.

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 June 15, 2004, at 10 A.M., for decision, hearing closed.

---

**410-03-BZY thru 412-03-BZY**

APPLICANT - Ciro Asperti, R.A., for Alan Christofferson, owner.

SUBJECT - Application December 31, 2003 - Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R.§11-331.

PREMISES AFFECTED -

95 Lansing Street, southwest corner of South Beach Avenue, Block 3404, Lots 31 and 34, Borough of Staten Island.

97 Lansing Street, southwest corner of South Beach

WHEREAS, by the letter dated March 5, 2004, the Fire Department has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

*Resolved*, that the decision of the Queens Borough Commissioner, dated December 23, 2003 and updated on January 23, 2004, N.B Application No. 401730677 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 May 11, 2004"-(1) sheet; and that the proposal comply with all applicable M1-1 zoning district requirements; that all applicable laws, rules,

Avenue, Block 3404, Lot 36, Borough of Staten Island.

99 Lansing Street, southwest corner of South Beach

Avenue, Block 3404, Lot 37, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES - None.

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 June 15, 2004, at 10 A.M., for decision, hearing closed.

---

**395-03-A**

APPLICANT - Zaki Turkieh, for Aryeh Realty, LLC, owner.

SUBJECT - Application December 26, 2003 - proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 253-02 Rockaway Boulevard, located on Rockaway Boulevard and corner of East Dock Street, Block 13921, Lot 82, Borough of Queens.

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Appeal granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Chin and Commissioner Miele.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated December 23, 2003, and updated on January 23, 2004, acting on N.B. Application No. 401730677, reads in pertinent part:

"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 and to Section 27-291 of the Administrative Code of the City of New York."; and

and regulations shall be complied with; *on further condition* THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

---

# MINUTES

---

Adopted by the Board of Standards and Appeals on May 25, 2004.

**396-03-A**

APPLICANT - Zaki Turkieh, for Aryeh Realty, LLC, owner.  
SUBJECT - Application December 26, 2003 - proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 253-06 Rockaway Boulevard, located on Rockaway Boulevard and corner of East Dock Street, Block 13921, Lot 84, Borough of Queens.

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Appeal granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Chin and Commissioner Miele.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated December 23, 2003, and updated on January 23, 2004, acting on N.B. Application No. 401729037, reads in pertinent part:

“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 and to Section 27-291 of the Administrative Code of the City of New York.”; and

WHEREAS, by the letter dated March 5, 2004, the Fire Department has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate SUBJECT - Application August 20, 2003 - An administrative appeal challenging the Department of Buildings’ final determination dated August 13, 2003, in which the Department refused to revoke the certificate of occupancy, on the basis that the applicant had satisfied all objections regarding said premises.

PREMISES AFFECTED - 1638 Eighth Avenue, west side, 110-5’ east of Prospect Avenue, Block 1112, Lot 52, Borough of Brooklyn.

**COMMUNITY BOARD #7BK**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at 10 A.M., for postponed hearing.

**27-04-A**

APPLICANT - Steven Sinacori/Stadtmauer Bailkin, LLP, for City of New York, owner; Unconvention Center, Inc., lessee.

SUBJECT - Application February 11, 2004 - Proposed rehabilitation and renovation of Pier 94, for use as an exhibition hall

evidence to warrant this approval under certain conditions.

*Resolved*, that the decision of the Queens Borough Commissioner, dated December 23, 2003 and updated on January 23, 2004, N.B Application No. 401729037 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 May 11, 2004”- (1) sheet; and that the proposal comply with all applicable M1-1 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *on further condition*

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on May 25, 2004.

**263-03-A**

APPLICANT - John W. Carroll, Wolfson & Carroll, for Ben Bobker, owner.

for mid-size trade shows, which seeks relief from the requirements of §27-369(f) of the NYC Building Code with respect to protection of an exterior corridor, and §27-771.01(b) of the NYC Building Code with respect to mechanical system providing less than (6) six air changes per hour.

PREMISES AFFECTED - 755 12<sup>th</sup> Avenue, west side, between West 53<sup>rd</sup> and 55<sup>th</sup> Streets, Block 1109, Lot 5, Borough of Manhattan.

**COMMUNITY BOARD #4M**

APPEARANCES -

For Applicant: Steven Sinacori, Jeanette Rauch, Joe Ragga and Romona Franklin.

For Opposition: B.C. Carty, Fire Department.

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 June 15, 2004, at

---

# MINUTES

---

10 A.M., for decision, hearing closed.

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director.*

Adjourned: 11:35 A.M.

**REGULAR MEETING  
TUESDAY AFTERNOON, MAY 25, 2004  
2:00 P.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

\_\_\_\_\_  
**ZONING CALENDAR**

**183-03-BZ**

APPLICANT - Agusta & Ross, for North Berry Capital Group, LLC, owner.

SUBJECT - Application June 3, 2003- under Z.R. §72-21 to permit the proposed forty-three unit multiple dwelling, with retail space on the ground floor, and underground accessory parking throughout for twenty-two vehicles, Use Groups 2 and 6, located in an M1-2 zoning district, which is contrary to **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 38<sup>th</sup> Street, corner of 20<sup>th</sup> Avenue, Steinway Street and 38<sup>th</sup> Street, Block 811, Lot 1, Borough of Queens.

**COMMUNITY BOARD #1Q**

APPEARANCES -

for Applicant: Gerald J. Caliendo.

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at 1:30 P.M., for continued hearing.

\_\_\_\_\_  
**255-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Surf Avenue Enterprise,

Z.R. §42-10.

PREMISES AFFECTED - 118 Berry Street, 116 North Seventh Street, a/k/a 116/26 North Seventh Street and 118/20 Berry Street, northwest corner, Block 2326, Lots 18 and 19 (tentative Lot 18), Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Mitchell Ross.

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 1:30 P.M., for continued hearing.

\_\_\_\_\_  
**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**

APPEARANCES -

For Applicant: James Plotkin.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 1:30 P.M., for continued hearing.

\_\_\_\_\_  
owner.

SUBJECT - Application August 11, 2003- under Z.R. §72-21 to permit the legalization of an existing furniture store, Use Group 10, located in a C7 zoning district, also a request to vary the requirement of maintaining a loading berth on the premises, is contrary to Z.R. §32-10 and §36-62.

PREMISES AFFECTED - 1019 Surf Avenue, between West 8<sup>th</sup> and West 12<sup>th</sup> Streets, Block 7628, Lot 236, Borough of Brooklyn.

**COMMUNITY BOARD #13BK**

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to August 17, 2004, at 1:30 P.M., for continued hearing.

\_\_\_\_\_  
**288-03-BZ**

APPLICANT - H. Irving Sigman, for Aggressive Realty Corp., owner.

SUBJECT - Application August 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a three story vertical and

---

# MINUTES

---

horizontal enlargement to an existing two story hotel, Use Group 5, located in a C2-2 within an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, height and non-complying signs, is contrary to Z.R. §33-121, §33-341, §32-641-643, §32-652 and §32-655.

PREMISES AFFECTED - 109-17 Horace Harding Expressway, northeast corner of Saultell Avenue, Block 1969, Tentative Lot 2, Borough of Queens.

**COMMUNITY BOARD #4Q**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

---

**300-03-BZ**

APPLICANT - Slater & Beckerman, for TC Interprises, LLC, owner.

SUBJECT - Application September 18, 2003 - under Z.R. §72-21 to permit the proposed construction of a six (6) story residential building, Use Group 2, located in an M1-2 zoning district which is contrary to Z.R. §42-10.

PREMISES AFFECTED - 326 East 126<sup>th</sup> Street, south side, between First and Second Avenues, Block 1802, Lot 36, Borough of Manhattan.

**COMMUNITY BOARD #11M**

APPEARANCES -

For Applicant: Stuart Beckerman.

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Avi Mansher, owner.

SUBJECT - Application November 25, 2004 - under Z.R. §72-21 to permit the construction of a two story, two family dwelling, Use Group 2, which does not provide the required side yard which is contrary to Z.R. §23-462.

PREMISES AFFECTED - 224-20 Prospect Court, a/k/a 225<sup>th</sup> Street, northwest corner, Block 13071, Lot 74, Borough of Queens.

**COMMUNITY BOARD #13Q**

APPEARANCES -

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 1:30 P.M., for continued hearing.

---

**367-03-BZ**

APPLICANT - Eric Palatnik, P.C., for 1224 Brunswick Realty Corp., owner.

SUBJECT - Application November 25, 2003 - under Z.R. §72-21 to permit the proposed conversion of a former movie theater, to a warehouse with ancillary retail space, located in C1-2, C4-2 and R-5 zoning districts, with loading occurring within the R-5 portion of the site, does not comply with the zoning requirements, for perimeter wall height, total height, side and rear yards, sky exposure, off-street parking and loading, is contrary to Z.R. §32-00, §22-00, §23-631d, §23-461, §23-543, §36-21 and §36-681.

**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 July 13, 2004, at 10 A.M., for decision, hearing closed.

---

**302-03-BZ**

APPLICANT - Harold Weinberg, P.E., for Albert Gonter, owner.  
SUBJECT - Application September 22, 2003 - under Z.R. §73-622 to permit the proposed erection of a rear enlargement to an existing one family dwelling, also an extension of the residential use into the attic, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio and rear yard, is contrary to Z.R. §23-141, §23-47 and §54-31.

PREMISES AFFECTED - 1212 East 23<sup>rd</sup> Street, west side, 100' south of Avenue "L", Block 7640, Lot 51, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Harold Weinberg.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

---

**365-03-BZ**

PREMISES AFFECTED - 714 Beach 20<sup>th</sup> Street, between New Haven and Cornaga Avenues, Block 15564, Lots 25 and 55, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Eric Palatnik and David Shteierman.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

---

**389-03-BZ**

APPLICANT - Harold Weinberg, P.E., for Miriam Katz, owner.  
SUBJECT - Application December 16, 2003 - under Z.R. §73-622 to permit the proposed erection of a two story rear 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 ratio, open space, rear yard, lot coverage and side yards, is contrary to Z.R. §23-141, §23-461, §23-47 and §54-31.

PREMISES AFFECTED - 1959 East 24<sup>th</sup> Street, east side, 460'0" south of Avenue "S", Block 7303, Lot 64, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES -

For Applicant: Harold Weinberg.

**ACTION OF THE BOARD** - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

---

# MINUTES

---

---

## 10-04-BZ

APPLICANT - Paul Hasting Janofsky & Walker LLP, for AFP Holding Inc., owner; Aldona Fire Protection, Inc., lessee.

SUBJECT - Application January 12, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing building, located in an M1-1 zoning district, which does not comply with the zoning requirements for floor area ratio, rear yards, height of front wall and required setback, also accessory off-street parking, is contrary to Z.R. §43-12, §43-26, §43-43 and §43-20.

PREMISES AFFECTED - 54-14 74<sup>th</sup> Street, west of Grand Avenue, Block 2803, Lot 28, Borough of Queens.

## COMMUNITY BOARD #5Q

APPEARANCES -

For Applicant: Paul Selver, Robert Pauls, Dariosz Skarzynski and Michael Barelli.

For Opposition: Gary Giordano, Community Board 5Q; Robert Holden, Walre Janchez, Tony Nuwziato and Edward Kampermann.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

---

## 38-04-BZ

APPLICANT - Eric Palatnik, P.C., for Sanford Becker and Howard Ochs, owner.

SUBJECT - Application February 13, 2004- under Z.R. §72-21 to permit the legalization of the northern side yard at an existing dentist's office, Use Group 4, located in an R3-2 zoning district, which is in non-compliance with Z.R. §23-464 and §24-35.

PREMISES AFFECTED - 70-15 164<sup>th</sup> Street, east side, between Jewel and 71<sup>st</sup> Avenues, Block 6933, Lot 78, Borough of Queens.

## COMMUNITY BOARD #8Q

APPEARANCES -

For Applicant: Eric Palatnik, Howard Ochs, Albert Marengo, Milyon Bloch, Richard Komblau, Barton Slavin and Gizella Kress.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 1:30 P.M., for continued hearing.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 6:15 P.M.

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, Nos. 24-25

June 17, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN**, *Chair*

**SATISH BABBAR**, *Vice-Chair*

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	424-425
<b>CALENDAR</b> of July 13, 2004	
Morning .....	426
Afternoon .....	427

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, June 8, 2004**

Morning Calendar .....428

**Affecting Calendar Numbers:**

707-56-BZ, Vol. II	1500/10 Williamsbridge Road, The Bronx
735-59-BZ	902 Soundview Avenue, The Bronx
116-68-BZ	40 Central Park South, Manhattan
1038-80-BZ	31-07/09/11 Downing Street, Queens
34-94-BZ	401,403, 405 Castle Hill Avenue, The Bronx
295-01-BZ	1257-1263 38 <sup>th</sup> Street, Brooklyn
406-03-BZY	2 Wenlock Street, Staten Island
407-03-BZY	4 Wenlock Street, Staten Island
408-03-BZY	8 Wenlock Street, Staten Island
409-03-BZY	10 Wenlock Street, Staten Island
724-56-BZY	42-42 Francis Lewis Boulevard, Queens
283-90-BZ	1400 Clove Road, Staten Island
125-92-BZ	3333 Hylan Boulevard, Staten Island
120-93-BZ	222-19 Linden Boulevard, Queens
95-97-BZ	69-47 Austin Street, Queens
234-98-BZ	2600-2614 Adam Clayton Powell Jr. Boulevard, Manhattan
12-04-A	310 Hillside Avenue, Queens.
53-04-A thru	
62-04-A	140-26A/28/28A/30/32/32A/34/34A/36 34 <sup>th</sup> Avenue, Queens
73-04 thru 124-04-A	Bell Point Drive, Clear Water Road, Harbor Drive, Brooklyn

Afternoon Calendar.....440

**Affecting Calendar Numbers:**

211-03-BZ	529-535 48 <sup>th</sup> Avenue, Queens
325-03-BZ &	
326-03-BZ	307 & 309 Hamden Avenue, Staten Island
377-03-BZ	25 Bond Street, Manhattan
7-04-BZ	2208 Boller Avenue, The Bronx
23-04-BZ	1150 East 23 <sup>rd</sup> Street, Brooklyn
60-02-BZ	3849 Bedford Avenue, Brooklyn
161-02-BZ	2433 Knapp Street, Brooklyn
68-03-BZ	649 39 <sup>th</sup> Street, Brooklyn
82-03-BZ	51 North 8 <sup>th</sup> Street, Brooklyn
84-03-BZ	35-40 30 <sup>th</sup> Street, Queens
139-03-BZ	247-54 90 <sup>th</sup> Avenue, Queens
249-03-BZ	265 Bedford Avenue, Brooklyn
267-03-BZ	2/6 Berry Street, Brooklyn
287-03-BZ	430 Keap Street, Brooklyn
305-03-BZ	2, 8, 10 Grand Avenue, Brooklyn
341-03-BZ	343 West 16 <sup>th</sup> Street, Manhattan
9-04-BZ	114 Walworth Street, Brooklyn
14-04-BZ	76-07 Roosevelt Avenue, Queens
39-04-BZ	1418 East 29 <sup>th</sup> Street, Brooklyn
40-04-BZ	2252 Linden Boulevard, Brooklyn

**SPECIAL CALENDAR**.....455

**Wednesday, June 9, 2004**

**Affecting Calendar Number:**

342-03-BZ	92/94 Greene Street, Manhattan
-----------	--------------------------------

---

# DOCKETS

---

New Case Filed Up to June 8, 2004

---

**213-04-A** B.Q. 40 Queens Walk, west side, 203.23' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens. Alt.1# 401820712. Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

---

**214-04-A** B.Q. 18 Essex Walk, north west corner of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens. Alt.1# 401816558. Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, has a private disposal system in the bed of a service road and is located partially within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law and Department of Buildings' Policy.

---

**215-04-A** B.Q. 4 Jamaica Walk, west side, 30' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens. Alt.1# 401816549. Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

---

**216-04-A** B.Q. 14 Essex Walk, west side, 55.80' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens. Alt.1# 401820909. Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

---

**217-04-A** B.Q. 464 Seabreeze Walk, east side, 30.71' east of Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens. Alt.1# 401805490. Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street and located partially within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

---

**218-04-A** B.Q. 100-23 39TH Avenue, north

side, between 100 and 102nd Streets, Block 1767, Lot 60, Borough of Queens. Applic.#401862542. Proposed construction of a four story and cellar eight family residential building, which is located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

---

**219-04-BZ** B.BX. 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. Alt.1#200761599. 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.

**COMMUNITY BOARD #5BX**

---

**220-04-BZ** B.BK. 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. Applic.#301216716. 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.

**COMMUNITY BOARD #1BK**

---

**221-04-A** B.Q. 39 Irving Walk, north side of Breezy Point Boulevard, 518.38' west of Beach 207th Street, Block 16350, Lot 400, Borough of Queens. Alt.1#401842994. Proposed alteration and enlargement of an existing one family dwelling, located within the bed of a mapped street, and has a private disposal system in the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law and Department of Buildings' Policy.

---

**222-04-A** B.S.I. 468 Arthur Kill Road, bed of Pemberton Avenue intersection, with south side of Arthur Kill Road, Block 5450, Lot 35, Borough of Staten Island. Applic.#500684404. Proposed construction, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

---

---

# DOCKETS

---

**223-04-A** B.S.I. 120 Pemberton Avenue, bed of Pemberton Avenue, 106.72' south of Arthur Kill Road, Block 5450, Lot 36, Borough of Staten Island. Applic.#500684397. Proposed construction, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

---

**224-04-A** B.S.I. 122 Pemberton Avenue, bed of Pemberton Avenue, 106.72' south of Arthur Kill Road, Block 5450, Lot 37, Borough of Staten Island. Applic.#500684388. Proposed construction, 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

---

**JULY 13, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, July 13, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

**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 #11**

---

**173-92-BZ**

APPLICANT - Law Offices of Howard Goldman LLC, for Bremen House, Inc., owner.

SUBJECT - Application February 20, 2004 - reopening for an extension of term of special permit granted pursuant to Z.R. §73-36 that permitted a physical culture establishment on the second floor of a building, located in a C2-8 zoning district.

PREMISES AFFECTED - 220 East 86th Street, between 2nd and 3rd Avenues, Block 1531, Lot 38, Borough of Manhattan.

**COMMUNITY BOARD #8M**

---

**176-99-BZ**

APPLICANT - The Agusta Group, for Marathon Parkway Assoc., LLC, owner.

SUBJECT - Application May 11, 2004- reopening for an extension of time to complete construction.

PREMISES AFFECTED - 45-17 Marathon Parkway, east side 110.48' south of Northern Boulevard, Block 8226, Lot 10, Borough of Queens.

**COMMUNITY BOARD #11Q**

---

**APPEALS CALENDAR**

**JULY 13, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday*

**18-04-A**

APPLICANT - Robert Miller, for Breezy Point Co-op, Inc., owner; Mr. Ronald Kirsche, lessee.

SUBJECT - Application February 4, 2004 - Proposed addition of a second floor, to an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 5 of the General City Law.

PREMISES AFFECTED - 10 Irving Walk, west side, 105.69' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14**

---

**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, aka 22 Seventh Avenue, northwest corner, Block 942, lots 48 and 52, Borough of Brooklyn.

**COMMUNITY BOARD #6**

---

*afternoon*, July 13, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

# CALENDAR

---

## ZONING CALENDAR

### **358-03-BZ**

APPLICANT - Harold Weinberg, P.E., for Rita Citronenbaum, owner.

SUBJECT - Application November 19, 2003 - under Z.R. §72-21 to permit the proposed enlargement to an existing single family residence, Use Group 1, located in an R5 zoning district, which does not comply with the zoning requirements for lot coverage, also rear and side yards, is contrary to Z.R. §23-146 and §23-47.

PREMISES AFFECTED - 1651 52nd Street, north side, 334'-4 ½" west of 17th Avenue, Block 5466, Lot 69, Borough of Brooklyn.

**COMMUNITY BOARD #12**

---

### **391-03-BZ**

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 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 #14**

---

SUBJECT - Application February 6, 2004 - under Z.R. §11-412 to permit the reestablishment of an expired variance previously granted under Cal. No. 423-54-BZ, for a gasoline service station in a C2-1 within an R-4 zoning district, also the legalization of the conversion of a portion of the gas station to an accessory retail convenience store, is contrary to Z.R. §22-10 and §32-10.

PREMISES AFFECTED - 1217 East 233rd Street, aka 3923 Baychester Avenue, Block 4954, Lot 68, Borough of The Bronx.

**COMMUNITY BOARD #12**

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director*

---

# MINUTES

---

### **19-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Motiva Enterprises, LLC, owner.

**REGULAR MEETING  
TUESDAY MORNING, JUNE 8, 2004  
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, April 13, 2004, were approved as printed in the Bulletin of April 22, 2004, Volume 89, Nos. 16 & 17.

---

**SPECIAL ORDER CALENDAR**

**707-56-BZ, Vol. II**

APPLICANT - Walter T. Gorman, P.E., for Jewell Mallinson/Leonard Mallinson, owners; Amoco Oil Company, lessee.

SUBJECT - Application January 13, 2004 - reopening for an extension of term of variance which expired April 21, 2004.

PREMISES AFFECTED - 1500/10 Williamsbridge Road, northeast corner of Eastchester Road, Block 4082, Lot 5, Borough of The Bronx.

**COMMUNITY BOARD #11BX**

**APPEARANCES -**

For Applicant: John Ronan.

**ACTION OF THE BOARD** -Application reopened, and term of variance extended.

**THE VOTE TO GRANT-**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on May 11, 2004 after due notice by publication in The City Record, and then to June 8, 2004 for decision; and

WHEREAS, the applicant requests a reopening and an extension of the term of the variance, which expired on April 21, 2004; and

WHEREAS, on April 21, 1959, the Board granted a variance for the operation of a gasoline service station with accessory uses on the subject premises; 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 September 10, 1996.

Resolved, that the Board of Standards and Appeals, reopens and amends the resolution, and, said resolution having been adopted on April 21, 1959 as amended through June 24, 1986 so that, as amended, this portion of the resolution shall read: "to permit the

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a reopening, an extension of the term of the variance which expires on October 21, 2005, and an amendment of the resolution; and

extension of the term of the variance for an additional ten (10) years from April 21, 2004 expiring on April 21, 2014; on condition that all work shall substantially conform to drawings as filed with this application marked 'Received May 24, 2004'- (4) sheets; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT a six (6) foot opaque fence will be provided on the portions of the lot abutting other uses as shown on the submitted plans;

THAT the above conditions and all conditions from prior resolutions shall appear on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB # 200813334)

Adopted by the Board of Standards and Appeals, June 8, 2004.

---

**735-59-BZ**

APPLICANT - Walter T. Gorman, P.E., for 902 Soundview Realty LLC, owner; Palisades Fuel, lessee.

SUBJECT - Application January 12, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired and for an amendment to the resolution.

PREMISES AFFECTED - 902 Soundview Avenue northeast corner of Story Avenue, Block 3662, Lots 1 and 59, Borough of The Bronx.

**COMMUNITY BOARD #18BX**

**APPEARANCES -**

For Applicant: John Ronan.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, resolution amended and term of variance extended.

**THE VOTE TO GRANT-**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on April 13, 2004 after due notice by publication in The City Record, with a continued hearing on May 18, 2004 and then to June 8, 2004 for decision; and

WHEREAS, on May 24, 1960, the Board granted an application to permit the erection of a gasoline service station, sales of auto accessories, and an auto laundry; and

WHEREAS, since the original grant, the applicant has obtained

---

# MINUTES

---

subsequent minor amendments and extensions of the term of the variance, the most recent extension being granted on February 11, 1997; and

WHEREAS, the applicant currently seeks to convert a portion of the existing service building to an accessory convenience store, remove the kiosk from the center island; change the center island from a 23' by 6' concrete island with one multi-product dispenser to a 23' by 3' concrete island with one (1) multi-product dispenser and steel inverted "U" bumpers; modify the service building by establishing an attendant's area within the space currently designated as the office and sales area; shorten the island closest to Soundview Avenue, remove one of its multi-product dispensers and add a diesel dispenser to the remaining multi-product dispenser; and

WHEREAS, the applicant has removed a curb cut along Rosedale Avenue, thus reducing an impediment to pedestrian traffic; and

WHEREAS, the applicant will eliminate the existing vacuum cleaning units and auto laundry facilities.

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 extension of the term of the variance for an additional ten (10) years from October 21, 2005 expiring on October 21, 2015, and to permit the conversion of a portion of the existing service building to an accessory convenience store; the removal of the kiosk from the center island; the change of the center island from a 23' by 6' concrete island with one multi-product dispenser to a 23' by 3' concrete island with one (1) multi-product dispenser and steel inverted "U" bumpers; the modification of the service building by establishing an attendant's area within the space currently designated as the office and sales area; the shortening of the island closest to Soundview Avenue, the removal of one of its multi-product dispensers and the addition a diesel dispenser to the remaining multi-product dispenser; on condition that all work shall substantially conform to drawings as filed with this application, marked, 'Received April 30, 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 a six (6) foot opaque fence will be provided on the portions of the lot abutting other uses as shown on the submitted plans;

THAT the above conditions and all conditions from prior resolutions shall appear on the certificate of occupancy;

Resolved, that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on June 25, 1968 as amended on December 21, 1999, 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 June 8, 2006 on condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB # 200817447)

Adopted by the Board of Standards and Appeals, June 8, 2004.

---

## 116-68-BZ

APPLICANT - Stephen Rizzo, for 40 Central Park South Inc., owner; Café Atlas, lessee.

SUBJECT - Application December 19, 2003 - reopening for an extension of time to obtain a certificate of occupancy which expired on December 21, 2003.

PREMISES AFFECTED - 40 Central Park South, south side, 120' east of Sixth Avenue, Block 1274, Lot 6, Borough of Manhattan.

### COMMUNITY BOARD #5

APPEARANCES - None.

**ACTION OF THE BOARD** - 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, 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 April 27, 2004, and May 18, 2004 and then to June 8, 2004 for decision; and

WHEREAS, the applicant requested an extension of time to obtain a Certificate of Occupancy for an eating and drinking establishment; and

WHEREAS, the applicant represents that due to unforeseen circumstances on the premises - specifically, various open applications on the building and various violations that have since been cleared - 5% of the construction has not been completed, and the Certificate of Occupancy application has been delayed; and

WHEREAS, the applicant has provided photographic evidence of the work completed.

within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance 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 # 101857224)

---

# MINUTES

---

Adopted by the Board of Standards and Appeals, June 8, 2004.

**1038-80-BZ**

APPLICANT - Davidoff & Malito, LLP, for Feinrose Downing, LLC, owner; Expressway Arcade Corp., lessee.

SUBJECT - Application January 29, 2004 - reopening for an extension of term of variance which expired January 6, 2004.

PREMISES AFFECTED - 31-07/09/11 Downing Street, Block 4327-4367, Lot 1, Borough of Queens.

**COMMUNITY BOARD #7Q**

APPEARANCES - None.

**ACTION OF THE BOARD** - Application reopened, and term of special permit extended.

**THE VOTE TO GRANT-**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on May 11, 2004 after due notice by publication in The City Record, and then to June 8, 2004 for decision; and

WHEREAS, the applicant requests a reopening and an extension of the term of the special permit, which expired on January 6, 2004; 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.

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, 2004 expiring on January 6, 2005; on condition that all work shall substantially conform to drawings as filed with this application marked 'Received January 29, 2004'-(1) sheet; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a reopening and an extension of the term of the special permit, which expired on June 6, 2003; and

WHEREAS, Bronx Community Board #9 has recommended approval of this application; and

WHEREAS, the Board notes that the applicant has agreed to comply with most of the Community Board conditions with the exception of a request for a double-door entrance which would necessitate a significant interior alteration to the premises; and

WHEREAS, on September 13, 1994, the Board granted a

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT there are 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."

(DOB # 435-81)

Adopted by the Board of Standards and Appeals, June 8, 2004.

**34-94-BZ**

APPLICANT - Maduakolam M. Nnabuihe, for Kenny Collado, owner.

SUBJECT - Application October 3, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired June 6, 2003.

PREMISES AFFECTED - 401, 403, 405 Castle Hill Avenue, a/k/a 2181 Norton Avenue, northwest corner of Castle Avenue and Norton Avenue, Block 3510, Lot 1, Borough of The Bronx.

**COMMUNITY BOARD #9BX**

APPEARANCES -

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, and term of special permit extended.

**THE VOTE TO GRANT-**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on February 24, 2004 after due notice by publication in The City Record, with continued hearings on March 23, 2004, April 20, 2004, and May 18, 2004, and then to June 8, 2004 for decision; and

special permit for the operation of an eating and drinking establishment with dancing on the subject premises; and

WHEREAS, on June 6, 2000 the term of the special permit was extended for a period of three (3) years.

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 September 13, 1994 as amended June 6, 2000 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 three (3) years from June 6, 2003

---

# MINUTES

---

expiring on June 6, 2006; on condition that all work shall substantially conform to drawings as filed with this application marked 'Received May 11, 2004'-(2) sheets; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT nine parking spaces shall be provided in accordance with BSA-approved plans; and

THAT security lighting shall be provided along the sides and rear of the building;

THAT, on Fridays, Saturdays and Sundays, a parking attendant shall be responsible for parking all automobiles, and patrons shall be prohibited from parking their own automobiles;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB # 200801588)

Adopted by the Board of Standards and Appeals, June 8, 2004.

---

## 295-01-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Yeled V'Yalda Early Childhood Center, owner.

SUBJECT - Application January 22, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1257-1263 38<sup>th</sup> Street, between 12th Avenue and 13th Avenue, Block 5295, Lots 47, 48, 49, Borough of Brooklyn.

### COMMUNITY BOARD #12BK

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions and all conditions from prior resolutions shall appear on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

## APPEARANCES -

For Applicant: Howard Hornstein and Peter Geis.

**ACTION OF THE BOARD** -Application reopened and amended.

## THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

## THE RESOLUTION -

WHEREAS, a public hearing was held on this application on May 11, 2004 after due notice by publication in The City Record, and then to June 8, 2004 for decision; and

WHEREAS, the applicant requests a reopening and amendment of the resolution to permit an increase in the size of the proposed cellar; and

WHEREAS, on May 14, 2002, the board granted a variance to permit, in an M2-1 zoning district, the construction and operation of a school, Use Group 3, on the subject premises; and

WHEREAS, on September 24, 2002, the resolution was amended to eliminate the entire fifth floor and approximately 70% of the cellar level, which was intended for a gym/auditorium use; and

WHEREAS, the amendment also entailed re-designating the former sub-cellar as the cellar and the former cellar space as a mezzanine; and

WHEREAS, upon commencing construction, it was determined that some of the cellar space removed as part of the September 24, 2002 amendment application would be needed for two (2) kitchens and additional multi-purpose space for activities related to religious functions; and

WHEREAS, the applicant states that the current proposal does not change any zoning calculations and merely returns some of the gross cellar floor area which was granted by the Board in the original variance application.

Resolved, that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on May 14, 2002, so that as amended this portion of the resolution shall read: "To permit an increase in the size of the proposed cellar on condition that all work shall substantially conform to drawing as they apply to the objections above noted, filed with this application marked 'Received May 25, 2004'-(3) sheets; and on further condition:

(DOB # 301268964)

Adopted by the Board of Standards and Appeals, June 8, 2004.

---

## 406-03-BZY

APPLICANT - Eric Palatnik, Esq., for Morning Star Development Corp., owner.

SUBJECT - Application December 31, 2003 - Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R.§11-331.

PREMISES AFFECTED -

2 Wenlock Street, south side, 30'west of Morning Star Road, Block

---

# MINUTES

---

1179, Lot 32, Tentative Lot 33, 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 Caliendo, Commissioner Miele and Commissioner Chin.....5

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

WHEREAS, a public hearing was held on this application on April 28, 2004 after due notice by publication in The City Record, with a continued hearing on May 18, 2004, and then to decision on June 8, 2004; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the Board notes that this application has been filed with three companion applications for the premises at 4, 8 & 10 Wenlock Street, under BSA Calendar Nos. 407-03-BZY, 408-03-BZY, and 409-03-BZY; and

WHEREAS, Z.R. §11-331 authorizes the Board to grant a six month extension of time to complete foundations upon a finding that "on the effective date the building permit lapsed, excavation had been completed and substantial progress made on foundations"; and

WHEREAS, the subject premises is proposed to be developed with two-family homes as one of four adjacent residential developments, located at the southwest corner of the intersection of Morningstar Road and Wenlock Street; and

WHEREAS, the record indicates that on December 2, 2003 a construction permit (DOB Permit No. 500657032-NB) for the new buildings was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the applicant has provided additional documentation that approximately \$49,002 of the estimated \$77,130 associated with the foundation work (62%) has been expended on the project; and

WHEREAS, the Board finds the submitted evidence sufficient and credible; and

WHEREAS, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, therefore, the Board finds that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, consequently, the Board finds that the applicant has adequately satisfied all the requirements of Z.R. §11-331.

Therefore, it is resolved that this application is granted to renew New Building permit No. 500657032-NB pursuant to Z.R. §11-331, and to extend the time to complete the required foundations for one term of six months from the date of this resolution, to expire on December 8, 2004; on condition that the

WHEREAS, the record shows that the building permit was issued to the owner of the zoning lot; and

WHEREAS, the applicant represents that excavation of the site and pouring of the footings commenced immediately after issuance of the building permits, and that as of December 3, 2003, 100% of the excavation was completed and the footings were in place; and

WHEREAS, the applicant represents that the City Council rezoned the subject premises on December 3, 2003, from R3-2 to R3A, and that the vote making such rezoning effective occurred in the afternoon, well after the work performed at the site in the morning; and

WHEREAS, the rezoning of the subject zoning district effectively caused the building permit to lapse; and

WHEREAS, on December 4, 2003, the Department of Buildings issued a stop-work order to the subject premises, halting construction thereon; and

WHEREAS, in support of the contention that excavation was complete and substantial progress had been made on foundations, the applicant has submitted various pieces of evidence, including: bills and invoices showing the dollar amount of expenditures on the excavation and foundations, a breakdown of mobilization costs, architectural and engineering fees, and other soft costs attributable to excavation and foundation costs, photos of the completed work, and a timeline of completed work from the contractors; and

WHEREAS, the Board notes that soft cost expenditures alone would not constitute substantial progress on foundations; some actual construction of the foundation is a prerequisite, and soft costs will not be considered by the Board unless such work has been performed; and

WHEREAS, the Board notes that here the excavation had been completed and 100 percent of the footings necessary for the foundation had been constructed (which necessitated substantial expenditures to cover materials and labor costs), leaving the foundation walls as the only component of the foundation not constructed; and

Department of Buildings must ensure compliance 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 8, 2004.

---

**407-03-BZY**

APPLICANT - Eric Palatnik, Esq., for Morning Star Development Corp., owner.

SUBJECT - Application December 31, 2003 - Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R. §11-331.

**PREMISES AFFECTED -**

4 Wenlock Street, south side, 48' west of Morning Star Road, Block 1179, Lot 32, Tentative Lot 32, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

---

# MINUTES

---

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT-**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

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

WHEREAS, a public hearing was held on this application on April 28, 2004 after due notice by publication in The City Record, with a continued hearing on May 18, 2004 and a decision on June 8, 2004; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the Board notes that this application has been filed with three companion applications for the premises at 2, 8 & 10 Wenlock Street, under BSA Calendar Nos. 406-03-BZY, 408-03-BZY, and 409-03-BZY; and

WHEREAS, Z.R. §11-331 authorizes the Board to grant a six month extension of time to complete foundations upon a finding that "on the effective date the building permit lapsed, excavation had

WHEREAS, in support of the contention that excavation was complete and substantial progress had been made on foundations, the applicant has submitted various pieces of evidence, including: bills and invoices showing the dollar amount of expenditures on the excavation and foundations, a breakdown of mobilization costs, architectural and engineering fees, and other soft costs attributable to excavation and foundation costs, photos of the completed work, and a timeline of completed work from the contractors; and

WHEREAS, the Board notes that soft cost expenditures alone would not constitute substantial progress on foundations; some actual construction of the foundation is a prerequisite, and soft costs will not be considered by the Board unless such work has been performed; and

WHEREAS, the Board notes that here the excavation had been completed and 100 percent of the footings necessary for the foundation had been constructed (which necessitated substantial expenditures to cover materials and labor costs), leaving the foundation walls as the only component of the foundation not constructed; and

WHEREAS, the applicant has provided additional documentation that approximately \$49,002 of the estimated \$77,130 associated with the foundation work (62%) has been expended on the project; and

WHEREAS, the Board finds the submitted evidence sufficient and credible; and

been completed and substantial progress made on foundations"; and  
WHEREAS, the subject premises is proposed to be developed with two-family homes as one of four adjacent residential developments, located at the southwest corner of the intersection of Morningstar Road and Wenlock Street; and

WHEREAS, the record indicates that on December 2, 2003 a construction permit (DOB Permit No. 500657069-01-NB) for the new buildings was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the record shows that the building permit was issued to the owner of the zoning lot; and

WHEREAS, the applicant represents that excavation of the site and pouring of the footings commenced immediately after issuance of the building permits, and that as of December 3, 2003, 100% of the excavation was completed and the footings were in place; and

WHEREAS, the applicant represents that the City Council rezoned the subject premises on December 3, 2003, from R3-2 to R3A, and that the vote making such rezoning effective occurred in the afternoon, well after the work performed at the site in the morning; and

WHEREAS, the rezoning of the subject zoning district effectively caused the building permit to lapse; and

WHEREAS, on December 4, 2003, the Department of Buildings issued a stop-work order to the subject premises, halting construction thereon; and

WHEREAS, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, therefore, the Board finds that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, consequently, the Board finds that the applicant has adequately satisfied all the requirements of Z.R. §11-331.

Therefore, it is resolved that this application is granted to renew New Building permit No. 500657032-NB pursuant to Z.R. §11-331, and to extend the time to complete the required foundations for one term of six months from the date of this resolution, to expire on December 8, 2004; on condition that the Department of Buildings must ensure compliance 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 8, 2004.

---

**408-03-BZY**

APPLICANT - Eric Palatnik, Esq., for Morning Star Development Corp., owner.

---

# MINUTES

---

SUBJECT - Application December 31, 2003 - Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R. §11-331.

PREMISES AFFECTED -

8 Wenlock Street, south side, 56' west of Morning Star Road, Block 1179, Lot 32, Tentative Lot 30, 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 Caliendo, Commissioner Miele and Commissioner Chin.....5

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

WHEREAS, a public hearing was held on this application on April 28, 2004 after due notice by publication in The City Record, with a continued hearing on May 18, 2004 and a decision on June 8,

WHEREAS, the applicant represents that excavation of the site and pouring of the footings commenced immediately after issuance of the building permits, and that as of December 3, 2003, 100% of the excavation was completed and the footings were in place; and

WHEREAS, the applicant represents that the City Council rezoned the subject premises on December 3, 2003, from R3-2 to R3A, and that the vote making such rezoning effective occurred in the afternoon, well after the work performed at the site in the morning; and

WHEREAS, the rezoning of the subject zoning district effectively caused the building permit to lapse; and

WHEREAS, on December 4, 2003, the Department of Buildings issued a stop-work order to the subject premises, halting construction thereon; and

WHEREAS, in support of the contention that excavation was complete and substantial progress had been made on foundations, the applicant has submitted various pieces of evidence, including: bills and invoices showing the dollar amount of expenditures on the excavation and foundations, a breakdown of mobilization costs, architectural and engineering fees, and other soft costs attributable to excavation and foundation costs, photos of the completed work, and a timeline of completed work from the contractors; and

WHEREAS, the Board notes that soft cost expenditures alone would not constitute substantial progress on foundations; some actual construction of the foundation is a prerequisite, and soft costs will not be considered by the Board unless such work has been performed; and

WHEREAS, the Board notes that here the excavation had been completed and 100 percent of the footings necessary for the

2004; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the Board notes that this application has been filed with three companion applications for the premises at 2, 4 & 10 Wenlock Street, under BSA Calendar Nos. 406-03-BZY, 407-03-BZY, and 409-03-BZY; and

WHEREAS, Z.R. §11-331 authorizes the Board to grant a six month extension of time to complete foundations upon a finding that "on the effective date the building permit lapsed, excavation had been completed and substantial progress made on foundations"; and

WHEREAS, the subject premises is proposed to be developed with two-family homes as one of four adjacent residential developments, located at the southwest corner of the intersection of Morningstar Road and Wenlock Street; and

WHEREAS, the record indicates that on December 2, 2003 a construction permit (DOB Permit No. 500657078-NB) for the new buildings was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the record shows that the building permit was issued to the owner of the zoning lot; and

foundation had been constructed (which necessitated substantial expenditures to cover materials and labor costs), leaving the foundation walls as the only component of the foundation not constructed; and

WHEREAS, the applicant has provided additional documentation that approximately \$49,002 of the estimated \$77,130 associated with the foundation work (62%) has been expended on the project; and

WHEREAS, the Board finds the submitted evidence sufficient and credible; and

WHEREAS, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, therefore, the Board finds that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, consequently, the Board finds that the applicant has adequately satisfied all the requirements of Z.R. §11-331.

Therefore, it is resolved that this application is granted to renew New Building permit No. 500657032-NB pursuant to Z.R. §11-331, and to extend the time to complete the required foundations for one term of six months from the date of this resolution, to expire on December 8, 2004; on condition that the Department of Buildings must ensure compliance 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 8, 2004.

---

# MINUTES

---

**409-03-BZY**

APPLICANT - Eric Palatnik, Esq., for Morning Star Development Corp., owner.

SUBJECT - Application December 31, 2003 - Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R.§11-331.

PREMISES AFFECTED -

10 Wenlock Street, south side, 82' west of Morning Star Road, Block 1179, Lot 32, Tentative Lot 20, 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,

WHEREAS, Z.R. §11-331 authorizes the Board to grant a six month extension of time to complete foundations upon a finding that "on the effective date the building permit lapsed, excavation had been completed and substantial progress made on foundations"; and

WHEREAS, the subject premises is proposed to be developed with two-family homes as one of four adjacent residential developments, located at the southwest corner of the intersection of Morningstar Road and Wenlock Street; and

WHEREAS, the record indicates that on December 2, 2003 a construction permit (DOB Permit No. 500657087-01-NB) for the new buildings was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the record shows that the building permit was issued to the owner of the zoning lot; and

WHEREAS, the applicant represents that excavation of the site and pouring of the footings commenced immediately after issuance of the building permits, and that as of December 3, 2003, 100% of the excavation was completed and the footings were in place; and

WHEREAS, the applicant represents that the City Council rezoned the subject premises on December 3, 2003, from R3-2 to R3A, and that the vote making such rezoning effective occurred in the afternoon, well after the work performed at the site in the morning; and

WHEREAS, the rezoning of the subject zoning district effectively caused the building permit to lapse; and

WHEREAS, on December 4, 2003, the Department of Buildings issued a stop-work order to the subject premises, halting construction thereon; and

WHEREAS, in support of the contention that excavation was complete and substantial progress had been made on foundations, the applicant has submitted various pieces of evidence, including: bills and invoices showing the dollar amount of expenditures on the excavation and foundations, a breakdown of mobilization costs,

Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5  
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

WHEREAS, a public hearing was held on this application on April 28, 2004 after due notice by publication in The City Record, with a continued hearing on May 18, 2004 and a decision on June 8, 2004; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the Board notes that this application has been filed with three companion applications for the premises at 2, 4 & 8 Wenlock Street, under BSA Calendar Nos. 406-03-BZY, 407-03-BZY, and 408-03-BZY; and

architectural and engineering fees, and other soft costs attributable to excavation and foundation costs, photos of the completed work, and a timeline of completed work from the contractors; and

WHEREAS, the Board notes that soft cost expenditures alone would not constitute substantial progress on foundations; some actual construction of the foundation is a prerequisite, and soft costs will not be considered by the Board unless such work has been performed; and

WHEREAS, the Board notes that here the excavation had been completed and 100 percent of the footings necessary for the foundation had been constructed (which necessitated substantial expenditures to cover materials and labor costs), leaving the foundation walls as the only component of the foundation not constructed; and

WHEREAS, the applicant has provided additional documentation that approximately \$49,002 of the estimated \$77,130 associated with the foundation work (62%) has been expended on the project; and

WHEREAS, the Board finds the submitted evidence sufficient and credible; and

WHEREAS, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, therefore, the Board finds that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, consequently, the Board finds that the applicant has adequately satisfied all the requirements of Z.R. §11-331.

Therefore, it is resolved that this application is granted to renew New Building permit No. 500657032-NB pursuant to Z.R. §11-331, and to extend the time to complete the required foundations for one term of six months from the date of this resolution, to expire on December 8, 2004; on condition that the

---

# MINUTES

---

Department of Buildings must ensure compliance 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 8, 2004.

---

## 724-56-BZ

APPLICANT - Vassalotti Associates Architects, LLP, for Anthony Nicovic, owner.

SUBJECT - Application December 18, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired November 19, 2002 and for an amendment to the resolution.

## 283-90-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for OPM Holdings, LLC, owner.

SUBJECT - Application January 7, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1400 Clove Road, a/k/a Oswego Street, southwest corner of Clove Road and Oswego Street, Block 658, Lot 1, Borough of Staten Island.

## COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Adam W. Rothkrug.

For Opposition: Mary Ann McGowan and Ali Alsaede.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 10:00 A.M., for continued hearing.

---

## 125-92-BZ

APPLICANT - Rampulla Associates Architects, for Nicholas Criscitelli, owner.

SUBJECT - Application April 7, 2004 - reopening for an amendment to the resolution - to eliminate the retail sales portion of the building and modify the number of persons to occupy the eating and drinking establishment.

PREMISES AFFECTED - 3333 Hylan Boulevard, north side Hylan Boulevard between Spratt Avenue and Hopkins Avenue, Block 4987, Lot 1, Borough of Staten Island.

## COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Phil Rampulla.

For Opposition: Carole Timka, Linda Nigro, John Timka, Rosemarie Trotta, Sarosa Vikram, Keith Tuzzo, John Guissari and Loretta Maragni.

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at 10 A.M., for continued hearing.

PREMISES AFFECTED - 42-42 Francis Lewis Boulevard, south of 42<sup>nd</sup> Road, Block 5373, Lot 26, Borough of Queens.

## COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: Hiram A. Rothkrug.

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 June 22, 2004, at 10 A.M., for decision, hearing closed.

---

## 120-93-BZ

APPLICANT - Sheldon Lobel, P.C., for Harry McNulty, owner.

SUBJECT - Application December 17, 2003 - reopening for an extension of term of variance which expired May 10, 2004 and for an amendment to allow the elimination of gasoline sales, permitting the sale of used automobiles and increase on site parking to 9 spaces

PREMISES AFFECTED - 222-19 Linden Boulevard, northwest corner of Linden Boulevard and 223rd Street, Block 11323, Lot 1, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Sheldon Lobel, Elisa B. Hwu and Archie Spigner.

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at 10 A.M., for continued hearing.

---

## 95-97-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Lavin Brothers Austin, LLC, owner; TSI Forest Hills, Inc., lessee.

SUBJECT - Application January 20, 2004 - reopening for an amendment to the resolution to permit the legalization of an expansion in floor area of a previously granted special permit to allow the operation of a physical culture establishment on the first floor.

PREMISES AFFECTED - 69-47 Austin Street, northwest corner of Austin Street and 70th Avenue, Block 3237, Lot 30, Borough of Queens.

## COMMUNITY BOARD #6Q

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at 10 A.M., for postponed hearing.

---

## 234-98-BZ

---

# MINUTES

---

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 7<sup>th</sup> Avenue, west side of Adam Clayton Powell Jr. Boulevard, blockfront from W. 150<sup>th</sup> Street to W. 151<sup>st</sup> Street, Block 2036, Lot 29, Borough of Manhattan.

**COMMUNITY BOARD #10M**

APPEARANCES -

For Applicant: John Ronan.

PREMISES AFFECTED - 310 Hillside Avenue, south side, 350.0' west of Beach 178th Street, Block 16340, Lot 50, 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, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated January 5, 2004 , acting on Department of Buildings ALT 1. Application No. 401731088, reads in pertinent part:

"A1- 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 of the City of New York."; and

WHEREAS, by the letter dated January 22, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Resolved, that the decision of the Queens Borough Commissioner, dated January 5, 2004 acting on ALT 1. Application No. 401731088 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 13, 2004"-(1) sheet; and that the proposal comply with all applicable R4 zoning

**ACTION OF THE BOARD** - Laid over to September 21, 2004, at 10 A.M., for continued hearing.

---

**12-04-A**

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Jeanne & Michael Byrnes, lessees.

SUBJECT - Application January 13, 2004 - Proposed reconstruction 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..

district requirements; that all applicable laws, rules, and regulations shall be complied with; on further condition

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on June 8, 2004.

---

**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 34<sup>th</sup> Avenue, Block 4994, Lot 24, Borough of Queens.

140-28 34<sup>th</sup> Avenue, Block 4994, Lot 224, Borough of Queens.

140-28A 34<sup>th</sup> Avenue, Block 4994, Lot 224, Borough of Queens.

140-30 34<sup>th</sup> Avenue, Block

---

# MINUTES

---

4994,  
Lot  
125,  
Borou  
gh of  
Quee  
ns.

140-30A 34<sup>th</sup> Avenue, Block 4994, Lot 225, Borough of Queens.

140-32 34<sup>th</sup> Avenue, Block 4994, Lot 126, Borough of Queens.

140-32A 34<sup>th</sup> Avenue, Block 4994, Lot 27, Borough of Queens.

140-34 34<sup>th</sup> Avenue, Block 4994, Lot 127, Borough of

## **73-04-A thru 124-04-A**

APPLICANT - Fischbein Badillo Wagner Harding for Strickland Realty, LLC, owner.

SUBJECT - Application March 9, 2004 - Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

### PREMISES AFFECTED -

11 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2001, Borough of Brooklyn. Applic.#301815542. 23 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2002, Borough of Brooklyn. Applic.#301815490. 25 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2003, Borough of Brooklyn. Applic.#301812402. 31 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2004, Borough of Brooklyn. Applic.#301812411. 33 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2005, Borough of Brooklyn. Applic.#301812420. 39 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2006, Borough of Brooklyn. Applic.#301812439. 41 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2007, Borough of Brooklyn. Applic.#301812448. 47 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2008, Borough of Brooklyn. Applic.#301812457. 49 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2009, Borough of Brooklyn. Applic.#301812466. 57 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield

Queens.

140-34A 34<sup>th</sup> Avenue, Block 4994, Lot 227, Borough of Queens.

140-36 34<sup>th</sup> Avenue, Block 4994, Lot 327, Borough of Queens.

## **COMMUNITY BOARD #11Q**

### APPEARANCES -

For Opposition: Adam Rothkrug and Tom Berineto.

For Administration: Lisa Orantia, Department of Buildings.

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 10 A.M., for continued hearing.

Drive, Block 8470, Lot 2010, Borough of Brooklyn.

Applic.#301812475. 59 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2011, Borough of Brooklyn.

Applic.#301812484. 65 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2012, Borough of Brooklyn.

Applic.#301812493.

67 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2013, Borough of Brooklyn. Applic.#301812509.

73 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2014, Borough of Brooklyn. Applic.#301812518.

5 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2015, Borough of Brooklyn. Applic.#301812527.

83 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2016, Borough of Brooklyn. Applic.#301815481. 5 Clear Water Road, west side of Strickland Avenue, between

prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2017, Borough of Brooklyn. Applic.#301809657.

15 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2018, Borough of Brooklyn. Applic.#301805338.

31 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2019, Borough of Brooklyn. Applic.#301801529.

39 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2020, Borough of Brooklyn. Applic.#301815356.

47 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2021, Borough of Brooklyn. Applic.#301815347.

---

# MINUTES

---

55 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2022, Borough of Brooklyn. Applic.#301815365

63 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2023, Borough of Brooklyn. Applic.#301809675.

87 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2026, Borough of Brooklyn. Applic.#301810725.

64 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2027, Borough of Brooklyn. Applic.#301815472. 62 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2028, Borough of Brooklyn. Applic.#301815536. 56 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2029, Borough of Brooklyn. Applic.#301815506.

54 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2030, Borough of Brooklyn. Applic.#301815515.

48 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2031, Borough of Brooklyn. Applic.#301815524.

46 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2032, Borough of Brooklyn. Applic.#301815551.

38 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2033, Borough of Brooklyn. Applic.#301815560. 36 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2034, Borough of Brooklyn. Applic.#301815579.

30 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2035, Borough of Brooklyn. Applic.#301815588.

28 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2036, Borough of Brooklyn. Applic.#301815597.

50 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2037, Borough of Brooklyn. Applic.#301815631.

48 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2038, Borough of Brooklyn. Applic.#301815622.

86 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2039, Borough of Brooklyn. Applic.#301815604.

APPEARANCES -

For Applicant: Howard Hornstein, Lewis Fidler, Councilman by

71 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2024, Borough of Brooklyn. Applic.#301809538.

79 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2024, Borough of Brooklyn. Applic.#301810716.

84 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2040, Borough of Brooklyn. Applic.#301815613.

78 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2041, Borough of Brooklyn. Applic.#301810734. 76 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2042, Borough of Brooklyn. Applic.#301810743.

70 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2043, Borough of Brooklyn. Applic.#301810752.

68 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2044, Borough of Brooklyn. Applic.#301810761.

60 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2045, Borough of Brooklyn. Applic.#301810770.

58 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2046, Borough of Brooklyn. Applic.#301810789.

22 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2047, Borough of Brooklyn. Applic.#301810798.

16 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2048, Borough of Brooklyn. Applic.#301810805.

14 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2049, Borough of Brooklyn. Applic.#301810814.

6 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2050, Borough of Brooklyn. Applic.#301810823.

22 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2051, Borough of Brooklyn. Applic.#301810841.

10 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2052, Borough of Brooklyn. Applic.#301810832.

## COMMUNITY BOARD #18BK

Michael D. Benjamin.

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

---

# MINUTES

---

Commissioner Caliendo, Commissioner Miele and  
Commissioner Chin.....5  
Negative:.....0

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at  
10 A.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 11:55 A.M.

**REGULAR MEETING  
TUESDAY AFTERNOON, JUNE 8, 2004  
2:00 P.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner  
Caliendo, Commissioner Miele and Commissioner Chin.

---

**ZONING CALENDAR**

**211-03-BZ**

APPLICANT - Eric Palatnik, P.C., for Simon Blitz, Contract  
Vendee.

SUBJECT - Application June 20, 2003 - under Z.R. §72-21 to  
permit the proposed expansion and also the conversion of an  
existing warehouse, to residential use, Use Group 2, located in an  
M1-4(Special LIC District), which does not comply with the zoning  
requirements for the new use, floor area and total height, is contrary  
to Z.R. §43-12, §43-43 and §42-10.

PREMISES AFFECTED - 529-535 48<sup>th</sup> Avenue, between Vernon  
Boulevard and Fifth Street, Block 30, Lot 9, Borough of Queens.

**COMMUNITY BOARD #1Q**

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** -Application granted on condition.

THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Commissioner Caliendo, Commissioner Miele and  
Commissioner Chin.....5

WHEREAS, the applicant states that the following are  
unique physical conditions, which create practical difficulties  
and unnecessary hardships in developing the subject lot in  
conformity with underlying district regulations: the existing  
building is obsolete, in that it: (1) was constructed in two  
parts and is divided by heavy masonry walls that prevent the  
creation of open spaces that modern manufacturing  
facilities require; (2) has a limited amount of openings in the

Negative:.....0  
THE RESOLUTION -

WHEREAS, the decision of the Borough  
Commissioner, dated November 24, 2003 acting on  
Application No. 410581793 reads:

"Proposed use is contrary to Section 42-10 ZR."; 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 9, 2004; the case was laid  
over to March 30, 2004 for decision and the decision was  
then deferred to May 11, 2004, when it was again deferred  
to June 8, 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, Queens  
recommended approval of this application and the Queens  
Borough President recommended conditional approval of  
this application; and

WHEREAS, this is an application under Z.R. §72-21, to  
permit the expansion and conversion of an existing  
manufacturing building to residential use (Use Group 2)  
located in an M1-4(Special LIC) zoning district, which does  
not comply with the zoning requirement for use, contrary to  
Z.R. §42-10; and

WHEREAS, the subject lot is located between Vernon  
Boulevard and Fifth Street in Long Island City, Queens, has  
a total lot area of 13,560 sq. ft., and is occupied by a 61 ft.,  
4 story building with a legal use of manufacturing, retail and  
office; and

WHEREAS, the lot is currently occupied with an  
existing four-story building, formerly used as a zipper  
factory, which was originally two buildings that were later  
connected; the applicant represents that the zipper business  
discontinued in the summer of 2003; and

WHEREAS, the proposed development contemplates  
the conversion of the existing building into a five-story and  
penthouse building, with a floor area ratio of 4.0, the  
provision of 26 off-street accessory parking spaces in the  
cellar, and the creation of a 31' X 43' feet light and air  
courtyard which will be carved out of the existing building;  
and

demising wall and small column spacing, hindering efficient  
movement of materials necessary for modern warehouse  
operations; (3) has a floor load capacity that can not support  
use of forklifts; (4) there is no truck loading dock,  
necessitating material loading at the ground floor; (5) the  
existing elevator is too slow; and (6) it has inadequate  
electrical service; and

WHEREAS, the applicant has submitted a report from

---

# MINUTES

---

an engineer describing the above conditions; and

WHEREAS, the applicant also represents that the grid structure upon which the building rests dictates both the location of the proposed light and air courtyard and the massing of the building; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformity with the current zoning; and

WHEREAS, the applicant has submitted evidence of marketing efforts, which the Board finds credible and sufficient; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; and

WHEREAS, the applicant submitted a supplemental letter from its financial consultant, explaining why the relocation of existing bulk to the roof area is necessary; 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 neighborhood is gradually changing to residential, and that the site is only one block away from the Queens West Development; and

WHEREAS, the applicant represents that the proposed variance will not have a negative effect on street conditions or parking, as amount of traffic generated by the number of units in the building is low, off-street accessory parking will be provided, and the existing curb cut will be re-utilized; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map, and concludes that residential use of the site is appropriate given the context of the neighborhood; and

WHEREAS, in response to the concerns of Community Board No. 2, the applicant has revised the proposal to include a setback at the 48th Street side of the premises; and

WHEREAS, the applicant states that the revised proposal fully complies with the proposed rezoning of the area by the New York City Department of City Planning, with the exception of the height, which is 3 feet higher than the maximum height proposed; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding

THAT the Department of Buildings must ensure compliance 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.

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 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 expansion and conversion of an existing manufacturing building to residential use (Use Group 2) located in an M1-4(Special LIC) zoning district, which does not comply with the zoning requirement for use, 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 "May 24, 2004"-(13) sheets; and on further condition:

THAT the proposed accessory parking spaces in the cellar of the building shall not exceed 26 cars;

THAT the Department of Buildings will approve the layout of the cellar parking area;

THAT all applicable fire safety measures as shown on the approved plans will be complied with;

THAT substantial construction 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;

Adopted by the Board of Standards and Appeals, June 8, 2004.

---

# MINUTES

---

## 325-03-BZ

APPLICANT - Walter T. Gorman, for LT Land Development Corp., owner.

SUBJECT - Application October 21, 2003 - under Z.R. §§72-11 & 72-21 to permit in an R3-2 zoning district, the proposed construction of a one-family, semi-attached home, with a front yard of less than 15 feet, contrary to Z.R. §23-45.

### PREMISES AFFECTED -

307 Hamden Avenue, north side, 90' east of Boundary Avenue, Block 3687, Lot 6, Borough of Staten Island.

### COMMUNITY BOARD #2SI

#### APPEARANCES -

For Applicant: John Ronan.

**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 September 23, 2003, acting on DOB Application No. 500509602, reads:

"Proposal to construct a new home in an R3-2 zoning district that will have a front yard with a dimension of less than 15' is contrary to Section 23-45 Z.R. and must, therefore, be referred to the Board of Standards and Appeals for approval."; and

WHEREAS, a public hearing was held on this application on April 13, 2004 after due notice by publication in The City Record, with a continued hearing on May 18, 2004 and then to decision on June 8, 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 for a variance pursuant to Z.R. §72-21, to permit in an R3-2 zoning district, the proposed construction of a one-family, semi-attached home, with a front yard of less than 15 feet, contrary to Z.R. §23-45; and

WHEREAS, the subject zoning lot is located on the north side

WHEREAS, the applicant represents that the only way for the owner of the premises to realize a reasonable return on his investment is to construct a saleable home on the lot; and

WHEREAS, the applicant states that because the Hamden Avenue front yard is required to be measured from the widening line, a complying building would result in a home that would not meet the minimum dimension requirements for habitable rooms, making the home unsaleable; and

WHEREAS, based upon its review of the record and its site visit, the Board has determined that because of the subject lot's unique physical condition, specifically, the fact that it is bisected by a

of Hamden Avenue, ninety feet east of Boundary Avenue, has a total lot area of 2,958.4 sq. ft., and is currently vacant; and

WHEREAS, the zoning lot is comprised of two tax lots (Lots 6 and 8); and

WHEREAS, on lot 6, the applicant seeks to construct a 27 ft. high, two-story, one-family semi-detached home with 1393.6 sq. ft. of floor area; and

WHEREAS, under BSA Calendar No. 326-03-BZ, also decided on this date, the applicant proposes to develop tax lot 8 with another 27 ft. high, two-story, one-family semi-detached home with 1393.6 sq. ft. of floor area; and

WHEREAS, the zoning lot is bisected by the official street widening line for Hamden Avenue, which leaves a major portion of the lot within the street widening line; and

WHEREAS, although the Department of Buildings determined that no rear yard or rear yard equivalent was required, the DOB examiner determined that 15 feet front yards would be required on the Hamden Avenue frontage, as well as on the Beachview Avenue frontage; and

WHEREAS, the DOB examiner determined that the front yard on the Hamden Avenue side must be measured from the widening line; and

WHEREAS, the applicant attempted to obtain a reconsideration of this examiner's determination, but was unsuccessful, thus necessitating the instant variance application; and

WHEREAS, the applicant proposes to construct the new home with a Hamden Avenue front yard dimension of ten feet, rather than the required 15 feet; and

WHEREAS, the applicant represents that the following is a unique physical condition, which creates practical difficulties and unnecessary hardships in constructing the proposed building in conformity with underlying district regulations: the lot is bisected by a widening line for Hamden Avenue, which decreases the amount of buildable area on the lot when a front yard is required to be measured from the widening line; and WHEREAS, the Board finds that the unique condition mentioned above creates practical difficulties and unnecessary hardships in developing the site in strict conformity with current applicable zoning regulations; and

widening line, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant states that the immediate neighborhood is developed with other semi-attached homes, and that the proposed building is compatible with the other buildings in the area; and

WHEREAS, in response to a Board inquiry, the applicant states that the proposal meets the minimum lot coverage requirements for the zoning lot; and

WHEREAS, the Board has conducted its own site visit and has

---

# MINUTES

---

reviewed the submitted site plan, and has determined that the proposed residential use is compatible with the surrounding neighborhood; 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

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 of the Rules of Procedure for City Environmental Quality Review and makes the required findings to grant a variance pursuant to Z.R. §72-21, to permit in an R3-2 zoning district, the proposed construction of a one-family, semi-attached home, with a front yard of less than 15 feet, contrary to Z.R. §23-45, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked January 16, 2004-(9) 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 substantial construction shall be completed in accordance with Z.R. §72-23;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

WHEREAS, a public hearing was held on this application on April 13, 2004 after due notice by publication in The City Record, with a continued hearing on May 18, 2004 and then to decision on June 8, 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 for a variance pursuant to Z.R. §72-21, to permit in an R3-2 zoning district, the proposed construction of a one-family, semi-attached home, with a front yard of less than 15 feet, contrary to Z.R. §23-45; and

WHEREAS, the subject zoning lot is located on the north side

THAT the Department of Buildings must ensure compliance 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 8, 2004.

---

## 326-03-BZ

APPLICANT - Walter T. Gorman, for LT Land Development Corp., owner.

SUBJECT - Application October 21, 2003 - under Z.R. §§72-11 & 72-21 to permit in an R3-2 zoning district, the proposed construction of a one-family, semi-attached home, with a front yard of less than 15 feet, contrary to Z.R. §23-45.

PREMISES AFFECTED -

309 Hamden Avenue, north side, 130' east of Boundary Avenue, Block 3687, Lot 8, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: John Ronan.

**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 September 23, 2003, acting on DOB Application No. 500509611, reads:

"Proposal to construct a new home in an R3-2 zoning district that will have a front yard with a dimension of less than 15' is contrary to Section 23-45 Z.R. and must, therefore, be referred to the Board of Standards and Appeals for approval."; and

of Hamden Avenue, one hundred thirty feet east of Boundary Avenue, has a total lot area of 2,958.4 sq. ft., and is currently vacant; and

WHEREAS, the zoning lot is comprised of two tax lots (Lots 6 and 8); and

WHEREAS, on lot 6, the applicant seeks to construct a 27 ft. high, two-story, one-family semi-detached home with 1393.6 sq. ft. of floor area; and

WHEREAS, under BSA Calendar No. 325-03-BZ, also decided on this date, the applicant proposes to develop tax lot 6

---

# MINUTES

---

with another 27 ft. high, two-story, one-family semi-detached home with 1393.6 sq. ft. of floor area; and

WHEREAS, the zoning lot is bisected by the official street widening line for Hamden Avenue, which leaves a major portion of the lot within the street widening line; and

WHEREAS, although the Department of Buildings determined that no rear yard or rear yard equivalent was required, the DOB examiner determined that 15 feet front yards would be required on the Hamden Avenue frontage, as well as on the Beachview Avenue frontage; and

WHEREAS, the DOB examiner determined that the front yard on the Hamden Avenue side must be measured from the widening line; and

WHEREAS, the applicant attempted to obtain a reconsideration of this examiner's determination, but was unsuccessful, thus necessitating the instant variance application; and

WHEREAS, the applicant proposes to construct the new home with a Hamden Avenue front yard dimension of ten feet, rather than the required 15 feet; and

WHEREAS, the applicant represents that the following is a unique physical condition, which creates practical difficulties and unnecessary hardships in constructing the proposed building in conformity with underlying district regulations: the lot is bisected by a widening line for Hamden Avenue, which decreases the amount of buildable area on the lot when a front yard is required to be measured from the widening line; and

WHEREAS, the Board finds that the unique condition mentioned above creates practical difficulties and unnecessary hardships in developing the site in strict conformity with current applicable zoning regulations; and

WHEREAS, the applicant represents that the only way for the owner of the premises to realize a reasonable return on his investment is to construct a saleable home on the lot; and

WHEREAS, the applicant states that because the Hamden Avenue front yard is required to be measured from the widening line, a complying building would result in a home that would not meet the minimum dimension requirements for habitable rooms, making the

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings to grant a variance pursuant to Z.R. §72-21, to permit in an R3-2 zoning district, the proposed construction of a one-family, semi-attached home, with a front yard of less than 15 feet, contrary to Z.R. §23-45, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked January 16, 2004-(9) 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;

home unsaleable; and

WHEREAS, based upon its review of the record and its site visit, the Board has determined that because of the subject lot's unique physical condition, specifically, the fact that it is bisected by a widening line, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant states that the immediate neighborhood is developed with other semi-attached homes, and that the proposed building is compatible with the other buildings in the area; and

WHEREAS, in response to a Board inquiry, the applicant states that the proposal meets the minimum lot coverage requirements for the zoning lot; and

WHEREAS, the Board has conducted its own site visit and has reviewed the submitted site plan, and has determined that the proposed residential use is compatible with the surrounding neighborhood; 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

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.

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted;

Adopted by the Board of Standards and Appeals, June 8, 2004.

---

# MINUTES

---

## 377-03-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Bond Street Garage I, LLC, owner; Tribeach Holdings, LLC, contract vendee. SUBJECT - Application December 4, 1993 - under Z.R. §72-21 to permit the proposed mixed-use building, located in an M1-5B zoning district, which creates non-compliance with regards to residential and retail uses, also public parking and floor area, which is contrary to Z.R. §42-00, §42-14, §32-17 and §43-12.

PREMISES AFFECTED - 25 Bond Street, south side, 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 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, originally dated November 5, 2003, and revised April 21, 2004, acting on Department of Buildings Application No. 103600499, reads:

"1) The proposed residential use (Use Group 2) in an M1-5B zoning district is contrary to ZR 42-00, not permitted.

2) The proposed commercial use (Use Group 8) in an M1-5B zoning district is contrary to ZR 42-14(D)(2), not permitted.

3) The proposed public parking garage (Use Group 8) in an M1-5B zoning district is contrary to ZR

WHEREAS, the subject premises: is a rectangular shaped parcel with 100 feet of frontage on the south side of Bond Street, with a depth of 114.5 feet, has a total lot area of approximately 11,416 square feet, and is currently occupied by a two-story, 30 feet high parking garage (Use Group 8), which is a lawful non-conforming use; and

WHEREAS, the proposed eight-story mixed use building will have 57,080 square feet of floor area, a Floor Area Ratio of 5.0, 23 dwelling units (with a minimum unit size of 1,200 sq. ft.), and 48 commercial parking spaces in a cellar parking garage, with Use Group 6 retail space to be located on the ground floor; and

WHEREAS, the front setback at the 7th floor is 15 feet (20 feet is required); and

WHEREAS, since initially submitted to the Board in December of 2003, the proposal has been amended twice, in response to Board and community objections to the proposed height and additional bulk; and

32-17(C), not permitted.

4) The proposed front setback is fifteen (15) feet and therefore contrary to ZR 43-43."; and

WHEREAS, a public hearing was held on this application on February 24, 2004 after due notice by publication in the City Record, with continued hearings on March 30, 2004 and April 20, 2004, and then to decision on June 8, 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, Commissioner Caliendo, Commissioner Miele, and Commissioner Chin; and

WHEREAS, Assemblymember Glick submitted a letter voicing concern about the originally filed version of the subject application, which requested a floor area waiver in addition to the use variance and other bulk variances; and

WHEREAS, Community Board 2, Manhattan, recommended approval of the residential use request and the public parking request, as well as the Use Group 6 on the ground floor, on condition that there be no restaurant, bar or nightclub, but opposed any floor area waiver; and

WHEREAS, the majority of the community-based opposition was to the originally filed version of the proposal; and

WHEREAS, this is an application under Z.R. §72-21 to permit the proposed erection of a 101 feet high, 8-story mixed-use building, Use Groups 2, 6 and 8, consisting of residential apartments, local retail usage, and a public parking garage, located in an M1-5B zoning district, which creates non-conformances with regard to the use and public parking regulations and non-compliance with regard to the applicable setback regulations, contrary to Z.R. §§42-00, 42-14, 32-17, and 43-43; and

WHEREAS, the originally filed proposal was for a 10-story, 161' high building (including mechanicals), with 65,574 square feet of floor area, 26 dwelling units, and a 5.74 FAR; and

WHEREAS, the first amended proposal, submitted March 9, 2004, was for a 9-story, 128' high building (including mechanicals), with 57,080 square feet of floor area, and a 5.0 FAR; and

WHEREAS, throughout the public hearing process, the Board expressed reservations about the proposed height of the building, and urged the applicant to bring the height down to a level compatible with the surrounding built conditions; the applicant then made the second amended proposal, which is the final version of the application, approved herein; and

WHEREAS, the only variances required under the final version of the application are for the residential use and public parking garage, commercial use of the first floor, and

---

# MINUTES

---

a setback waiver; 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: (1) the site is occupied by an under-built, non-conforming garage structure that can not be readily converted or enlarged to support a conforming use, thus necessitating its demolition prior to any conforming development; and (2) the site is small and conforming ground-up construction would result in a building with an undesirable floor plate for modern manufacturing or office requirements in the area; and

WHEREAS, the applicant also states that the site incurs engineering difficulties and costs associated with the removal of the garage, due to the large steel members that must be removed; and

WHEREAS, opposition to the application, through various submissions, makes the following arguments concerning the finding set forth at Z.R. §72-21(a): 1) that any alleged inefficiency of the existing garage structure can not be the basis for the finding; 2) that the smallness of the lot is not a unique condition, but is in fact shared by other lots in the area; 3) that the existing garage structure is not in a dilapidated condition has profitably occupied the site for many years and therefore can not be characterized as obsolete; and 4) that because the garage is realizing a profit, no current hardship exists; and

WHEREAS, the Board notes that opposition's arguments mischaracterize the 'a' finding as presented by the applicant, in that it is not any alleged inefficiency of the garage structure that is the basis of the 'a' finding, but rather that it can not be converted to a conforming use except at a

WHEREAS, opposition also claims that the income assessment of the garage fails to take into account income from daily/transient parking; and

WHEREAS, the Board asked the applicant to address opposition's concerns; and

WHEREAS, the applicant submitted a supplemental memorandum from its financial expert, analyzing total garage income, including consideration of daily parking rates, based upon further study of parking lots in the area; and

WHEREAS, the estimated income from the existing parking garage was much higher than income from comparable parking lots; and

WHEREAS, the applicant, in a June 1, 2004 submission, reiterates that the total per-space income for the existing garage includes both transient and monthly parking fees; and

WHEREAS, the applicant concludes, and the Board agrees, that the existing parking garage does not generate a reasonable return due to its under-built status; and

cost-prohibitive expense, due to its structural limitations; and

WHEREAS, the Board also notes that although there are other small sites in the area, uniqueness arises from the combination of the smallness of the site with the existing garage structure, and that this combination of unique factors leads to hardship in developing the site in conformity with the underlying district regulations; and

WHEREAS, based upon the above, the Board finds that the fact that the land is one of the few smaller parcels in the subject zoning district, occupied by a existing structure that may not be feasibly adapted to conforming uses to be a unique physical condition that creates 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, due to the unique physical condition inherent to the zoning lot; and

WHEREAS, the original feasibility study contained an analysis of a conforming commercial office development scenario, which showed that such a development would not realize a reasonable return, given the premium construction costs related to the unique features of the site and the estimated income from the development; and

WHEREAS, at the Board's request, the applicant's financial consultant contemplated a hotel scenario, and provided the Board with a reasonable explanation as to why such a scenario also was not feasible; and

WHEREAS, opposition claims that because a viable, legal non-conforming use (the garage) occupies the site, the finding set forth at Z.R. §72-21(b) is not met; and

WHEREAS, the Board notes that the 'b' finding requires a showing that because of the unique features of the site, there is no reasonable possibility that conforming development will bring a reasonable return, and emphasizes that the feasibility study constituted such a showing, notwithstanding the existence of a non-conforming use that generates some income; and

WHEREAS, the Board also notes that the applicant explored recouping the unused development income through a transfer of development rights, but concluded that there was no feasible opportunity to do so; and

WHEREAS, based upon its review of the record, the Board determines that because of the subject lot's unique physical conditions, there is no reasonable possibility that development of the site in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant states that area surrounding the site contains a significant amount of residential units on the upper floors of many buildings; and

WHEREAS, the applicant further states that the

---

# MINUTES

---

proposed Use Group 6 retail space on the ground floor of the proposed building will be compatible with other similar ground floor uses in the surrounding area; and

WHEREAS, the applicant has agreed to prohibit use of the ground floor of the proposed development for eating and drinking establishments, in response to community-based concerns; and

WHEREAS, the Board asked the applicant to reduce the FAR and the height of the building to the levels of the current proposal, and the applicant did so; and

WHEREAS, opposition claims that the reduction in parking in the area due to the demolition of the garage is a detrimental effect that was not considered by the Board; and

WHEREAS, the Board notes that it asked the applicant to address this issue, and the applicant provided evidence that there was a sufficient amount of public parking spaces in the area to compensate for the loss of the spaces in the existing garage; and

WHEREAS, the Board notes that there are other mixed use and residential buildings in the immediate and surrounding area; and

WHEREAS, the Board, based upon its review of the record and its site visit, finds that the proposed use and bulk of the proposed building will be compatible with the built conditions and land uses in the surrounding 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, opposition claims argues that the existing

WHEREAS, the Board carefully considered all of opposition's submissions and testimony, and often directed the applicant to respond to various oppositions contentions; and WHEREAS, the New York City Department of Environmental Protection ("DEP") has reviewed the applicant's November 17, 2003 Environmental Assessment Statement, January 8, 2003 Phase I Environmental Site Assessment Report, and the Limited Phase II Investigation of the subsurface soils beneath the basement slab for the subject site, and has made the following recommendations in its March 12, 2004 letter to the BSA: If any underground storage tanks (USTs) or UST systems (Fill lines, vent pipes, etc.) are encountered during the proposed excavation activities, they should be properly removed/closed in accordance with all applicable federal, state, and local regulations; if applicable, a tank closure report) including affidavits, disposal manifest, post-excavation samples, etc.) should be submitted to the New York State Department of Environmental Conservation; Asbestos-containing material, lighting fixtures containing PCB components, and lead-based paint within the existing structure should be identified or tested and appropriate methods of

non-conforming garage is a self-created hardship; and WHEREAS, the applicant notes, and the Board agrees, that the garage was legal when built, but was built under different regulations, and that its existence does not make it a self-created hardship; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after taking guidance from the Board as to the need to decrease the bulk and height from the initial proposal, the applicant has significantly reduced the scope of the proposal; and

WHEREAS, consequently, 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, opposition claims that the Board acted inappropriately in closing the hearing on April 20, 2004; and

WHEREAS, the Board notes that it conducted 3 hearings on the subject application, and received three separate submissions from opposition, including one submission received on May 25, 2004, which provided opposition ample time to summarize its position; and

WHEREAS, the Board also notes that no outstanding issues were presented at the April 24, 2004 hearing which required further oral testimony; instead a generous briefing schedule was set, which allowed opposition three weeks to respond to an applicant submission; and

abatement/management and disposal should be followed in accordance with all applicable federal, state, and local regulations; and

WHEREAS, the New York City Landmarks Preservation Commission ("LPC") has reviewed and approved of the applicant's Construction Protection Plan dated May 21, 2004; this document was requested by LPC to address any potential effects of the construction of the proposed project on adjacent properties in the potential NoHo 3 Historic District; and WHEREAS, LPC has reviewed the revised proposed building elevations dated April 6, 2004 and finds them acceptable and has determined that they do not represent a significant impact; LPC requests that the applicant ensure that façade materials and colors shall be compatible with the late 19th Century and early 20th Century loft buildings within the potential NoHo 3 Historic District; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Environmental Assessment Statement and has carefully considered all relevant areas of environmental concern, including the proposal's impact on parking in the area; and

---

# MINUTES

---

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 with the conditions 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 the proposed erection of a 101 feet high, 8-story mixed-use building, Use Groups 2, 6 and 8, consisting of residential apartments and local retail usage, located in an M1-5B zoning district, which creates non-conformances with regard to the use and public parking regulations and non-compliances with regard to the setback regulations, contrary to Z.R. §§42-00, 42-14, 32-17, and 43-43; 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 "April 6, 2004"-(10) sheets and on further condition:

THAT the FAR of the building will be limited to 5.0, the height will be limited to 101 feet (not including mechanicals), and a complying rear yard will be provided;

THAT the ground floor commercial space will only be occupied by Use Group 6 retail uses, except that it will not be occupied by a bar, nightclub, or restaurant;

THAT the minimum unit size shall be 1,200 square feet; and

THAT the above conditions will appear 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, June 8, 2004.

## 7-04-BZ

APPLICANT - Lawrence Whiteside dba Construction/Codes Consultants, for Rev. Dr. Sheldon E. Williams/Coop City Baptist Church, owner.

SUBJECT - Application January 9, 2004 - under Z.R. §72-21 to permit the proposed construction of a Church/Community Outreach Center, Use Group 4, located in an R3-2 zoning district, which does not comply with the zoning requirements for open space ratio, floor area ratio, height and setback, and encroaches onto the front and side yards, is contrary to Z.R. §24-11, §24-34, §24-35 and §24-521.

PREMISES AFFECTED - 2208 Boller Avenue, property fronting on Boller and Hunter Avenues and Erskine Place, Block 5135, Lot

certificate of occupancy;

THAT the applicant shall construct the proposed building in compliance with the LPC recommendations regarding façade materials and colors;

THAT based on DEP's recommendations, the applicant shall comply with the following items: (1) If any underground storage tanks (USTs) or UST systems (Fill lines, vent pipes, etc.) are encountered during the proposed excavation activities, they should be properly removed/closed in accordance with all applicable federal, state, and local regulations. If applicable, a tank closure report (including affidavits, disposal manifest, post-excavation samples, etc.) shall be submitted to the New York State Department of Environmental Conservation; and (2) Asbestos-containing material, lighting fixtures containing PCB components, and lead-based paint within the existing structure shall be identified or tested and appropriate methods of abatement/management and disposal should be followed in accordance with all applicable federal, state, and local regulations;

THAT the proposal shall comply with all applicable fire safety regulations;

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

1, Borough of The Bronx.

## COMMUNITY BOARD #10X

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 December 23, 2003 acting on Application No. 200804291 reads:

"Reconsideration is respectfully requested of the following zoning objections in an R3-2 zoning district: 2- Floor area ratio (FAR) exceeds that permitted by section 24-11 ZR; 3- Open space ratio (OSR) is deficient from that required by section 24-11 ZR; 4- Proposed front and side yard is contrary to sections 24-35 ZR; 5- Proposed project does not meet height and/or setback requirements as per section 24-521 ZR"; and

WHEREAS, a public hearing was held on this application on April 13, 2004 after due notice by publication in The City Record,

---

# MINUTES

---

with a continued hearing on May 18, 2004, and then to June 8, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Commissioner Caliendo; and

WHEREAS, Community Board 10, Bronx recommends approval of the subject application [CONFIRM]; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a church/community outreach center (Use Group 4), located in an R3-2 zoning district, which does not comply with the zoning requirements for open space ratio, floor area ratio, height and setback, and front and side yards, contrary to Z.R. §§ 24-11, 24-34, 24-35 and 24-521; and

WHEREAS, the subject lot is 190 feet by 40.33 feet, is located on the corner formed by Boller Avenue, Erskine Place and Hunter Avenue, has a total lot area of 7,662.7 sq. ft., and is currently vacant; and

WHEREAS, the Co-op City Baptist Church (the "Church") seeks to construct a church on the subject lot, which, in addition to worship services, will also house: theology studies, a nursery school, tutoring programs, health and wellness testing, family and drug counseling, domestic violence refuge referral, a food program, an evening community center, a senior fitness center, and a theology book store; and

WHEREAS, the Church primarily serves residents of the

WHEREAS, in response to the request of the Board, the applicant has submitted a detailed analysis of the program needs of the Church on a space-by-space basis, in the form of a color-coded program chart, which confirms that the daily simultaneous use of the overwhelming majority of the spaces requires the requested floor area waiver; and

WHEREAS, the Board agrees that due to the shallow depth of the lot, a complying building would possess a small floor plate, which would be inadequate to meet the programmatic needs of the Church; and

WHEREAS, therefore, the Board finds that the unique condition mentioned above, when considered in conjunction with the stated programmatic needs of the Church, creates practical difficulties and unnecessary hardships in developing the site in strict conformity with current applicable zoning regulations; and

WHEREAS, the applicant need not address Z.R. §72-21(b) since the Church is a not-for-profit organization and the proposed variance will be in furtherance of its programmatic needs; and

WHEREAS, the applicant notes that a church is a permitted use in an R3-2 zoning district; and

WHEREAS, the subject lot has a full block frontage, occupies two corners, and is across the street from rail tracks; and

WHEREAS, the Board notes that the subject premises is also located across the street from a six-story garage; and

WHEREAS, the Board has conducted a site visit and has

Co-op City Mitchell-Lama housing complex; and

WHEREAS, the applicant states that the Church, in order to adequately served the community, must possess a single facility capable of housing its various programs on a site that is also close to the housing complex; and

WHEREAS, the applicant represents that the hours of the Church will be from 8 am to 9 pm daily; and

WHEREAS, the proposed building will have three above-grade stories (with a partial third floor and a roof-top playground), and two sub-grade levels; and

WHEREAS, the proposed building will be constructed with the following non-compliances: the Floor Area Ratio is 2.20 (1.0 is allowed); the floor area is 16,864.6 (7,662.7 is allowed); lot coverage is 100% (60% is allowed); the perimeter wall is 51 feet (25 feet is allowed); no side or front yards are provided (a side yard of 8 feet and a front yard of 15 feet are required); the sky exposure plan ratio is not complied with (1 to 1 is required); 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 property has an extremely shallow depth of 40'4", which, when considered in conjunction with the programmatic needs of the Church, necessitates the construction a non-complying building; and

reviewed the submitted land use map, and concludes that the proposed building is appropriate given the context of the neighborhood; and

WHEREAS, the Board notes that the adjacent residential buildings to the north of the site possess side yards, and will not directly abut the proposed building; and

WHEREAS, the applicant has explained that the alignment of the proposed building, with the altar on the east side of the lot, is necessary for religious reasons; 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 alleged by applicant herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable

---

# MINUTES

---

significant environmental impacts that would require the preparation of an Environmental Impact Statement.

Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §72-21 and grants a variance, to permit the proposed construction of a church/community outreach center (Use Group 4), located in an R3-2 zoning district, which does not comply with the zoning requirements for open space ratio, floor area ratio, height and setback, and front and side yards, contrary to Z.R. §§ 24-11, 24-34, 24-35 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 January 9, 2004" (1) sheet, and "Received May 24, 2004"-(8) 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;

SUBJECT - Application February 10, 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 yard and minimum required side yard, is contrary to Z.R. §§23-141(a), §23-47 and §23-48.

PREMISES AFFECTED - 1150 East 23rd Street, west side, 380'-0" north of Avenue "L", Block 7622, Lot 66, 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 January 29, 2004 acting on Application No. 301693852, reads:

"Extension to existing 1 family dwelling is contrary to ZR 23-141(a)Floor Area Ratio, ZR 23-141(a) Open Space Ratio, ZR 23-47 Rear Yard, ZR 23-48 Minimum Required Side 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 April 27, 2004 after due notice by publication in The City Record, with continued hearing on May 18, 2004, and then to decision on June 8, 2004; and

THAT all egress requirements shall be reviewed and determined by the Department of Buildings;

THAT substantial construction 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;

THAT the Department of Buildings must ensure compliance 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 8, 2004.

---

## **23-04-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Yossi Kraus, owner.

WHEREAS, a special permit is sought under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliances with regard to floor area ratio, open space ratio, and rear and side yards, contrary to Z.R §§23-141(a), 23-47 and 23-48; and

WHEREAS, Community Board 14, Brooklyn recommends approval of this application; 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 perimeter wall height will comply with all applicable zoning regulations; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-622 and 73-03.

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of

---

# MINUTES

---

the Rules of Procedure for City Environmental Quality Review, and makes the required findings under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliances with regard to floor area ratio, open space ratio, and rear 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 objections above-noted, filed with this application and marked "Received February 10, 2004"-(7) sheets, and "Received May 4, 2004"- (2) sheets; on further condition;

THAT there shall be no habitable room in the cellar;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT 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  
PREMISES AFFECTED - 3849 Bedford Avenue, east side, 380.0' south of Quentin Road, Block 6808, Lot 71, Borough of Brooklyn

## COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Irving Minkin.

**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, June 8 2004.

---

## 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 - None.

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 1:30 P.M., for continued hearing.

granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted;

Adopted by the Board of Standards and Appeals, June 8 2004

---

## 60-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Naomi Kunin, owner.

SUBJECT - Application February 15, 2002 - under Z.R. §72-21, to permit the legalization of an interior enlargement in an existing one family dwelling, Use Group 1, which creates non-compliance with respect to floor area ratio and rear yard, which is contrary to Z.R. §§23-141 and 23-47.

## 68-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Torah M. Sinai, Inc., owner.

SUBJECT - Application February 11, 2003 - under Z.R. §72-21 to permit the proposed conversion of an existing building, which is located in an area designated as a manufacturing district, to be used for a day care center, Use Group 3, and office use, Use Group 6, without the required parking, and is contrary to Z.R. §42-00 and §44-21.

PREMISES AFFECTED - 649 39<sup>th</sup> Street, northwest corner of Seventh Avenue, Block 903, Lots 79, 80 and 83, Borough of Brooklyn.

## COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at 1:30 P.M., for continued hearing.

---

## 82-03-BZ

APPLICANT - Sullivan Chester & Gardner LLP, for Diamond Street Properties, Inc., owners.

SUBJECT - Application March 5, 2003 - under Z.R. §72-21 to permit the proposed enlargement of an existing two story building, to four stories, and the change of use from manufacturing/ warehouse facility, to mixed use (residential and commercial), located in an M3-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 51 North 8<sup>th</sup> Street, a/k/a 91 Kent Avenue, northeast corner, Block 2309, Lot 1, Borough of Brooklyn.

---

# MINUTES

---

## COMMUNITY BOARD #1BK

### APPEARANCES -

For Applicant: Jeffrey Chester.

### 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 July 13, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 84-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Nissan Perla, Partner: N.P. Holdings, LLC, owner.

SUBJECT - Application October 24, 2003 - under Z.R. §72-21 to permit the proposed nine (9) story plus penthouse residential

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 139-03-BZ

APPLICANT - Alfonso Duarte, for Sanjoy Augustine, owner.

SUBJECT - Application April 29, 2003 - under Z.R. §72-21 to permit the proposed erection of a two family dwelling, Use Group 2A, located in an R3-A zoning district, which does not comply with the zoning requirements, for rear yard and floor area ratio, is contrary to Z.R. §23-47 and §23-141(b).

PREMISES AFFECTED - 247-54 90th Avenue, south side, 225.51' west of Commonwealth Boulevard, Block 8662, Lot 28, Borough of Queens.

## COMMUNITY BOARD #13Q

### APPEARANCES -

For Applicant: Alfonso Duarte and Sanjoy Augustine.

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at 1:30 P.M., for continued hearing.

---

## 249-03-BZ

APPLICANT - Sheldon Lobel, P.C., for D & J Herms Realty, Inc., owner.

SUBJECT - Application July 31, 2003 - under Z.R. §72-21 to permit the proposed four story building, with penthouse and cellar, to contain nine residential units on the second, third and fourth floors, and one commercial unit on the ground floor, on a site that is located in C8-2 zoning district, which does not permit residential use, is contrary to §32-10.

PREMISES AFFECTED - 265 Bedford Avenue, southeast corner

building, Use Group 2, located in an R5, C1-2 overlay zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, lot coverage, total height, perimeter wall height, lot area per dwelling unit and the required number of parking spaces, is contrary to Z.R. §23-141, §23-631, §23-222 and §25-521.

PREMISES AFFECTED - 35-40 30th Street, a/k/a 35-37 29th Street, between 35th and 36th Avenues, Block 341, Lot 6, Borough of Queens.

## COMMUNITY BOARD #1Q

### APPEARANCES -

For Applicant: Jordan Most and John Conath.

For Opposition: Nicholas Franklin and Caroline Adams.

For Opposition: Maura Stone and Caroline Adams.

### THE VOTE TO CLOSE HEARING -

of North First Street, Block 2381, Lot 1, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

### APPEARANCES -

For Applicant: Janice Cahalane.

### 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 July 13, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 267-03-BZ

APPLICANT - Stuart A. Klein, Esq., for North 14th Street Realty Associates, LLC, owner.

SUBJECT - Application August 21, 2003 - under Z.R. §72-21 to permit the proposed construction of three attached six and seven story buildings, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 2/6 Berry Street, 194/96 North 14th Street, south side, between Wythe Avenue to the west and Berry Street to the east, Block 2279, Lot 13, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

### APPEARANCES -

For Applicant: Stuart A. Klein, Harold Weinberg, P.E., Robert B. Pauls and Ken Fisher.

For Opposition: Howard Slafkin and Paul Parkhill.

### 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 July 20, 2004, at 1:30 P.M., for decision, hearing closed.

---

# MINUTES

---

---

## 287-03-BZ

APPLICANT - Stuart A. Klein, Esq., for First Step Realty, LLC, owner.

SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit the proposed construction of a six-story residential building, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 430 Keap Street, southeast corner of Hope Street, Block 2387, Lot 2, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Stuart Klein.

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at For Applicant: Janice Cahalane.

### 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 August 10, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 341-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Chelsea Ventura, LLC, owner.

SUBJECT - Application November 6, 2003 - under Z.R. §72-21 to permit the proposed construction of a new residential building, on a merged zoning lot with an existing multiple dwelling, which creates non-compliances with respect, floor area ratio, number of dwelling units, and rear yard equivalent, is contrary to Z.R. §23-145, §23-22 and §23-533.

PREMISES AFFECTED - 343 West 16th Street, between Eighth and Ninth Avenues, Block 740, Lot 12, Borough of Manhattan.

### COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Irving Minkin and Arpad Baksa.

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 1:30 P.M., for continued hearing.

---

## 9-04-BZ

APPLICANT - Marvin B. Mitzner, Esq., Fischbein Badillo Wagner Harding for Walworth Condominium, Inc., owner.

SUBJECT - Application January 12, 2004 - under Z.R. §72-21 to permit the proposed multiple dwelling, which will contain forty-seven dwelling units, located in an M1-1 zoning district, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 114 Walworth Street, northwest corner of Myrtle Avenue, Block 1735, Lot 24, Borough of Brooklyn.

### COMMUNITY BOARD #3BK

1:30 P.M., for continued hearing.

---

## 305-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 10 Grand Avenue, LLC, owner.

SUBJECT - Application September 25, 2003 - under Z.R. §72-21 to permit the legalization of residential occupancy, Use Group 2, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 2, 8, 10 Grand Avenue, southwest corner of Flushing Avenue, Block 1877, Lots 27 and 30, Borough of Brooklyn.

### COMMUNITY BOARD #2

APPEARANCES -

APPEARANCES -

For Applicant: Marvin Mitzner, Peter Geis and Jack Freeman.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 10 A.M., for continued hearing.

---

## 14-04-BZ

APPLICANT - Alfonso Duarte, for Angelo Mordini, owner; Punto Zero, lessee.

SUBJECT - Application January 13, 2004 - under Z.R. §73-244 to permit the proposed conversion of an existing restaurant (Use Group 6), to an eating and drinking establishment with entertainment(Use Group 12A), located in a C2-3 within an R6 zoning district, is contrary to Z.R. §32-31.

PREMISES AFFECTED - 76-07 Roosevelt Avenue, northeast corner of 76th Street, Block 1287, Lot 43, Borough of Queens.

### COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Alfonso Duarte.

### 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 July 20, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 39-04-BZ

APPLICANT - Eric Palatnik, P.C., for Mordechai Bistrizky, owner.

SUBJECT - Application February 13, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space and rear

---

# MINUTES

---

yard, is contrary to Z.R. §23-141, §23-461 and §23-47.  
PREMISES AFFECTED - 1418 East 29th Street, between Avenue "N" and Kings Highway, Block 7682, Lot 57, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 10 A.M., for continued hearing.

PREMISES AFFECTED - 2252 Linden Boulevard, southeast corner of Cleveland Street, Block 4360, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #5BK**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 1:30 P.M., for continued hearing.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 6:30 P.M.

**40-04-BZ**

APPLICANT - Agusta & Ross, for Steven Witriol, owner.  
SUBJECT - Application February 13, 2004 - under Z.R. §72-21 to permit the proposed change of use from an automobile repair and used vehicles sales (Use Group 16), previously approved by the Board under Cal. No. 56-95-BZ, to a retail store (Use Group 6), located in an R5 zoning district, which is contrary to Z.R. §22-00.

**SPECIAL CALENDAR  
WEDNESDAY MORNING, JUNE 9, 2004  
10:00 A.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

**342-03-BZ**

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 -

For Applicant: Jay Segal and Joe Lombardi.

For Opposition: Barry Mallin, Jim Solomon, Gregory Brenden, On behalf of Assemblyman Glickk, Robert B. Murray Rech, Stephen Rosen, Peter Bosch and Richard Herschlag.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5  
Negative:.....0

---

# MINUTES

---

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at 1:30 P.M., for decision, hearing closed.

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director.*

Adjourned: 11:30 A.M.

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 26

June 24, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**SATISH BABBAR, *Vice-Chair***

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	459
<b>CALENDAR</b> of July 20, 2004	
Morning .....	460
Afternoon .....	461

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, June 15, 2004**

Morning Calendar .....463

**Affecting Calendar Numbers:**

811-81-BZ	232 East 50 <sup>th</sup> Street, Manhattan
62-83-BZ, Vol. II	696 Pacific Street, 529/539 Dean Street and 549/59 Dean Street, Brooklyn
85-91-BZ	204-18 46 <sup>th</sup> Avenue, Queens
199-00-BZ	76-19 Roosevelt Avenue, Queens
410-03-BZY thru 412-03-BZY	95/97/99 Lansing Street Staten Island
4-00-BZ	243 West 30 <sup>th</sup> Street, Manhattan
27-04-A	755 12 <sup>th</sup> Avenue, Manhattan
359-03-A	220-43 135 <sup>th</sup> Avenue, Queens
379-03-A	127 Arcadia Walk, Queens
393-03-A	2 Roxbury Avenue, Queens
11-04-A	25 Fulton Walk, Queens
65-04-A	8 Beach 221 <sup>st</sup> Street, Queens
66-04-A	976 Bayside, Queens
129-04-A	30 Marion Walk, Queens

Afternoon Calendar .....474

**Affecting Calendar Numbers:**

339-03-BZ	122 Arthur Kill Road, Staten Island
361-03-BZ	2277 East 2 <sup>nd</sup> Street, Brooklyn
367-03-BZ	714 Beach 20 <sup>th</sup> Street, Queens
118-03-BZ	1101 Prospect Avenue, a/k/a 1677 11 <sup>th</sup> Avenue, Brooklyn
186-03-BZ	525 Union Avenue, Brooklyn
199-03-BZ thru 205-03-BZ	148/152/156 Classon Avenue and 77/81/85/89 Emerson Place, Brooklyn
223-03-BZ	115-15 Farmers Boulevard, Queens
224-03-BZ	139-19 109 <sup>th</sup> Avenue, Queens
240-03-BZ	83-10 and 83-16 188 <sup>th</sup> Street, Queens
258-03-BZ	47 Thames Street, Brooklyn
288-03-BZ	109-17 Horace Harding Expressway, Queens
302-03-BZ	1212 East 23 <sup>rd</sup> Street, Brooklyn
306-03-BZ	192 Water Street, Brooklyn
389-03-BZ	1959 East 24 <sup>th</sup> Street, Brooklyn
24-04-BZ	1129 East 27 <sup>th</sup> Street, Brooklyn
134-04-BZ	184 Kent Avenue, Brooklyn

---

# DOCKETS

---

New Case Filed Up to June 15, 2004

**225-04-BZ**            B.BK.            201 Berry Street,  
(a/k/a 121/57 North Third Street, 248/52 Bedford Avenue  
and 191/205 Berry Street), Block 2351, Lots 1, 28 and 40,  
Borough of Brooklyn. Applic. #301751806. Proposed  
construction of three, four-story buildings, containing a total  
of 82 residential units and a rooftop recreation room,  
located in an M1-2 zoning district, is contrary to Z.R. §42-  
10.

**COMMUNITY BOARD #1BK**

---

**226-04-A**            B.Q.            106 West Market  
Street,  
north side, 55.8' south of Rockaway Point Boulevard, Block  
16350, Lot 300, Borough of Queens. Alt.1 #401849504.  
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.

---

**227-04-BZ**            B.BK.            1335 East 22<sup>nd</sup>  
Street,  
between Avenues "L and M", Block 7640, Lot 18, Borough  
of Brooklyn. Applic. #301739723. 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.

**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 20, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, July 20, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

## SPECIAL ORDER CALENDAR

### 7-00-BZ

APPLICANT - Friedman & Gotbaum LLP., by Shelly S. Friedman, Esq., for Trustees of the New York City Rescue Mission, owner.  
SUBJECT - Application March 31, 2004 - reopening for an extension of time to complete construction for a non-profit homeless shelter for men (Use Group 4), located in an M1-5 zoning district.  
PREMISES AFFECTED - 90 Lafayette Street, a/k/a "The New York City Rescue Mission", northwest corner of Lafayette and White Streets, Block 195, Lot 21, Borough of Manhattan.

**COMMUNITY BOARD #1M**

\_\_\_\_\_

### 114-02-BZ

APPLICANT - Land Planning and Engineering Consultants, P.C., for Gerardo Campitiello, owner.  
SUBJECT - Application June 2, 2004 - reopening for an amendment to the resolution to amend the existing resolution to permit the maintenance of the existing building during the construction of the new cellar and one story professional building, which is to replace the existing building.  
PREMISES AFFECTED - 2493 Richmond Road, northwest side of Richmond Road, southwest of Odin Street, Block 947, Lot 1, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

\_\_\_\_\_

### 380-03-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Marilyn & Sebastian Danese, lessees.  
SUBJECT - Application December 4, 2003 - Proposed reconstruction and enlargement of an existing one family dwelling, situated within the bed of a mapped street, and does not front on a legally mapped street is contrary to Sections 35 and 36, Article 3 of the General City Law.  
PREMISES AFFECTED - 3 Essex Walk, east side, 205.36' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

\_\_\_\_\_

### 13-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Howard & Phyllis Taphouse, owners.  
SUBJECT - Application January 13, 2004 - Proposed  
SUBJECT - Application March 12, 2004 - Application pursuant to NYC Charter §§645(3)(e) and 666.6(a), to revoke Certificate of Occupancy No. 116501 on the basis that a lawfully non-conforming eating and drinking establishment (Use Group 6) in an R8 zoning district was discontinued for a period greater than two years and must therefore be occupied as a conforming residential use as per

reconstruction and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 520 Browns Boulevard, west side of Beach 181<sup>st</sup> Street, and 396.29' south of Bayside Drive, Block 16340, Part of Lot 50, Borough of Queens.

**COMMUNITY BOARD #14Q**

\_\_\_\_\_

### 64-04-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Joseph Sammon, lessee.  
SUBJECT - Application March 2, 2004 - Proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a private service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings' policy.  
PREMISES AFFECTED - 22 Hudson Walk, west side, 132.76' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

\_\_\_\_\_

### 67-04-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; 20 Queens Walk, lessee.  
SUBJECT - Application March 2, 2004 - Proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a private service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings' policy.  
PREMISES AFFECTED - 20 Queens Walk, west side, 368.85' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

\_\_\_\_\_

### 130-04-A

APPLICANT - Gary Lenhart, for The Breezy Point Cooperative, owner; Joanne Butler, lessee.  
SUBJECT - Application March 12, 2004 - Proposed alteration and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.  
PREMISES AFFECTED - 181 Reid Avenue, west side, of Beach 201st Street, 129.55' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

\_\_\_\_\_

### 131-04-A

APPLICANT - New York City Department of Buildings.  
OWNER OF RECORD - Douglas Ballinger.

Z.R. §52-61.

PREMISES AFFECTED - 217 West 20th Street, between Seventh and Eighth Avenues, Block 770, Lot 30, Borough of Manhattan.

**COMMUNITY BOARD #4M**

\_\_\_\_\_

---

# CALENDAR

---

## 186-04-A

APPLICANT - Eric Palatnik, Esq., for Aryeh Realty, LLC, owner.  
SUBJECT - Application May 4, 2004 - Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 252-18 Rockaway Boulevard, corner of Dock Street, Block 13921, Lot 73, Borough of Queens.

### COMMUNITY BOARD #13Q

---

**JULY 20, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, July 20, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## ZONING CALENDAR

### 360-03-BZ

APPLICANT - Friedman & Gotbaum, LLP, by Lori G. Cuisinier, Esq., for Linden & Utica Realty Corp., owner; KFC U.S. Properties, Inc., lessee.

SUBJECT - Application November 20, 2003 - under Z.R. §§73-03 and 73-243 to permit the reestablishment of an expired special permit, previously granted under Calendar No. 257-87-BZ, which permitted a drive-through facility for an eating and drinking establishment in a C1-2(R5) zoning district.

PREMISES AFFECTED - 736-46 Linden Boulevard, southwest corner of Linden Boulevard, Block 4675, Lot 6, Borough of Brooklyn.

### COMMUNITY BOARD #17BK

### 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

## REGULAR MEETING

**TUESDAY MORNING, JUNE 15, 2004**

**10:00 A.M.**

Present: Chair Srinivasan, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, April 20, 2004, were approved as printed in the Bulletin of April 29, 2004, Volume 89, No. 18.

## 4-04-BZ

APPLICANT - Eric Palatnik, P.C., for Anna Donskoi, owner.  
SUBJECT - Application January 6, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space, rear and side yards, perimeter wall height and lot coverage is contrary to Z.R. §23-141(a), §23-141, §23-45, §23-47, §23-61 and §23-631b.

PREMISES AFFECTED - 177 Norfolk Street, between Oriental and Shore Boulevards, Block 8757, Lot 27, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

## 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, at the subject premises, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 186-05 120<sup>th</sup> Road, southwest corner of Farmers Boulevard, Block 12458, Lot 421, Borough of Queens.

### COMMUNITY BOARD #12Q

## 125-04-BZ

APPLICANT - Steven M. Sinacori/Stadtmauer Bailkin, for Everest Realty, LLC, owner.

SUBJECT - Application March 9, 2004 - under Z.R. §72-21 to permit the proposed two story expansion of an existing one story commercial building, for residential use, Use Groups 2 and 6, located in R4, C2-2 and R3A zoning districts, which does not comply with the zoning requirements for floor area, lot coverage, open space, number of dwelling units and height of building, is contrary to Z.R. §23-141, §35-31, §23-22 and §23-631.

PREMISES AFFECTED - 247-39 Jamaica Avenue, north side, between 91<sup>st</sup> Avenue and Commonwealth Boulevard, Block 8662, Lot 50, Borough of Queens.

### COMMUNITY BOARD #13Q

---

*Pasquale Pacifico, Executive Director*

## SPECIAL ORDER CALENDAR

## 811-81-BZ

APPLICANT - Sheldon Lobel, P.C., for Eva Ezrovics, owner.  
SUBJECT - Application February 3, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired June 7, 2003.

PREMISES AFFECTED - 232 East 50<sup>th</sup> Street, East 50<sup>th</sup> Street between Second Avenue and Third Avenue, Block 1323, Lot 35,

---

# MINUTES

---

Borough of Manhattan.

## COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** - Application reopened, resolution amended and term of variance extended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner Chin.....3

Negative:.....0

Absent: Vice-Chair Babbar and Commissioner Caliendo.....2

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on May 18, 2004 after due notice by publication in *The City Record*, and then to June 15, 2004 for decision; and

WHEREAS, the applicant requests a reopening and an extension of the term of the variance, which expired on June 7, 2003; and

WHEREAS, on June 8, 1982, the Board granted an application to permit in an R7-2 district, the use of the basement level as business or professional offices on the subject premises in conjunction with the enlargement in area of an existing three story, basement and cellar structure; and

WHEREAS, since the original grant, the applicant has obtained subsequent minor amendments and extensions of the term of variance, the most recent extension being granted on September 20, 1994.

Resolved, that the Board of Standards and Appeals, *reopens and amends* the resolution, said resolution having been adopted on June 8, 1982 and extends the term of the variance which expired on June 7, 2003 so that, as amended, this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional ten (10) years from June 7, 2003 expiring on June 7, 2013, *on condition* that the premises shall substantially conform to drawings as filed with this application marked "Received February 3, 2004"- (1) sheet and "June 1, 2004"- (2) sheets; and on further condition:

THAT the basement level shall be used for single tenancy, Use Group 6 office only; any proposed change in use requires BSA approval;

THAT this approval is limited to the relief granted by the **85-91-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for Scott R. Benson, DVM, owner; Bayside Veterinary Center, lessee.

SUBJECT - Application January 9, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired July 21, 2002.

PREMISES AFFECTED - 204-18 46<sup>th</sup> Avenue, south side of 46<sup>th</sup> Avenue, 142.91' east of 204<sup>th</sup> Street, Block 7304, Lot 17, Borough of Queens.

## COMMUNITY BOARD #11Q

APPEARANCES - None.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, and term of variance extended.

Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application #103603361)

Adopted by the Board of Standards and Appeals, June 15, 2004.

---

## 62-83-BZ, Vol. II

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Shaya B. Pacific, LLC.

SUBJECT - Reopening for possible rescindment.

PREMISES AFFECTED - 696 Pacific Street, 529/39 Dean Street and 549/59 Dean Street, Block 1128, Lots 16, 18, 37, 65, 68, 70, Borough of Brooklyn.

## COMMUNITY BOARD #8BK

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 and Commissioner Caliendo.....2

Adopted by the Board of Standards and Appeals, June 15, 2004.

---

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner Chin.....3

Negative:.....0

Absent: Vice-Chair Babbar and Commissioner Caliendo.....2

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on April 13, 2004 after due notice by publication in *The City Record* with a continued hearing on May 25, 2004 and then to June 15, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure and a reopening and an extension of the term of the variance, which expired on July 21, 2002; and

# MINUTES

WHEREAS, Community Board #11, Queens recommends approval of this application; and

WHEREAS, on June 22, 1954, the Board granted a variance for the operation of a veterinarian's office and accessory dog kennels with a caretaker's apartment on the subject premises; 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 July 21, 1992.

*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 April June 22, 1954 so that as amended, this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional ten (10) years from July 21, 2002 expiring on July 21, 2012; *on condition* that all work shall substantially conform to drawings as filed with this application marked "Received January 9, 2004"- (5) sheets and "June 1, 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 there shall be no use of the adjacent Tax Lot 14 for the use approved herein;

THAT the above conditions and all conditions from prior resolutions shall appear on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB # 401718539)

Adopted by the Board of Standards and Appeals, June 15, 2004.

*Resolved*, that the Board of Standards and Appeals *reopens and amends* the resolution having been adopted on March 13, 2001 expiring March 13, 2004, so that as amended this portion of the resolution shall read: "To permit an extension of the term of special permit for an additional three (3) years from March 13, 2004 expiring on March 13, 2007, *on condition* that the premises shall substantially conform to drawings as filed with this application marked 'Received March 10, 2004' - (3) Sheets and 'Received May 28, 2004' - (2); and *on further condition*:

THAT the operator provide two trees along 77th Street and Roosevelt 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 there shall be no beverage or food service provided in the cellar;

THAT there shall be no furniture in the cellar;

THAT the cellar doors and side doors are to be used for

## 199-00-BZ

APPLICANT - The Agusta Group, for En Ping, Ltd., owner; The Atlantis 2010, lessee.

SUBJECT - Application March 10, 2004 - reopening for an extension of term of variance which expired March 13, 2004.

PREMISES AFFECTED - 76-19 Roosevelt Avenue, northwest corner of Roosevelt Avenue and 77<sup>th</sup> Street, Block 1287, Lot 37, Borough of Queens.

## COMMUNITY BOARD #3Q

APPEARANCES - None.

**ACTION OF THE BOARD**- Application reopened and term of variance extended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner Chin.....3

Negative:.....0

Absent: Vice-Chair Babbar and Commissioner Caliendo.....2

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on May 18, 2004 after due notice by publication in *The City Record*, and then to June 15, 2004 for decision; and

WHEREAS, the applicant requested a re-opening and an extension of the term of the special permit, which expired on March 13, 2004; and

WHEREAS, on March 13, 2001, the Board granted an application under Z.R. §73-244, to permit in a C2-3 zoning district, within an R6 zoning district, the use of the first floor as an eating and drinking establishment without restrictions, contrary to Z.R. §32-31; and

WHEREAS, by letter dated March 23, 2004, Community Board No. 3, Queens, recommends approval of this application, provided that, among other things, the operator provide two trees along 77th Street and Roosevelt Avenue.

egress only;

THAT all lighting will be positioned down and away from residential uses;

THAT the maximum occupancy shall be limited to 200 persons;

THAT the above conditions shall appear on the certificate of occupancy;

THAT all fire safety measures will be provided and maintained in accordance with the Board's 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 # 401018206)

Adopted by the Board of Standards and Appeals, June 15, 2004.

---

# MINUTES

---

## 410-03-BZY

APPLICANT - *Ciro Asperti, R.A., for Alan Christofferson, owner.*  
SUBJECT - Application December 31, 2003 - proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R.§11-331.

PREMISES AFFECTED - 95 Lansing Street, southwest corner of South Beach Avenue, Block 3404, Lots 31 and 34, Borough of Staten Island.

### COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: *Ciro Asperti.*

**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 and Commissioner Caliendo.....2

### 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 April 28, 2004 after due notice by publication in *The City Record*, with a continued hearing on May 25, 2004, and then to decision on June 15, 2004; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the Board notes that this application has been filed with two companion applications for the premises at 97 & 99 Lansing Street under BSA Calendar Nos. 411-03-BZY, and 412-03-BZY; and

WHEREAS, Z.R. §11-331 authorizes the Board to grant

WHEREAS, in addition, this letter states that approximately \$46,810 of the estimated \$54,310 associated with the foundation work (86%) has been expended on the project; and

WHEREAS, the Board finds the submitted evidence sufficient and credible; and

WHEREAS, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, therefore, the Board finds that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, consequently, the Board finds that the applicant has adequately satisfied all requirements of Z.R. §11-331.

Therefore, it is resolved that this application is granted to renew New Building permit No. 500646526-NB pursuant to Z.R. §11-331, and to extend the time to complete the required foundations for one term of sixth months from the date of this resolution, to expire on December 15, 2004; *on*

a six month extension of time to complete foundations upon a finding that “on the effective date the building permit lapsed, excavation had been completed and substantial progress made on foundations”; and

WHEREAS, the subject premises is proposed to be developed with a semi-attached home, located at the southwest corner of the intersection of Lansing Street and South Beach Avenue; and

WHEREAS, the record indicates that on November 19, 2003 a construction permit (DOB Permit No. 500646526-NB) for the new building was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the record shows that the building permit was issued to the owner of the zoning lot; and

WHEREAS, the applicant represents that excavation of the site and installation of the piles commenced immediately after issuance of the building permits, and that as of December 2, 2003 100% of the excavation was completed and the foundation piles were installed; and

WHEREAS, the applicant represents that the City Council rezoned the subject premises on December 3, 2003 from R3-2 to R3-X, and the rezoning of the subject zoning district effectively caused the building permit to lapse; and

WHEREAS, on December 9, 2003, the Department of Buildings issued a stop-work order to the subject premises, halting construction thereon; and

WHEREAS, in support of the contention that excavation was complete and substantial progress had been made on foundations, the applicant has submitted various pieces of evidence, including: bills and invoices showing the dollar amount of expenditures on the excavation and piles installation, and a timeline of completed work from the contractors; and

WHEREAS, the applicant has provided a signed and sealed letter from a registered architect, stating in part, that 100% of the piling work and 50% of the concrete work has been completed on the subject premises.

*condition* that the Department of Buildings must ensure compliance 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, including, but not limited to, applicable revised FEMA regulations (and policies implemented in response to such regulations) for properties located in special flood hazard areas.

Adopted by the Board of Standards and Appeals, June 15, 2004.

---

## 411-03-BZY

APPLICANT - *Ciro Asperti, R.A., for Alan Christofferson, owner.*  
SUBJECT - Application December 31, 2003 - proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R.§11-331.

PREMISES AFFECTED - 97 Lansing Street, southwest corner of South Beach Avenue, Block 3404, Lot 36, Borough of Staten Island.

# MINUTES

## COMMUNITY BOARD #1SI

### APPEARANCES -

For Applicant: Ciro Asperti.

**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 and Commissioner Caliendo.....2

### 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 April 28, 2004 after due notice by publication in *The City Record*, with a continued hearing on May 4, 2004, and then to decision on June 15, 2004; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the Board notes that this application has been filed with two companion applications for the premises at 95 & 99 Lansing Street under BSA Calendar Nos. 410-03-BZY, and 412-03-BZY; and

WHEREAS, Z.R. §11-331 authorizes the Board to grant a six month extension of time to complete foundations upon a finding that "on the effective date the building permit lapsed, excavation had been completed and substantial progress made on foundations"; and

WHEREAS, the subject premises is proposed to be developed with a semi-attached home, located at the southwest corner of the intersection of Lansing Street and

WHEREAS, the Board finds the submitted evidence sufficient and credible; and

WHEREAS, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, therefore, the Board finds that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, consequently, the Board finds that the applicant has adequately satisfied all requirements of Z.R. §11-331.

Therefore, it is resolved that this application is granted to renew New Building permit No. 500646517-NB pursuant to Z.R. §11-331, and to extend the time to complete the required foundations for one term of sixth months from the date of this resolution, to expire on December 15, 2004; *on condition* that the Department of Buildings must ensure compliance 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, including, but not limited to, applicable revised FEMA regulations (and policies implemented in response to such regulations) for properties located in special flood hazard areas.

South Beach Avenue; and

WHEREAS, the record indicates that on November 19, 2003 a construction permit (DOB Permit No. 500646517-NB) for the new building was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the record shows that the building permit was issued to the owner of the zoning lot; and

WHEREAS, the applicant represents that excavation of the site and pouring of the footings commenced immediately after issuance of the building permits, and that as of December 2, 2003 100% of the excavation was completed and the footings were in place; and

WHEREAS, the applicant represents that the City Council rezoned the subject premises on December 3, 2003 from R3-2 to R3-X, and the rezoning of the subject zoning district effectively caused the building permit to lapse; and

WHEREAS, on December 9, 2003, the Department of Buildings issued a stop-work order to the subject premises, halting construction thereon; and

WHEREAS, in support of the contention that excavation was complete and substantial progress had been made on foundations, the applicant has submitted various pieces of evidence, including: bills and invoices showing the dollar amount of expenditures on the excavation and foundations, photos of the completed work, and a timeline of completed work from the contractors; and

WHEREAS, the applicant has provided a signed and sealed letter from a registered architect, stating in part, that 100% of the piling work and 50% of the concrete work had been completed on the subject premises.

WHEREAS, in addition, this letter states that approximately \$46,810 of the estimated \$54,310 associated with the foundation work (86%) has been expended on the project; and

Adopted by the Board of Standards and Appeals, June 15, 2004.

### 412-03-BZY

APPLICANT - Ciro Asperti, R.A., for Alan Christofferson, owner.  
SUBJECT - Application December 31, 2003 - proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R. §11-331.

PREMISES AFFECTED - 99 Lansing Street, southwest corner of South Beach Avenue, Block 3404, Lot 37, Borough of Staten Island.

## COMMUNITY BOARD #1SI

### APPEARANCES -

For Applicant: Ciro Asperti.

**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 and Commissioner

---

# MINUTES

---

Caliendo.....2

## 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 April 28, 2004 after due notice by publication in *The City Record*, with a continued hearing on May 4, 2004, and then to decision on June 15, 2004; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the Board notes that this application has been filed with two companion applications for the premises at 95 & 97 Lansing Street under BSA Calendar Nos. 410-03-BZY, and 411-03-BZY; and

WHEREAS, Z.R. §11-331 authorizes the Board to grant a six month extension of time to complete foundations upon a finding that "on the effective date the building permit lapsed, excavation had been completed and substantial progress made on foundations"; and

WHEREAS, the subject premises is proposed to be developed with a semi-attached home, located at the southwest corner of the intersection of Lansing Street and South Beach Avenue; and

WHEREAS, the record indicates that on November 19, 2003 a construction permit (DOB Permit No. 500646508-NB) for the new building was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the record shows that the building permit was issued to the owner of the zoning lot; and

WHEREAS, the applicant represents that excavation of

WHEREAS, therefore, the Board finds that excavation was complete and substantial progress had been made on foundations; and

WHEREAS, consequently, the Board finds that the applicant has adequately satisfied all requirements of Z.R. §11-331.

Therefore, it is resolved that this application is granted to renew New Building permit No. 500646508-NB pursuant to Z.R. §11-331, and to extend the time to complete the required foundations for one term of sixth months from the date of this resolution, to expire on December 15, 2004; *on condition* that the Department of Buildings must ensure compliance 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, including, but not limited to, applicable revised FEMA regulations (and policies implemented in response to such regulations) for properties located in special flood hazard areas.

Adopted by the Board of Standards and Appeals, June 15, 2004.

---

## 4-00-BZ

APPLICANT - Noel Im, for 243 West 30th Realty, LLC, c/o New York Equity, LLC, owner; Anie Yang, Yhung Kang & Cong Yan

the site and pouring of the footings commenced immediately after issuance of the building permits, and that as of December 2, 2003 100% of the excavation was completed and the footings were in place; and

WHEREAS, the applicant represents that the City Council rezoned the subject premises on December 3, 2003 from R3-2 to R3-X, and the rezoning of the subject zoning district effectively caused the building permit to lapse; and

WHEREAS, on December 9, 2003, the Department of Buildings issued a stop-work order to the subject premises, halting construction thereon; and

WHEREAS, in support of the contention that excavation was complete and substantial progress had been made on foundations, the applicant has submitted various pieces of evidence, including: bills and invoices showing the dollar amount of expenditures on the excavation and foundations, photos of the completed work, and a timeline of completed work from the contractors; and

WHEREAS, the applicant has provided a signed and sealed letter from a registered architect, stating in part, that 100% of the piling work and 50% of the concrete work has been completed on the subject premises.

WHEREAS, in addition, this letter states that approximately \$46,810 of the estimated \$54,310 associated with the foundation work (86%) has been expended on the project; and

WHEREAS, the Board finds the submitted evidence sufficient and credible; and

WHEREAS, the Board observed on its site visit that excavation was complete and substantial progress had been made on foundations; and

d/b/a West Garden, Inc., lessees.

SUBJECT - Application October 21, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 243 West 30<sup>th</sup> Street, north side of West 30<sup>th</sup> Street, 325' east of 8<sup>th</sup> Avenue, Block 780, Lot 15, Borough of Manhattan.

## COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Mitchell Ross.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 10 A.M., for continued hearing.

---

## 27-04-A

APPLICANT - Steven Sinacori/Stadtmauer Bailkin, LLP, for City of New York, owner; Unconvention Center, Inc., lessee.

SUBJECT - Application February 11, 2004 - proposed rehabilitation and renovation of Pier 94, for use as an exhibition hall for mid-size trade shows, which seeks relief from the requirements of §27-369(f) of the NYC Building Code with respect to protection of an exterior corridor, and §27-771.01(b) of the NYC Building Code with respect to mechanical system providing less than (6) six air changes per hour.

PREMISES AFFECTED - 755 12<sup>th</sup> Avenue, west side, between

---

# MINUTES

---

West 53<sup>rd</sup> and 55<sup>th</sup> Streets, Block 1109, Lot 5, Borough of Manhattan.

## COMMUNITY BOARD #4M

### APPEARANCES -

For Applicant: Steven Sinacori.

For Opposition: D.C.I. Anthony Scaduto and B.C. Eugene J. Carty, Fire Department.

**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 and Commissioner Caliendo.....2

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 3, 2004, acting on Application No. 103671411, reads:

“1. BC 27-369(f), Exterior corridor is required to be roofed. Show compliance.

2. BC27-777.01-b, Proposed mechanical

WHEREAS, section 27-771.01(b) of the Building Code states, “In all buildings classified in occupancy group C, D, E, F, G, H or J-1, there shall be provided a system of mechanical means of sufficient capacity to exhaust six air changes per hour or 1 cfm/sq. ft., whichever is greater, from the largest floor in the building, using either dedicated fan equipment or the building ventilation system arranged to shut down automatically with manual override capability to exhaust one floor at a time through a roof or an approved location on an exterior wall other than a lot line wall.”; and

WHEREAS, relief from these requirements to provide:

(1) a roof over an exterior corridor and (2) a mechanical system exchanging less than 6 air changes per hour, is necessary to permit a change of use of Pier 94 to an exhibition hall; and

WHEREAS, concurrently, with this appeal, the following applications were filed with the City Planning Commission:

(1) ULURP regarding the disposition of Pier 94, pursuant to a seven year lease, to the applicant; (2) special permit allowing the use of Pier 94 for trade shows and expositions; (3) modifications of public access and waterfront zoning requirements; and (4) certification with respect to visual corridors; as of the date of the decision herein, all of the CPC approvals have been obtained; and

WHEREAS, the Department of Buildings has submitted a reply to this appeal, explaining the basis of the Department’s objections as set forth above, but additionally stating that the Department does not object to the Board exercising its authority to waive or modify the objection assuming the Board is persuaded that the measures proposed by the applicant in lieu of strict compliance with the applicable Building Code provisions are sufficient; and

exhaust providing less than six air changes per hour does not comply.”; and

WHEREAS, a public hearing was held on this application on May 11, 2004 after due notice by publication in *The City Record*, with a continued hearing on May 25, 2004, and then to decision on June 15, 2004; and

WHEREAS, the premises and surrounding area had site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Commissioner Joel Miele, and the Board’s executive director and appeals examiner; and

WHEREAS, this is an administrative appeal, filed pursuant to section 666 of the New York City Charter, which requests relief from sections 27-369(f) of the New York City Building Code (the “Building Code”) with respect to protection of an exterior corridor, and section 27-771.01(b) of the Building Code with respect to a mechanical system providing less than 6 air changes per hour; and

WHEREAS, section 27-369(f) of the Building Code requires, *inter alia*, exterior corridors to be roofed to prevent accumulation of standing water, ice or snow; and

WHEREAS, Pier 94 is located on the east bank of the Hudson River west of 12<sup>th</sup> Avenue between 53<sup>rd</sup> and 55<sup>th</sup> Streets in Manhattan, is approximately 144 feet wide by 746 feet in length, and consists of a one-story, approximately 189,751 square foot T-shaped Pier Structure (the “Pier Structure”) constructed both on the Pier and property adjacent to the Pier; and

WHEREAS, the 90,718 square foot finger section of the Pier Structure is constructed on the Pier while the 99,033 square foot head house section (perpendicular to the finger section and parallel to the Hudson River) is constructed on the land adjacent to the Pier; and

WHEREAS, there is an uncovered exterior apron, or corridor, on the three sides of the Pier abutting the Hudson River; the exterior corridor is 12 feet wide on both the north and south sides of the Pier, and is 27 feet 6 inches wide on the west end of the Pier; and

WHEREAS, the Pier Structure is an assembly occupancy with a posted occupant load of 5,000 people in the exhibit area; and

WHEREAS, the Pier Structure has 10 exits to the exterior at grade from the head house portion of the building (which is not on the Pier), and also has 14 exits from the finger portion (which is on the Pier); and

WHEREAS, there is no certificate of occupancy for the Pier; and

WHEREAS, the primary occupancy of the Pier is exhibition hall (Occupancy Group F-3), and the Pier has a construction classification of Class 1 -D (non-combustible 1 hour rating sprinklered building); and

WHEREAS, the applicant states that part of the Pier Structure is currently used by Unconvention Center, Inc.

---

# MINUTES

---

("UCI") for mid-sized trade shows and events pursuant to a temporary place of assembly permit issued by the New York City Department of Buildings; and

WHEREAS, the applicant further states that the entire Pier Structure space cannot be used for exhibition space because the exterior corridors on the apron of the Pier are not roofed in accordance with the Building Code requirements; and

**WHEREAS, the applicant notes that in order to successfully continue to utilize the Pier for trade shows, substantial additional renovations are required, including installation of a permanent heating, ventilation and air conditioning system, an upgraded electrical system, the installation of an emergency generator, and an upgraded fire sprinkler system, as well as the conversion of existing "back of house" storage areas located on the western portion of the finger area into usable exhibition space; and**

**WHEREAS, the applicant states that in connection with this extensive renovation work, public waterfront access along the north and west sides of the Pier will be provided, with new paving, lighting,**

WHEREAS, smoke detectors will be located in the generator room, electrical equipment room and in the HVAC supply and return systems; and

WHEREAS, the fire alarm control panel will be located near the main entrance, and it will monitor the status of the following fire alarm system devices: manual pull stations, HVAC duct smoke detectors, mechanical and electrical room smoke detectors, and sprinkler water-flow tamper switches on each floor, emergency generator status, booster pump status, and standpipe deluge; and

WHEREAS, the Pier will be equipped with an emergency generator, which will supply the emergency lighting and the fire alarm system; illuminated exit signage will be provided with battery back-up power; and

WHEREAS, the Pier Structure is currently protected by an existing 6-inch automatic dry fire standpipe system connected to a 10-inch fire protection service main entering the building at the north end of the east façade; and

WHEREAS, a Fire Department connection is provided on the east façade fronting 12<sup>th</sup> Avenue; and

WHEREAS, fire hoses will be provided at standpipe outlets, and an automatic wet sprinkler system will be installed; and

WHEREAS, the mechanical and equipment rooms will be enclosed by a minimum 2-hour fire resistant rated separation, and the existing exterior walls will be upgraded to provide an interior layer of 1-hour fire resistance rated construction for a height of up to 10 feet, which will provide an additional level of protection to the occupants of the Pier Structure as they egress along the exterior corridors; and

WHEREAS, pursuant to UCI's lease with the City of New York (through the Economic Development Corporation,

**railings and seating along the north and west exterior corridors; and**

WHEREAS, the applicant has submitted with this appeal a Fire Protection Plan and a Dynamic Egress Analysis Report (the "Egress Analysis" or "Report"); and

WHEREAS, the Egress Analysis concludes that although occupants must travel a significant distance to reach the public way adjacent to the Pier, the level of life safety provided is adequate because of the measures to be taken by the applicant concerning the accessible exterior corridors, which are fire protected from the Pier Structure; and

WHEREAS, the applicant states that the Pier will be equipped with an individually coded interior fire alarm system; visible and audible alarm notification will be provided throughout the Pier; the building alarm will sound upon activation of a manual pull station, a smoke detector, or sprinkler water-flow device; and

WHEREAS, the fire alarm will have a connection to a fire department approved central station and will be equipped with trouble signals; the fire alarm system will also be connected ahead of the main electrical switch and will be provided with emergency power; and

or "EDC") UCI will keep the exterior corridors free and clear of debris, so that when events are held at the Pier during inclement weather UCI personnel will ensure that the exterior corridors will be kept free of snow and ice; and

WHEREAS, UCI personnel will also be responsible for applying snow melting chemicals to insure against the accumulation of snow and ice; and

WHEREAS, the Egress Analysis provides a dynamic analysis of the Pier to determine if the occupants can safely exit the Pier despite the travel distance of up to 850 feet along the fire protected exterior corridors to an unobstructed public way; and

WHEREAS, occupants using exits that discharge along the north side of the Pier travel along the Pier to the head house and discharge to a public way not on the Pier; and

WHEREAS, occupants using exits that discharge along the south side of the Pier discharge onto the Pier and then enter a 2-hour enclosed exit passageway, which is in the head house and discharges onto a public way not on the Pier; and

WHEREAS, the Egress Analysis made the following assumptions: a fire was located in the exhibition hall near where the head house and finger parts of the Pier Structure intersect; smoke development is based on an axi-symmetric fire plume at the floor level, which results in the greatest level of smoke development for the proposed exhibition configuration; and the fire is a 10 megawatt ("MW") fire; and

WHEREAS, smoke development calculations for the Pier Structure were used to determine the time for the smoke layer of the design fire to descend to 10 feet above the floor level of the Exhibition Hall; the calculated time for the smoke layer to descend to 10 feet above the highest

---

# MINUTES

---

walking surface, based on the 10 MW design fire and no smoke control, is 58 minutes; and

WHEREAS, the computer program used in the Egress analysis calculated that the time to evacuate the building using the twenty-four available exit points was 17 minutes; and

WHEREAS, the applicant added a factor of safety of two to this estimate; therefore, the travel time to evacuate the building is 34 minutes; taking pre-movement time into consideration the time required for egress is about 46 minutes (which includes a margin of 12 minutes between egress and smoke development below a ceiling of 10 feet in the unlikely severe event of a 10 MW boat fire); and

WHEREAS, the applicant further contends that the total fire heat output from a mid-sized trade show such as a gift show would include an even greater margin of 24 minutes

WHEREAS, the applicant proposes the following measures and notes the following conditions which it contends makes strict compliance with section 27-777.1(b) of the Building Code unnecessary: (1) the single-story Pier Structure has an unusually high ceiling height of approximately 42 feet to the roof peak that serves as a reservoir for the smoke; (2) the mechanical system will be capable of exhausting approximately 1.38 cfm / sq. ft. (approximately one-third more than required by code); (3) egress doors are provided around the perimeter of the single-story Pier Structure that can be used by the Fire Department to provide additional exhaust, and, in addition to the swinging doors around the perimeter, the east façade (along 12<sup>th</sup> Avenue) is equipped with large, overhead rollup doors, designed to accommodate large objects displayed in the exhibition space, that can be also opened to provide additional smoke exhaust; (4) a computerized timed egress analysis has been performed by Rolf Jensen & Associates, which shows that the occupants are able to safely exit before the smoke layer descends lower than 10-feet above the walking surface; (5) the building will be provided with an automatic sprinkler system; (6) a non-required interior fire alarm system is proposed for the Pier Structure; (7) a non-required emergency generator is proposed for the Pier Structure; (8) a fire protection plan will be submitted for approval to the New York City Department of Buildings and Fire Department; and

WHEREAS, the Board raised concerns about the following issues at the first hearing, to which the applicant supplied sufficient responses: (1) a further, more detailed explanation of existing conditions and proposed safety measure regarding occupant egress from the Pier in case of fire; the applicant's fire safety expert provided such an explanation; (2) whether a snow and ice melting system capable of preventing snow and ice accumulation on the Pier's egress routes could be installed; the applicant's mechanical engineer provided a summary of the practical difficulties and excessive costs associated with such an

between egress and smoke development below a ceiling of 10 feet; and

WHEREAS, the applicant concludes, based upon the Egress Analysis, that the available safe egress time is less than the smoke filling layer criterion; and

WHEREAS, the proposed Pier Structure ventilation system will be arranged to shut down automatically with manual override capability (via Fire Department key switch) to exhaust the floor area to the exterior of the building as required by section 27-777.1(b) of the Building Code; and

WHEREAS, the mechanical system will be capable of exhausting approximately 250,000 cfm, which will provide approximately 1.38 cfm/sq. ft or approximately 3 air changes per hour, greater than the 1 cfm/sq. ft. requirement; and

WHEREAS, the proposed system will not satisfy the Building Code requirement for six air changes per hour; and installation; (3) the need for an egress declaration between the applicant and EDC, recorded against adjoining City-owned properties to the north and south, and ensuring that emergency egress from Pier 94 through both Pier 92 and Clinton Grove Park is maintained at all times; a draft declaration was submitted, as well as a letter from EDC counsel stating that the lease between EDC and the applicant will require the applicant to maintain fire egress on both the north and south pier aprons free and clear of snow and ice during any use of the pier;

WHEREAS, in response to a further concern of the Board, the applicant has committed to maintaining the existing slope of the aprons, in order to promote proper drainage; and

WHEREAS, the Board raised concerns about the following issues at the second hearing, to which the applicant supplied sufficient responses: (1) the possibility of installing roll down gates as a means of egress and the possibility of closing of the exiting via the far west apron; the applicant responded with a letter from its fire safety expert, stating that placement of roll down gates is not feasible due to Building Code and operational requirements, and that there is significant benefit in maintaining egress onto the west apron of the pier (near the proposed café) in that it creates more exits for emergency egress; (2) the need for the lease agreement between EDC and the applicant to require maintenance by the applicant of the designated fire egress corridors on the pier aprons at all times; the applicant responded with a letter from EDC counsel stating that the lease will contain such a requirement; (3) the need for a clearly delineated and marked egress route through Clinton Grove Park and Pier 92 on the fire protection plan, as well as references to the panic hardware on all exit doors; the applicant made such revisions on the plan; (4) the possibility of ponding of water on the exterior corridors; the applicant responded with a study report that determined that there is adequate drainage on the corridors in the event of a 100-year rain storm; and

---

# MINUTES

---

WHEREAS, the Board notes that the submitted Egress Analysis, while professionally undertaken and credible, was limited in scope, and does not represent a comprehensive and exhaustive analysis of every possible or likely emergency situation that could arise at Pier 94; and

WHEREAS, the Board notes that the conditions listed herein establish the minimum requirements for the proposed use of Pier 94, and does not constitute an exhaustive list of all possible conditions that may be necessary to impose; the City, through its agencies having jurisdiction over this site, reserves its right to impose additional safety requirements as needed based upon a determination that such requirements are necessary due to conditions at Pier 94 or the type of event held there; and

WHEREAS, the Board finds that the applicant has proven that there are practical difficulties in the way of

THAT only mid-sized trade shows, mid-sized exhibitions, and other mid-sized customary convention center uses, as such uses are defined below, will take place at Pier 94;

THAT trade shows and public trade exhibitions shall generally be defined as professional exhibitions of industry wholesalers, manufacturers, designers or distributors that display products for wholesale consumers and retailers, or public trade exhibitions that focus on direct to consumer sales; customary trade or convention center uses also may include food and beverage events, corporate meetings, public meetings, product launches, entertainment or media industry events and city-wide special events;

THAT no boat shows of any type will take place at Pier 94;

THAT occupancy at Pier 94 at any time shall be limited to 5000 persons, inclusive of all Pier 94 operator and/or event staff;

THAT there shall be a trained, certified fire safety director present at Pier 94 during all events;

THAT seven calendar days prior to the commencement of any event at Pier 94, notice of the event, including the dates and a description, shall be forwarded to the New York City Fire Department, Bureau of Fire Prevention (the "BFP"), so that a site inspection and any further remedial action within Fire Department jurisdiction may be taken, if necessary;

THAT for each show or event held at Pier 94, certified fire guards, in amount to be established by the BFP based upon applicable law and/or other considerations as determined by BFP, will be stationed at designated egress exits, as shown on the BSA approved plans, contemplated to be accessible to occupants at the particular show or event; the fire guards will be responsible for monitoring the egress path for its full length and width, including designated fire egress corridors on the pier aprons, during all events that take place at the Pier, and immediately notifying the certified fire safety director and the operator of Pier 94 should action be necessary regarding the egress path;

carrying out the strict letter of the law and has proposed measures sufficient to address the fire safety concerns inherent to the site and the proposed use, such that the spirit of the law shall be observed, public safety secured, and substantial justice done; and

WHEREAS, accordingly, the Board finds that waiver of the above-mentioned Building Code provisions is warranted.

*Resolved*, that the Board of Standards and Appeals, pursuant to its authority under Section 666 of the Charter of the City of New York, waives the objections of the Department of Buildings as set forth above, and approves the Fire Protection Plan, dated June 8, 2004, one sheet (1), on condition:

THAT in addition, at the discretion of the BFP, for each show or event held at Pier 94, additional fire guards, in an amount to be established by the BFP, will be stationed in the following locations, or in any other location as determined by the BFP: outside the door at the western point of the south apron, outside the door leading to the egress corridor to Pier 92 at the eastern point of the south apron, and inside the egress corridor to Pier 92;

THAT the operator of Pier 94 shall keep, or shall cause to keep, the aprons clear of any snow or ice, or any other obstruction, both prior to and continuously during events that take place at the Pier, in response to its own observations or information or on the notification or recommendation of any fire guard or the fire safety director;

THAT the operator of the Pier 94 will be responsible for applying appropriate snow and ice melting materials as well as preventing the accumulation of snow and ice on the corridors as soon as such condition occurs;

THAT the proposed easement area through the lower level of Pier 92 will be kept clear and unobstructed at all times, and will be clearly delineated by the placement of hatched paint on the concrete floors and directional signage and lighting on the walls;

THAT no vehicles are permitted to park or otherwise obstruct the easement area at any time;

THAT the existing dry sprinkler system, approved by the Department of Buildings, be converted to a wet sprinkler system;

THAT an interior fire alarm system with a one-way voice communication system, approved by the Department of Buildings, be installed;

THAT an emergency generator, approved by the Department of Buildings, to service all fire safety measures be installed;

THAT a one hour fire resistant separation be installed on the Pier building up to 10 feet in height along the aprons;

THAT a manual smoke purge system, as shown on the approved plan, will be installed;

---

# MINUTES

---

THAT all emergency doors will comply with applicable Building Code provisions, and will not be lockable or sealed shut or obstructed in any way at any time;

THAT any change in the use, occupancy, or ownership of Pier 94 will require Board approval;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT the pavement of the south apron egress corridor will be repaired and maintained such that proper drainage of the corridor is ensured;

THAT the existing slope of the aprons will be maintained regardless of any repair, repaving or maintenance;

THAT the Department of Buildings must ensure compliance 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 15, 2004.

\_\_\_\_\_

### 359-03-A

APPLICANT - The Agusta Group, for Joseph Atari, owner.  
SUBJECT - Application November 20, 2003 - proposed two story 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 - 220-43 135<sup>th</sup> Avenue, north side, 670' from 219<sup>th</sup> Street, Block 13101, Lot 15, Borough of Queens.

#### COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Sol Korman.

#### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Caliendo .....2

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 10 A.M., for decision, hearing closed.

\_\_\_\_\_

### 379-03-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Kathy Doherty, lessee.  
SUBJECT - Application December 4, 2003 - proposed reconstruction and enlargement of an existing one family dwelling, situated within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 127 Arcadia Walk, east side, 501.12' south of Rockaway Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens

#### COMMUNITY BOARD #14Q

APPEARANCES -

THAT the egress declaration allowing egress through Pier 92 and the adjacent park be executed and submitted to the Board;

THAT a lease agreement between the City and the applicant, which shall incorporate the egress declaration, be executed prior to the issuance of any building permit;

THAT the Board reserves its right to impose further conditions, based upon the recommendation of any governmental agency having jurisdiction over Pier 94;

THAT 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

For Applicant: Gary Lenhart.

#### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Caliendo .....2

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 10 A.M., for decision, hearing closed.

\_\_\_\_\_

### 393-03-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative Inc., owner; Phillip & Stacey Benoit, owners.

SUBJECT - Application December 23, 2003 - proposed enlargement and alteration to an existing one family dwelling, not fronting on a legally mapped street, which is contrary to Section 36, Article 3 of the General City Law. The building is not considered within 100' of a corner, therefore, 30'0" rear yard is required for second story enlargement.

PREMISES AFFECTED - 2 Roxbury Avenue, southeast corner of Marshall Avenue, Block 16340, Lot 50, Borough of Queens.

#### COMMUNITY BOARD #14Q

APPEARANCES - None.

#### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Caliendo .....2

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 10 A.M., for decision, hearing closed.

\_\_\_\_\_

### 11-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; James McGovern, lessee.

SUBJECT - Application January 13, 2004 - proposed reconstruction and enlargement of an existing one family dwelling, not

---

# MINUTES

---

fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 25 Fulton Walk, east side, 64.30' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

SUBJECT - Application March 2, 2004 - 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 - 8 Beach 221<sup>st</sup> Street, south side, 127.34' east of Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES - None.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Caliendo .....2

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 10 A.M., for decision, hearing closed.

---

**66-04-A**

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative, Inc., owner; John & Patricia Brennan, lessee.

SUBJECT - Application March 2, 2004 - proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a mapped street, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' policy.

PREMISES AFFECTED - 976 Bay side, southeast corner of Bayside Connection, Block 16350, Lot 300, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Michael Harley.

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 10 A.M., for continued hearing.

---

**129-04-A**

APPLICANT - Zygmunt Staszewski, for Breezy Point Co-op, Inc, owner; Robert Bainbridge, lessee.

SUBJECT - Application March 11, 2004 - proposed alteration of an existing one family dwelling, and the addition of a second floor, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 30 Marion Walk, west side, 44.56' north of West End Avenue, Block 16350, Lot 400, Borough of Queens.

Negative: .....0  
Absent: Vice-Chair Babbar and Commissioner Caliendo .....2

**ACTION OF THE BOARD** - Laid over to June 22, 2004, at 10 A.M., for decision, hearing closed.

---

**65-04-A**

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative, Inc., owner; Gregory & Tara Fillingner, lessees.

**COMMUNITY BOARD #14Q**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 10 A.M., for continued hearing.

*Pasquale Pacifico, Executive Director.*

Adjourned: 10:20 A.M.

**REGULAR MEETING**

**TUESDAY AFTERNOON, JUNE 15, 2004**

**2:00 P.M.**

**Present:** Chair Srinivasan, Commissioner Miele and Commissioner Chin.

---

**ZONING CALENDAR**

**339-03-BZ**

**CEQR #04-BSA-071R**

APPLICANT - Snyder and Snyder, LLP, for United Hebrew Cemetery, Inc., owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application October 31, 2003 - under Z.R. §73-30 to permit in an R3-2 Zoning District and the Special South Richmond Development District, the erection of an 82 foot high cellular monopole which has been designed to resemble a flagpole, and which requires a special permit pursuant to Z.R. §22-21 and §22-11.

PREMISES AFFECTED - 122 Arthur Kill Road, between Clarke and Newvale Avenues, Blocks 4475 and 4463, Lots 1 and 175, Borough of Staten Island.

**COMMUNITY BOARD #3S.I.**

APPEARANCES -

For Applicant: Robert Gardiogo.

**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 and Commissioner Caliendo.....2

## THE RESOLUTION -

WHEREAS, the decision of the Department of Buildings, dated November 7, 2003 acting on Application No. 500645929, reads in pertinent part:

WHEREAS, a public hearing was held on this application on March 30, 2004 and again on April 27, 2004, after due notice by publication in the *City Record*, and then to May 18, 2004 for decision; the decision was then deferred to June 15, 2004; and

WHEREAS, this is an application under Z.R. §73-30, to permit the erection of a 82 foot tall cellular monopole which has been designed to resemble a flagpole, located in an R3-2 Zoning District and the Special South Richmond Development District, which requires a special permit pursuant to Z.R. §§22-21 and 22-11; and

WHEREAS, the premises and surrounding area has had site and neighborhood examination by a committee of the Board, consisting of Commissioners Joel Miele and James Chin; and

WHEREAS, the applicant states that the pole will contain six (6) small panel antennas, and will be located on a small triangular grass island that separates access drives within the cemetery; and

WHEREAS three (3) small equipment cabinets are proposed on a 200 square foot concrete slab, located adjacent to an existing metal maintenance building, secured by a chainlink fence; 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 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 cables connecting the equipment cabinets and the flagpole 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

"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 (Special South Richmond Development District). Refer to the Board of Standards and Appeals for review pursuant to Section 73-30 of the NYC Zoning Resolution."; 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, therefore, the Board finds that the application meets the general findings required for special permits set forth at Z.R. §73-03(a) and (b); 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, in an R3-2 Zoning District and the Special South Richmond Development District, the erection of an 82 foot high cellular monopole which has been designed to resemble a flagpole, and which requires a special permit pursuant 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 May 4, 2004"-(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 all fencing and landscaping will be located and maintained in accordance with BSA approved plans;

THAT the flag will be replaced at least one time per year, properly maintained at all times and lit at night;

THAT any lighting will be positioned away from residential uses;

THAT no commercial or retail signage will be posted;

THAT the site shall be maintained free of debris and graffiti;

THAT any graffiti located on the site shall be removed within 48 hours;

# MINUTES

THAT the pole will be so designed as to accommodate the co-location of other servers' antennae;

THAT the above conditions shall appear on the certificate of completion;

THAT this approval is contingent upon CPC approval of the proposal, and no building permit shall be issued until such approval is obtained;

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 15, 2004.

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

(4) Proposed Floor area is contrary to 23-141.1; and

WHEREAS a public hearing was held on this application April 20, 2004 after due notice by publication in *The City Record*, with a continued hearing on May 18, 2004, and then to decision on June 15, 2004; and

WHEREAS, a special permit is sought under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R4 zoning district within the special Ocean Parkway (OP) district, which creates non-compliances with regard to floor area ratio, open space ratio, rear yard, and lot coverage, contrary to Z.R §§23-141, and 23-47; and

WHEREAS, the proposal will decrease the existing open space ratio from 73.93% to 42.63%, increase the existing lot coverage ratio from 26.07% to 57.37%, decrease the existing rear yard from 35'-6" to 20'-0", and increase the existing floor area ratio from .48 to 1.34; and

WHEREAS, the Board notes that the maximum permitted Floor Area Ratio in an R4 zoning district is .75; and

WHEREAS, the applicant maintains that the existing structure would qualify for the predominately built-up regulations (Z.R. §23-141 (c)) which allow a maximum floor area ratio of 1.35, except for the existing non-complying front yard; and

WHEREAS, the enlargement of the existing structure into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the perimeter wall height will comply with all applicable zoning regulations; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-622 and 73-03.

the Rules of Procedure for City Environmental Quality Review, and makes the required findings under Z.R. §73-

### 361-03-BZ

#### CEQR #04-BSA-087K

APPLICANT - The Law Office of Fredrick A. Becker, for Joseph Chakkalo and Ninett Chakkalo, owner.

SUBJECT - Application November 20, 2003 - under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R4 zoning district within the special Ocean Parkway (OP) district, which creates non-compliances with regard to floor area ratio, open space ratio, rear yard, and lot coverage, contrary to Z.R §§23-141 and 23-47.

PREMISES AFFECTED - 2277 East 2<sup>nd</sup> Street, between Avenue "W" and Gravesend Neck Road, Block 7154, Lot 62, Borough of Brooklyn.

#### COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Lyra Altman and David Shteierman.

**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 and Commissioner Caliendo.....2

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated April 19, 2004 acting on Application No. 301664722, reads:

"Obtain special permit approval from the Board of Standards and Appeals for the following objections:

- (1) Proposed open space ratio contrary to ZR 23-141.
- (2) Proposed lot coverage contrary to ZR 23-141.
- (3) Proposed rear yard is contrary to ZR 23-47.

*Resolved* that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of

# MINUTES

622 to permit the proposed enlargement of an existing single-family dwelling in an R4 zoning district within the special Ocean Parkway (OP) district, which creates non-compliances with regard to floor area ratio, open space ratio, rear yard, and lot coverage, contrary to Z.R §§23-141, 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 May 4, 2004"- (7) sheets; and *on further condition*;

THAT there shall be no habitable room in the cellar;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT 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;

THAT the Department of Buildings must ensure compliance 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 15, 2004.

## 367-03-BZ

### CEQR #04-BSA-093Q

APPLICANT - Eric Palatnik, P.C., for 1224 Brunswick Realty Corp., owner.

SUBJECT - Application November 25, 2003 - under Z.R. §72-21 to permit the conversion of a former movie theater (UG-8) into a warehouse (UG-16) with ancillary retail and office space on a site split by C1-2, C4-2 and R5 zoning districts, with loading occurring within the R5 portion of the site, which creates non-conformity with regard to use and non-compliances with regard to side and rear yards, contrary to Z.R. §§32-00, §22-00, §33-292, §33-26, and §33-303.

PREMISES AFFECTED - 714 Beach 20<sup>th</sup> Street, between New Haven and Cornaga Avenues, Block 15564, Lots 25 and 55, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Eric Palatnik and David Shteierman.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Commissioner Miele, and Commissioner Chin.....3

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in developing the subject lot in conformity with underlying district regulations: (1) the existing

Negative:.....0

Absent: Vice-Chair Babbar and Commissioner Caliendo.....2

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 3, 2004 acting on Application No. 401734138 reads:

"Proposed (UG-16) Warehouse is not permitted in C4-2 & R5 districts contrary to Z.R. §§32-00, 22-00 and proposed rear yard is contrary to Z.R. §§33-292, 33-26, and 33-303;" and

WHEREAS, a public hearing was held on this application on April 20, 2004 after due notice by publication in *The City Record*, with continued hearings on May 25, 2004 and June 15, 2004, on which date this application was closed and granted; 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 14, Queens recommends approval of this application and the Queens Borough President recommends conditional approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit the conversion of a former movie theater (UG-8) into a warehouse (UG-16), with ancillary retail and office space, on a site split by C1-2, C4-2 and R5 zoning districts, with loading occurring within the R5 portion of the site, which creates non-conformity with regard to use and non-compliances with regard to side and rear yards, contrary to Z.R. §§32-00, 22-00, 33-292, 33-26, and 33-303; and

WHEREAS, the subject lot is located between New Haven Avenue and Cornaga Avenue in Far Rockaway, Queens, is an irregularly shaped parcel that is comprised of two tax lots (25 & 55) with a total lot area of approximately 42,920 sq. ft., and is located at the intersection of three zoning districts (C1-2, C4-2, and R5); and

WHEREAS, the lot is currently occupied with an existing one-story building containing 28,935 sq. ft. of floor area that was once used as a movie theater, and the remainder of the lot is vacant land; the applicant maintains that the movie theater has been vacant and closed for the past twenty years; and

WHEREAS, the proposed development contemplates the conversion of the former movie theater into a warehouse with ancillary retail space, with storefront access from Beach 20<sup>th</sup> Street, to enable the applicant to expand its current local paper products business, as well as the provision of fourteen (14) off-street parking spaces; and

building is irregularly shaped containing no less than seven outer walls, and the walls taper in and widen again at various points resulting in an unconventional shape; (2) a substantial portion of the existing building is located within a

---

# MINUTES

---

R5 zoning district which, as represented by the applicant, is incapable of being converted to a conforming use; (3) the lot is unique in that it is located at the intersection of R5, C1-2 and C4-2 zoning districts which would cause a significant portion of the existing building and property to remain unused; (4) the lot has been historically developed as a theater, and the theater structure is now obsolete for this purpose; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformity with the current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; and

WHEREAS, the applicant states that a conforming use would only attract a small number of users because the large floor area (approximately 30,000 sq. ft) in proportion to the small amount of frontage on Beach 20<sup>th</sup> Street (approximately 44 sq. ft) makes it impracticable for subdivision; and

WHEREAS, the applicant submitted a supplemental letter from its financial consultant, attesting to excessive costs associated with demolishing the existing structure which would result in only a 1% return for a residential development and, in response to the Board's request, addressed both a retail usage scenario and a residential scenario (in the R5 portion of the site) and provided several credible reasons why such scenarios were not feasible; 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 variance will not affect the character of the neighborhood and that the proposed development is compatible with the wide variety of secondary and tertiary retail uses already present in the area; and

WHEREAS, the applicant represents that the proposed development will put a long abandoned structure back to productive use, thereby creating jobs for local residents; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map, and concludes that residential use of the site is appropriate given the context of the neighborhood; and

WHEREAS, the applicant represents that the proposed façade will retain the existing moldings to reflect the history of the site as a former movie theater; and

WHEREAS, as addressed at the hearing on May 25, 2004, the applicant represents that the proposed plans

THAT the Department of Buildings will approve the layout of the parking area;

reflect loading bays that have been made smaller, dense plantings surrounding Beach 19<sup>th</sup> Street, appropriate fencing, and a reduction of the Beach 19<sup>th</sup> Street curb cut to 30', all as recommended by the Board; 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 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 conversion of a former movie theater (UG-8) into a warehouse (UG-16) with ancillary retail and office space on a site split by C1-2, C4-2 and R5 zoning districts, with loading occurring within the R5 portion of the site, which creates non-conformity with regard to use and non-compliances with regard to side and rear yards, contrary to Z.R. §§32-00, 22-00, 33-292, 33-26, and 33-303; *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 1, 2004"- (4) sheets; and *on further condition*:

THAT the proposed parking area shall not exceed 14 parking spaces pursuant to Z.R. §36-21;

THAT the entire premises will be fully sprinklered;

THAT landscaping and fencing shall be provided and maintained in accordance with BSA approved plans;

THAT all applicable fire safety measures as shown on the approved plans will be complied with;

THAT the above conditions shall be on the certificate of occupancy;

THAT any upgrade or renovation of the existing façade will retain the existing moldings;

THAT substantial construction be completed in accordance with Z.R. §72-23;

---

# 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;

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 15, 2004.

---

## 118-03-BZ

APPLICANT - Slater & Beckerman, LLP, for 1101 Prospect LLC, owner.

SUBJECT - Application April 11, 2003 - under Z.R. §72-21 to permit the proposed construction of a six-story residential and community facility building, Use Group 2 and 4, located in an R5B zoning district, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage, number of dwelling units, community facility bulk regulations, front and yards, height and setback, is contrary to Z.R. §23-141(b), §23-22, §24-01, §24-162, §23-45, §24-34, §24-35 and §24-521.

PREMISES AFFECTED - 1101 Prospect Avenue, a/k/a 1677 11<sup>th</sup> Avenue, northeast corner, Block 5256, Lot 1, Borough of Brooklyn.

### COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Stuart Beckerman.

For Opposition: John Keefe, Assembly Member Brenan and Kenneth K. Fisher, Roger Melger, Joan Roberto and Amanda Pike.

### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Caliendo .....2

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 186-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Mount Carmel Plaza, LLC, owner.

SUBJECT - Application June 4, 2003 - under Z.R. §72-21 to permit the proposed seven story multiple dwelling, Use Group 2, with **223-03-BZ**

APPLICANT - C Anthony Mulrain c/o Greenberg Traurig, LLP, for Majority Baptist Church, owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application July 1, 2003 - under Z.R. §73-30 to permit the proposed installation of a wireless telecommunications

a total of sixty residential units and twenty-four parking spaces, located in an M1-2 zoning district, which is contrary to Z.R. §42-00. PREMISES AFFECTED - 525 Union Avenue, west side, 48' south of Withers Street, Block 2315, Lot 14, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jordan Most and Harold Weinberg.

For Opposition: Pat Iandiorio, Sabato Alfieri, Vera Badamo and Artemis Willis.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 1:30 P.M., for continued hearing.

---

## 199-03-BZ thru 205-03-BZ

APPLICANT - Stuart A. Klein, Esq., for Classon Holding Co., owner.

SUBJECT - Application June 17, 2003 - under Z.R. §72-21 to permit the proposed seven story residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED -

148 Classon Avenue, between Myrtle and Park Avenues, Block 1895, proposed Lot 42, Borough of Brooklyn.

152 Classon Avenue, between Myrtle and Park Avenues, Block 1895, proposed Lot 46, Borough of Brooklyn.

156 Classon Avenue, between Myrtle and Park Avenues, Block 1895, proposed Lot 47, Borough of Brooklyn.

77 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 117, Borough of Brooklyn.

81 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 116, Borough of Brooklyn.

85 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 115, Borough of Brooklyn.

89 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 114, Borough of Brooklyn.

### COMMUNITY BOARD #3BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at 1:30 P.M., for continued hearing.

---

facility, located in a C2-2 within an R3-2 zoning district, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 115-15 Farmers Boulevard, bounded by 115<sup>th</sup> Road and 115<sup>th</sup> Avenue, Block 11032, Lot 4, Borough of Queens.

### COMMUNITY BOARD #12Q

---

# MINUTES

---

**APPEARANCES -**

For Applicant: Robert Gandioso.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Caliendo .....2

**ACTION OF THE BOARD -** Laid over to July 13, 2004, at 1:30 P.M., for decision, hearing closed

---

**224-03-BZ**

APPLICANT - C Anthony Mulrain c/o Greenberg Traurig, LLP, for Mal Pal Realty Corp., owner; Ompoint Communications, Inc., lessee.

SUBJECT - Application July 1, 2003 - under Z.R. §73-30 to permit the proposed installation of a wireless telecommunications facility, located in an R3-2 zoning district, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 139-19 109<sup>th</sup> Avenue, bounded by 139<sup>th</sup> and 142<sup>nd</sup> Streets, Block 10068, Lots 210, 213, 214 and 215, Borough of Queens.

**COMMUNITY BOARD #12Q**

**APPEARANCES -**

For Applicant: Robert Gandioso.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Caliendo .....2

**ACTION OF THE BOARD -** Laid over to July 13, 2004, at 1:30 P.M., for decision, hearing closed

---

**240-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Young Israel of Jamaica Estates, Inc., owner.

SUBJECT - Application July 10, 2003- under Z.R. §72-21 to permit the proposed enlargement of an existing two story synagogue, Use Group 4, located in an R1-2 zoning district,

SUBJECT - Application August 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a three story vertical and horizontal enlargement to an existing two story hotel, Use Group 5, located in a C2-2 within an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, height and non-complying signs, is contrary to Z.R. §33-121, §33-341, §32-641-643, §32-652 and §32-655.

which does not comply with the zoning requirements for floor area ratio, building height, side yards, rear yard, also the proposed addition of lot 39 to the existing building, is contrary to Z.R. §24-10, §24-111, §24-521, §24-35 and §24-36, and a previous variance granted under Cal. No. 815-85-BZ.

PREMISES AFFECTED - 83-10 and 83-16 188<sup>th</sup> Street, south side, between Midland Parkway and Radnor Road, Block 7263, Lots 35 and 39, Borough of Queens.

**COMMUNITY BOARD #8Q**

**APPEARANCES -**

For Applicant: Jordan Most, Sheldon Steiner and Rabbi Hochberg.

For Opposition: Leo Weinberger, Shirl Basehore and Joseph Kleinmann.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Caliendo .....2

**ACTION OF THE BOARD -** Laid over to August 10, 2004, at 1:30 P.M., for decision, hearing closed

---

**258-03-BZ**

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 -** Laid over to July 13, 2004, at 1:30 P.M., for continued hearing.

---

**288-03-BZ**

APPLICANT - H. Irving Sigman, for Aggressive Realty Corp., owner.

PREMISES AFFECTED - 109-17 Horace Harding Expressway, northeast corner of Saultell Avenue, Block 1969, Tentative Lot 2, Borough of Queens.

**COMMUNITY BOARD #4Q**

APPEARANCES -

For Applicant: H. Irving Sigman.

**THE VOTE TO CLOSE HEARING -**

---

# MINUTES

---

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3  
Negative: .....0  
Absent: Vice-Chair Babbar and Commissioner Caliendo .....2

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at 1:30 P.M., for decision, hearing closed

---

### 302-03-BZ

APPLICANT - Harold Weinberg, P.E., for Albert Gonter, owner.  
SUBJECT - Application September 22, 2003 - under Z.R. §73-622 to permit the proposed erection of a rear enlargement to an existing one family dwelling, also an extension of the residential use into the attic, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio and rear yard, is contrary to Z.R. §23-141, §23-47 and §54-31.

PREMISES AFFECTED - 1212 East 23<sup>rd</sup> Street, west side, 100' south of Avenue "L", Block 7640, Lot 51, Borough of Brooklyn.

#### COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Harold Weinberg.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Caliendo .....2

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at 1:30 P.M., for decision, hearing closed.

---

### 306-03-BZ

APPLICANT - Law Offices of Howard Goldman, LLC, for Kay Water Properties, LLC, owner.

SUBJECT - Application September 29, 2003 - under Z.R. §72-21 to permit the proposed conversion of a four story industrial building,

SUBJECT - Application February 10, 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 §23-461(a).

PREMISES AFFECTED - 1129 East 27<sup>th</sup> Street, east side, 220' south of Avenue "K", Block 7627, Lot 33, Borough of Brooklyn.

#### COMMUNITY BOARD #14BK

APPEARANCES - None.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

located in an M1-2 zoning district, into a residential dwelling, also the addition of two floors, for a total of 18 loft-style dwelling units, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 192 Water Street, between Jay and Bridge Streets, Block 41, Lot 11, Borough of Brooklyn.

#### COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Emily Simons, Robert Pauls.

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at 1:30 P.M., for continued hearing.

---

### 389-03-BZ

APPLICANT - Harold Weinberg, P.E., for Miriam Katz, owner.  
SUBJECT - Application December 16, 2003 - under Z.R. §73-622 to permit the proposed erection of a two story rear 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 ratio, open space, rear yard, lot coverage and side yards, is contrary to Z.R. §23-141, §23-461, §23-47 and §54-31.

PREMISES AFFECTED - 1959 East 24<sup>th</sup> Street, east side, 460'0" south of Avenue "S", Block 7303, Lot 64, Borough of Brooklyn.

#### COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Harold Weinberg.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele and Commissioner Chin.....3

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Caliendo .....2

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at 1:30 P.M., for decision, hearing closed

---

### 24-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Rachel Edelstein, owner.

Negative: .....0

Absent: Vice-Chair Babbar and Commissioner Caliendo .....2

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at 1:30 P.M., for decision, hearing closed

---

### 134-04-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for 184 Kent Avenue Associates, owner.

---

# MINUTES

---

SUBJECT - Application March 19, 2004 - under Z.R. §§72-22 and 1-05(e) to permit the proposed construction of a public esplanade between the building and bulkhead line, also the proposed construction of an additional forty-seven residential units, located in an M3-1 zoning district, is contrary to a previous variance granted under Cal. No. 191-00-BZ.

PREMISES AFFECTED - 184 Kent Avenue, northwest corner of North Third Street, Block 2348, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Howard Hornstein, Barbara Hair, Jack Freeman, Nina Englander and Moshe Keswbaum.

For Opposition: Erik Leif Nelson, Rebecca Brillhart, David Maundrell, Paul Parkhill, Michael Kawochka, Mary Habstrity, Stephanie Eisenberg and Allison Cordero.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 1:30 P.M., for continued hearing.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 6:00 P.M.

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 27

July 1, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**SATISH BABBAR, *Vice-Chair***

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	484
<b>CALENDAR</b> of July 20, 2004	
Morning .....	485
Afternoon .....	486
<b>CALENDAR</b> of August 10, 2004	
Morning .....	487
Afternoon .....	488
<b>CALENDAR</b> of August 17, 2004	
Morning .....	489
Afternoon .....	490

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, June 22, 2004**

Morning Calendar .....491

**Affecting Calendar Numbers:**

724-56-BZ	42-42 Francis Lewis Boulevard, Queens
753-63-BZ	184 Avenue D, Manhattan
889-55-BZ, Vol. II	69-13/25 164 <sup>th</sup> Street, Queens
705-81-BZ	1433/37 York Avenue, Manhattan
274-90-BZ	85 Dekalb Avenue, Brooklyn
585-91-BZ	222-44 Braddock Avenue, Queens
173-94-BZ	165-10 144 <sup>th</sup> Road, Queens
103-02-BZ	1516 East 24 <sup>th</sup> Street, Brooklyn
16-99-BZ	1116 East 26 <sup>th</sup> Street, Brooklyn
11-04-A	25 Fulton Walk, Queens

Afternoon Calendar.....495

**Affecting Calendar Numbers:**

147-02-BZ	201-06 Hillside Avenue, Queens
327-02-BZ	82 Union Street, Brooklyn
361-02-BZ	214 25 <sup>th</sup> Street, Brooklyn
102-03-BZ	291 Kent Avenue, Brooklyn
194-03-BZ	739 East New York Avenue, Brooklyn
208-03-BZ	2555 Shell Road, Brooklyn
229-03-BZ	303 Crystal Avenue, Staten Island
260-03-BZ	20 Grand Avenue, Brooklyn
261-03-BZ	1404/06 Stebbins Avenue, The Bronx
291-03-BZ	1380 62 <sup>nd</sup> Street, Brooklyn
314-03-BZ	18 West 18 <sup>th</sup> Street, Manhattan
332-03-BZ	34-38 38 <sup>th</sup> Street, Queens
343-03-BZ	90 Havemeyer Street, Brooklyn
10-04-BZ	54-14 74 <sup>th</sup> Street, Queens
40-04-BZ	2252 Linden Boulevard, Brooklyn
133-04-BZ	866 Third Avenue, Manhattan
169-04-BZ	103-16 Roosevelt Avenue, Queens

**SPECIAL CALENDAR**.....498

**Wednesday, June 23, 2004**

**Affecting Calendar Number:**

140-04-A 39 Bowery Street, Manhattan

**CORRECTION**.....499

**Affecting Calendar Number:**

323-03-A 117-36 166<sup>th</sup> Street, Queens  
324-03-A 117-38 166<sup>th</sup> Street, Queens

---

# DOCKETS

---

New Case Filed Up to June 22, 2004

**228-04-BZ** B.BK. 1400 East 22nd Street, west side, 300' south of Avenue "M", Block 7657, Lot 62, Borough of Brooklyn. Alt.1#301497155. 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.

**COMMUNITY BOARD #14BK**

---

**229-04-BZ** B.BK. 202/04 Caton Avenue, between East 2nd and East 3rd Streets, Block 5325, Lot 1, Borough of Brooklyn. Applic.#301773249. The legalization of an existing physical culture establishment, occupying approximately 8000 square feet of floor area spread over two stories, located in an R-5 (OPSD) zoning district, is contrary to Z.R. §22-00.

**COMMUNITY BOARD #12BK**

---

**230-04-BZ** B.BK. 260 Moore Street, between White and Bogart Streets, Block 3110, Lot 10, Borough of Brooklyn. Alt.1#301475277. The legalization of the conversion of a four story commercial building in a manufacturing zoning district (M1-2), to residential use, Use Group 2, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #1BK**

---

**231-04-A** B.Q. 240-79 Depew Avenue, corner of 243rd Street, Block 8103, Lot 5, Borough of Queens. Applic.#401948960. Proposed one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

---

**232-04-A** B.S.I. 17 Feldmeyers Lane, 130' from the intersection of Feldmeyers Lane and Victory Boulevard, Block 2660, Lot 63, Borough of Staten Island. Applic.#500667129. 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.

---

**233-04-BZ** B.Q. 136-20 38TH Avenue,( aka 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. Applic.#401872354. 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.

**COMMUNITY BOARD #7Q**

---

**234-04-BZ** B.BK. 255 McKibbin Street, between Bushwick Avenue and White Street, Block 3082, Lot 65, Borough of Brooklyn. Applic.#301536283. The legalization of the conversion of a four story and basement commercial building, located in an M1-1 and an M-2 zoning district, to residential occupancy, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #1BK**

---

**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 20, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, July 20, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

## **SPECIAL ORDER CALENDAR**

### **7-00-BZ**

APPLICANT - Friedman & Gotbaum LLP., by Shelly S. Friedman, Esq., for Trustees of the New York City Rescue Mission, owner.  
SUBJECT - Application March 31, 2004 - reopening for an extension of time to complete construction for a non-profit homeless shelter for men (Use Group 4), located in an M1-5 zoning district.  
PREMISES AFFECTED - 90 Lafayette Street, a/k/a "The New York City Rescue Mission", northwest corner of Lafayette and White Streets, Block 195, Lot 21, Borough of Manhattan.

**COMMUNITY BOARD #1M**

\_\_\_\_\_

### **114-02-BZ**

APPLICANT - Land Planning and Engineering Consultants, P.C., for Gerardo Campitiello, owner.  
SUBJECT - Application June 2, 2004 - reopening for an amendment to the resolution to amend the existing resolution to permit the maintenance of the existing building during the construction of the new cellar and one story professional building, which is to replace the existing building.

PREMISES AFFECTED - 2493 Richmond Road, northwest side of Richmond Road, southwest of Odin Street, Block 947, Lot 1, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

\_\_\_\_\_

### **380-03-A**

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Marilyn & Sebastian Danese, lessees.  
SUBJECT - Application December 4, 2003 - Proposed reconstruction and enlargement of an existing one family dwelling, situated within the bed of a mapped street, and does not front on a legally mapped street is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED - 3 Essex Walk, east side, 205.36' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

\_\_\_\_\_

### **13-04-A**

### **131-04-A**

APPLICANT - New York City Department of Buildings.  
OWNER OF RECORD - Douglas Ballinger.  
SUBJECT - Application March 12, 2004 - Application pursuant to NYC Charter §§645(3)(e) and 666.6(a), to revoke Certificate of

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Howard & Phyllis Taphouse, owners.  
SUBJECT - Application January 13, 2004 - Proposed reconstruction and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 520 Browns Boulevard, west side of Beach 181<sup>st</sup> Street, and 396.29' south of Bayside Drive, Block 16340, Part of Lot 50, Borough of Queens.

**COMMUNITY BOARD #14Q**

\_\_\_\_\_

### **64-04-A**

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Joseph Sammon, lessee.  
SUBJECT - Application March 2, 2004 - Proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a private service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings' policy.

PREMISES AFFECTED - 22 Hudson Walk, west side, 132.76' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

\_\_\_\_\_

### **67-04-A**

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; 20 Queens Walk, lessee.  
SUBJECT - Application March 2, 2004 - Proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a private service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings' policy.

PREMISES AFFECTED - 20 Queens Walk, west side, 368.85' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

\_\_\_\_\_

### **130-04-A**

APPLICANT - Gary Lenhart, for The Breezy Point Cooperative, owner; Joanne Butler, lessee.  
SUBJECT - Application March 12, 2004 - Proposed alteration and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 181 Reid Avenue, west side, of Beach 201st Street, 129.55' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

\_\_\_\_\_

Occupancy No. 116501 on the basis that a lawfully non-conforming eating and drinking establishment (Use Group 6) in an R8 zoning district was discontinued for a period greater than two years and must therefore be occupied as a conforming residential use as per Z.R. §52-61.

---

# CALENDAR

---

PREMISES AFFECTED - 217 West 20th Street, between Seventh and Eighth Avenues, Block 770, Lot 30, Borough of Manhattan.  
**COMMUNITY BOARD #4M**

\_\_\_\_\_

**186-04-A**

APPLICANT - Eric Palatnik, Esq., for Aryeh Realty, LLC, owner.  
SUBJECT - Application May 4, 2004 - Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 252-18 Rockaway Boulevard, corner of Dock Street, Block 13921, Lot 73, Borough of Queens.  
**COMMUNITY BOARD #13Q**

\_\_\_\_\_

**JULY 20, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, July 20, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

**ZONING CALENDAR**

**360-03-BZ**

APPLICANT - Friedman & Gotbaum, LLP, by Lori G. Cuisinier, Esq., for Linden & Utica Realty Corp., owner; KFC U.S. Properties, Inc., lessee.

SUBJECT - Application November 20, 2003 - under Z.R. §§73-03 and 73-243 to permit the reestablishment of an expired special permit, previously granted under Calendar No. 257-87-BZ, which permitted a drive-through facility for an eating and drinking establishment in a C1-2(R5) zoning district.

PREMISES AFFECTED - 736-46 Linden Boulevard, southwest corner of Linden Boulevard, Block 4675, Lot 6, Borough of Brooklyn.

**COMMUNITY BOARD #17BK**

\_\_\_\_\_

**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

SUBJECT - Application March 9, 2004 - under Z.R. §72-21 to permit the proposed two story expansion of an existing one story commercial building, for residential use, Use Groups 2 and 6, located in R4, C2-2 and R3A zoning districts, which does not comply with the zoning requirements for floor area, lot coverage, open space, number of dwelling units and height of building, is contrary to Z.R. §§23-141, §35-31, §23-22 and §23-631.

PREMISES AFFECTED - 247-39 Jamaica Avenue, north side, between 91<sup>st</sup> Avenue and Commonwealth Boulevard, Block 8662, Lot 50, Borough of Queens.

**COMMUNITY BOARD #13Q**

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**

\_\_\_\_\_

**4-04-BZ**

APPLICANT - Eric Palatnik, P.C., for Anna Donskoi, owner.  
SUBJECT - Application January 6, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space, rear and side yards, perimeter wall height and lot coverage is contrary to Z.R. §23-141(a), §23-141, §23-45, §23-47, §23-61 and §23-631b.

PREMISES AFFECTED - 177 Norfolk Street, between Oriental and Shore Boulevards, Block 8757, Lot 27, Borough of Brooklyn.  
**COMMUNITY BOARD #15BK**

\_\_\_\_\_

**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, at the subject premises, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 186-05 120<sup>th</sup> Road, southwest corner of Farmers Boulevard, Block 12458, Lot 421, Borough of Queens.  
**COMMUNITY BOARD #12Q**

\_\_\_\_\_

**125-04-BZ**

APPLICANT - Steven M. Sinacori/Stadtmauer Bailkin, for Everest Realty, LLC, owner.

*Pasquale Pacifico, Executive Director*

**AUGUST 10, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, August 10, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

# CALENDAR

---

## SPECIAL ORDER CALENDAR

### 371-29-BZ

APPLICANT - Maduakolam Mish. Nnabuihe, for Getty Petroleum Corp., owner; Besan Trading Inc., lessee.

SUBJECT - Application January 9, 2004 - reopening for an amendment to the resolution for tire shop as an accessory use to the existing automotive service station.

PREMISES AFFECTED - 1210-1230 East 233rd Street, northwest corner of Grenada Place and Edson Avenue, Block 4934, Lot 66, Borough of The Bronx.

**COMMUNITY BOARD #13BX**

---

### 20-83-BZ

APPLICANT - Sheldon Lobel, P.C., for Pierina Alongi, owner.

SUBJECT - Application January 15, 2004 - reopening for a waiver of Rules of Procedures and an extension of term for a commercial use in a residential district.

PREMISES AFFECTED - 265-07 Hillside Avenue, Hillside Avenue between 265th and 266th Streets, Block 8777, Lot 31, Borough of Queens.

**COMMUNITY BOARD #13**

---

### 62-99-BZ

APPLICANT - Jay A. Segal, Esq., for Starlex LLC, owner; Blissworld LLC, lessee.

SUBJECT - Application April 16, 2004 - reopening for an amendment to allow the expansion of existing physical culture establishment.

PREMISES AFFECTED - 541 Lexington Avenue, east side of Lexington Avenue between East 49th Street and East 50th Streets, Block 1350, Lot 20, Borough of Manhattan.

**COMMUNITY BOARD #6**

---

### 4-00-BZ

APPLICANT - Agusta & Ross, for 243 West 30th Realty, LLC, c/o New York Equity, LLC, owner; Anie Yang, Yhung Kang & Cong Yan d/b/a West Garden, Inc., lessees.

SUBJECT - Application October 21, 2003 - Reopening for an **AUGUST 10, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, August 10, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## ZONING CALENDAR

### 358-03-BZ

APPLICANT - Harold Weinberg, P.E., for Rita Citronenbaum, owner.

SUBJECT - Application November 19, 2003 - under Z.R. §72-21 to permit the proposed enlargement to an existing single family

amendment for a previously approved physical culture establishment to extend into the cellar.

PREMISES AFFECTED - 243 West 30th Street, north side of West 30th Street, 325' east of 8th Avenue, block 780, Lot 15, Borough of Manhattan.

**COMMUNITY BOARD #5M**

---

### 21-04-A

APPLICANT - Zygmunt Staszewski, P.E., for Breezy Point Cop, Inc., owner; James O'Brien, lessee.

SUBJECT - Application February 9, 2004 - Proposed enlargement of an existing one family dwelling, located partially within the bed of a mapped street, and not fronting on a legally mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law. PREMISES AFFECTED - 634 Bayside Avenue, eastside, 267.40' south of Bayside Drive, Block 16350, Lot 300, Borough of Queens.

**COMMUNITY BOARD #14Q**

---

### 50-04-A thru 52-04-A

APPLICANT - Joseph P. Morsellino, for Zankera, LLC, contract vendee.

SUBJECT - Application February 25, 2004 - Proposed three family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -

101-20 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 22, Borough of Queens. Applic.#401770570.

101-22 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 23, Borough of Queens. Applic.#401770589.

101-24 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 24, Borough of Queens.

**COMMUNITY BOARD #3Q**

---

residence, Use Group 1, located in an R5 zoning district, which does not comply with the zoning requirements for lot coverage, also rear and side yards, is contrary to Z.R. §23-146 and §23-47.

PREMISES AFFECTED - 1651 52nd Street, north side, 334'-4 ½" west of 17th Avenue, Block 5466, Lot Ø, Borough of Brooklyn.

**COMMUNITY BOARD #12**

---

### 373-03-BZ

APPLICANT - The Agusta Group, for 3235 Hull LLC, owner.

SUBJECT - Application December 2, 2003 - under Z.R. §72-21 to permit the proposed off-site accessory parking lot, to be located in an R7-zoning district, which is contrary to Z.R. §25-52.

---

# CALENDAR

---

PREMISES AFFECTED - 293 East 207th Street, north side, 80' west of Perry Avenue, Block 3343, Lot 683, Borough of The Bronx.

**COMMUNITY BOARD #7BX**

---

**17-04-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, for Renee Kubie, owner.

SUBJECT - Application January 28, 2004 - under Z.R. §72-21 to permit the legalization of an enlargement in portions of the first and second floors, of a single family residence, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, side and front yards, also perimeter wall height, is contrary to Z.R. §23-141, §23-461A, §23-631B and §23-45.

PREMISES AFFECTED - 2323 Avenue "S", northwest corner of East 24th Street, Block 6829, Lot 42, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

---

**42-04-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, for Emerich Goldstein and Zipora Goldstein, owners.

SUBJECT - Application February 23, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, side and rear yards, is contrary to Z.R. §23-141, §23-461 and §23-47.

PREMISES AFFECTED - 1264 East 27th Street, between Avenues "L" and "M", Block 7644, Lot 71, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

---

**142-04-BZ**

PREMISES AFFECTED - 1901 Ocean Parkway, southeast corner of Avenue "S", Block 7088, Lots 1, 14, 15, 16 and 89, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

---

*Pasquale Pacifico, Executive Director*

**AUGUST 17, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, August 17, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

**SPECIAL ORDER CALENDAR**

APPLICANT - Rampulla Associates Architects, for Frank McErlean, owner.

SUBJECT - Application March 30, 2004 - under Z.R. §72-21 to permit the proposed single family detached residence, Use Group 1, located within the required front yard, which is contrary to Z.R. §23-45.

PREMISES AFFECTED - 516 Arbutus Avenue, north side, at the intersection of Shore Avenue and Trout Place, Block 6529, Lot 15, Borough of Staten Island.

**COMMUNITY BOARD #3**

---

**143-04-BZ**

APPLICANT - Rampulla Associates Architects, for Charles Farina, owner.

SUBJECT - Application March 30, 2004 - under Z.R. §72-21 to permit the proposed in-ground pool, located within the required front yard, which is contrary to Z.R. §23-12.

PREMISES AFFECTED - 522 Arbutus Avenue, north side, at the intersection of Shore Avenue and Trout Place, Block 6529, Lot 10, Borough of Staten Island

**COMMUNITY BOARD #3**

---

**206-04-BZ**

APPLICANT - Howard A. Zipser, Esq., for Sephardic Community Youth Center, Inc., owner.

SUBJECT - Application May 19, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing community facility, Use Group 4, located in an R5 within the Special Ocean Parkway zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, building's height and setback, also the rear yard, is contrary to Z.R. §23-141, §23-631, §113-55, §113-51 and §113-544.

**40-63-BZ**

APPLICANT - Francis R. Angelino, Esq., for Park Hill Tenants Corp., owner; Majestic Car Park LLC, lessee.

SUBJECT - Application January 12, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which permitted transient parking in the unused and surplus spaces in an existing multiple dwelling accessory garage.

PREMISES AFFECTED - 1199 Park Avenue, northeast corner of East 94th Street, Block 1525, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #8**

---

**67-91-BZ**

APPLICANT - Davidoff & Malito, LLP by Howard S. Weiss, Esq., for HNF Realty LLC, owner; Cumberland Farms, Inc., lessee.

---

# CALENDAR

---

SUBJECT - Application March 16, 2004 and updated June 29, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired March 17, 2002 and for an amendment to allow the sale of convenience store items in place of accessory gasoline service station items.

PREMISES AFFECTED - 260-09 Nassau Boulevard, 54-47 to 54-67 Little Neck Parkway, northeast corner of the intersection with Little Neck Parkway, Block 8274, Lots 134, 135, Borough of Queens.

**COMMUNITY BOARD #11**

---

**383-03-A**

APPLICANT - Zygmunt Staszewski, P.E., for Cammeby's Management Company, LLC, owner; Barry Pincus, lessee.

SUBJECT - Application December 9, 2003 - Proposed retention of the existing 10-story atrium and open access stair unenclosed, which is contrary to the "Old Code", Art.26-209(6.4.1.9)(2), as part of a "residential conversion" of an existing Commercial Class "E" building to a residential J-2 occupancy.

PREMISES AFFECTED - 5 Beekman Street, southwest corner of Nassau Street, southeast corner of Theater Alley, Block 90, Lot 14, Borough of Manhattan.

**COMMUNITY BOARD #1**

---

**155-04-A**

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative, Inc, owner; Richard & Dawn Hennessy, lessees.

SUBJECT - Application April 12, 2004 - Proposed enlargement of the first floor, and the addition of a new second floor, 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 - 4 Marion Walk, southwest corner of West End Avenue, Block 16350, Part of Lot 400, Borough of Queens.

**COMMUNITY BOARD #14**

---

---

# CALENDAR

---

**AUGUST 17, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, August 17, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>h</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## **ZONING CALENDAR**

### **158-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Albert Cohen, owner.  
SUBJECT - Application April 15, 2004 - under Z.R. §72-21 to permit the proposed horizontal enlargement, to a detached one-family dwelling, Use Group 1, on a narrow lot with non-complying side yards, and also encroaches in the required rear yard, located in an R5 zoning district, which is contrary to Z.R. §23-48, §54-31 and §23-47.

PREMISES AFFECTED - 1035 Ocean Parkway, between Avenues "I" and "K", Block 6527, Lot 76, Borough of Brooklyn.  
**COMMUNITY BOARD #12BK**

---

### **184-04-BZ**

APPLICANT - Robert Piscioneri, R.A., for Morris Park Community Association, owner.  
SUBJECT - Application May 3, 2004 - under Z.R. §72-21 to permit the proposed addition of a second floor, to be used as accessory offices, in conjunction with the community center on the first floor, located in an R4 zoning district, which does not comply with the zoning requirements for lot coverage, front, side and rear yards, is contrary to Z.R. §54-31, §24-11, §24-34 and §24-37.

PREMISES AFFECTED - 1824 Bronxdale Avenue, east side, 251' north of Morris Park Avenue, Block 4123, Lot 42, Borough of The Bronx.

**COMMUNITY BOARD #11BX**

---

---

# MINUTES

---

**REGULAR MEETING  
TUESDAY MORNING, JUNE 22, 2004  
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, April 27, 2004, were approved as printed in the Bulletin of May 6, 2004, Volume 89, No. 19.

---

## SPECIAL ORDER CALENDAR

### 724-56-BZ

APPLICANT - Vassalotti Associates Architects, LLP, for Anthony Nicovic, owner.

SUBJECT - Application December 18, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired November 19, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 42-42 Francis Lewis Boulevard, south of 42<sup>nd</sup> Road, Block 5373, Lot 26, Borough of Queens.

### COMMUNITY BOARD #11Q

#### APPEARANCES -

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, resolution amended and term of variance extended.

#### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Caliendo.....1

#### THE RESOLUTION -

WHEREAS, a public hearing was held on this application on March 30, 2004, after due notice by publication in The City Record, with a continued hearing on May 11, 2004 and June 8, 2004 and a decision on June 22, 2004; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a reopening of the application, an amendment to the resolution and an extension of the term of the variance, which expired on November 19, 2002; and

WHEREAS, the applicant currently requests an amendment to the resolution to permit the removal of the existing pump island and change the use from Gasoline Service Station to automobile repair shop with a maximum of sixteen (16) accessory parking spaces; and

WHEREAS, on November 19, 1957, the Board granted a variance of use in a residential district under Sections 7e & 7f of the pre-1961 Zoning Resolution and permitted the erection of a gasoline service station with accessory uses including parking for a term of fifteen (15) years; and

WHEREAS, on February 25, 1958, the Board amended the

### 753-63-BZ

APPLICANT - Anthony N. Borowiec, P.E., for Warren Kurtz, P.E. of NYC Department of Environmental Protection, owner.

resolution and allowed an additional curb cut, the removal of one pump island with six (6) pumps, and the removal of a sign from the southerly lot line to the northerly lot line; and

WHEREAS, in response to community based concerns and at the request of the Board, the applicant has removed the southernmost curb cut, leaving only 2 curb cuts along Francis Lewis Boulevard; 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 March 1, 1994.

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 November 19, 1957 so that as amended, this portion of the resolution shall read: "to permit the removal of the existing pump island, change of use from Gasoline Service Station to automobile repair shop with a maximum of sixteen (16) accessory parking spaces, and extension of the term of the variance for an additional ten (10) years from November 19, 2002 expiring on November 19, 2012; on condition that all work shall substantially conform to drawings as filed with this application marked "Received April 27, 2004"- (1) sheet and "Received June 15, 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 all automotive repair work shall be conducted entirely within the enclosed building;

THAT there shall no automatic car wash at the site;

THAT landscaping shall be installed and maintained as per BSA approved plans;

THAT all fencing shall be 100 percent opaque;

THAT all lighting shall be directed downwards and away from any adjacent residential uses;

THAT no auto body or welding work will be conducted at the site;

THAT the above conditions and all conditions from prior resolutions shall appear on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB # 401766665)

Adopted by the Board of Standards and Appeals, June 22, 2004.

---

SUBJECT - Application March 5, 2004 - reopening for an amendment to the resolution to add three additional stories to the station.

---

# MINUTES

---

PREMISES AFFECTED - 184 Avenue D, east side of Avenue D, 20' south of 13<sup>th</sup> Street, Block 367, Lot 25, Borough of Manhattan.

## COMMUNITY BOARD #3M

APPEARANCES -

For Applicant: Thomas Raihl.

**ACTION OF THE BOARD** - Application reopened and resolution amended.

**THE VOTE TO CLOSE HEARING** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Caliendo.....1

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Caliendo.....1

**THE RESOLUTION** -

WHEREAS, a public hearing was held on this application on May 25, 2004, after due notice by publication in The City Record, and then laid over to June 22, 2004 for continued hearing on which date the case was closed and a decision rendered; and

WHEREAS, the applicant requested a reopening, and an amendment to the resolution to permit the enlargement of an existing wastewater pumping station, as shown on plans submitted by the applicant; and

WHEREAS, the proposed enlargement would increase the floor area from 25,500 to 53,340 square feet; enlarge the building footprint from 13,992 to 18,360 square feet; and reduce the open space from 6,008 to 1,640 square feet; and

WHEREAS, Community Board 3, Manhattan, recommends approval of the subject proposal; and

WHEREAS, on December 3, 1963, the Board granted a variance application to permit, in an R7-2 zoning district, the erection of a sewage pumping station that encroached on the required rear yard; and

WHEREAS, under the subject calendar number, the Board granted four extensions of time to obtain permits and complete construction, on February 9, 1965, October 7, 1969, September 21, 1971 and October 3, 1972; and

WHEREAS, the applicant represents that the station has been in operation since 1976 and is currently the New York City Department of Environmental Protection's ("DEP") largest wastewater pumping station, serving over 4,300 acres of lower Manhattan, with a drainage area including the East side from 14th Street north to 72nd Street, and all of Manhattan below 14th Street; and

WHEREAS, the station pumps approximately 140 million gallons per day ("MGD") of raw wastewater from Manhattan to the

DEP Newtown Creek treatment facility in Brooklyn, and also pumps storm water runoff to the treatment facility during rainstorms; and

WHEREAS, the applicant states that the station requires renovation due to recent regulations from the New York State Department of Environmental Conservation ("NYSDEC") requiring the DEP to increase the capacity of the subject facility from 300 MGD to 400 MGD; and

WHEREAS, the applicant further states that the upgrade of the station is necessary due to the August 14, 2003 mandate from the NYSDEC requiring that full emergency power capabilities be provided for the subject station in order to prevent any disruption in electrical power which would result in discharge of raw sewage in to the Hudson and East rivers; and

WHEREAS, the subject application seeks to enlarge the station, with an award winning design, through the addition of three stories, and the installation of emergency power facilities; and

WHEREAS, the Board notes that vehicle access to the open space in the rear of the premises has been provided by way of an easement agreement with the New York City Housing Authority; and

WHEREAS, the Board notes that the proposed development shall comply with all applicable height and setback regulations; and

WHEREAS, Community Board 3 conditioned their approval of this application on the use of only ultra low sulphur diesel fuel, which the DEP has agreed to; and

WHEREAS, therefore, the Board has determined that the proposed changes would not have an adverse effect on the scale, character and uses of the surrounding neighborhood.

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 enlargement of an existing wastewater pumping station; on condition that all work shall substantially conform to drawings as filed with this application marked 'Received June 7, 2004' - (17) sheets; and on further condition;

THAT exiting requirements of the facility will 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 Department of Buildings must ensure compliance 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. 102545596)

Adopted by the Board of Standards and Appeals, June 22, 2004.

SUBJECT - Application October 21, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 1, 2003.

PREMISES AFFECTED - 69-13/25 (69-15 Official) 164<sup>th</sup> Street, east side 110' south of 69<sup>th</sup> Avenue, Block 6931, Lot 38, Borough of Queens.

## COMMUNITY BOARD #8

## 889-55-BZ, Vol. II

APPLICANT - J & H Management Corp., for Everything Auto Repair, lessee.

---

# MINUTES

---

## APPEARANCES -

For Applicant: Miles Fisher.

## THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Caliendo.....1

**ACTION OF THE BOARD**- Laid over to July 13, 2004,  
at 10 A.M., for decision, hearing closed.

---

## 705-81-BZ

APPLICANT - The New York City Board of Standards and  
Appeals

OWNER OF PREMISES: Fraydun Enterprises.

LESSEE: New York Health and Racquet Club.

SUBJECT - Application - reopening for compliance.

PREMISES AFFECTED - 1433/37 York Avenue, northeast  
corner of East 76<sup>th</sup> Street, Block 1471, Lots 21, 22 and 23,  
Borough of Manhattan.

## COMMUNITY BOARD #8M

APPEARANCES -

In Opposition: Mitchell Ross.

**ACTION OF THE BOARD** - Laid over to August 10, 2004,  
at 10 A.M. for continued hearing.

---

## 274-90-BZ

APPLICANT - George E. Berger, for Long Island University,  
owner.

SUBJECT - Application December 22, 2003 - request for a waiver  
of the Rules of Practice and Procedure, reopening for an extension  
of term of variance which expired January 27, 2002 and for an  
amendment to the resolution.

PREMISES AFFECTED - 85 DeKalb Avenue, north side DeKalb  
Avenue, west of Ashland Place, Block 2086, Lot 34, Borough of  
Brooklyn.

## COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: George Berger.

## THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Caliendo.....1

**ACTION OF THE BOARD**- Laid over to July 13, 2004,  
THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Caliendo.....1

**ACTION OF THE BOARD**- Laid over to July 13, 2004,  
at 10 A.M., for decision, hearing closed.

---

at 10 A.M., for decision, hearing closed.

---

## 585-91-BZ

APPLICANT - Tarek M. Zeid, for Luis Mejia, owner.

SUBJECT - Application December 10, 2003 - request for a waiver  
of the Rules of Practice and Procedure, reopening for an extension  
of term of variance which expired March 30, 2003 and for an  
amendment to the resolution.

PREMISES AFFECTED - 222-44 Braddock Avenue, Braddock  
Avenue between Winchester Boulevard and 222nd Street, Block  
10740, Lot 12, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Paul Bonfilio.

**ACTION OF THE BOARD** - Laid over to September 14,  
2004, at 10 A.M., for continued hearing.

---

## 173-94-BZ

APPLICANT - Board of Standards and Appeals

OWNER OF PREMISES: Richard Shelala.

SUBJECT - Application reopening for compliance to the resolution.

PREMISES AFFECTED - 165-10 144<sup>th</sup> Road, Block 13271, Lot  
17, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** - Laid over to September 14,  
2004, at 10 A.M., for continued hearing.

---

## 103-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Bnei Aharon, Inc., owner.

SUBJECT - Application December 2, 2003 - reopening for an  
amendment to the resolution.

PREMISES AFFECTED - 1516 East 24<sup>th</sup> Street, East 24<sup>th</sup> Street,  
105' south of Avenue O and Kings Highway, Block 6770, Lot 12,  
Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Janice Cahalane.

## 16-99-BZ

APPLICANT - Eric Palatnik, P.C., for Milton Elbogen, owner.

SUBJECT - Application August 25, 2003- reopening for an  
extension of time to obtain a Certificate of Occupancy and for an  
amendment to the previous resolution to amend the interior layout  
and slightly modify the bulk.

PREMISES AFFECTED - 1116 East 26th Street, between Avenue

---

# MINUTES

---

K and Avenue L, Block 7625, 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

Absent: Commissioner Caliendo.....1

**ACTION OF THE BOARD**- Laid over to July 13, 2004, at 10 A.M., for decision, hearing closed.

---

## 11-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; James McGovern, lessee.

SUBJECT - Application January 13, 2004 - proposed reconstruction 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.

PREMISES AFFECTED - 25 Fulton Walk, east side, 64.30' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

## COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

**ACTION OF THE BOARD** - Appeal granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Caliendo.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated January 5, 2004, and revised on May 26, 2004, acting on Department of Buildings ALT 1. Application No. 401752670, reads in pertinent part:

"A1- 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

## REGULAR MEETING

**TUESDAY AFTERNOON, JUNE 22, 2004**

**2:00 P.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

---

## ZONING CALENDAR

mapped street or frontage is contrary to Section 27-291 of the Administrative Code of the City of New York.

A2- The proposed upgraded private disposal system is in the bed of a service lane contrary to Department of Buildings Policy;" and

WHEREAS, by letter dated January 22, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Resolved, that the decision of the Queens Borough Commissioner, dated January 5, 2004 and revised on May 26, 2004, acting on Department of Buildings ALT 1. Application No. 401752670 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 May 28, 2004" - (1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; on further condition

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on June 22, 2004.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 10:20 A.M.

## 147-02-BZ

APPLICANT - Gerald J. Caliendo, R.A., for Joseph Pizzonia, owner.

SUBJECT - Application May 8, 2002 - under Z.R. §72-21 to permit the legalization of the change of use of covered parking area, to automobile repair service bays, and the addition of a mezzanine with an accessory office and storage area, located in a C1-2 within an R-4 zoning district, is contrary to a previous variance granted under Cal. No. 148-87-BZ and Z.R. §32-00.

PREMISES AFFECTED - 201-06 Hillside Avenue, southeast

---

# MINUTES

---

corner of 201st Street, Block 10495, Lot 52, Borough of Queens.

**COMMUNITY BOARD #12Q**

APPEARANCES -

For Applicant: Gerarld J. Caliendo.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 1:30 P.M., for continued hearing.

---

**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 - None.

**ACTION OF THE BOARD** - Laid over to August 17, 2004, at 1:30 P.M., for postponed hearing.

---

**361-02-BZ**

APPLICANT - Marianne Russo, for 214 25<sup>th</sup> Street Corporation, owner.

SUBJECT - Application December 13, 2002 and updated January 5, 2004 - under Z.R. §72-21 to permit the proposed renovation and conversion of an existing factory building, to create 15 unit loft type apartments, with five parking spaces in the mews, a garden courtyard, and the addition of floor area to the center of the front structure, located in an M1-1D district, which does not meet the zoning requirements for rear lot line, parking, height and setback, is contrary to Z.R. §42-00, §43-61(d), §43-61(c) and §44-27.

PREMISES AFFECTED - 214 25<sup>th</sup> Street, between Fourth and

**COMMUNITY BOARD #9BK**

APPEARANCES -

For Applicant: Sheldon Lobel and Risna Majesky.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 1:30 P.M., for continued hearing.

---

**208-03-BZ**

APPLICANT - Law Offices of Stuart A. Klein for Shell Road, LLC, owner; Orion Caterers, Inc., lessee.

SUBJECT - Application June 19, 2003 - under Z.R. §72-21 to permit the legalization of an expansion of an existing catering hall, Use Group 9, located in a split C1-2(overlay of R-4) and M1-1 zoning district, which does not comply with the zoning requirements for floor area ratio, rear yard, and

Fifth Avenues, Block 655, Lot 13, Borough of Brooklyn.

**COMMUNITY BOARD #7BK**

APPEARANCES -

For Applicant: Peter Hirshman and Doris Diether.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 1:30 P.M., for continued hearing.

---

**102-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Southside Realty Holdings, LLC, owner.

SUBJECT - Application April 3, 2003 - under Z.R. §72-21 to permit the proposed development of two residential buildings with underground accessory parking and an open recreation space between the two buildings, Use Group 2, located in an M3-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 291 Kent Avenue, 35/37 South Second Street and 29/33 South Third Street, east side of Kent Avenue, between South Second and Third Streets, Block 2415, Lots 10, 14, 15, 41-43, 114 and 116, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Jordan Most, Jack Freeman.

For Opposition: Brando Kol, John McNulty, Lynn Vance and others.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 1:30 P.M., for continued hearing.

---

**194-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for B'nos Menachem Inc., owner.

SUBJECT - Application June 13, 2003 - under Z.R. §72-21 to permit the proposed catering establishment, Use Group 9, in the cellar of an existing one story, basement and cellar building (school for girls), located in an R6 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 739 East New York Avenue, between Troy and Albany Avenues, Block 1428, Lot 47, Borough of Brooklyn.

parking, is contrary to Z.R. §33-121, 33-292, §36-21, §43-26 and §44-20.

PREMISES AFFECTED - 2555 Shell Road, east side, between Avenue "X" and Bouck Court, Block 7192, Lot 74, Borough of Brooklyn.

**COMMUNITY BOARD #11BK**

APPEARANCES -

For Applicant: Stuart Klein

**ACTION OF THE BOARD** - Laid over to July 20, 2004, at 1:30 P.M., for continued hearing.

---

**229-03-BZ**

APPLICANT - David L. Businelli, for PIC Legacy Realty, Inc.,

---

# MINUTES

---

owner.

SUBJECT - Application July 3, 2003 - under Z.R. §72-21 to permit the proposed erection of a one family detached residence, Use Group 1, located in an R-2 zoning district, which does not comply with the zoning requirements for front yard is contrary to Z.R. §23-45.

PREMISES AFFECTED - 303 Crystal Avenue, southeast corner of Watchogue Road, Block 472, Lot 149, Borough of Staten Island.

## COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: David Businelli and M. Morrow.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Caliendo.....1

**ACTION OF THE BOARD**- Laid over to July 20, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 260-03-BZ

APPLICANT - Law Offices of Howard Goldman, PLLC, for 376 East 94th Street, Realty LLC, owner.

SUBJECT - Application August 14, 2003 - under Z.R. §72-21 to permit the legalization of sixty (60) residential units, in an existing seven story building, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 20 Grand Avenue, between Flushing and Park Avenues, Block 1877, Lot 35, Borough of Brooklyn.

## COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Howard Goldman and Councilmember James.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 1:30 P.M., for continued hearing.

---

## 261-03-BZ

APPLICANT - Sheldon Lobel, P.C., for PLK Realty Corp., PREMISES AFFECTED - 18 West 18th Street, a/k/a 25 West 17<sup>th</sup> Street, a through lot, 356' west of the intersection of Fifth Avenue and 17th and 18th Streets, Block 819, Lot 56, Borough of Manhattan.

## COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Deirdre Carson.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Caliendo.....1

**ACTION OF THE BOARD**- Laid over to July 13, 2004, at 1:30 P.M., for decision, hearing closed.

---

owner.

SUBJECT - Application August 18, 29003 - under Z.R. §72-21 to permit the legalization of an existing one story building, as an auto repair shop, Use Group 16, located in an R7-1 zoning district, which is contrary to Z.R. §23-00.

PREMISES AFFECTED - 1404/06 Stebbins Avenue, northeast corner of East 170th Street, Block 2965, Lot 36, Borough of The Bronx.

## COMMUNITY BOARD #3BX

APPEARANCES -

For Applicant: Janince Cahalane.

**ACTION OF THE BOARD** - Laid over to July 13, 2004, at 1:30 P.M., for continued hearing.

---

## 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 62<sup>nd</sup> Street, northwest corner of 14<sup>th</sup> Avenue, Block 5733, Lot 36, Borough of Brooklyn.

## COMMUNITY BOARD #10BK

APPEARANCES -

For Applicant: Stuart A. Klein.

**ACTION OF THE BOARD** - Laid over to August 17, 2004, at 1:30 P.M., for continued hearing.

---

## 314-03-BZ

APPLICANT - Deirdre A. Carson, Esq., for 17-18 Management Co. LLC, c/o White, Inc., owner; AMAC, lessee.

SUBJECT - Application October 16, 2003 - under Z.R. §§73-01, 73-03 and 73-19 to permit the legalization of an existing school, Use Group 3A, located in an 11 story loft building, in an M1-6M zoning district, is contrary to Z.R. §42-00 and §42-12.

## 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 -

For Applicant: Philip P. Agusta, Steve Polisano and Sol Korman.

For Opposition: John Paskalis.

**ACTION OF THE BOARD** - Laid over to August 17, 2004, at 1:30 P.M., for continued hearing.

---

# MINUTES

---

---

## 343-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Pasquale Pescatore, owner.

SUBJECT - Application November 12, 2003 - under Z.R. §72-21 to permit the proposed construction of seven story, nineteen unit, residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 90 Havemeyer Street, between Hope Street and Metropolitan Avenue, Block 2368, Lot 26(Former Lots 26, 27 and 28), Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 1:30 P.M., for continued hearing.

---

## 10-04-BZ

APPLICANT - Paul Hasting Janofsky & Walker LLP, for AFP Holding Inc., owner; Aldona Fire Protection, Inc., lessee.

SUBJECT - Application January 12, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing building, located in an M1-1 zoning district, which does not comply with the zoning requirements for floor area ratio, rear yards, height of front wall and required setback, also accessory off-street parking, is contrary to Z.R. §43-12, §43-26, §43-43 and §43-20.

PREMISES AFFECTED - 54-14 74<sup>th</sup> Street, west of Grand Avenue, Block 2803, Lot 28, Borough of Queens.

### COMMUNITY BOARD #5Q

APPEARANCES -

SUBJECT - Application March 16, 2004 - under Z.R. §72-21 to permit the proposed conversion of floors 12 through 30, and a portion of the lobby of a 30 story building, to be converted from hotel use to residential use (Use Group 6), located in a C6-6/C6-4-5 zoning district, which does not comply with the zoning requirements for rear yard, is contrary to Z.R. §23-47 and §54-31.

PREMISES AFFECTED - 866 Third Avenue, west side, between 52nd and 53rd Streets, Block 1307, Lot 1004, Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Jay Segal.

**THE VOTE TO CLOSE HEARING** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Caliendo.....1

**ACTION OF THE BOARD**- Laid over to July 13, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 169-04-BZ

For Applicant: Paul Selver and Jeremiah Candreva.

For Opposition: Robert Holden, Manny Carvana, Tony Nunziat and Edward Kampermann.

**THE VOTE TO CLOSE HEARING** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Caliendo.....1

**ACTION OF THE BOARD**- Laid over to July 20, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 40-04-BZ

APPLICANT - Agusta & Ross, for Steven Witriol, owner.

SUBJECT - Application February 13, 2004 - under Z.R. §72-21 to permit the proposed change of use from an automobile repair and used vehicles sales (Use Group 16), previously approved by the Board under Cal. No. 56-95-BZ, to a retail store (Use Group 6), located in an R5 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 2252 Linden Boulevard, southeast corner of Cleveland Street, Block 4360, Lot 1, Borough of Brooklyn.

### COMMUNITY BOARD #5BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 1:30 P.M., for continued hearing.

---

## 133-04-BZ

APPLICANT - Jay A. Segal, Esq., for 866 3rd Next Generation Hotel, LLC, c/o The Witkoff Group, owner.

APPLICANT - Paul Hastings Janofsky Walker, LLP, for R & M Co. LLC and Martin Zelman, LLC, owner.

SUBJECT - Application April 26, 2004 - under Z.R. §72-21 to permit the proposed re-development of a mixed use building, which does not comply with the zoning requirements for commercial floor area, commercial uses above the second floor, off-street parking and loading berths, is contrary to Z.R. §54-31, §33-121, §33-431, §36-21 and §36-62.

PREMISES AFFECTED - 103-16 Roosevelt Avenue,(103-12/24 Roosevelt Avenue; 103-19/31 41st Avenue), mid-block on a through lot between Roosevelt Avenue, 41st Avenue, National Street and 104th Street, Block 1975, Lot 9, Borough of Queens.

### COMMUNITY BOARD #4Q

APPEARANCES -

For Applicant: Jay Segal.

**THE VOTE TO CLOSE HEARING** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner C hin.....4

Negative:.....0

Absent: Commissioner Caliendo.....1

**ACTION OF THE BOARD**- Laid over to July 20, 2004, at 1:30 P.M., for decision, hearing closed.

---

# MINUTES

---

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director.*

Adjourned: 6:30 P.M.

**SPECIAL CALENDAR  
WEDNESDAY AFTERNOON, JUNE 23, 2004  
2:00 P.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

\_\_\_\_\_  
**140-04-A**

APPLICANT - Stuart A. Klein, Esq.

SUBJECT - Application March 25, 2004 - Appeal of Department of Buildings refusal to revoke approval and underlying permit for the subject premises which is occupied contrary to the existing Certificate of Occupancy and the Zoning Resolution.

BUSINESS ADDRESS of PREMISES OWNER- S.H.A.W.C HOUSING DEVELOPMENT FUND CORP. -39 BOWERY STREET, Borough of Manhattan

APPEARANCES -

For Applicant: Stuart A. Klein and Sal Russo.

For Opposition: Cindy Harden and Karen Hagberg.

For Administration: Lisa Orantia, Esq., Department of Buildings; Anthony Scaduto, Fire Department Representative.

THE VOTE TO HAVE A CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and

Commissioner Chin.....5

Negative:.....0

**ACTION OF THE BOARD**- Laid over to July 14, 2004, at 10:00 A.M., for continued hearing.

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director.*

# CORRECTIONS

## \*CORRECTION

This resolution adopted on February 3, 2004, under Calendar Nos. 323-03-A and 324-03-A and printed in Volume 89, Bulletin No. 7, is hereby corrected to read as follows:

### 323-03-A

APPLICANT - Sheldon Lobel, P.C., for Infinity Homes, Inc., owner.

SUBJECT - Application October 21, 2003 - Proposed construction of a two-story, two-family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 117-36 166th Street, between 119th Avenue and Foch Boulevard, Block 12356, Lot 36 and p/o of 39, New Lot 38, Borough of Queens.

### COMMUNITY BOARD #12Q

#### APPEARANCES -

For Applicant: Jordan Most.

#### ACTION OF THE BOARD - Appeals granted

#### THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo and Commissioner Miele.....4 Negative: .....0

Absent: Commissioner Chin.....1

#### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo and Commissioner Miele.....4 Negative: .....0

Absent: Commissioner Chin.....1

#### THE VOTE TO GRANT -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

#### THE RESOLUTION-

WHEREAS, the decision of the Department of Buildings Queens Borough Commissioner, dated September 17, 2003 acting on NB Applications Nos. 401401862 and 401401871, reads, in pertinent part:

“(1) Proposed construction of two new two family homes and a private roadway within a bed of a mapped street (Bedell Street) is contrary to Section 35 of General City Law”; and

WHEREAS, this appeal is filed to allow two two-family dwellings to be built in a portion of the bed of a mapped street known as Bedell Street, Queens; and

WHEREAS, by letter dated January 28, 2004, the Fire Department has reviewed the above project and has no objections to the project; and

WHEREAS, by letter dated February 3, 2004, the Department of Transportation has reviewed the above

project and has no objections as this site is not presently included in DOT’s Capital Improvement Program, though the letter does note that the subject lots were acquired from the City subject to a “dollar condemnation recapture clause” for the portion of the property lying in the street bed; and

WHEREAS, by the letter dated December 12, 2003, the Department of Environmental Protection has reviewed the above revised project and has advised the Board that the latest adapted City Drainage Plan, #41SWC (35) and (14), for the above referenced location calls for the future installation of a 12" inch storm sewer in Bedell Street between Foch Blvd. and 119<sup>th</sup> Avenue; as the tax map for this area shows that the width of Bedell Street at the above location is 99 feet and is paved and open, there is sufficient space in the bed of the street for future installation and maintenance of a drainage sewer plan; DEP had no further comments; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

*Resolved*, that the decision of the DOB Queens Borough Commissioner, dated September 17, 2003, acting on N.B. Application Nos. 401401862 and 401401871, 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 26, 2004”- (1) sheet; and that the proposal comply with all applicable zoning requirements; that all other applicable laws, rules, and regulations shall be complied with; 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 within thirty (30) days from the date of this grant, an affidavit from the owner will be submitted stating that the owner understands that the property in the bed of the mapped street is subject to a “dollar condemnation recapture clause”;

THAT 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 3, 2004.

**\*The resolution has been corrected in the part of the plans which read: “Received January 26, 2004”-(2) sheets;” now reads: “Received January 26, 2004”-(1) sheet”. Corrected in**



# CORRECTIONS

## \*CORRECTION

This resolution adopted on February 3, 2004, under Calendar Nos. 323-03-A and 324-03-A and printed in Volume 89, Bulletin No. 7, is hereby corrected to read as follows:

### 324-03-A

APPLICANT - Sheldon Lobel, P.C., for Infinity Homes, Inc., owner.

SUBJECT - Application October 21, 2003 - Proposed construction of a two-story, two-family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 117-38 166th Street, between 119th Avenue and Foch Boulevard, Block 12356, Part of Lot 39, New Lot 40, Borough of Queens.

### COMMUNITY BOARD #12Q

#### APPEARANCES -

For Applicant: Jordan Most.

#### ACTION OF THE BOARD - Appeals granted

#### THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo and Commissioner Miele.....4 Negative: .....0

Absent: Commissioner Chin.....1

#### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo and Commissioner Miele.....4 Negative: .....0

Absent: Commissioner Chin.....1

#### THE VOTE TO GRANT -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

#### THE RESOLUTION-

WHEREAS, the decision of the Department of Buildings Queens Borough Commissioner, dated September 17, 2003 acting on NB Applications Nos. 401401862 and 401401871, reads, in pertinent part:

“(1) Proposed construction of two new two family homes and a private roadway within a bed of a mapped street (Bedell Street) is contrary to Section 35 of General City Law”; and

WHEREAS, this appeal is filed to allow two two-family dwellings to be built in a portion of the bed of a mapped street known as Bedell Street, Queens; and

WHEREAS, by letter dated January 28, 2004, the Fire Department has reviewed the above project and has no objections to the project; and

WHEREAS, by letter dated February 3, 2004, the Department of Transportation has reviewed the above

project and has no objections as this site is not presently included in DOT’s Capital Improvement Program, though the letter does note that the subject lots were acquired from the City subject to a “dollar condemnation recapture clause” for the portion of the property lying in the street bed; and

WHEREAS, by the letter dated December 12, 2003, the Department of Environmental Protection has reviewed the above revised project and has advised the Board that the latest adapted City Drainage Plan, #41SWC (35) and (14), for the above referenced location calls for the future installation of a 12" inch storm sewer in Bedell Street between Foch Blvd. and 119<sup>th</sup> Avenue; as the tax map for this area shows that the width of Bedell Street at the above location is 99 feet and is paved and open, there is sufficient space in the bed of the street for future installation and maintenance of a drainage sewer plan; DEP had no further comments; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

*Resolved*, that the decision of the DOB Queens Borough Commissioner, dated September 17, 2003, acting on N.B. Application Nos. 401401862 and 401401871, 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 26, 2004”- (1) sheet; and that the proposal comply with all applicable zoning requirements; that all other applicable laws, rules, and regulations shall be complied with; 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 within thirty (30) days from the date of this grant, an affidavit from the owner will be submitted stating that the owner understands that the property in the bed of the mapped street is subject to a “dollar condemnation recapture clause”;

THAT 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 3, 2004.

**\*The resolution has been corrected in the part of the plans which read: “Received January 26, 2004”-(2) sheets;” now reads: “Received January 26, 2004”-(1) sheet”. Corrected in**

---

# MINUTES

---

**Bulletin No. 27, Vol. 89, dated July 1, 2004.**

---

*Pasquale Pacifico, Executive Director.*

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 28-30

July 22, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN**, *Chair*

**SATISH BABBAR**, *Vice-Chair*

**PETER CALIENDO**

**JOEL A. MIELE, SR.**

**JAMES CHIN**

*Commissioners*

**Pasquale Pacifico**, *Executive Director*

**Roy Starrin**, *Deputy Director*

**John E. Reisinger**, *Counsel*

---

<b>OFFICE -</b>	<b>40 Rector Street, 9th Floor, New York, N.Y. 10006</b>
<b>HEARINGS HELD -</b>	<b>40 Rector Street, 6th Floor, New York, N.Y. 10006</b>
<b>BSA WEBPAGE @</b>	<b><a href="http://www.nyc.gov/html/bsa/home.html">http://www.nyc.gov/html/bsa/home.html</a></b>

<b>TELEPHONE - (212) 788-8500</b>
<b>FAX - (212) 788-8769</b>

### CONTENTS

DOCKET .....	504-505
<b>CALENDAR</b> of August 17, 2004	
Morning .....	506
Afternoon .....	507

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, July 13, 2004**

Morning Calendar .....508

**Affecting Calendar Numbers:**

889-55-BZ, Vol. II	69-13/25 (69-15 Official) 164 <sup>th</sup> Street, Queens
274-90-BZ	85 DeKalb Avenue, Brooklyn
103-02-BZ	1516 East 24 <sup>th</sup> Street, Brooklyn
519-57-BZ	2071 Victory Boulevard, Staten Island
722-68-BZ	388-392 Kings Highway, Brooklyn
173-92-BZ	220 East 86 <sup>th</sup> Street, Manhattan
176-99-BZ	45-17 Marathon Parkway, Queens
359-03-A	220-43 135 <sup>th</sup> Avenue, Queens
379-03-A	127 Arcadia Walk, Queens
393-03-A	2 Roxbury Avenue, Queens
65-04-A	8 Beach 221 <sup>st</sup> Street, Queens
73-04-A thru 124-04-A	Bell Point Drive, Clear Water Road, Harbor Drive, Brooklyn
129-04-A	30 Marion Walk, Queens
331-03-A	37-44 103 <sup>rd</sup> Street, Queens
18-04-A	10 Irving Walk, Queens
44-04-A	1491 Richmond Road, Staten Island
53-04-A thru 62-04-A	140-26A/28/28A/30/30A/32/32A/34/34A/36 34 <sup>th</sup> Avenue, Queens
66-04-A	976 Bayside, Queens
148-04-A	133 Sterling Place, a/k/a 22 Seventh Avenue, Brooklyn

---

# CONTENTS

---

Afternoon Calendar .....519

**Affecting Calendar Numbers:**

82-03-BZ	51 North 8 <sup>th</sup> Street, a/k/a 91 Kent Avenue, Brooklyn
84-03-BZ	35-40 30 <sup>th</sup> Street, a/k/a 35-37 29 <sup>th</sup> Street, Queens
118-03-BZ	1101 Prospect Avenue, a/k/a 1677 11 <sup>th</sup> Avenue, Brooklyn
223-03-BZ	115-15 Farmers Boulevard, Queens
224-03-BZ	139-19 109 <sup>th</sup> Avenue, Queens
249-03-BZ	265 Bedford Avenue, Brooklyn
300-03-BZ	326 East 126 <sup>th</sup> Street, Manhattan
307-03-BZ	543/45 West 110 <sup>th</sup> Street, a/k/a Cathedral Parkway & 2840/46 Broadway, Manhattan
314-03-BZ	18 West 18 <sup>th</sup> Street, a/k/a 25 West 17 <sup>th</sup> Street, Manhattan
338-03-BZ	726 Avenue "Z", Brooklyn
133-04-BZ	866 Third Avenue, Manhattan
161-02-BZ	2433 Knapp Street, Brooklyn
183-03-BZ	118 Berry Street, 116 North Seventh Street, Brooklyn
221-03-BZ	253/55 West 28 <sup>th</sup> Street, Manhattan
231-03-BZ	63 and 65 Columbia Street, Brooklyn
258-03-BZ	47 Thames Street, Brooklyn
261-03-BZ	1404/06 Stebbins Avenue, Bronx
341-03-BZ	343 West 16 <sup>th</sup> Street, Manhattan
358-03-BZ	1651 52 <sup>nd</sup> Street, Brooklyn
364-03-BZ	34-11 Far Rockaway Boulevard, Queens
365-03-BZ	224-20 Prospect Court, a/k/a 225 <sup>th</sup> Street, Queens
366-03-BZ	2001 East 7 <sup>th</sup> Street, Brooklyn
390-03-BZ	95 Dobbin Street, Brooklyn
391-03-BZ	1288 Est 19 <sup>th</sup> Street, Brooklyn
19-04-BZ	1217 East 233 <sup>rd</sup> Street, a/k/a 3923 Baychester Avenue, Bronx
39-04-BZ	1418 East 29 <sup>th</sup> Street, Brooklyn

**MINUTES of Special Hearing**  
**Wednesday, July 14, 2004**

Morning Calendar .....541

**Affecting Calendar Number:**

140-04-A	39 Bowery Street, Manhattan
----------	-----------------------------





---

# DOCKETS

---

**245-04-BZ** B.BK. 102/04 Franklin Avenue, west side, 182' south of Park Avenue, Block 1898, Lots 45 and 46, Borough of Brooklyn. N.B. #301668791. Proposed five-story, nine unit multiple dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

**COMMUNITY BOARD #3BK**

---

**246-04-BZ** B.M. 20 Maiden Lane, bounded by Maiden and Liberty Lanes and Nassau and Liberty Streets, Block 64, Lots 1 and 6, Borough of Manhattan. Applic. #103799267. Proposed construction of a 16-story, building, with a ground floor restaurant, and hotel on floors 2 through 16, located in a C5-5 zoning district, which does not comply with the zoning requirements for height, lot coverage and setback, is contrary to Z.R. §91-31, §91-32 and §91-33.

**COMMUNITY BOARD #1M**

---

**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

---

**AUGUST 17, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, August 17, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## **SPECIAL ORDER CALENDAR**

### **40-63-BZ**

APPLICANT - Francis R. Angelino, Esq., for Park Hill Tenants Corp., owner; Majestic Car Park LLC, lessee.

SUBJECT - Application January 12, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which permitted transient parking in the unused and surplus spaces in an existing multiple dwelling accessory garage.

PREMISES AFFECTED - 1199 Park Avenue, northeast corner of East 94th Street, Block 1525, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #8**

---

### **67-91-BZ**

APPLICANT - Davidoff & Malito, LLP by Howard S. Weiss, Esq., for HNF Realty LLC, owner; Cumberland Farms, Inc., lessee.

SUBJECT - Application March 16, 2004 and updated June 29, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired March 17, 2002 and for an amendment to allow the sale of convenience store items in place of accessory gasoline service station items.

PREMISES AFFECTED - 260-09 Nassau Boulevard, 54-47 to 54-67 Little Neck Parkway, northeast corner of the intersection with Little Neck Parkway, Block 8274, Lots 134, 135, Borough of Queens.

**COMMUNITY BOARD #11**

---

### **383-03-A**

APPLICANT - Zygmunt Staszewski, P.E., for Cammeby's Management Company, LLC, owner; Barry Pincus, lessee.

SUBJECT - Application December 9, 2003 - Proposed retention of the existing 10-story atrium and open access stair unenclosed, which is contrary to the "Old Code", Art.26-209(6.4.1.9)(2), as part of a "residential conversion" of an existing Commercial Class "E" building to a residential J-2 occupancy.

PREMISES AFFECTED - 5 Beekman Street, southwest corner of Nassau Street, southeast corner of Theater Alley, Block 90, Lot 14, Borough of Manhattan.

**COMMUNITY BOARD #1**

---

### **155-04-A**

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative, Inc, owner; Richard & Dawn Hennessy, lessees.

SUBJECT - Application April 12, 2004 - Proposed enlargement of the first floor, and the addition of a new second floor, 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 - 4 Marion Walk, southwest corner of West End Avenue, Block 16350, Part of Lot 400, Borough of Queens.

**COMMUNITY BOARD #14**

---

---

# CALENDAR

---

**AUGUST 17, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, August 17, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>h</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## **ZONING CALENDAR**

### **158-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Albert Cohen, owner.  
SUBJECT - Application April 15, 2004 - under Z.R. §72-21 to permit the proposed horizontal enlargement, to a detached one-family dwelling, Use Group 1, on a narrow lot with non-complying side yards, and also encroaches in the required rear yard, located in an R5 zoning district, which is contrary to Z.R. §23-48, §54-31 and §23-47.

PREMISES AFFECTED - 1035 Ocean Parkway, between Avenues "I" and "K", Block 6527, Lot 76, Borough of Brooklyn.  
**COMMUNITY BOARD #12BK**

---

### **184-04-BZ**

APPLICANT - Robert Piscioneri, R.A., for Morris Park Community Association, owner.  
SUBJECT - Application May 3, 2004 - under Z.R. §72-21 to permit the proposed addition of a second floor, to be used as accessory offices, in conjunction with the community center on the first floor, located in an R4 zoning district, which does not comply with the zoning requirements for lot coverage, front, side and rear yards, is contrary to Z.R. §54-31, §24-11, §24-34 and §24-37.

PREMISES AFFECTED - 1824 Bronxdale Avenue, east side, 251' north of Morris Park Avenue, Block 4123, Lot 42, Borough of The Bronx.

**COMMUNITY BOARD #11BX**

---

*Pasquale Pacifico, Executive Director*

---

# MINUTES

---

**REGULAR MEETING  
TUESDAY MORNING, JULY 13, 2004  
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, May 11, 2004, were approved as printed in the Bulletin of May 20, 2004, Volume 89, No. 20-21.

---

## SPECIAL ORDER CALENDAR

### 889-55-BZ, Vol. II

APPLICANT - J & H Management Corp., for Everything Auto Repair, lessee.

SUBJECT - Application October 21, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 1, 2003.

PREMISES AFFECTED - 69-13/25 (69-15 Official) 164<sup>th</sup> Street, east side 110' south of 69<sup>th</sup> Avenue, Block 6931, Lot 38, Borough of Queens.

### COMMUNITY BOARD #8Q

APPEARANCES - None.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, resolution amended and term of Variance extended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the applicant requested a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the variance which expired on May 1, 2003; 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 27, 2004, May 25, 2004, June 22, 2004 and then laid over to July 13, 2004 for decision; and

WHEREAS, on December 3, 1957, the Board granted an application to erect and maintain in a residential district, a gasoline service station with accessory uses for a term of fifteen 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 25, 1994; and

WHEREAS, the applicant has also requested an amendment to the resolution to permit a change in use,  
**274-90-BZ**

APPLICANT - George E. Berger, for Long Island University, owner.

SUBJECT - Application December 22, 2003 - request for a waiver

pursuant to Z.R. §11-413, from gasoline service station to automobile repairs with hand tools only; and

WHEREAS, the following uses will be discontinued: auto body work and heavy transmission work, lubritorium, auto-washing, offices, automobile sales, parking and storage of motor vehicles.

*Resolved*, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, *reopens and amends* the resolution pursuant to §11-413, said resolution having been adopted on December 3, 1957, to extend the term of the Variance which expired on May 1, 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 five (5) years from May 1, 2003 to expire on May 1, 2008 and to permit a change in use, pursuant to Z.R. §11-413, from gasoline service station to automobile repairs with hand tools only, and a discontinuance of the following uses: auto body work and heavy transmission work, lubritorium, auto-washing, offices, automobile sales, parking and storage of motor vehicles, *on condition* that all work shall substantially conform to drawings as filed with this application marked "Received June 8, 2004"- (1) sheet; and *on further condition*:

THAT no auto body work, welding or torching will be conducted on the site;

THAT no automobile repairs will be conducted on the open portion of the lot;

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 landscaping and fencing will be installed and maintained as per the approved plans;

THAT the above conditions and all conditions from prior resolutions shall appear on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application #401735958)

Adopted by the Board of Standards and Appeals, July 13, 2004.

of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired January 27, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 85 DeKalb Avenue, north side DeKalb

# MINUTES

Avenue, west of Ashland Place, Block 2086, Lot 34, Borough of Brooklyn.

## COMMUNITY BOARD #2BK

### APPEARANCES -

For Applicant: George Berger.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, resolution amended and term of variance extended.

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

### THE RESOLUTION -

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening to amend the resolution, and an extension of the term of the special permit which expired on January 27, 2002; and

WHEREAS, a public hearing was held on this application on April 27, 2004, after due notice by publication in *The City Record*, with continued hearings on May 25, 2004 and June 22, 2004, and then laid over to July 13, 2004 for decision; and

WHEREAS, the applicant seeks to amend the resolution to permit: (1) an increase in parking spaces on floors one through six of the subject building; (2) the removal of the front walls of several storage rooms for conversion into parking spaces on floors one through six; and (3) the enlargement of an accessory office and store and the construction of a new bathroom, all located on the first floor; and

WHEREAS, the applicant represents that these amendments are necessary because of the newer, smaller vehicles now being used, and that there has been no increase in the bulk of the subject building; and

WHEREAS, in 1955, under BSA Calendar no. 430-55-BZ, pursuant to sections 19A(j) and 7c of the 1916 Zoning Resolution, the Board permitted in a residential use district, the change in occupancy of the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> floors from a legal non-conforming use of a public garage to manufacturing uses without the required additional loading berth; and

WHEREAS, in 1964, under BSA Calendar No. 189-64-BZ, pursuant to Z.R. §11-412 and §72-21, the Board granted a change in occupancy of the basement from non-storage garage and auto repairs and a change in occupancy of the second, third and fourth floors from manufacturing to factory, showroom and offices (Use Group 17) with loading and unloading for a term of twenty (20) years; and

WHEREAS, in 1974, under BSA Calendar No. 209-74-BZ, pursuant to Z.R. §11-413, the Board granted a special permit to permit a change in use of the basement and first floor to a public parking garage; and

Adopted by the Board of Standards and Appeals, July 13, 2004.

## 103-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Bnei Aharon, Inc., owner.

WHEREAS, on January 28, 1992, pursuant to Z.R. §§11-411 and 11-413, the Board granted a special permit, to allow in an R6 zoning district, the legalization of the extension of a public parking garage (Use Group 8) and structural alteration of retail stores (Use Group 6) on the first floor, the legalization of the change in use of floors 2 through 4 of a building containing manufacturing, auto repair, public parking and retail stores from manufacturing (Use Group 17) and auto repair (Use Group 16) to public parking garage (Use Group 8), and the extension of a variance for such use for floors two through four; and

Resolved, that the Board of Standards and Appeals *reopens and amends* the resolution, said resolution having been adopted on January 28, 1992, expiring on January 27, 2002, so that as amended this portion of the resolution shall read: "to permit the extension of the term of special permit for an additional ten (10) years from July 13, 2004 expiring on July 13, 2014, and to permit: (1) an increase in parking spaces on floors one through six of the subject building; (2) the removal of the front walls of several storage rooms for conversion into parking spaces on floors one through six; and (3) the enlargement of an accessory office and store and the construction of a new bathroom, all located on the first floor; *on condition* that all work shall substantially conform to drawings as filed with this application, marked "Received June 1, 2004" (8) sheets, and *on further condition*;

THAT the premises shall maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT all windows shall be kept in good repair;

THAT the hours of operation shall be limited to 7:00 A.M. to 11:00 P.M., seven days a week;

THAT the maximum number of parking spaces allowed in the existing building is (425) four hundred and twenty five.

THAT the above conditions shall appear on the certificate of occupancy;

THAT signage shall comply with the requirements of a C1 zoning district;

THAT all light and air requirements shall be as approved by the Department of Buildings;

THAT mechanical ventilation shall be as approved by the Department of Buildings;

THAT the layout of the parking shall be as approved by the Department of Buildings;

THAT the development, as approved, is subject to verification by the New York City Department of Buildings for compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department.

SUBJECT - Application December 2, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1516 East 24<sup>th</sup> Street, East 24<sup>th</sup> Street, 105' south of Avenue "O" and Kings Highway, Block 6770, Lot 12, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

---

# MINUTES

---

## APPEARANCES -

For Applicant: Irving Minkin.

**ACTION OF THE BOARD** - Application reopened and amended.

## THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

## THE RESOLUTION -

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 April 13, 2004, May 11, 2004, June 22, 2004, and then laid over to July 13, 2004 for decision; and

WHEREAS, the applicant requests a re-opening to amend the resolution to permit development of a partial third floor; and

WHEREAS, the applicant represents that the proposed construction is necessary in order to meet the programmatic needs of the synagogue located on the premises; and

WHEREAS, the applicant represents that the proposed residential floor area will be used only as an accessory use to the synagogue for the resident Rabbi and his family; and

WHEREAS, the proposed increase in floor area is allowed as-of-right in an R6 zoning district; and

WHEREAS, the proposed changes will not increase any previous waivers or variance granted for the rear yard; and

WHEREAS, in response to the request of the Board, the plans have been revised to reflect a pitched roof, in order to achieve compatibility with neighboring structures.

*Resolved*, that the Board of Standards and Appeals *reopens and amends* the resolution pursuant to Sections 72-01 and 72-22 of the Zoning Resolution, said resolution having been adopted on October 1, 2002, so that as amended this portion of the resolution shall read: "To permit development of a partial third floor *on condition* that all work shall substantially conform to the drawings as they apply to the objections above noted, filed with this application marked "Received June 4, 2004"-(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 all light and air requirements for the subject building 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;

## 173-92-BZ

APPLICANT - Law Offices of Howard Goldman LLC, for Bremen House, Inc., owner.

SUBJECT - Application February 20, 2004 - reopening for an extension of term of special permit granted pursuant to Z.R.§73-36 that permitted a physical culture establishment on the second floor of a building, located in a C2-8 zoning district.

PREMISES AFFECTED - 220 East 86<sup>th</sup> Street, between 2nd and

THAT the Department of Buildings must ensure compliance 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 # 300189622)

Adopted by the Board of Standards and Appeals, July 13, 2004.

## 519-57-BZ

APPLICANT - Carl A. Sulfaro, Esq., for BP Amoco Corporation, owner.

SUBJECT - Application November 24, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired June 19, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 2071 Victory Boulevard, northwest corner of Bradley Avenue, Block 462, Lot 35, Borough of Staten Island.

## COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Carl A. Sulfaro.

**ACTION OF THE BOARD** - Laid over to September 14, 2004, 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 3<sup>d</sup> Street and Kings Place, Block 6678, Lot 68, Borough of Brooklyn.

## COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Irving Minkin.

**ACTION OF THE BOARD** - Laid over to September 21, 2004, at 10 A.M., for continued hearing.

3rd Avenues, Block 1531, Lot 38, Borough of Manhattan.

## COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Chris Wright.

## THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

---

# MINUTES

---

Negative:.....0

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 10 A.M., for decision, hearing closed.

---

## 176-99-BZ

APPLICANT - The Agusta Group, for Marathon Parkway Assoc., LLC, owner.

SUBJECT - Application May 11, 2004- reopening for an extension of time to complete construction.

PREMISES AFFECTED - 45-17 Marathon Parkway, east side 110.48' south of Northern Boulevard, Block 8226, Lot 10, Borough of Queens.

### COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: Sol Korman.

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 August 10, 2004, at 10 A.M., for decision, hearing closed.

---

## 359-03-A

APPLICANT - The Agusta Group, for Joseph Atari, owner.

SUBJECT - Application November 20, 2003 - proposed two story 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 - 220-43 135<sup>th</sup> Avenue, north side, 670' from 219<sup>th</sup> Street, Block 13101, Lot 15, Borough of Queens.

### COMMUNITY BOARD #13Q

APPEARANCES - None.

**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 November 3, 2003, acting on Department of Buildings N.B. Application No. 401712535, reads, in pertinent part:

“Construction of a dwelling in the bed of a mapped

## 379-03-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Kathy Doherty, lessee.

SUBJECT - Application December 4, 2003 - proposed reconstruction and enlargement of an existing one family dwelling, situated within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 127 Arcadia Walk, east side, 501.12' south of Rockaway Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

### COMMUNITY BOARD #14Q

street is contrary to General City Law 35. Refer to Board of Standards and Appeals for their determination.”; and

WHEREAS, by the letter dated May 6, 2004, the Fire Department has reviewed the above project and has no objections; and

WHEREAS, by the letter dated January 29, 2004, the Department of Environmental Protection has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 2, 2004, the Department of Transportation has reviewed the above project and has no objections as this site 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.

*Resolved*, that the decision of the Queens Borough Commissioner, dated November 3, 2003, acting on Department of Buildings N.B. Application No. 401712535, 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 November 20, 2003,” -(1) sheet; that the proposal comply with all applicable R3-2 zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with, and *on further condition*:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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 on July 13, 2004.

---

APPEARANCES -

For Applicant: Gary Lenhart.

**ACTION OF THE BOARD** - Appeal granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Chin and Commissioner Miele.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated November 19, 2003 and updated on May 14, 2004 acting on Department of Buildings ALT 1.

# MINUTES

Application No. 401731097, 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 in the bed of a mapped street contrary to Department of Buildings Policy;” and

WHEREAS, by the letter dated May 6, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated January 21, 2004, the Department of Environmental Protection has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 21, 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.

*Resolved*, that the decision of the Queens Borough Commissioner, dated November 19, 2003 and updated on May 14, 2004 acting on DOB ALT 1. Application No. 401731097 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, 2004”- (1) sheet; that the proposal comply with all applicable R4 zoning district requirements; and that all applicable laws, rules, and regulations shall be complied with; *on further condition*

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

A2 - The building is not considered within 100' of a corner, therefore, 30'0" rear yard is required for a second story enlargement.”; and

WHEREAS, the subject matter has two components: 1) a request for a waiver pursuant to General City Law § 36; and 2) an interpretative appeal of a DOB objection concerning the definition of a “corner” under the Zoning Resolution; and

WHEREAS, the Fire Department has reviewed the above project and has no objections; and

WHEREAS, the Department of Buildings states that the objection designated “A1” will be satisfied upon a grant of a GCL §36 waiver for the Board; and

Adopted by the Board of Standards and Appeals on July 13, 2004.

## 393-03-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative Inc., owner; Phillip & Stacey Benoit, owners.

SUBJECT - Application December 23, 2003 - proposed enlargement and alteration to an existing one family dwelling, not fronting on a legally mapped street, which is contrary to Section 36, Article 3 of the General City Law. The building is not considered within 100' of a corner, therefore, 30'0" rear yard is required for second story enlargement.

PREMISES AFFECTED - 2 Roxbury Avenue, southeast corner of Marshall Avenue, Block 16340, Lot 50, Borough of Queens.

## COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

For Opposition: Janine Gaylard.

**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, December 9, 2003, acting on Department of Buildings (“DOB”) Application No. 401737750, reads, in pertinent part:

“A1 - The site and building is not fronting on an official mapped street therefore no permit or certificate of occupancy can be issued as per Art. 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 building fronting directly upon a legally mapped street or frontage space and therefore [is] contrary to Section 27-291 of the Administrative Code of the City of New York.

WHEREAS, the Board finds that the applicant has submitted adequate evidence to warrant a waiver pursuant to GCL §36 under certain conditions; and

WHEREAS, the record indicates that the subject house is part of an existing development, located entirely within the boundaries of Lot 50, Block 16340, which is entirely under the ownership of the Breezy Point Cooperative (the “Coop”), and therefore constitutes a single zoning lot; and

WHEREAS, the subject premises is a plot of land within this zoning lot; and

WHEREAS, DOB states that it treats the individual plots within the above-mentioned zoning lot as separate zoning lots under a “Z.R. §12-10(a) lot of record theory based upon the [Coop’s] existence prior to 1961”; and

# MINUTES

WHEREAS, DOB also states that pursuant to Z.R. §23-47, a rear yard at least 30' deep is required for the subject plot, absent any exceptions; and

WHEREAS, the applicant argues that the subject plot is within 100' of a corner formed by Roxbury Avenue and a service road, and is therefore considered a corner lot for purposes of rear yard requirements; and

WHEREAS, the applicant argues further that as a corner lot, the subject plot is exempt from the rear yard requirement pursuant to Z.R. §23-541, which provides, in part, that no rear yard is required within 100 feet of the point of intersection of two street lines intersecting at an angle of 135 degrees or less; and

WHEREAS, DOB argues that in order for the subject plot to be considered a corner lot for rear yard purposes, both Roxbury Avenue and the service road must meet the definition of "street" set forth at Z.R. §12-10; and

WHEREAS, Z.R. §12-10 ("Street"), subsection d, provides that a street may be defined as "any other public way on which on December 15, 1961 was performing the functions usually associated with a way on the City Map"; and

WHEREAS, DOB's position is that since the service road is currently being utilized for the parking of vehicles, it can not be considered a street under the above-mentioned definition, and, consequently, the intersection of Roxbury Avenue and the service road can not meet the definition of "corner lot", since said definition requires an intersection of two streets; and

WHEREAS, the applicant has provided evidence to the Board establishing that the service road in question was in existence prior to and on December 15, 1961, and was performing the functions usually associated with a street on that date; and

WHEREAS, this evidence also establishes that the Coop currently maintains the service road through the parking area open for both pedestrian traffic and emergency vehicles; and

WHEREAS, the Board notes that the parking area is still connected to, and a part of, the service road; and

WHEREAS, therefore, the Board finds that the intersection of Roxbury Avenue and this particular service road can be considered a corner; and

WHEREAS, because the subject plot is treated as a zoning lot by the Department of Buildings and because it SUBJECT - Application March 2, 2004 - 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 - 8 Beach 221<sup>st</sup> Street, south side, 127.34' east of Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14Q

### APPEARANCES -

For Applicant: Loretta Papa.

**ACTION OF THE BOARD** - Appeal granted on condition.

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

adjoins the intersection of two ways that can be considered streets, it may be treated as a "corner lot" for rear yard purposes; and

WHEREAS, accordingly, no rear yard is required, pursuant to Z.R. 23-47; and

WHEREAS, the Board notes that this finding is limited to the particular facts present in this appeal.

*Resolved*, that the decision of the Queens Borough Commissioner dated December 9, 2003, acting on Department of Buildings ("DOB") Application No. 401737750, as to the objection designated "A1", is modified under the power vested in the Board by §36 of the General City Law, and as to the objection designated "A2" is reversed, 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 23, 2003"-(1) sheet; and that the proposal comply with all other applicable zoning district requirements and all other applicable laws, rules, and regulations; and *on further condition*:

THAT this approval and determination is limited to the subject premises only and no determination with the effect of precedent is being made by the Board as to any other comparable service road within the Coop area or any other part of the City;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 13, 2004.

## 65-04-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative, Inc., owner; Gregory & Tara Fillinger, lessees.

Negative:.....0  
THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated February 18, 2004 acting on Department of Buildings ALT 1. Application No. 401764621, reads in pertinent part:

"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 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

---

# MINUTES

---

Administrative Code of the City of New York.”; and WHEREAS, by the letter dated April 1, 2004, the Fire Department has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

*Resolved*, that the decision of the Queens Borough Commissioner, dated February 18, 2004, acting on Department of Buildings ALT 1. Application No. 401764621 is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked “Received March 2, 2004”-(1) sheet; that the proposal comply with all applicable R4 zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; *on further condition*:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on July 13, 2004.

---

## 73-04-A thru 124-04-A

APPLICANT - Fischbein Badillo Wagner Harding for Strickland Realty, LLC, owner.

SUBJECT - Application March 9, 2004 - Proposed construction of a one family dwelling, not fronting on a legally mapped street, is

57 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2010, Borough of Brooklyn. Applic.#301812475.

59 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2011, Borough of Brooklyn. Applic.#301812484.

65 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2012, Borough of Brooklyn. Applic.#301812493.

67 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2013, Borough of Brooklyn. Applic.#301812509.

73 Bell Point Drive, west side of Strickland Avenue,

contrary to Section 36, Article 3 of the General City Law.

## PREMISES AFFECTED -

11 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2001, Borough of Brooklyn. Applic.#301815542.

23 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2002, Borough of Brooklyn. Applic.#301815490.

25 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2003, Borough of Brooklyn. Applic.#301812402.

31 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2004, Borough of Brooklyn. Applic.#301812411.

33 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2005, Borough of Brooklyn. Applic.#301812420.

39 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2006, Borough of Brooklyn. Applic.#301812439.

41 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2007, Borough of Brooklyn. Applic.#301812448.

47 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2008, Borough of Brooklyn. Applic.#301812457.

49 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2009, Borough of Brooklyn. Applic.#301812466.

between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2014, Borough of Brooklyn. Applic.#301812518.

75 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2015, Borough of Brooklyn. Applic.#301812527.

83 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2016, Borough of Brooklyn. Applic.#301815481.

5 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2017, Borough of Brooklyn. Applic.#301809657.

15 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield



# MINUTES

22 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2047, Borough of Brooklyn. Applic.#301810798.

16 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2048, Borough of Brooklyn. Applic.#301810805.

14 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2049, Borough of Brooklyn. Applic. #301810814.

6 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2050, Borough of Brooklyn. Applic.#301810823.

22 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2051, Borough of Brooklyn. Applic.#301810841.

10 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57<sup>th</sup> Place and Mayfield Drive, Block 8470, Lot 2052, Borough of Brooklyn. Applic.#301810832.

## COMMUNITY BOARD #18BK

### APPEARANCES -

For Applicant: Howard Hornstein.

**ACTION OF THE BOARD -** Appeal granted on condition.

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

*Resolved*, that the decisions of the Brooklyn Borough Commissioner, dated March 4, 2004, acting on DOB N.B. Application Nos. 301815542, 5490, 2402, 2411, 2420, 2439, 2448, 2457, 2466, 2475, 2484, 2493, 2509, 2518, 2527, 5481, 301809657, 05338, 01529, 301815356, 5347, 5365, 301809675, 09358, 301810716, 0725, 5472, 5536, 5506, 5515, 5524, 5551, 5560, 5579, 5588, 5597, 5631, 5622, 5604, 5613, 0734, 0743, 0752, 0761, 0770, 0789, 0798, 0805, 0814, 0823, 0841, 0832, 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 June 22, 2004"- (1) sheet; that the proposal comply with all applicable R3-1 zoning district requirements; and that all applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT no building permit shall be issued by the Department of Buildings unless and until the subject proposal had obtained approval from the City Planning Commission;

THAT no Board approval is required for the merger of any lots shown on the approved plot plan; such mergers may be 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;

Commissioner Chin.....5  
Negative:.....0

### THE RESOLUTION -

WHEREAS, the decisions of the Brooklyn Borough Commissioner, dated March 4, 2004, acting on N.B. Application Nos. 301815542, 5490, 2402, 2411, 2420, 2439, 2448, 2457, 2466, 2475, 2484, 2493, 2509, 2518, 2527, 5481, 301809657, 05338, 01529, 301815356, 5347, 5365, 301809675, 09358, 301810716, 0725, 5472, 5536, 5506, 5515, 5524, 5551, 5560, 5579, 5588, 5597, 5631, 5622, 5604, 5613, 0734, 0743, 0752, 0761, 0770, 0789, 0798, 0805, 0814, 0823, 0841, 0832, reads in pertinent part:

"Proposed property does not front on a legally mapped street. Refer to Board of Standards & Appeals as per General City Law Section 36."; and

WHEREAS, by the letter dated May 10, 2004, the Fire Department has reviewed the above project and has no objections provided that all houses with the exception of the existing building on Lot 2001 fronting on Strickland Avenue must be fully sprinklered; and

WHEREAS, the plot plan approved herein shows a total of 52 separate lots; and

WHEREAS, the Board's grant herein expressly allows the applicant or any subsequent owner the ability to merge lots into a larger lot without filing an amendment at the BSA or receiving a letter of substantial compliance; such mergers may be approved by the Department of Buildings; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

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 on July 13, 2004.

## 129-04-A

APPLICANT - Zygmunt Staszewski, for Breezy Point Co-op, Inc, owner; Robert Bainbridge, lessee.

SUBJECT - Application March 11, 2004 - proposed alteration of an existing one family dwelling, and the addition of a second floor, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 30 Marion Walk, west side, 44.56' north of West End Avenue, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14Q

### APPEARANCES -

For Applicant: Howard Hornstein.

**ACTION OF THE BOARD -** Appeal granted on condition.

---

# MINUTES

---

## 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 March 8, 2004, acting on Department of Buildings ALT 1. Application No. 401815050, reads in pertinent part:

“A1- The street giving access to the existing building is to be altered 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 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.”; and

WHEREAS, by the letter dated March 19, 2004, the Fire Department has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

*Resolved*, that the decision of the Queens Borough Commissioner, dated March 8, 2004, acting on Department of Buildings ALT 1. Application No. 401815050 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 28, 2004”-(1) sheet; and that the proposal comply with all applicable R4

Negative:.....0

Adopted by the Board of Standards and Appeals, July 13, 2004.

---

### 18-04-A

APPLICANT - Robert Miller, for Breezy Point Co-op, Inc., owner; Mr. Ronald Kirsche, lessee.

SUBJECT - Application February 4, 2004 - Proposed addition of a second floor, to an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 5 of the General City Law.

PREMISES AFFECTED - 10 Irving Walk, west side, 105.69' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

#### COMMUNITY BOARD #14Q

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 10 A.M., for continued hearing.

---

### 44-04-A

APPLICANT - NYC Department of Buildings.

zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *on further condition*:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on July 13, 2004.

---

### 331-03-A

APPLICANT - The Agusta Group, for Nelson Catano, owner.

SUBJECT - Application October 27, 2003 - The legalization of an existing mercantile occupancy, within a frame class IID construction building, located within the fire district, is not permitted as per §27-296 and Table 4-1 of the NYC Building Code.

PREMISES AFFECTED - 37-44 103<sup>rd</sup> Street, west side, 410.75' south of 37th Avenue, Block 1768, Lot 32, Borough of Queens.

#### COMMUNITY BOARD #3Q

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

OWNER OF RECORD: Martin Suss

LESSEE: William J. Newstad; Endeavor Abstract; Paladin Abstract.

SUBJECT - Application February 25, 2004 - Application to revoke or modify Certificate of Occupancy No. 500353422, issued on 2/28/00, on the grounds that the CO was issued with the mistaken understanding that the non-conforming use was continuous, thus improperly allowing a retail store in a residential zoning district. PREMISES AFFECTED - 1491 Richmond Road, bounded by Norden Street and Forest Road, Block 869, Lot 374, Borough of Staten Island.

#### COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Janine Gaylard.

For Opposition: Stuart Klein.

**ACTION OF THE BOARD** - Laid over to August 17, 2004, at 10 A.M., for continued hearing.

---

# MINUTES

---

## 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 34<sup>th</sup> Avenue, Block 4994, Lot 24, Borough of Queens.

140-28 34<sup>th</sup> Avenue, Block 4994, Lot 224, Borough of Queens.

140-28A 34<sup>th</sup> Avenue, Block 4994, Lot 224, Borough of Queens.

140-30 34<sup>th</sup> Avenue, Block 4994, Lot 125, Borough of Queens.

140-30A 34<sup>th</sup> Avenue, Block 4994, Lot 225, Borough of Queens.

140-32 34<sup>th</sup> Avenue, Block 4994, Lot 126, Borough of Queens.

140-32A 34<sup>th</sup> Avenue, Block 4994, Lot 27, Borough of Queens.

140-34 34<sup>th</sup> Avenue, Block 4994, Lot 127, Borough of Queens.

140-34A 34<sup>th</sup> Avenue, Block 4994, Lot 227, Borough of Queens.

SUBJECT - Application April 5, 2004 - Under Z.R. §12-10 to reverse the NYC Department of Buildings' revocation of the above referenced permits. The permits had allowed for the subdivision of Lot 52 from Lots 55, 58, and 61 and the construction of new building on Lot 52.

PREMISES AFFECTED - 133 Sterling Place, a/k/a 22 Seventh Avenue, northwest corner, Block 942, lots 48 and 52, Borough of Brooklyn.

### COMMUNITY BOARD #6BK

#### APPEARANCES -

For Applicant: Howard Hornstein.

For Opposition: Janine Gayland.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 10 A.M., for postponed hearing.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 11:00 A.M.

140-36 34<sup>th</sup> Avenue, Block 4994, Lot 327, Borough of Queens.

### COMMUNITY BOARD #11Q

#### APPEARANCES -

For Applicant: Janine Gayland.

**ACTION OF THE BOARD** - Laid over to January 11, 2005, at 10 A.M., for continued hearing.

### 66-04-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative, Inc., owner; John & Patricia Brennan, lessee.

SUBJECT - Application March 2, 2004 - proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a mapped street, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' policy.

PREMISES AFFECTED - 976 Bayside, southeast corner of Bayside Connection, Block 16350, Lot 300, Borough of Queens.

### COMMUNITY BOARD #14Q

#### APPEARANCES -

For Applicant: Joseph A. Sherry.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 10 A.M., for continued hearing.

### 148-04-A

APPLICANT - Jenkins & Gilchrist Parker Chaplin, LLP and Fischbein Badillo Wagner Harding

OWNER OF RECORD: Sterling & Seventh LLC.

### REGULAR MEETING

**TUESDAY AFTERNOON, JULY 13, 2004**

**2:00 P.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

### ZONING CALENDAR

### 82-03-BZ

#### CEQR #03-BSA-145K

APPLICANT - Sullivan Chester & Gardner LLP, for Diamond Street Properties, Inc., owners.

SUBJECT - Application March 5, 2003 - under Z.R. §72-21 to permit the conversion of a vacant industrial building in an M3-1 zone to mixed use residential/commercial, contrary to Z.R. §42-00.

PREMISES AFFECTED - 51 North 8<sup>th</sup> Street, a/k/a 91 Kent Avenue, northeast corner, Block 2309, Lot 1, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

#### APPEARANCES -

For Applicant: Jeffrey Chester.

**ACTION OF THE BOARD** - Application granted on

---

# MINUTES

---

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 February 12, 2003 acting on DOB Application No. 301476748 reads:

“Change of use from manufacturing to mixed use residential and commercial contrary to zoning, refer to Board of Standards and Appeals.” and

WHEREAS, a public hearing was held on this application on December 16, 2003 after due notice by publication in *The City Record*, with continued hearings on February 24, 2004, March 9, 2004, April 13, 2004, and June 8, 2004 and then to July 13, 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, Community Board 1, Brooklyn recommended approval of this application; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in developing the subject lot in conformity with underlying district regulations: (1) the existing building’s ground floor consists of five different rooms or sections with differing elevations, with steel beams and columns studded throughout, and low ceiling heights, all of which impede the free movement of goods and material; (2) there is no efficient way to move goods or material to the second floor of the existing building due to the lack of an elevator; (3) neither of the existing building’s two loading docks can accommodate a tractor-trailer; (4) the existing building would require substantial and cost prohibitive renovations even to make it useable as a warehouse; and

WHEREAS, the costs of demolishing the existing building, excavating the site and installing pilings for the construction of a conforming use are cost prohibitive; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformity with the current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with an as-of-right manufacturing use would not yield the owner a reasonable return; and

WHEREAS, the listing broker for the site submitted an affidavit stating that a conforming use on the subject premises has attracted little or no market interest, because prospective tenants are seeking a building with high ceilings, adequate loading facilities and an efficient use of space for the flow of goods and material; and

WHEREAS, upon the Board’s request, the applicant submitted a supplemental letter from its financial consultant,

WHEREAS, this is an application under Z.R. §72-21, to convert a vacant industrial building in an M3-1 zone to mixed-use residential/commercial, contrary to Z.R. §42-00; and

WHEREAS, the subject lot is located on the southwest corner of Kent Avenue and North 8<sup>th</sup> Street in Williamsburg, Brooklyn, and is comprised of one tax lot with a total lot area of approximately 18,014 sq. ft.; and

WHEREAS, the lot is currently occupied with an existing two-story building containing 30,114 sq. ft. of floor area that was previously used by a company that assembled and labeled cardboard packaging; the applicant maintains that the building has been vacant since August of 2002; and

WHEREAS, the proposed development currently contemplates the partial conversion and enlargement of the existing building into a mixed use residential/commercial space with two (2) ground floor retail spaces, thirty-nine (39) proposed residential apartment units, and twenty (20) parking spaces at the cellar level; and

WHEREAS, the original proposal contemplated the partial conversion and enlargement of the existing building into two separate structures separated by an inner courtyard with a total of sixty-five (65) residential units, twenty-three (23) parking spaces, six (6) retail spaces and a café; and

attesting to excessive costs associated with demolishing the existing structure and the cost of developing a conforming manufacturing use; 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 on investment; and

WHEREAS, the applicant represents that the proposed development will not affect the character of the neighborhood for the following reasons: (1) the proposed development is in accordance with the New York Department of City Planning’s rezoning of the neighborhood currently underway; and (2) the proposed development will complement the proposed park across the street from the premises; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map and concludes that mixed residential/commercial use of the site is compatible with the context of the neighborhood; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; 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 Board’s concerns, the applicant has reconfigured the property in the following ways: (1) reducing the overall bulk of the building; (2) reducing the number of dwelling units; (3) reducing the number of accessory parking spaces; (4) reducing the elevation of the building; (5) reducing the FAR to 3.0; and

WHEREAS, therefore, the Board finds that the proposal

# MINUTES

is the minimum necessary to afford the owner relief; and  
WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action, the Final Environmental Assessment Statement (EAS) and has carefully considered all areas of environmental concern as delineated in the Technical Analyses section 23 in the EAS; and

WHEREAS, the Final EAS finds that the project as proposed would not have foreseeable significant adverse impacts on land use and other relevant areas of environmental concern, and that it is consistent with Local Waterfront Revitalization Policies; 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 pursuant to Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617.7 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 conversion of a vacant industrial building in an M3-1 zone to mixed use residential/commercial, 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

## 84-03-BZ

### CEQR #03-BSA-147Q

APPLICANT - Sheldon Lobel, P.C., for Nissan Perla, Partner: N.P. Holdings, LLC, owner.

SUBJECT - Application October 24, 2003 - Under Z.R. §72-21 to permit the construction of a five-story and six-story with penthouse residential building (Use Group 2) in an R5 zoning district with a C1-2 overlay, which creates non-compliances with regard to floor area ratio, total height, perimeter wall height, lot area per dwelling unit, and rear yard equivalents, contrary to Z.R. §§23-22, 23-141, 23-631, and 23-533.

PREMISES AFFECTED - 35-40 30<sup>th</sup> Street, a/k/a 35-37 29<sup>th</sup> Street, between 35<sup>th</sup> and 36<sup>th</sup> Avenues, Block 341, Lot 6, Borough of Queens.

### COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Jordan Most.

**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 -

application with this application marked "Received May 25, 2004, 2004"-(12) sheets and "Received June 21, 2004"-(3) sheets; and *on further condition*:

THAT all applicable fire safety measures as shown on the approved plans will be complied with;

THAT substantial construction 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, July 13, 2004.

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 1, 2004, acting on Department of Buildings Application No. 401291641 reads:

"(1) Proposed plans are contrary to Z.R. §23-141 in that the proposed floor area ratio exceeds the maximum permitted floor area ratio of 1.65, (2) Proposed plans are contrary to Z.R. §23-631 in that the proposed total height and perimeter wall height is greater than permitted, (3) Proposed plans are contrary to Z.R. §23-222 in that the proposed lot area per dwelling unit is less than required, and (4) Proposed plans are contrary to Z.R. §23-533 in that the proposed rear yard equivalents are less than required;" and

WHEREAS, a public hearing was held on this application on October 21, 2003 after due notice by publication in *The City Record*, with continued hearings on October 28, 2003, December 23, 2003, February 24, 2004, March 23, 2004, April 27, 2004 and June 8, 2004, and then to July 13, 2004 for decision; and

WHEREAS, the premises and surrounding area had a

---

# MINUTES

---

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 1, Queens and the Queens Borough President recommend conditional approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit the construction of a five-story and six-story plus penthouse residential building (Use Group 2) in an R5 zoning district with a C1-2 overlay, which creates non-compliances with regard to floor area ratio, total height, perimeter wall height, lot area per dwelling unit, and rear yard equivalent, contrary to Z.R. §§23-22, 23-141, 23-631, and 23-533; and

WHEREAS, the subject lot fronts both 29<sup>th</sup> and 30<sup>th</sup> Street between 35<sup>th</sup> and 36<sup>th</sup> Avenues, in the Long Island City section of Queens, and is within an R5 zoning district, with a C1-2 commercial overlay covering approximately two-fifths of the site; and

WHEREAS, the premises is currently occupied with a two-story garage and auto repair facility, in use since the early 1990s; and

WHEREAS, the proposal contemplates the construction of a five-story and six-story plus penthouse residential

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in developing the subject lot in compliance with underlying district regulations: (1) the presence of underground and above ground storage tanks; (2) the Premises is currently benefited by a variance for certain non-residential uses; (3) the existing building is obsolete and not marketable in light of the dense residential development surrounding the Premises; (4) the incompatible nature between the property's current use (commercial use) and the surrounding uses (residential); (5) the change in grade of the property, descending from 30<sup>th</sup> Street to 29<sup>th</sup> Street; (6) the Premises is located on two narrow streets (29<sup>th</sup> Street and 30<sup>th</sup> Street which are 60 feet wide); and (7) the lot is split into two different zoning classifications (40% zoned in C1-2 and 60% zoned R5); and

WHEREAS, the Board finds that the following are unique physical conditions that, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformity with the current zoning regulations: (1) the presence of underground and above ground storage tanks, necessitating the need for two-level excavation and foundation work; (2) the change in grade of the property, descending from 30<sup>th</sup> Street to 29<sup>th</sup> Street; and (3) premium demolition costs associated with the unique features of the existing building; and

WHEREAS, the applicant states that the unique physical conditions lead to economic hardship in constructing a complying development, and has submitted a feasibility study in support of this claim; and

WHEREAS, opposition to the application submitted a letter contesting certain aspects of the feasibility study; and

WHEREAS, upon the Board's recommendation at the hearing on June 8, 2004, the applicant has submitted a supplemental statement in response to the opposition letter, which the Board finds sufficient and credible; and

building with sixty-two (62) residential units and sixty-two (62) on-site underground parking spaces; and

WHEREAS, due to the slope of the subject lot, the building will technically be five stories on the 30<sup>th</sup> Street frontage and six stories on the 29<sup>th</sup> Street frontage; and

WHEREAS, the proposal allows a floor area ratio ("FAR") of 2.69 (1.65 is permitted); a total height of 54' along 30<sup>th</sup> Street and 61'-9" along 29<sup>th</sup> Street (33 feet is permitted); a perimeter wall height of 45' along 30<sup>th</sup> Street and 52'-9" along 29<sup>th</sup> Street (30 feet is permitted); a lot area per dwelling unit of 392 sq. ft. per dwelling unit (900 sq. ft. per dwelling unit is the permitted minimum); and a rear yard equivalent of 20 feet (30 feet is required); and

WHEREAS, earlier versions of the proposal contemplated a much larger building; specifically, the originally submitted building design had nine stories (plus penthouse), a 5.73 FAR, 122 residential units and a maximum height of 104 feet; and

WHEREAS, at the request of the Board, and after submission of various other proposals reflecting increasingly diminished bulk, the bulk of the proposed building was reduced to the levels of the current proposal; and

WHEREAS, therefore, the Board finds that evidence in the record, including the submitted feasibility study, demonstrates that, because of the subject lot's unique physical conditions, developing the site with a complying development would not yield a reasonable return; and

WHEREAS, the applicant states that there are buildings of comparable height in the immediate vicinity of the subject lot; specifically, there is an adjacent six-story building, and three other six-story buildings less than 200 feet away; and

WHEREAS, the applicant submitted extensive materials regarding the surrounding as-built context as it relates to FAR, height, open space and lot coverage, including three separate neighborhood character maps; and

WHEREAS, additionally, the applicant submitted supplemental area photographs; and

WHEREAS, the applicant states that maps show that when examining FAR, building height, and open space ratio, the proposed building is more compliant with as-built conditions in the surrounding neighborhood than other existing structures; and

WHEREAS, the Board has reviewed the maps, photos, and applicant analysis, and finds them sufficient and credible; and

WHEREAS, the Board, based upon its review of these materials and upon its site visit, concludes that the proposed building's bulk and height is compatible with the built context of the surrounding neighborhood; and

WHEREAS, the applicant also claims that elimination of the existing non-conforming commercial/manufacturing use improves the surrounding area, which is predominantly residential and mixed-use residential/commercial; and

WHEREAS, the applicant has submitted revised plans that reflect the relocation of the vehicular ramp from the southwest side yard to beneath the proposed building on the northeast corner, which addresses an opposition concern that the ramp would negatively impact on adjacent

# MINUTES

residential use; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, due to the significant reductions of the proposed building's bulk, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and 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

THAT the above conditions shall be on the certificate of occupancy;

THAT all applicable fire safety measures as shown on the approved plans will be complied with;

THAT the layout of the parking area shall be as approved by the Department of Buildings;

THAT substantial construction 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, July 13, 2004.

## 118-03-BZ

### CEQR #03-BSA-171K

APPLICANT - Slater & Beckerman, LLP, for 1101 Prospect LLC, owner.

SUBJECT - Application April 11, 2003 - under Z.R. §72-21 to permit the proposed construction of a six-story residential and community facility building, Use Group 2 and 4, located in an R5B zoning district, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage, number of dwelling units, community facility bulk regulations, front and yards, height and setback, is contrary to Z.R. §23-141(b), §23-22, §24-01, §24-162, §23-45, §24-34, §24-35 and §24-521.

PREMISES AFFECTED - 1101 Prospect Avenue, a/k/a 1677 11<sup>th</sup>

§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 five-story and six-story with penthouse residential building (Use Group 2) in an R5 zoning district with a C1-2 overlay, which creates non-compliances with regard to floor area ratio, total height, perimeter wall height, lot area per dwelling unit, and rear yard equivalents, contrary to Z.R. §§23-22, 23-141, 23-631, and 23-533; *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 23, 2004"-(15) sheets; and *on further condition*:

THAT all lighting located on the subject property will be directed down and away from adjacent residential buildings;

THAT the proposed parking area shall not contain more than 66 parking spaces;

THAT the entire premises will be fully sprinklered;

THAT landscaping and fencing shall be provided and maintained in accordance with BSA approved plans;

Avenue, northeast corner, Block 5256, Lot 1, Borough of Brooklyn.

### COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Stuart Beckerman.

**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 December 16, 2003, acting on Department of Buildings Application No. 301513495, reads, in pertinent part:

"Proposed residential and community facility building in R5B residence district does not comply with regulations governing floor area ratio, number of dwelling units, and applicability of community facility bulk regulations, contrary to Zoning Resolution Sections 23-141(b), 23-22, 24-01, and 24-162.;" 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, June 15, 2004, and then laid over to July 13, 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, and Commissioners Caliendo, Miele, and Chin; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a four-story residential and community facility building, Use Groups 2 and 4, located in an R5B zoning district, which does not comply with the zoning requirements for floor area ratio, number of dwelling units, and community facility bulk regulations,

---

# MINUTES

---

contrary to Z.R. §§23-22, 24-01, 23-141(b), 24-162, and

WHEREAS, the subject zoning lot is 100' by 101'10", with 12,538 sq. ft. of total area, located on the east corner of the intersection of Prospect and 11<sup>th</sup> Avenues, and is currently occupied by a one-story building, with a legal non-conforming use of Auto & Truck Service Garage (Use Group 16); and

WHEREAS, the applicant proposes the demolition of the existing building, and the construction of a four-story mixed-use building, with a for-profit day care center on the first floor, and residential units on floors 2 through 4; and

WHEREAS, the initial application was for a six-story mixed-use commercial and residential building that contemplated additional waivers of setback and yard requirements; and

WHEREAS, under the current proposal, the following waivers are requested: a total FAR of 1.55 (1.35 is permitted); 24 dwelling units (19 are permitted); and a

WHEREAS, the Board finds that the estimated demolition cost of the existing building is minor; and

WHEREAS, the applicant states that an existing non-conforming structure may be considered a unique physical condition even if it is not obsolete, because Z.R. §72-21 requires that findings be related to development of the zoning lot in strict conformity with the zoning, and it would be inconsistent to characterize maintenance of the non-conforming use within the existing building as development of the zoning lot in strict conformity with zoning; and

WHEREAS, the Board notes that maintenance of the non-conforming use at the site would not require any discretionary Board approval, as non-conforming uses are allowed to be continued pursuant to Z.R. §52-11; therefore, its continued existence is in strict conformity with the Z.R.; and

WHEREAS, pursuant to Z.R. §72-21(a), the applicant must provide substantial evidence of a unique physical condition which leads to practical difficulties or unnecessary hardship in complying with use or bulk provisions of the underlying district; and

WHEREAS, in the context of this finding, the Board is being asked to evaluate a proposed development and its ability to strictly comply with zoning provisions in light of the unique conditions inherent to the site; no analysis is required of whether the existing use is conforming or lawfully non-conforming; and

WHEREAS, accordingly, the Board rejects applicant's argument that the non-conforming status of the existing building is a unique physical condition; and

WHEREAS, the applicant alleges that the soil remediation costs are substantial, and contribute to the negative effect on the economic feasibility of a conforming development; and

WHEREAS, the Board notes that the confirmed environmental costs were estimated to be approximately \$100,000, but the proposal's total development costs were approximately \$6.5 million; and

WHEREAS, opposition to this application claims, and the Board agrees, that a relatively minor amount of soil contamination does not make the property unique; and

community facility FAR of 0.6 (0.4 is the maximum); and

WHEREAS, the applicant alleges that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in constructing a building in conformity with underlying district regulations: (1) the existence of a non-conforming commercial building and the cost of its demolition, (2) soil contamination, and (3) the location of the premises on a heavily trafficked commercial intersection; and

WHEREAS, the Board disagrees that demolition of an existing non-conforming structure constitutes a unique physical condition in of itself; some evidence of premium demolition costs associated with structural uniqueness of such a structure must be shown; and

WHEREAS, the applicant has failed to provide any evidence showing that demolition of the existing garage building will require extraordinary or premium demolition expenditures; and

WHEREAS, the Board rejects applicant's argument that the location of the premises on an allegedly busy commercial intersection constitutes a unique physical conditions; and

WHEREAS, the applicant has failed to prove that the intersection is any more busy than numerous others within the neighborhood, and the Board notes that expanding the definition of uniqueness to include location of a lot at a busy intersection in a city with innumerable busy intersections is contrary to the definition of what is unique; and

WHEREAS, the Board also observes that there is conforming residential development at the intersection, and that, at hearing, testimony was provided from an area resident that the traffic at the intersection is not heavy; and

WHEREAS, based on its review of the record and its site visit, the Board finds that the applicant has failed to provide substantial evidence that the subject lot possesses unique physical conditions, even when considered in the aggregate, that create practical difficulties and unnecessary hardships in developing the site in strict compliance with current zoning, and that the application therefore fails to meet the finding set forth at Z.R. §72-21(a); and

WHEREAS, because the applicant has failed to provide substantial evidence in support of the finding set forth at Z.R. §72-21(a), the application also fails to meet the finding set forth at Z.R. §72-21(b); and

WHEREAS, the Board notes that the financial study submitted in support of the application contained inconsistent information, and that with only slight adjustments, could have shown that a reasonable return from complying development was possible; and

WHEREAS, the Board also notes that the applicant did not submit an analysis of a three-story residential condominium building, that would likely result in a higher return; and

WHEREAS, accordingly, the Board finds that the submitted financial information fails to constitute substantial evidence showing that there is no reasonable possibility that development of the subject lot in strict compliance with the applicable provisions of the Zoning Resolution will bring a reasonable return; and

# MINUTES

WHEREAS, because the subject application fails to meet the findings set forth at Z.R. §72-21(a) and (b), it must be denied.

*Resolved*, the decision of the Borough Commissioner, dated December 16, 2003, acting on Department of Buildings Application No. 301513495, must be sustained, and the subject application is hereby denied.

Adopted by the Board of Standards and Appeals, July 13, 2004.

## 223-03-BZ

### CEQR #04-BSA-001Q

APPLICANT - C Anthony Mulrain c/o Greenberg Traurig, LLP, for Majority Baptist Church, owner; Omnipoint Communications, Inc.,

#### 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 Department of Buildings, dated June 2, 2003 acting on Application No. 401404805, reads in pertinent part:

“Request for formal denial to appeal to the Board of Standards and Appeals as per Z.R. §73-30”; and

WHEREAS, a public hearing was held on this application on April 20, 2004 after due notice by publication in the *City Record*, with a continued hearing on June 15, 2004, and then to July 13, 2004 for a decision; and

WHEREAS, this is an application under Z.R. §73-30 to permit, in a C2-2 overlay district within an R3-2 Zoning District, the erection of an eighty-three (83) foot tall cellular monopole (“the Facility”), which has been designed to resemble a flagpole, and which requires a special permit pursuant to Z.R. §§22-21 and 22-11; and

WHEREAS, the premises and surrounding area has had a site and neighborhood examination by a committee of the Board, consisting of Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin; and

WHEREAS, the applicant has submitted a copy of a lease agreement between the operator of the monopole and Majority Baptist Church, which allows the operator to place the Facility on church property; and

WHEREAS, the applicant states that the Facility will contain nine (9) small panel antennas located inside the flagpole, and completely hidden from view; and

WHEREAS, the applicant will locate three (3) base transceiver stations at the base of the flagpole; and

WHEREAS, the applicant maintains that these proposed equipment cabinets will be screened from public view by a combination of fence and landscaping; and

WHEREAS, pursuant to Z.R. §73-30, the Board may grant a special permit for a non-accessory radio tower such as the Facility, 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

lessee.

SUBJECT - Application July 1, 2003 - under Z.R. §73-30 to permit in a C2-2 overlay district within an R3-2 Zoning District, the erection of an eighty-three (83) foot tall cellular monopole, which has been designed to resemble a flagpole, and which requires a special permit pursuant to Z.R. §§22-21 and 22-11.

PREMISES AFFECTED - 115-15 Farmers Boulevard, bounded by 115<sup>th</sup> Road and 115<sup>th</sup> Avenue, Block 11032, Lot 4, Borough of Queens.

### COMMUNITY BOARD #12Q

#### APPEARANCES -

For Applicant: Robert Gandioso.

**ACTION OF THE BOARD** - Application granted on condition.

WHEREAS, the applicant represents that the Facility has been designed to resemble a flagpole in all respects in order to minimize adverse visual and environmental effects on the neighborhood; that the construction and operation of the Facility will comply with all applicable laws, regulations, standards, and conditions, including those reasonably imposed under the Special Permit; that no odor, dust, noise, or vibrations will be emitted; and that no adverse traffic impacts are anticipated; and

WHEREAS, proposed utilities servicing the Facility, such as electric power and telephone lines, will be placed underground; and

WHEREAS, the applicant anticipates that initially it will be the sole user of the Facility, but agrees with the Board’s request to design the Facility to enable the location of additional federally licensed telecommunications service providers’ antennas within the flagpole; and

WHEREAS, the applicant further represents that the height is the minimum necessary to provide seamless coverage within the area intended to be served; and

WHEREAS, the proposed Facility will have no lighting except for the small directed beam to illuminate the flag, and no commercial or retail signage except for the small emergency contact sign as required by the Federal Communications Commission (FCC); and

WHEREAS, the applicant represents that the Facility will not be an attractive nuisance since it will be secured by a gated six feet high (6’) fence with privacy slats; and

WHEREAS, the applicant has submitted an affidavit of a Radio Frequency Engineer indicating that the proposed site is ideal because it will enable the applicant to fill a significant coverage gap (evidenced by interrupted or disconnected calls and transmission and reception problems) without adversely impacting the aesthetics of the surrounding area by constructing an obtrusive free-standing telecommunications tower; and

WHEREAS, the applicant has also submitted an analysis of the Radiofrequency Environment of the proposed Facility and results indicate that the maximum level of RF (radiofrequency) energy associated with simultaneous and continuous operation of all proposed transmitters will be less than 1.2% of the safety criteria adopted by the FCC as mandated by the Telecommunications Act of 1996; and

WHEREAS, as addressed at the public hearing held on

# MINUTES

April 20, 2004, the applicant represents that the proposed plans reflect an additional slot for another carrier to promote co-location, privacy slats within the proposed fencing, and access to the Facility across the site; 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 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, in a C2-2 overlay district within an R3-2 Zoning District, the erection of an eighty-three (83) foot tall cellular monopole, which has been designed to resemble a flagpole, and which requires a special permit pursuant 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 May 27, 2004"-(4) sheets; and *on further condition*;

THAT the proposed fencing consist of an opaque PVC fence;

THAT the pole be designed to include additional slots for other carriers to promote co-location;

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 all fencing and landscaping will be located and maintained in accordance with BSA approved plans;

THAT the flag will be replaced at least one time per year, properly maintained at all times and lit at night;

THAT any lighting will be positioned away from residential uses;

THAT no commercial or retail signage will be posted;

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 contingent upon CPC approval of the proposal, and no building permit shall be issued until such approval is obtained;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other

WHEREAS, the Board further finds that under the conditions and safeguards imposed, the hazards or disadvantages to the community at large of such special permit use at the particular site are outweighed by the advantages to be derived by the community by the grant of such special permit; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, therefore, the Board finds that the application meets the general findings required for special permits set forth at Z.R. §73-03(a) and (b); and 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 13, 2004.

## 224-03-BZ

### CEQR #04-BSA-002Q

APPLICANT - C Anthony Mulrain c/o Greenberg Traurig, LLP, for Mal Pal Realty Corp., owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application July 1, 2003 - under Z.R. §73-30 to permit in an R3-2 Zoning District, the erection of an eighty-five (85) foot stealth flagpole that will serve as a non- accessory telecommunications tower, which requires a special permit pursuant to Z.R. §§22-21 and 22-11.

PREMISES AFFECTED - 139-19 109<sup>th</sup> Avenue, bounded by 139<sup>th</sup> and 142<sup>nd</sup> Streets, Block 10068, Lots 210, 213, 214 and 215, Borough of Queens.

### COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Robert Gandioso.

**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 Department of Buildings, dated June 30, 2003 acting on Application No. 4016188070, reads in pertinent part:

"Request for formal denial to appeal to the Board of Standards and Appeals as per Z.R. §73-30";

and

WHEREAS, a public hearing was held on this application on April 20, 2004, after due notice by publication in the *City Record*, with a continued hearing on June 15, 2004, and then to July 13, 2004 for a decision; and

---

# MINUTES

---

WHEREAS, this is an application under Z.R. §73-30 to permit, in an R3-2 Zoning District, the erection of an eighty-five (85) foot stealth flagpole that will serve as a non-accessory telecommunications tower ("Facility"), which requires a special permit pursuant to Z.R. §§22-21 and 22-11; and

WHEREAS, the premises and surrounding area has had a site and neighborhood examination by a committee of the Board, consisting of Vice-Chair Babbar, Commissioner

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 Facility will have no adverse visual and environmental effects on the neighborhood; that the construction and operation of the Facility will comply with all applicable laws, regulations, standards, and conditions, including those reasonably imposed under the Special Permit; that no odor, dust, noise, or vibrations will be emitted; and that no adverse traffic impacts are anticipated; and

WHEREAS, proposed utilities servicing the Facility, such as electric power and telephone lines, will be placed underground; and

WHEREAS, the applicant maintains that the proposed equipment cabinets will be screened from public view by a combination of fence and landscaping; and

WHEREAS, the applicant anticipates that it initially will be the sole user of the Facility, but agrees with the Board's request to design the Facility to enable the location of additional federally licensed telecommunications service providers' antennas within the flagpole; and

WHEREAS, the applicant further represents that the height is the minimum necessary to provide seamless coverage within the area intended to be served; and

WHEREAS, the proposed Facility will have no lighting except for the small directed beam to illuminate the flag, and no commercial or retail signage except for the small emergency contact sign as required by the Federal Communications Commission (FCC); and

WHEREAS, the applicant represents that the Facility will not be an attractive nuisance since it will be secured by a gated six (6') feet high fence with privacy slats; and

WHEREAS, the applicant has submitted an affidavit of a Radio Frequency Engineer indicating that the proposed site is ideal because it will enable the applicant to fill a significant coverage gap (evidenced by interrupted or disconnected calls and transmission and reception problems) without adversely impacting the aesthetics of the surrounding areas by constructing an obtrusive free-standing telecommunications tower; and

WHEREAS, the applicant has also submitted an analysis of the Radiofrequency Environment of the proposed Facility and results indicate that the maximum level of RF (radiofrequency) energy associated with simultaneous and continuous operation of all proposed transmitters will be less than 0.8% of the safety criteria adopted by the FCC as

Caliendo, Commissioner Miele and Commissioner Chin; and

WHEREAS, the applicant states that the Facility will contain twelve (12) small panel antennas; and

WHEREAS, the applicant contemplates the location of three (3) base transceiver stations at the base of the flagpole, which will be completely fenced, landscaped and screened from public view; and

mandated by the Telecommunications Act of 1996; and

WHEREAS, as addressed at the public hearing held on April 20, 2004, the applicant represents that the proposed plans reflect the replacement of the proposed monopole with an eighty-five (85) foot stealth flagpole, an additional slot for another carrier to promote co-location, opaque PVC fencing, landscaping that consists of a large box planter with four (4) Juniperus Chinensis to further screen the base of the Facility; 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 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(a) and (b); 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, in an R3-2 Zoning District, the erection of an eighty-five (85) foot stealth flagpole that will serve as a non-accessory telecommunications tower, which requires a special permit pursuant 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 June 24, 2004"-(6) sheets; and *on further condition*;

THAT the proposed fencing consist of an opaque PVC fence;

THAT the pole be designed to include additional slots

# MINUTES

for other carriers to promote co-location;

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 all fencing and landscaping will be located and maintained in accordance with BSA approved plans;

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 contingent upon CPC approval of the proposal, and no building permit shall be issued until such approval is obtained;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, July 13, 2004.

## 249-03-BZ

### CEQR #04-BSA-018K

APPLICANT - Sheldon Lobel, P.C., for D & J Herms Realty, Inc., owner.

SUBJECT - Application July 31, 2003 - under Z.R. §72-21 to permit the proposed construction of a four-story and cellar building, with one commercial unit on the ground floor and eight residential units on the second, third and fourth floors, on a site located within a C8-2 zoning district, which does not permit residential use and is therefore contrary to ZR §32-10.

PREMISES AFFECTED - 265 Bedford Avenue, southeast corner of North First Street, Block 2381, Lot 1, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

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, the decision of the Borough Superintendent, dated July 21, 2003, acting on Application No. 301551354, reads:

"Proposed construction of a residential building is

THAT the flag will be replaced at least one time per year, properly maintained at all times and lit at night;

THAT any lighting will be positioned away from residential uses;

THAT no commercial or retail signage will be posted;

not permitted in a C8-2 zoning district as per Section 32-10 of the Zoning Resolution." and

WHEREAS, a public hearing was held on this application on January 6, 2004 after due notice by publication in The City Record, with continued hearings on January 27, 2004, March 9, 2004, April 27, 2004, June 8, 2004, and then to July 13, 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, and Commissioners Caliendo, Miele, and Chin; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a four-story and cellar building, with one commercial unit on the ground floor and eight residential units on the second, third and fourth floors, on a site located within a C8-2 zoning district, which does not permit residential use and is therefore contrary to Z.R. §32-10; and

WHEREAS, the subject zoning lot is located on the southeast corner of the intersection of Bedford Avenue and North First Street in Williamsburg, Brooklyn, with a total area of approximately 3,050 sq. ft.; and

WHEREAS, the applicant represents that there are unique physical conditions, which create practical difficulties and unnecessary hardships in developing the subject lot in conformity with underlying district regulations including the underdeveloped size of the building in relation to the surrounding properties and the fact that the subject zoning lot is the only lot within the C8-2 zoning district that does not front Grand Street (a commercial thoroughfare; and

WHEREAS, the Board notes that the subject zoning lot is an irregularly shaped trapezoidal corner lot with a frontage of 54' along Bedford Avenue, 54'10.5" along North First Street and depths of 61'4" and 52'6"; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in aggregate with the shape, shallowness and small size of the lot, create unnecessary hardship and practical difficulty in developing the site in conformity with the current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; 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 variance will not affect the character of the neighborhood which is characterized by residential and mixed-use development; and

WHEREAS, at the request of the Board, the applicant has reduced the size of the building from an FAR of 3.51 to

# MINUTES

3.0 and has removed the penthouse level, thereby reducing the height from 50'0" to 42'6"; and

WHEREAS, therefore, the Board now finds that the WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map and concludes that mixed residential and retail use of the site is appropriate given the context of the neighborhood; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Applicant has submitted a feasibility study with an analysis of a development with three-story building with an FAR of 2.2, which was determined to be infeasible; and

WHEREAS, the Board finds that the proposal is the minimum necessary to afford owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the applicant's environmental study 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 proposed construction of a four-story and cellar building, with one commercial unit on the ground floor and eight residential units on the second, third and fourth floors, on a site located within a C8-2 zoning district, which does not permit residential use and is therefore contrary to ZR §32-10; *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 24, 2004"-(7) sheets and "June 18, 2004"-(3) sheets; and *on further condition*;

THAT substantial construction 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, July

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary

proposed bulk of the building will be compatible with the built context surrounding the site; and

13, 2004.

## 300-03-BZ

### CEQR #04-BSA-050M

APPLICANT - Slater & Beckerman, for TC Interprises, LLC, owner.

SUBJECT - Application September 18, 2003 - under Z.R. §72-21 to permit the construction of a 6-story residential building with a FAR of 3.83, which would not conform to the use regulations of the underlying M1-2 district, which is contrary to Z.R. § 42-10.

PREMISES AFFECTED - 326 East 126<sup>th</sup> Street, south side, between First and Second Avenues, Block 1802, Lot 36, Borough of Manhattan.

### COMMUNITY BOARD #11M

#### APPEARANCES -

For Applicant: Stuart Beckerman.

**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 September 9, 2003 acting on Application No. 103533231 reads:

"Proposed residential use is not permitted in M1-2 District. It is contrary to ZR 42-10;" and

WHEREAS, a public hearing was held on this application on April 13, 2004 after due notice by publication in *The City Record*, with a continued hearing on May 25, 2004 and then to July 13, 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, and Commissioners Caliendo, Miele, and Chin; and

WHEREAS, Community Board 11, Manhattan, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit the construction of a 6-story residential building, which does not conform to the use regulations of the underlying M1-2 district, contrary to Z.R. §42-10; and

WHEREAS, the subject premises is a vacant lot situated between First and Second Avenues along East 126<sup>th</sup> Street, Manhattan, comprised of one tax lot with a total lot area of 4,162 square feet; and

WHEREAS, the proposed development contemplates the construction of a six-story, twenty-three unit residential building, with a floor area ratio ("FAR") of 3.83 and a total height of approximately 65 feet; and

hardship in constructing a conforming commercial or manufacturing building: (1) the small size of the zoning lot

---

# MINUTES

---

makes it less attractive to the kinds of conforming uses that otherwise might be viable at the subject location; (2) the location of the zoning lot on a block dominated by residential uses and by a side street with limited pedestrian and vehicular traffic renders the lot unmarketable for conforming uses appropriate to its size; (3) the zoning lot was formerly occupied by a residential building that was demolished several years ago and has remained vacant ever since; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, 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 an economic analysis demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; and

WHEREAS, the applicant states that an as-of-right use of the subject site for industrial purposes is at a competitive disadvantage because it is too small to meet the needs of industrial tenants, and its side-street location is not conducive to truck access, parking, and loading activities; and

WHEREAS, the applicant states that an as-of-right use of the subject site for office space would not command significant rents because it would allow only for a small, off-location building; and

WHEREAS, the applicant submitted a supplemental letter from its financial consultant in response to the Board's request for an analysis of an R7-2 housing scenario which stated that such development would result in the construction of two fewer units and a slight reduction in size of all other units; and

WHEREAS, the applicant states that an R7-2 housing scenario would reduce the effective income by ten percent without a corresponding reduction in operating costs; 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, a medium density multiple dwelling, will not alter the mixed-use 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 submitted updated traffic counts which indicate that the volume of traffic on the block of the proposed building is low, suggesting that the combination of off-ramp and local traffic is not so great as to have a negative impact on future residents; and

WHEREAS, the proposed building is adjacent to another building that contains 30 residential units and a FAR of approximately 4.2; and

WHEREAS, the Board finds that the residential use of the proposed building is not incompatible with other uses in

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

the area, and notes that there are other five- and six-story residential buildings immediately surrounding the instant site; and

WHEREAS, the Board also finds that the bulk and height of the proposed building is compatible with the built context surrounding 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, 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, the Final Environmental Assessment Statement (EAS) and has carefully considered all areas of environmental concern as delineated in the Technical Analyses section 23 in the EAS; and

WHEREAS, the Final EAS finds that the project as proposed would not have foreseeable significant adverse impacts on land use and other 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 pursuant to Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617.7 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 6-story residential building with a FAR of 3.83, which would not conform to the use regulations of the underlying M1-2 district, which is 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 September 18, 2003"-(9) sheets; and *on further condition*:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT the above conditions shall be on the certificate of occupancy;

THAT substantial construction 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;

compliance 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

# MINUTES

configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 13, 2004.

## 307-03-BZ

### CEQR #04-BSA-057M

APPLICANT - Fried, Frank Harris, Shriver & Jacobson, by Adrienne W. Bernard, Esq., for Clatco Company, LLC, 543 Realty Co., LLC and Broadway 110 Developers, LLC, owners.

SUBJECT - Application October 2, 2003 - under Z.R. §72-21 to permit the construction of a 14-story mixed-use residential and commercial building on a lot within a R8 zoning district (with a partial C1-4 overlay), which does not comply with district requirements concerning lot coverage, height, street wall height, and setbacks, contrary to Z.R. §§35-24, 23-145 and 23-633.

PREMISES AFFECTED - 543/45 West 110<sup>th</sup> Street, (a/k/a Cathedral Parkway), and 2840/46 Broadway, northeast corner, Block 1882, Lots 1 and 6, Borough of Manhattan.

### COMMUNITY BOARD #9M

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 September 25, 2003, acting on Application No. 103516358, reads:

“Proposed residential lot coverage, (in corner lot) is exceeding the maximum allowed. This is contrary to section 23-145 ZR. Layout indicates that proposed lot coverage is greater than 80 percent;

Proposed enlargement/obstructions above the maximum permitted height (Table B) is contrary to section 35-24 (d) ZR. No building shall exceed the maximum building height permitted. Obstructions

WHEREAS, lot 6 is occupied by a two-story former bank building with approximately 150 feet of frontage on 110<sup>th</sup> Street, currently used by a methadone treatment program and as storage space for the Market; and

WHEREAS, the proposed development contemplates the construction of a 14-story, fifty-four unit residential building, developed under the Z.R.’s Quality Housing

are contrary to section 33-42 ZR;

Since this enlargement is being developed pursuant to the Quality Housing program the height regulations of section 35-24 ZR apply as per section 35-22 ZR. Proposed street walls on wide street are contrary to section 35-24 (b)(2) ZR.

Street wall located on street line shall extend to at least to a minimum height base of Table B;

Required setback for wide street must be provided on portion of building fronting 110<sup>th</sup> street as per section 35-24 (c)(1) ZR;

For portion of building located in R8 District, provide required setback for tall buildings as specified in section 23-633 (a)(b) ZR. Enlargement is obstructing the required 10’-0” setback from required rear yard;” 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 2, 2004, March 30, 2004, and May 18, 2004, and then to July 13, 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, and Commissioners Caliendo, Miele and Chin; and

WHEREAS, Community Board 9, Manhattan, recommended approval of this application; and

WHEREAS, State Assembly Member Daniel O’Donnell recommended approval of this application; and

WHEREAS, certain community groups and individuals opposed the application, and testified at hearing and/or made written submissions in opposition; and

WHEREAS, various other community groups and individuals supported the application, and also testified at hearing and/or made written submissions in support; and

WHEREAS, this is an application under Z.R. §72-21, to permit the construction of a 14-story mixed-use residential and commercial building on a lot within a R8 zoning district (with a partial C1-4 overlay), which does not comply with district requirements concerning lot coverage, building height, street wall height, and setbacks, contrary to Z.R. §§35-24, 23-145 and 23-633; and

WHEREAS, the subject zoning lot is comprised of two adjacent tax lots (lots 1 and 6), on a site located on the northeast corner of Broadway and West 110<sup>th</sup> Street, which are both wide streets under the Zoning Resolution; and

WHEREAS, the total lot area is 13,638 sq. ft.; and

WHEREAS, lot 1 is occupied by a two-story commercial building with approximately 91 feet of frontage on Broadway, currently used by five retail uses, including the West Side Market (the “Market”); and

provisions, with a building height of 155 feet and a street wall height of 132.5 feet; and

WHEREAS, pursuant to the Quality Housing provisions, for the subject site, a 7.2 Floor Area Ratio (“FAR”) is allowed, a street wall on the entire frontage of the site of between 60 and 85 feet is required, and a maximum building height of 120 feet is permitted; and

---

# MINUTES

---

WHEREAS, the proposal also includes the restoration of the existing two-story commercial building on lot 1, with new, enhanced retail space on the ground floor, and the construction of an accessory parking facility consisting of 90 parking spaces, to be located at the two cellar levels; and

WHEREAS, the applicant represents that the proposed building requires the following waivers: (1) an increase in the total residential corner lot coverage, to 12,138 sq. ft. (10,456 sq. ft., or 80%, is permitted); (2) an increase in maximum street wall height on the West 110<sup>th</sup> Street portion of the site, to 132'6" feet (85 feet is the maximum); (3) a decrease in minimum street wall height on the Broadway portion of the site, to 35 feet (60 feet is the minimum); (4) an increase in building height, to 155 feet (120 feet is permitted); and (5) an allowance for a setback at 132'6" feet (one is required between 60 to 85 feet); and

WHEREAS, the overall height of the building, including the bulkhead and mechanicals, is 170 feet, 8 inches; and

WHEREAS, the above specifications reflect a significant decrease in the applicant's original proposal, which contemplated the construction of a 15-story, fifty-five unit residential building with a building height of approximately 176 feet and a street wall height of approximately 142 feet; and

WHEREAS, the proposed building's residential FAR is within the as-of-right 7.2 FAR for a building developed pursuant to the Quality Housing provisions; and

WHEREAS, the proposal would allow for an eight foot separation between the new building and the adjacent building, which would not otherwise be required under an as-of-right scheme; and

WHEREAS, the Applicant states that the following are unique physical conditions which create unnecessary hardships and practical difficulties in constructing a complying building on the site: (1) the site's shallow depth of ninety-one feet, (2) the site's location immediately adjacent to the 110<sup>th</sup> Street subway station, which is a designated New York City Landmark, (3) the location of two New York City Transit bus stops, which prevents the central location of construction equipment and increases construction costs, and (4) the added expense to be incurred for the removal from the premises of a 930 square foot bank vault; and

WHEREAS, the applicant claims that these unique physical conditions both create premium construction costs and diminish the marketability (and thus income generation potential) of a complying development; and

WHEREAS, opposition to the application claims: (1) that the shallowness of the lot is not uncommon for lots facing Broadway in the vicinity; (2) that the location of a lot near a

WHEREAS, therefore, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardships and practical difficulties in developing the site in strict compliance with the current applicable zoning regulations; and

WHEREAS, applicant has submitted an economic analysis purporting to demonstrate that developing the entire premises with a complying building would not yield the owner a reasonable return; and

subway station or bus stops is not a unique situation in New York City; and (3) that any premium cost associated with the bank vault is negligible when compared to the development costs for the entire proposal; and

WHEREAS, the applicant, in response, maintains: (1) the shallowness of the site is unique given that the depth runs from 110<sup>th</sup> Street, not Broadway, and thus a rear yard requirement is triggered, which constrains complying development; (2) although a premium cost estimate related to the landmark status of the subway station can not be ascertained at this time, as such costs will become determinable only upon Transit Authority review of construction plans, premium costs will nevertheless exist and are anticipated to be substantial; (3) the lot is burdened with two bus stops, which is an unusual condition on avenues and major cross streets; and (4) the bank vault construction costs need to be analyzed in the aggregate with the other claimed unique features; and

WHEREAS, applicant states that due to the two bus stops, the staging area for construction of a building would be so located as to necessitate the use of a tower crane, which is expensive to install and use; and

WHEREAS, the Board notes that the lot's close proximity to a landmarked subway station is not a common condition within the neighborhood or the City, nor is the existence of two bus stops affecting one lot; and

WHEREAS, the Board observes that each of the unique physical features contribute to premium costs associated with constructing a complying street wall on the Broadway frontage of the site, and that to avoid such costs (which would make complying development infeasible), a street wall waiver is necessary to relocate the proposed building's bulk off of the street to the interior of the site, which, in turn, necessitates that the building be built higher in order to accommodate the as-of-right FAR; and

WHEREAS, additionally, the Board observes that the shallowness of the lot is the particular unique feature that necessitates the setback and lot coverage waivers, in that a large portion of the site's depth must be left open to respect the lot coverage provision applicable to the corner lot portion of the site and to the rear yard in the interior portion of the site; as the building rises, the setback requirements converge with the lot coverage requirements and result in floor plates with inefficient and unmarketable units, and attendant decreased feasibility for a complying development; and

WHEREAS, opposition has questioned the credibility of the data used by the applicant in this feasibility study; and

WHEREAS, applicant has submitted responses to such opposition claims, and the Board finds such responses credible and sufficient; in particular, the Board notes that a letter submitted from Douglas Elliman dated June 17, 2004, and a letter from Freeman Frazier, also dated June 17, 2004, provide a reasonable response to the claims of opposition; and

WHEREAS, the Board notes that opposition's claims

---

# MINUTES

---

as to the financial feasibility of the proposed as-of-right scenario rely upon financial assumptions that are not within the realm of accepted Board practice, including: (1) the methodology of estimating sales prices on a global basis, which does not appropriately adjust for relevant characteristics of various units; and (2) use of contract of sale prices for comparables where sufficient, reliable financial information based upon closed transactions is available; and

WHEREAS, applicant, at the request of the Board, analyzed an alternative scheme of constructing a thirteen-story building and found that such a scheme results in an undesirable floor plan layout, which does not generate a reasonable return; and

WHEREAS, opposition has submitted as-of-right floor plans that they allege could earn a reasonable return (hereinafter referred to as the "Opposition Plans"); and

WHEREAS, the applicant's architect, in a written submission dated June 22, 2004, responded that a review of the Opposition Plans shows that the apartments that result do not meet reasonable standards of marketability, thus negatively impacting the feasibility of conforming development; and

WHEREAS, opposition disagrees with the applicant's conclusions regarding the feasibility of conforming development; and

WHEREAS, the Board notes that the applicant has taken the position that the unique site conditions lead to both construction cost premiums and to income generation deficiencies that are addressed by the requested waivers; thus, the marketability of the units is an essential consideration; and

WHEREAS, the Board further notes although a complying building could possibly be designed for the subject site, after a review of both applicant's and opposition's submissions, the Board concludes that complying development would not possess marketable units and is therefore 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 with zoning will provide a reasonable return; and

WHEREAS, the applicant states that the proposal, if constructed, will be compatible with the prevailing built context in the neighborhood, and will not negatively impact the appropriate use of adjacent property; and

WHEREAS, evidence in the record indicates that: (1)

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, as noted above, the applicant will construct the proposed building voluntarily and as-of-right pursuant to the Z.R.'s Quality Housing provisions, which leads to a height and street wall height requirement (which require waivers), but also allows construction of a building within the

the area surrounding the site consists mainly of 11 to 15 story residential buildings along Broadway and West 110<sup>th</sup> Street, interspersed with lower retail structures; (2) to the east of, and abutting, the subject site is a 14-story residential building, and across West 110<sup>th</sup> Street to the south is a new 12-story Columbia University building; and (3) the street walls of the mid-rise apartments along West 110<sup>th</sup> Street rise 10 to 12 stories, usually without setbacks; and

WHEREAS, the applicant has submitted a drawing showing the as-built conditions on the north side of West 110<sup>th</sup> Street; specifically, this drawing shows that directly adjacent to the subject site there is an approximately 154 feet high building (160 feet to the top of the penthouse), and across the street there is an approximately 153 feet building; and

WHEREAS, the applicant has also submitted a drawing showing the as-built conditions on the east side of Broadway; specifically, this drawing show that across the street from the subject site there is an approximately 152 feet high building; and

WHEREAS, based upon its review of the drawings and its own site visit, the Board finds that the both the building height and street wall height of the proposed building is compatible with that of neighboring buildings; and

WHEREAS, opposition claims that location of the mechanical equipment on the northern side of the proposed building will have a negative effect on neighboring residents; and

WHEREAS, the Board does not find that the location of the mechanical equipment will have any substantial negative effect on adjacent residents, and notes that all bulkheads and mechanicals will necessarily have to comply with all applicable Building Code provisions; and

WHEREAS, therefore, because of the compatibility with the built context of the neighborhood, the Board finds that the requested height waivers will not negatively impact the surrounding neighborhood; and

WHEREAS, applicant has submitted a traffic and parking assessment which indicates that the proposed parking garage, which is as-of-right, is unlikely to result in significant traffic impacts; and

WHEREAS, applicant's traffic and parking assessment also states an intent to undertake measures to enhance pedestrian safety including the installation of a flashing light and ringing bells to both visually and audibly alert pedestrians to the presence of an exiting vehicle; and

permitted FAR of 7.2 (no waiver of FAR is thus necessary); and

WHEREAS, if the applicant were proceeding under non-Quality Housing height factor zoning (which would not trigger a height or street wall height requirement), they would be permitted a lesser FAR, which would necessitate a large FAR waiver request in order for the project to realize a reasonable return; and

WHEREAS, the Board finds that proceeding under the Quality Housing program leads to a proposal that requires a lesser degree of variance, because no FAR waiver is

# MINUTES

necessary; and

WHEREAS, the Board also notes that the applicant, in response to Board and community concerns, agreed to lower the street wall height to 132'6" and the building height to 155'; 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 notes that it has held four hearings on the subject matter and has accorded both the applicant and opposition ample opportunity to provide oral and written testimony, including post-closing submissions; specifically, opposition was instructed that they would be able to submit a response to applicant's May 25 submission by June 8, which was in fact submitted and subsequently considered by the Board; and

WHEREAS, subsequently, two opposition submissions were made on July 6, 2004, and one was made on July 8; and

WHEREAS, while the Board did not provide for opposition submission on these dates, the Board nevertheless accepts them for placement in the record and Board consideration because the Board is re-opening the record on the date hereof for acceptance of applicant plans with minor amendments; and

WHEREAS, the applicant has stated to the Board, through its staff, that it stands on its prior submissions and does not wish to respond to the late opposition submissions; and

WHEREAS, at hearing, the Board asked the applicant to examine whether floor to floor heights could be reduced so as to reduce the total height of the building; and

WHEREAS, in a July 8, 2004 opposition submission, Jonathan Schachter, complained to the Board that opposition should be afforded a chance to address applicant's response to the floor to floor height issue; and

WHEREAS, the Board's intent in asking the applicant to examine floor to floor heights was specifically pointed towards the goal of a reduction in total height, and, as stated in its June 28, 2004 submission, the applicant did in fact reduce the total height of the building; and

WHEREAS, applicant represents that it is aware of the surrounding community's interest in seeing the return of the Market, and states that it will enter into good faith negotiations with the owners of the Market to conclude a lease for space in the proposed building; and

## **314-03-BZ**

### **CEQR #04-BSA-061M**

APPLICANT - Deirdre A. Carson, Esq., for 17-18 Management Co. LLC, c/o White, Inc., owner; AMAC, lessee.

SUBJECT - Application October 16, 2003 - under Z.R. §§73-01, 73-03 and 73-19 to permit the legalization of an existing school, Use Group 3A, located in an 11 story loft building, in an M1-6M zoning district, is contrary to Z.R. §42-00 and §42-12.

PREMISES AFFECTED - 18 West 18<sup>th</sup> Street, a/k/a 25 West 17<sup>th</sup> Street, a through lot, 356' west of the intersection of Fifth Avenue

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 variance to permit the construction of a 14-story mixed-use residential and commercial building on a lot within a R8 zoning district (with a partial C1-4 overlay), which does not comply with district requirements concerning lot coverage, height, street wall height, and setbacks, contrary to Z.R. §§ 35-24, 23-145 and 23-633; *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 March 16, 2004"-(9) sheets and "Received June 22, 2004"-(2) sheets and "Received July 7, 2004"-(2) sheets *on further condition*:

THAT there shall be no more than 90 parking spaces in the parking facility;

THAT the above condition shall appear on the certificate of occupancy;

THAT the all fire safety provisions will be complied with;

THAT the layout of the parking facility shall be as approved by the Department of Buildings;

THAT substantial construction 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, July 13, 2004.

and 17<sup>th</sup> and 18<sup>th</sup> Streets, Block 819, Lot 56, Borough of Manhattan.

## **COMMUNITY BOARD #5M**

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

---

# MINUTES

---

Negative:.....0

## THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 2, 2003, acting on Department of Buildings Application No. 102589094, reads:

“Proposed school (Use Group 3) is not [a] permitted use in M1-6M District, it is contrary to Z.R. §42-00”; and

WHEREAS, a public hearing was held on this application on May 11, 2004 after due notice by publication in *The City Record*, with a continued hearing on June 22, 2004 and then to decision on July 13, 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, and Commissioners Caliendo, Miele, and Chin; and

WHEREAS, Community Board 5, Manhattan, recommends conditional approval of the application; and

WHEREAS, this is an application to permit the continued operation of a school without sleeping accommodations (Use Group 3), located within an M1-6M zoning district, which requires a special permit under Z.R. §73-19; and

WHEREAS, the subject premises is located in the middle of West 17<sup>th</sup> and 18<sup>th</sup> Streets, between Fifth and Sixth Avenues, is within an M1-6 zoning district, and is improved with an eleven story loft-style building (the “Building”), which covers approximately ninety percent (90%) of the zoning lot and is built without setbacks; and

WHEREAS, the applicant represents that the existing school (the “School”) has served the educational needs of autistic children since 1961 and has occupied several floors of the Building under a lease agreement since 1991; and

WHEREAS, the applicant currently occupies a total of 30,750 square feet in the Building, with 6,150 square feet on the first floor and 12,300 square feet on each of the second and third floors; and

WHEREAS, the first floor has a kitchen which serves the lunch room on the second floor, and the second and third floors have classrooms, offices, activity rooms, storage and conference space; and

WHEREAS, the applicant states that the school currently serves 351 children and adults with autism; and

WHEREAS, the School offers several services and

WHEREAS, evidence in the record indicates that the proposed school is located 265 feet from a C6-4M zoning district boundary line, where the school is permitted as-of-right; thus the Board finds that the requirement of Z.R. §73-19(b) is met; and

WHEREAS, the applicant has submitted an Environmental Assessment Statement and a supplemental environmental study indicating that noise levels from the traffic and surrounding area are within acceptable levels and that despite high noise levels on the second floor adjacent to the wall fronting West 17<sup>th</sup> Street, exterior noise levels are not significant enough to pose an adverse impact; and

WHEREAS, the Board finds that adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district is achieved through the

programs which include a pre-school for children age two to five and their parents, program for school age children age five to sixteen, as well as after-school and Saturday programs for children and adults with autism; and

WHEREAS, the applicant represents that the School hours will be Monday through Friday, 8:00 A.M to 4:30 P.M, with some specified nights until 9:00 or 10:00 P.M. for parent meetings, and, on occasion, special events will be held at the School on Saturday and Sunday between 8:00 A.M to 4:00 P.M ; and

WHEREAS, the School currently has 161 staff and a majority of them use public transportation; and

WHEREAS, the applicant has demonstrated difficulty in obtaining land for the development of a school within the neighborhood to be served of an adequate size and within districts where the school is permitted as-of-right; and

WHEREAS, upon the recommendation of the Board at the hearing on May 11, 2004, the applicant has submitted additional materials which expand upon the Z.R. §73-19(a) requirement and represents that there is no practical possibility of obtaining a site of adequate size for the school in a zoning district where it is permitted as-of-right, and relocation would not be feasible because: (1) the subject site’s central location is critical to the School’s ability to serve the special needs population, which is drawn from the entire metropolitan area, (2) there is a lack of vacant land in nearby zoning districts where the School is permitted as-of-right, (3) the construction of a new facility would be financially unfeasible, (4) the rents payable in existing buildings in the nearest adjacent zoning district substantially exceed the School’s means, and (5) the School needs to be located near the ground floor because use of the elevators would not be desirable for students with special needs such as autism; and

WHEREAS, in response to the Board’s request to describe in greater detail the character of the uses on the block on which the School is located, the applicant maintains that West 17<sup>th</sup> and 18<sup>th</sup> Streets, between Fifth and Sixth Avenues, reflect a wide range of uses from community facility and philanthropic use to light manufacturing, with the predominant use being office and residential above retail stores; and

WHEREAS, therefore, the Board finds that the requirements of Z.R. §73-19(a) are met; and

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 the majority of students will arrive and leave school by public transportation and will be supervised at all times; and

WHEREAS, the applicant represents that the School will continue to use the separate entrance, elevator and stairway on West 17<sup>th</sup> Street as the primary means of entering and exiting the Building; and

WHEREAS, there will be a “No Standing” zone during school hours (7 AM to 4 PM) on West 17<sup>th</sup> Street, for the School’s vans; 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 notes that the subject zoning district (M1-6M) allows residential conversions and is therefore distinguishable from a typical M zoning district; and

WHEREAS, the Board further finds that under the conditions and safeguards imposed, the hazards or disadvantages to the community at large of such special permit use at the particular site are outweighed by the advantages to be derived by the community by the grant of such special permit; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, 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 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. §73-19 and grants a Special Permit, to allow the continued operation of a school without sleeping accommodations (Use Group 3), located within a M1-6M zoning district, which requires a special permit under Z.R. §73-19; *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 "October 16, 2003"-(5) sheets; and *on further condition*:

THAT the premises shall comply with all applicable fire safety measures;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

SUBJECT - Application March 16, 2004 - under Z.R. §72-21 to permit a variance to vary the applicable rear yard requirements (from thirty feet to twenty) triggered by an as of right conversion of floors 12 through 30, and a portion of the lobby, of a thirty-story building, from hotel use to residential use (Use Group 6), located on a site split by C6-6 and C6-4.5 zoning districts, contrary to Z.R. §§23-47 and 54-31.

PREMISES AFFECTED - 866 Third Avenue, west side, between 52<sup>nd</sup> and 53<sup>rd</sup> Streets, Block 1307, Lot 1004, Borough of Manhattan.

**COMMUNITY BOARD #6M**

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

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 13, 2004.

---

**338-03-BZ**

**CEQR #04-BSA-070K**

APPLICANT - Eric Palatnik, P.C., for Michael Kohl, owner.

SUBJECT - Application October 31, 2003 - under Z.R. §72-21 to permit the legalization of commercial offices and a dental laboratory on the second floor of a two story building, located in an R5 zoning district, is contrary to Z.R. §22-11.

PREMISES AFFECTED - 726 Avenue "Z", south side, 203.56' east of Ocean Parkway, Block 7238, Lot 32, Borough of Brooklyn.

**COMMUNITY BOARD #13BK**

APPEARANCES -

For Applicant: Moshe Friedman.

**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, July 13, 2004.

---

**133-04-BZ**

**CEQR #04-BSA-145M**

APPLICANT - Jay A. Segal, Esq., for 866 3rd Next Generation Hotel, LLC, c/o The Witkoff Group, owner.

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 23, 2004, acting on DOB Application No. 103701353, reads:

"The proposed change of use from commercial to residential creates a new non-complying rear yard for the residential use in that the required (MIN) rear yard is 30'-0" as per section 23-47 ZR. Therefore it is also contrary to section 54-31(ZR)"; and

WHEREAS, a public hearing was held on this application on June 22, 2004 after due notice by publication in *The City Record*, and then to decision on July 13, 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,

---

# MINUTES

---

and Commissioners Miele, and Chin; and

WHEREAS, Community Board 6, Manhattan recommended approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to waive the applicable rear yard requirements triggered by an as of right conversion of floors 12 through 30, and a portion of the lobby, of a thirty-story building, from hotel use to residential use (Use Group 6), located on a site split by C6-6 and C6-4.5 zoning districts, contrary to Z.R. §§23-47 and 54-31; and

WHEREAS, the subject lot is located on Third Avenue between 52<sup>nd</sup> and 53<sup>rd</sup> Streets, is comprised of one tax lot with a total lot area of approximately 25,097 sq. ft., and is divided between two commercial zoning districts (C6-6 and C6-4.5); and

WHEREAS, the lot is currently occupied with an existing thirty-story building, covering the entire zoning lot and containing 431,113 sq. ft. of floor area, occupied by: (1) retail establishments on the ground floor, (2) an outpatient clinic operated by the Memorial Sloan Kettering Cancer Center, which occupies a portion of the 1<sup>st</sup> floor and floors 2 through 11 and (3) the Courtyard Marriot Hotel (the "Hotel") that currently has meeting rooms, a restaurant and bar on the 12<sup>th</sup> floor, 308 guest rooms on floors 13 through 30, and a lobby and service area on the first floor; and

WHEREAS, the proposed development contemplates the conversion of the Hotel portion of the existing building into approximately 200 residential apartments, including 87 studios, 94 one-bedroom units and 19 two-bedroom units; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in developing the subject lot in compliance with underlying district regulations: (1) the unique configuration of the Hotel's floors cannot earn a reasonable return from any commercial use; (2) the deep floor-plates on the building's upper floors allow for an unusually low number of guest rooms per floor and for this reason the Hotel is not financially productive as compared to other Hotels in the same market; and

WHEREAS, the applicant represents that a variance to modify the rear yard requirements for the interior portion of the lot from (30) thirty feet to (20) twenty feet would not alter the essential character of the neighborhood as the lack of a full 30 foot rear yard affects only the interior lot portion of the existing 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, 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 Board has conducted an environmental review of the proposed action and the Environmental

WHEREAS, the applicant submitted an architectural/financial analysis of eleven comparable hotel properties that demonstrates that standard hotel floor-plates (typically 50 by 80 feet) service a double-loaded corridor with rooms on both sides and typically generate rooms with an average of 353 square feet; and

WHEREAS, if the Hotel had sufficient floor plates to achieve this average efficiency of 353 square feet, it would have 570 rooms on floors 13-30, which is 263 rooms more than the current 307 rooms, and this difference produces the financial inefficiencies discussed above; 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 has submitted a feasibility study demonstrating that the return on equity on the Hotel is not reasonable, and that the high costs of converting the building to another conforming commercial use, such as office use, would also result in an unreasonable return on equity; and

WHEREAS, the proposed variance is required because, while the actual residential conversion is permitted as-of-right under the current zoning, compliance with residential rear yard requirements would entail demolition of a portion of the building, and the financial and logistical requirements of such a project would effectively eliminate the financial benefits of the conversion; 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 variance will not affect the character of the neighborhood since there would be no exterior alteration of the existing building, and the other uses in the building would not be changed; and

Assessment Statement and Supplemental Report, 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 vary the applicable rear yard requirements (from thirty feet to twenty) triggered by an as of right conversion of floors 12 through 30, and a portion of the lobby, of a thirty-story building, from hotel use to residential use (Use Group 6), located on a site split by C6-6 and C6-4.5 zoning districts, contrary to Z.R. §§23-47 and 54-31; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this

---

# MINUTES

---

application "Received March 16, 2004" -(9) sheets; and on further condition:

THAT substantial construction 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;

THAT should DOB determine that a 30 foot rear yard is required on the foyer level of the building, the Board has no objection to the waiver granted herein being made applicable to such level;

THAT all light and air requirements shall be as approved by DOB;

THAT DOB must ensure compliance 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 13, 2004.

---

## 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

## 221-03-BZ

APPLICANT - Martyn & Don Weston, for 253 West 28<sup>th</sup> 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 28<sup>th</sup> Street, north side, 105'-1" east of Eighth Avenue, Block 778, Lot 7, Borough of Manhattan.

### COMMUNITY BOARD #5M

#### APPEARANCES -

For Applicant: Don Weston.

For Opposition: Stuart Klein.

#### 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 September 21, 2004, at 1:30 P.M., for decision, hearing closed.

---

#### APPEARANCES -

For Applicant: Peter Hirshman, Den Lentrek and Robert Pauls.

For Opposition: Raymond Schaefer and George R. Broadhead.

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

---

## 183-03-BZ

APPLICANT - Agusta & Ross, for North Berry Capital Group, LLC, owner.

SUBJECT - Application June 3, 2003- under Z.R. §72-21 to permit the proposed forty-three unit multiple dwelling, with retail space on the ground floor, and underground accessory parking throughout for twenty-two vehicles, Use Groups 2 and 6, located in an M1-2 zoning district, which is contrary to Z.R. §42-10.

PREMISES AFFECTED - 118 Berry Street, 116 North Seventh Street, a/k/a 116/26 North Seventh Street and 118/20 Berry Street, northwest corner, Block 2326, Lots 18 and 19 (tentative Lot 18), Borough of Brooklyn.

### COMMUNITY BOARD #1BK

#### APPEARANCES -

For Applicant: Mitchell Ross, Karl Fischer and Simon Sattan.

For Opposition: Peter Gillespie.

**ACTION OF THE BOARD** - Laid over to August 17, 2004, at 1:30 P.M., for continued hearing.

---

## 231-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Isaac Douek Jacqueline Douek Maurice Douek, owners.

SUBJECT - Application July 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a six story building, with a mezzanine and cellar, to contain eighteen residential units, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 63 and 65 Columbia Street, southeast corner of Congress Street, Block 299, Lots 7 and 8, Borough of Brooklyn.

### COMMUNITY BOARD #6BK

#### APPEARANCES -

For Applicant: Janice Cahalane and Albert Marrigo.

#### 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 September 14, 2004, at 1:30 P.M., for decision, hearing closed.

---

# MINUTES

---

\_\_\_\_\_

## 258-03-BZ

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 -

For Applicant: Chris Wright.

**ACTION OF THE BOARD** - Laid over to August 17, 2004, at 1:30 P.M., for continued hearing.

\_\_\_\_\_

## 261-03-BZ

APPLICANT - Sheldon Lobel, P.C., for PLK Realty Corp., owner.

SUBJECT - Application August 18, 2003 - under Z.R. §72-21 to permit the legalization of an existing one story building, as an auto repair shop, Use Group 16, located in an R7-1 zoning district, which is contrary to Z.R. §23-00.

PREMISES AFFECTED - 1404/06 Stebbins Avenue, northeast corner of East 170<sup>th</sup> Street, Block 2965, Lot 36, Borough of The Bronx.

### COMMUNITY BOARD #3BX

APPEARANCES -

SUBJECT - Application November 19, 2003 - under Z.R. §72-21 to permit the proposed enlargement to an existing single family residence, Use Group 1, located in an R5 zoning district, which does not comply with the zoning requirements for lot coverage, also rear and side yards, is contrary to Z.R. §23-146 and §23-47.

PREMISES AFFECTED - 1651 52<sup>nd</sup> Street, north side, 334'-4 1/2" west of 17<sup>th</sup> Avenue, Block 5466, Lot 69, Borough of Brooklyn.

### COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Harold Weinberg.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 1:30 P.M., for postponed hearing.

\_\_\_\_\_

## 364-03-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Alprof Realty LLC/VFP Realty LLC, owners.

SUBJECT - Application November 24, 2003 - under Z.R. §72-21 to permit the proposed construction of an automotive car wash and Lubritorium, Use Group 2, located in a C2-2(R6) zoning district, which is contrary to Z.R. §32-00.

PREMISES AFFECTED - 34-11 Far Rockaway Boulevard, southeast corner of Sea Girt Boulevard, Block 15950, Lots 14 and 24, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Richard Lobel.

## 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 August 17, 2004, at 1:30 P.M., for decision, hearing closed.

\_\_\_\_\_

## 341-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Chelsea Ventura, LLC, owner.

SUBJECT - Application November 6, 2003 - under Z.R. §72-21 to permit the proposed construction of a new residential building, on a merged zoning lot with an existing multiple dwelling, which creates non-compliances with respect, floor area ratio, number of dwelling units, and rear yard equivalent, is contrary to Z.R. §23-145, §23-22 and §23-533.

PREMISES AFFECTED - 343 West 16<sup>th</sup> Street, between Eighth and Ninth Avenues, Block 740, Lot 12, Borough of Manhattan.

### COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Irving Minkin.

**ACTION OF THE BOARD** - Laid over to August 17, 2004, at 1:30 P.M., for continued hearing.

\_\_\_\_\_

## 358-03-BZ

APPLICANT - Harold Weinberg, P.E., for Rita Citronenbaum, owner.

For Applicant: Adam W. Rothkrug, Ala Profeter and Ferando Leal.

For Opposition: Marlen Waayer and Steve Cooper.

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

\_\_\_\_\_

## 365-03-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Avi Mansher, owner.

SUBJECT - Application November 25, 2004 - under Z.R. §72-21 to permit the construction of a two story, two family dwelling, Use Group 2, which does not provide the required side yard which is contrary to Z.R. §23-462.

PREMISES AFFECTED - 224-20 Prospect Court, a/k/a 225<sup>th</sup> Street, northwest corner, Block 13071, Lot 74, Borough of Queens.

### COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Adam Rothkrug.

For Opposition: Judy Charrington.

**ACTION OF THE BOARD** - Laid over to August 17, 2004, at 1:30 P.M., for continued hearing.

\_\_\_\_\_

---

# MINUTES

---

## 366-03-BZ

APPLICANT - Moshe M. Friedman, P.E., for Ahava Ve Ahaba Yeshiva Ketana, Inc., owner.

SUBJECT - Application November 25, 2003 - under Z.R. §72-21 to permit the proposed vertical enlargement to an existing school, Use Group 3, located in an R5 Ocean Parkway-Subdistrict, which does not comply with the zoning requirements for floor area, floor area ratio, open space, lot coverage, front yard, side yards, minimum side yard, loading, height and setback, which is contrary to Z.R. §113-51, §24-11, §113-545, §23-45, §113-543, §23-461, §113-55, §23-631 and §113-22(a).

PREMISES AFFECTED - 2001 East 7<sup>th</sup> Street, southeast corner of Avenue "S", Block 7089, Lot 77, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

#### APPEARANCES -

For Applicant: Josef Friedman

For Opposition: Michael Tosic.

#### 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 August 17, 2004, at 1:30 P.M., for decision, hearing closed.

---

PREMISES AFFECTED - 1288 East 19<sup>th</sup> 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: Richard Lobel.

For Opposition: Marc Esrig.

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

---

## 19-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Motiva Enterprises, LLC, owner.

SUBJECT - Application February 6, 2004 - under Z.R. §11-412 to permit the reestablishment of an expired variance previously granted under Cal. No. 423-54-BZ, for a gasoline service station in a C2-1 within an R-4 zoning district, also the legalization of the conversion of a portion of the gas station to an accessory retail convenience store, is contrary to Z.R. §22-10 and §32-10.

PREMISES AFFECTED - 1217 East 233<sup>rd</sup> Street, a/k/a 3923 Baychester Avenue, Block 4954, Lot 68, Borough of The Bronx.

### COMMUNITY BOARD #12BX

#### APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 1:30 P.M., for continued hearing.

---

## 39-04-BZ

APPLICANT - Eric Palatnik, P.C., for Mordechai Bistritzky, owner.

SUBJECT - Application February 13, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, Use

## 390-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Dobbins Street, LLC, owner.

SUBJECT - Application December 18, 2003 - under Z.R. §72-21 to permit the legalization of residential use on the second floor, of a two story mixed use building, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 95 Dobbins Street, between Norman and Messerole Avenues, Block 2616, Lot 18, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

#### APPEARANCES -

For Applicant: Harold Weinberg, Gregory Fic, David Weissman, Wolf Braler, Andy Aronson, Michael Zeh and Moshe Liberman.

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

---

## 391-03-BZ

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 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.

Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space and rear yard, is contrary to Z.R. §23-141, §23-461 and §23-47.

PREMISES AFFECTED - 1418 East 29<sup>th</sup> Street, between Avenue "N" and Kings Highway, Block 7682, Lot 57, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

#### APPEARANCES -

For Applicant: Moshe Friedman.

#### 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 August 10, 2004, at 1:30 P.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 7:00 P.M.

**SPECIAL CALENDAR**  
**WEDNESDAY MORNING, JULY 14, 2004**  
**10:00 A.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

---

---

# MINUTES

---

**140-04-A**

APPLICANT - Stuart A. Klein, Esq.

SUBJECT - Application March 25, 2004 - Appeal of Department of Buildings refusal to revoke approval and underlying permit for the subject premises which is occupied contrary to the existing Certificate of Occupancy and the Zoning Resolution.

BUSINESS ADDRESS of PREMISES OWNER - S.H.A.W.C HOUSING DEVELOPMENT FUND CORP. -39 BOWERY STREET, Borough of Manhattan

APPEARANCES -

For Applicant: Stuart A. Klein.

For Opposition: Eric Palatnik.

THE VOTE TO HAVE A CLOSED HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 10:00 A.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 31

July 29, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**SATISH BABBAR, *Vice-Chair***

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	544
<b>CALENDAR</b> of August 10, 2004	
Morning .....	545
Afternoon .....	546
<b>CALENDAR</b> of August 17, 2004	
Morning .....	547
Afternoon .....	548

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, July 20, 2004**

Morning Calendar .....549

**Affecting Calendar Numbers:**

16-99-BZ	1116 East 26 <sup>th</sup> Street, Brooklyn
125-92-BZ	3333 Hylan Boulevard, Staten Island
120-93-BZ	222-19 Linden Boulevard, Queens
95-97-BZ	69-47 Austin Street, Queens
7-00-BZ	90 Lafayette Street, Manhattan
114-02-BZ	2493 Richmond Road, Staten Island
263-03-A	1638 Eighth Avenue, Brooklyn
380-03-A	3 Essex Walk, Queens
13-04-A	520 Browns Boulevard, Queens
64-04-A	22 Hudson Walk, Queens
67-04-A	20 Queens Walk, Queens
130-04-A	181 Reid Avenue, Queens
131-04-A	217 West 20 <sup>th</sup> Street, Manhattan
186-04-A	252-18 Rockaway Boulevard, Queens

Afternoon Calendar.....553

**Affecting Calendar Numbers:**

229-03-BZ	303 Crystal Avenue, Staten Island
288-03-BZ	109-17 Horace Harding Expressway, Queens
302-03-BZ	1212 East 23 <sup>rd</sup> Street, Brooklyn
342-03-BZ	92/94 Greene Street, Manhattan
389-03-BZ	1959 East 24 <sup>th</sup> Street, Brooklyn
10-04-BZ	54-14 74 <sup>th</sup> Street, Queens
14-04-BZ	76-07 Roosevelt Avenue, Queens
24-04-BZ	1129 East 27 <sup>th</sup> Street, Brooklyn
169-04-BZ	103-16 Roosevelt Avenue, Queens
68-03-BZ	649 39 <sup>th</sup> Street, Brooklyn
139-03-BZ	247-54 90 <sup>th</sup> Avenue, Queens
199-03-BZ thru	
205-03-BZ	Classon Avenue, Emerson Place, Brooklyn
208-03-BZ	2555 Shell Road, Brooklyn
218-03-BZ	19-73 38 <sup>th</sup> Street, Queens
267-03-BZ	2/6 Berry Street, Brooklyn
273-03-BZ thru	
285-03-BZ	94 <sup>th</sup> Road, Queens
287-03-BZ	430 Keap Street, Brooklyn
306-03-BZ	192 Water Street,
81-03-BZ	857 East 169 <sup>th</sup> Street, The Bronx
360-03-BZ	736-46 Linden Boulevard, The Bronx
381-03-BZ	Fort Hamilton Parkway, Brooklyn
4-04-BZ	177 Norfolk Street, Brooklyn
16-04-BZ	186-05 120 <sup>th</sup> Road, Queens
125-04-BZ	247-39 Jamaica Avenue, Queens

---

# DOCKETS

---

New Case Filed Up to July 20, 2004

**247-04-BZ**

B.Q.

122-20 Merrick Boulevard,

north side, bounded by Merrick Boulevard, 125th Avenue, Merrill

---

# CALENDAR

---

Street and Baisley Boulevard, Block 12516, Lot 57, Borough of Queens. Alt.1#401863765. Proposed enlargement of the second floor of a self-storage facility, to be enlarged entirely within the existing envelope of the building, exceeds the allowable floor area, floor area ratio and rear yard equivalent, is contrary to Z.R.§33-122, §54-31 and §33-283.

**COMMUNITY BOARD #12BK**

---

**248-04-A** B.Q. 13 Courtney Lane, north side, 107.43' east of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens. Alt.1#401802279. Proposed enlargement of an existing one family dwelling, not fronting on a legal mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**249-04-BZ** B.BK. 205 Parkside Avenue, northwest corner of Parkside Court, between Ocean and Flatbush Avenues, Block 5026, Lot 302, Borough of Brooklyn. Alt.1#301220989. Proposed extension of the residential use from 14 to 46 apartments, the elimination of the commercial use on the first floor, and the erection of a second means of egress at the rear of the existing four story building, which does not comply with the zoning requirements for floor area ratio, open space ratio, open area along the side lot line and parking is contrary to Z.R. § 23-141, §54-31, §23-462 and §25-241.

**COMMUNITY BOARD #9BK**

---

**250-04-BZ** B.BK. 1220 East 27th Street, between Avenues "L" and "M", Block 7644, Lot 54, Borough of Brooklyn. Applic.#301741444. Proposed enlargement of an existing one family dwelling, which does not comply with the zoning requirements for side and rear yards, floor area and open space ratio, is contrary to Z.R. §23-461, §23-47 and §23-141.

**COMMUNITY BOARD #14BK**

---

**251-04-A** B.Q. 14 Thetford Lane, southeast corner of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens. Alt.1#401947248. Proposed alteration and extension to an existing one family dwelling, not fronting on a legally mapped street is contrary to Section 36, Article 3 of the General City Law, also the upgrading of the existing septic system that is in the bed of the service road which is contrary to the Department of Buildings' Policy.

---

**252-04-BZ** B.BK. 170 North 11th Street, south side, between Bedford and Driggs Avenues, Block 2298, Lot 9, Borough of Brooklyn. Applic.#301764990. Proposed residential conversion, and enlargement of a vacant industrial building, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #1BK**

---

**253-04-A** B.Q. 102-35 Williams Court, west of Ocean

Avenue, Block 14239, Lot 1184, Borough of Queens. N.B.#401872283. Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 fo the General City Law.

---

**254-04-A** B.Q. 102-29 Williams Court, west of Ocean Avenue, Block 14239, Lot 1186, Borough of Queens. N.B.#401872274. Proposed one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 fo the General City Law.

---

**255-04-BZ** B.BK. 1924 Homecrest Avenue, between Avenues "S and T", Borough of Brooklyn. Alt.1#301764160. 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).

**COMMUNITY BOARD #15BK**

---

**256-04-BZ** B.BK. 125 North Tenth Street, aka 61/63 Berry Street, southeast corner, between North 10th and 11th Streets, Block 2297, Lot 1, Borough of Brooklyn. N.B.#301783185. Proposed construction of a six-story residential building, consisting of 87 dwelling units, Use Group 2, and 55 parking spaces, located in an M1-2(R6m1-2) Special northside mixed use zoning district, is contrary to Z.R.§§42-00 and 43-00.

**COMMUNITY BOARD #1BK**

---

**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

---

**AUGUST 10, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, August 10, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## **SPECIAL ORDER CALENDAR**

### **371-29-BZ**

APPLICANT - Maduakolam Mish. Nnabuihe, for Getty Petroleum Corp., owner; Besan Trading Inc., lessee.

SUBJECT - Application January 9, 2004 - reopening for an amendment to the resolution for tire shop as an accessory use to the existing automotive service station.

PREMISES AFFECTED - 1210-1230 East 233rd Street, northwest corner of Grenada Place and Edson Avenue, Block 4934, Lot 66, Borough of The Bronx.

**COMMUNITY BOARD #13BX**

---

### **20-83-BZ**

APPLICANT - Sheldon Lobel, P.C., for Pierina Alongi, owner.

SUBJECT - Application January 15, 2004 - reopening for a waiver of Rules of Procedures and an extension of term for a commercial use in a residential district.

PREMISES AFFECTED - 265-07 Hillside Avenue, Hillside Avenue between 265th and 266th Streets, Block 8777, Lot 31, Borough of Queens.

**COMMUNITY BOARD #13**

---

### **62-99-BZ**

APPLICANT - Jay A. Segal, Esq., for Starlex LLC, owner; Blissworld LLC, lessee.

SUBJECT - Application April 16, 2004 - reopening for an amendment to allow the expansion of existing physical culture establishment.

PREMISES AFFECTED - 541 Lexington Avenue, east side of Lexington Avenue between East 49th Street and East 50th Streets, Block 1350, Lot 20, Borough of Manhattan.

**COMMUNITY BOARD #6**

---

### **4-00-BZ**

APPLICANT - Agusta & Ross, for 243 West 30th Realty, LLC, c/o New York Equity, LLC, owner; Anie Yang, Yhung Kang & Cong Yan d/b/a West Garden, Inc., lessees.

SUBJECT - Application October 21, 2003 - Reopening for an amendment for a previously approved physical culture establishment to extend into the cellar.

**AUGUST 10, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday*

PREMISES AFFECTED - 243 West 30th Street, north side of West 30th Street, 325' east of 8th Avenue, block 780, Lot 15, Borough of Manhattan.

**COMMUNITY BOARD #5M**

---

### **21-04-A**

APPLICANT - Zygmunt Staszewski, P.E., for Breezy Point Cop, Inc., owner; James O'Brien, lessee.

SUBJECT - Application February 9, 2004 - Proposed enlargement of an existing one family dwelling, located partially within the bed of a mapped street, and not fronting on a legally mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED - 634 Bayside Avenue, eastside, 267.40' south of Bayside Drive, Block 16350, Lot 300, Borough of Queens.

**COMMUNITY BOARD #14Q**

---

### **50-04-A thru 52-04-A**

APPLICANT - Joseph P. Morsellino, for Zankera, LLC, contract vendee.

SUBJECT - Application February 25, 2004 - Proposed three family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -

101-20 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 22, Borough of Queens. Applic.#401770570.

101-22 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 23, Borough of Queens. Applic.#401770589.

101-24 39th Avenue, south side, between 102nd and 103rd Streets, Block 1770, Lot 24, Borough of Queens.

**COMMUNITY BOARD #3Q**

---

*afternoon*, August 10, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

# CALENDAR

---

## ZONING CALENDAR

### 358-03-BZ

APPLICANT - Harold Weinberg, P.E., for Rita Citronenbaum, owner.

SUBJECT - Application November 19, 2003 - under Z.R. §72-21 to permit the proposed enlargement to an existing single family residence, Use Group 1, located in an R5 zoning district, which does not comply with the zoning requirements for lot coverage, also rear and side yards, is contrary to Z.R. §23-146 and §23-47.

PREMISES AFFECTED - 1651 52nd Street, north side, 334'-4 ½" west of 17th Avenue, Block 5466, Lot 69, Borough of Brooklyn.

### COMMUNITY BOARD #12

---

### 373-03-BZ

APPLICANT - The Agusta Group, for 3235 Hull LLC, owner.

SUBJECT - Application December 2, 2003 - under Z.R. §72-21 to permit the proposed off-site accessory parking lot, to be located in an R7-zoning district, which is contrary to Z.R. §25-52.

PREMISES AFFECTED - 293 East 207th Street, north side, 80' west of Perry Avenue, Block 3343, Lot 683, Borough of The Bronx.

### COMMUNITY BOARD #7BX

---

### 17-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Renee Kubie, owner.

SUBJECT - Application January 28, 2004 - under Z.R. §72-21 to permit the legalization of an enlargement in portions of the first and second floors, of a single family residence, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, side and front yards, also perimeter wall height, is contrary to Z.R. §23-141, §23-461A, §23-631B and §23-45.

PREMISES AFFECTED - 2323 Avenue "S", northwest corner of East 24th Street, Block 6829, Lot 42, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

---

### 42-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Emerich Goldstein and Zipora Goldstein, owners.

SUBJECT - Application February 23, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, located in an R5 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, side and front yards, also perimeter wall height, is contrary to Z.R. §23-141, §23-461A, §23-631B and §23-45.

### COMMUNITY BOARD #15BK

---

*Pasquale Pacifico, Executive Director*

residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, side and rear yards, is contrary to Z.R. §23-141, §23-461 and §23-47.

PREMISES AFFECTED - 1264 East 27th Street, between Avenues "L" and "M", Block 7644, Lot 71, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

---

### 142-04-BZ

APPLICANT - Rampulla Associates Architects, for Frank McErlean, owner.

SUBJECT - Application March 30, 2004 - under Z.R. §72-21 to permit the proposed single family detached residence, Use Group 1, located within the required front yard, which is contrary to Z.R. §23-45.

PREMISES AFFECTED - 516 Arbutus Avenue, north side, at the intersection of Shore Avenue and Trout Place, Block 6529, Lot 15, Borough of Staten Island.

### COMMUNITY BOARD #3

---

### 143-04-BZ

APPLICANT - Rampulla Associates Architects, for Charles Farina, owner.

SUBJECT - Application March 30, 2004 - under Z.R. §72-21 to permit the proposed in-ground pool, located within the required front yard, which is contrary to Z.R. §23-12.

PREMISES AFFECTED - 522 Arbutus Avenue, north side, at the intersection of Shore Avenue and Trout Place, Block 6529, Lot 10, Borough of Staten Island

### COMMUNITY BOARD #3

---

### 206-04-BZ

APPLICANT - Howard A. Zipser, Esq., for Sephardic Community Youth Center, Inc., owner.

SUBJECT - Application May 19, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing community facility, Use Group 4, located in an R5 within the Special Ocean Parkway zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, building's height and setback, also the rear yard, is contrary to Z.R. §23-141, §23-631, §113-55, §113-51 and §113-544.

## AUGUST 17, 2004, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, August 17, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

---

# CALENDAR

---

## SPECIAL ORDER CALENDAR

### 40-63-BZ

APPLICANT - Francis R. Angelino, Esq., for Park Hill Tenants Corp., owner; Majestic Car Park LLC, lessee.

SUBJECT - Application January 12, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which permitted transient parking in the unused and surplus spaces in an existing multiple dwelling accessory garage. PREMISES AFFECTED - 1199 Park Avenue, northeast corner of East 94th Street, Block 1525, Lot 1, Borough of Manhattan.

### COMMUNITY BOARD #8

---

### 67-91-BZ

APPLICANT - Davidoff & Malito, LLP by Howard S. Weiss, Esq., for HNF Realty LLC, owner; Cumberland Farms, Inc., lessee.

SUBJECT - Application March 16, 2004 and updated June 29, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired March 17, 2002 and for an amendment to allow the sale of convenience store items in place of accessory gasoline service station items.

PREMISES AFFECTED - 260-09 Nassau Boulevard, 54-47 to 54-67 Little Neck Parkway, northeast corner of the intersection with Little Neck Parkway, Block 8274, Lots 134, 135, Borough of Queens.

### COMMUNITY BOARD #11

---

### 383-03-A

APPLICANT - Zygmunt Staszewski, P.E., for Cammeby's Management Company, LLC, owner; Barry Pincus, lessee.

SUBJECT - Application December 9, 2003 - Proposed retention of the existing 10-story atrium and open access stair unenclosed, which is contrary to the "Old Code", Art.26-209(6.4.1.9)(2), as part of a "residential conversion" of an existing Commercial Class "E" building

SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit the construction of a new four-story mixed use building with residential, commercial, and community facility uses (Use Group 2, 3, and 6) in an C1-2/R3-2 zoning district, in which does not comply with Zoning Resolution §23-141(b), §23-22, §23-631(b), §23-45, §23-631(b)(4), §25-23, §25-231, §25-72 and §35-31.

PREMISES AFFECTED - 110-42 Merrick Boulevard, between 111<sup>th</sup> Avenue and 110<sup>th</sup> Road (Former Lots 65 and 67-76), Block 10200, Lot 71 (tent), Borough of Queens.

### COMMUNITY BOARD #12Q

---

### 28-04-BZ thru 35-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

to a residential J-2 occupancy.

PREMISES AFFECTED - 5 Beekman Street, southwest corner of Nassau Street, southeast corner of Theater Alley, Block 90, Lot 14, Borough of Manhattan.

### COMMUNITY BOARD #1

---

### 155-04-A

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative, Inc, owner; Richard & Dawn Hennessy, lessees.

SUBJECT - Application April 12, 2004 - Proposed enlargement of the first floor, and the addition of a new second floor, 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 - 4 Marion Walk, southwest corner of West End Avenue, Block 16350, Part of Lot 400, Borough of Queens.

### COMMUNITY BOARD #14

---

**AUGUST 17, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, August 17, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## ZONING CALENDAR

### 368-03-BZ

APPLICANT - Eric Palatnik, P.C., for The Greater Allen Cathedral of New York, owner., Allen AME Housing Corp., lessee.

SUBJECT - Application February 11, 2004 - under Z.R. §72-21 to permit within an R5 zoning district relief from the side yard requirement in connection with the erection of a 2,231 square foot 2-family home as part of an affordable housing project which is contrary to Z.R. section 23-461(b).

PREMISES AFFECTED -

427 Logan Street, east side of Logan Street between Pitkin and Glenmore Avenues, Block 4209, Lot 11, Borough of Brooklyn.

499 Logan Street, east side of Logan Street between Belmont and Pitkin Avenues, Block 4228, Lot 1, Borough of Brooklyn.

1109 Sutter Avenue, south side of Glenmore Avenue between Montauk and Atkins Avenues, Block 4039, Lot 36, Borough of Brooklyn.

842 Glenmore Avenue, Glenmore Avenue between Atkins and Montauk Avenues, Block 4007, Lot 15, Borough of Brooklyn.

---

# CALENDAR

---

860 Glenmore Avenue, south side of Glenmore Avenue between Montauk and Atkins Avenues, Block 4007, Lot 22, Borough of Brooklyn.

896 Glenmore Avenue, south side of Glenmore Avenue between Logan Street and Milford Street, Block 4208, Lot 22, Borough of Brooklyn.

910 Glenmore Avenue, south side of Glenmore Avenue between Logan Street and Fountain Avenue, Block 4209, Lot 12, Borough of Brooklyn.

247 Montauk Avenue, east side of Montauk Avenue between Belmont Avenue and Sutter Avenue, Block 4040, Lot 10, Borough of Brooklyn.

## COMMUNITY BOARD #5BK

---

### 128-04-BZ

APPLICANT - Marvin B. Mitzner, Fischbein Badillo Wagner Harding for Sam and Esther Minskoff Cultural Center, Park East Day School, Inc., owner.

SUBJECT - Application March 11, 2004- under Z.R. §72-21 to permit the enlargement of an existing school (Use Group 3) in an R8B zoning district, which is contrary to Z.R. §23-633, §24-11, §24-33 and §24-552.

PREMISES AFFECTED - 162-168 East 68<sup>th</sup> Street, southside of East 68<sup>th</sup> Street, 100 feet west of Third Avenue, Block 1402, Lots 41 & 42 (tent. 42), Borough of Manhattan.

## COMMUNITY BOARD #8M

---

### 158-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Albert Cohen, owner.

SUBJECT - Application April 15, 2004 - under Z.R. §72-21 to permit the proposed horizontal enlargement, to a detached one-family dwelling, Use Group 1, on a narrow lot with non-complying side yards, and also encroaches in the required rear yard, located in an R5 zoning district, which is contrary to Z.R. §23-48, §54-31 and §23-47.

PREMISES AFFECTED - 1035 Ocean Parkway, between

### REGULAR MEETING

**TUESDAY MORNING, JULY 20, 2004**

**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, May 18, 2004, were approved as printed in the Bulletin of May 27, 2004, Volume 89, Nos. 20-21.

---

## SPECIAL ORDER CALENDAR

### 16-99-BZ

APPLICANT - Eric Palatnik, P.C., for Milton Elbogen, owner.

SUBJECT - Application August 25, 2003- reopening for an extension of time to obtain a Certificate of Occupancy and for an amendment to the previous resolution to amend the interior layout

Avenues "T" and "K", Block 6527, Lot 76, Borough of Brooklyn.

## COMMUNITY BOARD #12BK

---

### 184-04-BZ

APPLICANT - Robert Piscioneri, R.A., for Morris Park Community Association, owner.

SUBJECT - Application May 3, 2004 - under Z.R. §72-21 to permit the proposed addition of a second floor, to be used as accessory offices, in conjunction with the community center on the first floor, located in an R4 zoning district, which does not comply with the zoning requirements for lot coverage, front, side and rear yards, is contrary to Z.R. §54-31, §24-11, §24-34 and §24-37. PREMISES AFFECTED - 1824 Bronxdale Avenue, east side, 251' north of Morris Park Avenue, Block 4123, Lot 42, Borough of The Bronx.

## COMMUNITY BOARD #11BX

---

*Pasquale Pacifico, Executive Director*

and slightly modify the bulk.

PREMISES AFFECTED - 1116 East 26th Street, between Avenue K and Avenue L, Block 7625, Lot 52, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Application reopened and amended.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

**THE RESOLUTION** -

WHEREAS, the applicant requests a waiver of the rules of practice and procedure and a re-opening to amend the resolution, to extend the time to obtain a Certificate of Occupancy, to amend the interior layout of the Premises and to modify the bulk of the existing building; and

---

# MINUTES

---

WHEREAS, a public hearing was held on this application on March 10, 2004 after due notice by publication in The City Record, with a continued hearing on May 11, 2004 and June 22, 2004, and then to July 20, 2004 for a decision; and

WHEREAS, the subject application seeks an extension of time to obtain a certificate of occupancy as well as to request minor changes to the previous Board approval; and

WHEREAS, on August 10, 1999, the Board granted a special permit for the subject premises (R2 zoning district) under Z.R. §73-622, permitting the enlargement of an existing one-family dwelling which created new non-compliances with regard to rear yard, floor area ratio and open space ratio; and

WHEREAS, on August 6, 2002, the Board reopened and amended the resolution adopted on August 10, 1999, granting an extension of time to obtain a new Certificate of Occupancy, expiring on August 10, 2001; and

WHEREAS, subsequently, during construction of the home, various changes to the previously approved plans were made, including: (1) an increase in the proposed floor area to 3,447.6 square feet (previously approved at: 3,173.36 square feet); (2) a proposed decrease in the open space to 2,414 square feet (previously approved at: 2,489 square feet); (3) a proposed decrease in the front yard to 17'8" (previously approved at: 17'10.5"); and (4) a proposed increase in the southerly side yard to 5'9.25" (previously approved at: 5'8"); and

WHEREAS, the applicant has also made these additional changes to the previously approved plans: (1) the vestibule at the first floor was slightly enlarged; (2) the open concrete deck at the rear of the home; (3) at the second floor, the two bedrooms were reconfigured as well as the bathroom; (4) at the attic level, there are now two bedrooms, whereas three were previously approved; (5)

THAT the Department of Buildings must ensure compliance 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 relief granted."(DOB Application #301141477)

Adopted by the Board of Standards and Appeals, June 20, 2004.

---

## 125-92-BZ

APPLICANT - Rampulla Associates Architects, for Nicholas Criscitelli, owner.

SUBJECT - Application April 7, 2004 - reopening for an amendment to the resolution - to eliminate the retail sales portion of the building and modify the number of persons to occupy the eating and drinking establishment.

PREMISES AFFECTED - 3333 Hylan Boulevard, north side Hylan Boulevard between Spratt Avenue and Hopkins Avenue, Block 4987, Lot 1, Borough of Staten Island.

## COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Phil Rampulla.

For Opposition: Carole Timko.

**ACTION OF THE BOARD** - Laid over to August 10, 2004,

also at the attic level there is now a balcony overlooking the master bedroom; and (6) also at the attic level, there is now a flat roof for a patio at the rear.

WHEREAS, the applicant states that when the final survey of the subject premises was completed, it was determined that a prior survey, relied upon by the architect when preparing the previously approved plans, contained minor dimensional errors due to the addition of stucco and the subtraction of aluminum siding, and these errors effect the size of the side yard.

Resolved, that the Board of Standards and Appeals reopens and amends the resolutions, pursuant to Z.R. §§72-01 and 72-22, said resolutions having been adopted on August 10, 1999 and August 6, 2002, so that as amended this portion of the resolution shall read: "to extend the time to obtain a Certificate of Occupancy and to reopen and amend the previous BSA resolution so as to amend the interior layout of the Premises and modify the bulk.; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "August 25, 2003" - (6) sheets and "June 8, 2004" - (1) sheet; and on further condition;

THAT a new Certificate of Occupancy shall be obtained within (12) twelve months from July 20, 2004;

THAT there shall be no habitable room in the cellar;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

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;

at 10 A.M., for continued hearing.

---

## 120-93-BZ

APPLICANT - Sheldon Lobel, P.C., for Harry McNulty, owner.  
SUBJECT - Application December 17, 2003 - reopening for an extension of term of variance which expired May 10, 2004 and for an amendment to allow the elimination of gasoline sales, permitting the sale of used automobiles and increase on site parking to 9 spaces  
PREMISES AFFECTED - 222-19 Linden Boulevard, northwest corner of Linden Boulevard and 223rd Street, Block 11323, Lot 1, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Sheldon Lobel, Councilmember Archie Spigner and 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 August 17, 2004, at 10 A.M., for decision, hearing closed.

---

# MINUTES

---

## 95-97-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Lavin Brothers Austin, LLC, owner; TSI Forest Hills, Inc., lessee.

SUBJECT - Application January 20, 2004 - reopening for an amendment to the resolution to permit the legalization of an expansion in floor area of a previously granted special permit to allow the operation of a physical culture establishment on the first floor.

PREMISES AFFECTED - 69-47 Austin Street, northwest corner of Austin Street and 70th Avenue, Block 3237, Lot 30, Borough of Queens.

### COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Fredrick A. Becker.

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 August 10, 2004, at 10 A.M., for decision, hearing closed.

---

## 7-00-BZ

APPLICANT - Friedman & Gotbaum LLP., by Shelly S. Friedman, Esq., for Trustees of the New York City Rescue Mission, owner.

PREMISES AFFECTED - 2493 Richmond Road, northwest side of Richmond Road, southwest of Odin Street, Block 947, Lot 1, Borough of Staten Island.

### COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Victor Han.

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 August 10, 2004, at 10 A.M., for decision, hearing closed.

---

## 263-03-A

APPLICANT - John W. Carroll, Wolfson & Carroll, for Ben Bobker, owner.

SUBJECT - Application August 20, 2003 - An administrative appeal challenging the Department of Buildings' final determination dated August 13, 2003, in which the Department refused to revoke the certificate of occupancy, on the basis that the applicant had satisfied all objections regarding said premises.

PREMISES AFFECTED - 1638 Eighth Avenue, west side, 110-5' east of Prospect Avenue, Block 1112, Lot 52, Borough of Brooklyn.

### COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: John W. Carroll.

SUBJECT - Application March 31, 2004 - reopening for an extension of time to complete construction for a non-profit homeless shelter for men (Use Group 4), located in an M1-5 zoning district. PREMISES AFFECTED - 90 Lafayette Street, a/k/a "The New York City Rescue Mission", northwest corner of Lafayette and White Streets, Block 195, Lot 21, Borough of Manhattan.

### COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: David Oalmer and Lori Cuisinier.

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 August 10, 2004, at 10 A.M., for decision, hearing closed.

---

## 114-02-BZ

APPLICANT - Land Planning and Engineering Consultants, P.C., for Gerardo Campitiello, owner.

SUBJECT - Application June 2, 2004 - reopening for an amendment to the resolution to amend the existing resolution to permit the maintenance of the existing building during the construction of the new cellar and one story professional building, which is to replace the existing building.

**ACTION OF THE BOARD** - Laid over to September 21, 2004, at 10 A.M., for postponed hearing.

---

## 380-03-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Marilyn & Sebastian Danese, lessees.

SUBJECT - Application December 4, 2003 - Proposed reconstruction and enlargement of an existing one family dwelling, situated within the bed of a mapped street, and does not front on a legally mapped street is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED - 3 Essex Walk, east side, 205.36' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

### 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 August 10, 2004, at 10 A.M., for decision, hearing closed.

---

## 13-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Howard & Phyllis Taphouse, owners.

---

# MINUTES

---

SUBJECT - Application January 13, 2004 - Proposed reconstruction and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 520 Browns Boulevard, west side of Beach 181<sup>st</sup> Street, and 396.29' south of Bayside Drive, Block 16340, Part of Lot 50, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Gary Lenhart.

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 August 10, 2004, at 10 A.M., for decision, hearing closed.

---

**64-04-A**

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Joseph Sammon, lessee.

SUBJECT - Application March 2, 2004 - Proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a private service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings' policy.

PREMISES AFFECTED - 20 Queens Walk, west side, 368.85' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Loretta Papa.

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 August 10, 2004, at 10 A.M., for decision, hearing closed.

---

**130-04-A**

APPLICANT - Gary Lenhart, for The Breezy Point Cooperative, owner; Joanne Butler, lessee.

SUBJECT - Application March 12, 2004 - Proposed alteration and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 181 Reid Avenue, west side, of Beach 201st Street, 129.55' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

SUBJECT - Application March 2, 2004 - Proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a private service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings' policy.

PREMISES AFFECTED - 22 Hudson Walk, west side, 132.76' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Loretta Papa.

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 August 10, 2004, at 10 A.M., for decision, hearing closed.

---

**67-04-A**

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; 20 Queens Walk, lessee.

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 August 10, 2004, at 10 A.M., for decision, hearing closed.

---

**131-04-A**

APPLICANT - New York City Department of Buildings.

OWNER OF RECORD - Douglas Ballinger.

SUBJECT - Application March 12, 2004 - Application pursuant to NYC Charter §§645(3)(e) and 666.6(a), to revoke Certificate of Occupancy No. 116501 on the basis that a lawfully non-conforming eating and drinking establishment (Use Group 6) in an R8 zoning district was discontinued for a period greater than two years and must therefore be occupied as a conforming residential use as per Z.R. §52-61.

PREMISES AFFECTED - 217 West 20th Street, between Seventh and Eighth Avenues, Block 770, Lot 30, Borough of Manhattan.

**COMMUNITY BOARD #4M**

APPEARANCES -

For Applicant: Jeff Long, Madelon Rosenfeld, Esq.; and Scott Mason.

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 August 10, 2004,

---

# MINUTES

---

at 10 A.M., for decision, hearing closed.

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director.*

**186-04-A**

APPLICANT - Eric Palatnik, Esq., for Aryeh Realty, LLC, owner.  
SUBJECT - Application May 4, 2004 - Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 252-18 Rockaway Boulevard, corner of Dock Street, Block 13921, Lot 73, Borough of Queens.

**COMMUNITY BOARD #13Q**

APPEARANCES -

For Applicant: Eric Palatnik.

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 August 10, 2004, at 10 A.M., for decision, hearing closed.

Adjourned: 11:30 A.M.

**REGULAR MEETING**

**TUESDAY AFTERNOON, JULY 20, 2004**

**2:00 P.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

FOR CORNER LOT FROM 10 FEET TO 5 FEET [IN] RESIDENTIAL ZONE R-2 FOR A 1 FAMILY RESIDENCE, USE GROUP 1 IS CONTRARY TO SECTION 23-45 OF THE NYC ZONING RESOLUTION, THEREFORE IS REFERRED BACK TO THE BOARD OF STANDARDS AND APPEALS FOR VARIANCE."; and

WHEREAS, a public hearing was held on this application on May 11, 2004 after due notice by publication in The City Record, with continued hearings on June 22, 2004 and then laid over 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, this is an application under Z.R. §72-21, to permit the proposed construction of a one-family dwelling (Use Group 1) located in an R2 zoning district, which does not comply with the zoning requirements for front yard, contrary to Z.R. §23-45; and

WHEREAS, the record indicates that the subject site is located on the southeast corner lot at the intersection of Watchogue Road and Crystal Avenue; and

WHEREAS, the subject zoning lot has a total lot area of 3055 square feet with a frontage of 25 feet along Crystal Avenue and 120 feet along Watchogue Road; and

WHEREAS, the subject application seeks to reduce the minimum required front yard from ten (10) feet to five (5) feet along Crystal Avenue; and

WHEREAS, the applicant represents that compliance with the required front yard regulations would result in a house with a 10 foot depth, which the applicant states is unmarketable; and

WHEREAS, therefore, the Board finds that strict compliance with the provisions of the Zoning Resolution would be impractical; and

WHEREAS, the aforementioned unique physical condition, namely the narrowness of the subject lot in conjunction with the yard

**ZONING CALENDAR**

**229-03-BZ**

APPLICANT - David L. Businelli, for PIC Legacy Realty, Inc., owner.

SUBJECT - Application July 3, 2003 - under Z.R. §72-21 to permit the proposed erection of a one family detached residence, Use Group 1, located in an R-2 zoning district, which does not comply with the zoning requirements for front yard is contrary to Z.R. §23-45.

PREMISES AFFECTED - 303 Crystal Avenue, southeast corner of Watchogue Road, Block 472, Lot 149, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

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 27, 2003 acting on Application No. 500602065 reads:

"THE REDUCTION OF FRONT YARD REQUIREMENT

---

# MINUTES

---

regulations, creates an unnecessary hardship and practical difficulty in developing the site in conformity with the applicable zoning provision concerning front yards; and

WHEREAS, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the record indicates that the use and bulk of the subject proposal are consistent with the surrounding residential uses; and

WHEREAS, the applicant states that there are several buildings within the 400-foot radius that have similar setbacks to the proposed 5'-0" front yard setback; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor

Resolved that the Board of Standards and Appeals issues a Type II Determination under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, to permit the proposed construction of a one-family dwelling (Use Group 1) located in an R2 zoning district, which does not comply with the zoning requirements for front yard, 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 6, 2004"-(6) sheets; and on further condition;

THAT substantial construction be completed and a Certificate of Occupancy be obtained in accordance with §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 20, 2004.

---

## 288-03-BZ

APPLICANT - H. Irving Sigman, for Aggressive Realty Corp., owner.

SUBJECT - Application August 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a three story vertical and horizontal enlargement to an existing two story hotel, Use Group 5, located in a C2-2 within an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, height and non-complying signs, is contrary to Z.R. §33-121, §33-341, §32-641-643, §32-652 and §32-655.

PREMISES AFFECTED - 109-17 Horace Harding Expressway,

impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under §72-21 of the Zoning Resolution; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

northeast corner of Saultell Avenue, Block 1969, Tentative Lot 2, 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 Caliendo, Commissioner Miele and

Commissioner Chin.....5  
Negative:.....0

## THE RESOLUTION

WHEREAS, the decision of the Borough Commissioner, dated August 5, 2003 acting on Application No. 401633684 reads in pertinent part:

"Obj. #2 The proposed five (5) story arrangement for the hotel in the C2-2 in R6 Zoning District exceeds the maximum four (4) story limit for the maximum height of a front wall or other portion of a building within the initial setback distance and is contrary to Sec. 33-341 [should read 33-431] ZR;"and

WHEREAS, a public hearing was held on this application on March 9, 2004 after due notice by publication in The City Record, with a continued hearing on April 27, 2004, May 25, 2004, June 15, 2003 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, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R6/C2-2 zoning district, the construction of a 3-story enlargement to an existing two-story, transient hotel, Use Group 5, which would not conform to the story height/front wall requirements of the underlying zoning district, contrary to Z.R. §33-431; and

WHEREAS, by letter dated May 24, 2004, the applicant withdrew that portion of the original application which sought a variance to allow for the nonconforming floor area ratio of the proposed construction, which was contrary to Z.R. §32-121; and

WHEREAS, by letter dated July 2, 2004, the applicant

---

# MINUTES

---

withdrew that portion of the original application which sought a variance for the construction of nonconforming signage; and

WHEREAS, the subject premises is occupied by an existing 19-foot high, two-story hotel with a total floor area of 6,730 square feet; and

WHEREAS, the subject site is bounded by Horace Harding Expressway, Sautell Avenue and Waldron Street and has a total lot area of 9,300 square feet; and

WHEREAS, the proposed development contemplates

WHEREAS, the Board finds that certain of the aforementioned unique physical conditions, specifically, the unique shape of the lot and the poor soil conditions, 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 an economic analysis demonstrating that developing the entire premises with a complying building would not yield the owner a reasonable return; and

WHEREAS, the owner is able to maximize return on investment by performing a vertical, rather than horizontal, extension of the existing structure because such extension allows for preservation of the existing foundation and retention of the parking facilities; 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, pursuant to Z.R. §33-431, the maximum height of a front wall in an R6 district is 60 feet or four stories, and though the proposed building is within the height requirements of the statute, the applicant still requires a waiver for one proposed floor in excess of the number permitted by statute; and

WHEREAS, the applicant represents that the existing parking lot will remain essentially unchanged and therefore not alter conditions affecting the neighboring properties; and

WHEREAS, the applicant has submitted photographic evidence, confirmed by physical inspection of the premises and surrounding neighborhood by a committee of the Board, which indicates that there are several buildings similar or taller in height along Horace Harding Expressway; 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

the construction of a five-story, fifty-one guest room transient hotel, with a complying floor area ratio of 2.0 and a total height of approximately 52 feet; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in constructing a complying building: (1) the triangular shape of the lot; (2) the current disposition of the existing hotel and parking lot on the site; and (3) poor soil conditions that require substantial foundation work and piling; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the applicant amended its application to eliminate waivers that were not warranted, as described above; 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 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, in a R6/C2-2 zoning district, the construction of a 3-story enlargement to an existing two-story, transient hotel, Use Group 5, which does not comply with the story/front-wall height requirements of the zoning district, contrary to Z.R. §33-431, 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 29, 2003" - (1) sheet, "Received May 25, 2004" - (4) sheets and "Received July 2, 2004" - (5) sheets; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT no cockloft shall be constructed in the enlarged building;

THAT the above conditions shall be on the certificate of occupancy;

THAT no floor area ratio waiver is being granted by the Board;

THAT all signage shall comply with underlying district regulations;

THAT substantial construction be completed in

---

# MINUTES

---

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 SUBJECT - Application September 22, 2003 - under Z.R. §73-622 to permit the proposed erection of a rear enlargement to an existing one family dwelling, also an extension of the residential use into the attic, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio and rear yard, is contrary to Z.R. §23-141, §23-47 and §54-31. PREMISES AFFECTED - 1212 East 23<sup>rd</sup> Street, west side, 100' south of Avenue "L", Block 7640, Lot 51, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

### APPEARANCES -

For Applicant: Harold Weinberg.

**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 Superintendent, dated August 29, 2003 acting on DOB Application No. 301567052 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 and 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 and 54-31 of the Zoning Resolution; and (3) increases the degree of non-compliance for the rear yard below 30' and is contrary to sections 23-47 and 54-31 of the Zoning Resolution."

WHEREAS, a public hearing was held on this application on March 2, 2004 after due notice by publication in The City Record, with continued hearings on April 20, 2004, May 25, 2004 and June 15, 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

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.

---

## 302-03-BZ

APPLICANT - Harold Weinberg, P.E., for Albert Gonter, owner.

WHEREAS, this is an application under Z.R. §73-622, to permit the proposed erection of a rear yard enlargement to an existing one family dwelling and an extension of the residential use into the attic (Use Group 1) on a lot located in an R2 zoning district, which creates and increases non-compliance with regard to floor area ratio, open space ratio and rear yard, contrary to Z.R. §23-141, §23-47 and §54-31; and

WHEREAS, the subject lot is located on the west side of East 23rd Street, 100' south of Avenue L, and is comprised of one tax lot with a total lot area of approximately 4000 sq. ft.; and

WHEREAS, the applicant states that the subject premises is a detached one family residence that is two stories in height with a cellar; and

WHEREAS, the subject premises falls entirely within the designated area of Community Board #14, Brooklyn; and

WHEREAS, the applicant states that the enlargement of the subject premises will not reduce the size of any non-complying side yards; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the perimeter wall height will comply with all applicable zoning regulations; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, 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.

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622 to permit the proposed erection of a rear yard enlargement to an existing one family dwelling and an extension of the residential use into the attic (Use Group 1) located in an R2 zoning district, which creates and increases non-compliance with regard to floor area ratio, open space ratio and rear yard, is contrary to Z.R. §23-141, §23-47 and §54-31, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application

---

# MINUTES

---

marked "Received July 15, 2004"- (11) sheets and "Received July 20, 2004"- (1) sheet; and on further condition;

THAT there shall be no habitable room in the cellar;

THAT no approval has been given by the Board as to the use and layout of a greenhouse; and any permitted obstructions should 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 Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted;

THAT substantial construction be completed and a new Certificate of Occupancy be obtained within four (4) years of this grant.

Adopted by the Board of Standards and Appeals, July 20, 2004.

## 342-03-BZ

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,

THAT the use and layout of the cellar, along with any permitted obstruction into a required yard, shall be as approved by the Department of Buildings;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

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

---

# MINUTES

---

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

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, 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

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 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,

---

# MINUTES

---

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) 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

THAT the Department of Buildings must ensure compliance 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.

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

---

## 389-03-BZ

APPLICANT - Harold Weinberg, P.E., for Miriam Katz, owner.  
SUBJECT - Application December 16, 2003 - under Z.R. §73-622 to permit the proposed erection of a two story rear 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

---

# MINUTES

---

ratio, open space, rear yard, lot coverage and side yards, is contrary to Z.R. §23-141, §23-461, §23-47 and §54-31.

PREMISES AFFECTED - 1959 East 24<sup>th</sup> Street, east side, 460'0" south of Avenue "S", Block 7303, Lot 64, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

### APPEARANCES -

For Applicant: Harold Weinberg.

**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 Department of Buildings, dated December 12, 2003, acting on Application No. 301652094, reads in pertinent part:

"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 is contrary to sections 23-141 & 54-31 of the Zoning Resolution.
2. Creates non-compliance with respect to the open space and is contrary to section 23-141 of the zoning resolution.
3. Creates non-compliance with respect to the rear yard of less than 30' and is contrary to section 23-47 ZR.
4. Creates non-compliance with respect to lot coverage and is contrary to section 23-141 of the Zoning Resolution.
5. Increases the degree of non-compliance with respect to side yards and is contrary to sections 23-461 & 54-31."

WHEREAS, a public hearing was held on this application on May 25, 2004 after due notice by publication in the City Record, with a continued hearing on June 15, 2004, and then to July 20, 2004 for a decision; and

WHEREAS, this is an application pursuant to Z.R. §73-622 to permit a two-story rear enlargement to an existing single-family dwelling located in an R3-2 Zoning District, which does not comply with floor area ratio, open space, rear and side yard, and lot coverage requirements and is therefore contrary to Z.R. §§23-141, 23-47, 23-461, and 54-31; and

WHEREAS, a site and neighborhood examination has been conducted at the premises and surrounding area by a committee of the Board; and

WHEREAS, the applicant states that the subject building is a

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT all parking facilities shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; no waiver is granted as to the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its

detached two-story, single-family dwelling with 1,833.2 square feet of floor area; and

WHEREAS, the applicant states that the proposed enlargement will increase the total floor area of the building to 2,873 square feet; and

WHEREAS, the subject premises fall entirely within the confines of Community Board 15 in the borough of Brooklyn; 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 perimeter wall height will comply with all applicable zoning regulations; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, Community Board 15, Manhattan, recommends approval of this application; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-622 and 73-03.

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 N.Y.C.R.R. Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings and grants a special permit under Z.R. §73-622 and §73-03, to permit a two-story rear enlargement to an existing single-family dwelling located in an R3-2 Zoning District which does not comply with floor area ratio, open space, rear and side yard, and lot coverage requirements and is therefore contrary to Z.R. §§23-141, 23-47, 23-461, and 54-31, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received December 16, 2003"-(3) sheets and "June 1, 2004" - (3) sheets; and on further condition;

THAT there shall be no habitable room in the cellar;

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.

---

## 10-04-BZ

APPLICANT - Paul Hasting Janofsky & Walker LLP, for AFP Holding Inc., owner; Aldona Fire Protection, Inc., lessee.

SUBJECT - Application January 12, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing building, located in

---

# MINUTES

---

an M1-1 zoning district, which does not comply with the zoning requirements for floor area ratio, rear yards, height of front wall and required setback, also accessory off-street parking, is contrary to Z.R. §43-12, §43-26, §43-43 and §43-20.

PREMISES AFFECTED - 54-14 74<sup>th</sup> Street, west of Grand Avenue, Block 2803, Lot 28, Borough of Queens.

**COMMUNITY BOARD #5Q**

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 December 31, 2003, acting on DOB Application No. 401723266, reads:

"(1) The proposed enlargement requires a modification of Section 43-12 of the Zoning Resolution (Maximum Floor Area Ratio) to permit a building which exceeds the maximum floor area ratio requirements applicable in M1-1 zoning districts.

(2) The proposed enlargement requires a modification of Section 43-26 of the Zoning Resolution (Minimum Required Rear Yards) to permit a building which does not comply with the minimum rear yard requirements applicable in M1-1 zoning districts.

(3)The proposed enlargement requires a modification of Section 43-43 of the Zoning Resolution (Maximum Height of Front Wall and Required Setbacks) to permit a building which does not comply with the height and setback requirements applicable in M1-1 zoning districts.

(4) The proposed enlargement requires a modification of Section 44-20 of the Zoning Resolution (Required Accessory Off-Street Parking for Spaces for Manufacturing, Commercial or Community Facility Uses) to permit a building which does not comply with the off-street parking requirements applicable in M1-1 zoning districts.

WHEREAS, the bt is currently improved with an existing two-story building containing 8,196 sq. ft. of floor area with the following legal uses: factory with off-street loading and unloading and parking for twelve (12) motor vehicles on the first floor; and accessory offices on the second floor; and

WHEREAS, the proposed variance contemplates an enlargement of the existing building to five (5) stories, with an overall zoning floor area of 14,218 sq. ft. (3.8 FAR), and a twelve (12) foot setback at the fifth floor; and

WHEREAS, the proposed variance also contemplates an attended parking garage on the first floor, with a total of twenty-one (21) accessory parking spaces, consisting of eight (8) automobile stackers that can accommodate two cars, and five (5) individual parking spaces; and

WHEREAS, within the subject zoning district, the Zoning Resolution limits a complying building to a 1.0 FAR, and twenty-eight (28) accessory parking spaces are required for the subject proposed building; and

The Applicant must obtain a variance from the Board of Standards and Appeals."; and

WHEREAS, a public hearing was held on this application on April 27, 2004 after due notice by publication in The City Record, with continued hearings on May 25, 2004 and June 22, 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, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M1-1 zoning district, the enlargement of an existing building that does not comply with the applicable district regulations governing floor area, rear yards, height, setback and required off-street parking, contrary to Z.R. §§43-12, 43-26, 44-20 and 43-43; and

WHEREAS, Queens Borough President Marshall recommended approval of this application on condition that the applicant agrees to: (1) making arrangements to provide more off-street parking if future development occurs in the area or if a deficit of parking ever becomes an issue for the neighborhood surrounding the site; and (2) using the site for manufacturing and office use as proposed and not solely for office space in the future; and

WHEREAS, Community Board 5, Queens, recommended denial of this application, and made the following allegations in support of the denial: (1) the proposed building would be out of character with the surrounding community, due to its height; (2) the lack of off-street parking could potentially create a negative impact on the surrounding community; and (3) the application requests more than the minimum relief necessary to relieve any hardship associated with site conditions; and

WHEREAS, the subject lot is an interior lot, with approximately 50 feet of frontage on the west side of 74th Street, between 57th Street and Grand Avenue in Elmhurst, Queens, and is comprised of one tax lot with a total area of approximately 3,762 sq. ft; and

WHEREAS, the original application sought a floor area increase to 15,025 sq. ft (3.99 FAR), and a waiver allowing the provision of fifteen (15) 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) the subject premises is an interior lot that, relative to virtually every other non-residential lot in the subject M1-1 zoning district, is uniquely small (3,762 sq. ft.) and uniquely shallow (74 ft.); (2) these physical conditions prevent construction of a building with the floor area necessary for economically feasible rentals to conforming commercial or industrial uses; (3) the subject premises is not an attractive candidate for retail use because it lacks the foot and automobile traffic, and mass transit presence, of a lot with frontage on Grand Avenue; (4) a complying storage and warehousing building that works economically on a side street would be too large to fit on the subject premises under the currently applicable zoning controls; and

---

# MINUTES

---

WHEREAS, the applicant submitted a comparison study of the site and 18 other non-residential, M-zoned properties within a 400 foot radius that demonstrates the extent to which the site is both unique and disadvantaged; specifically, this study showed that: (1) six of the eighteen properties are larger than 9,000 square feet (or about twice the size of the site); (2) eight of the eighteen properties contain between 7,000 square feet and 9,000 square feet; and (3) only four contain less than 7,000 square feet; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant has submitted an economic feasibility study demonstrating that developing the entire premises with a complying building would not yield the owner a reasonable return; and

WHEREAS, this study demonstrated that: (1) the existing building is too small to provide a reasonable return as the operating costs exceed the rent generating capacity; and (2) buildings with a 2.1 FAR or 3.0 FAR would produce insufficient returns because of an inability to take advantage of economies of scale in the costs of operating the building; and

WHEREAS, in response to Board concerns, the applicant has provided sufficient evidence showing that the lot would not generate a reasonable return for any conforming user in a complying building; 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

WHEREAS, in response to the Queens Borough President's concerns, the applicant: (1) commits to use its best efforts either to provide more off-street parking or to arrange for a reduction in demand by its employees for parking spaces immediately proximate to the site during regular business hours, if the demand for on-street parking within a 5 minute walk of the site exceeds the actual capacity for on-street parking; and (2) commits to using the proposed enlargement pursuant to the variance and approved plans, and understands that Board approval is required in the event the applicant uses the entire building for office use or alters the Board approved plans; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map and concludes that this action will not alter the essential character of the surrounding neighborhood nor 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 Board concerns, the applicant has modified the variance application in the following ways: (1) reducing the overall zoning floor area by 807 square feet; (2) providing a twelve foot setback on the fifth floor to vary the building's roofline and to reduce the impact of its bulk on 74th Street; (3) increasing the number of on-site parking spaces to twenty one; and

WHEREAS, therefore, the Board finds that the proposal is the

provide a reasonable return on investment; and

WHEREAS, the applicant represents that the proposed development will not affect the character of the neighborhood for the following reasons: (1) the proposed building is only ten feet taller than a building that could be developed on this site on an as-of-right basis; (2) the proposed building is located within a zoning district that has no height limit; (3) the proposed building is located across the street from a recently mapped contextual zoning district with a 50 foot height limit and the 58 foot height of the proposed building is not so different from what is permitted on other properties as to be "out of character" with the neighborhood or to create adverse impacts on the community; (4) neither the proposed building's floor area of 14,218 sq. ft. nor its 3,760 square foot footprint is large, given the context of the neighborhood; and

WHEREAS, in response to community concerns regarding the effect of the requested parking waiver, the applicant: (1) prepared a parking study demonstrating that peak parking demand generated by the proposed enlargement would be fifteen parking spaces (for the proposed user), and therefore on-street parking demand, assuming a twenty-one space on-site garage, would be non-existent; and (2) prepared an additional parking study and submitted photographs demonstrating that on-street parking availability remains consistently high in the immediate vicinity of the site regardless of the time of day or the day of the week; and

WHEREAS, the Board finds the applicant's parking studies credible and sufficient, and notes that the studies addressed parking impacts, both potential and existing, related to a nearby school and park; and

minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the applicant's environmental study 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, in an M1-1 zoning district, the enlargement of an existing building that does not comply with the applicable district regulations governing floor area, rear yards, height, setback and required off-street parking, contrary to Z.R. §§43-12, 43-26, 44-20 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 June 9, 2004" - (3) sheets, "Received June 22, 2004" - (2) sheets, and "Received July 7, 2004" - (1) sheet; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

---

# MINUTES

---

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT a minimum of 21 attended accessory parking spaces, to be used for employee parking only (no commercial vehicle parking), shall be provided on-site;

THAT any use of the subject premises exclusively for office use, or any change to the approved plans, requires the prior approval of the Board;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT substantial construction be completed in accordance with Z.R. §72-23;

THAT all applicable fire safety measures as shown on the approved plans 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; and

THAT the Department of Buildings must ensure compliance 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.

---

WHEREAS, this is an application under Z.R. §73-244, to permit, in an R6/C2-3 zoning district, the first floor of the subject premises to be converted from a Use Group 6 eating and drinking establishment to a Use Group 12 eating and drinking establishment with entertainment and dancing, which requires a special permit pursuant to Z.R. §§32-21; and

WHEREAS, Community Board 3, Queens, recommends approval of this application; and

WHEREAS, the premises and surrounding area has had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the applicant states that the subject premises is two stories in height with the first floor currently occupied by a cocktail lounge and the second floor currently occupied by offices; and

WHEREAS, the applicant states that proposed total floor area is 3,370 square feet, with a maximum occupancy of 98 persons; and

WHEREAS, the applicant states that there is no cooking on the premises; and

WHEREAS, the application contemplates the construction of a waiting area in the cellar providing a minimum of four square feet for each person admitted; and

WHEREAS, the applicant states that the entrance to the premises is on Roosevelt Avenue and is located within a commercial zone and more than 100 feet to the nearest residence district boundary, which is located on the northerly side of 37th Road; and

WHEREAS, the applicant represents that the site's proximity to

## 14-04-BZ

APPLICANT - Alfonso Duarte, for Angelo Mordini, owner; Punto Zero, lessee.

SUBJECT - Application January 13, 2004 - under Z.R. §73-244 to permit the proposed conversion of an existing restaurant (Use Group 6), to an eating and drinking establishment with entertainment(Use Group 12A), located in a C2-3 within an R6 zoning district, is contrary to Z.R. §32-31.

PREMISES AFFECTED - 76-07 Roosevelt Avenue, northeast corner of 76th Street, Block 1287, Lot 43, Borough of Queens.

### COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Alfonso Duarte.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5  
Negative:.....0

**THE RESOLUTION** -

WHEREAS, the decision of the Department of Buildings, dated December 16, 2003, acting on Application No. 401685495, reads in pertinent part:

"Proposed Use Group 12 Eating & Drinking Establishment with Entertainment & Dancing in C2-3/R6 is contrary to Sect. 32-21 Z.R."; and

WHEREAS, a public hearing was held on this application on June 8, 2004 after due notice by publication in the City Record, and then laid over to July 20, 2004 for a decision; and

public transportation and parking facilities, and the proposed hours of operation between 8:00 PM and 4:00 AM, will prevent the creation of undue vehicular or pedestrian congestion on local streets; and

WHEREAS, the applicant maintains that the proposed use will not impair the character or the future use or development of the surrounding residential and mixed use neighborhood because the subject premises is currently used as a Use Group 6 eating and drinking establishment and Roosevelt Avenue is primarily a commercial district; and

WHEREAS, the applicant states that the proposed use will not cause the sound level of any affected conforming residential use to exceed the limit set forth in any applicable provision of the New York City Noise Control Code because the walls have been constructed of masonry and brick with a thickness of 8" to 12", the inside walls are covered with sheetrock and insulation batts, and at least 6" of sound deafening has been installed in the rear wall and ceiling; and

WHEREAS, the applicant represents that the instant application has been made jointly by the owner of the building, who has authorized the filing of this application, and the operator of the proposed establishment; and

WHEREAS, therefore, the Board finds that the subject application meets the findings set forth at Z.R. §73-244; and

WHEREAS, the Board has reviewed the plans and notes that the proposed building will be sprinklered on the first floor and cellar

# MINUTES

and equipped with a fire alarm system connected to the central station, and that the applicant will comply with all required fire safety measure as shown on the approved plans; 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 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 §73-244, to permit, in an R6/C2-3 zoning district, the first floor of the subject premises to be converted

THAT substantial construction shall be completed in accordance with Z.R. §73-70;

THAT 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.

## 24-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Rachel Edelstein, owner.

SUBJECT - Application February 10, 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 §23-461(a).

PREMISES AFFECTED - 1129 East 27<sup>th</sup> Street, east side, 220' south of Avenue "K", Block 7627, Lot 33, Borough of Brooklyn.

COMMUNITY BOARD #14BK

from a Use Group 6 eating and drinking establishment to a Use Group 12 eating and drinking establishment with entertainment and dancing, which requires a special permit pursuant to Z.R. §§32-21, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received July 20, 2004"-(1) sheet; 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 completion;

THAT compliance with Local Law 58/87 shall be as approved by the Department of Buildings;

THAT all exiting requirements shall be as approved by the Department of Buildings;

THAT all occupancy loads shall be as approved by the Department of Buildings, but in no event shall occupancy shall exceed 98 persons in cellar and on first floor; up to 98 persons occupancy in cellar waiting area shall be non-simultaneous occupancy with first floor;

THAT the fire alarm and sprinkler system servicing the subject establishment shall be connected to the central station;

THAT all fire safety measures, as shown on the approved plans and as otherwise required by law, are complied with;

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 27, 2004, acting on Application No. 301693362 reads:

"Extension to existing single family dwelling is contrary to Z.R. §§ 23-141(a) Floor Area Ratio, 23-141(a) Open Space Ratio, 23-47 Rear Yards, and requires a Special Permit from the Board of Standards and Appeals as per §73-622;" and

WHEREAS, a public hearing was held on this application on April 27, 2004 after due notice by publication in The City Record, with continued hearings on June 15, 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, a special permit is sought under Z.R. §73-622 to permit the enlargement of an existing single family dwelling, Use Group 1, in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space, and rear yard contrary to Z.R. §§23-141(a) and 23-47; and

WHEREAS, Community Board 14, Brooklyn recommends approval of this application; and

WHEREAS, per the Board's request, the applicant has consulted with the Department of Buildings as to the proposed side yards and has obtained a reconsideration dated May 14, 2004,

---

# MINUTES

---

which accepts the 1'-6" difference in aggregate side yard widths and the existing line of the porch to establish the line of the house on the South side, as an existing non-compliance, and the North side wall as an existing non-compliance, thus allowing the side yards as proposed; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the perimeter wall height will comply with all applicable zoning regulations; and

WHEREAS, the applicant represents that the proposed enlargement will conform with the essential character of the neighborhood; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §73-622.

THAT the above conditions shall be noted 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 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, July 20, 2004.

---

## 169-04-BZ

APPLICANT - Paul Hastings Janofsky Walker, LLP, for R & M Co. LLC and Martin Zelman, LLC, owner.

SUBJECT - Application April 26, 2004 - under Z.R. §72-21 to permit the proposed re-development of a mixed use building, which does not comply with the zoning requirements for commercial floor area, commercial uses above the second floor, off-street parking and loading berths, is contrary to Z.R. §54-31, §33-121, §33-431, §36-21 and §36-62.

PREMISES AFFECTED - 103-16 Roosevelt Avenue, (103-12/24 Roosevelt Avenue; 103-19/31 41st Avenue), mid-block on a through lot between Roosevelt Avenue, 41st Avenue, National Street and 104th Street, Block 1975, Lot 9, Borough of Queens.

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622 to permit the enlargement of an existing single family dwelling, Use Group 1, in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, 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 objection above-noted, filed with this application marked `Received February 10, 2004' - (9) sheets and `Received June 1, 2004' - (1) sheet; and on further condition;

THAT no waiver is granted herein with regard to the side yards;

THAT there shall be no habitable room in the cellar;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

## COMMUNITY BOARD #4Q

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 2, 2004, acting on Department of Buildings Application No. 401858520, reads:

"BSA Approval required as per

1. 54-31: (a) the increase in the building's floor area and floor area ratio (Section 33-121); (b) the increase in commercial floor area on the third story and the expansion of the building envelope of a commercial building above elevation +30 (Section 33-431).

2. 53-31: (a) The lack of accessory parking for the floor area created in the enlargement (Section 36-21) and (b) the lack of accessory loading berth for the floor area subject to a use change and the floor area created in the enlargement (section 36-62)"; and

WHEREAS, a public hearing was held on this application on June 22, 2004 after due notice by publication in the City Record; and then to decision on July 20, 2004; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the Queens Borough President and Community Board 4 recommend approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, on a site previously before the Board, to permit, in an R6B/C1-2 zoning district, the proposed enlargement of an existing building for retail and commercial space, which does not comply with the zoning requirements for floor area, commercial uses above the second floor,

---

# MINUTES

---

accessory parking and accessory loading berth, contrary to Z.R. §§33-121, 33-431, 36-21 and 36-62; and

WHEREAS, the subject premises is a 21,000 square foot through lot with frontage along Roosevelt Avenue/Corona Plaza and 41st Avenue, and is located in a C1-2 local retail overlay within an R6B district; and

WHEREAS, the record indicates that the existing building was constructed in 1927, in compliance and conformance with the then applicable zoning regulations, and was used as a vaudeville theater with ground floor stores; and

WHEREAS, the existing building covers almost the entirety of the lot and contains 45,302 square feet of floor area; and

WHEREAS, the record indicates that the building was originally designed and used primarily as a single live theater, then as a single screen movie theater, and in the late 1970's was converted into two

WHEREAS, the applicant states that prior to the start of the modernization program for the subject premises, the 45,302 square feet of floor area in the building was distributed among its theater, retail and office uses in the following way: the first floor contained 20,685 square feet of floor area, of which 16,995 was theater space and the balance was retail or office space; the second floor contained 13,967 square feet of floor area, of which 8,729 square feet was used by the theater and 5,238 square feet was used as office space; and the third floor contained 10,650 square feet in floor area, of which 5,524 square feet was used by the theater and 5,126 square feet was used as offices; and

WHEREAS, the applicant now seeks to convert the first floor theater space to local retail uses, and to construct new retail and office floor area, virtually all of which will be enclosed within the volume of the theater's original stage space; and

WHEREAS, the instant proposal will increase the degree of non-compliance with regards to floor area ratio from the existing 2.16 to 2.69, increase the commercial floor area on the third story (located above 30 feet), which is contrary to Z.R. §§33-431, and create new non-compliances with applicable parking and loading berth regulations; 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 compliance with underlying district regulations: (1) it was designed to serve primarily as a theater for live performances, and is functionally obsolete by reason of both its use and its size; and (2) its layout and structure do not provide space which may be used for provision of the loading berth and accessory parking garage required by the Zoning Resolution in connection with modernization plans for the property; and

WHEREAS, the applicant represents that the provision of 38 new accessory parking spaces and one loading berth, as required for the proposed enlargement, would be impractical due to the above conditions; and

WHEREAS, 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 current zoning; and

WHEREAS, the applicant has submitted a feasibility study

separate theaters; and

WHEREAS, the applicant notes that a movie theater is a non-conforming use in a C1-2 zoning district and that the existing building is non-complying in regards to floor area, rear yard, height and setback; and

WHEREAS, in 1984, under Calendar No. 349-82-BZ, the Board granted a variance application to permit the legalization of garment manufacturing on the second and third stories in space that had previously contained offices and a Use Group 17 custom dressmaker (second floor) and cabaret (third floor); and

WHEREAS, the applicant states that it is unsure whether this variance was ever used, that there is no manufacturing use within the building at this time, and that the prior variance would be surrendered if the instant application were to be granted; and

demonstrating that developing the entire premises with a complying building would not yield the owner a reasonable return; 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 the area surrounding the site is mixed-use in character, containing commercial, residential, industrial and community facility uses; and

WHEREAS, the applicant represents that the new retail and office space to be located in the proposed building will respond to local market demands, and serve the local residents and commuters; and

WHEREAS, the applicant represents that deliveries to the retail uses on the site will be from 6:00 AM to 9:00 AM on weekday mornings, and will not affect either vehicular traffic or pedestrians; and

WHEREAS, the applicant submitted an on-street parking assessment surveying the parking resources and utilization, which found that sufficient parking capacity exists in the area surrounding the site; and

WHEREAS, the applicant further represents that due to the site's proximity to a subway station and the presence of other storefront local retail uses, most trips generated by the proposed uses would be either pedestrian or by mass transit; and

WHEREAS, the applicant has also demonstrated the impracticality of providing off-street parking within the subject premises; and

WHEREAS, the applicant has provided adequate evidence of the engineering and practical constraints related to placing a loading berth within the building, due to the building's existing structural system and location along Roosevelt Avenue/Corona Plaza; and

WHEREAS, the Board has reviewed this assessment and finds it credible and sufficient; 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

---

# MINUTES

---

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; 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 on a site previously before the Board, to permit, in an R6B/C1-2 zoning district, the proposed enlargement of an existing building for retail and commercial space, which does not comply with the zoning requirements for floor area, commercial uses above the second floor, accessory parking and accessory loading berth, contrary to Z.R. §§33-121, 33-431, 36-21 and 36-62; on condition that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received April 26, 2004" - (10) sheets; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT deliveries to the Walgreens and Pollo Compero establishments (or any successor lessees to the retail spaces within the building they currently occupy) shall only be from 6:00 AM to 9:00 AM on weekdays, and shall take place on 41st Street only, in the designated loading zone; THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT all applicable fire safety measures as shown on the approved plans shall be complied with;

THAT a loading/unloading zone for deliveries on 41st Avenue shall be approved and established by the Department of Transportation prior to the issuance of any final Certificate of Occupancy;

THAT a DOT approved sign be placed at the established loading zone, showing the hours of permitted loading/unloading;

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, July 20, 2004.

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.

## 68-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Torah M. Sinai, Inc., owner.

SUBJECT - Application February 11, 2003 - under Z.R. §72-21 to permit the proposed conversion of an existing building, which is located in an area designated as a manufacturing district, to be used for a day care center, Use Group 3, and office use, Use Group 6, without the required parking, and is contrary to Z.R. §42-00 and §44-21.

PREMISES AFFECTED - 649 39<sup>th</sup> Street, northwest corner of Seventh Avenue, Block 903, Lots 79, 80 and 83, Borough of Brooklyn.

## COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Janice Cahalane.

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 August 10, 2004, at 1:30 P.M., for decision, hearing closed.

## 139-03-BZ

APPLICANT - Alfonso Duarte, for Sanjoy Augustine, owner.

SUBJECT - Application April 29, 2003 - under Z.R. §72-21 to permit the proposed erection of a two family dwelling, Use Group 2A, located in an R3-A zoning district, which does not comply with the zoning requirements, for rear yard and floor area ratio, is contrary to Z.R. §23-47 and §23-141(b).

PREMISES AFFECTED - 247-54 90th Avenue, south side, 225.51' west of Commonwealth Boulevard, Block 8662, Lot 28, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Alfonso Duarte.

For Opposition: Felix Casimir.

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 August 10, 2004, at 1:30 P.M., for decision, hearing closed.

---

# MINUTES

---

---

## 199-03-BZ thru 205-03-BZ

APPLICANT - Stuart A. Klein, Esq., for Classon Holding Co., owner.

SUBJECT - Application June 17, 2003- under Z.R. §72-21 to permit the proposed seven story residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED -

81 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 116, Borough of Brooklyn.

85 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 115, Borough of Brooklyn.

89 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 114, Borough of Brooklyn.

## COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Stuart A. Klein.

**ACTION OF THE BOARD** - Laid over to September 21, 2004, at 1:30 P.M., for continued hearing.

---

## 208-03-BZ

APPLICANT - Law Offices of Stuart A. Klein for Shell Road, LLC, owner; Orion Caterers, Inc., lessee.

SUBJECT - Application June 19, 2003- under Z.R. §72-21 to permit the legalization of an expansion of an existing catering hall, Use Group 9, located in a split C1-2(overlay of R-4) and M1-1 zoning district, which does not comply with the zoning requirements for floor area ratio, rear yard, and parking, is contrary to Z.R. §33-121, §33-292, §36-21, §43-26 and §44-20.

PREMISES AFFECTED - 2555 Shell Road, east side, between Avenue "X" and Bouck Court, Block 7192, Lot 74, Borough of Brooklyn.

## COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Stuart Klein.

**ACTION OF THE BOARD** - Laid over to August 17, 2004, at 1:30 P.M., for continued hearing.

---

## 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 38<sup>th</sup> Street, corner of 20<sup>th</sup> Avenue, Steinway Street and 38<sup>th</sup> Street, Block 811, Lot 1,

148 Classon Avenue, between Myrtle and Park Avenues, Block 1895, proposed Lot 42, Borough of Brooklyn.

152 Classon Avenue, between Myrtle and Park Avenues, Block 1895, proposed Lot 46, Borough of Brooklyn.

156 Classon Avenue, between Myrtle and Park Avenues, Block 1895, proposed Lot 47, Borough of Brooklyn.

77 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 117, Borough of Brooklyn.

Borough of Queens.

## COMMUNITY BOARD #1Q

APPEARANCES -

for Applicant: Sandy Anagnostov.

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

---

## 267-03-BZ

APPLICANT - Stuart A. Klein, Esq., for North 14th Street Realty Associates, LLC, owner.

SUBJECT - Application August 21, 2003 - under Z.R. §72-21 to permit the proposed construction of three attached six and seven story buildings, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 2/6 Berry Street, 194/96 North 14th Street, south side, between Wythe Avenue to the west and Berry Street to the east, Block 2279, Lot 13, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 1:30 P.M., for deferred decision.

---

## 273-03-BZ thru 285-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED -

211-51 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 92, Borough of Queens.

211-49 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 93, Borough of Queens.

211-47 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 94, Borough of Queens.

211-45 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 95, Borough of

---

# MINUTES

---

Queens.

211-43 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 96, Borough of Queens.

211-41 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 97, Borough of Queens.

211-50 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 100, Borough of Queens.

211-48 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 101, Borough of Queens.

211-46 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 102, Borough of Queens.

211-44 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 103, Borough of Queens.

211-42 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 104, Borough of Queens.

## **COMMUNITY BOARD #13Q**

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to August 17, 2004, at 1:30 P.M., for continued hearing.

---

## **287-03-BZ**

APPLICANT - Stuart A. Klein, Esq., for First Step Realty, LLC, owner.

SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit the proposed construction of a six-story residential building, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 430 Keap Street, southeast corner of Hope Street, Block 2387, Lot 2, Borough of Brooklyn.

## **COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Stuart Klein.

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

---

## **306-03-BZ**

APPLICANT - Law Offices of Howard Goldman, LLC, for Kay Water Properties, LLC, owner.

SUBJECT - Application September 29, 2003 - under Z.R. §72-21 to permit the proposed conversion of a four story industrial building, located in an M1-2 zoning district, into a residential dwelling, also the addition of two floors, for a total of 18 loft-style dwelling units, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 192 Water Street, between Jay and Bridge Streets, Block 41, Lot 11, Borough of Brooklyn.

211-54 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 98, Borough of Queens.

211-52 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 99, Borough of Queens.

## **COMMUNITY BOARD #2BK**

APPEARANCES -

For Applicant: Emily Simons.

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

---

## **81-03-BZ**

APPLICANT - Timothy M. Rice, for Vinicio Ramirez, owner;  
SUBJECT - Application March 24, 2003 and updated December 15, 2003 - under Z.R. §32-30 to reestablish and amend an expired variance, for an auto repair (auto-body) shop, parking for more than five(5) vehicles, storage, and the legalization of a new one story structure on the same lot, which is contrary to a previous variance granted under Cal. No.843-46-BZ, Vol. II, and Z.R. §§22-00 and 32-00.

PREMISES AFFECTED - 857 East 169th Street, and 1351 Lyman Place, northwest corner, Block 2970, Lot 1, Borough of The Bronx.

## **COMMUNITY BOARD #3**

APPEARANCES -

For Opposition: Jimmy Cast.

**ACTION OF THE BOARD** - Laid over to August 10, 2004, at 1:30 P.M., for continued hearing.

---

## **360-03-BZ**

APPLICANT - Friedman & Gotbaum, LLP, by Lori G. Cuisinier, Esq., for Linden & Utica Realty Corp., owner; KFC U.S. Properties, Inc., lessee.

SUBJECT - Application November 20, 2003 - under Z.R. §§73-03 and 73-243 to permit the reestablishment of an expired special permit, previously granted under Calendar No. 257-87-BZ, which permitted a drive-through facility for an eating and drinking establishment in a C1-2(R5) zoning district.

PREMISES AFFECTED - 736-46 Linden Boulevard, southwest corner of Linden Boulevard, Block 4675, Lot 6, Borough of Brooklyn.

## **COMMUNITY BOARD #17BK**

APPEARANCES -

For Applicant: Lori Cuisinier.

**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 August 10, 2004, at 1:30 P.M., for decision, hearing closed.

---

# MINUTES

---

\_\_\_\_\_

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 Friedman.

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

\_\_\_\_\_

**4-04-BZ**

APPLICANT - Eric Palatnik, P.C., for Anna Donskoi, owner.

SUBJECT - Application January 6, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space, rear and side yards, perimeter wall height and lot coverage is contrary to Z.R. §23-141(a), §23-141, §23-45, §23-47, §23-61 and §23-631b.

PREMISES AFFECTED - 177 Norfolk Street, between Oriental and Shore Boulevards, Block 8757, Lot 27, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

\_\_\_\_\_

**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, at the subject premises, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 186-05 120<sup>th</sup> Road, southwest corner of Farmers Boulevard, Block 12458, Lot 421, Borough of Queens.

**COMMUNITY BOARD #12Q**

APPEARANCES -

For Applicant: Robert Gurdioss.

For Opposition: June A. Nurse, Roslyn Ray and Denise Lashley.

**ACTION OF THE BOARD** - Laid over to September 14,

**381-03-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Hamilton G.S. Realty, owner.

2004, at 1:30 P.M., for continued hearing.

\_\_\_\_\_

**125-04-BZ**

APPLICANT - Steven M. Sinacori/Stadtmauer Bailkin, for Everest Realty, LLC, owner.

SUBJECT - Application March 9, 2004 - under Z.R. §72-21 to permit the proposed two story expansion of an existing one story commercial building, for residential use, Use Groups 2 and 6, located in R4, C2-2 and R3A zoning districts, which does not comply with the zoning requirements for floor area, lot coverage, open space, number of dwelling units and height of building, is contrary to Z.R. §23-141, §35-31, §23-22 and §23-631.

PREMISES AFFECTED - 247-39 Jamaica Avenue, north side, between 91<sup>st</sup> Avenue and Commonwealth Boulevard, Block 8662, Lot 50, Borough of Queens.

**COMMUNITY BOARD #13Q**

APPEARANCES -

For Applicant: Steven Sinacori.

For Opposition: Felix Casimir, A.J. Ardezzzone, Jr., James A. Trent and others.

**ACTION OF THE BOARD** - Laid over to August 17, 2004, at 1:30 P.M., for continued hearing.

\_\_\_\_\_

*Pasquale Pacifico, Executive Director.*

Adjourned: 4:15 P.M.

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, Nos. 32-34

August 19, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN**, *Chair*

**SATISH BABBAR**, *Vice-Chair*

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....

**CALENDAR** of September 14, 2004

Morning .....

Afternoon .....

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, August 10, 2004**

Morning Calendar .....

**Affecting Calendar Numbers:**

173-92-BZ	220 East 86 <sup>th</sup> Street, Manhattan
290-02-BZ thru	114-01 thru 114-36 Taipei Court, Queens
95-97-BZ	69-47 Austin Street, Queens
176-99-BZ	45-17 Marathon Parkway, Queens
7-00-BZ	90 Lafayette Street, Manhattan
371-29-BZ	1210-1230 East 233 <sup>rd</sup> Street, Bronx
40-80-BZ	35-37 West 23 <sup>rd</sup> Street, Manhattan
705-81-BZ	1433/37 York Avenue, Manhattan
20-83-BZ	265-07 Hillside Avenue, Queens
283-90-BZ	1400 Clove Road, Staten Island
125-92-BZ	3333 Hylan Boulevard, Staten Island
62-99-BZ	541 Lexington Avenue, Manhattan
4-00-BZ	243 West 30 <sup>th</sup> Street, Manhattan
114-02-BZ	2493 Richmond Road, Staten Island
178-03-BZ	114-02 Van Wyck Expressway, Queens
380-03-A	3 Essex Walk, Queens
13-04-A	520 Browns Boulevard, Queens
64-04-A	22 Hudson Walk, Queens
66-04-A	976 Bayside, Queens
67-04-A	20 Queens Walk, Queens
130-04-A	181 Reid Avenue, Queens
186-04-A	252-18 Rockaway Boulevard, Queens
18-04-A	10 Irving Walk, Queens
21-04-A	634 Bayside Avenue, Queens
50-04-A thru	101-20/101-22/101-24 39 <sup>th</sup> Avenue, Queens
52-04-A	
131-04-A	217 West 20 <sup>th</sup> Street, Manhattan
148-04-A	133 Sterling Place, a/k/a 22 Seventh Avenue, Brooklyn

---

# CONTENTS

---

Afternoon Calendar .....	
<b><u>Affecting Calendar Numbers:</u></b>	
68-03-BZ	649 39 <sup>th</sup> Street, Brooklyn
81-03-BZ	857 East 169 <sup>th</sup> Street, and 1351 Lyman Place, Bronx
139-03-BZ	247-54 90 <sup>th</sup> Avenue, Queens
240-03-BZ	83-10 and 83-16 188 <sup>th</sup> Street, Queens
267-03-BZ	194/96 North 4 <sup>th</sup> Street, Brooklyn
305-03-BZ	2, 8, 10 Grand Avenue, Brooklyn
308-03-BZ	557/71 Grand Concourse, Bronx
360-03-BZ	736-46 Linden Boulevard, Brooklyn
39-04-BZ	1418 East 29 <sup>th</sup> Street, Brooklyn
147-02-BZ	201-06 Hillside Avenue, Queens
361-02-BZ	214 25 <sup>th</sup> Street, Brooklyn
102-03-BZ	291 Kent Avenue, 35/37 South Second Street and 29/33 South Third Street, Brooklyn
186-03-BZ	525 Union Avenue, Brooklyn
193-03-BZ	824/34 Kent Avenue, Brooklyn
194-03-BZ	739 East New York Avenue, Brooklyn
260-03-BZ	20 Grand Avenue, Brooklyn
343-03-BZ	90 Havemeyer Street, Brooklyn
358-03-BZ	1651 52 <sup>nd</sup> Street, Brooklyn
373-03-BZ	293 East 207 <sup>th</sup> Street, Bronx
9-04-BZ	114 Walworth Street, Brooklyn
17-04-BZ	2323 Avenue "S", Brooklyn
19-04-BZ	1217 East 233 <sup>rd</sup> Street, a/k/a 3923 Baychester Avenue, Bronx
38-04-BZ	70-15 164 <sup>th</sup> Street, Queens
40-04-BZ	2252 Linden Boulevard, Brooklyn
42-04-BZ	1264 East 27 <sup>th</sup> Street, Brooklyn
134-04-BZ	184 Kent Avenue, Brooklyn
142-04-BZ	516 Arbutus Avenue, Staten Island
143-04-BZ	522 Arbutus Avenue, Staten Island
206-04-BZ	1901 Ocean Parkway, Brooklyn

---

# DOCKETS

---

New Case Filed Up to August 10, 2004

---

**257-04-BZ** B.BK. 252/60 Atlantic Avenue (a/k/a 83/87 Boerum Place; 239/47 Pacific Street), east side of Boerum Place, between Atlantic Avenue and Pacific Street, Block 181, Lot 1, Borough of Brooklyn. N.B. #301763143. Proposed construction of an eight story mixed-use, retail-residential building, located in R6A, R6, C2-4 and C2-3 zoning districts which does not comply with the zoning requirements for floor area ratio, lot coverage, building height and loading berth, is contrary to Z.R. §23-145, §33-121, §23-633, §35-25 and §36-22.

**COMMUNITY BOARD #2BK**

---

**258-04-BZ** B.BK. 1837 and 1839 East 24<sup>th</sup> Street, south of Avenue "R", Block 6830, Lots 70 and 71 (tentative Lot 71), Borough of Brooklyn. Alt.1 #301786119. Proposed enlargement of a single family residence, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage and rear yard, is contrary to Z.R. §23-141(b) and §23-47.

**COMMUNITY BOARD #15BK**

---

**259-04-BZ** B.BK. 1181 East 22<sup>nd</sup> Street, between Avenues "K" and "L", Block 7622, Lot 40, Borough of Brooklyn. Applic. #301743754. Proposed enlargement of a single family residence in an R-2 zoning district, which does not comply with the zoning requirements for floor area, open space, side and rear yards, is contrary to Z.R. §23-461 and §23-47.

**COMMUNITY BOARD #14BK**

---

**260-04-BZ** B.BK. 222 Wallabout Street, 64' west of Lee Avenue, Block 2263, Lot 44, Borough of Brooklyn. N.B. #301759390. Proposed construction of a four story, penthouse and cellar three-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #1BK**

---

**261-04-BZ** B.BK. 2824 Avenue "R", southwest corner of East 29<sup>th</sup> Street, Block 6834, Lot 7, Borough of Brooklyn. Applic. #301778752. Proposed enlargement of an existing one family dwelling, Use Group 1, located in R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space and lot coverage, is contrary to Z.R. §23-141(b).

**COMMUNITY BOARD #15BK**

---

**262-04-BZ** B.BK. 218 Wallabout Street, 94' west of Lee Avenue, Block 2263, Lot 43, Borough of Brooklyn. Applic. #301247880. Proposed construction of a four story, penthouse and cellar four-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #1BK**

---

**263-04-BZ** B.BK. 150 Girard Street, between Hampton Avenue and Oriental Boulevard, 360' south of Hampton Avenue, Block 8749, Lot 262, Borough of Brooklyn. Alt.1 #301759194. Proposed enlargement of a single family residence in an R3-1 zoning district, which exceeds the allowable floor area, causes an increase in lot coverage, has a non-complying rear yard, and a perimeter wall that exceeds the maximum permitted, is contrary to §23-141, §23-631, and §23-47.

**COMMUNITY BOARD #15BK**

---

**264-04-BZ** B.S.I. 977 Victory Boulevard, northeast corner of Cheshire Place, Block 240, 26, Borough of Staten Island. Apic. #500709245. The legalization of the change in use from motor vehicle repair shop and gasoline service station, Use Group 16, to retail use, Use Group 6, also proposed alterations to the site to effectuate the desired change in use, requires a special permit from the Board as per Z.R. §§11-412 and 11-413.

**COMMUNITY BOARD #1SI**

---

**265-04-BZ** B.M. 19 East 57<sup>th</sup> Street, north side, 49' west of the intersection of 57<sup>th</sup> Street and Madison Avenue, Block 1293, Lot 14, Borough of Manhattan. Applic. #103775149. The legalization of an existing physical culture establishment, located on the third floor of a twenty-two story building, situated in a C5-3 Special Midtown District, requires a special permit from the Board as per Z.R. §73-36.

**COMMUNITY BOARD #5M**

---

**266-04-BZ** B.BK. 96 Boerum Place, southwest corner of Pacific Street, Block 279, Lot 37, Borough of Brooklyn. Applic. #301539761. Proposed physical culture establishment, to be located on the first and second floors, of a two story commercial building, situated in C2-3 zoning district, requires a special permit as per Z.R. §73-36.

**COMMUNITY BOARD #2BK**

---

---

# DOCKETS

---

**267-04-BZ** B.BK. 362/64 Coney Island Avenue, northwest corner of Kermit Place, Block 5322, Lot 73, Borough of Brooklyn. N.B. #301675211. Proposed thirty-two unit multiple dwelling, Use Group 2, located in a C8-2 zoning district, is contrary to Z.R. §32-00.

**COMMUNITY BOARD #7BK**

---

**268-04-BZ** B.BK. 1246 East 22<sup>nd</sup> Street, between Avenues "K" and "L", Block 7621, Lot 78, Borough of Brooklyn. Alt.1 #301784790. Proposed enlargement of a single family residence in an R-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio and side and rear yards, is contrary to Z.R. §23-461, §23-141 and §23-47.

**COMMUNITY BOARD#14BK**

---

**269-04-BZ** B.BK. 37 Bridge Street, between Water and Plymouth Streets, Block 32, Lot 4, Borough of Brooklyn. Alt.#301783176. Proposed conversion of a partially vacant, functionally obsolete seven story plus basement building, located in an M1-2/M3-1 district, into a residential dwelling, which will contain sixty loft style units, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #2BK**

---

**270-04-BZ** B.BK. 1239 East 22nd Street, east side, between Avenues "K" and "L", Block 7622, Lot 15, Borough of Brooklyn. Alt.1#301785085. Proposed enlargement of an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does comply with the zoning requirements for floor area ratio, open space ratio, also side and rear yards, is contrary to Z.R. §23-141, §23-461 and §23-47.

**COMMUNITY BOARD #14BK**

---

**271-04-A** B.M. One Pier 63, at 23rd Street and The Hudson River, (The Barge), Block 662, Lot 2, Borough of Manhattan. An appeal challenging the Department of Buildings jurisdiction to issue summons to subject property, on the grounds that the NYC Department of Business Services has exclusive jurisdiction over The "Barge".

**272-04-BZ** B.Q. 14-38/40 31st Drive, East side, between 14th and 21st Streets, Block 531, Lots 50 and 51, Borough of Queens. Applic.#401688214. Proposed five story, twenty- unit multiple dwelling, Use Group 2, located in an R-5 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, density, side and front yards, height and/or setback and parking spaces, is contrary to Z.R. §23-141, §23-22, §23-45a, §23-461(a and b), §23-462, §23-631d and §25-23.

**COMMUNITY BOARD #1Q**

---

**273-04-A** B.M. 128/32 East 78th Street and 121/23 East 77th Street, between (but not abutting) Park and Lexington Avenues, Block 1412, Lot 58, Borough of Manhattan. Applic.#103256183. An appeal challenging the Department of Buildings' decision dated August 3, 2004, in which the Department refused to revoke approvals and permits for subjects premises.

---

**DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.**

---

# CALENDAR

---

**SEPTEMBER 14 , 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, September 14, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## SPECIAL ORDER CALENDAR

### **67-79-BZ**

APPLICANT - Sheldon Lobel, P.C., for 80 Varick Street Group L.P., owner.

SUBJECT - Application February 9, 2004 - reopening for an amendment to the resolution to permit residential use on the second and third floors of the premises.

PREMISES AFFECTED - 80 Varick Street, 4 Grand Street, northeast corner, Block 477, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #2M**

---

### **68-04-A**

APPLICANT - Steven Barshov/Sive, Paget & Riesel, for Lawrence M. Garten, owner.

SUBJECT - Application March 2, 2004 - Proposed erection of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 96 Driggs Street, Block 5275, Tentative Lot 10, Borough of Staten Island.

**COMMUNITY BOARD #3**

---

### **69-04-A**

APPLICANT - Steven Barshov/Sive, Paget & Riesel, for Lawrence M. Garten, owner.

SUBJECT - Application March 2, 2004 - Proposed erection of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 23 Lillian Place, Block 5275, Tentative Lot 11, Borough of Staten Island.

**COMMUNITY BOARD #3**

---

### **149-04-A**

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; John & Mary Mathis, owners.

### **248-04-A**

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Michael & Jessica Ball, owners.

SUBJECT - Application July 13, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legal mapped street,

SUBJECT - Application April 6, 2004 - Proposed alteration and enlargement of an existing one family dwelling and upgrade private disposal system not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 14 Gotham Walk, west side, 167.23' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14**

---

### **171-04-A**

APPLICANT - Zygmunt Staszewski, for Breezy Point Cooperative, Inc, owner; William Schlageter, lessee.

SUBJECT - Application April 26, 2004 - Proposed alteration upgrade of private disposal system of an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 42 Olive Walk, west side, 99.25' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14**

---

### **243-04-A**

APPLICANT - Sion Misrahi, for Sion Misrahi, President, owner.

SUBJECT - Application June 30, 2004 - An appeal challenging the Department of Buildings' decision dated June 7, 2004, in which the department refused to issue a vacate order regarding subject premises, to facilitate needed repairs without endangering the occupants thereof.

PREMISES AFFECTED - 11 Essex Street, between Canal and Hester Streets, Block 297, Lot 24, Borough of Manhattan.

**COMMUNITY BOARD #3**

---

### **244-04-A**

APPLICANT - Sheldon Lobel, P.C., for Mr. Alfonso Angelisi, owner.

SUBJECT - Application June 30, 2004 - Proposed two family dwelling, located partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 44 Pennyfield Avenue, northwest corner of Alan Place, Block 5529, Lots 417 and 418, Borough of The Bronx.

**COMMUNITY BOARD #10BX**

---

is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 13 Courtney Lane, north side, 107.43' east of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14**

---

# CALENDAR

---

---

## **251-04-A**

APPLICANT - Zygmunt Staszewski for Breezy Point Cooperative, Inc., owner; Gary Wilson, lessee.

SUBJECT - Application July 15, 2004 - Proposed alteration and extension to an existing one family dwelling, not fronting on a legally mapped street is contrary to Section 36, Article 3 of the General City Law, also the upgrading of the existing septic system that is in the bed of the service road which is contrary to the Department of Buildings' Policy.

PREMISES AFFECTED - 14 Thetford Lane, southeast corner of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14**

---

## **162-04-BZ**

APPLICANT - Agusta & Ross, for Ronald Nizza, owner.

SUBJECT - Application April 21, 2004 - under Z.R. §11-411 to permit the proposed reestablishment of an expired variance, previously granted under Cal.#147-52-BZ, which permitted a factory (specialty woodworking for custom forms and molds), in an R-4 zoning district.

PREMISES AFFECTED - 90-06 Pitkin Avenue, southwest corner of Linden Boulevard, Block 11401, Lot 1, Borough of Queens.

**COMMUNITY BOARD #10**

---

*Pasquale Pacifico, Executive Director*

---

## **136-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Exxon Mobil Oil Corporation, owner.

SUBJECT - Application March 22, 2004 - under Z.R. §73-21 to permit the proposed redevelopment of gasoline service station, with an accessory convenience store, located in an C2-3 within an R-5 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 3132 Fort Hamilton Parkway, between McDonald Avenue and East Second Street, Block 5315, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #12**

---

## **139-04-BZ**

APPLICANT - Eric Palatnik, P.C., for Miriam Brecher, owner.

SUBJECT - Application March 24, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, located within an R2 zoning district, which does not comply with the zoning requirement for allowable floor area, open space and rear yard, is contrary to Z.R. §23-141 and §23-47.

PREMISES AFFECTED - 1259 East 28th Street, between Avenues "M" and "L", Block 7646, Lot 21, Borough of Brooklyn.

**COMMUNITY BOARD #14**

### **REGULAR MEETING**

**TUESDAY MORNING, AUGUST 10, 2004**

**10:00 A.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, May 25, 2004, were approved as printed in the Bulletin of June 3, 2004, Volume 89, No. 23.

### **SPECIAL ORDER CALENDAR**

---

## **173-92-BZ**

APPLICANT - Law Offices of Howard Goldman LLC, for Bremen House, Inc., owner.

SUBJECT - Application February 20, 2004 - reopening for an extension of term of special permit granted pursuant to Z.R. §73-36 that permitted a physical culture establishment on the second floor of a building, located in a C2-8 zoning district.

# MINUTES

PREMISES AFFECTED - 220 East 86<sup>th</sup> Street, between 2nd and 3rd Avenues, Block 1531, Lot 38, Borough of Manhattan.

## COMMUNITY BOARD #8M

APPEARANCES - None.

**ACTION OF THE BOARD** - Application reopened, and term of special permit extended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on July 13, 2004 after due notice by publication in *The City Record*, and laid over to August 10, 2004 for decision; and

WHEREAS, the applicant requests a reopening and an extension of the term of the special permit, which expired on January 25, 2004; and

WHEREAS, on July 12, 1977, under Calendar Nos. 88-77-BZ, 89-77-BZ and 90-77-BZ the Board granted three (3) separate applications under Z.R. §2-21 to permit the enlargement in area of the first floor of one building on a site comprising two (2) zoning lots; and

WHEREAS, all of the above-referenced lots were subsequently declared to be one zoning lot; and

WHEREAS, the resolutions were superceded on December 8, 1992 under Calendar No. 88-77-BZ to legalize, among other things, the removal of two (2) small partitions and erection of several non-bearing partitions on condition that the owner obtain a special permit to legalize the use of the second floor as a physical culture establishment; and

WHEREAS, on January 25 1994, under Calendar No. 173-92-BZ the Board granted a special permit pursuant to Z.R. §73-36 to establish in a C2-8A and R8B district, the legalization of a physical culture establishment for martial arts (Use Group 9) on the second floor of a four (4) story and cellar mixed-use building located within the C2-8A zoned portion of the site.

*Resolved*, that the Board of Standards and Appeals, *reopens and amends* the resolution, said resolution having been adopted on January 25, 1994, so that, as amended, this portion of the resolution shall read: "to permit the

114-07 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 128, Borough of Queens.

114-09 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 129, Borough of Queens.

114-11 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 130, Borough of Queens.

114-13 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 131, Borough of Queens.

114-15 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 132, Borough of Queens.

114-21 Taipei Court, north side, 501' west of 115<sup>th</sup> Street, Block 4019, Lot 133, Borough of Queens.

114-23 Taipei Court, north side, 491' west of 115<sup>th</sup> Street, Block 4019, Lot 134, Borough of Queens.

extension of the term of the special permit for an additional ten (10) years from January 25, 2004, expiring on January 25, 2014; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received July 27, 2004"-(2) sheets; and *on further condition*;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT the hours and days of operation of the facility are Monday through Friday from 10:00 a.m. until 9:00 p.m.; and Saturday and Sunday from 9:00 a.m. until 5:00 p.m.;

THAT all signage shall comply with the underlying zoning district regulations;

THAT the above conditions and all conditions from prior resolutions shall appear on the certificate of occupancy;

THAT all signs shall comply with the underlying district regulations;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB Application # 100488116)

Adopted by the Board of Standards and Appeals, August 10, 2004.

## 290-02-BZ thru 314-02-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Edgewater Development, Inc.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED -

114-01 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 125, Borough of Queens.

114-03 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 126, Borough of Queens.

114-05 Taipei Court, west side, 576' west of 115<sup>th</sup> Street, Block 4019, Lot 127, Borough of Queens.

114-25 Taipei Court, north side, 471' west of 115<sup>th</sup> Street, Block 4019, Lot 135, Borough of Queens.

114-27 Taipei Court, north side, 451' west of 115<sup>th</sup> Street, Block 4019, Lot 136, Borough of Queens.

114-29 Taipei Court, north side, 421' west of 115<sup>th</sup> Street, Block 4019, Lot 137, Borough of Queens.

114-31 Taipei Court, north side, 411' west of 115<sup>th</sup> Street, Block 4019, Lot 138, Borough of Queens.

114-33 Taipei Court, northwest corner of 115<sup>th</sup> Street, Block 4019, Lot 139, Borough of Queens.

114-35 Taipei Court, north side, 371' west of 115<sup>th</sup> Street, Block 4019, Lot 141, Borough of Queens.

114-20 Taipei Court, south side, 501' west of 115<sup>th</sup> Street, Block 4019, Lot 124, Borough of Queens.

# MINUTES

- 114-22 Taipei Court, south side, 491' west of 115<sup>th</sup> Street, Block 4019, Lot 123, Borough of Queens.
- 114-24 Taipei Court, south side, 471' west of 115<sup>th</sup> Street, Block 4019, Lot 122, Borough of Queens.
- 114-26 Taipei Court, south side, 451' west of 115<sup>th</sup> Street, Block 4019, Lot 121, Borough of Queens.
- 114-28 Taipei Court, south side, 431' west of 115<sup>th</sup> Street, Block 4019, Lot 119, Borough of Queens.
- 114-30 Taipei Court, south side, 411' west of 115<sup>th</sup> Street, Block 4019, Lot 117, Borough of Queens.
- 114-32 Taipei Court, south side, 391' west of 115<sup>th</sup> Street, Block 4019, Lot 116, Borough of Queens.
- 114-34 Taipei Court, south side, 371' west of 115<sup>th</sup> Street, Block 4019, Lot 115, Borough of Queens.
- 114-36 Taipei Court, south side, 391' west of 115<sup>th</sup> Street, Block 4019, Lot 114, Borough of Queens.

## COMMUNITY BOARD #7Q

### APPEARANCES -

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** - Application withdrawn.

### THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

Adopted by the Board of Standards and Appeals, August 10, 2004.

## 95-97-BZ

**APPLICANT** - The Law Office of Fredrick A. Becker, for Lavin Brothers Austin, LLC, owner; TSI Forest Hills, Inc., lessee.

**SUBJECT** - Application January 20, 2004 - reopening for an amendment to the resolution to permit the legalization of an expansion in floor area of a previously granted special permit to allow the operation of a physical culture establishment on the first floor.

**PREMISES AFFECTED** - 69-47 Austin Street, northwest corner of Austin Street and 70th Avenue, Block 3237, Lot 30, Borough of Queens.

## COMMUNITY BOARD #6Q

### APPEARANCES -

For Applicant: Fredrick A. Becker.

*Resolved*, that the Board of Standards and Appeals *reopens and amends* the resolution, pursuant to Z.R. §72-01 and 72-22, said resolution having been adopted on December 16, 1997, so that as amended this portion of the resolution shall read: "To permit the legalization of an expansion in floor area of a previously granted special permit to allow the operation of a physical culture establishment at the subject premises, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 20, 2004"-(5) sheets, "May 10, 2004"-(2) sheets, and "July 22, 2004"-(2) sheets; and *on further condition*;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

**ACTION OF THE BOARD** - Application reopened and amended.

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

### THE RESOLUTION -

WHEREAS, the applicant requests a waiver of the rules of practice and procedure and a re-opening to amend the resolution, to permit the legalization of an expansion in floor area of a previously granted special permit to allow the operation of a physical culture establishment ("PCE") at the subject premises; and

WHEREAS, a public hearing was held on this application on July 20<sup>th</sup>, 2004 after due notice by publication in *The City Record*, with continued hearings and laid over to August 10, 2004 for decision; and

WHEREAS, the PCE, as approved, is located in the cellar, a portion of the first floor, mezzanine, and second, third and fourth floors, operated as a branch location of the New York Sports Club; and

WHEREAS, the subject application to legalize the expansion of first floor of the existing PCE from 1,070 sq. ft. to 5,445 square feet, and the reduction in the floor area of the mezzanine level from 1,070 sq. ft. to 536 sq. ft.; and

WHEREAS, the applicant represents that the expansion is necessary because the subject premises has grown in popularity since the original grant of the special permit, and while membership has not increased significantly, there is a need to better serve the existing members and to offer more machines and equipment; and

WHEREAS, on December 16, 1997, the Board approved the legalization of an existing physical culture establishment at the subject premises; and

WHEREAS, the applicant represents that since the prior BSA approval, the premises has been continuously providing facilities for classes, instruction and programs for physical improvement, body building, weight reduction and aerobics.

THAT the hours and days of operation of the facility are Monday through Thursday from 5:30 a.m. to 11:00 p.m.; Friday from 5:30 a.m. to 10:00 p.m.; and Saturday and Sunday from 8:00 a.m. to 9:00 p.m.;

THAT all signage shall comply with the underlying district regulations;

THAT the above conditions and all conditions from prior resolutions shall appear on the certificate of occupancy;

THAT Local Law 58/87 and ADA compliance will be as determined and approved by DOB;

THAT fire prevention measures shall be installed and maintained in accordance with BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning

---

# MINUTES

---

Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

(DOB Application # 401714061)

Adopted by the Board of Standards and Appeals, August 10, 2004.

---

## 176-99-BZ

APPLICANT - The Agusta Group, for Marathon Parkway Assoc., LLC, owner.

SUBJECT - Application May 11, 2004 - reopening for an extension of time to complete construction.

PREMISES AFFECTED - 45-17 Marathon Parkway, east side 110.48' south of Northern Boulevard, Block 8226, Lot 10, Borough of Queens.

### COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: Philip Agusta.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened and time to obtain certificate of occupancy extended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the applicant requested a waiver of the Rules of Practice and Procedure and an extension of time to complete construction of an office and retail building; and

WHEREAS, a public hearing was held on this application on July 13, 2004, after due notice by publication in *The City Record*, then laid over to August 10, 2004 for decision; and

WHEREAS, on May 2, 2000, under the referenced calendar number, the Board granted an application permitting the erection of a two-story and cellar professional office and retail building (Use Group 6); and

APPLICANT - Friedman & Gotbaum LLP., by Shelly S. Friedman, Esq., for Trustees of the New York City Rescue Mission, owner.

SUBJECT - Application March 31, 2004 - reopening for an extension of time to complete construction for a non-profit homeless shelter for men (Use Group 4), located in an M1-5 zoning district.

PREMISES AFFECTED - 90 Lafayette Street, a/k/a “The New York City Rescue Mission”, northwest corner of Lafayette and White Streets, Block 195, Lot 21, Borough of Manhattan.

### COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: Lori Cuisinier.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened and time to obtain certificate of occupancy extended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

WHEREAS, on March 13, 2003, the Board granted an amendment to the prior resolution to permit the elimination of the first floor in order to provide additional parking, the addition of floor area on the second and third floors, an increase in the height of the building and a change in the location on the building on the subject lot; and

WHEREAS, at the request of the Board, the applicant has submitted financial statements related to the proposed development and represents that there are sufficient funds to complete the construction of the office building, and that construction should be completed by September 30, 2005.

*Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and *reopens and amends* the resolution pursuant to Section 1-05(g) of the Board’s Rules of Practice and Procedure and Section 11-411 of the Zoning Resolution, said resolution having been originally adopted on May 2, 2000 expiring May 2, 2004, so that as amended this portion of the resolution shall read: “to permit an extension of the time to complete construction of an office and retail building for an additional eighteen (18) months from the date of this resolution, to expire on February 10, 2005, *on condition*:

THAT all conditions from prior resolutions shall appear on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

(DOB Application No. 400048676)

Adopted by the Board of Standards and Appeals, August 10, 2004.

---

## 7-00-BZ

THE RESOLUTION -

WHEREAS, the applicant requested a waiver of the Rules of Practice and Procedure and an extension of time to complete construction of an office and retail building; and

WHEREAS, a public hearing was held on this application on July 13, 2004, after due notice by publication in *The City Record*, then laid over to August 10, 2004 for decision; and

WHEREAS, on May 2, 2000, under the referenced calendar number, the Board granted an application permitting the erection of a two-story and cellar professional office and retail building (Use Group 6); and

WHEREAS, on March 13, 2003, the Board granted an amendment to the prior resolution to permit the elimination of the first floor in order to provide additional parking, the addition of floor area on the second and third floors, an increase in the height of the building and a change in the location on the building on the subject lot; and

WHEREAS, at the request of the Board, the applicant has submitted financial statements related to the proposed

---

# MINUTES

---

development and represents that there are sufficient funds to complete the construction of the office building, and that construction should be completed by September 30, 2005.

*Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and *reopens and amends* the resolution pursuant to Section 1-05(g) of the Board's Rules of Practice and Procedure and Section 11-411 of the Zoning Resolution, said resolution having been originally adopted on May 2, 2000 expiring May 2, 2004, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete construction of an office and retail building for an additional eighteen (18) months from the date of this resolution, to expire on February 10, 2005, *on condition*:

THAT all conditions from prior resolutions shall appear on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application No. 400048676)

Adopted by the Board of Standards and Appeals, August 10, 2004.

---

## 371-29-BZ

APPLICANT - Maduakolam Mish. Nnabuihe, for Getty Petroleum Corp., owner; Besan Trading Inc., lessee.

SUBJECT - Application January 9, 2004 - reopening for an amendment to the resolution for tire shop as an accessory use to the existing automotive service station.

PREMISES AFFECTED - 1210-1230 East 233<sup>rd</sup> Street, northwest

APPEARANCES -

For Applicant: Mary Noonan.

For Opposition: Mitchell Ross.

**ACTION OF THE BOARD** - Laid over to September 28, 2004, at 10 A.M. for continued hearing.

---

## 20-83-BZ

APPLICANT - Sheldon Lobel, P.C., for Pierina Alongi, owner.

SUBJECT - Application January 15, 2004 - reopening for a waiver of Rules of Procedures and an extension of term for a commercial use in a residential district.

PREMISES AFFECTED - 265-07 Hillside Avenue, Hillside Avenue between 265<sup>th</sup> and 266<sup>th</sup> Streets, Block 8777, Lot 31, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

corner of Grenada Place and Edson Avenue, Block 4934, Lot 66, Borough of The Bronx.

## COMMUNITY BOARD #13BX

APPEARANCES -

For Applicant: Mish Maduakolam.

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 10 A.M., for continued hearing.

---

## 40-80-BZ

APPLICANT - Sheldon Lobel, P.C., for 35 West 23rd Street Corp., owner; Patrick Montgomery, lessee.

SUBJECT - Application February 9, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 35-37 West 23<sup>rd</sup> Street, between Fifth Avenue and Avenue of the Americas, Block 825, Lot 7501, Borough of Manhattan.

## COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** - Laid over to December 14, 2004, at 10 A.M., for continued hearing.

---

## 705-81-BZ

APPLICANT - The New York City Board of Standards and Appeals

OWNER OF PREMISES: Fraydun Enterprises.

LESSEE: New York Health and Racquet Club.

SUBJECT - Application - reopening for compliance.

PREMISES AFFECTED - 1433/37 York Avenue, northeast corner of East 76<sup>th</sup> Street, Block 1471, Lots 21, 22 and 23, Borough of Manhattan.

## COMMUNITY BOARD #8M

Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

---

## 283-90-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for OPM Holdings, LLC, owner.

SUBJECT - Application January 7, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1400 Clove Road, a/k/a Oswego Street, southwest corner of Clove Road and Oswego Street, Block 658, Lot 1, Borough of Staten Island.

## COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** - Laid over to September 28, 2004, at 10:00 A.M., for continued hearing.

---

---

# MINUTES

---

## 125-92-BZ

APPLICANT - Rampulla Associates Architects, for Nicholas Criscitelli, owner.

SUBJECT - Application April 7, 2004 - reopening for an amendment to the resolution - to eliminate the retail sales portion of the building and modify the number of persons to occupy the eating and drinking establishment.

PREMISES AFFECTED - 3333 Hylan Boulevard, north side Hylan Boulevard between Spratt Avenue and Hopkins Avenue, Block 4987, Lot 1, Borough of Staten Island.

### COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

---

## 62-99-BZ

APPLICANT - Jay A. Segal, Esq., for Starlex LLC, owner; Blissworld LLC, lessee.

SUBJECT - Application April 16, 2004 - reopening for an amendment to allow the expansion of existing physical culture establishment.

PREMISES AFFECTED - 541 Lexington Avenue, east side of Lexington Avenue between East 49<sup>th</sup> Street and East 50<sup>th</sup> Streets, Block 1350, Lot 20, Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES -

## 114-02-BZ

APPLICANT - Land Planning and Engineering Consultants, P.C., for Gerardo Campitiello, owner.

SUBJECT - Application June 2, 2004 - reopening for an amendment to the resolution to amend the existing resolution to permit the maintenance of the existing building during the construction of the new cellar and one story professional building, which is to replace the existing building.

PREMISES AFFECTED - 2493 Richmond Road, northwest side of Richmond Road, southwest of Odin Street, Block 947, Lot 1, Borough of Staten Island.

### COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Victor Han, Harold Weinberg and Grace Scire.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

---

## 178-03-BZ

For Applicant: Meloney McMornoy.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

---

## 4-00-BZ

APPLICANT - Agusta & Ross, for 243 West 30th Realty, LLC, c/o New York Equity, LLC, owner; Anie Yang, Yhung Kang & Cong Yan d/b/a West Garden, Inc., lessees.

SUBJECT - Application October 21, 2003 - Reopening for an amendment for a previously approved physical culture establishment to extend into the cellar.

PREMISES AFFECTED - 243 West 30th Street, north side of West 30th Street, 325' east of 8th Avenue, block 780, Lot 15, Borough of Manhattan.

### COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Mitchell Ross.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

---

APPLICANT - Eric Palatnik, P.C., for King Carmichael, owner; BP Products North America, lessee.

SUBJECT - Application December 19, 2003 - reopening for an extension of term of variance which expires April 28, 2004.

PREMISES AFFECTED - 114-02 Van Wyck Expressway, for southwest corner of Linden Boulevard and Van Wyck Expressway, Block 11661, Lot 7, Borough of Queens.

### COMMUNITY BOARD #10Q

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to November 16, 2004, at 10 A.M., for continued hearing.

---

## 380-03-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Marilyn & Sebastian Danese, lessees.

SUBJECT - Application December 4, 2003 - Proposed reconstruction and enlargement of an existing one family dwelling, situated within the bed of a mapped street, and does not front on a legally mapped street is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED - 3 Essex Walk, east side, 205.36' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

# MINUTES

## COMMUNITY BOARD #14Q

### APPEARANCES -

For Applicant: Gary Lenhart.

**ACTION OF THE BOARD - Appeal granted on condition.**

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

### THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated December 2, 2003, and revised on June 1, 2004 acting on Department of Buildings ALT 1. Application No. 401721446, reads in pertinent part:

“A-1 The existing building to be altered lies within the bed of a mapped street contrary to General City Law Article 3, Section 35

A-2 The street giving access to the existing building to be altered is not duly placed on the official map of the City of New York, Therefore:

a) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the

*Resolved*, that the decision of the Queens Borough Commissioner, dated February 18, 2004 acting on Department of Buildings ALT 1. Application No. 401721446 is modified under the power vested in the Board by Sections 35 and Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, “Received July 20, 2004”- (1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *on further condition*

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 10, 2004.

## 13-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Howard & Phyllis Taphouse, owners.

General City Law:

b) existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code of the City of New York.

A3- The proposed upgraded private disposal system is in the bed of the service lane contrary to Department of Buildings Policy;” and

WHEREAS, by letter dated June 28, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated February 27, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 21, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

SUBJECT - Application January 13, 2004 - Proposed reconstruction and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 520 Browns Boulevard, west side of Beach 181<sup>st</sup> Street, and 396.29' south of Bayside Drive, Block 16340, Part of Lot 50, Borough of Queens.

## COMMUNITY BOARD #14Q

### APPEARANCES -

For Applicant: Gary Lenhart.

**ACTION OF THE BOARD - Appeal granted on condition.**

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

### THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated May 21, 2004 acting on Department of Buildings ALT 1. Application No. 401752689, reads in pertinent part:

“A-1 The existing building to be altered lies within the bed of a mapped street contrary to General City Law Article 3, Section 35

A2- The proposed upgraded private disposal system is in the bed of a mapped street contrary to Department of Buildings Policy;” and

WHEREAS, by letter dated January 22, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated March 29, 2004, the

# MINUTES

Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 21, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Resolved, that the decision of the Queens Borough Commissioner, dated February 18, 2004 acting on Department of Buildings ALT 1. Application No. 401752689 is modified under the power vested in the Board by Sections 35 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, "Received July 20, 2004"-(1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *on further condition*

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the PREMISES AFFECTED - 22 Hudson Walk, west side, 132.76' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14Q

### APPEARANCES -

For Applicant: Loretta Papa.

**ACTION OF THE BOARD -** Appeal granted on condition.

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

### THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated February 18, 2004, acting on Department of Buildings ALT 1. Application No. 401748882, reads in pertinent part:

"A1- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law: also no permit can be issued since proposed construction does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code of the City of New York.

A2- The upgraded private disposal system is in the bed of a private service road which serves as a street which is contrary to

Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 10, 2004.

## 64-04-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative Inc., owner; Joseph Sammon, lessee.

SUBJECT - Application March 2, 2004 - Proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a private service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings' policy.

Department of Buildings Policy;" and

WHEREAS, by letter dated April 1, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 28, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 18, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Resolved, that the decision of the Queens Borough Commissioner, dated February 18, 2004 acting on Department of Buildings ALT 1. Application No. 401748882 is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, "Received March 2, 2004"-(1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *on further condition*

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

---

# 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) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 10, 2004.

## 66-04-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative, Inc., owner; John & Patricia Brennan, lessee.

SUBJECT - Application March 2, 2004 - proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a mapped street, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' policy.

PREMISES AFFECTED - 976 Bayside, southeast corner of Bayside Connection, Block 16350, Lot 300, Borough of Queens.

- A2- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law: also no permit can be issued since proposed construction does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code of the City of New York.

- A3- The upgraded private disposal system is in the bed of a mapped street is contrary to Department of Buildings Policy;" and

WHEREAS, by letter dated April 1, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 28, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 23, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

*Resolved*, that the decision of the Queens Borough Commissioner, dated February 18, 2004 acting on Department of Buildings ALT 1. Application No. 401752386 is modified under the power vested in the Board by Sections 35 and 36 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, "Received June 24, 2004"- (1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *on further condition*

## COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

**ACTION OF THE BOARD** - Appeal granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated February 18, 2004, acting on Department of Buildings ALT 1. Application No. 401752386, reads in pertinent part:

"A1- The site is located partially in the bed of a mapped street therefore no permit of Certificate of Occupancy can be issued as per Art. 3. Sect 35 of the General City Law.

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 10, 2004.

---

## 67-04-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; 20 Queens Walk, lessee.

SUBJECT - Application March 2, 2004 - Proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a private service road, is contrary to Section 36, Article 3 of the General City Law, and Department of Buildings' policy.

PREMISES AFFECTED - 20 Queens Walk, west side, 368.85' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

**ACTION OF THE BOARD** - Appeal granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

# MINUTES

Commissioner Caliendo and Commissioner Chin.....4  
Negative:.....0  
Absent: Commissioner Miele.....1  
THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated February 18, 2004, acting on Department of Buildings ALT 1. Application No. 401748873, reads in pertinent part:

“A1- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law: also no permit can be issued since proposed construction does not have at least 8% of total perimeter of the building

WHEREAS, by letter dated June 16, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

*Resolved*, that the decision of the Queens Borough Commissioner, dated February 18, 2004 acting on Department of Buildings ALT 1. Application No. 401748873 is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, “Received March 2, 2004”-(1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *on further condition*

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 10, 2004.

## 130-04-A

APPLICANT - Gary Lenhart, for The Breezy Point Cooperative, owner; Joanne Butler, lessee.

SUBJECT - Application March 12, 2004 - Proposed alteration and enlargement of an existing one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the

fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code of the City of New York.

A2- The upgraded private disposal system is in the bed of a private service road which serves as a street which contrary to Department of Buildings Policy;” and

WHEREAS, by letter dated April 1, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 22, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

General City Law.

PREMISES AFFECTED - 181 Reid Avenue, west side, of Beach 201st Street, 129.55' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

## COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Gary Lenhart.

**ACTION OF THE BOARD** - Appeal granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated May 21, 2004 acting on Department of Buildings ALT 1. Application No. 401804357, reads in pertinent part:

“A1- The existing building to be altered lies within the bed of a mapped street contrary to General City Law Article 3, Section 35

A2- The proposed upgraded private disposal system is in the bed of a mapped street contrary to Department of Buildings Policy;” and

WHEREAS, by letter dated March 22, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 28, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 22, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

*Resolved*, that the decision of the Queens Borough Commissioner, dated May 21, 2004 acting on Department of Buildings ALT 1. Application No. 401804357 is modified under the power vested in the Board by Sections 35 of the

---

# MINUTES

---

General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, "Received July 20, 2004"-(1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *on further condition*

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the

---

## 186-04-A

APPLICANT -Eric Palatnik, Esq., for Aryeh Realty, LLC, owner.  
SUBJECT - Application May 4, 2004 - Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 252-18 Rockaway Boulevard, corner of Dock Street, Block 13921, Lot 73, Borough of Queens.

### COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Appeal granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated April 26, 2004 acting on Department of Buildings N.B. Application No. 401843500 in pertinent part:

"The site and new proposed building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law and is contrary to Section 27-291 of the Administrative Code of the City of New York."; and

WHEREAS, by letter dated June 10, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

*Resolved*, that the decision of the Queens Borough Commissioner, dated April 26, 2004 acting on Department of Buildings N.B. Application No. 401843500 is modified under the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, "Received July 27, 2004" - (1) sheet; and that the proposal comply with all applicable M1-1 zoning district

Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 10, 2004.

requirements; that all applicable laws, rules, and regulations shall be complied with; *on further condition*

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 10, 2004.

---

## 18-04-A

APPLICANT - Robert Miller, for Breezy Point Co-op, Inc., owner; Mr. Ronald Kirsche, lessee.

SUBJECT - Application February 4, 2004 - Proposed addition of a second floor, to an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 5 of the General City Law.

PREMISES AFFECTED - 10 Irving Walk, west side, 105.69' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Michael Harley.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

---

# MINUTES

---

## 21-04-A

APPLICANT - Zygmunt Staszewski, P.E., for Breezy Point Co-op, Inc., owner; James O'Brien, lessee.

SUBJECT - Application February 9, 2004 - Proposed enlargement of an existing one family dwelling, located partially within the bed of a mapped street, and not fronting on a legally mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law. Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4  
Negative:.....0  
Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

---

## 50-04-A thru 52-04-A

APPLICANT - Joseph P. Morsellino, for Zankera, LLC, contract vendee.

SUBJECT - Application February 25, 2004 - Proposed three family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -

101-20 39<sup>th</sup> Avenue, south side, between 102<sup>nd</sup> and 103<sup>rd</sup> Streets, Block 1770, Lot 22, Borough of Queens.  
Applic.#401770570.

101-22 39<sup>th</sup> Avenue, south side, between 102<sup>nd</sup> and 103<sup>rd</sup> Streets, Block 1770, Lot 23, Borough of Queens.  
Applic.#401770589.

101-24 39<sup>th</sup> Avenue, south side, between 102<sup>nd</sup> and 103<sup>rd</sup> Streets, Block 1770, Lot 24, Borough of Queens.

## COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4  
Negative:.....0  
Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

---

## 131-04-A

APPLICANT - New York City Department of Buildings.

OWNER OF RECORD - Douglas Ballinger.

SUBJECT - Application March 12, 2004 - Application pursuant to NYC Charter §§645(3)(e) and 666.6(a), to revoke Certificate of Occupancy No. 116501 on the basis that a lawfully non-conforming eating and drinking establishment (Use Group 6) in an R8 zoning district was discontinued for a period greater than two years and must therefore be occupied as a conforming residential use as per Z.R. §52-61.

PREMISES AFFECTED - 217 West 20<sup>th</sup> Street, between Seventh and Eighth Avenues, Block 770, Lot 30, Borough of Manhattan.

## COMMUNITY BOARD #4M

PREMISES AFFECTED - 634 Bayside Avenue, eastside, 267.40' south of Bayside Drive, Block 16350, Lot 300, Borough of Queens.

## COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Michael Harley.

THE VOTE TO CLOSE HEARING -

APPEARANCES -

For Applicant: Jeff Long, Madelon Rosenfeld, Esq.; and Scott Mason.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4  
Negative:.....0  
Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 10 A.M., for decision, hearing closed.

---

## 148-04-A

APPLICANT - Jenkens & Gilchrist Parker Chaplin, LLP and Fischbein Badillo Wagner Harding

OWNER OF RECORD: Sterling & Seventh LLC.

SUBJECT - Application April 5, 2004 - Under Z.R. §12-10 to reverse the NYC Department of Buildings' revocation of the above referenced permits. The permits had allowed for the subdivision of Lot 52 from Lots 55, 58, and 61 and the construction of new building on Lot 52.

PREMISES AFFECTED - 133 Sterling Place, a/k/a 22 Seventh Avenue, northwest corner, Block 942, lots 48 and 52, Borough of Brooklyn.

## COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Howard Hornstein, Norman Marcus, James Pedowitz, Howard Goldman and Caroline Harris.

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 10 A.M., for continued hearing.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 12:45 P.M.

---

# MINUTES

---

**REGULAR MEETING  
TUESDAY AFTERNOON, AUGUST 10, 2004  
2:00 P.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.

---

**ZONING CALENDAR**

**68-03-BZ**

**CEQR #03-BSA-134K**

APPLICANT - Sheldon Lobel, P.C., for Torah M. Sinai, Inc., owner.

SUBJECT - Application February 11, 2003 - under Z.R. §72-21 to permit the proposed conversion of an existing building, which is located in an area designated as a manufacturing district, to be used for a day care center, Use Group 3, and office use, Use Group 6, without the required parking, and is contrary to Z.R. §42-00 and §44-21.

PREMISES AFFECTED - 649 39<sup>th</sup> Street, northwest corner of Seventh Avenue, Block 903, Lots 79, 80 and 83, Borough of Brooklyn.

**COMMUNITY BOARD #7BK**

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated March 12, 2003, acting on Department of Buildings Application No. 301031197, reads, in pertinent part:

“Proposed partial use of the premises as a community facility, use group 3A is contrary to ZR sections 42-00. Proposed partial use of the premises as use group 6B offices without parking is contrary to section 44-21. Therefore the matter must be referred to the Board of Standards and Appeals.”; and

WHEREAS, a public hearing was held on this  
WHEREAS, the applicant represents that the following

application on August 5, 2003 after due notice by publication in the City Record, with continued hearings on September 9, 2004, October 21, 2003, January 6, 2004, January 27, 2004, April 13, 2004, June 8, 2004, July 20, 2004, and then to August 10, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, this is: (1) a variance application under Z.R. §72-21, to permit, in an M1-2 zoning district, the proposed enlargement of an existing building and a conversion of a portion of the building for a day care center (Use Group 3A) contrary to §42-00; and (2) a special permit application under Z.R. §73-44 to permit a reduction in the amount of parking required by §44-21 for the portion of the proposed building to be occupied with office use; and

WHEREAS, this application was originally filed solely under Z.R. §72-21, but at the request of the Board, a special permit application was filed conjunctively to reduce the scope of the minimum variance required; and

WHEREAS, the subject premises is located on the northeasterly side of 39<sup>th</sup> Street, between 5<sup>th</sup> and 8<sup>th</sup> Avenues, and is comprised of three tax lots - Lots 79, 80 and 83 - with a total lot area of approximately 35,664.60 sq. ft.; and

WHEREAS, the applicant represents that Lots 79 & 80 are undeveloped; Lot 83 is currently improved with a vacant building with a total floor area of 35,192.53 sq. ft.; and

WHEREAS, evidence in the record indicates that the first floor of the existing building covers most of the lot, 290 feet long by 100 feet wide, while the second floor is 61 feet long by 100 feet wide, located over the east side of the first floor; and

WHEREAS, the proposal seeks to enlarge the existing building by building out the second floor and constructing a partial third floor, approximately 139 feet long by 100 feet wide over the westerly side of the building; and

WHEREAS, the record indicates that the proposed building will comply with the underlying bulk regulations and have 63,330 sq. ft. of floor area, 34,377.47 square feet of which will be occupied by the community facility use and 28,953.13 square feet of which will be occupied by commercial office use; and

WHEREAS, the applicant states that the community facility portion of the building will be used as a day care center/school for children with special needs, and will contain classrooms, therapy and rehabilitative equipment rooms, an aquatic therapy pool, an auditorium, and offices; and

are unique physical conditions, which create practical

---

# MINUTES

---

difficulties and unnecessary hardships in developing the property in conformity with underlying district regulations: (1) the interrupted street grid from the development of railroad tracks and a train yard adjacent to the site, (2) the development restrictions of Lots 79 and 80, and (3) the functional obsolescence of the existing building for manufacturing purposes; and

WHEREAS, the record indicates that the subject site extends 380 feet along 39<sup>th</sup> Street in the front, and 340 feet parallel with the railroad tracks and BMT train yard at the rear; and

WHEREAS, the record further indicates that Lots 79 and 80 were formerly part of Seventh Avenue, and when the railroad tracks and BMT train yard were developed, Seventh Avenue terminated at 39<sup>th</sup> Street and the City of New York ("the City") sold the portion of land fronting 39<sup>th</sup> Street that was formerly 7<sup>th</sup> Avenue; and

WHEREAS, the applicant states that the interrupted street grid created by the railroad tracks and BMT yard reduces the accessibility and traffic exposure of the site, thereby decreasing the marketability of a conforming building; and

WHEREAS, the applicant further asserts that Lots 79 and 80 were sold by the City on condition that the City could repurchase the lots together with any improvement for a total of one dollar, which makes it unreasonable to make any investment for development on the two lots; and

WHEREAS, furthermore, because Lots 79 and 80 are in the bed of a mapped street development on these lots would not be as-of-right; and

WHEREAS, the applicant represents that the existing building, which has been vacant for four years, is obsolete for manufacturing purposes due to the lumber floors which provide inferior support for modern day industrial equipment, and the rows of supporting beams running through the length of the building obstructing the floor space; and

WHEREAS, the applicant has provided evidence of the programmatic needs of the community facility, such as the current shortage of classroom space, lack of adequate space for therapy equipment and lack of auditorium space for training seminars and workshops; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate and in conjunction with the programmatic needs of the facility, create practical difficulties and unnecessary hardship in developing the site in conformity with the current zoning regulations; and

WHEREAS, the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its not-for-profit status and related programmatic needs; and

WHEREAS, evidence in the record, including a land use map, indicate that the surrounding area consists predominantly of residential uses with some commercial and light manufacturing uses; and

WHEREAS, the Board finds that the proposed

application will not alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties nor be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that the variance is the minimum variance necessary to afford relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, Z.R. §73-44 allows the Board to issue a Special Permit for a reduction of parking spaces for uses in parking requirement B1 in Use Group 6, to one (1) required parking space per 600 sq. ft. of floor area in an M1-2 zoning district provided that the Board find the occupancy in parking category B1 is contemplated in good faith on the basis of evidence submitted by the applicant, and on condition that the certificate of occupancy issued for the building where such use is located shall state that no certificate shall thereafter be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided; and

WHEREAS, the applicant has provided adequate evidence that the occupancy in parking category B1 is contemplated in good faith, and has agreed to the restriction of only office use, and the appearance of the aforementioned condition on the certificate of occupancy issued for the building; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §73-44; and

WHEREAS, the applicant has provided an analysis of the anticipated parking demand which demonstrates that the proposed offices will generate a demand for only a fraction of the required parking spaces and that there is ample available on-street parking available in the area during business hours; and

WHEREAS, the applicant represents that due to the abundance of nearby public bus and train access, most employees would travel by mass transit rather than by car; and

WHEREAS, the Board further finds that under the conditions and safeguards imposed, the hazards or disadvantages to the community at large of such special permit use at the particular site are outweighed by the advantages to be derived by the community by the grant of such special permit; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, therefore, the Board finds that the application meets the general findings required for special permits set forth at Z.R. §73-03; and

# MINUTES

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 to permit the proposed enlargement of an existing building located in an M1-2 zoning district, a conversion of a portion of the building for a day care center (Use Group 3A) contrary to Z.R. §42-00; and under Z.R. §73-44 to permit a reduction in the amount of parking required by Z.R. §44-21 for the portion of the proposed building to be occupied with office use, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 9, 2004"-(3) sheets, and on further condition;

THAT any change in use, ownership or lessee shall require approval by the Board;

THAT the certificate of occupancy issued for the building shall state that no certificate shall thereafter be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided; and

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 10, 2004.

WHEREAS, the decision of the Borough Commissioner, dated April 14, 2003 acting on NB Application No. 401535950 reads in pertinent part:

"1. Rear yard contrary to Section 23-47 Z.R.

## 81-03-BZ

### CEQR #03-BSA-144X

APPLICANT - Timothy M. Rice, for Vinicio Ramirez, owner;  
SUBJECT - Application March 24, 2003 and updated December 15, 2003 - under Z.R. §32-30 to reestablish and amend an expired variance, for an auto repair (auto-body) shop, parking for more than five(5) vehicles, storage, and the legalization of a new one story structure on the same lot, which is contrary to a previous variance granted under Cal. No.843-46-BZ, Vol. II, and Z.R. §§22-00 and 32-00.

PREMISES AFFECTED - 857 East 169<sup>th</sup> Street, and 1351 Lyman Place, northwest corner, Block 2970, Lot 1, Borough of The Bronx.

### COMMUNITY BOARD #3BX

APPEARANCES - None.

**ACTION OF THE BOARD**- Application dismissed for lack of prosecution.

THE VOTE TO DISMISS -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

Adopted by the Board of Standards and Appeals, August 10, 2004.

## 139-03-BZ

### CEQR #03-BSA-177Q

APPLICANT - Alfonso Duarte, for Sanjoy Augustine, owner.  
SUBJECT - Application April 29, 2003 - under Z.R. §72-21 to permit the proposed erection of a two family dwelling, Use Group 2A, located in an R3-A zoning district, which does not comply with the zoning requirements, for rear yard and floor area ratio, is contrary to Z.R. §23-47 and §23-141(b).

PREMISES AFFECTED - 247-54 90<sup>th</sup> Avenue, south side, 225.51' west of Commonwealth Boulevard, Block 8662, Lot 28, Borough of Queens.

### COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Alfonso Duarte.

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

2. F.A.R. contrary to Section 23-141(b) Z.R."; and

WHEREAS, a public hearing was held on this application on October 27, 2003, after due notice by publication in *The City Record*, with continued hearings on

---

# MINUTES

---

December 16, 2003, March 2, 2004, March 30, 2004, April 27, 2004, June 8, 2004, July 20, 2004, and then laid over to August 10, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Queens Community Board #13 recommends disapproval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a one-family dwelling (Use Group 1) located in an R3-A zoning district, which does not comply with the zoning requirements for floor area ratio and rear yard, and is contrary to Z.R. §23-47 and 23-141; and

WHEREAS, this application was originally filed for the construction of a larger two-family dwelling which, in addition to the non-compliances cited above, did not comply with the zoning requirements for front yard; and

WHEREAS, at the request of the Board, and in response to community based concerns the applicant reduced the size of the proposed development from a two-family dwelling to a one-family dwelling to be more contextual with the surrounding area and provided the minimum ten foot front yard; and

WHEREAS, the record indicates that the subject site is located on the south side of 90<sup>th</sup> Avenue and is 255'-6" west of Commonwealth Boulevard; and

WHEREAS, the subject premises is a irregularly shaped trapezoidal zoning lot with a frontage of 41.18 feet along 90<sup>th</sup> Avenue, a depth that varies from 50.43 feet to 71.91 feet and a total lot area of 2431.5 square feet; and

WHEREAS, the subject application seeks to reduce the minimum required rear yard from thirty (30) feet to an average of 20.21 feet (the yard would range from 16.43 to 23.99 feet); and

WHEREAS, the applicant represents that compliance with the required yard regulations would result in an infeasible development due to the size and shape of the zoning lot; and

WHEREAS, therefore, the Board finds that strict compliance with the provisions of the Zoning Resolution would be impractical; and

WHEREAS, the aforementioned unique physical condition, namely the trapezoidal shape of the subject lot, creates unnecessary hardship and practical difficulties in

*Resolved* that the Board of Standards and Appeals issues a Type II Determination under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, to permit the proposed construction of a one-family dwelling (Use Group 1) located in an R3-A zoning district, which does not comply with the zoning requirements for floor area ratio and rear yard, and is contrary to Z.R. §23-47 and 23-141, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application

developing the site in compliance with the applicable zoning provision concerning front yards; and

WHEREAS, the Board requested that the applicant provide additional evidence that the requested floor area was necessary in terms of the feasibility of the proposal; and

WHEREAS, the applicant responded with statements from real estate brokers explaining that current market conditions require that new construction be of a certain size to be saleable; and

WHEREAS, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the Board notes that the proposed F.A.R. was significantly reduced from 0.75 to 0.69 and a complying front yard was provided to accommodate community based concerns and the concerns of the Board; and

WHEREAS, to demonstrate that the proposed bulk is consistent with the surrounding residential uses, the applicant has provided F.A.R. computations for which demonstrate that the majority of the neighboring homes along 90<sup>th</sup> Avenue on Block 8662 and 8663 have an F.A.R. above 0.60; and

WHEREAS, the F.A.R. computations also indicate that the only two such homes built after 1959 have F.A.R.'s of 0.74 and 0.80; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under §72-21 of the Zoning Resolution; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

marked "Received April 12, 2004"-(1) sheet, "May 25, 2004"-(3) sheets and "July 27, 2004"-(1) sheet; and on further condition;

THAT there shall be no habitable room in the cellar;

THAT cellar layout and occupancy shall be as approved by the Department of Buildings;

THAT substantial construction be completed and a Certificate of Occupancy be obtained in accordance with §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other

# MINUTES

jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 10, 2004.

## 240-03-BZ

### CEQR #04-BSA-010Q

APPLICANT - Sheldon Lobel, P.C., for Young Israel of Jamaica Estates, Inc., owner.

SUBJECT - Application July 10, 2003- under Z.R. §72-21 to permit the proposed enlargement of an existing two story synagogue, Use Group 4, located in an R1-2 zoning district, which does not comply with the zoning requirements for floor area ratio, building height, side yards, rear yard, also the proposed addition of lot 39 to the existing building, is contrary to Z.R. §24-10, §24-111, §24-521, §24-35 and §24-36, and a previous variance granted under Cal. No. 815-85-BZ.

PREMISES AFFECTED - 83-10 and 83-16 188<sup>th</sup> Street, south side, between Midland Parkway and Radnor Road, Block 7263, Lots 35 and 39, Borough of Queens.

### COMMUNITY BOARD #8Q

APPEARANCES -

For Applicant: Jordan Most.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

**THE RESOLUTION** -

WHEREAS, the decisions of the Borough Commissioner, dated June 20, 2003 and July 8, 2003, acting on Applications No. 401646527 (Lot 39) and 401591808 (Lot 35) respectively reads:

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed enlargement of an existing two story synagogue (Use Group 4), located in an R1-2 zoning district, which does not comply with the zoning requirements for floor area, building height, side yards, rear yard, and previously approved Board of Standards and Appeals plans, contrary to Z.R. §§24-10, 24-111, 23-521, 24-35, 24-36 and a previous variance granted under Cal. No. 815-85-BZ; and

WHEREAS, the subject lots (35 and 39), both owned by the Synagogue, are located on the southern side of 188<sup>th</sup> Street, between Midland Parkway and Radnor Road; and

WHEREAS, Lot 35 is 70' by 107' and is improved with a

“1. (Lot 39) Reconsideration is respectfully requested of the following zoning objections in an R1-2 zoning district: (1) Proposed floor area exceeds the allowable, contrary to Z.R. §§24-10 and 24-111, (2) Proposed building height exceeds the allowable, contrary to Z.R. §23-521, (3) Proposed side yards are less than required, contrary to Z.R. §24-35, (4) Proposed rear yard is less than required, contrary to Z.R. §24-36, and (5) Proposed addition (Lot 39) to the existing building (Lot 35) is not in compliance with previously approved Board of Standards and Appeals plans, contrary to a variance granted under Cal. No. 815-85-BZ; and

2. (Lot 35) Reconsideration is respectfully requested of the following zoning objections in an R1-2 zoning district: (1) Proposed floor area exceeds the allowable, contrary to Z.R. §§24-10 and 24-111, (2) Proposed building height exceeds the allowable, contrary to Z.R. §23-521, (3) Proposed side yards are less than required, contrary to Z.R. §24-35, (4) Proposed rear yard is less than required, contrary to Z.R. §24-36, and (5) Proposed addition (Lot 39) to the existing building (Lot 35) is not in compliance with previously approved Board of Standards and Appeals plans, contrary to a variance granted under Cal. No. 815-85-BZ”; and

WHEREAS, a public hearing was held on this application on November 18, 2003 after due notice by publication in *The City Record*, with continued hearings on January 13, 2004, March 2, 2004, May 11, 2004, June 15, 2004, and then to August 10, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 8, Queens recommends approval of the subject application; and

two-story Synagogue, and Lot 39 is 70' by 102' and is improved with a one-story single-family dwelling; and

WHEREAS, the applicant proposes merging the two tax lots (Lots 35 and 39) by developing a modern addition on Lot 39 (after demolition of the existing dwelling) and on the undeveloped side yard of Lot 35 thereby creating a new integrated facility; and

WHEREAS, the applicant represents that the Synagogue currently provides youth group services, religious services, and classes and programs for their congregants; and

WHEREAS, the applicant also occasionally rents space

---

# MINUTES

---

in the present synagogue building for religious events; and

WHEREAS, the applicant contends that the proposed enlargement is essential to the Synagogue's growing congregation and its programmatic needs; and

WHEREAS, the applicant represents that the Synagogue occasionally holds simultaneous activities and that the newly integrated facility will also accommodate simultaneous uses such as classes and programs, as well as Bar/Bat Mitzvah receptions and Sheva Brachos (post-wedding meals) during the Sabbath and some on weekdays; and

WHEREAS, the proposed building will have two above-grade stories (with a roof-top play area on the second floor) and one below-grade level (cellar); and

WHEREAS, the applicants maintains that the proposed expansion will include the following alterations and enlargements: (1) Cellar - expanded cellar, a warming kitchen, kitchen storage, small lobby space, expanded bathroom facilities, a Mikvah (ritual bath), a Bais Medrash (study space/prayer area) and a multi-purpose Kiddush room (function/gathering space), (2) First Floor - an enlarged lobby space and coat check room, a large meeting/function room, a warming kitchen and expanded bathroom facilities, (3) Second Floor - a youth center, three separate classroom/daycare spaces, two women's balconies above the sanctuary, the Rabbi's office, bathroom facilities and a small storage space, and (4) Roof - total of six (6) air-conditioning units (3 new units); and

WHEREAS, the proposal would result in the following non-compliances: a floor area of 7,920 sq. ft (3,494 sq. ft. maximum is permitted); an FAR of 1.13 (0.5 maximum permitted); a building height of 30'-7" (25'-0" is permitted); side yards of 8'-0" (12'-5" minimum required); a rear yard average of 8'-9" (30'-0" minimum required); and the proposed addition of Lot 39 to the existing synagogue facility on Lot 35, which is contrary to the variance granted under Cal. No. 815-85-BZ; and

WHEREAS, the Board notes that the applicant has made various modifications to the proposal since the filing of the case, said modifications being set forth in a Table of Changes submitted to the Board on July 13, 2004; and

WHEREAS, the applicant represents that the following

WHEREAS, a group formed in opposition to the proposed variance (The Committee for the Preservation of Jamaica Estates and Fresh Meadows, hereinafter the "Committee"), which includes neighbors to the Synagogue, testified that there have been traffic and parking problems related to the use of the Synagogue, and that garbage has been left out so that it is visible from the street; and

WHEREAS, the applicant was instructed by the Board to address these issues with the opposition; and

WHEREAS, the applicant has submitted an executed agreement between the Synagogue and the Committee, dated July 28, 2004, and agreed to the following, among other items: a reduction in bulk, an increase of the rear yard, reduction and movement of the play area to the second floor,

are unique physical conditions, which create practical difficulties and unnecessary hardships in constructing the proposed building in conformity with underlying district regulations: (1) one of the subject lots (Lot 39) is an unusually shaped parcel that is 70 feet wide, with a rear lot line that angles inward on the property forming a gently sloping "V" shape; (2) the other lot (Lot 35) is slightly irregularly shaped; and (3) Lot 39 is the only property owned by the applicant that is adjacent to the Synagogue which can feasibly be used to meet the needs of a growing congregation; and

WHEREAS, in response to the request of the Board, the applicant has submitted a detailed analysis of the programmatic needs of the Synagogue, as they relate to the proposed expansion, dated June 28, 2004; and

WHEREAS, the Board has reviewed this analysis and finds that it provides a sufficient explanation of the space needs of the Synagogue and why the proposed enlargement is necessary to meet those needs;

WHEREAS, at the request of the Board, the applicant has submitted a revised cost estimate of \$126,500.00 relating to the offsetting of the rear walls on the First and Second floors by ten (10) feet from the cellar; and

WHEREAS, the Board finds that this cost estimate supports applicant's position that the offset would be cost prohibitive; and

WHEREAS, therefore, the Board finds that the unique physical conditions mentioned above, when considered in the aggregate and in conjunction with the stated programmatic needs of the Synagogue, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with current applicable zoning regulations; and

WHEREAS, the applicant need not address Z.R. §72-21(b) since the Synagogue is a not-for-profit organization and the proposed variance will be in furtherance of its programmatic needs; and

WHEREAS, the applicant states that the proposed variance, if granted, will not negatively effect the essential character of the neighborhood nor impact the appropriate use of adjoining properties; and

reduction in size of the Mikvah, inclusion of two (2) trash enclosures, an internal trash compactor, perimeter fencing, façade changes, air conditioning sound attenuation, and a landscape plan; and

WHEREAS, the Board is not a party to this agreement, but has incorporated appropriate conditions in the agreement in the instant resolution; and

WHEREAS, at the request of the Board, the applicant has submitted a landscape plan depicting various plantings to be planted between the rear lot line and the newly integrated facility at four (4) foot intervals; and

WHEREAS, the applicant has submitted a supplemental traffic and parking analysis, which evaluates simultaneous events, and which addresses potential worst

---

# MINUTES

---

case scenarios that could arise from the proposed expansion; said analysis does not indicate that the enlarged facility would create problematic traffic or parking impacts; and

WHEREAS, the Board has reviewed this analysis and finds it credible and sufficient; and

WHEREAS, the applicant notes that a Synagogue is a permitted use in an R1-2 zoning district; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map, and concludes that the proposed building is appropriate given the context of the neighborhood; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare, assuming that the conditions imposed herein are complied with fully by the Synagogue; and

WHEREAS, the Board finds that the hardship alleged by applicant herein was not created by the owner or a predecessor in title; and

WHEREAS, as noted above, the applicant has reduced in part the scope of the proposed enlargement and has reduced the floor area by 13.3% or 1,211 sq. ft., reduced FAR by 13.7% or 0.18, increased the minimum rear yard on the First floor (Lot 39) by 153.9% or 5', increased the average rear yard on the First floor (Lot 39) by 51% or 3'-10", increased the minimum rear yard on the Second floor (Lot 39) by 100% or 3' (at the corner of the stair core), increased the average rear yard of the Second floor (Lot 39) by 206% of 15'-6", and reduced the size of the Mikvah; and

WHEREAS, therefore, the Board finds that this proposal is the minimum necessary to afford the owner relief and to meet their programmatic needs; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable landscaping plans will be planted and maintained;

THAT all landscaping as shown on the approved landscaping plans will be planted and maintained;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions shall appear on the certificate of occupancy;

THAT all Local Law 58/87 requirements shall be reviewed and determined by the Department of Buildings;

THAT all exit requirements shall be reviewed and determined by the Department of Buildings;

THAT any and all lighting will be directed downward and away from adjacent residences;

THAT substantial construction be completed in

significant environmental impacts that would require the preparation of an Environmental Impact Statement.

*Resolved*, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §72-21 and grants a variance, to permit the proposed enlargement of an existing two story synagogue (Use Group 4), located in an R1-2 zoning district, which does not comply with the zoning requirements for floor area, building height, side yards, rear yard, and Board of Standards and Appeals plans, contrary to Z.R. §§24-10, 24-111, 23-521, 24-35, 24-36 and a previous variance granted under Cal. No. 815-85-BZ; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 10, 2004"-(11) sheets; and *on further condition*:

THAT sound baffling surrounding the existing air conditioning units shall be repaired and maintained in good condition;

THAT no trash shall be left outside the synagogue building such that it shall be visible from the street, except for trash placed in the appropriate designated area for immediate pick-up;

THAT there shall be no commercial catering on the premises;

THAT the kitchens will only be used as warming kitchens;

THAT the roof-top play area will be open for use during the following hours only: between 8 am and 4 pm on weekdays, 9 am to 6 pm on Saturdays and Jewish Holidays, except that during the Jewish holiday of Sukkot, the play area may be used from 9 am to 8 pm;

THAT the play area will be equipped with an automatic closing door;

THAT there shall be no simultaneous uses allowed on the premises except as in accordance with the provisions set forth in the above-mentioned agreement between the Synagogue and the Committee;

accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 10, 2004.

# MINUTES

**267-03-BZ**

**CEQR #04-BSA-032K**

APPLICANT - Stuart A. Klein, Esq., for North 14th Street Realty Associates, LLC, owner.

SUBJECT - Application August 21, 2003 - under Z.R. §72-21 to permit the proposed construction of three attached six and seven story buildings, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 2/6 Berry Street, 194/96 North 14<sup>th</sup> Street, south side, between Wythe Avenue to the west and Berry Street to the east, Block 2279, Lot 13, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Stuart A. Klein.

**ACTION OF THE BOARD** - Application denied.

THE VOTE TO GRANT -

Affirmative: Commissioner Chin.....1

Negative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Absent: Commissioner Miele.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, July 21, 2003, acting on Department of Buildings Application No. 301572395, reads:

- “1) Proposed residential use group 2 not permitted in M-1 zoning district as per Z.R. 42-00.
- 2) Propose setback is contrary to Z.R. 23-633/43-43.
- 3) Proposed parking spaces insufficient as per Z.R. 25-241/44-21”; and

WHEREAS, a public hearing was held on this application on February 24, 2004 after due notice by publication in the City Record, with continued hearings on March 23 and June 8, 2004, and then to decision on August 10, 2004; and

WHEREAS, the application proposes the demolition of the existing buildings and the construction of three attached buildings (two six-story and one seven-story, hereinafter the “Proposed Buildings”) that will front on North 14<sup>th</sup> Street, with a building height of 77.5 feet, a total of 81 residential units and a Floor Area Ratio (“FAR”) of 4.0, commercial space on the first floor and in the cellar, and an on-site parking garage with space for 45 cars; and

WHEREAS, an earlier version of the application proposed three six-and-seven-story buildings, with a total of 86 residential units and a FAR of 4.77, and 27 parking spaces; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the site in conformity with underlying district regulations: (1) the existing two-story warehouse is functionally obsolete in that it is missing part of the second floor flooring, was designed for

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele, and Commissioner Chin; and

WHEREAS, this is an application under Z.R. §72-21 to permit the proposed construction of three attached six and seven story buildings (Use Group 2), located in an M1-1 (1.0 FAR) zoning district, contrary to Z.R. §42-00; and

WHEREAS, the site is located on the south side of North 14<sup>th</sup> Street and is bordered by Wythe Avenue to the west, and the corner of Nassau Avenue and Berry Street to the east, with frontage along both North 14 and Berry Streets; and

WHEREAS, the lot is approximately 24,000 sq. ft., and is occupied by four one-story buildings and a two-story building, all built as manufacturing/warehouse buildings, which, in the aggregate, possess a total floor area of 27,424 sq. ft.; and

WHEREAS, the lot in question has been the subject of a prior variance application, brought under BSA Calendar No. 57-02-BZ, which the applicant represents sought to convert a minor portion of the subject site; this case was withdrawn prior to decision; and

WHEREAS, Community Board 1, Brooklyn, recommends disapproval of the subject application; and

WHEREAS, the City Planning Commission (“CPC”), in a letter dated February 19, 2004, urged that the subject application be denied because the essential industrial character of the neighborhood would be negatively impacted; and

WHEREAS, the Department of City Planning (“DCP”) submitted written testimony and appeared at hearing, providing an explanation of manufacturing employment data in the area surrounding the site, as well as highlighting the degree of conforming use in the area; and

minimal floor loads and has small floor plates, needs renovations, and is only 40 feet wide, all of which lead to the site being less competitive for permitted uses when compared to certain other buildings in the area; (2) the other existing buildings are functionally obsolete in that they are in poor condition; and (3) the site suffers from unique sub-surface soil conditions that would require the installation of an expensive foundation system; and

WHEREAS, the applicant submitted a September 15, 2003 letter from an engineer in support of the claim that the existing buildings are obsolete, which states that the condition of the buildings is not due to any failure to maintain, but rather due to outdated construction practices and alleged poor soil conditions; and

WHEREAS, the applicant states that a further problem with the existing buildings is that they are not integrated, and that to rehabilitate the buildings so that they could house a conforming use would require expensive re-spanning; and

---

# MINUTES

---

WHEREAS, the Board observes that the proposal calls for the demolition of the existing buildings, which would result in a vacant lot without any inherent unique physical conditions (absent evidence of another condition); and

WHEREAS, accordingly, the Board rejects the claim that the alleged obsolescence of the buildings, in of itself, can be the unique physical condition for purposes of a variance when the buildings are subsequently demolished; and

WHEREAS, the applicant also claims that sub-surface soil conditions exist at the site; and

WHEREAS, in support of this claim, a boring was eventually taken at the site, and a boring test report was submitted that purports to show the existence of poor soil conditions; and

WHEREAS, the Board subsequently asked the applicant to take additional borings, and to conduct the tests inside the existing buildings, in compliance with Building Code provisions that govern boring tests; and

WHEREAS, some subsequent boring tests were done, but took place outside the buildings, and apparently outside the property lines, contrary to the instruction of the Board and also contrary to the methodology established in the Building Code; and

WHEREAS, the Board notes that the boring tests are inconclusive due to the locations from which they were taken; and

WHEREAS, the Board also instructed the applicant to provide evidence that any alleged soil conditions at the site were not a prevalent condition in the subject area; and

WHEREAS, the Board requested that the applicant make this showing by reviewing the records of the Department of Buildings as to the foundation design/type of other buildings in the area, in order to see if the records would reveal that the soil on the other lots was also poor; and

WHEREAS, because the applicant has failed to provide substantial evidence in support of the finding set forth at Z.R. §72-21(a), the application also fails to meet the finding set forth at Z.R. §72-21(b); and

WHEREAS, additionally, the applicant has submitted a feasibility study purporting to demonstrate that developing the entire premises with a conforming use would not yield the owner a reasonable return; and

WHEREAS, however, the applicant failed to submit any evidence of the precise dollar and cents premium cost associated with the alleged soil conditions that would support the claim of economic hardship; and

WHEREAS, moreover, the applicant did not submit credible evidence of premium demolition costs related to any structural feature of the existing buildings; and

WHEREAS, a senior developer with the Greenpoint Manufacturing and Design Center, a non-profit industrial real estate development center, testified that the per square foot rental assumptions made in the submitted feasibility study were unrealistically low and that with a higher rental assumption, a reasonable return could potentially be realized

WHEREAS, the applicant agreed that the Board's instruction was appropriate, but instead of reviewing DOB records, the applicant submitted another letter from the engineer, dated April 29, 2004, claiming that based upon a visual inspection of three other nearby buildings, his conclusion was that only the subject lot suffered from the poor soil conditions, as they did not show the same cracking and state of dilapidation as the existing buildings on the subject lot; and

WHEREAS, the Board disagrees that visual observation of nearby buildings alone, even by an engineer, is an acceptable methodology to evaluate the predominant soil conditions in a neighborhood for purposes of a Board case; and

WHEREAS, therefore, the Board does not find the engineer's conclusion to be sufficient evidence that the alleged soil condition is unique to the site, as it relies solely on visual observations of other buildings; and

WHEREAS, the Board maintains that a review of DOB records of neighboring buildings showing actual boring tests, the type of foundation systems utilized, or other evidence of soil conditions, would be a reasonably reliable means of ascertaining soil conditions in the area, and notes again that the applicant failed to provide this information as directed; and

WHEREAS, the Board concludes that the applicant has not submitted substantial evidence in support of the claim that the alleged soil conditions are not a prevalent condition in the area, and therefore unique to the degree necessary under Z.R. 72-21(a); and

WHEREAS, accordingly, the Board finds that the applicant has failed to submit substantial evidence in support of the finding set forth at Z.R. §72-21(a); and

from a conforming development; and

WHEREAS, this individual testified that a higher rental assumption was warranted based upon his experience in leasing out manufacturing space in the area; and

WHEREAS, this individual also testified that the assumed construction costs for a building suitable for conforming use appeared to be high, and that a building built for a conforming use could therefore be feasible, especially in light of ongoing rezoning efforts in the area that will likely lead to a diminishment of available manufacturing sites; and

WHEREAS, the applicant submitted marketing evidence in support of its claim that the existing buildings are obsolete and not rentable to a conforming user; and

WHEREAS, the Board has reviewed the evidence of these marketing attempts and notes that they appear to only address one of the five existing buildings; and

WHEREAS, testimony of a community member at hearing suggested that many of the companies that applicant alleges responded to the marketing attempts had no reason to lease space in Brooklyn, or were otherwise not

---

# MINUTES

---

realistic prospective lessees of the site, regardless of the condition of the existing buildings; and

WHEREAS, therefore, even if the applicant could substantiate that the site is uniquely afflicted with a physical condition, the Board finds that the claim of economic hardship has not been supported by substantial evidence, due to: (1) a lack of evidence showing the precise cost related to the alleged soil conditions; (2) credible testimony that a conforming use could be feasible and; (3) evidence of poor marketing attempts; and

WHEREAS, the applicant claims that the Proposed Buildings would not alter the essential character of the neighborhood or adversely impact nearby conforming uses; and

WHEREAS, in support of this claim, the applicant cited non-manufacturing uses allegedly near the site; specifically, the applicant directed the Board's attention to a church with a rectory and daycare, a loft building, and a school; and

WHEREAS, the applicant argues that these other uses contribute to an alleged mixed-use character of the neighborhood; and

WHEREAS, the Board disagrees that a such a small amount of non-manufacturing uses near the site gives the neighborhood a mixed-use character; and

WHEREAS, the above-mentioned DCP letter cites significant conforming activity near the site on North 13<sup>th</sup> Street between Berry Street and Wythe Avenue, and on North 14<sup>th</sup> Street between Wythe and Kent Avenues, and attached pictures of nearby conforming uses, as well as a map showing where conforming uses were located in relation to the site; and

WHEREAS, the Board observed on its site visit that

WHEREAS, due to the level and degree of conforming manufacturing uses surrounding the site, the Board finds that the introduction of 81 residential units into this neighborhood would impact the conforming uses and alter the essential character of the neighborhood; and

WHEREAS, DCP also submitted employment data showing that the level of manufacturing employment in the area was substantial, and at hearing, testified as to this data; and

WHEREAS, DCP also testified that there appeared to be some expansions of businesses in the area; and

WHEREAS, the applicant disagreed that the DCP data was accurate and submitted its own data on manufacturing employment; and

WHEREAS, the applicant argued that its data showed that there was a decline in manufacturing employment in the area over the last two years; and

WHEREAS, the Board notes that the study area used by DCP for its data differed from that used by the applicant; the applicant initially focused on a 400' radius from the site; and

WHEREAS, the applicant later obtained and submitted zip code based employment data, which showed a decrease in manufacturing and wholesale jobs for the subject zip code; and

there appears to be many active conforming manufacturing uses in the immediate vicinity of the subject site; and

WHEREAS, the land use map submitted by the applicant also shows that the predominant land use in the area is manufacturing; and

WHEREAS, this same land use map shows almost no residentially occupied sites

WHEREAS, based upon the above, the Board finds that the essential character of the neighborhood is manufacturing, not mixed-use; and

WHEREAS, the applicant argued that approximately 20 of the lots within a 600 feet radius of the site shown as conforming uses on the submitted land use map were actually vacant, residentially occupied, warehouses, or for rent; and

WHEREAS, the applicant stated that a revised, wider radius land use map, showing these 20 lots would be submitted, with information as to how long the lot had been vacant, for rent, or occupied by a non-manufacturing use; and

WHEREAS, however, no such revised land use map was submitted; and

WHEREAS, the applicant submitted written statements from nearby manufacturing property owners stating that they had no objection to proposed residential use; and

WHEREAS, the Board notes that the submitted statements do not speak for every conforming user in the neighborhood, and that in any event, a lack of objection from a conforming user is not dispositive of whether a particular variance will impact the essential character of the neighborhood or impact nearby conforming uses; and

WHEREAS, the Board declines to favor DCP's data over the applicant's, or vice versa, but instead finds that even if applicant's contentions that manufacturing employment had decreased in the 400' radius area in the last two years are accepted as accurate, the decrease was not so substantial that the essential character of the neighborhood would not be affected by the proposed residential buildings; and

WHEREAS, in fact, the Board notes that the predominant land use in the area remains overwhelmingly manufacturing despite any alleged diminishment in manufacturing employment, and that active conforming uses remain across the street from, and on the same block as, the site; and

WHEREAS, the Board notes that even assuming that applicant is correct regarding a decrease in manufacturing employment, at least some of the decrease in the last two years could be attributable to a weaker economy in the past two years, compounded by the effect of the September 11 tragedy, and that the area's manufacturing employment could remain stable or potentially increase as the economy strengthens; and

WHEREAS, in support of the claim that the Proposed Buildings would not affect the character of the

---

# MINUTES

---

neighborhood, the applicant also made two supplementary arguments, namely that that the south frontage of the Proposed Buildings would be across from a park, and that a designated bike path runs along Berry Street; and

WHEREAS, applicant argues that these two features are characteristic of a neighborhood that is appropriate for residential use; and

WHEREAS, the applicant states that manufacturing uses should not be placed adjacent to a park, according to modern planning principles; and

WHEREAS, the Board notes that while a park is arguably a neighborhood amenity that is compatible with residential use, the subject site is nevertheless surrounded on its block on two sides by conforming manufacturing sites, and is directly across the street from another manufacturing site; and

WHEREAS, the Board also notes that there are instances in the City of manufacturing uses abutting park boundaries, and that the two uses are not necessarily incompatible; parks can act as buffers between manufacturing zones and residential uses; and

WHEREAS, the Board does not agree that the existence of the bike path is important; and

WHEREAS, a bike lane does not create or contribute to any alleged residential character of the subject neighborhood; rather, a bike lane, given that it is actually laid out on the street, is more analogous to a transportation lane for auto vehicles; and

WHEREAS, on July 20, the applicant attempted to amend the subject application to a conforming hotel proposal, which would require a bulk waiver but not a use waiver; and

WHEREAS, on July 27, the applicant requested another adjournment from the Board in order to discuss the hotel proposal with the Brooklyn office of DCP, and also to analyze a residential scenario with lesser bulk; and

WHEREAS, the Board properly denied this request because regardless of the proposed use of the property (hotel or residential) or the proposed bulk, the Board, as described above, concludes that the applicant has failed to provide substantial evidence in support of the findings set forth at Z.R. 72-21(a) and (b), thus rendering any determination on the hotel scenario or lesser bulk scenario and their potential impact on the character of the neighborhood meaningless; and

WHEREAS, additionally, the Board notes that it conducted three hearings on the subject application, and at no time did the applicant indicate that a conforming use was viable; and

WHEREAS, to the contrary, at all times during the public hearing process, the applicant maintained that the requested relief was the minimum necessary and that no conforming use would bring a reasonable return on the site; and

WHEREAS, the applicant went so far as to state at the second hearing that they had done all the necessary "homework" and that they could not submit anything further to

WHEREAS, the Board notes that this treatment of bike lanes is consistent with its decision in BSA Calendar Number 241-02-BZ, which involved a similar claim regarding a bike path in a manufacturing district; and

WHEREAS, a member of the public testified that traffic in manufacturing zones is typically less than in commercial or residential districts, so riding a bike through them is generally safer; and

WHEREAS, in sum, the Board finds that: (1) the prevailing character of the neighborhood is manufacturing, not mixed-use; (2) that a substantial amount of conforming uses exist in the neighborhood that could be impacted by the Proposed Buildings, regardless of alleged manufacturing job losses in the area; and (3) the site's proximity to a bike path and park do not sufficiently support the claim that the site is appropriate for residential use; and

WHEREAS, based upon the above, the Board finds that the applicant has failed to submit substantial evidence in support of the finding set forth at Z.R. §72-21(c); and

WHEREAS, after the hearing was closed and a decision date set, the applicant requested an adjournment of the decision, and stated that they were investigating a conforming use scenario; and

WHEREAS, the Board granted the adjournment request through a letter sent by its Executive Director, which stated that submissions concerning the proposed conforming use scenario were expected by July 20, 2004; and

the Board; and

WHEREAS, at the third hearing, the applicant's financial analyst stated that it would be impossible to obtain financing for any as-of-right use; and

WHEREAS, in addition, on July 20, the applicant submitted only preliminary plans in support of the proposed change in the application, and has not explained why a feasibility study, statement of facts and findings, and environmental assessment could not be prepared; and

WHEREAS, in sum, the Board concludes that it need not reopen the instant matter for consideration of a conforming use proposal that would still require a substantial bulk waiver where, as here, the applicant has: (1) failed to provide the Board substantial evidence in support of the findings set forth at Z.R. §72-21(a) and (b); (2) throughout the entire hearing process until the date of closing, prosecuted a case before the Board based on the residential proposal; and (3) submitted an incomplete application amendment after a decision date has been set; and

WHEREAS, because the subject application fails to provide substantial evidence in support of the findings set forth at Z.R. §72-21 (a), (b), and (c), the application must be denied.

*Resolved*, the decision of the Borough Commissioner, July 21, 2003, acting on Department of Buildings Application No. 301572395, must be sustained, and the subject application is hereby denied.

---

# MINUTES

---

Adopted by the Board of Standards and Appeals,  
August 10, 2004.

August 10, 2004.

## 305-03-BZ

### CEQR #04-BSA-055K

APPLICANT - Sheldon Lobel, P.C., for 10 Grand Avenue, LLC,  
owner.

SUBJECT - Application September 25, 2003 - under Z.R. §72-21  
to permit the legalization of residential occupancy, Use Group 2,  
located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 2, 8, 10 Grand Avenue, southwest  
corner of Flushing Avenue, Block 1877, Lots 27 and 30, Borough of  
Brooklyn.

### COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Application withdrawn.

**THE VOTE TO WITHDRAW** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

Adopted by the Board of Standards and Appeals,  
Absent: Commissioner Miele.....1

Adopted by the Board of Standards and Appeals,  
August 17, 2004.

## 360-03-BZ

### CEQR #04-BSA-086K

APPLICANT - Friedman & Gotbaum, LLP, by Lori G. Cuisinier,  
Esq., for Linden & Utica Realty Corp., owner; KFC U.S.  
Properties, Inc., lessee.

SUBJECT - Application November 20, 2003 - under Z.R. §§73-03  
and 73-243 to permit the reestablishment of an expired special  
permit, previously granted under Calendar No. 257-87-BZ, which  
permitted a drive-through facility for an eating and drinking  
establishment in a C1-2(R5) zoning district.

PREMISES AFFECTED - 736-46 Linden Boulevard, southwest  
corner of Linden Boulevard, Block 4675, Lot 6, Borough of  
Brooklyn.

### COMMUNITY BOARD #17BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on  
condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Commissioner Caliendo and Commissioner Chin  
.....4

Negative:.....0

## 308-03-BZ

### CEQR #04-BSA-058X

APPLICANT - Sheldon Lobel, P.C., for Grand Concourse Realty  
Corp., owner.

SUBJECT - Application October 6, 2003 - under Z.R. §73-211 to  
permit the proposed extension to an existing gasoline service station,  
to include an accessory convenience store, also the addition of  
another lot that, will be used for accessory parking, which is contrary  
to a previous variance granted under Cal. No.193-50-BZ and  
Z.R.§32-25.

PREMISES AFFECTED - 557/71 Grand Concourse, west side,  
31.6' north of East 149th Street, Block 2347, Lots 24 and 19,  
Borough of The Bronx.

### COMMUNITY BOARD #4BX

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Application withdrawn.

**THE VOTE TO WITHDRAW** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

**THE RESOLUTION** -

WHEREAS, the decision of the Borough  
Superintendent, dated October 20, 2003 acting on  
Department of Buildings Application No. 301647617 reads,  
in pertinent part:

“Obtain BSA approval for extention [sic] of special  
permit for the existing eating and drinking  
establishment in C1-2/R district approved by BSA  
before;” and

WHEREAS, a public hearing was held on this  
application on July 20, 2004, and then laid over to August  
10, 2004 for decision; and

WHEREAS, the premises and surrounding area had a  
site and neighborhood examination by a committee of the  
Board, consisting of Chair Srinivasan and Vice-Chair  
Babbar; and

WHEREAS, this application is for the renewal of a  
special permit for an existing eating and drinking  
establishment and the legalization of an accessory drive-  
through facility which, in a C1-2 Zoning District, requires a  
Special Permit pursuant to Z.R. §§73-03 and 73-243; and

WHEREAS, the subject site is located on Linden  
Boulevard at the southwest corner of the intersection of  
Linden Boulevard and Utica Avenue, on a lot containing  
12,000 square feet, with approximately 100 feet of frontage  
on Linden Boulevard and 120 feet of frontage on Utica  
Avenue; and

WHEREAS, on March 14, 1989, the Board granted a  
special permit allowing the addition of a drive-through facility

# MINUTES

at a one (1) story eating and drinking establishment for a term of five (5) years; and

WHEREAS, the special permit expired on March 14, 1994, and therefore has lapsed; and

WHEREAS, the applicant represents that the Site: (1) provides reservoir space for a ten-car queue, (2) will cause minimal interference with traffic flow in the immediate vicinity because of the location of entrances, exits and curb cuts in relation to the street frontages, (3) is in compliance with off-street parking requirements, (4) conforms to the character of the commercially zoned street frontage within 500 feet of the subject premises which reflects substantial orientation toward the motor vehicle, (5) will not have an undue adverse impact on residences within the immediate vicinity of the subject premises because of precautions taken to provide for the use of the loudspeaker system, lighting and parking, and (6) provides adequate buffering between the drive-through facility and adjacent residential uses; and

WHEREAS, the Board finds that the applicant submitted sufficient evidence to support a conclusion that the Site meets the six findings necessary to warrant the grant of a special permit under Section 72-243 of the Zoning Resolution.

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application # 301647617)

Adopted by the Board of Standards and Appeals, August 10, 2004.

### 39-04-BZ

#### CEQR #04-BSA-132K

APPLICANT - Eric Palatnik, P.C., for Mordechai Bistrizky, owner.  
SUBJECT - Application February 13, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space and rear yard, is contrary to Z.R. §23-141, §23-461 and §23-47.

PREMISES AFFECTED - 1418 East 29<sup>th</sup> Street, between Avenue "N" and Kings Highway, Block 7682, Lot 57, Borough of Brooklyn.

#### COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

THE RESOLUTION -

*Resolved*, that the Board of Standards and Appeals, *reopens and amends* the resolution to extend the term of the special permit which expired on March 14, 1994, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the special permit for an additional five (5) years from March 14, 2004 to expire on March 14, 2009, *on condition*

THAT all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received April 26, 2004"- (4) sheets and "May 19, 2004"- (2) sheets; and on further condition;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions and all conditions from prior resolutions shall appear on the certificate of occupancy;

THAT all signage shall conform with the underlying district regulations and prior Board grants;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

WHEREAS, the decision of the Department of Buildings, dated February 6, 2004, acting on Application No. 301685745, reads in pertinent part:

"PROPOSED ENLARGEMENT TO EXISTING RESIDENCE IS CONTRARY TO ZR SECTION 23-141 (FLOOR AREA AND OPEN SPACE) AS WELL AS ZR SECTION 23-47 (REAR YARD) + 23-461 AND THEREFORE REQUIRES A SPECIAL PERMIT FROM THE BSA"

WHEREAS, a public hearing was held on this application on June 8, 2004 after due notice by publication in the *City Record*, with a continued hearing on July 13, 2004, and then to August 10, 2004 for a decision; and

WHEREAS, this is an application pursuant to Z.R. §73-622 to permit the proposed enlargement to an existing single-family dwelling located in an R2 Zoning District, which does not comply with the zoning requirements for floor area ratio, open space, and side and rear yard, and is therefore contrary to Z.R. §§23-141, 23-47, and 23-461; and

WHEREAS, a site and neighborhood examination has been conducted at the premises and surrounding area by a committee of the Board; and

WHEREAS, Brooklyn Community Board 14, has recommended approval of this application; and

WHEREAS, the premises consists of a 3,250 sq. ft. lot, located on East 29<sup>th</sup> Street between Avenue N and Kings Highway, currently improved with a two-story residential structure containing 1,392.7 sq. ft. of floor area; and

WHEREAS, the applicant states that the proposed enlargement will increase the total floor area of the building to 3,416.5 sq. ft.; and

WHEREAS, the applicant represents that the subject zoning lot is defined pursuant to ZR §23-48 as an "Existing

---

# MINUTES

---

Narrow Zoning Lot"; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the perimeter wall height will comply with all applicable zoning regulations; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-622 and 73-03.

THAT all parking facilities shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; no waiver is granted as to the cellar;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, August 10, 2004.

---

## 147-02-BZ

APPLICANT - Gerald J. Caliendo, R.A., for Joseph Pizzonia, owner.

SUBJECT - Application May 8, 2002 - under Z.R. §72-21 to permit the legalization of the change of use of covered parking area, to automobile repair service bays, and the addition of a mezzanine with an accessory office and storage area, located in a C1-2 within an R-4 zoning district, is contrary to a previous variance granted under Cal. No. 148-87-BZ and Z.R. §32-00.

PREMISES AFFECTED - 201-06 Hillside Avenue, southeast corner of 201<sup>st</sup> Street, Block 10495, Lot 52, Borough of Queens.

### COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Gerald J. Caliendo and Sandy Anagnostou.

**ACTION OF THE BOARD** - Laid over to September 21, 2004, at 1:30 P.M., for continued hearing.

---

## 361-02-BZ

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 N.Y.C.R.R. Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings and *grants* a special permit under Z.R. §73-622 and §73-03, to permit the proposed enlargement to an existing single-family dwelling located in an R2 Zoning District, which does not comply with the zoning requirements for floor area ratio, open space, and side and rear yard, and is therefore contrary to Z.R. §§23-141, 23-47, and 23-461, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received February 13, 2004"- (9) sheets and "June 29, 2004"- (1) sheet; and *on further condition*;

THAT there shall be no habitable room in the cellar;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

APPLICANT - Marianne Russo, for 214 25<sup>th</sup> Street Corporation, owner.

SUBJECT - Application December 13, 2002 and updated January 5, 2004 - under Z.R. §72-21 to permit the proposed renovation and conversion of an existing factory building, to create 15 unit loft type apartments, with five parking spaces in the mews, a garden courtyard, and the addition of floor area to the center of the front structure, located in an M1-1D district, which does not meet the zoning requirements for rear lot line, parking, height and setback, is contrary to Z.R. §42-00, §43-61(d), §43-61(c) and §44-27.

PREMISES AFFECTED - 214 25<sup>th</sup> Street, between Fourth and Fifth Avenues, Block 655, Lot 13, Borough of Brooklyn.

### COMMUNITY BOARD #7BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 1:30 P.M., for continued hearing.

---

## 102-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Southside Realty Holdings, LLC, owner.

SUBJECT - Application April 3, 2003 - under Z.R. §72-21 to permit the proposed development of two residential buildings with underground accessory parking and an open recreation space between the two buildings, Use Group 2, located in an M3-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 291 Kent Avenue, 35/37 South Second Street and 29/33 South Third Street, east side of Kent Avenue, between South Second and Third Streets, Block 2415, Lots 10, 14, 15, 41-43, 114 and 116, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jordan Most, Jack Freeman and Bruce Cutler.

For Opposition: Brando Cole, Steven Frankel, Peter Bassett, Philipp Mohr and Monroe Denton.

---

# MINUTES

---

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 1:30 P.M., for continued hearing.

**186-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Mount Carmel Plaza, LLC, owner.

SUBJECT - Application June 4, 2003 - under Z.R. §72-21 to permit the proposed seven story multiple dwelling, Use Group 2, with a total of sixty residential units and twenty-four parking spaces, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 525 Union Avenue, west side, 48' south  
SUBJECT - Application June 10, 2003 - under Z.R. §72-21 to permit the proposed construction of a five (5) story, 27 unit residential building, in an M1-1 zoning district.

PREMISES AFFECTED - 824/34 Kent Avenue, south side of Park Avenue, and east of Taaffe Place, Block 1897, Lot 31, Borough of Brooklyn.

**COMMUNITY BOARD #3BK**

APPEARANCES -

For Applicant: Steven Epstein and Ari Steinman.

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 1:30 P.M., for continued hearing.

**194-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for B'nos Menachem Inc., owner.

SUBJECT - Application June 13, 2003 - under Z.R. §72-21 to permit the proposed catering establishment, Use Group 9, in the cellar of an existing one story, basement and cellar building (school for girls), located in an R6 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 739 East New York Avenue, between Troy and Albany Avenues, Block 1428, Lot 47, Borough of Brooklyn.

**COMMUNITY BOARD #9BK**

APPEARANCES -

For Applicant: Sheldon Lobel and Richard Lobel.

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

**260-03-BZ**

APPLICANT - Law Offices of Howard Goldman, PLLC, for 376 East 94th Street, Realty LLC, owner.

SUBJECT - Application August 14, 2003 - under Z.R. §72-21 to permit the legalization of sixty (60) residential units, in an existing seven story building, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 20 Grand Avenue, between Flushing and Park Avenues, Block 1877, Lot 35, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

of Withers Street, Block 2315, Lot 14, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Jordan Most.

**ACTION OF THE BOARD** - Laid over to August 17, 2004, at 1:30 P.M., for continued hearing.

**193-03-BZ**

APPLICANT - James M. Plotkin, Esq., for Park and Kent Associates, Inc., owner.

APPEARANCES -

For Applicant: Emily Simons.

**THE VOTE TO CLOSE HEARING** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 1:30 P.M., for decision, hearing closed.

**343-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Pasquale Pescatore, owner.

SUBJECT - Application November 12, 2003 - under Z.R. §72-21 to permit the proposed construction of seven story, nineteen unit, residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 90 Havemeyer Street, between Hope Street and Metropolitan Avenue, Block 2368, Lot 26(Former Lots 26, 27 and 28), Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

**358-03-BZ**

APPLICANT - Harold Weinberg, P.E., for Rita Citronenbaum, owner.

SUBJECT - Application November 19, 2003 - under Z.R. §72-21 to permit the proposed enlargement to an existing single family residence, Use Group 1, located in an R5 zoning district, which does not comply with the zoning requirements for lot coverage, also rear and side yards, is contrary to Z.R. §23-146 and §23-47.

PREMISES AFFECTED - 1651 52<sup>nd</sup> Street, north side, 334'-4½" west of 17<sup>th</sup> Avenue, Block 5466, Lot 69, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

APPEARANCES -

For Applicant: Harold Weinberg, Rita Citronenbaum and Grace

---

# MINUTES

---

Scire.

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

---

### 373-03-BZ

APPLICANT - The Agusta Group, for 3235 Hull LLC, owner.

APPEARANCES -

For Applicant: Sol Korman.

**ACTION OF THE BOARD** - Laid over to September 21, 2004, at 1:30 P.M., for continued hearing.

---

### 9-04-BZ

APPLICANT - Marvin B. Mitzner, Esq., Fischbein Badillo Wagner Harding for Walworth Condominium, Inc., owner.

SUBJECT - Application January 12, 2004 - under Z.R. §72-21 to permit the proposed multiple dwelling, which will contain forty-seven dwelling units, located in an M1-1 zoning district, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 114 Walworth Street, northwest corner of Myrtle Avenue, Block 1735, Lot 24, Borough of Brooklyn.

### COMMUNITY BOARD #3BK

APPEARANCES -

For Applicant: Marvin Mitzner, Felipe Pedanza and Jack Freeman.

**ACTION OF THE BOARD** - Laid over to September 28, 2004, at 10 A.M., for continued hearing.

---

### 17-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Renee Kubie, owner.

SUBJECT - Application January 28, 2004 - under Z.R. §72-21 to permit the legalization of an enlargement in portions of the first and second floors, of a single family residence, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, side and front yards, also perimeter wall height, is contrary to Z.R. §23-141, §23-461A, §23-631B and §23-45.

PREMISES AFFECTED - 2323 Avenue "S", northwest corner of East 24<sup>th</sup> Street, Block 6829, Lot 42, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Lyra Altman.

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

---

### 19-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Motiva Enterprises, LLC, owner.

SUBJECT - Application February 6, 2004 - under Z.R. §11-412 to permit the reestablishment of an expired variance previously granted

SUBJECT - Application December 2, 2003 - under Z.R. §72-21 to permit the proposed off-site accessory parking lot, to be located in an R7-zoning district, which is contrary to Z.R. §25-52.

PREMISES AFFECTED - 293 East 207<sup>th</sup> Street, north side, 80' west of Perry Avenue, Block 3343, Lot 683, Borough of The Bronx.

### COMMUNITY BOARD #7BX

under Cal. No. 423-54-BZ, for a gasoline service station in a C2-1 within an R-4 zoning district, also the legalization of the conversion of a portion of the gas station to an accessory retail convenience store, is contrary to Z.R. §22-10 and §32-10.

PREMISES AFFECTED - 1217 East 233<sup>rd</sup> Street, a/k/a 3923 Baychester Avenue, Block 4954, Lot 68, Borough of The Bronx.

### COMMUNITY BOARD #12BX

APPEARANCES -

For Applicant: Janice Cahalane.

### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for decision, hearing closed.

---

### 38-04-BZ

APPLICANT - Eric Palatnik, P.C., for Sanford Becker and Howard Ochs, owner.

SUBJECT - Application February 13, 2004- under Z.R. §72-21 to permit the legalization of the northern side yard at an existing dentist's office, Use Group 4, located in an R3-2 zoning district, which is in non-compliance with Z.R. §23-464 and §24-35.

PREMISES AFFECTED - 70-15 164<sup>th</sup> Street, east side, between Jewel and 71<sup>st</sup> Avenues, Block 6933, Lot 78, Borough of Queens.

### COMMUNITY BOARD #8Q

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 1:30 P.M., for continued hearing.

---

### 40-04-BZ

APPLICANT - Agusta & Ross, for Steven Witriol, owner.

SUBJECT - Application February 13, 2004 - under Z.R. §72-21 to permit the proposed change of use from an automobile repair and used vehicles sales (Use Group 16), previously approved by the Board under Cal. No. 56-95-BZ, to a retail store (Use Group 6), located in an R5 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 2252 Linden Boulevard, southeast corner of Cleveland Street, Block 4360, Lot 1, Borough of Brooklyn.

### COMMUNITY BOARD #5BK

APPEARANCES - None.

---

# MINUTES

---

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 1:30 P.M., for continued hearing.

---

**42-04-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, for Emerich Goldstein and Zipora Goldstein, owners.

SUBJECT - Application February 23, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, side and rear yards, is contrary to Z.R. §23-141, §23-461 and §23-47.

PREMISES AFFECTED - 1264 East 27<sup>th</sup> Street, between Avenues "L" and "M", Block 7644, Lot 71, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Lyra Altman.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for decision, hearing closed.

---

**134-04-BZ**

APPLICANT - Fischbein Badillo Wagner Harding, for 184 Kent Avenue Associates, owner.

SUBJECT - Application March 19, 2004 - under Z.R. §§72-22 and 1-05(e) to permit the proposed construction of a public esplanade between the building and bulkhead line, also the proposed construction of an additional forty-seven residential units, located in an M3-1 zoning district, is contrary to a previous variance granted under Cal. No. 191-00-BZ.

PREMISES AFFECTED - 184 Kent Avenue, northwest corner of North Third Street, Block 2348, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Howard Hornstein, Barbara Hair, Jack Freeman, Karl Fischer.

For Opposition: Rebecca Brillhart, Nina Englander, Peter Gillespie, Philip Mohr and Jay Platt.

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for continued hearing.

---

**142-04-BZ**

APPLICANT - Rampulla Associates Architects, for Frank

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

McErlean, owner.

SUBJECT - Application March 30, 2004 - under Z.R. §72-21 to permit the proposed single family detached residence, Use Group 1, located within the required front yard, which is contrary to Z.R. §23-45.

PREMISES AFFECTED - 516 Arbutus Avenue, north side, at the intersection of Shore Avenue and Trout Place, Block 6529, Lot 15, Borough of Staten Island.

**COMMUNITY BOARD #3SI**

APPEARANCES -

For Applicant: Philip L. Rampulla.

**ACTION OF THE BOARD** - Laid over to September 21, 2004, at 1:30 P.M., for continued hearing.

---

**143-04-BZ**

APPLICANT - Rampulla Associates Architects, for Charles Farina, owner.

SUBJECT - Application March 30, 2004 - under Z.R. §72-21 to permit the proposed in-ground pool, located within the required front yard, which is contrary to Z.R. §23-12.

PREMISES AFFECTED - 522 Arbutus Avenue, north side, at the intersection of Shore Avenue and Trout Place, Block 6529, Lot 10, Borough of Staten Island

**COMMUNITY BOARD #3SI**

APPEARANCES -

For Applicant: Howard A. Zipser, Bex Axsehod, Joan Krevlin, Joseph Jerome and Martin Maskowitz.

**ACTION OF THE BOARD** - Laid over to September 21, 2004, at 1:30 P.M., for continued hearing.

---

**206-04-BZ**

APPLICANT - Howard A. Zipser, Esq., for Sephardic Community Youth Center, Inc., owner.

SUBJECT - Application May 19, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing community facility, Use Group 4, located in an R5 within the Special Ocean Parkway zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, building's height and setback, also the rear yard, is contrary to Z.R. §23-141, §23-631, §113-55, §113-51 and §113-544.

PREMISES AFFECTED - 1901 Ocean Parkway, southeast corner of Avenue "S", Block 7088, Lots 1, 14, 15, 16 and 89, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

THE VOTE TO CLOSE HEARING -

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for decision, hearing closed.

---

---

# MINUTES

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 6:45 P.M.

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 35

August 26, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**SATISH BABBAR, *Vice-Chair***

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	612-613
<b>CALENDAR</b> of September 21, 2004	
Morning .....	614
Afternoon .....	615
<b>CALENDAR</b> of September 28, 2004	
Morning .....	616
Afternoon .....	617
<b>CALENDAR</b> of October 5, 2004	
Morning .....	618
Afternoon .....	619

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, August 17, 2004**

Morning Calendar .....620

**Affecting Calendar Numbers:**

120-93-BZ	222-19 Linden Boulevard, Queens
40-63-BZ	1199 Park Avenue, Manhattan
198-66-BZ	300 East 74 <sup>th</sup> Street, Manhattan
67-91-BZ	260-09 Nassau Boulevard, Queens
383-03-A	5 Beekman Street, Manhattan
44-04-A	1491 Richmond Road, Staten Island
155-04-A	4 Marion Walk, Queens

Afternoon Calendar.....622

**Affecting Calendar Numbers:**

261-03-BZ	1404/06 Stebbins Avenue, The Bronx
366-03-BZ	2001 East 7 <sup>th</sup> Street, Brooklyn
327-02-BZ	82 Union Street, Brooklyn
183-03-BZ	118 Berry Street, Brooklyn
186-03-BZ	525 Union Avenue, Brooklyn
208-03-BZ	2555 Shell Road, Brooklyn
255-03-BZ	1019 Surf Avenue, Brooklyn
258-03-BZ	47 Thames Street, Brooklyn
273-03-BZ thru	
285-03-BZ	211-51/49/47/45/43/54/52/50/48/46/44/42 94 <sup>th</sup> Road, Queens
291-03-BZ	1380 62 <sup>nd</sup> Street, Brooklyn
332-03-BZ	34-38 38 <sup>th</sup> Street, Queens
341-03-BZ	343 West 16 <sup>th</sup> Street, Manhattan
365-03-BZ	224-20 Prospect Court, Queens
368-03-BZ	110-42 Merrick Boulevard, Queens
4-04-BZ	177 Norfolk Street, Brooklyn
28-04-BZ thru	427, 499 Logan Street,
35-04-BZ	1109 Sutter Avenue, 842, 896, 910 Glenmore Avenue, 247 Montauk Avenue, SI
125-04-BZ	247-39 Jamaica Avenue, Queens
128-04-BZ	162-168 East 68 <sup>th</sup> Street, Manhattan
158-04-BZ	1035 Ocean Parkway, Brooklyn
182-04-BZ	351/53 West 14 <sup>th</sup> Street, Manhattan
184-04-BZ	1824 Bronxdale Avenue, The Bronx

**CORRECTION**.....630

**Affecting Calendar Number:**

144-00-BZ	210 East 77 <sup>th</sup> Street, Manhattan
-----------	---

---

# DOCKETS

---

New Case Filed Up to August 17, 2004

---

**274-04-BZ** B.BK. 2114 Gravesend Neck Road, south side, 63'-7½" south of East 22nd Street, Block 7381, Lot 101, Borough of Brooklyn. Applic.#301400008. The legalization of the extension of existing medical offices, to the second floor of a two story building, located in an R4 zoning district, is contrary to Z.R. §22-00.

**COMMUNITY BOARD #15BK**

---

**275-04-BZ** B.M. 601/03 East Ninth Street, aka 143 Avenue "B", northeast corner, Block 392, Lot 1087, Borough of Manhattan. Applic.#103743004. Proposed conversion of an existing unused gymnasium, into four (4) residential units, also the conversion of an existing office into a residential unit, which does not comply with the zoning requirements for floor area ratio and the number of dwelling units, is contrary to Z.R. §§23-142 and §23-22.

**COMMUNITY BOARD #3M**

---

**276-04-BZ** B.BX. 657 Logan Avenue, west side, 100' south of Randall Avenue, Block 5436, Lot 48, Borough of The Bronx. Applic.#200859936. 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.

**COMMUNITY BOARD #10BX**

---

**277-04-A** B.Q. 155 Reid Avenue, east side, 493.42' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens. Alt.1#401867958. 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.

---

**278-04-A** B.Q. 21 State Road, aka Rockaway Point Boulevard, north side, 83.42' east of Beach 178th Street, Block 16340, Lot 50, Borough of Queens. Applic.# 401953374. 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.

**279-04-A** B.Q. 29 Suffolk Walk, east side, 240.37' south of Sixth Avenue, Block 16350, Lot 400, Borough of Queens. Applic.# 401867388. 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.

---

**280-04-BZ** B.Q. 34-28 214th Place, west side, 104.27' south of 33rd Road, Block 6118, Lot 21, Borough of Queens. N.B.#401743805. Proposed enclosure of existing tennis courts, by an air supported structure, for an existing non-commercial club, with restrictions on activities or facilities (Use Group 4A), located in an R2 zoning district, is not permitted as of right and is therefore contrary to Z.R. §22-14.

**COMMUNITY BOARD #11Q**

---

**281-04-A** B.Q. 34-28 214th Place, west side, 104.27' south of 33rd Road, Block 6118, Lot 21, Borough of Queens. N.B.#401743805. Proposed enclosure of existing tennis courts, by an air supported structure, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

---

**282-04-BZ** B.Q. 34-28 214th Place, west side, 104.27' south of 33rd Road, Block 6119, Lots 1 and 32, Borough of Queens. N.B.#401743798. Proposed enclosure of existing tennis courts, by an air supported structure, for an existing non-commercial club, with restrictions on activities or facilities (Use Group 4A), located in an R2 zoning district, is not permitted as of right and is therefore contrary to Z.R. §22-14.

**COMMUNITY BOARD #11Q**

---

**283-04-A** B.Q. 34-28 214th Place, west side, 104.27' south of 33rd Road, Block 6119, Lots 1 and 32, Borough of Queens. N.B.#401743798. Proposed enclosure of existing tennis courts, by an air supported structure, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

---

---

# DOCKETS

---

**284-04-BZ** B.BK. 2064/2128 Atlantic Avenue and 268/80 Saratoga Avenue, between Howard and Saratoga Avenues, Block 1432, Lots 5-19, 22,25, 28, 30-33 and 35, Borough of Brooklyn. N.B.#301781409. Proposed construction of a one story warehouse building, located in an M1-1 and R6/C2-3C zoning district, that will encroach within the 30-foot open area along district boundaries coincident with rear lot lines of two adjoining zoning lots, is contrary to Z.R.§43-302.

**COMMUNITY BOARD #16BK**

---

**285-04-BZ** B.BK. 5435 First Avenue aka 5424/5434 Second Avenue, west side, between 54th and 56th Streets, Block 820, Lot 36, Borough of Brooklyn. Alt.#301744600. Proposed rooftop parking, on the roof of an existing four story accessory parking garage, requires a special permit from the Board as per Z.R. §73-49 and §73-01.

**COMMUNITY BOARD #7BK**

---

**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 21, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, September 21, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## SPECIAL ORDER CALENDAR

### **949-57-BZ**

APPLICANT - Sheldon Lobel, P.C., for Motiva Enterprises, LLC, owner

SUBJECT - Application February 9, 2004 - reopening for an extension of term of variance which expires October 29, 2004 and for an amendment to authorize the legalization of the conversion of the building to an accessory convenience store.

PREMISES AFFECTED - 2100 Williamsbridge Road, northeast corner of Williamsbridge Road and Lydig Avenue, Block 4310, Lot 30, Borough of The Bronx.

**COMMUNITY BOARD #11**

---

### **1018-65-BZ**

APPLICANT - Sheldon Lobel, P.C., for Colin Development Corp., owner.

SUBJECT - Application June 8, 2004 - reopening for an amendment to the resolution to redevelop the existing gasoline service station and eliminate the automotive service bays and construction of a new convenience store.

PREMISES AFFECTED - 159-04 Cross Bay Boulevard, between 159th and 160th Avenues, Block 14013, Lot 64, Borough of Queens.

**COMMUNITY BOARD #10**

---

### **221-88-BZ**

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for North Shore University Hospital, owner; Central Parking System of New York, Inc., lessee.

SUBJECT - Application April 16, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired on December 6, 2003, to allow an open parking on the roof of an accessory parking garage, located in an R7-1 zoning district.

PREMISES AFFECTED - 102-01 66th Road, 102-14 66th Avenue, 66-06 103rd Street, Block 2131, Part of Lot 16, Borough of Queens.

**COMMUNITY BOARD #6**

---

### **213-04-A**

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; Sheila Schaberich, lessee.

### **256-01-BZ**

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 #13**

---

## APPEALS CALENDAR

### **15-04-A**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Fred Corona, owner.

SUBJECT - Application January 21, 2004 - Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 8 Reynolds Street, south side, 100' west of St. Mary's Avenue, Block 2989, Tentatively Lot 28, Borough of Staten Island.

**COMMUNITY BOARD #1**

---

### **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 #3**

---

### **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 #3**

---

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a service

---

# CALENDAR

---

road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 40 Queens Walk, west side, 203.23' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14

---

### 214-04-A

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; Gregory Allen, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, has a private disposal system in the bed of a service road and is located partially within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 18 Essex Walk, north west corner of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14

---

### 215-04-A

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; Michael Behringer, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 4 Jamaica Walk, west side, 30' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14

---

### 216-04-A

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; John Whelan, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 14 Essex Walk, west side, 55.80' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

**SEPTEMBER 21, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, September 21, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## COMMUNITY BOARD #14

---

### 217-04-A

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; Kathryn Byrnes, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street and located partially within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law. PREMISES AFFECTED - 464 Seabreeze Walk, east side, 30.71' east of Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14

---

### 218-04-A

APPLICANT - The Agusta Group, for Tanya Tang, owner.

SUBJECT - Application May 26, 2004 - Proposed construction of a four story and cellar eight family residential building, which is located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 100-23 39th Avenue, north side, between 100 and 102nd Streets, Block 1767, Lot 60, Borough of Queens.

## COMMUNITY BOARD #3

---

### 221-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Laura & Glenn Pfister, owners.

SUBJECT - Application June 2, 2004 - Proposed alteration and enlargement of an existing one family dwelling, located within the bed of a mapped street, and has a private disposal system in 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 - 39 Irving Walk, north side of Breezy Point Boulevard, 518.38' west of Beach 207th Street, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #3

---

## ZONING CALENDAR

### 388-03-BZ

APPLICANT - Francis R. Angelino, Esq., for 444 Broadway Associates, LLC, owner; Five Points Fitness, LLC, lessee.

SUBJECT - Application December 12, 2003 - under Z.R. §73-36

---

# MINUTES

---

to permit the legalization of a physical culture establishment, located on the second floor in an M1-5B zoning district, which requires a special permit.

PREMISES AFFECTED - 444 Broadway, Bounded by Grand, Crosby and Howard Streets, Block 232, Lot 5, Borough of Manhattan.

**COMMUNITY BOARD #2**

---

## **147-04-BZ**

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 #6**

---

## **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**

---

## **188-04-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Joshua Frankel, owner.

SUBJECT - Application May 4, 2004 - under Z.R. §73-622 to permit the legalization of an 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, open

## **88-92-BZ**

APPLICANT - Kenneth H. Koons, Architect, for 3007 Enterprise, Inc., owner.

SUBJECT - Application April 9, 2004 - reopening for an extension of term of variance which expired June 28, 2004 for an existing Diner which was enlarged in 1994 under Z.R. Section 11-411.

PREMISES AFFECTED - 3007 East Tremont Avenue, northeast corner Ericson Place, Block 5381, Lot 38, Borough of The Bronx.

**COMMUNITY BOARD #10**

---

space ratio, side and rear yards, and is contrary to Z.R. §23-141(a), §23-47 and §23-48.

PREMISES AFFECTED - 1378 East 28th Street, west side, 130' north of Avenue "N", Block 7663, Lot 82, Borough of Brooklyn.

**COMMUNITY BOARD #14**

---

*Pasquale Pacifico, Executive Director*

**SEPTEMBER 28, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, September 28, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## **SPECIAL ORDER CALENDAR**

### **554-54-BZ**

APPLICANT - Sheldon Lobel, P.C., for Mill Basin Realty Corp., owner.

SUBJECT - Application June 22, 2004 - reopening for an extension of time to obtain a Certificate of Occupancy.

PREMISES AFFECTED - 6201 Avenue U, Avenue U and Mill Avenue, Block 8405, Lot 44, Borough of Brooklyn.

**COMMUNITY BOARD #18**

---

### **739-76-BZ**

APPLICANT - Joseph P. Morsellino, Esq., for Cord Meyer Development Corp., owner; Peter Pan Games of Bayside, lessee.

SUBJECT - Application June 22, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired April 10, 2004.

PREMISES AFFECTED - 212-95 26th Avenue, 26th Avenue and Bell Boulevard, Block 5900, Lot 2, Borough of Queens.

**COMMUNITY BOARD #7**

---

**SEPTEMBER 28, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, September 28, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

---

# CALENDAR

---

## ZONING CALENDAR

### 214-03-BZ

APPLICANT - The Agusta Group, for 388 Broadway Owners LLD, owner; Sunny Cheuck, lessee.

SUBJECT - Application December 23, 2003 - under Z.R. §73-36 to permit the legalization of an existing physical culture establishment, located on the first floor of a five story loft building, in an M1-5 zoning district, which requires a special permit.

PREMISES AFFECTED - 388 Broadway, east side, between White and Walker Streets, Block 195, Lot 3, Borough of Manhattan.

### COMMUNITY BOARD #1M

---

### 22-04-BZ

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 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 #7

---

### 71-04-BZ

APPLICANT - Rudolf Gedeon, for Joseph Duton St. Jour, owner.

SUBJECT - Application March 5, 2004 - under Z.R. §72-21 to permit the proposed construction of a three family residence, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for floor area ratio and side yard, is contrary to Z.R. §23-141(b) and §23-462(a).

PREMISES AFFECTED - 720 East 86th Street, between Glenwood Road and Flatlands Avenue, Block 8006, Lot 47, Borough of Brooklyn.

PREMISES AFFECTED - 129 Elizabeth Street, west side, 60'-5' south of Broome Street, Block 470, Lot 17, Borough of Manhattan.

### COMMUNITY BOARD #2M

---

### 205-04-BZ

APPLICANT - Philip L. Rampulla, for Dominick Casale, owner.

SUBJECT - Application May 18, 2004 - under Z.R. §72-21 to permit the proposed construction of a single family detached dwelling, Use Group 1, located within an R3-1 South Richmond District, which does not provide the required front yard and exceeds the floor area requirement, is contrary to Z.R. §107-461 and §23-14.

PREMISES AFFECTED - 375 Tennyson Drive, southwest corner of Groton Street, Block 5317, Lot 48, Borough of Staten Island.

### COMMUNITY BOARD #3

## COMMUNITY BOARD #18

---

### 132-04-BZ

APPLICANT - Eric Palatnik, P.C. of Counsel to Charles Foy, Esq., for Malu Properties, Inc., owner.

SUBJECT - Application March 15, 2004 - under Z.R. §72-21 to permit the proposed commercial (Use Group 6), use of the ground floor of the otherwise as-of-right proposed mixed use building, located in an R7-2 zoning district, which is contrary to Z.R. §32-15.

PREMISES AFFECTED - 310 East Houston Street, southeast corner of Avenue "P", Block 384, Lot 4, Borough of Manhattan.

### COMMUNITY BOARD #3M

---

### 137-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Steven Sharabli, owner.

SUBJECT - Application March 24, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, located within an R3-2 zoning district, which exceeds the allowable floor area, lot coverage, perimeter wall height, and side yard and rear yards, is contrary to Z.R. §23-141, §23-631, §23-48 and §23-47.

PREMISES AFFECTED - 1755 East 28th Street, between Quentin Road and Avenue "R", Borough of Brooklyn.

### COMMUNITY BOARD #15

---

### 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.

---

*Pasquale Pacifico, Executive Director*

**OCTOBER 5, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, October 5, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

**SPECIAL ORDER CALENDAR**

---

# MINUTES

---

## **813-63-BZ**

APPLICANT - Howard A. Zipser/Stadtmauer Bailkin LLP, for Selma R. Miller, owner; Central Parking Corporation, lessee.  
SUBJECT - Application March 16, 2004 - reopening for an amendment to the resolution to amend the existing garage permit to include all 125 existing parking spaces.  
PREMISES AFFECTED - 699/711 West End Avenue, west side of West End Avenue between West 94th and 95th Streets, Block 1253, Lot 21, Borough of Manhattan.  
**COMMUNITY BOARD #7**

---

## **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 #12**

---

## **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  
**70-04-BZ**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Rudolph Semar, owner; Coliseum Gym & Fitness Center, lessee.  
SUBJECT - Application March 2, 2004 - under Z.R. §73-36 to permit the legalization of a change in occupancy from a "factory and storage" building, to a physical culture establishment, located in an M1-1 zoning district.  
PREMISES AFFECTED - 69-91 75th Street, a/k/a 75-13 71st Avenue, northeast corner, Block 3794, Lot 77, Borough of Queens.  
**COMMUNITY BOARD #5Q**

---

## **166-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Rhonda Schwerd, owner.  
SUBJECT - Application April 22, 2004 - 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, lot coverage, side yard, rear yard and perimeter wall height, is contrary to Z.R. §23-141, §23-461A, §23-47 and §23-631.  
PREMISES AFFECTED - 1765 East 23rd Street, east side,

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 #17**

---

**OCTOBER 5, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, October 5, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>h</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## **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 #7**

---

between Quentin Road and Avenue 'R', Block 6806, Lot 65, Borough of Brooklyn.  
**COMMUNITY BOARD #15**

---

### **183-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Dynasty 23rd Street Realty, Inc., owner; MOA, lessee.  
SUBJECT - Application April 30, 2004 - under Z.R. §73-36 to permit the proposed physical culture establishment on the second floor of a five story commercial building, located in a C6-3X zoning district, which requires a special permit as per Z.R. §32-10.  
PREMISES AFFECTED - 206 West 23rd Street, south side, between Seventh and Eighth Avenues, Block 772, Lot 52, Borough of Manhattan.  
**COMMUNITY BOARD #4M**

---

### **191-04-BZ**

APPLICANT - Eric Palatnik, P.C., for Jeffrey Knobel, owner.

---

# MINUTES

---

SUBJECT - Application May 7, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 2, located in R5 zoning district, which does not comply with the zoning requirements for floor area, open space and rear yard, is contrary to Z.R. §23-141(a) and §23-47.

PREMISES AFFECTED - 1376 East 24th Street, between Avenues "N and "M", Block 7659, Lot 79, Borough of Brooklyn.

**COMMUNITY BOARD #14**

---

**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 #8**

---

**284-04-BZ**

APPLICANT - Raymond Levin, Wachtel & Masyr, LLP, for ERMA Realty LLC, owner.

SUBJECT - Application August 11, 2004 - under Z.R. §§73-03 and 73-50 to permit the proposed construction of a one story warehouse building, located in an M1-1 and R6/C2-3C zoning district, that will encroach within the 30-foot open area along district boundaries coincident with rear lot lines of two adjoining zoning lots, is contrary to Z.R. §43-302.

PREMISES AFFECTED - 2064/2128 Atlantic Avenue and 268/80 Saratoga Avenue, between Howard and Saratoga Avenues, Block 1432, Lots 5-19, 22,25, 28, 30-33 and 35, Borough of Brooklyn.

**COMMUNITY BOARD #16**

---

*Pasquale Pacifico, Executive Director*

---

# MINUTES

---

**REGULAR MEETING  
TUESDAY MORNING, AUGUST 17, 2004  
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, June 8, 2004, were approved as printed in the Bulletin of June 17, 2004, Volume 89, Nos. 24-25.

---

**SPECIAL ORDER CALENDAR**

**120-93-BZ**

APPLICANT - Sheldon Lobel, P.C., for Harry McNulty, owner.  
SUBJECT - Application December 17, 2003 - reopening for an extension of term of variance which expired May 10, 2004 and for an amendment to allow the elimination of gasoline sales, permitting the sale of used automobiles and increase on site parking to 9 spaces  
PREMISES AFFECTED - 222-19 Linden Boulevard, northwest corner of Linden Boulevard and 223rd Street, Block 11323, Lot 1, Borough of Queens.

**COMMUNITY BOARD #13Q**

APPEARANCES -

For Applicant: Sheldon Lobel and Elisa B. Hwu.

**ACTION OF THE BOARD** - Application reopened, term of variance extended and resolution amended.

**THE VOTE TO GRANT-**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on June 8, 2004, after due notice by publication in The City Record, with a continued hearing on July 20, 2004 and laid over to August 17, 2004 for decision; and

WHEREAS, the applicant requests a re-opening, an extension of the term of the variance which expired on May 10, 2004, and an amendment to the resolution; and

WHEREAS, since July 24, 1956, the Board has exercised jurisdiction over the premises under calendar number 749-53-BZ, with further actions occurring since that date, the most recent being a special permit under the subject calendar number, granted on May 10, 1994, for the reestablishment of a gasoline service station with accessory uses on the premises; and

WHEREAS, the applicant currently seeks approval for the elimination of gasoline sales and the creation of a parking area for nine cars, part of which will be utilized for used car sales and part of  
PREMISES AFFECTED - 1199 Park Avenue, northeast corner of East 94th Street, Block 1525, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #8**

APPEARANCES -

For Applicant: Francis R. Angelino.

**ACTION OF THE BOARD** - Laid over to September 21, 2004, at 10 A.M., for continued hearing.

which will be used for cars awaiting entry into the service bay garage; and

WHEREAS, Queens Community Board 13 and the Queens Borough President recommend approval of this application.

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 extension of the term of the variance for an additional ten (10) years from May 10, 2004 expiring on May 10, 2014, and to permit the elimination of gasoline sales and the creation of a parking area for nine cars, part of which will be utilized for used car sales and part of which will be used for cars awaiting entry into the service bay garage; 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 2, 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 welding, body or fender work done on the premises;

THAT the above conditions and all conditions from prior resolutions shall appear on the certificate of occupancy;

THAT all signage shall conform to underlying district requirements;

THAT a certificate of occupancy will be obtained within one year from the date of this grant;

THAT landscaping shall be provided and maintained in accordance with BSA approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance 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 #401753223)

Adopted by the Board of Standards and Appeals, August 17, 2004.

---

**40-63-BZ**

APPLICANT - Francis R. Angelino, Esq., for Park Hill Tenants Corp., owner; Majestic Car Park LLC, lessee.

SUBJECT - Application January 12, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which permitted transient parking in the unused and surplus spaces in an existing multiple dwelling accessory garage.

---

**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.

---

# MINUTES

---

PREMISES AFFECTED - 300 East 74<sup>th</sup> Street, southeast corner of 2<sup>nd</sup> Avenue and East 74<sup>th</sup> Street, Block 1448, Lot 3, Borough of Manhattan.

**COMMUNITY BOARD #8M**

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to October 26, 2004, at 10 A.M., for continued hearing.

**67-91-BZ**

APPLICANT - Davidoff & Malito, LLP by Howard S. Weiss, Esq., for HNF Realty LLC, owner; Cumberland Farms, Inc., lessee. SUBJECT - Application March 16, 2004 and updated June 29, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired March 17, 2002 and for an amendment to allow the sale of convenience store items in place of accessory gasoline service station items.

PREMISES AFFECTED - 260-09 Nassau Boulevard, 54-47 to 54-67 Little Neck Parkway, northeast corner of the intersection with Little Neck Parkway, Block 8274, Lots 134, 135, Borough of Queens.

**COMMUNITY BOARD #11**

APPEARANCES -

For Applicant: Juan Reyes.

**ACTION OF THE BOARD** - Laid over to September 21, 2004, at 10 A.M., for continued hearing.

**383-03-A**

APPLICANT - Zygmunt Staszewski, P.E., for Cammeby's Management Company, LLC, owner; Barry Pincus, lessee.

SUBJECT - Application December 9, 2003 - Proposed retention of the existing 10-story atrium and open access stair unenclosed, which is contrary to the "Old Code", Art.26-209(6.4.1.9)(2), as part of a "residential conversion" of an existing Commercial Class"E" building to a residential J-2 occupancy.

PREMISES AFFECTED - 5 Beekman Street, southwest corner of Nassau Street, southeast corner of Theater Alley, Block 90, Lot 14, Borough of Manhattan.

**COMMUNITY BOARD #1**

APPEARANCES -

For Applicant: Gene Kaufman, Zygmunt Staszewski and Caroline Hair.

For Administration: Lisa Orrantia, Department of Buildings; Anthony Scaduto, Fire Department.

**ACTION OF THE BOARD** - Laid over to October 5, 2004,

**REGULAR MEETING**

**TUESDAY AFTERNOON, AUGUST 17, 2004**

**2:00 P.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

---

**ZONING CALENDAR**

at 10 A.M., for continued hearing.

**44-04-A**

APPLICANT -NYC Department of Buildings.

OWNER OF RECORD: Martin Suss

LESSEE: William J. Newstad; Endeavor Abstract; Paladin Abstract. SUBJECT - Application February 25, 2004 - Application to revoke or modify Certificate of Occupancy No. 500353422, issued on 2/28/00, on the grounds that the CO was issued with the mistaken understanding that the non-conforming use was continuous, thus improperly allowing a retail store in a residential zoning district. PREMISES AFFECTED - 1491 Richmond Road, bounded by Norden Street and Forest Road, Block 869, Lot 374, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

APPEARANCES -

For Applicant: Janine Gaylard.

For Opposition: Heather Perach.

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 10 A.M., for continued hearing.

**155-04-A**

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative, Inc, owner; Richard & Dawn Hennessy, lessees.

SUBJECT - Application April 12, 2004 - Proposed enlargement of the first floor, and the addition of a new second floor, 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 - 4 Marion Walk, southwest corner of West End Avenue, Block 16350, Part of Lot 400, Borough of Queens.

**COMMUNITY BOARD #14**

APPEARANCES -

For Applicant: John Ronan.

**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 September 14, 2004, at 10 A.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 11:30 A.M.

**261-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for PLK Realty Corp., owner.

SUBJECT - Application August 18, 29003 - under Z.R. §72-21 to permit the legalization of an existing one story building, as an auto repair shop, Use Group 16, located in an R7-1 zoning district, which is contrary to Z.R. §23-00.

PREMISES AFFECTED - 1404/06 Stebbins Avenue, northeast corner of East 170<sup>th</sup> Street, Block 2965, Lot 36, Borough of The

---

# MINUTES

---

Bronx.

**COMMUNITY BOARD #3BX**

APPEARANCES -

For Applicant: Richard Lobel.

**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 July 15, 2003, acting on Department of Buildings Application No. 200565619, reads:

"The proposed use of building for automobile repair shop, Use Group 16, in an R7-1 district is contrary to Section 23-00 ZR."; and

WHEREAS, a public hearing was held on this application on January 27, 2004 after due notice by publication in the City Record, with continued hearings on March 30, 2004, June 22, 2004, and July 13, 2004 and then to decision on August 17, 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. §72-21, to permit the legalization of an existing one-story building as an auto repair shop (Use Group 16), on a site within an R7-1 zoning district, which is contrary to Z.R. §23-00; and

WHEREAS, the subject premises is a 10,129 sq. ft. lot on the northeast corner of Stebbins Avenue and East 170th Street; and

WHEREAS, the lot is improved with a 18 feet high, one-story building with 5,000 sq. ft. of floor area, currently used an auto repair shop (the "Auto Shop Building"), and a one-story building with 2,340 sq. ft. of floor area, currently used as a church; and

WHEREAS, the subject application only concerns the auto repair use in the Auto Shop Building, as the use of the other building by the church is as-of-right; and

WHEREAS, the record indicates that in 1948, a Certificate of Occupancy was issued, establishing the legal use of the premises as

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; and

WHEREAS, in response to a Board request, the applicant has submitted a letter from its feasibility expert explaining the figures used in the feasibility study; specifically, the letter explains the comparable rental price and the water and sewage charges; and

WHEREAS, this letter also notes that residential development may, at some point in the future, be feasible on the site; and

WHEREAS, the Board has reviewed this letter and finds it credible and sufficient, and agrees that residential may be feasible in the future; and

WHEREAS, at the suggestion of the Board, the applicant has agreed to a condition in this resolution limiting the term of the variance to five years, at which time an analysis of a residential scenario will be submitted to the Board; 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

"Stores and Garage for 4 Motor Vehicles"; and

WHEREAS, the applicant represents that the Auto Shop Building has been used for auto repairs for approximately twenty years; and

WHEREAS, this application seeks the legalization of the use the Auto Shop Building for auto repairs; no enlargement of the building is being requested; and

WHEREAS, the applicant states that subject lot has a depth at the westerly end of 96 feet and at the easterly end of 105 feet; and

WHEREAS, the applicant also states that the lot is severely sloped down East 170th street at an approximately twelve degree grade, with an approximately four feet drop from the party wall shared by the two existing buildings to the northernmost wall of the church building; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in conforming with underlying district use regulations: (1) the unique shape and slope of the lot; and (2) the site's history of commercial use; and

WHEREAS, at hearing, the Board inquired as to the relationship between the lot's physical conditions and the economic hardship, and asked if the Auto Shop Building could support a vertical enlargement; and

WHEREAS, in response to this inquiry, the applicant has submitted a letter from an architect explaining: (1) that there is no evidence that the Auto Shop Building's foundation was designed to support more than its existing load; and (2) that the slope of the lot is not so steep as to allow the garaging of vehicles underground, but is steep enough so that a cost-prohibitive retaining wall, as well as a ramp or vehicle lift, would have to be constructed; and

WHEREAS, the Board has reviewed this letter and finds it credible and sufficient; and

WHEREAS, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardship in using the site in strict conformity with current zoning; and

strict conformity with zoning will provide a reasonable return; and

WHEREAS, the applicant states that the area surrounding the site is mixed-use in character, containing both commercial and residential uses, as well as a multitude of vacant lots; and

WHEREAS, the Board has reviewed the submitted land use map and observed that there are other commercial uses in proximity to the site; and

WHEREAS, the Board confirmed the above observation upon conducting a site visit of the premises and the surrounding neighborhood; 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

# MINUTES

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.

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 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 the legalization of an existing one-story building as an auto repair shop (Use Group 16), on a site within an R7-1 zoning district, which is contrary to Z.R. §23-00; 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 18, 2003"-(3) sheets and "Received March 16, 2004"-(1) sheet; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT there shall be no welding, burning, painting or bodywork performed at the premises;

THAT all auto repairs will be with hand tools and pneumatic  
SUBJECT - Application November 25, 2003- under Z.R. §72-21 to permit the proposed vertical enlargement to an existing school, Use Group 3, located in an R5 Ocean Parkway-Subdistrict, which does not comply with the zoning requirements for floor area, floor area ratio, open space, lot coverage, front yard, side yards, minimum side yard, loading, height and setback, which is contrary to Z.R. §113-51, §24-11, §113-545, §23-45, §113-543, §23-461, §113-55, §23-631 and §113-22(a).

PREMISES AFFECTED - 2001 East 7<sup>th</sup> Street, southeast corner of Avenue "S", Block 7089, Lot 77, 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 Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated November 13, 2003 acting on Application No. 301662216, reads;

“Proposed vertical enlargement to existing school is contrary to:

ZR 113-51 Floor Area & Floor Area Ratio

ZR 24-11 Open Space & Lot Coverage

ZR 113-545 & 23-45 Front Yard

wheel tool only;

THAT there shall be no parking of vehicles on the sidewalks at any time;

THAT this variance shall expire on August 17, 2009, at which time the applicant must re-apply to the Board, and submit a financial study analyzing the feasibility of residential development of the site;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT all applicable fire safety measures as shown on the approved plans shall be complied with;

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;

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 17, 2004.

## 366-03-BZ

APPLICANT - Moshe M. Friedman, P.E., for Ahava Ve Ahava Yeshiva Ketana, Inc., owner.

ZR 113-543 & 23-461 Side Yards & Min. Side Yard

ZR 113-55 & 23-631 Height & Setback”; and

WHEREAS, a public hearing was held on this application on May 18, 2004, after due notice by publication in The City Record, with a continued hearing on July 13, 2004 and laid over to August 17, 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. '72-21 to permit the proposed vertical enlargement to an existing school, Use Group 3, located in the R5 Ocean Parkway Special Zoning District, which does not comply with the zoning requirements for floor area, floor area ratio, open space, lot coverage, front yard, side yards, minimum side yard, loading, height and setback, and contrary to Z.R. §§113-51, 24-11, 113-545, 23-45, 116-543, 23-461, 113-65, 23-631 and 113-22(a); and

WHEREAS, the subject premises is located on the east side of 7th Street, between Avenue S and Avenue T, occupied a two-story brick building, with a width of 21'6" and a depth of 80'0", originally built in 1926 as a multiple dwelling and converted to a synagogue and religious school in 1997 under DOB Application No. 300390486; and

WHEREAS, the record indicates that as the school expanded, it purchased and occupied the adjacent building, 1997 East 7th Street - also a two-story brick building originally build in 1926 as a multiple dwelling - which shares an alley with the subject premises;

---

# MINUTES

---

and

WHEREAS, the subject application seeks to enlarge the school through the construction of a third floor level which would connect the two buildings; and

WHEREAS, the proposal seeks to increase the F.A.R from the permitted 1.5 to 1.82, reduce the open space ratio from the required 45% to 25.31%, increase the lot coverage from the permitted 55% to 74.69% and increase the perimeter wall height from the permitted 32' to 36'-2"; and

WHEREAS, the proposal also seeks to waive the 15' setback requirement, the required side yards of 5' and 8', and the minimum side yard requirement of 5'; and

WHEREAS, the applicant represents that the existing buildings have a non-complying front yard of 2'-6" and the proposed third floor will have a front yard of 5' which does not comply with the 10' required front yard; and

WHEREAS, the applicant represents that the school has outgrown its present facilities, and requires additional classroom space and a synagogue; and

WHEREAS, the applicant further represents that the existing buildings are too narrow to accommodate a synagogue of necessary size, and therefore the creation of a larger, combined third floor level is necessary to meet the programmatic needs of the congregation; and

WHEREAS, the applicant states that it would be unfeasible to fill in the alley area between the buildings on the existing first and second floors because it would result in the suspension of all religious

WHEREAS, therefore, the Board finds that the proposed action will not alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, evidence in the record demonstrates that this proposal is the minimum necessary to meet the programmatic needs of the school; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern including potential parking and traffic impacts; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

WHEREAS, the Board finds that the proposed action is consistent with the City's Local Waterfront Revitalization Program policies.

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 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 the proposed construction vertical enlargement to an existing school, Use Group 3, located in

and educational services to the students and the community; and

WHEREAS, the Board finds that there is a unique condition, namely the narrowness of the existing building, which, when considered in conjunction with the programmatic needs of the school, create practical difficulties and unnecessary hardship in constructing a building that complies with the underlying district regulations; and

WHEREAS, the applicant need not address Z.R. 72-21(b) since the applicant is a not-for-profit organization and the development on this site will be in furtherance of its not-for-profit purposes; and

WHEREAS, in response to community-based concerns and at the request of the Board, the applicant has redesigned the proposal with a greater front setback at the third floor level and a lower fence on the first floor level to minimize any visual impact on the surrounding area; and

WHEREAS, the applicant represents that the existing community facility is a conforming use and the proposed enlargement will not adversely affect the character of the surrounding area; and

WHEREAS, the applicant has agreed to install soundproofing on the walls and roof of the proposed third floor level and rubber padding on the walls of the sunken play yard at the rear of the building; and

WHEREAS, the applicant has submitted an operations plan and an analysis of the proximity of the children who attend the school which demonstrate that approximately 70% of the students live within a half-mile from the school; and

the R5 Ocean Parkway Special Zoning District, which does not comply with the zoning requirements for floor area, floor area ratio, open space, lot coverage, front yard, side yards, minimum side yard, loading, height and setback, contrary to Z.R. §§113-51, 24-11, 113-545, 23-45, 116-543, 23-461, 113-65, 23-631 and 113-22(a), 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 25, 2003"-(3) sheets, "June 29, 2004"-(2) sheets, and "July 29, 2004"-(5) sheets; and on further condition;

THAT there shall be no blockage of the vehicular driveways of any neighboring buildings;

THAT the hours for the rear playground shall be limited to Monday through Thursday 9:00 A.M. to 3:45 P.M.; Friday 9:00 A.M. to 12:00 P.M.; and Sunday 10:30 A.M. to 1:30 P.M.; and

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 17,

---

# MINUTES

---

2004.

---

## 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.

For Opposition: Lillaho Curto and Nancy Haynes.

**ACTION OF THE BOARD** - Laid over to September 28, 2004, at 1:30 P.M., for continued hearing.

---

SUBJECT - Application June 4, 2003 - under Z.R. §72-21 to permit the proposed seven story multiple dwelling, Use Group 2, with a total of sixty residential units and twenty-four parking spaces, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.  
PREMISES AFFECTED - 525 Union Avenue, west side, 48' south of Withers Street, Block 2315, Lot 14, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Harold Weinberg.

For Opposition: Linda Zamorotta, Artennis Willis, Mark?, Patty Giovenco and Megan Cash.

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 1:30 P.M., for continued hearing.

---

## 208-03-BZ

APPLICANT - Law Offices of Stuart A. Klein for Shell Road, LLC, owner; Orion Caterers, Inc., lessee.

SUBJECT - Application June 19, 2003- under Z.R. §72-21 to permit the legalization of an expansion of an existing catering hall, Use Group 9, located in a split C1-2(overlay of R-4) and M1-1 zoning district, which does not comply with the zoning requirements for floor area ratio, rear yard, and parking, is contrary to Z.R. §33-121, 33-292, §36-21, §43-26 and §44-20.

PREMISES AFFECTED - 2555 Shell Road, east side, between Avenue "X" and Bouck Court, Block 7192, Lot 74, Borough of Brooklyn.

### COMMUNITY BOARD #11BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to September 21, 2004, at 1:30 P.M., for continued hearing.

---

## 183-03-BZ

APPLICANT - Agusta & Ross, for North Berry Capital Group, LLC, owner.

SUBJECT - Application June 3, 2003- under Z.R. §72-21 to permit the proposed forty-three unit multiple dwelling, with retail space on the ground floor, and underground accessory parking throughout for twenty-two vehicles, Use Groups 2 and 6, located in an M1-2 zoning district, which is contrary to Z.R. §42-10.

PREMISES AFFECTED - 118 Berry Street, 116 North Seventh Street, a/k/a 116/26 North Seventh Street and 118/20 Berry Street, northwest corner, Block 2326, Lots 18 and 19 (tentative Lot 18), Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to September 28, 2004, at 1:30 P.M., for continued hearing.

---

## 186-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Mount Carmel Plaza, LLC, owner.

---

## 255-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Surf Avenue Enterprise, owner.

SUBJECT - Application August 11, 2003- under Z.R. §72-21 to permit the legalization of an existing furniture store, Use Group 10, located in a C7 zoning district, also a request to vary the requirement of maintaining a loading berth on the premises, is contrary to Z.R. §32-10 and §36-62.

PREMISES AFFECTED - 1019 Surf Avenue, between West 8<sup>th</sup> and West 12<sup>th</sup> Streets, Block 7628, Lot 236, Borough of Brooklyn.

### COMMUNITY BOARD #13BK

APPEARANCES -

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 1:30 P.M., for continued hearing.

---

## 258-03-BZ

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 -

For Applicant: Chris Wright.

**ACTION OF THE BOARD** - Laid over to October 26, 2004, at 1:30 P.M., for continued hearing.

---

# MINUTES

---

---

## **273-03-BZ thru 285-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

### PREMISES AFFECTED -

211-51 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 92, Borough of Queens.

211-49 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 93, Borough of

211-50 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 100, Borough of Queens.

211-48 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 101, Borough of Queens.

211-46 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 102, Borough of Queens.

211-44 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 103, Borough of Queens.

211-42 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 104, Borough of Queens.

## **COMMUNITY BOARD #13Q**

### APPEARANCES -

For Applicant: Richard Lobel and Gerald Caliendo.

For Opposition: Nagassar Ramgarib, Joseph Gormley, P.E., R. Cloutier, John Stiller and Rich Hellenbrecht.

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 1:30 P.M., for continued hearing.

---

## **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 62<sup>nd</sup> Street, northwest corner of 14<sup>th</sup> Avenue, Block 5733, Lot 36, Borough of Brooklyn.

## **COMMUNITY BOARD #10BK**

### APPEARANCES -

For Applicant: Stuart Klein and Mark Scharff.

Queens.

211-47 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 94, Borough of Queens.

211-45 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 95, Borough of Queens.

211-43 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 96, Borough of Queens.

211-41 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 97, Borough of Queens.

211-54 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 98, Borough of Queens.

211-52 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 99, Borough of Queens.

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 1:30 P.M., for continued hearing.

---

## **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 -

For Applicant: Philip P. Agusta, Steve Palicano and Hiram Rothkrug.

For Opposition: John Paskalis.

**ACTION OF THE BOARD** - Laid over to September 28, 2004, at 1:30 P.M., for continued hearing.

---

## **341-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Chelsea Ventura, LLC, owner.

SUBJECT - Application November 6, 2003 - under Z.R. §72-21 to permit the proposed construction of a new residential building, on a merged zoning lot with an existing multiple dwelling, which creates non-compliances with respect, floor area ratio, number of dwelling units, and rear yard equivalent, is contrary to Z.R. §23-145, §23-22 and §23-533.

PREMISES AFFECTED - 343 West 16<sup>th</sup> Street, between Eighth and Ninth Avenues, Block 740, Lot 12, Borough of Manhattan.

## **COMMUNITY BOARD #4M**

---

# MINUTES

---

## 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

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 365-03-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Avi Mansher, owner.

SUBJECT - Application November 25, 2004 - under Z.R. §72-21 to permit the construction of a two story, two family dwelling, Use

SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit the construction of a new four-story mixed use building with residential, commercial, and community facility uses (Use Group 2, 3, and 6) in an C1-2/R3-2 zoning district, in which does not comply with Zoning Resolution §23-141(b), §23-22, §23-631(b), §23-45, §23-631(b)(4), §25-23, §25-231, §25-72 and §35-31.

PREMISES AFFECTED - 110-42 Merrick Boulevard, between 111<sup>th</sup> Avenue and 110<sup>th</sup> Road (Former Lots 65 and 67-76), Block 10200, Lot 71 (tent), Borough of Queens.

## COMMUNITY BOARD #12Q

## APPEARANCES -

For Applicant: Eric Palatnik, Rev. Floyd Flake and Edwin Reed.

For Opposition: John Spotsey.

## 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 September 14, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 4-04-BZ

APPLICANT - Eric Palatnik, P.C., for Anna Donskoi, owner.

SUBJECT - Application January 6, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space, rear and side yards, perimeter wall height and lot coverage is contrary to Z.R. §23-141(a), §23-141, §23-45, §23-47, §23-61 and §23-631b.

PREMISES AFFECTED - 177 Norfolk Street, between Oriental and Shore Boulevards, Block 8757, Lot 27, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

## APPEARANCES -

For Applicant: Eric Palatnik.

## THE VOTE TO CLOSE HEARING -

Group 2, which does not provide the required side yard which is contrary to Z.R. §23-462.

PREMISES AFFECTED - 224-20 Prospect Court, a/k/a 225<sup>th</sup> Street, northwest corner, Block 13071, Lot 74, Borough of Queens.

## COMMUNITY BOARD #13Q

## APPEARANCES -

For Opposition: Rich Hellenbrecht.

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 1:30 P.M., for continued hearing.

---

## 368-03-BZ

APPLICANT - Eric Palatnik, P.C., for The Greater Allen Cathedral of New York, owner., Allen AME Housing Corp., lessee.

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

**ACTION OF THE BOARD** - Laid over to September 14, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 28-04-BZ thru 35-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

SUBJECT - Application February 11, 2004 - under Z.R. §72-21 to permit within an R5 zoning district relief from the side yard requirement in connection with the erection of a 2,231 square foot 2-family home as part of an affordable housing project which is contrary to Z.R. section 23-461(b).

## PREMISES AFFECTED -

427 Logan Street, east side of Logan Street between Pitkin and Glenmore Avenues, Block 4209, Lot 11, Borough of Brooklyn.

499 Logan Street, east side of Logan Street between Belmont and Pitkin Avenues, Block 4228, Lot 1, Borough of Brooklyn.

1109 Sutter Avenue, south side of Glenmore Avenue between Montauk and Atkins Avenues, Block 4039, Lot 36, Borough of Brooklyn.

842 Glenmore Avenue, Glenmore Avenue between Atkins and Montauk Avenues, Block 4007, Lot 15, Borough of Brooklyn.

860 Glenmore Avenue, south side of Glenmore Avenue between Montauk and Atkins Avenues, Block 4007, Lot 22, Borough of Brooklyn.

896 Glenmore Avenue, south side of Glenmore Avenue between Logan Street and Milford Street, Block 4208, Lot 22, Borough of Brooklyn.

910 Glenmore Avenue, south side of Glenmore Avenue between Logan Street and Fountain Avenue, Block 4209, Lot 12, Borough of Brooklyn.

247 Montauk Avenue, east side of Montauk Avenue between Belmont Avenue and Sutter Avenue, Block 4040, Lot 10, Borough of Brooklyn.

---

# MINUTES

---

## COMMUNITY BOARD #5BK

### APPEARANCES -

For Applicant: Steven M. Sinacori and Jack Keegan.

### 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 September 14,

SUBJECT - Application March 9, 2004 - under Z.R. §72-21 to permit the proposed two story expansion of an existing one story commercial building, for residential use, Use Groups 2 and 6, located in R4, C2-2 and R3A zoning districts, which does not comply with the zoning requirements for floor area, lot coverage, open space, number of dwelling units and height of building, is contrary to Z.R. §23-141, §35-31, §23-22 and §23-631.

PREMISES AFFECTED - 247-39 Jamaica Avenue, north side, between 91<sup>st</sup> Avenue and Commonwealth Boulevard, Block 8662, Lot 50, Borough of Queens.

## COMMUNITY BOARD #13Q

### APPEARANCES -

For Applicant: Steven Sinacori.

### ACTION OF THE BOARD - Laid over to October 19,

2004, at 1:30 P.M., for continued hearing.

---

## 128-04-BZ

APPLICANT - Marvin B. Mitzner, Fischbein Badillo Wagner Harding for Sam and Esther Minskoff Cultural Center, Park East Day School, Inc., owner.

SUBJECT - Application March 11, 2004 - under Z.R. §72-21 to permit the enlargement of an existing school (Use Group 3) in an R8B zoning district, which is contrary to Z.R. §23-633, §24-11, §24-33 and §24-552.

PREMISES AFFECTED - 162-168 East 68<sup>th</sup> Street, southside of East 68<sup>th</sup> Street, 100 feet west of Third Avenue, Block 1402, Lots 41 & 42 (tent. 42), Borough of Manhattan.

## COMMUNITY BOARD #8M

### APPEARANCES -

For Applicant: Marvin Mitzner, Peter Geis, Herman Hochberg, Rabbi Abrahamson, Melah Gindi and Marylyn Meltzer

For Opposition: Jane Smith, Ken Podziba, Rita Chu, Kathryn Wagner, Paulie Kislik T. Gorman Reilly(Civitas), Wong Liff and M. Hamilton.

### ACTION OF THE BOARD - Laid over to September 28,

2004, at 1:30 P.M., for continued hearing.

---

## 158-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Albert Cohen, owner.

SUBJECT - Application April 15, 2004 - under Z.R. §72-21 to permit the proposed horizontal enlargement, to a detached one-family dwelling, Use Group 1, on a narrow lot with non-complying side yards, and also encroaches in the

2004, at 1:30 P.M., for decision, hearing closed.

---

## 125-04-BZ

APPLICANT - Steven M. Sinacori/Stadtmauer Bailkin, for Everest Realty, LLC, owner.

required rear yard, located in an R5 zoning district, which is contrary to Z.R. §23-48, §54-31 and §23-47.

PREMISES AFFECTED - 1035 Ocean Parkway, between Avenues "I" and "K", Block 6527, Lot 76, Borough of Brooklyn.

## COMMUNITY BOARD #12BK

### APPEARANCES -

For Applicant: Sheldon Lobel and Albert Cohen.

For Opposition: Charles Sutton.

### ACTION OF THE BOARD - Laid over to September 21,

2004, at 1:30 P.M., for continued hearing.

---

## 182-04-BZ

APPLICANT - Howard A. Zipser/Stadtmauer Bailkin, for Chelsea/Village Associates, for Harmic III, LLC, lessee.

SUBJECT - Application April 29, 2004 - under Z.R. §72-21 to permit proposed eating and drinking establishment (comedy theater), Use Group 12, on a zoning lot, split between a C6-2A and R8B zoning district, of which a portion is located in the R8B district, is contrary to Z.R. §22-10.

PREMISES AFFECTED - 351/53 West 14th Street, north side, between Eighth and Ninth Avenues, Block 738, Lot 8, Borough of Manhattan.

## COMMUNITY BOARD #4M

### APPEARANCES -

For Applicant: Steven Sinacori, Rick Adams and others.

### 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 September 21,

2004, at 1:30 P.M., for decision, hearing closed.

---

## 184-04-BZ

APPLICANT - Robert Piscioneri, R.A., for Morris Park Community Association, owner.

SUBJECT - Application May 3, 2004 - under Z.R. §72-21 to permit the proposed addition of a second floor, to be used as accessory offices, in conjunction with the community center on the first floor, located in an R4 zoning district, which does not comply with the zoning requirements for lot coverage, front, side and rear yards, is contrary to Z.R. §54-31, §24-11, §24-34 and §24-37.

PREMISES AFFECTED - 1824 Bronxdale Avenue, east side, 251' north of Morris Park Avenue, Block 4123, Lot 42,

---

# MINUTES

---

Borough of The Bronx.

**COMMUNITY BOARD #11BX**

APPEARANCES -

For Applicant: Robert Piscioneri.

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 September 21,  
2004, at 1:30 P.M., for decision, hearing closed.

\_\_\_\_\_

*Pasquale Pacifico, Executive Director.*

Adjourned: 7:20 P.M.

---

# CORRECTIONS

---

**\*CORRECTION**

**This resolution adopted on April 13, 2004, under Calendar No. 144-00-BZ and printed in Volume 89, Bulletin Nos. 16-17, is hereby corrected to read as follows:**

**144-00-BZ**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for Birch Wathen Lenox School, owner.

SUBJECT - Application January 28, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 210 East 77th Street, south side of 77th Street, 145 East of Third Avenue, Block 1431, Lot 41, Borough of Manhattan.

**COMMUNITY BOARD #8M**

APPEARANCES -

For Applicant: Adam Rothkrug, Michael Specter, Michael Delsordo, Frank Carnabuci, Elizabeth Levethal, Janine Hopley, Chris Carlin and Jonathan Theobald.

**ACTION OF THE BOARD** - Application reopened and resolution amended.

For Applicant: Adam W. Rothkrug.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative: .....0

Absent: Commissioner Miele .....1

**THE RESOLUTION** -

WHEREAS, a public hearing was held on this application on March 30, 2004, after due notice by publication in The City Record, and laid over to April 13, 2004 for decision; and

WHEREAS, on September 12, 2000, the Board granted a variance under the subject calendar number to permit the enlargement of an existing school, which increased the degree of non-compliances with respect to floor area, lot coverage, height, setbacks, rear and side yard; and

WHEREAS, the applicant represents that after the original variance was granted, the project engineers determined that the existing structure could not support the loads generated in connection with construction of the proposed gymnasium on the roof; and

WHEREAS, subsequently, the plans were redesigned to maintain and enlarge the existing gymnasium on the 2nd floor, and reconfigure the areas on the 8th, 9th and 10th floors for other school uses; and

WHEREAS, the applicant represents that the non-complying setback from the existing street wall of the building (as authorized in the previous grant) would be eliminated as a result of the reconfiguration of 8th, 9th and 10th floors; and

WHEREAS, the applicant states that the proposed changes will not change the footprint of the building and will result in a decrease in the proposed additional floor area from 13,616 square feet to 10,965 square feet-a reduction in F.A.R. from 8.55 to 8.12, as well

as a decrease in the overall height of the building from 125 feet to 120.4 feet.

Resolved, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, and reopens and amends the resolution, pursuant to Zoning Resolution §§72-01 and 72-22, so that as amended this portion of the resolution shall read: "to permit a modification of approved plans to reflect a decrease in square footage and a change in interior arrangement and design, on condition that all work shall substantially conform to drawings as filed with this application marked "January 28, 2004"- (20) sheets; and on further condition;

THAT all conditions from prior resolutions required to be on the certificate of occupancy shall appear on the new certificate of occupancy;

THAT appropriate soundproofing measures shall be installed and maintained in accordance with the March 24, 2004 submission from Cerami and Associates;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB# 103628111)

Adopted by the Board of Standards and Appeals, April 13, 2004.

**\*The resolution has been corrected in the part of the second WHEREAS, which read: "...setbacks and side yard; and;" now reads: "setbacks, rear and side yard; and". Corrected in Bulletin No. 35, Vol. 89, dated August 26, 2004.**

---

*Pasquale Pacifico, Executive Director.*

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 36-38

September 23, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**SATISH BABBAR, *Vice-Chair***

**PETER CALIENDO**

**JOEL A. MIELE, SR.**

**JAMES CHIN**

*Commissioners*

**Pasquale Pacifico, *Executive Director***

**Roy Starrin, *Deputy Director***

**John E. Reisinger, *Counsel***

---

<b>OFFICE -</b>	<b>40 Rector Street, 9th Floor, New York, N.Y. 10006</b>
<b>HEARINGS HELD -</b>	<b>40 Rector Street, 6th Floor, New York, N.Y. 10006</b>
<b>BSA WEBPAGE @</b>	<b><a href="http://www.nyc.gov/html/bsa/home.html">http://www.nyc.gov/html/bsa/home.html</a></b>

<b>TELEPHONE - (212) 788-8500</b>
<b>FAX - (212) 788-8769</b>

### CONTENTS

DOCKET .....	635-636
<b>CALENDAR</b> of October 19, 2004	
Morning .....	637
Afternoon .....	637

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, September 14, 2004**

Morning Calendar .....639

**Affecting Calendar Numbers:**

20-83-BZ	265-07 Hillside Avenue, Queens
125-92-BZ	3333 Hylan Boulevard, Staten Island
62-99-BZ	541 Lexington Avenue, Manhattan
4-00-BZ	243 West 30 <sup>th</sup> Street, Manhattan
114-02-BZ	2493 Richmond Road, Staten Island
371-29-BZ	1210-1230 East 233 <sup>rd</sup> Street, Bronx
519-57-BZ	2071 Victory Boulevard, Staten Island
67-79-BZ	80 Varick Street, Manhattan
585-91-BZ	222-44 Braddock Avenue, Queens
173-94-BZ	165-10 144 <sup>th</sup> Road, Queens
18-04-A	10 Irving Walk, Queens
21-04-A	634 Bayside Avenue, Queens
50-04-A thru 52-04-A	101-20/101-22/101-24 39 <sup>th</sup> Avenue, Queens
131-04-A	217 West 20 <sup>th</sup> Street, Manhattan
140-04-A	39 Bowery Street, Manhattan
155-04-A	4 Marion Walk, Queens
68-04-A	96 Driggs Street, Staten Island
69-04-A	23 Lillian Place, Staten Island
149-04-A	14 Gotham Walk, Queens
171-04-A	42 Olive Walk, Queens
243-04-A	11 Essex Street, Manhattan
244-04-A	44 Pennyfield Avenue, Bronx
248-04-A	13 Courtney Lane, Queens
251-04-A	14 Thetford Lane, Queens

---

# CONTENTS

---

Afternoon Calendar .....653

**Affecting Calendar Numbers:**

341-03-BZ	343 West 16 <sup>th</sup> Street, Manhattan
368-03-BZ	110-42 Merrick Boulevard, Queens
4-04-BZ	177 Norfolk Street, Brooklyn
19-04-BZ	1217 East 233 <sup>rd</sup> Street, a/k/a 3923 Baychester Avenue, Bronx
28-04-BZ	427 Logan Street, Brooklyn
29-04-BZ	499 Logan Street, Brooklyn
30-04-BZ	1109 Sutter Avenue, Brooklyn
31-04-BZ	842 Glenmore Avenue, Brooklyn
32-04-BZ	860 Glenmore Avenue, Brooklyn
33-04-BZ	896 Glenmore Avenue, Brooklyn
34-04-BZ	910 Glenmore Avenue, Brooklyn
35-04-BZ	247 Montauk Avenue, Brooklyn
42-04-BZ	1264 East 27 <sup>th</sup> Street, Brooklyn
206-04-BZ	1901 Ocean Parkway, Brooklyn
161-02-BZ	2433 Knapp Street, Brooklyn
194-03-BZ	739 East New York Avenue, Brooklyn
218-03-BZ	19-73 38 <sup>th</sup> Street, Queens
231-03-BZ	63 and 65 Columbia Street, Brooklyn
287-03-BZ	430 Keap Street, Brooklyn
306-03-BZ	192 Water Street, Brooklyn
343-03-BZ	90 Havemeyer Street, Brooklyn
358-03-BZ	1651 52 <sup>nd</sup> Street, Brooklyn
364-03-BZ	34-11 Far Rockaway Boulevard, Queens
381-03-BZ	6023 Fort Hamilton Parkway, Brooklyn
390-03-BZ	95 Dobbin Street, Brooklyn
391-03-BZ	1288 East 19 <sup>th</sup> Street, Brooklyn
17-04-BZ	2323 Avenue "S", Brooklyn
134-04-BZ	184 Kent Avenue, Brooklyn
136-04-BZ	3132 Fort Hamilton Parkway, Brooklyn
139-04-BZ	1259 East 28 <sup>th</sup> Street, Brooklyn
162-04-BZ	90-06 Pitkin Avenue, Queens

---

# DOCKETS

---

New Case Filed Up to September 14, 2004

**286-04-BZ** B.Q. 85-78 Santiago

Street,

west side, 111.74' south of McLaughlin Avenue, Block 10503, Part of Lot 13(tent.#13), Borough of Queens. Applic. #401599392. Proposed one family dwelling, without the required lot width or side yards, is contrary to Z.R. §23-32 and §23-46.

**COMMUNITY BOARD #8Q**

---

**287-04-BZ** B.Q. 85-82 Santiago

Street,

west side, 177' south of McLaughlin Avenue, Block 10503, Part of Lot 13(tent.#15), Borough of Queens. Applic. #401950956. Proposed one family dwelling, without the required lot width and lot area is contrary to Z.R. §23-32.

**COMMUNITY BOARD #8Q**

---

**288-04-BZ** B.M. 8 St. Marks Place,

between Second and Third Avenues, Block 463, Lot 13, Borough of Manhattan. Applic. #103192536. An appeal seeking reinstatement of the work permit for subject premises, which was revoked by the Department of Buildings on July 23, 2004.

---

**289-04-BZ** B.M. 341 Canal

Street,

southeast corner of Greene Street, Block 229, Lot 1, Borough of Manhattan. Applic. #103853340. 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.

**COMMUNITY BOARD #7M**

---

**290-04-BZ** B.BK. 341/49 Troy Avenue,

a/k/a 1515 Carroll Street, northeast corner, Block 1407, Lot 1, Borough of Brooklyn. Applic. #301575472. Proposed conversion of an existing one story warehouse building, located in an R4 zoning district, into a six story plus penthouse mixed-use residential/commercial building, located in an R4 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, perimeter wall height, total height, sky exposure plane, lot area, parking and front and side yards, is contrary to Z.R. §22-00, §23-141(b), §23-631(b), §23-222, §25-23, §23-45 and §23-462(a).

**COMMUNITY BOARD #9BK**

**291-04-A** B.Q. 90-19 Metropolitan Avenue, northwest corner of Trotting Course Lane, Block 3177, Lot 34, Borough of Queens. Alt.1 #401969483. 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.

---

**292-04-BZ** B.BK. 1340 East 26<sup>th</sup> Street, between Avenues "M and N", Borough of Brooklyn. Alt.1 #301817372. 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 ratio, open space ratio, rear and side yards, is contrary to Z.R. 23-141(a), §23-47 and §23-48.

**COMMUNITY BOARD #14BK**

---

**293-04-BZ** B.Q. 610 Lanett Avenue, north west side of Lanett Avenue, 200' east of Beach 8<sup>th</sup> Street, Block 15596, Lot 7, Borough of Queens. Alt. #401972371. Proposed enlargement of an existing Yeshiva, Use Group 3, located in an R3-1 zoning district, which does not comply with the zoning requirements for floor area, wall height, side yard, rear yard and the sky exposure plane, is contrary to §24-11, §24-521, §24-35, §24-33 and §24-521.

**COMMUNITY BOARD #14BK**

---

**294-04-BZ** B.Q. 103-05 35<sup>th</sup> Avenue, (a/k/a 34-29 35<sup>th</sup> Avenue), northeast corner of 103<sup>rd</sup> Street, Block 1744, Lot 43, Borough of Queens. N.B. #401955602. 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.

**COMMUNITY BOARD #3Q**

---

**295-04-BZ** B.S.I. 3250 Richmond Avenue, corner of Richmond and Wainwright Avenues, Block 5613, Part of Lot 400, Borough of Staten Island. Applic. #500734066. Proposed construction, operation and maintenance of a public utility wireless communication facility, Use Group 6, located in an R3-2 zoning district, requires a special permit from the Board as per Z.R. §73-

---

# DOCKETS

---

## COMMUNITY BOARD #3SI

**296-04-BZ** B.M. 135 Orchard Street, (a/k/a 134 Allen Street), between Delancey and Rivington Streets, Block 415, Lot 69, Borough of Manhattan. Applic. #102666394. The legalization of Class "A" Multiple Dwellings, Use Group 2, located in a C6-1 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio and interior density, is contrary to Z.R. §23-142, §35-23, §23-22 and §35-40.

## COMMUNITY BOARD #3M

**297-04-BZ** B.BK. 1174 East 22<sup>nd</sup> Street, southwest corner of Avenue "K", Block 7621, Lot 47, Borough of Brooklyn. Alt.1 #301825755. 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.

## COMMUNITY BOARD #14BK

**298-04-BZ** B.BK. 1746 East 21<sup>st</sup> Street, west side, 440' north of Quentin Road, Block 6783, Lot 18, Borough of Brooklyn. Applic. #301601924. 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.

## COMMUNITY BOARD #15BK

**299-04-BZ** B.Q. 111-02 Sutphin Boulevard, (a/k/a 111-04/12 Sutphin Boulevard), southeast corner of 111<sup>th</sup> Avenue, Block 11965, Lots 26, 188 and 189 (tentative 26), Borough of Queens. N.B. #401955595. 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.

## COMMUNITY BOARD #12Q

**300-04-BZ** B.BK. 66 Huron Street, southwest corner of Franklin Street, Block 2531, Lot 12, Borough of Brooklyn. Alt.1 #301046981. Proposed physical culture establishment, located on the first and second floors of a two story building, in an M1-1 zoning district, requires a special from the Board as per Z.R. §73-

36.

## COMMUNITY BOARD #1BK

**301-04-BZY** B.S.I. 102 Greaves Avenue, corner of Dewey Avenue, Block 4568, Lot 40, Borough of Staten Island. N.B. #500695606. Application to complete construction for a minor development as per Z.R. §11-331.

**302-04-BZ** B.BK. 40 Woodhull Street, south side, 85' west of Hicks Street, Block 363, Lot 20, Borough of Brooklyn. Applic. #301683998. Proposed construction of a residential building on a vacant lot, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

## COMMUNITY BOARD #6BK

**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 19, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, October 19, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

## **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 #1**

\_\_\_\_\_

### **780-56-BZ**

APPLICANT - Vassalotti Associates Architects, LLP, for John Desiderio, owner.

SUBJECT - Application April 1, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired December 1, 2002 for an additional ten (10) years for an automobile service station with accessory convenience store, located in an R4 zoning district.

PREMISES AFFECTED - 137-21 Liberty Avenue, Block 10017, lots 17 and 18, Borough of Queens.

\_\_\_\_\_

### **799-62-BZ**

APPLICANT - Sheldon Lobel, P.C., for 350 Condominium Association, owner.

SUBJECT - Application February 24, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance for an existing multiple dwelling, the use of the surplus spaces in the accessory garage for transient parking.

PREMISES AFFECTED - 501 First Avenue, a/k/a 350 East 30th Street, lower level parking garage along west of First Avenue, between East 30th and East 29th Streets, Block 935, Lot 7501, Borough of Manhattan.

**COMMUNITY BOARD #6**

\_\_\_\_\_

### **236-98-BZ**

APPLICANT - Deidre A. Carson, Esq., Greenberg Traurig, LLP, for Anthony Fernicola, owner.

SUBJECT - Application June 1, 2004 - reopening for an extension of time to complete construction.

PREMISES AFFECTED - 103-117 Kent Avenue, northeast corner of the intersection of Kent Avenue and North 7th Street, Block 2317, Lots 1, 3, 5, 6, 7 & 36, Borough of Brooklyn.

**COMMUNITY BOARD #1**

\_\_\_\_\_

**OCTOBER 19, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, October 19, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

## **ZONING CALENDAR**

### **173-04-BZ**

APPLICANT - Eric Palatnik, P.C., for 345 Park South LLC, owner; NY Midtown Corp., lessee.

SUBJECT - Application April 26, 2004 - under Z.R. §73-36 to permit the legalization of a portion of the cellar level of said premises, as a physical culture establishment, located in an M1-6 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 5/9 West 37th Street, 200' east of Fifth Avenue, Block 839, Lot 34, Borough of Manhattan.

**COMMUNITY BOARD #5**

\_\_\_\_\_

### **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 #18**

\_\_\_\_\_

---

# CALENDAR

---

**242-04-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Yeruchem Miller, contract vendee.

SUBJECT - Application June 29, 2004 - under Z.R. §73-622 to permit the 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. §223-141(a), §23-47 and §23-48.

PREMISES AFFECTED - 1440 East 26th Street,west side, 527'-8" north of Avenue "O", Block 7679, Lot 69, Borough of Brooklyn.

**COMMUNITY BOARD #14**

---

*Pasquale Pacifico, Executive Director*

---

# MINUTES

---

**REGULAR MEETING  
TUESDAY MORNING, SEPTEMBER 14, 2004  
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, June 15, 2004, were approved as printed in the Bulletin of June 24, 2004, Volume 89, No. 26.

---

## SPECIAL ORDER CALENDAR

### 20-83-BZ

APPLICANT - Sheldon Lobel, P.C., for Pierina Alongi, owner.  
SUBJECT - Application January 15, 2004 - reopening for a waiver of Rules of Procedures and an extension of term for a commercial use in a residential district.

PREMISES AFFECTED - 265-07 Hillside Avenue, Hillside Avenue between 265<sup>th</sup> and 266<sup>th</sup> Streets, Block 8777, Lot 31, Borough of Queens.

### COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Irving Minkin.

**ACTION OF THE BOARD** - Rules of Practice and Procedure waived, application reopened, and term of variance extended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5  
Negative:.....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on August 10, 2004, after due notice by publication in the *City Record*, and then to September 14, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the variance which expired on August 16, 2003; and

WHEREAS, on August 16, 1983, the Board granted an application under the subject calendar number, pursuant to Z.R. §72-21, permitting a one-story enlargement to an existing three-story residential building, for use as a barbershop; and

WHEREAS, on April 26, 1994, the term of the variance was extended for 10 years from August 16, 1993; and

WHEREAS, the applicant represents that there have been no changes to the existing configuration or use of the premises; and

WHEREAS, the Queens Borough President and  
THE VOTE TO GRANT -

Queens Community Board, 13 recommend approval of this application.

*Resolved*, that the Board of Standards and Appeals, pursuant to Zoning Resolution §§72-01 and 72-22, waives the Rules of Practice and Procedure, *reopens and amends* the resolution, said resolution having been adopted on August 19, 1983, as amended through April 26, 1994, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional (10) years from August 16, 2003 to expire on August 16, 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 January 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 the above and all applicable conditions from prior resolutions shall appear on the certificate of occupancy;

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 #401764275)

Adopted by the Board of Standards and Appeals, September 14, 2004.

---

### 125-92-BZ

APPLICANT - Rampulla Associates Architects, for Nicholas Criscitelli, owner.

SUBJECT - Application April 7, 2004 - reopening for an amendment to the resolution - to eliminate the retail sales portion of the building and modify the number of persons to occupy the eating and drinking establishment.

PREMISES AFFECTED - 3333 Hylan Boulevard, north side Hylan Boulevard between Spratt Avenue and Hopkins Avenue, Block 4987, Lot 1, Borough of Staten Island.

### COMMUNITY BOARD #3SI

APPEARANCES - None.

**ACTION OF THE BOARD** - Application re-opened and resolution amended.

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

---

# MINUTES

---

Commissioner Miele, Commissioner Caliendo and  
Commissioner Chin.....5  
Negative:.....0

## THE RESOLUTION -

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 July 20, 2004 and August 10, 2004 and then to September 14, 2004 for decision; and

WHEREAS, the applicant has requested a re-opening and an amendment to the resolution; and

WHEREAS, the Board has exercised jurisdiction over the subject property since June 29, 1954, when it granted a variance under Calendar No. 691-53-BZ, to permit in a Residential Use District, the extension of an existing structure, used as a restaurant, bar and cabaret, with a canopy projecting into the setback area, off-street parking on the unbuilt portion of the lot for patrons and employees, and the erection of a business sign; and

WHEREAS, on July 15, 1975, the Board granted an application under Calendar No. 194-74-BZ to permit the erection of a one-story enlargement to the existing structure; and on January 18, 1983 amended such resolution to eliminate the cabaret use on the premises; and

WHEREAS, on January 27, 1993, the Board granted a variance application under Calendar No. 125-92-BZ to permit the change of use of the premises from restaurant to retail store; and on December 7, 1998, the Board approved, by a letter of substantial compliance, the conversion of a portion of the retail store back to a restaurant; and

WHEREAS, the term of this variance was limited to 15 years from the date of the grant, to expire on January 27, 2008; and

WHEREAS, on May 16, 2000, the Board denied an application under the subject calendar number, to increase the capacity of the restaurant to 280 persons, convert the retail sales area to a party room, and add outdoor table service for 40 persons; and

WHEREAS, the instant application seeks to convert the existing retail sales portion of the building to a private party room for 50 persons, thus increasing the total occupancy of the premises indoors from 124 to 174 (which includes the 50 person party room), and create an outdoor seating area with a maximum occupancy of 20 persons; and

WHEREAS, the Board notes that the instant application has a significantly lower requested occupancy than the previous application and that the new owner of the premises has taken additional precautions to abate the impact from the increase in indoor and outdoor occupancy; and

WHEREAS, Community Board #3, Staten Island-which denied the previous May 16, 2000 application -

THAT the parking lot shall be closed and locked when the restaurant is closed for business;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be

recommends conditional approval of this application; and

WHEREAS, in response to the Community Board conditions and the concerns of the BSA, the owner has provided a sworn affidavit stating that attendant parking shall be provided Wednesday through Saturday in the evening hours and all day Sunday; that the valet service shall be instructed to fill up the parking lot first and park overflow cars on Hylan Boulevard; that the valet service shall also be instructed not to use Block Street and Spratt Avenue for parking or to shuttle cars from the parking lot; and that no deliveries shall be made to the Spratt Avenue entrance of the premises; and

WHEREAS, the date of expiration of the original variance and the grant herein is being modified so that the expiration date is now September 14, 2006.

*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 existing retail sales portion of the building to a private party room for 50 persons, the increase in total occupancy of the premises indoors from 124 to 174 persons, and the creation of an outdoor seating area with a maximum occupancy of 20 persons; on condition that all work shall substantially conform to drawings as filed with this application, marked 'Received August 31, 2004'- (1) sheets; and on further condition;

THAT notwithstanding any contrary term set forth in any resolution issued under the referenced calendar number or on any previously issued certificate of occupancy, the term of the variance, as granted on January 27, 1993 and as modified as of the date of this resolution, shall be amended and limited to two years from the date of this resolution, to expire on September 14, 2006;

THAT the maximum occupancy of the premises shall be limited to 174 persons indoor and 20 persons outdoor;

THAT any change in use, ownership or lessee shall require Board approval;

THAT all outdoor lighting at the premises shall be directed downward and away from all adjacent residential properties;

THAT the use of the outdoor dining area shall only occur from May 1<sup>st</sup> through October 31<sup>st</sup>, and the last table seating in the outdoor dining area shall be at 9 p.m. Sunday through Thursday, and 10 p.m. Friday and Saturday;

THAT the table arrangements in the outdoor dining area shall be limited to not more than eight patrons to one arrangement;

THAT there shall be no deliveries on Spratt Avenue;

THAT the valet parking service shall only use Hylan Boulevard and not Block Street or Spratt Avenue when parking and/or moving vehicles; removed within 48 hours;

THAT the above conditions and all relevant Board conditions from the previous Certificate of Occupancy (except for the 15 year term) shall appear on the new Certificate of Occupancy;

# MINUTES

THAT all signage shall conform to applicable zoning district requirements;

THAT 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 #500667192)

Adopted by the Board of Standards and Appeals, September 14, 2004.

## 62-99-BZ

APPLICANT - Jay A. Segal, Esq., for Starlex LLC, owner; Blissworld LLC, lessee.

SUBJECT - Application April 16, 2004 - reopening for an amendment to allow the expansion of existing physical culture establishment.

PREMISES AFFECTED - 541 Lexington Avenue, east side of Lexington Avenue between East 49<sup>th</sup> Street and East 50<sup>th</sup> Streets, Block 1350, Lot 20, Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES - None.

**ACTION OF THE BOARD** - Application re-opened and resolution amended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on August 10, 2004, after due notice by publication in the *City Record*, and then to September 14, 2004 for decision; and

WHEREAS, the applicant has requested a re-opening and an amendment to the resolution; and

WHEREAS, on February 1, 2000, the Board granted a special permit application pursuant to Z.R. §73-36, to permit in a C6-6 Zoning District, the use of a portion of the fourth floor of an existing hotel building as a physical culture establishment (“PCE”); and

WHEREAS, the record indicates that the PCE currently operates as a spa and gym managed by the hotel; and

WHEREAS, the instant application seeks to expand the PCE to the entire fourth floor of the hotel, primarily from the conversion of existing hotel guest rooms to spa treatment

### COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Mitchell Ross.

**ACTION OF THE BOARD** - Application re-opened and resolution amended.

THE VOTE TO GRANT -

rooms, and the enlargement of locker and dressing areas; and

WHEREAS, this expansion will increase the total square footage of space occupied by the PCE from 8,000 sq. ft. to approximately 21,000 sq. ft.; and

WHEREAS, the applicant states that the changes to the PCE will not have any physical impact on the hotel beyond the fourth floor and will not be visible from outside the hotel; and

WHEREAS, Community Board #6, Manhattan recommends approval of this application, on condition that no part of the PCE expansion is visible from the street; and

WHEREAS, the applicant represents that no part of the PCE expansion will be visible from the outside the hotel.

*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 expansion of the PCE to the entire fourth floor of the hotel; on condition that all work shall substantially conform to drawings as filed with this application, marked ‘Received August 25, 2004’ -(1) sheet; and on further condition;

THAT all conditions from prior resolutions remain in effect and all conditions required to be placed on the certificate of occupancy shall remain;

THAT 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 # 103744414)

Adopted by the Board of Standards and Appeals, September 14, 2004.

## 4-00-BZ

APPLICANT - Agusta & Ross, for 243 West 30th Realty, LLC, c/o New York Equity, LLC, owner; Anie Yang, Yhung Kang & Cong Yan d/b/a West Garden, Inc., lessees.

SUBJECT - Application October 21, 2003 - Reopening for an amendment for a previously approved physical culture establishment to extend into the cellar.

PREMISES AFFECTED - 243 West 30th Street, north side of West 30th Street, 325' east of 8th Avenue, block 780, Lot 15, Borough of Manhattan.

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, a public hearing was held on this

---

# MINUTES

---

application on August 10, 2004, after due notice by publication in the *City Record*, and then to September 14, 2004 for decision; and

WHEREAS, the applicant has requested a re-opening and an amendment to the resolution; and

WHEREAS, on May 30, 2000, the Board granted a special permit application pursuant to Z.R. §73-36, to permit in an M1-5 zoning district, the use of the first floor and mezzanine level of an existing twelve-story building as a physical culture establishment ("PCE"); and

WHEREAS, the record indicates that the PCE was approved as a spa treatment facility with nine therapy rooms, with separate locker rooms for men and women; and

WHEREAS, the instant application seeks to legalize the conversion of 1,884 square feet of area formerly approved as PCE accessory storage and mechanical area to eight (8) all-purpose spa therapy rooms and one (1) all-purpose spa shower/water therapy room on the cellar level; and

WHEREAS, the applicant represents that there will be no increase in the total floor area of the PCE as previously approved by the Board.

*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 legalization of the conversion of 1,884 square feet of area formerly approved as PCE accessory storage and mechanical area to eight (8) all-purpose spa therapy rooms and one (1) all-purpose spa shower/water therapy room on the cellar level; *on condition* that all work shall substantially conform to drawings as filed with this application, marked 'Received September 2, 2004'-(3) sheets; and *on further condition*:

THAT all conditions from prior resolutions remain in effect and all conditions required to be placed on the certificate of occupancy shall remain;

THAT 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 # 103161659)

Adopted by the Board of Standards and Appeals, September 14, 2004.

---

SUBJECT - Application November 24, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired June 19, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 2071 Victory Boulevard, northwest corner of Bradley Avenue, Block 462, Lot 35, Borough of Staten Island.

## COMMUNITY BOARD #1SI

APPEARANCES -

## 114-02-BZ

APPLICANT - Land Planning and Engineering Consultants, P.C., for Gerardo Campitiello, owner.

SUBJECT - Application June 2, 2004 - reopening for an amendment to the resolution to amend the existing resolution to permit the maintenance of the existing building during the construction of the new cellar and one story professional building, which is to replace the existing building.

PREMISES AFFECTED - 2493 Richmond Road, northwest side of Richmond Road, southwest of Odin Street, Block 947, Lot 1, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES - None.

**ACTION OF THE BOARD** - Application withdrawn.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

Adopted by the Board of Standards and Appeals, September 14, 2004.

---

## 371-29-BZ

APPLICANT - Maduakolam Mish. Nnabuihe, for Getty Petroleum Corp., owner; Besan Trading Inc., lessee.

SUBJECT - Application January 9, 2004 - reopening for an amendment to the resolution for tire shop as an accessory use to the existing automotive service station.

PREMISES AFFECTED - 1210-1230 East 233<sup>rd</sup> Street, northwest corner of Grenada Place and Edson Avenue, Block 4934, Lot 66, Borough of The Bronx.

## COMMUNITY BOARD #13BX

APPEARANCES -

For Applicant: Larry Atah.

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 10 A.M., for continued hearing.

---

## 519-57-BZ

APPLICANT - Carl A. Sulfaro, Esq., for BP Amoco Corporation, owner.

For Applicant: Carl A. Sulfaro.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to September 28, 2004, at 10 A.M., for decision, hearing closed.

---

# MINUTES

---

## 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: Sheldon Lobel, Eliza B. Hwu and Hollister Lowe.

For Opposition: Darlene Lutz, John Stuart and Catherine.

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 10 A.M., for continued hearing.

---

## 585-91-BZ

APPLICANT - Tarek M. Zeid, for Luis Mejia, owner.

SUBJECT - Application December 10, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired March 30, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 222-44 Braddock Avenue, Braddock Avenue between Winchester Boulevard and 222<sup>nd</sup> Street, Block 10740, Lot 12, Borough of Queens.

### COMMUNITY BOARD #13Q

APPEARANCES - None.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 10 A.M., for decision, hearing closed.

---

## 173-94-BZ

APPLICANT - Board of Standards and Appeals

OWNER OF PREMISES: Richard Shelala.

SUBJECT - Application reopening for compliance to the resolution.

PREMISES AFFECTED - 165-10 144<sup>th</sup> Road, Block 13271, Lot 17, Borough of Queens.

### COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Adam W. Rothkrug.

WHEREAS, a public hearing was scheduled on this application on July 13, 2004 after due notice by publication in the *City Record*, which was postponed to August 10, 2004, and then to decision on September 14, 2004; and

WHEREAS, by letter dated March 10, 2003 the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Resolved, that the decision of the Queens Borough

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 10 A.M., for continued hearing.

---

## 18-04-A

APPLICANT - Robert Miller, for Breezy Point Co-op, Inc., owner; Mr. Ronald Kirsche, lessee.

SUBJECT - Application February 4, 2004 - Proposed addition of a second floor, to an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 5 of the General City Law.

PREMISES AFFECTED - 10 Irving Walk, west side, 105.69' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Michael Harley.

**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 January 30, 2004 acting on Department of Buildings ALT 1. Application No. 401746063, reads in pertinent part:

“A1- 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. 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 of the City of New York”; and

Commissioner, dated January 30, 2004 acting on Department of Buildings ALT 1. Application No. 401746063 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 26, 2004” - (1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *on further condition*

---

# 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;

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 14, 2004.

## 21-04-A

APPLICANT - Zygmunt Staszewski, P.E., for Breezy Point Co-op, Inc., owner; James O'Brien, lessee.

SUBJECT - Application February 9, 2004 - Proposed enlargement of an existing one family dwelling, located partially within the bed of a mapped street, and not fronting on a legally mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law. PREMISES AFFECTED - 634 Bayside Avenue, eastside, 267.40' south of Bayside Drive, Block 16350, Lot 300, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Michael Harley.

**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 February 4, 2004 and amended on August 2, 2004 acting on Department of Buildings ALT 1. Application No. 401755114, reads in pertinent part:

Resolved, that the decision of the Queens Borough Commissioner, dated February 4, 2004 and amended on August 5, 2004 acting on Department of Buildings ALT 1. Application No. 401755114 is modified under the power vested in the Board by Section 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 July 26, 2004"- (1) sheet; and that the proposal comply with all applicable R4 zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

"A1- The proposed enlargement is on a site where the building and lot are located partially in the bed of a mapped street therefore no permit or Certificate of Occupancy may be issued as per Article 3, Sect. 35 of the General City Law .

A2- 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 is contrary to Section 27-291 of the Administrative Code of the City of New York.

A3- The proposed upgraded private disposal system is located in the bed of a service lane and contrary to the Department of Buildings policy."; and

WHEREAS, a public hearing was held on this application on August 10, 2004, after due notice by publication in the *City Record*, and then to decision on September 14, 2004; and

WHEREAS, by letter dated February 24, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 28, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 18, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

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 14, 2004.

---

## 50-04-A thru 52-04-A

APPLICANT - Joseph P. Morsellino, for Zankera, LLC, contract vendee.

# MINUTES

SUBJECT - Application February 25, 2004 - Proposed three family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED -

101-20 39<sup>th</sup> Avenue, south side, between 102<sup>nd</sup> and 103<sup>rd</sup> Streets, Block 1770, Lot 22, Borough of Queens.  
Applic.#401770570.

101-22 39<sup>th</sup> Avenue, south side, between 102<sup>nd</sup> and 103<sup>rd</sup> Streets, Block 1770, Lot 23, Borough of Queens.  
Applic.#401770589.

101-24 39<sup>th</sup> Avenue, south side, between 102<sup>nd</sup> and 103<sup>rd</sup> Streets, Block 1770, Lot 24, Borough of Queens.

## COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

**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 February 3, 2004 acting on Department of Buildings N.B. Application Nos. 401770570, 401770589, and 401770561, reads in pertinent part:

“Application herewith filed to obtain objection and denial to the Board of Standards and Appeals to erect three dwellings partly within the a mapped street”; and

WHEREAS, a public hearing was held on this application on August 10, 2004 after due notice by publication in the *City Record*, and then to decision on September 14, 2004; and

WHEREAS, Community Board 3, Queens, recommends approval of this application, with the condition that the area in front of the proposed dwellings be landscaped; and

WHEREAS, the applicant agreed at public hearing to landscape

THAT the Department of Buildings must ensure compliance 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 14, 2004.

## 131-04-A

APPLICANT - New York City Department of Buildings.

OWNER OF RECORD - Douglas Ballinger.

SUBJECT - Application March 12, 2004 - Application pursuant to NYC Charter §§645(3)(e) and 666.6(a), to revoke Certificate of Occupancy No. 116501 on the basis that a lawfully non-conforming eating and drinking establishment (Use Group 6) in an R8 zoning district was discontinued for a period greater than two years and

the area in front of the proposed dwellings;

WHEREAS, by letter dated May 14, 2004, the Department of Environmental Protection states that it has reviewed the above project, and has no objections; and

WHEREAS, by letter dated June 24, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated March 23, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Resolved, that the decision of the Queens Borough Commissioner, dated February 3, 2004 acting on Department of Buildings N.B. Application Nos. 401770570, 401770589, and 401770561 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 14, 2004” - (1) sheet; and that the proposal comply with all applicable R6 zoning district requirements, and that all applicable laws, rules, and regulations shall be complied with; and *on further condition*

THAT prior to issuance of a certificate of occupancy to any of the referenced premises, an affidavit from the owner or letter from an appropriate City agency verifying that there are no public utilities in the mapped street other those indicated on the BSA approved plans shall be submitted to the Department of Buildings;

THAT applicant shall forward a copy of a plan showing landscaping to the community board prior to issuance of a building permit, with a copy to the Board;

THAT 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 must therefore be occupied as a conforming residential use as per Z.R. §52-61.

PREMISES AFFECTED - 217 West 20<sup>th</sup> Street, between Seventh and Eighth Avenues, Block 770, Lot 30, Borough of Manhattan.

## COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Lisa Orrantia, Department of Buildings.

**ACTION OF THE BOARD - Application granted.**

**THE VOTE TO GRANT -**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

**THE RESOLUTION -**

WHEREAS, the application brought by the Commissioner of the Department of Buildings, dated March 12, 2004, reads:

“Application to revoke Certificate of Occupancy

# MINUTES

(the "CO") No. 116501 pursuant to NY City Charter 645(b)(3) (e) and 666.6(a) on the basis that the CO authorized the Premises to be occupied as a use group 6 use, in particular a non-conforming eating and drinking establishment. This non-conforming use was discontinued for a period greater than two years. Pursuant to ZR Section 52-61, the Premises must now only be used for a conforming residential use. Therefore, as a matter of law, the CO must be revoked."; and

WHEREAS, a public hearing was held on this application on July 20, 2004, after due notice by publication in the *City Record*, with a continued hearing on August 10, 2004 and then to decision on September 14, 2004; and

WHEREAS, the Department of Buildings ("DOB") seeks to revoke Certificate of Occupancy Number 116501, issued to 217 West 20<sup>th</sup> Street in Manhattan, on the basis that the lawful non-conforming commercial use of the premises was discontinued for a continuous period of greater than two years; and

WHEREAS, the subject premises is located in an R8 zoning district, and is improved upon with a one-story building; and

WHEREAS, the record indicates that the current Certificate of Occupancy ("CO"), issued on February 23, 1999, permits a Use Group 6 Eating and Drinking Establishment at the first floor level; and

WHEREAS, DOB states that the Use Group 6 Eating and Drinking Establishment, which did business as the "Fresh Organic Coffee Lounge" (hereinafter, the "Lounge"), was a lawful non-conforming use; 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

WHEREAS, no submissions were made or testimony given that contradicted the evidence provided by DOB; and

WHEREAS, the Board has reviewed the submitted evidence 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 subject premises as a Use Group 6 Eating and Drinking Establishment had been substantially discontinued; and

WHEREAS, the Board further finds that the premises must hereafter be used only for conforming uses currently permitted in the underlying zoning district, notwithstanding any prior certificates of occupancy, including Certificate of Occupancy No. 20950.

*Therefore, it is Resolved*, that the application brought by the Commissioner of the Department of Buildings, dated March 12, 2004, seeking revocation of Certificate of Occupancy No. 116501, is hereby granted.

Adopted by the Board of Standards and Appeals, September 14, 2004.

used only for a conforming use."; and

WHEREAS, DOB has provided evidence of total discontinuance of the Lounge for a period of greater than two years, starting from May 24, 2000; and

WHEREAS, specifically, DOB has provided: (1) an Environmental Health Services Inspection Report - Notice of Violation, dated May 2, 2000, which states "Establishment observed closed - out of business. Gates down, windows boarded up."; (2) a printout from the New York City Department of Health's Licensing Center, dated November 25, 2003, which states that a Food Service Establishment Permit (#H25-1000838) issued to the Lounge expired on December 11, 1999 and was not renewed and that the Lounge went out of business on May 24, 2000; (3) a notarized affidavit from a U.S. Postal Carrier, which states the carrier observed no commercial activity for a period of three years; and (4) various other affidavits from neighbors, which state that the Lounge had been out of business for at least two years; and

WHEREAS, based upon the submitted evidence, DOB concludes that the Lounge went out of business on May 24, 2000, and no commercial activity of any type has taken place at the subject premises since that date; and

WHEREAS, DOB states that any further use of the premises for commercial purposes would be invalid as a matter of law, and that the subject building may now only be used for uses that are permitted in an R8 zoning district; and

WHEREAS, DOB concludes that the CO, which permits on the first floor Use Group 6 Eating and Drinking Establishment, must be revoked; and

## 140-04-A

APPLICANT - Stuart A. Klein, Esq.

SUBJECT - Application March 25, 2004 - Appeal of Department of Buildings refusal to revoke approval and underlying permit for the subject premises which is occupied contrary to the existing Certificate of Occupancy and the Zoning Resolution.

BUSINESS ADDRESS of PREMISES OWNER - S.H.A.W.C HOUSING DEVELOPMENT FUND CORP. - 39 BOWERY STREET, Borough of Manhattan

APPEARANCES - None.

**ACTION OF THE BOARD** - Appeal denied.

THE VOTE TO GRANT -

Affirmative:.....0

Negative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin:.....5

THE RESOLUTION -

WHEREAS, the instant appeal comes before the Board

---

# MINUTES

---

in response to a final determination, dated March 18, 2004, issued by the Brooklyn Borough Commissioner of the New York City Department of Buildings (“DOB”) to counsel for certain individuals and a community organization (hereinafter, the “appellant”), who had requested revocation of a DOB alteration permit (the “Permit”) allowing minor work at an existing building in Brooklyn in order to accommodate a domestic abuse survivors shelter (the “Shelter”); and

WHEREAS, said DOB determination states, in part:

“This letter is written in response to your November 25, 2003 correspondence in which you request that the Department revoke the referenced permit. In your correspondence, you refer to statements made by the permit applicant’s attorney . . . during recent litigation brought against the applicant and the Department. Your correspondence argues that [the permit applicant’s attorney’s] statements to the court are at odds with the application and current certificate of occupancy (“CO”) and that the discrepancy is a basis for revocation of the permit. Your claim does not present the Department with cause to revoke the permit pursuant to authority set forth at New York City Administrative Code (“AC”) § 27-197. First, you do not allege that approved and permitted application documents fail to comply with the AC, New York City Zoning Resolution (“ZR”) or other applicable law. According to the Department’s review, the application’s proposed use and occupancy of the premises conform with The two examples you offer in support of your argument are not persuasive. The Department may properly issue letters of intent to revoke a permit upon receipt of a challenge to an application that proposes a use that contravenes a provision of the ZR, as in your example of a non-conforming use that was discontinued for a continuous period of more than two years, or to an application lacking support for classification within a certain use group, as in your example of an alleged school dormitory Use Group 3 community facility. Those examples regard defects in the application itself, and are not based on a claim that a future use will be contrary to law, permit or CO. Therefore, your request does not set forth a sufficient basis for revocation of the permit.”; and

WHEREAS, appellant, DOB, and Shelter counsel agreed that in order to keep the actual address of the Shelter facility confidential, the hearings on the instant matter would be closed and the record would not be made available to anyone aside from the parties to the proceeding; and

WHEREAS, the subject premises is located within an R4 zoning district, and is occupied by a Class A four family, three-story with basement and cellar multiple dwelling (the “Existing Building”); and

the CO that allows four families to occupy the building. Contrary to the claim in your January 12, 2004 letter to the Department, the application PW-1 form does not propose a change in the classification of the premises from occupancy group J-2 to J-1.

Second, a comparison between the application and Ms. Hadberg’s statements to the court does not establish a false statement or misrepresentation as to a material fact in the application. According to the portion of the court transcript enclosed with your January 12<sup>th</sup> letter, [the permit applicant’s attorney] stated that six to eight families and a maximum of 18 people, with just over four people per floor, will occupy the premises. While these statements present an ambiguity as to whether future occupancy of the premises will conform to the limitations of the CO and applicable law, the application documents and plans do not contain any indication that the occupancy resulting from the permitted work will be unlawful. The application proposes a lawful occupancy of the premises consistent with the four-family occupancy allowed by the CO. The ambiguity presented by [the permit applicant’s attorney’s] statements leaves the Department without an adequate basis to find that the applicant made a knowingly false statement in the application in violation of AC §26-124.

WHEREAS, pursuant to Multiple Dwelling Law (“MDL”) §4(8), a Class A multiple dwelling is considered to be a dwelling occupied for permanent residential purposes; and

WHEREAS, a Class A Multiple Dwelling is analogous to a dwelling classified in Occupancy Group J-2, as defined by Section 27-265 of the City’s Building Code (Titles 26 and 27 of the Administrative Code of the City of New York); and

WHEREAS, Building Code §27-265 provides that Occupancy Group J-2 “[s]hall include buildings and spaces that are primarily occupied for the shelter and sleeping accommodation of individuals on a month-to-month or longer term basis”; and

WHEREAS, the certificate of occupancy for the Existing Building (the “CO”) permits “ordinary use” in the cellar, and one family each on the first, second and third floors and in the basement; and

WHEREAS, the application for the Permit, as filed with DOB, proposed no change in occupancy, use or egress in the Existing Building; and

WHEREAS, the Permit application sought DOB authorization to make minor revisions to the internal layout of the Existing Building, install new fireproof self-closing doors, replace an existing fire escape, and replace 20 percent of damaged joists in the basement; and

WHEREAS, subsequent to issuance of the Permit,

---

# MINUTES

---

certain parties, some of whom are the appellants in the instant matter, petitioned for injunctive relief in the Supreme Court of the State of New York, Kings County, seeking to enjoin use and occupancy of the Existing Building by the Shelter and performance of the construction work pursuant to the Permit; and

WHEREAS, the court dismissed the petition because administrative remedies had not been exhausted; and

WHEREAS, appellant then filed the instant appeal; and

WHEREAS, appellant makes three primary arguments: (1) that statements made by counsel to the Shelter in the court proceeding (hereinafter "Shelter Litigation counsel") and by other Shelter representatives allegedly indicated an intent on the part of the Shelter to occupy the Existing Building in a manner contrary to the CO; (2) the proposal to use the Existing Building as a shelter violates use provisions of the Zoning Resolution; and (3) the proposal violates Local Law 10 of 1999, which concerns the provision of automatic sprinkler systems; and

WHEREAS, appellant contends that based upon the above arguments, DOB should have revoked the Permit; and

WHEREAS, as presented by appellant, the first argument has two components; specifically, that the statements by Shelter representatives indicated: (1) that the number of families proposed to occupy the Shelter will exceed that permitted by the CO; and (2) that the Shelter will be occupied on a temporary, not permanent, basis, which is

WHEREAS, the architect who filed the Permit application with DOB on behalf of the Shelter operators (hereinafter, the "Shelter architect") testified that she discussed the legal definitions of the term "family" with the Shelter operators and that the operational program as proposed for the Shelter will comply with such definitions; and

WHEREAS, the Shelter architect submitted to the Board a memorandum that confirms her prior statements that the permit application proposed a use and occupancy of the Existing Building that is fully consistent with the CO and applicable laws; and

WHEREAS, Shelter counsel states that there was never an intent to occupy the Existing Building in violation of the CO or any applicable law; and

WHEREAS, Shelter Litigation counsel testified that when she made the statement about "six to eight families" during the court proceeding, she meant a situation where there was a mother and child living with a mother and either a single child or two children on one floor (i.e. two genetic families per floor living as one legal family), and that the Shelter operator was aware of the legal definition of family; and

WHEREAS, the Board finds this explanation credible and sufficient, in light of the applicable laws; and

WHEREAS, the Board notes that the license for the Shelter issued by the New York State Office of Children and Family Services ("NYSOCF"), dated April 7, 2004, indicates

not allowed by the CO; and

WHEREAS, as to the first component, appellant cites to the following statements, which were made on the record in the court proceeding by Shelter Litigation counsel: "and the idea is that there will be six to eight families in total among the four units" and "[the] definition of family under zoning rules is not more than four unrelated persons is (sic) occupying a dwelling living together and maintaining a common household"; and

WHEREAS, pursuant to MDL §4(5), the term "family" is defined as: "[E]ither a person occupying a dwelling and maintaining a household, with not more than four boarders, roomers or lodgers, or two or more persons occupying a dwelling, living together and maintained a common household, with not more than four boarders, roomers, or lodgers"; and

WHEREAS, pursuant to Building Code §27-232, the term "family" is defined as: "A single individual; or two or more individuals related by blood or marriage or who are parties to a domestic partnership, and living together and maintaining a common household, with not more than four boarders, roomers or lodgers; or a group of not more than four individuals, not necessarily related by blood, marriage or because they are parties to a domestic partnership, and maintaining a common household"; and

that the facility is to have 20 beds total, over 4 habitable floors, which would allow the type of situation discussed by Shelter Litigation counsel; and

WHEREAS, the Board finds that six to eight genetic families could reside in a four-family multiple dwelling such as the Existing Building and nevertheless meet the legal definition of the term "family" under the applicable laws, given that the laws allow for families to be comprised of unrelated individuals in certain configurations, or one set of related individuals residing with another set of related individuals; and

WHEREAS, the Board also finds that the DOB-approved plans show a configuration on each self-contained habitable floor whereby occupants would share a kitchenette and bathroom, which is indicative of a layout designed for maintenance of a common household; and

WHEREAS, the Board further finds that appellant's assertion that the statements of the Shelter Litigation counsel indicate an intent on the part of the Shelter operator to occupy the Existing Building contrary to the CO to be mere speculation; and

WHEREAS, DOB states that, upon review, the statements of the Shelter Litigation counsel in the court proceeding do nothing more than raise an ambiguity as to how the Existing Building may be operated in the future when occupied by the Shelter; and

WHEREAS, DOB also states that its review of the Permit application revealed no indication that the occupancy

---

# MINUTES

---

resulting from the proposed work would be inconsistent with the CO or any applicable law, in that the application did not, on its face, propose any change in the number of families that will occupy the existing building; and

WHEREAS, DOB considered the statements of the Shelter Litigation counsel and compared them to the representations made by the Shelter architect in the Permit application and, because the Shelter Litigations counsel statements were deemed ambiguous at best, concluded that the application did not contain knowingly or unintentionally false statements, which, pursuant to Building Code §26-124, would subject the Shelter architect to misdemeanor charges and civil penalty; and

WHEREAS, DOB further determined that the statements of the Shelter Litigation counsel did not warrant revocation under the permit pursuant to Building Code §27-197; and

WHEREAS, DOB states that Building Code §27-197 allows DOB to revoke permits and application approvals under three general circumstances: 1) forgery of an owner's or applicant's signature; 2) a substantive violation contained in an application that is certified by an architect or engineer as complying with all applicable law; and 3) where substantively different applications are concurrently filed with the Department and another City agency that are purportedly for the same work; and

WHEREAS, DOB argues that the facts as presented by

WHEREAS, Building Code §27-264 provides that Occupancy Group J-1 "[s]hall include buildings and spaces that are primarily occupied for the shelter and sleeping accommodation of individuals on a day-to-day or week-to-week basis"; and

WHEREAS, appellant argues that such a change in occupancy is contrary to the CO, and therefore violates Building Code §27-217, which provides that no change shall be made in the use or occupancy of an existing building that is inconsistent with the last issued certificate of occupancy for such building unless a new certificate of occupancy is issued by DOB; and

WHEREAS, DOB states that the Permit application contained no indication that the duration of occupancy at the premises would be day-to-day or week-to-week; and

WHEREAS, DOB also states that the web-site representation fails to establish a J-1 occupancy of the premises, as the word "temporary" could encompass month-to-month accommodation, which is Occupancy Group J-2; and

WHEREAS, the Board notes that there is no evidence in the record that the Shelter operator was using the word "temporary" in its web-site description of the Shelter as a term of art, or in any way intended to bind itself through this representation to providing stays of only one to two weeks duration; and

WHEREAS, Shelter counsel states that the length of occupancy by the typical Shelter resident will likely be

appellant do not fall under any of these three categories, and that as a result, it is without authority to revoke the permit; and

WHEREAS, the Board agrees that DOB did not have the statutory authority to revoke the Permit on the basis of the Shelter Litigation counsel's statements in the court proceeding; and

WHEREAS, the second component of appellant's first argument is that the Existing Building will be used for temporary occupancy by the Shelter, which would be contrary to the CO; and

WHEREAS, in support of this contention, appellant claims that Shelter officials made representations to members of the immediate community that it intended to provide only temporary, emergency shelter to the proposed occupants, with length of stays averaging one to two weeks; and

WHEREAS, appellant also cites screen print-outs from a web-site run by the Shelter operator, submitted into the record, which state that the Shelter offers a "temporary" place to stay; and

WHEREAS, appellant maintains that these representations indicate that the Shelter sought to occupy the existing building as Occupancy Group J-1; and

comparable to that of other shelters run by the Shelter operator, in the range of approximately 130 days (or about four months); and

WHEREAS, in support of this statement, in a submission dated July 14, 2004, Shelter counsel submitted materials published by the Shelter operator concerning two other comparable shelters, and the average length of stay for each; and

WHEREAS, the Shelter architect testified that in conversations she had with the Shelter operator and she was informed that the typical length of stay would be for a month or possibly longer; and

WHEREAS, Shelter counsel represents that the Shelter operator chose the particular residential neighborhood in question because it is safe and appropriate for longer-term stays, given that it is located in a good school district and provides residents with access to mass transportation; and

WHEREAS, based upon the above, the Board finds that there is no indication in the record that the Existing Building will be primarily occupied for the shelter and sleeping accommodation of individuals on a day-to-day or week-to-week basis; and

WHEREAS, instead, the Board finds that the evidence supports the Shelter's assertion that the typical intended length of stay for an occupant is one month or more; and

WHEREAS, therefore, the Board disagrees with appellant's contention that the Existing Building will be

---

# MINUTES

---

used primarily for temporary occupancy; and

WHEREAS, accordingly, the Board finds that appellant's first argument - that the Existing Building will be occupied by more families and for a period of time than what it is allowed by the CO - is without merit, and does not support the claim that the Permit must be revoked by DOB; and

WHEREAS, appellant's second argument is that the Shelter proposal, because it actually contemplates temporary, and not permanent, occupancy, should have been classified in Use Group 5, "Transient Hotel", pursuant to Z.R. §32-14; and

WHEREAS, because, as noted above, the Board finds that the occupancy of the existing building by Shelter clients will not be on a primarily temporary basis, this argument fails; and

WHEREAS, moreover, the Board notes that other similar shelters are located as-of-right in residential districts without commercial overlays, as evidenced by data presented by Shelter counsel (Shelter counsel submission, June 9, 2004, Exhibit G "Shelter-Type Establishments Located Within Residential Zoning Districts"); and

WHEREAS, Shelter counsel states, and the Board agrees, that the Shelter does not have twenty-four hour desk service, and therefore does not meet the definition of

WHEREAS, Building Code §27-215 provides, in part: "[N]o building hereafter altered so as to change from one occupancy group to another, either in whole or in part, or so as to affect any existing means of egress, or so as to increase the number of habitable rooms in the building, and no building hereafter altered for which a certificate of occupancy has not theretofore been issued, shall be occupied or used unless and until a certificate of occupancy shall have been issued certifying that the alteration work for which the permit was issued has been completed substantially in accordance with the approved plans and the provisions of this code and other applicable laws and regulations."; and

WHEREAS, applicant argues that plans submitted with the Permit application show that the number of habitable rooms increased in the Existing Building; and

WHEREAS, the Board finds that this argument was also not the subject of a final DOB determination and, therefore, it is not properly before the Board; and

WHEREAS, during the course of the public hearing on the instant appeal, appellant asked the Board to subpoena New York City Fire Department Lieutenant Thomas Coleman, who had inspected the premises and issued a report on December 22, 2003, pursuant to normal procedures, in order for him to provide testimony about his observations and conclusions; and

WHEREAS, FDNY Deputy Chief Inspector Anthony Scaduto testified before the Board that that senior officials of the FDNY's Bureau of Fire Prevention ("BFP") did not concur with the Lieutenant's recommendation, though the

"Transient Hotel" as set forth in Z.R. §12-10, which requires that such desk service be provided; and

WHEREAS, the Board notes that the appellant did not obtain a final determination from the DOB as to the third argument, that occupancy of the Existing Building by the Shelter violates Building Code §27-954(t) (which codifies Local Law 10 of 1999); and

WHEREAS, accordingly, the issue is not properly before the Board; and

WHEREAS, in sum, the Board finds appellant's arguments in response to the final DOB determination dated March 18, 2004 unpersuasive, and, on this basis, concludes that denial of the instant appeal is warranted; and

WHEREAS, appellant's initial submission to the Board presented other arguments - namely, that the Existing Building is not suitable to meet the programmatic needs of the Shelter and that the Board must revoke the CO because failure to do so will expose the City to tort liability - which the Board finds irrelevant to the instant appeal, and for which appellant did not obtain a final determination from DOB; and

WHEREAS, at hearing, appellant raised an argument concerning Building Code §27-215; and

inspection observations were taken into account; and

WHEREAS, Inspector Scaduto testified that the official FDNY position was reflected in a letter from the BFP, dated February 23, 2004, which states that "the requirements of all laws, regulations, etc. under the jurisdiction of the Fire Department have been complied with."; and

WHEREAS, Inspector Scaduto also testified that the initial inspection by the Lieutenant is the first step in a long-term process, and does not constitute a final FDNY determination; and

WHEREAS, Inspector Scaduto further testified that the experts in the BFP review the initial inspection report, but make a final determination on other considerations beyond what is contained in the report; and

WHEREAS, the Board notes that it is not uncommon for inspector level recommendations to be later overruled or modified by senior officials within an agency, and observes that the evaluation of the Lieutenant's observations and recommendations by the BFP was per procedure; and

WHEREAS, in a letter dated June 30, 2004, Chair Srinivasan wrote to appellant and stated that the Board would not issue a subpoena to Lieutenant Coleman because his observations as set forth in the December 22, 2003 inspection report were already in the record, and any testimony he provided as to his conclusions would not reflect the official FDNY position, which was set forth in the February 23, 2004 letter from the BFP; and

WHEREAS, appellant also requested that the Board issue a subpoena duces tecum to the Shelter operator in order to obtain license application materials filed with

# MINUTES

NYSOFS on the basis that they would indicate an intent to occupy the existing building in a manner contrary to the CO; and

WHEREAS, the Board had before it no evidence whatsoever that the materials contained such information, and, more importantly, the Board has no Charter authority to subpoena documents; and

WHEREAS, accordingly, the Board, in its June 30 letter, informed appellant that it could not issue a subpoena duces tecum to NYSOFS; and

WHEREAS, the Board then granted leave to the appellant to issue its own subpoena duces tecum to the Shelter operator, and the Board set a delayed decision date so that the subpoena issue could be resolved prior to a decision; and

WHEREAS, appellant subsequently submitted a letter to the Board, dated September 8, 2004, stating that the Shelter operator did not respond to the subpoena duces tecum, on the basis that the application materials were shielded under law; and

WHEREAS, appellant also stated in this letter that the Board was not empowered to decide the efficacy of the subpoena or the Shelter operator's objection thereto, and that appellant therefore had no objection to the Board rendering its determination; and

*Therefore, it is resolved* that the final determination of the New York City Department of Buildings, dated March 24, 2003, is upheld and this appeal is denied.

Adopted by the Board of Standards and Appeals, September 14, 2004.

## 155-04-A

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative, Inc, owner; Richard & Dawn Hennessy, lessees.

SUBJECT - Application April 12, 2004 - Proposed enlargement of the first floor, and the addition of a new second floor, 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 - 4 Marion Walk, southwest corner of West End Avenue, Block 16350, Part of Lot 400, Borough of Queens.

### COMMUNITY BOARD #14

APPEARANCES -

For Applicant: John Ronan.

**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 March 22, 2004 acting on Department of Buildings ALT 1. Application No. 401841316, reads in

WHEREAS, also during the course of the public hearing, appellant asked the Board to conduct a site visit of the Existing Building; and

WHEREAS, the Board was aware that DOB and FDNY had inspected the site numerous times, and that neither agency observed conditions that were contrary to the CO; and

WHEREAS, the Board notes that the basis of the instant appeal was that the Permit application contained incorrect information as evidenced by statements made by Shelter Litigation counsel at the court proceeding, and that a site inspection would not assist the Board in determining the validity of this claim; and

WHEREAS, therefore, the Board declined to conduct a site inspection; and

WHEREAS, the Board observes that if appellant is concerned that there may be a violation of an applicable law at the Existing Building, including occupancy contrary to the CO, then a complaint and inspection request may be made to DOB; and

WHEREAS, based upon the foregoing, the Board finds that there is no basis for revocation of the Permit by DOB.

pertinent part:

“Proposal to enlarge the existing first floor and construct a new second floor on a home which lies within an R-4 district but does not front on a mapped street (Marion Walk) is contrary to Article 3, Section 36 (2) of the General City Law and contrary to section 27-291 of the NYC Building Code and must therefore be referred to the Board of Standards and Appeals for approval”; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due notice by publication in the *City Record*, and then to decision on September 14, 2004; and

WHEREAS, by letter dated March 10, 2003, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Resolved, that the decision of the Queens Borough Commissioner, dated January 30, 2004 acting on Department of Buildings ALT 1. Application No. 401841316 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 19, 2004”-(1) sheet; and that the proposal comply with all applicable R4 zoning district requirements and that all applicable laws, rules, and regulations shall be complied with, and *on further condition*:

---

# 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;

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 14, 2004.

---

## 68-04-A

APPLICANT - Steven Barshov/Sive, Paget & Riesel, for Lawrence M. Garten, owner.

SUBJECT - Application March 2, 2004 - Proposed erection of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 96 Driggs Street, Block 5275, Tentative Lot 10, Borough of Staten Island.

## 149-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; John & Mary Mathis, owners.

SUBJECT - Application April 6, 2004 - Proposed alteration and enlargement of an existing one family dwelling and upgrade private disposal system not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 14 Gotham Walk, west side, 167.23' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 10 A.M., for decision, hearing closed.

---

## 171-04-A

APPLICANT - Zygmunt Staszewski, for Breezy Point Cooperative, Inc, owner; William Schlageter, lessee.

SUBJECT - Application April 26, 2004 - Proposed alteration upgrade of private disposal system of an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 42 Olive Walk, west side, 99.25' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #3

APPEARANCES -

For Applicant: Steven Barshou.

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 10 A.M., for continued hearing.

---

## 69-04-A

APPLICANT - Steven Barshov/Sive, Paget & Riesel, for Lawrence M. Garten, owner.

SUBJECT - Application March 2, 2004 - Proposed erection of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 23 Lillian Place, Block 5275, Tentative Lot 11, Borough of Staten Island.

## COMMUNITY BOARD #3

APPEARANCES -

For Applicant: Steven Barshou.

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 10 A.M., for continued hearing.

---

## COMMUNITY BOARD #14

APPEARANCES -

For Applicant: Michael Harley.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 10 A.M., for decision, hearing closed.

---

## 244-04-A

APPLICANT - Sheldon Lobel, P.C., for Mr. Alfonso Angelisi, owner.

SUBJECT - Application June 30, 2004 - Proposed two family dwelling, located partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 44 Pennyfield Avenue, northwest corner of Alan Place, Block 5529, Lots 417 and 418, Borough of The Bronx.

## COMMUNITY BOARD #10BX

APPEARANCES -

For Applicant: Jon Popin.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Absent: Commissioner Miele.....1

**ACTION OF THE BOARD** - Laid over to September 28, 2004, at 10 A.M., for decision, hearing closed.

---

---

# MINUTES

---

## 248-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Michael & Jessica Ball, owners.

SUBJECT - Application July 13, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legal mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 13 Courtney Lane, north side, 107.43' east of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14

APPEARANCES -

For Applicant: Gary Lenhart.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Caliendo and Commissioner Chin.....3

Negative:.....0

Absent: Vice-Chair Babbar.....1

APPEARANCES -

For Applicant: Michael Harley.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Caliendo and Commissioner Chin.....3

Negative:.....0

Absent: Vice-Chair Babbar.....1

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 10 A.M., for decision, hearing closed.

---

## 243-04-A

APPLICANT - Sion Misrahi, for Sion Misrahi, President, owner.

SUBJECT - Application June 30, 2004 - An appeal challenging the Department of Buildings' decision dated June 7, 2004, in which the department refused to issue a vacate order regarding subject premises, to facilitate needed repairs without endangering the occupants thereof.

PREMISES AFFECTED - 11 Essex Street, between Canal and Hester Streets, Block 297, Lot 24, Borough of Manhattan.

### COMMUNITY BOARD #3

APPEARANCES -

For Applicant: Irving Minkin, Sion Misrahi, Anthony Czabo and David Brody.

For Opposition: Christopher Prehp

For Administration: Lisa Orrantia, Department of Buildings.

**ACTION OF THE BOARD** - Laid over to October 26, 2004, at 10 A.M., for continued hearing.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 12:15 P.M.

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 10 A.M., for decision, hearing closed.

---

## 251-04-A

APPLICANT - Zygmunt Staszewski for Breezy Point Cooperative, Inc., owner; Gary Wilson, lessee.

SUBJECT - Application July 15, 2004 - Proposed alteration and extension to an existing one family dwelling, not fronting on a legally mapped street is contrary to Section 36, Article 3 of the General City Law, also the upgrading of the existing septic system that is in the bed of the service road which is contrary to the Department of Buildings' Policy.

PREMISES AFFECTED - 14 Thetford Lane, southeast corner of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14

## REGULAR MEETING

**TUESDAY AFTERNOON, SEPTEMBER 14, 2004**

**2:00 P.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

---

## ZONING CALENDAR

### 341-03-BZ

#### CEQR #04-BSA-073A

APPLICANT - Sheldon Lobel, P.C., for Chelsea Ventura, LLC, owner.

SUBJECT - Application November 6, 2003 - under Z.R. §72-21 to permit the proposed construction of a residential building (Use Group 2), which creates non-compliances with respect to Floor Area Ratio (a total FAR of 4.13 - including residential floor area in the cellar - where 4.0 is permitted), number of dwelling units (32 dwelling units where 27 are permitted), and rear yard equivalent (a rear yard of 57 feet

# MINUTES

where 60 is required), contrary to Z.R. §§23-145, 23-22 and 23-533.

PREMISES AFFECTED - 343 West 16<sup>th</sup> Street, between Eighth and Ninth Avenues, Block 740, Lot 12, 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, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

### THE VOTE TO CLOSE HEARING -

1. Proposed construction of a residential building on a merged zoning lot with an existing multiple dwelling resulting in a combined FAR exceeding 4.0 creates a non-compliance, contrary to Section 23-145, Zoning Resolution.
2. Proposed total number of dwelling units on the merged zoning lot of the number in the existing building and the number in the proposed new building exceeds the number authorized by Section 23-22, Zoning Resolution, creating a non-compliance.
3. Proposed construction of a residential building on a merged zoning lot with an existing building resulting in a rear yard equivalent less than 60 ft. in depth is contrary to Section 23-533, Zoning Resolution.”; and

WHEREAS, a public hearing was held on this application on April 27, 2004 after due notice by publication in the *City Record*, with continued hearings on June 8, 2004, July 13, 2004 and August 10, 2004, and then to decision on September 14, 2004; 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, stated that it had no objection to the proposed variance and recommended its approval, with the provisos that the Board carefully evaluate the requested FAR and rear yard equivalent waivers; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a residential building (Use Group 2) in an R8B zoning district, which creates non-compliances with respect to Floor Area Ratio, number of dwelling units, and rear yard equivalent, contrary to Z.R. §§23-145, 23-22 and 23-533; and

WHEREAS, the subject premises is comprised of two tax lots (Lots 12 and 54) situated between Eighth and Ninth Avenues and West 16<sup>th</sup> and 17<sup>th</sup> Streets, which are proposed to be merged; and

WHEREAS, the applicant represents that Lot 12 is a

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

### 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 October 15, 2003, acting on Department of Buildings Application No. 103420647, reads:

small, shallow and vacant lot, with a varying depth from 37’9” to 40’1”, with a total area of 974 sq. ft.; and

WHEREAS, the applicant represents that Lot 54 is a larger lot, currently improved upon with an existing residential building with 24 dwelling units and a rear yard of over 70 feet; and

WHEREAS, once merged, the new lot will have a total lot area of 4559.7 sq. ft.; and

WHEREAS, the proposed new building will be erected on Lot 12, and will be six stories high (60 feet total height), contain eight dwelling units and have a Floor Area Ratio (“FAR”) of 4.13; and

WHEREAS, this application, if approved, would lead to the following non-compliances on the merged lot: a total FAR of 4.13 (4.0 is permitted); 32 dwelling units (27 are permitted); and a rear yard equivalent of 57 feet (60 is required); and

WHEREAS, the applicant originally proposed a six-story plus penthouse building, with a FAR of 4.21; and

WHEREAS, the applicant, in response to Board concerns, reduced the FAR to 4.13, and eliminated the penthouse; and

WHEREAS, the applicant represents that the following are unique physical conditions existing on Lot 12, which create practical difficulties and unnecessary hardship in complying with underlying district regulations: (1) Lot 12 has a maximum depth of only 40 feet and an area of only 974 sq. ft.; (2) the shallow depth of Lot 12 permits only one efficiency apartment on each floor, due to Building Code requirements related to elevators and handicapped accessibility; and (3) Lot 12 is the only undeveloped lot on the block; and

WHEREAS, the applicant represents that subsequent to a merger with Lot 54, development on Lot 12 becomes possible, although the depth of, and the number of apartments in, the existing building on Lot 54 leads to the need for dwelling unit, FAR and rear yard equivalent waivers; and

WHEREAS, 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 current zoning;

---

# MINUTES

---

and

WHEREAS, the applicant states that because of the amount of dwelling units in the building on Lot 54, construction of a complying building on Lot 12 would not allow an amount of dwelling units sufficient to enable the owner to realize a reasonable return; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a complying building would not yield the owner a reasonable return; and

WHEREAS, in response to Board concerns, the applicant has submitted a supplementary analysis from its

WHEREAS, the applicant also represents that a building without a penthouse or cellar residential space does not realize a reasonable return; and

WHEREAS, the applicant agreed to remove the penthouse from the design of the proposed building, but the rear yard equivalent will remain at 57 feet and the cellar residential space will be retained; and

WHEREAS, the proposed 4.13 FAR includes the cellar residential space, the construction of which incurs increased construction costs necessitating, in part, the FAR waiver; and

WHEREAS, the FAR waiver is also necessitated by the inefficiency of the small floor plates (approximately 1330 sq. ft. on average) of the new building, which will be built to a depth of 55 feet to minimize the encroachment into the required rear yard equivalent; and

WHEREAS, the Board asked the applicant to further clarify the rate of return for a building with an FAR of 4.0; and

WHEREAS, in a submission dated September 7, 2004, the applicant's financial expert states that an analysis of a 4.0 FAR scenario, without the cellar residential occupancy and attendant FAR waiver, results in a rate of return that is not reasonable versus a 4.13 FAR scenario; and

WHEREAS, the Board has reviewed this submission and finds it credible and sufficient; 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 conformity with zoning will provide a reasonable return; and

WHEREAS, the applicant maintains that the proposed building will not negatively impact the character of the neighborhood or the use and development of the neighboring property; and

WHEREAS, the Board finds that the proposed building would comply with all applicable setback provisions, including the required street wall of between 55 and 60 feet, and with the overall height limit of 75 feet, and that there would be no visible effect resulting from the requested waivers; and

WHEREAS, the Board finds that the rear yard waiver is minimal, and would not negatively affect adjacent properties; and

WHEREAS, based on the above, the Board finds that

financial expert analyzing the following building scenarios and the rate of return of each: (1) building without a penthouse; (2) building with a complying rear yard; (3) building without a penthouse and with a complying rear yard; (4) building without cellar residential space; and (5) building without cellar residential space or penthouse; and

WHEREAS, the applicant represents that a building without a penthouse and with a complying rear yard does not realize a reasonable return; and

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

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 an Environmental Assessment Statement (EAS) CEQR No. 04-BSA-073M dated August 20, 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, 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.

*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 the Rules of Procedure for City Environmental Quality Review and Executive Order No.

# MINUTES

91 of 1977, as amended and makes each and every one of the required findings under Z.R. §72-21, to permit the proposed construction of a residential building (Use Group 2), which creates non-compliances with respect to Floor Area Ratio (a total FAR of 4.13 - including residential floor area in the cellar - where 4.0 is permitted), number of dwelling units (32 dwelling units where 27 are permitted), and rear yard equivalent (a rear yard of 57 feet where 60 is

THAT substantial construction be completed and a Certificate of Occupancy be obtained 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, September 14, 2004.

## 368-03-BZ

### CEQR #04-BSA-094Q

APPLICANT - Eric Palatnik, P.C., for The Greater Allen Cathedral of New York, owner., Allen AME Housing Corp., lessee.

SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit the construction of a new four-story mixed use building with residential, commercial, and community facility uses (Use Group 2, 3, and 6) in an C1-2/R3-2 zoning district, in which does not comply with Zoning Resolution §23-141(b), §23-22, §23-631(b), §23-45, §23-631(b)(4), §25-23, §25-231, §25-72 and §35-31.

PREMISES AFFECTED - 110-42 Merrick Boulevard, between 111<sup>th</sup> Avenue and 110<sup>th</sup> Road (Former Lots 65 and 67-76), Block 10200, Lot 71 (tent), Borough of Queens.

### COMMUNITY BOARD #12Q

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, Commissioner Caliendo and Commissioner Chin.....5  
Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5  
Negative:.....0

required), contrary to Z.R. §§23-145, 23-22 and 23-533; *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 24, 2004"- (11) sheets; and *on further condition*:

THAT all applicable fire safety measures, including those shown on the approved plans, shall be complied with;

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 July 13, 2004, acting on Department of Buildings Application No. 401723685, reads:

- "1. Proposed floor area is contrary to ZR 23-141 b.
  2. Proposed open space is contrary to ZR 23-141 b.
  3. Proposed lot coverage is contrary to ZR 23-141 b.
  4. Proposed number of dwelling units is contrary to ZR 23-22.
  5. Proposed perimeter wall height is contrary to ZR 23-631 b.
  6. Proposed total height is contrary to ZR 23-631 b.
  7. Proposed front yard is contrary to ZR 23-45.
  8. Proposed setback is contrary to ZR 23-45.
  9. Proposed sky exposure plane is contrary to ZR 23-631(b)(4).
  10. Proposed parking is contrary to ZR 25-23 and ZR 25-231.
  11. Proposed loading is contrary to ZR 25-72.
  12. Proposed floor area is contrary to ZR 35-31.;"
- and

WHEREAS, a public hearing was held on this application on August 17, 2004, after due notice by publication in the *City Record*, and then to decision on September 14, 2004; 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, both 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 a proposed four-story mixed-use residential/commercial development (Use Groups 2 and 6), located in an R3-2/C1-2 zoning district, which does not comply with the zoning requirements for floor area, open space, lot coverage, number of dwelling units, perimeter wall height, total height, front yard, setbacks, sky exposure, parking and loading, contrary to ZR §§23-141(b), 23-22, 23-

---

# MINUTES

---

631(b), 23-631(b)(4), 23-45, 25-23, 25-231, 25-72, and 35-31; and

WHEREAS, the subject premises is located on Merrick Blvd. in the Jamaica section of Queens, on the western side of Merrick Blvd. between 110<sup>th</sup> Road and 111<sup>th</sup> Avenue; and

WHEREAS, the Greater Allen Cathedral of New York (the "Cathedral"), a not-for-profit entity, is located across the street from the subject premises; the Cathedral, along with their development arm, Allen AME Housing Corporation, are the owners and developers of the proposed affordable housing development; and

WHEREAS, the applicant proposes to construct a four-story affordable housing mixed-use development, which requires the demolition of the existing structures; and

WHEREAS, the proposal contemplates parking at the cellar level for 53 motor vehicles, including 25 parking spaces dedicated for the commercial uses, one parking space for the community facility use and 27 parking spaces dedicated to the residential tenants; and

WHEREAS, the first floor will contain nine separate storefronts which will front Merrick Blvd., and will also contain a community facility element; and

WHEREAS, the second through fourth floors will contain 54 affordable housing dwelling units, including six studios, 24 one-bedroom units, and 24 two-bedroom units; and

WHEREAS, 9 of the units will be designated for individuals with physical disabilities; and

WHEREAS, the applicant states that the proposed development will almost entirely comply with the anticipated R6A zoning for the site, which is part of a broad contemplated rezoning in this area of Queens, proposed by the New York City Department of City Planning; and

WHEREAS, the applicant further states that due to funding concerns, the proposed development must be initiated as soon as possible, and thus the Cathedral cannot wait until the proposed rezoning, which is not expected to occur until late 2005; and

WHEREAS, the proposed building will meet the requirements of the Quality Housing Program, and will contain an elevator, and parking, recreation and laundry facilities; and

WHEREAS, the applicant states that the objective of the proposed development is to address the mission of the Cathedral, which includes the provision of affordable housing to area residents who are in desperate financial need and could not otherwise afford housing; and

WHEREAS, accordingly, the applicant states that the proposed rents are to be set as follows: (1) 15% of the units will have rents set at or below 30% of median income; (2) 26% of the units will have rents set at or below 50% of median income; and (3) 59% of the units will have rents set at or below 60% median income; and

WHEREAS, the applicant represents that the following is a unique physical condition, which creates practical difficulties and

WHEREAS, the lot is 28,942 sq. ft. in size, and is comprised of 11 tax lots, two of which are vacant land, eight of which are occupied by vacant two-story taxpayer type dwellings, and one of which is developed with a vacant one-story commercial structure; and

unnecessary hardship in developing the site in compliance with underlying district regulation: the subject site is underdeveloped and is improved with obsolete taxpayer structures and vacant land; and

WHEREAS, the applicant also claims that the basis of the uniqueness relates to the programmatic needs of the Cathedral; and

WHEREAS, the applicant states that in order for the proposed development to be financially viable, and to meet the requirements of the various sources of funding needed for this affordable housing development, a minimum number of dwelling units is required; and

WHEREAS, the applicant argues that this number of dwelling units cannot be achieved under the existing R3-2/C1-2 zoning designation and thus it is necessary to develop the premises nearly in accordance with an R6A zoning district; and

WHEREAS, the applicant notes that housing assistance to members of the congregation is a long-standing programmatic goal of the Cathedral; and.

WHEREAS, the applicant claims that many of the persons which the Cathedral serves are without permanent housing; and

WHEREAS, the applicant further claims that the commercial component of the proposed development achieves the Cathedral's broader goal of "community development", which helps establish and/or maintain the long-term viability of a neighborhood by addressing several broad elements of development, such as the delivery of convenient goods and services, as well as enhancement of stability and promotion of the positive attributes of a neighborhood; and

WHEREAS, the Board notes that the proposed development will be directly across from the Cathedral headquarters, which will allow for both diminished oversight costs and easy access for the prospective tenants to the myriad of programs of the Cathedral; and

WHEREAS, the Board also notes that the commercial component will provide easily accessible retail shopping to the prospective tenants, especially those with physical disabilities; and

WHEREAS, the Board finds that the proposed

---

# MINUTES

---

variances are needed to allow for a specific number of units sufficient to generate annual income from rent to cover operating costs and debt servicing; and

WHEREAS, the Board finds that the applicant submitted sufficient information explaining the programmatic needs of the applicant and their relation to the requested variance;

WHEREAS, based upon the foregoing, the Board finds that the unique condition mentioned above, when considered in conjunction with the programmatic needs of the applicant, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with current applicable zoning regulations; and

WHEREAS, the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the proposed application will be in furtherance of its programmatic needs; and

WHEREAS, the applicant states that the proposed variance will not affect the character of the neighborhood, impair the appropriate use or development of adjacent property or be detrimental to the public welfare; and

WHEREAS, the applicant claims that proposed development has been tastefully designed and will meet the requirements of the Quality Housing Program; and

WHEREAS, the applicant notes that the subject premises is situated within the boundaries of a proposed rezoning, which will re-designate the existing zoning district which extends north from the subject site on Merrick Blvd with R6A zoning; and

WHEREAS, R6A zoning provides for a 3.0 FAR and a wall height of 40 to 60 feet, comparable to that proposed in the instant application; and

WHEREAS, the applicant states that the proposed bulk of the development is comparable to numerous structures in the area, including: (1) a three/four story building at 116<sup>th</sup> Avenue and Merrick Blvd.; (2) a six-story building on Linden Blvd.; and (3) the Allen Christian School on Linden Blvd.; and

WHEREAS, the applicant has submitted photos of other buildings in the surrounding area with bulk comparable to the proposed development; and

WHEREAS, the Board finds that the bulk and height of the proposed development is not out of context with surrounding buildings on Merrick Boulevard (a wide street), including the Cathedral building, and other four, five and six story buildings in the area; and

WHEREAS, the applicant's traffic and parking expert has submitted an on-street parking/delivery analysis, dated September 8, 2004, which shows that available on-street parking will accommodate the parking demands related to the proposed development; and

WHEREAS, this same analysis concludes that commercial deliveries could easily be accommodated in front of the proposed commercial stores, or on surrounding streets, where no posted parking regulations exist; and

WHEREAS, the Board has reviewed the parking/delivery analysis and finds it credible and sufficient; and

and

WHEREAS, the Board further finds that the zoning lot is the only available underdeveloped parcel adjacent to the Cathedral that is suitable for the contemplated development; and

WHEREAS, the Board notes that during its site visit it observed the ample availability of unregulated on-street parking; and

WHEREAS, the applicant states that the 2,351 sq. ft. unenclosed, roof-top recreation space will compensate for the lack of open space at the premises; 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 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, 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 an Environmental Assessment Statement (EAS) CEQR No. 04-BSA-094Q 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

WHEREAS, the July 13, 2004 EAS and the parking survey submitted on September 9, 2004 specifically examined the proposed action for potential parking demand impacts and determined that there would not be any impacts; 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.

# MINUTES

*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 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 four-story mixed-use residential/commercial development (Use Groups 2 and 6), located in an R3-2/C1-2 zoning district, which does not comply with the zoning requirements for floor area, open space, lot coverage, number of dwelling units, perimeter wall height, total height, front yard, setbacks, sky exposure, parking, and loading, contrary to ZR §§23-141(b), 23-22, 23-631(b), 23-631(b)(4), 23-45, 25-23, 25-231, 25-72, and 35-31, *on condition* that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received August 16, 2004"- (11) sheets; and *on further condition*;

THAT any change in use or ownership of the subject premises must be approved in advance by the Board of Standards and Appeals;

THAT parking shall be provided as shown on BSA-approved plans;

THAT a 2,351 sq. ft. roof top recreation area shall be provided as shown on BSA-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 14, 2004.

#### 4-04-BZ

##### CEQR #04-BSA-114K

APPLICANT - Eric Palatnik, P.C., for Anna Donskoi, owner.

SUBJECT - Application January 6, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space, rear and side yards, perimeter wall height and lot coverage is contrary to Z.R. §§23-141(a), §23-141, §23-45, §23-47, §23-61 and §23-631b.

PREMISES AFFECTED - 177 Norfolk Street, between Oriental

and Shore Boulevards, Block 8757, Lot 27, Borough of Brooklyn.

##### COMMUNITY BOARD #15BK

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, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

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 December 17, 2003, acting on Department of Buildings application No. 301636674, reads, in pertinent part:

- “(1) As per Z.R. 23-141(a), maximum permitted floor area ratio (FAR) is 0.5, proposed is 1.0;
- (2) As per Z.R. 23-141(a), minimum required open space is 65%, proposed is 56.1%;
- (3) As per Z.R. 23-141, maximum lot coverage permitted is 35%, proposed is 43.9%;
- (4) As per Z.R. 23-45, minimum permitted rear yard is 30’, proposed is 27’;
- (5) As per Z.R. 23-61, minimum permitted side yard area is 5’ & 8’ 2 sides, proposed is 4’ 8 ¾” & 5 ¾”;

WHEREAS a public hearing was held on this application on August 17, 2004 after due publication in *The City Record*, and then laid over to September 14, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, Community Board 15, Brooklyn recommended approval of this application; and

WHEREAS, this is an application under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space, rear and side yards, and lot coverage, contrary to Z.R. §§23-141(a), 23-141, 23-45, 23-47, and 23-61; and

---

# MINUTES

---

WHEREAS, the subject lot is located on Norfolk Street, Brooklyn, north of Oriental Boulevard and is comprised of one tax lot with a total lot area of approximately 2,500 sq. ft.; and

WHEREAS, the applicant states that the subject premises is an existing single-story residential structure; and

WHEREAS, the subject premises falls entirely within the designated area of Community Board 15, Brooklyn; and

WHEREAS, the applicant seeks permission to enlarge the floor area of the existing single-family residential structure, while at the same time reducing the size of its footprint, which will be accomplished by the proposed elimination of a portion of the rear of the existing structure and the addition of a second level and attic; and

WHEREAS, the applicant represents that the attic space will count towards permitted floor area; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the perimeter wall height will comply with all applicable zoning regulations; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, 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.

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space, rear and side yards, perimeter wall height and lot coverage, contrary to Z.R. §§23-141(a), 23-141, 23-45, 23-47, 23-61 and 23-631b; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received August 27, 2004"-(4) sheets, and "September 13, 2004"-(1) sheet and *on further condition*;

THAT the attic is included in the total floor area;

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

WHEREAS, a public hearing was held on this application on July 13, 2004 after due notice by publication

Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted;

THAT substantial construction be completed and a new Certificate of Occupancy be obtained for the premises within four (4) years of this grant.

Adopted by the Board of Standards and Appeals, September 14, 2004.

## 19-04-BZ

### CEQR #04-BSA-124X

APPLICANT - Sheldon Lobel, P.C., for Motiva Enterprises, LLC, owner.

SUBJECT - Application February 6, 2004 - under Z.R. §11-412 to permit the reestablishment of an expired variance previously granted under BSA Cal. No. 423-54-BZ, for a gasoline service station (Use Group 16) in a C2-1 within an R4 zoning district, as well as the legalization of the conversion of a portion of the gas station building to an accessory retail convenience store, contrary to Z.R. §22-10 and §32-10.

PREMISES AFFECTED - 1217 East 233<sup>rd</sup> Street, a/k/a 3923 Baychester Avenue, Block 4954, Lot 68, Borough of The Bronx.

### COMMUNITY BOARD #12BX

APPEARANCES -

For Applicant: Janice Cahalane.

**THE ACTION OF 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 26, 2004, acting on Department of Buildings Application No. 200742296, reads:

"Continued use of the gasoline service station, and conversion of the building into an accessory convenience store, is contrary to the BSA grant under application number 423-54-BZ, and not permitted as-of-right within an R4/C2-1 zoning district as per Sections 22-10 and 21-10 of the Zoning Resolution."; and

in the *City Record*, with a continued hearing on August 10, 2004, and then to decision on September 14, 2004; and

---

# MINUTES

---

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. §§11-411 and 11-412 to permit the reestablishment of an expired variance previously granted under BSA Cal. No. 423-54-BZ, for a gasoline service station (Use Group 16) in a C2-1 within an R4 zoning district, as well as the legalization of the extension of the accessory retail convenience store use within the gas station building, contrary to Z.R. §22-10 and §32-10; and

WHEREAS, Community Board No. 12, Bronx, has recommended approval of this application; and

WHEREAS, the subject lot is at the northwest corner of the intersection of East 233<sup>rd</sup> Street and Baychester Avenue, and has a total lot area of 11,423 sq. ft.; and

WHEREAS, the lot is currently improved upon with a 14'8" high, one-story building with 1,645 sq. ft. of total floor area; and

WHEREAS, in 1956, under BSA Calendar Nos. 423-54-BZ, Vol. II and 767-55-A, the Board granted a variance to permit a gasoline service station with accessory uses, including minor auto repair and sales of auto accessories; and

WHEREAS, this variance has been extended and amended at various time since 1956; the most recent extension of term was on July 14, 1992; and

WHEREAS, the applicant seeks: (1) an extension of the term of the variance; and (2) Board approval of the extension of the retail sales use within the existing building; and

WHEREAS, the applicant states that the extension of the retail sales use within the existing building was necessitated by the lack of viability of the accessory auto repair use and continuing high costs associated with the regulation of gasoline sales; and

WHEREAS, the Board notes that a convenience store is a permitted use within the subject zoning district; and

WHEREAS, pursuant to Z.R. §11-411, the Board may, in appropriate cases, renew the term of a previously granted variance for a term of not more than ten years; 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 applicant has explained that the failure to obtain a certificate of occupancy up to this point in time was due to a dispute between the owner and the prior architect; 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.

Therefore, it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 SUBJECT - Application February 11, 2004- under Z.R. §72-21 to permit within an R5 zoning district, the legalization of a

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 and and grants a variation in the application of the Zoning Resolution, limited to the objection cited, on a site previously before the Board, to permit the reestablishment of an expired variance previously granted under BSA Cal. No. 423-54-BZ, for a gasoline service station (Use Group 16) in a C2-1 within an R4 zoning district, as well as the legalization of the conversion of a portion of the gas station building to an accessory retail convenience store, contrary to Z.R. §22-10 and §32-10, on condition that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application and marked "July 24, 2004" -(6) sheets; and on further condition;

THAT the term of the variance shall be limited to ten (10) years from July 15, 2002, expiring on July 14, 2012;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT signage shall be provided in accordance with BSA-approved plans, and shall comply with underlying zoning regulations;

THAT all landscaping, fencing and screening shall be provided in accordance with BSA-approved plans;

THAT the above conditions shall appear in the Certificate of Occupancy;

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;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 14, 2004.

---

## 28-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(b)

# MINUTES

PREMISES AFFECTED - 427 Logan Street, east side of Logan Street between Pitkin and Glenmore Avenues, Block 4209, Lot 11, Borough of Brooklyn.

## COMMUNITY BOARD #5BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on condition.

### THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

### 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 21, 2004, acting on DOB Application No. 301363290, reads:

“This is to serve as a notice that the building being constructed under this application does not comply with section 23-461(b) of the Zoning Resolution. This section requires an 8’0” side yard in an R5 zone. The building is built full to the property line. This notice is being filed in fulfillment of the architect of record’s obligation under the professional certification program”; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due notice by publication in *The City Record*, and then laid over to September 14, 2004; 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 R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirement, contrary to Z.R. §23-461(b); and

WHEREAS, Brooklyn Community Board No. 5 has recommended approval of

WHEREAS, the record indicates that the subject premises is a 21’3” x 100’ lot, with a total area of 2,125 sq. ft., and is improved with a 2,231 sq. ft. three-story, two-family

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

home; and

WHEREAS, the Board notes that the subject premises is one of forty-eight homes built as an affordable housing project on lots formerly owned by the City of New York that are scattered within a five block radius in the East New York section of Brooklyn; and

WHEREAS, the entire project is sponsored by the Department of Housing Preservation and Development (“HPD”), in conjunction with the NYC Partnership Housing Development Fund, Inc., which is a not-for-profit corporation; and

WHEREAS, the record indicates that the existing building was built without the appropriate side yard; the existing building received a work permit pursuant to a professionally certified application; and

WHEREAS, the application received an audited review by the Department of Buildings (“DOB”), and the side yard issue was not raised; and

WHEREAS, the architect of record became aware of the non-compliance well after construction commenced and notified DOB on his own in order to rectify the error; and

WHEREAS, the applicant states that pursuant to Z.R. §23-461(b) an 8-foot wide side yard is required for single or two-family semi-detached homes within an R5 zoning district, and that compliance with this section on a narrow zoning lot measuring 21-feet wide does not permit the construction of a functional residence and would result in the loss of much needed dwelling units; and

WHEREAS, the Board finds that the narrowness of the zoning lot, considered in conjunction with the programmatic needs of the not-for-profit organization to develop low-income housing, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the record indicates that the housing development is owned in fee title by the NYC Partnership Housing Development Fund, Inc. and therefore the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its programmatic needs; and

WHEREAS, the record indicates that the surrounding area is residential and the subject building is compatible in size and bulk with the surrounding homes; and

WHEREAS, this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the project is classified as Unlisted action

# MINUTES

pursuant to 6NYCRR, Part 617; and

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") has conducted an environmental review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 02HPD008K dated December 4, 2001; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Socioeconomic Conditions; Community Facilities; Open Space; Historic Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste; Transportation; Air Quality; and Noise; 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.

*Resolved*, that the Board of Standards and Appeals adopts HPD's Negative Declaration issued on January 9, 2002 and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(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 September 8, 2004"-(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;

THAT the Department of Buildings must ensure compliance 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, a public hearing was held on this application on August 17, 2004 after due notice by publication in *The City Record*, and then laid over to September 14, 2004; 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

Adopted by the Board of Standards and Appeals, September 14, 2003.

## 29-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

SUBJECT - Application February 11, 2004 - under Z.R. §72-21 to permit within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(b).

PREMISES AFFECTED - 499 Logan Street, east side of Logan Street between Belmont and Pitkin Avenues, Block 4228, Lot 1, Borough of Brooklyn.

## COMMUNITY BOARD #5BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on condition.

## THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

## THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

## 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 20, 2004, acting on DOB Application No. 301363389, reads:

"This is to serve as a notice that the building being constructed under this application does not comply with section 23-461(b) of the Zoning Resolution. This section requires an 8'0" side yard in an R5 zone. The building is built full to the property line. This notice is being filed in fulfillment of the architect of record's obligation under the professional certification program"; and

permit, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirement, contrary to Z.R. §23-461(b); and

WHEREAS, Brooklyn Community Board No. 5 has recommended approval of this application; and

WHEREAS, the record indicates that the subject premises is a 20' x 100' lot, and is improved with a three-story, two-family home of approximately 2,100 sq. ft.; and

WHEREAS, the Board notes that the subject premises

---

# MINUTES

---

is one of forty-eight homes built as an affordable housing project on lots formerly owned by the City of New York that are scattered within a five block radius in the East New York section of Brooklyn; and

WHEREAS, the entire project is sponsored by the Department of Housing Preservation and Development ("HPD"), in conjunction with the NYC Partnership Housing Development Fund, Inc., which is a not-for-profit corporation; and

WHEREAS, the record indicates that the existing building was built without the appropriate side yard; the existing building received a work permit pursuant to a professionally certified application; and

WHEREAS, the application received an audited review by the Department of Buildings ("DOB"), and the side yard issue was not raised; and

WHEREAS, the architect of record became aware of the non-compliance well after construction commenced and notified DOB on his own in order to rectify the error; and

WHEREAS, the applicant states that pursuant to Z.R. §23-461(b) an 8-foot wide side yard is required for single or two-family semi-detached homes within an R5 zoning district, and that compliance with this section on a narrow zoning lot measuring 20-feet wide does not permit the construction of a functional residence and would result in the loss of much needed dwelling units; and

WHEREAS, the Board finds that the narrowness of the zoning lot, considered in conjunction with the programmatic needs of the not-for-profit organization to develop low-income housing, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the record indicates that the housing development is owned in fee title by the NYC Partnership Housing Development Fund, Inc. and therefore the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its programmatic needs; and

*Resolved*, that the Board of Standards and Appeals adopts HPD's Negative Declaration issued on January 9, 2002 and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(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 September 8, 2004"-(4) sheets; and *on further condition*;

WHEREAS, the record indicates that the surrounding area is residential and the subject building is compatible in size and bulk with the surrounding homes; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, 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 Unlisted action pursuant to 6NYCRR, Part 617; and

WHEREAS, the New York City Department of Housing Preservation and Development (HPD) has conducted an environmental review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 02HPD008K dated December 4, 2001; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Socioeconomic Conditions; Community Facilities; Open Space; Historic Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste; Transportation; Air Quality; and Noise; 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.

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 14, 2004.

# MINUTES

## 30-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

SUBJECT - Application February 11, 2004- under Z.R. §72-21 to permit within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with front yard requirements, contrary to Z.R. §23-45.

PREMISES AFFECTED - 1109 Sutter Avenue, south side of Glenmore Avenue between Montauk and Atkins Avenues, Block 4039, Lot 36, Borough of Brooklyn.

### COMMUNITY BOARD #5BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on condition.

#### THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

#### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

#### 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 20, 2004, acting on DOB Application No. 301363496, reads:

“This is to serve as a notice that the building being constructed under this application does not comply with section 23-45 of the Zoning Resolution. This

WHEREAS, however, the application received an audited review by the Department of Buildings (“DOB”), and the front yard issue was not raised and the existing building received a work permit pursuant to a professionally certified application; and

WHEREAS, the architect of record became aware of the non-compliance well after construction commenced and notified DOB on his own in order to rectify the error; and

WHEREAS, the applicant represents that pursuant to Z.R. §23-45 an 10-foot front yard is required along Montauk Avenue, and that compliance with this section on a narrow zoning lot measuring 20-feet wide would result in a building with a 10-foot width which would result in the loss of much needed dwelling units and be impractical; and

WHEREAS, the Board finds that the narrowness of the zoning lot, considered in conjunction with the programmatic needs of the not-for-profit organization to develop low-income housing, creates unnecessary hardship and

section requires a corner lot to have two front yards in an R5 zone. The building has been built with one front yard. This notice is being filed in fulfillment of the architect of record’s obligation under the professional certification program”; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due notice by publication in *The City Record*, and then laid over to September 14, 2004; 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 R5 zoning district, the legalization of a three-story, two-family home which does not comply with front yard requirements, contrary to Z.R. §23-45; and

WHEREAS, Brooklyn Community Board No. 5 has recommended approval of this application; and

WHEREAS, the record indicates that the subject premises is a corner lot with a frontage of 20’ along Sutter Avenue and 90’ along Montauk Avenue, and is improved with a 2,100 sq. ft. three-story, two-family home; and

WHEREAS, the Board notes that the subject premises is one of forty-eight homes built as an affordable housing project on lots formerly owned by the City of New York that are scattered within a five block radius in the East New York section of Brooklyn; and

WHEREAS, the entire project is sponsored by the Department of Housing Preservation and Development (“HPD”), in conjunction with the NYC Partnership Housing Development Fund, Inc., which is a not-for-profit corporation; and

WHEREAS, the record indicates that although two front yards are required pursuant to Z.R. Section 23-45, the existing building was built with only one front yard- which is non-complying; and practically difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the record indicates that the housing development is owned in fee title by the NYC Partnership Housing Development Fund, Inc. and therefore 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 Department of Buildings is filing with seven of its programs; and

WHEREAS, the record indicates that the surrounding area is residential and the subject building is compatible in size and bulk with the surrounding homes; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the

# MINUTES

owner or a predecessor in title; and

WHEREAS, this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the project is classified as Unlisted action pursuant to 6NYCRR, Part 617; and

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") has conducted an environmental review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 02HPD008K dated December 4, 2001; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Socioeconomic Conditions; Community Facilities; Open Space; Historic Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste; Transportation; Air Quality; and Noise; and

WHEREAS, the December 4, 2001 EAS specifically examined the proposed action for potential hazardous materials and noise impacts and determined that there would not be any impacts based on specific conditions being complied with; and

WHEREAS, the applicant has agreed to the following conditions with HPD:

1. The developer shall provide minimum window-wall attenuation of 30dB(A) in the living room and bedrooms of each residential unit on all facades of the building;
2. The developer shall implement soil 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;

THAT the Department of Buildings must ensure compliance 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 14, 2004.

## 31-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

SUBJECT - Application February 11, 2004- under Z.R. §72-21 to permit within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(b).

PREMISES AFFECTED - 842 Glenmore Avenue, Glenmore

groundwater testing to determine the presence of soil and/or groundwater contamination. HPD or the developer shall not start site grading, excavation or building construction until testing and remediation (if needed) have been completed and written approval from the New York City Department of Environmental Protection has been received; 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.

*Resolved*, that the Board of Standards and Appeals adopts HPD's Negative Declaration issued on January 9, 2002 and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with front yard requirements, 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 September 8, 2004"-(4) sheets; and *on further condition*;

Avenue between Atkins and Montauk Avenues, Block 4007, Lot 15, Borough of Brooklyn.

## COMMUNITY BOARD #5BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

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

---

# MINUTES

---

Commissioner, dated January 20, 2004, acting on DOB Application No. 301363487, reads:

“This is to serve as a notice that the building being constructed under this application does not comply with section 23-461(b) of the Zoning Resolution. This section requires an 8’0” side yard in an R5 zone. The building is built full to the property line. This notice is being filed in fulfillment of the architect of record’s obligation under the professional certification program”; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due notice by publication in *The City Record*, and then laid over to September 14, 2004; 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 R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirement, contrary to Z.R. §23-461(b); and

WHEREAS, the record indicates that the subject premises is approximately a 18.5’ x 100’ lot, and is improved with a three-story, two-family home of

WHEREAS, the applicant states that pursuant to Z.R. §23-461(b) an 8-foot wide side yard is required for single or two-family semi-detached homes within an R5 zoning district, and that compliance with this section on a narrow zoning lot measuring 18.5 -feet wide does not permit the construction of a functional residence and would result in the loss of much needed dwelling units; and

WHEREAS, the Board finds that the narrowness of the zoning lot, considered in conjunction with the programmatic needs of the not-for-profit organization to develop low-income housing, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the record indicates that the housing development is owned in fee title by the NYC Partnership Housing Development Fund, Inc. and therefore the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its programmatic needs; and

WHEREAS, the record indicates that the surrounding area is residential and the subject building is compatible in size and bulk with the surrounding homes; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, this proposal is the minimum necessary to

approximately 1,942 sq. ft.; and

WHEREAS, the Board notes that the subject premises is one of forty-eight homes built as an affordable housing project on lots formerly owned by the City of New York that are scattered within a five block radius in the East New York section of Brooklyn; and

WHEREAS, the entire project is sponsored by the Department of Housing Preservation and Development (“HPD”), in conjunction with the NYC Partnership Housing Development Fund, Inc., which is a not-for-profit corporation; and

WHEREAS, the record indicates that the existing building was built without the appropriate side yard; the existing building received a work permit pursuant to a professionally certified application; and

WHEREAS, the application received an audited review by the Department of Buildings (“DOB”), and the side yard issue was not raised; and

WHEREAS, the architect of record became aware of the non-compliance well after construction commenced and notified DOB on his own in order to rectify the error; and

WHEREAS, Brooklyn Community Board No. 5 has recommended approval o

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 Unlisted action pursuant to 6NYCRR, Part 617; and

WHEREAS, the New York City Department of Housing Preservation and Development (“HPD”) has conducted an environmental review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 02HPD008K dated December 4, 2001; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Socioeconomic Conditions; Community Facilities; Open Space; Historic Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste; Transportation; Air Quality; and Noise; 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.

*Resolved*, that the Board of Standards and Appeals adopts HPD’s Negative Declaration issued on January 9, 2002 and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and the Rules of Procedure for City Environmental

# MINUTES

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, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(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 17, 2004"-(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;

THAT the Department of Buildings must ensure compliance 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 14, 2004.

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5  
Negative:.....0

## 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 20, 2004, acting on DOB Application No. 301363012, reads:

"This is to serve as a notice that the building being constructed under this application does not comply with section 23-45 of the Zoning Resolution. This section requires a corner lot to have two front yards in an R5 zone. The building has been built with one front yard. This notice is being filed in fulfillment of the architect of record's obligation under the professional certification program"; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due notice by publication in *The City Record*, and then laid over to September 14, 2004; 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 R5 zoning district, the legalization of a

## 32-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

SUBJECT - Application February 11, 2004 - under Z.R. §72-21 to permit within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with front yard requirements, contrary to Z.R. §23-45.

PREMISES AFFECTED - 860 Glenmore Avenue, south side of Glenmore Avenue between Montauk and Atkins Avenues, Block 4007, Lot 22, Borough of Brooklyn.

## COMMUNITY BOARD #5BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on condition.

## THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5  
Negative:.....0

## THE VOTE TO CLOSE HEARING -

three-story, two-family home which does not comply with front yard requirements, contrary to Z.R. §23-45; and

WHEREAS, Brooklyn Community Board No. 5 has recommended approval of this application; and

WHEREAS, the record indicates that the subject premises is a corner lot with a frontage of 21' along Glenmore Avenue and 92' along Montauk Avenue, and is improved with a 2,100 sq. ft. three-story, two-family home; and

WHEREAS, the Board notes that the subject premises is one of forty-eight homes built as an affordable housing project on lots formerly owned by the City of New York that are scattered within a five block radius in the East New York section of Brooklyn; and

WHEREAS, the entire project is sponsored by the Department of Housing Preservation and Development ("HPD"), in conjunction with the NYC Partnership Housing Development Fund, Inc., which is a not-for-profit corporation; and

WHEREAS, the record indicates that although two front yards are required pursuant to Z.R. Section 23-45, the existing building was built with only one front yard - which is non-complying; and

WHEREAS, however, the application received an audited review by the Department of Buildings ("DOB"), and the front yard issue was not raised and the existing building received a work permit pursuant to a professionally certified application; and

WHEREAS, the architect of record became aware of the non-compliance well after construction commenced and notified DOB on his own in order to rectify the error; and WHER

---

# MINUTES

---

WHEREAS, the applicant represents that pursuant to Z.R. §23-45 an 10-foot front yard is required along Montauk Avenue, and that compliance with this section on a narrow zoning lot measuring 21-feet wide would result in a building with an 11-foot width which would result in the loss of much needed dwelling units and be impractical; and

WHEREAS, the Board finds that the narrowness of the zoning lot, considered in conjunction with the programmatic needs of the not-for-profit organization to develop low-income housing, creates unnecessary hardship and practically difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the record indicates that the housing development is owned in fee title by the NYC Partnership Housing Development Fund, Inc. and therefore the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its programmatic

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") has conducted an environmental review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 02HPD008K dated December 4, 2001; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Socioeconomic Conditions; Community Facilities; Open Space; Historic Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste; Transportation; Air Quality; and Noise; 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.

*Resolved*, that the Board of Standards and Appeals adopts HPD's Negative Declaration issued on January 9, 2002 and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with front yard requirements, 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 September 8, 2004"-(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

needs; and

WHEREAS, the record indicates that the surrounding area is residential and the subject building is compatible in size and bulk with the surrounding homes; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, 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 Unlisted action pursuant to 6NYCRR, Part 617; and jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 14, 2004.

## 33-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

SUBJECT - Application February 11, 2004 - under Z.R. §72-21 to permit within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(b).

PREMISES AFFECTED - 896 Glenmore Avenue, south side of Glenmore Avenue between Logan Street and Milford Street, Block 4208, Lot 22, Borough of Brooklyn.

## COMMUNITY BOARD #5BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5  
Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

# MINUTES

Negative:.....0

## 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 21, 2004, acting on DOB Application No. 301363236, reads:

“This is to serve as a notice that the building being constructed under this application does not comply with section 23-461(b) of the Zoning Resolution.

WHEREAS, this is an application under Z.R. §72-21, to permit, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirement, contrary to Z.R. §23-461(b); and

WHEREAS, the record indicates that the subject premises is approximately a 20' x 90' lot, and is improved with a three-story, two-family home of approximately 2,100 sq. ft.; and

WHEREAS, the Board notes that the subject premises is one of forty-eight homes built as an affordable housing project on lots formerly owned by the City of New York that are scattered within a five block radius in the East New York section of Brooklyn; and

WHEREAS, the entire project is sponsored by the Department of Housing Preservation and Development (“HPD”), in conjunction with the NYC Partnership Housing Development Fund, Inc., which is a not-for-profit corporation; and

WHEREAS, the record indicates that the existing building was built without the appropriate side yard; the existing building received a work permit pursuant to a professionally certified application; and

WHEREAS, the application received an audited review by the Department of Buildings (“DOB”), and the side yard issue was not raised; and

WHEREAS, the architect of record became aware of the non-compliance well after construction commenced and notified DOB on his own in order to rectify the error; and

WHEREAS, the applicant states that pursuant to Z.R. §23-461(b) an 8-foot wide side yard is required for single or two-family semi-detached homes within an R5 zoning district, and that compliance with this section on a narrow zoning lot measuring 20-feet wide does not permit the construction of a functional residence and would result in the loss of much needed dwelling units; and

WHEREAS, the Board finds that the narrowness of the zoning lot, considered in conjunction with the programmatic needs of the not-for-profit organization to develop low-income housing, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the record indicates that the housing

This section requires an 8’0” side yard in an R5 zone. The building is built full to the property line.

This notice is being filed in fulfillment of the architect of record’s obligation under the professional certification program”; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due notice by publication in *The City Record*, and then laid over to September 14, 2004; 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

development is owned in fee title by the NYC Partnership Housing Development Fund, Inc. and therefore the Board finds that the applicant need not address Z.R. §72-21(b)

WHEREAS, the Board finds that the proposed development will be in furtherance of its programmatic needs; and

WHEREAS, the record indicates that the surrounding area is residential and the subject building is compatible in size and bulk with the surrounding homes; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, 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 Unlisted action pursuant to 6NYCRR, Part 617; and

WHEREAS, the New York City Department of Housing Preservation and Development (“HPD”) has conducted an environmental review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS), CEQR No. 02HPD008K dated December 4, 2001; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Socioeconomic Conditions; Community Facilities; Open Space; Historic Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste; Transportation; Air Quality; and Noise; 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.

# MINUTES

*Resolved*, that the Board of Standards and Appeals adopts HPD's Negative Declaration issued on January 9, 2002 and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 14, 2004.

## 34-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

SUBJECT - Application February 11, 2004- under Z.R. §72-21 to permit within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with front yard requirements, contrary to Z.R. §23-45.

PREMISES AFFECTED - 910 Glenmore Avenue, south side of Glenmore Avenue between Logan Street and Fountain Avenue, Block 4209, Lot 12, Borough of Brooklyn.

### COMMUNITY BOARD #5BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on condition.

#### THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

#### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

#### 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 20, 2004, acting on DOB

application of the Zoning Resolution, limited to the objections cited, to permit, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(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 September 8, 2004"-(4) sheets; and *on further condition*; Application No. 301363307, reads:

"This is to serve as a notice that the building being constructed under this application does not comply with section 23-45 of the Zoning Resolution. This section requires a corner lot to have two front yards in an R5 zone. The building has been built with one front yard. This notice is being filed in fulfillment of the architect of record's obligation under the professional certification program"; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due notice by publication in *The City Record*, and then laid over to September 14, 2004; 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 R5 zoning district, the legalization of a three-story, two-family home which does not comply with front yard requirements, contrary to Z.R. §23-45; and

WHEREAS, Brooklyn Community Board No. 5 has recommended approval of this application; and

WHEREAS, the record indicates that the subject premises is a corner lot with a frontage of 20' along Glenmore Avenue and 75' along Logan Street, and is improved with a 2,100 sq. ft. three-story, two-family home; and

WHEREAS, the Board notes that the subject premises is one of forty-eight homes built as an affordable housing project on lots formerly owned by the City of New York that are scattered within a five block radius in the East New York section of Brooklyn; and

WHEREAS, the entire project is sponsored by the Department of Housing Preservation and Development ("HPD"), in conjunction with the NYC Partnership Housing Development Fund, Inc., which is a not-for-profit corporation; and

WHEREAS, the record indicates that although two front yards are required pursuant to Z.R. Section 23-45, the existing building was built with only one front yard - which is non-complying; and

WHEREAS, however, the application received an audited review by the Department of Buildings ("DOB"), and the front yard issue was not raised and the existing building received a work permit pursuant to a professionally certified application; and

---

# MINUTES

---

WHEREAS, the architect of record became aware of the non-compliance well after construction commenced and

WHEREAS, the applicant represents that pursuant to Z.R. §23-45 an 10-foot front yard is required along Logan Street, and that compliance with this section on a narrow zoning lot measuring 20-feet wide would result in a building with an 10-foot width which would result in the loss of much needed dwelling units and be impractical; and

WHEREAS, the Board finds that the narrowness of the zoning lot, considered in conjunction with the programmatic needs of the not-for-profit organization to develop low-income housing, creates unnecessary hardship and practically difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the record indicates that the housing development is owned in fee title by the NYC Partnership Housing Development Fund, Inc. and therefore the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its programmatic needs; and

WHEREAS, the record indicates that the surrounding area is residential and the subject building is compatible in size and bulk with the surrounding homes; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, 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 Unlisted action pursuant to 6NYCRR, Part 617; and

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") has conducted an environmental review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 02HPD008K dated December 4, 2001; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Socioeconomic Conditions; Community Facilities; Open Space; Historic Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste; Transportation; Air Quality; and Noise; 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.

notified DOB on his own in order to rectify the error; and WHERE

*Resolved*, that the Board of Standards and Appeals adopts HPD's Negative Declaration issued on January 9, 2002 and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with front yard requirements, 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 September 8, 2004"-(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;

THAT the Department of Buildings must ensure compliance 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 14, 2004.

---

## 35-04-BZ

APPLICANT - Steve M. Sinacori, Stadtmauer Bailkin LLP for NYC Partnership Housing Development Fund Company, Inc., owner.

SUBJECT - Application February 11, 2004 - under Z.R. §72-21 to permit within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(b).

PREMISES AFFECTED - 247 Montauk Avenue, east side of Montauk Avenue between Belmont Avenue and Sutter Avenue, Block 4040, Lot 10, Borough of Brooklyn.

## COMMUNITY BOARD #5BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO REOPEN HEARING -

---

# MINUTES

---

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

## THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

## 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 20, 2004, acting on DOB Application No. 301363183, reads:

“This is to serve as a notice that the building being constructed under this application does not comply with section 23-461(b) of the Zoning Resolution. This section requires an 8'0" side yard in an R5 zone. The building is built full to the property line. This notice is being filed in fulfillment of the architect of record’s obligation under the professional certification program”; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due notice by publication in *The City Record*, and then laid over to September 14, 2004; 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 R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirement, contrary to Z.R. §23-461(b); and

WHEREAS, the record indicates that the subject premises is a 20' x 100' lot, and is improved with a three-story, two-family home of approximately 2,100 sq. ft.; and

WHEREAS, the Board notes that the subject premises is one of forty-eight homes built as an affordable housing project on lots formerly owned by the City of New York that are scattered within a five block radius in the East New York section of Brooklyn; and

WHEREAS, the entire project is sponsored by the Department of Housing Preservation and Development (“HPD”), in conjunction with the NYC Partnership Housing

WHEREAS, the New York City Department of Housing Preservation and Development (“HPD”) has conducted an environmental review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 02HPD008K dated December 4, 2001; and

Development Fund, Inc., which is a not-for-profit corporation; and

WHEREAS, the record indicates that the existing building was built without the appropriate side yard; the existing building received a work permit pursuant to a professionally certified application; and

WHEREAS, the application received an audited review by the Department of Buildings (“DOB”), and the side yard issue was not raised; and

WHEREAS, the architect of record became aware of the non-compliance well after construction commenced and notified DOB on his own in order to rectify the error; and

WHEREAS, the applicant states that pursuant to Z.R. §23-461(b) an 8-foot wide side yard is required for single or two-family semi-detached homes within an R5 zoning district, and that compliance with this section on a narrow zoning lot measuring 20-feet wide does not permit the construction of a functional residence and would result in the loss of much needed dwelling units; and

WHEREAS, the Board finds that the narrowness of the zoning lot, considered in conjunction with the programmatic needs of the not-for-profit organization to develop low-income housing, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the record indicates that the housing development is owned in fee title by the NYC Partnership Housing Development Fund, Inc. and therefore the Board finds that the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its programmatic needs; and

WHEREAS, the record indicates that the surrounding area is residential and the subject building is compatible in size and bulk with the surrounding homes; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood, 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

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 Unlisted action pursuant to 6NYCRR, Part 617; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Socioeconomic Conditions; Community Facilities; Open Space; Historic Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste; Transportation; Air Quality; and Noise; and

---

# MINUTES

---

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.

*Resolved*, that the Board of Standards and Appeals adopts HPD's Negative Declaration issued on January 9, 2002 and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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, within an R5 zoning district, the legalization of a three-story, two-family home which does not comply with the side yard requirements, contrary to Z.R. §23-461(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 September 8, 2004"-(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;

THAT the Department of Buildings must ensure compliance 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 14, 2004.

## 42-04-BZ

### CEQR #04-BSA-135K

APPLICANT - The Law Office of Fredrick A. Becker, for Emerich

WHEREAS, this is an application pursuant to Z.R. §73-622 to permit the proposed enlargement to an existing single-family dwelling located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, and side and rear yard, contrary to Z.R. §§23-141, 23-47, and 23-461; and

WHEREAS, a site and neighborhood examination has been conducted at the premises and surrounding area by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, Brooklyn Community Board 14, has recommended approval of this application; and

WHEREAS, the premises consists of a 3,750 sq. ft. lot,

Goldstein and Zipora Goldstein, owners.

SUBJECT - Application February 23, 2004 - under Z.R. §73-622 to permit the proposed enlargement to an existing single-family dwelling located in an R2 Zoning District, which does not comply with the zoning requirements for floor area ratio, open space ratio, and side and rear yard, contrary to Z.R. §§23-141, 23-47, and 23-461.

PREMISES AFFECTED - 1264 East 27<sup>th</sup> Street, between Avenues "L" and "M", Block 7644, Lot 71, 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, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Department of Buildings, dated January 27, 2004, acting on Application No. 301687306, reads in pertinent part:

"Proposed plans are contrary to ZR 23-141 in that the proposed building exceeds the maximum permitted floor area ratio of .50.

Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required open space ratio of 150.

Proposed plans are contrary to ZR 23-461 in that the proposed straight line enlargement continues with the existing non-straight line enlargement and continues with the existing non-complying side yard of 3'-1" (after installation of brick veneer) and is less than the minimum required side yard of 5'-0".

Proposed plans are contrary to ZR 23-47 in that the proposed rear yard of 20 feet is less than the minimum required rear yard of 30 feet."; and

WHEREAS, a public hearing was held on this application on August 10, 2004 after due notice by publication in the *City Record*, and then to September 14, 2004 for decision; and

located on East 27<sup>th</sup> Street between Avenues L and M, and is currently improved with a two-story residential structure containing 2,855 sq. ft. of floor area; and

WHEREAS, the applicant states that the proposed enlargement will increase the floor area ratio of the building from 0.76 to 1.05 and reduce the open space ratio from 0.85 to 0.524; and

WHEREAS, the proposed enlargement will reduce the existing side yards from 3'-5" and 9'-7.5" to 3'-1" and 9'-1"; and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the perimeter wall height will comply with

# MINUTES

all applicable zoning regulations; and

WHEREAS, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-622 and 73-03.

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 and grants a special permit under Z.R. §§73-622 and 73-03, to permit the proposed enlargement to an existing single-family dwelling located in an R2 Zoning District, which does not comply with the zoning requirements for floor area ratio, open space ratio, and side and rear yard, contrary to Z.R. §§23-141, 23-47, and 23-461, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received June 9, 2004"-(8) sheets and "August 31, 2004"-(1) sheet; and on further condition;

THAT there shall be no habitable room in the cellar;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT any installation of brick veneer at the northern side of the building shall be as reviewed and approved by the Department of Buildings;

THAT all parking facilities shall be as approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; no waiver is granted as to the cellar or brick veneer;

WHEREAS, the decision of the Borough Commissioner, dated May 17, 2004, acting on Department of Buildings Application No. 301770509, reads:

- "1. The proposed enlargement of the building exceeds the floor area ratio and is more than the maximum lot coverage and less than the minimum open space requirements set forth in Sections 113-51 and 23-141 of the Zoning Resolution.
2. The proposed enlargement of the building is not within the height and setback requirements set forth in Section 23-631 and 113-55 of the Zoning Resolution.

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 14, 2004.

## 206-04-BZ

### CEQR #04-BSA-205K

APPLICANT - Howard A. Zipser, Esq., for Sephardic Community Youth Center, Inc., owner.

SUBJECT - Application May 19, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing community facility, Use Group 4, located in an R5 zoning district (within the Ocean Parkway Special Zoning District), which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, front yard, side yards, and height and setback, contrary to Z.R. §§113-51, 113-544, 113-55, 23-631 and 23-141.

PREMISES AFFECTED - 1901 Ocean Parkway, southeast corner of Avenue "S", Block 7088, Lots 1, 14, 15, 16 and 89, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES - None.

**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 -

3. The proposed enlargement of the building is not within the rear yard requirement and rear yard equivalent set forth in Section 113-544 of the Zoning Resolution."; and

WHEREAS, a public hearing was held on this application on August 10, 2004, after due notice by publication in *The City Record*, and then to decision on September 14, 2004; 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 15, Brooklyn,

---

# MINUTES

---

recommends approval of this application; and

WHEREAS, various elected officials also supported this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed enlargement of an existing community facility, Use Group 4, located in an R5 zoning district (within the Ocean Parkway Special Zoning District), which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, rear yard and rear yard equivalents, and height and setback, contrary to Z.R. §§113-51, 113-544, 113-55, 23-631 and 23-141; and

WHEREAS, the subject premises is located on the corner of Ocean Parkway and Avenue S, with frontage on East 7<sup>th</sup> Street, and has a total lot area of approximately 23,000 sq. ft.; and

WHEREAS, the zoning lot is comprised of the following individual tax lots: 1, 14, 15, 16 and 89; and

WHEREAS, the site is currently occupied by a three-story plus basement building, 50'4" in height, with 42,495 sq. ft. of total floor area; and

WHEREAS, the existing building is currently occupied by the Sephardic Community Center (the "Center"), a not-for-profit entity that serves youth, the elderly, and the Orthodox community by providing various educational, athletic, cultural and counseling services; and

WHEREAS, in 1978, under BSA Calendar No. 246-78-BZ, the Board granted a variance permitting the use of the building as a community center; and

WHEREAS, in 1989, under BSA Calendar No. 489-89-BZ, the Board granted a second variance permitting an enlargement and expansion of the building onto two newly acquired adjacent lots, in order to accommodate the Center; and

WHEREAS, construction under the 1989 grant did not take place, due to a poor economic climate and a resulting lack of construction funding; and

WHEREAS, in November of 2000, under BSA Calendar No. 166-00-BZ, the Board granted a third variance permitting another proposed enlargement of the building, again to accommodate the Center; and

WHEREAS, the applicant states that the Center does

WHEREAS, the applicant represents that the following are programmatic needs of the Center that will be fulfilled through the proposed variance: (1) maintaining a full service early childhood/daycare center; (2) developing a teen lounge; (3) constructing a senior adult center; (4) constructing a new, full-size gym; (5) developing an adult club with specialty and education rooms; and (6) expanding senior adult and special needs exercise facilities; and

WHEREAS, the applicant states that to obtain the necessary expansion space to accommodate these programmatic needs while both respecting the surrounding building heights and avoiding functionally disruptive interrupted floors, relief from applicable yard requirements is necessary; and

WHEREAS, the applicant notes that the proposed

not want to pursue construction under the November 2000 grant, as the anticipated costs are high and would not allow for the continuation of Center activities during construction; and

WHEREAS, the applicant also states that the Center obtained two more contiguous properties (Lots 15 and 16) that allow for a more contextual horizontal expansion, a full-height gymnasium, better security features, and a less disruptive construction program; and

WHEREAS, the expansion contemplates the addition of: (1) approximately 3,400 sq. ft. of floor area to the top of the existing building; and (2) 34,473.6 sq. ft. of floor area through the construction of a four-story addition next to the existing building; and

WHEREAS, the proposed four-story addition will result in rear yard and height encroachments; and

WHEREAS, the overall expansion will lead to the following non-compliances: an increase in the FAR from the permitted 1.5 to 2.66, an open space ratio of 27.70 (45 is required), deficient side yards on Ocean Parkway (4'6" where 8' is required) and East 7<sup>th</sup> Street (5'11" where no less than 10' is required), deficient rear yards on East 7<sup>th</sup> Street, a building height of 63.62' (35' is the maximum in the subdistrict), and an increase in the various lot coverages above what is permitted; and

WHEREAS, the applicant represents that the proposed height encroachments will be no higher than the height encroachments previously granted by the Board in 2000; and

WHEREAS, the applicant further represents that the proposal will lead to a slightly lesser overall FAR than previously permitted, as well as improvements in the degree of the variances for lot coverage, front yard, and height and setback; and

WHEREAS, the applicant represents that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the site in compliance with underlying district regulations: the substandard width of the recently purchased lots, which, if developed as-of-right, would lead to a narrow building that would not functionally serve the Center; and enlargement will permit better circulation throughout the Center, and will eliminate the need to rent off-site space for certain activities; and

WHEREAS, in response to a Board request, the applicant has explained where the additional floor area will be added to the existing building, specifying that most of the proposed expansion will occur on the recently acquired tax lots (Lots 14, 15, 16, and 89), with some floor area added to the top of the existing building; and

WHEREAS, in response to a Board question, the applicant has explained that the East 7<sup>th</sup> Street side yard setback waiver is necessitated by the minimum required dimensions for the gym, and that the proposed width of the gym is barely within the minimum required for division of the floor for half court play, which allows multiple group utilization

---

# MINUTES

---

of the gym; and

WHEREAS, the applicant also explained that the Ocean Parkway side yard setback waiver is necessitated by the minimum dimension required for the programmatic use of the hall on the first floor of the building, which serves as a lobby, security check, and staging area for the membership; and

WHEREAS, the applicant further represents that the Ocean Parkway side yard setback waiver accommodates classrooms and program spaces; and

WHEREAS, the Board finds that the applicant submitted sufficient information explaining the programmatic needs of the applicant and their relation to the requested variance; and

WHEREAS, based upon the foregoing, the Board finds that the unique condition mentioned above, when considered in conjunction with the programmatic needs of the applicant, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with currently applicable zoning regulations; and

WHEREAS, the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the proposed application will be in furtherance of its programmatic needs; and

WHEREAS, the applicant states that the surrounding streets are primarily mapped within an R5 zoning district, and that Ocean Parkway to the north is mapped within an R6A zoning district, where six-story apartment buildings are the norm; and

WHEREAS, the applicant further states that other community facilities exist within two to three block of the Center; and

WHEREAS, the applicant notes that the surrounding streets primarily contain two and three story dwellings that are non-complying with regard to front, side and rear yards; 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 April 28, 2004 EAS specifically examined the proposed action for potential hazardous materials, traffic, and parking demand impacts and determined that there would not be any impacts; 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

WHEREAS, the applicant represents that because the proposed number of occupants of the Center will remain unchanged, no significant increase in motor vehicle traffic is expected; and

WHEREAS, the applicant also states that the Center is within walking distance of most of its membership; and

WHEREAS, the Board has reviewed the submitted land use map and has conducted a site visit, and finds that the bulk and height of the proposed building is not out of context with surrounding buildings, given the variety of building types existing in the vicinity; and

WHEREAS, specifically, the Board notes that there is a four-story multiple dwelling across East 7<sup>th</sup> Street and another four-story multiple dwelling across Avenue S; and

WHEREAS, the Board also notes that the proposed height of the addition is comparable to that of the existing building housing the Center; 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 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, 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 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 an Environmental Assessment Statement (EAS) CEQR No. 04-BSA205K dated April 28, 2004; and  
on the environment.

*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 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 the proposed enlargement of an existing community facility, Use Group 4, located in an R5 zoning district (within the Ocean Parkway Special Zoning District), which does not comply with the zoning requirements for floor area, floor area ratio, lot coverage, front yard, side yards, and height and setback, contrary to Z.R. §§113-51, 113-544, 113-55, 23-631 and 23-141, *on condition* that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received August 6, 2004" - (13) sheets, and *on further condition*;

---

# MINUTES

---

THAT an automatic wet sprinkler system, smoke detection system, and fire alarm system be installed throughout the entire existing and proposed building, and that all three systems be connected to a Fire Department approved central station;

THAT the above condition and all relevant conditions from prior certificates of occupancy shall appear on the new certificate of occupancy;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 14, 2004.

---

## 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,  
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 38<sup>th</sup> Street, corner of 20<sup>th</sup> Avenue, Steinway Street and 38<sup>th</sup> Street, Block 811, Lot 1, Borough of Queens.

## COMMUNITY BOARD #1Q

APPEARANCES -

for Applicant: Gerald Caliendo.

**ACTION OF THE BOARD** - Laid over to November 9, 2004, at 1:30 P.M., for continued hearing.

---

## 231-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Isaac Douek Jacqueline Douek Maurice Douek, owners.

SUBJECT - Application July 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a six story building, with a mezzanine and cellar, to contain eighteen residential units, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-

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 - None.

**ACTION OF THE BOARD** - Laid over to November 9, 2004, at 1:30 P.M., for continued hearing.

---

## 194-03-BZ

APPLICANT - Sheldon Lobel, P.C., for B'nos Menachem Inc., owner.

SUBJECT - Application June 13, 2003 - under Z.R. §72-21 to permit the proposed catering establishment, Use Group 9, in the cellar of an existing one story, basement and cellar building (school for girls), located in an R6 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 739 East New York Avenue, between Troy and Albany Avenues, Block 1428, Lot 47, Borough of Brooklyn.

## COMMUNITY BOARD #9BK

APPEARANCES -

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** - Laid over to October 26, 2004, at 1:30 P.M., for continued hearing.

---

## 218-03-BZ

APPLICANT - Gerald J. Caliendo, R.A., for TTW Realty LLC, owner.

00.

PREMISES AFFECTED - 63 and 65 Columbia Street, southeast corner of Congress Street, Block 299, Lots 7 and 8, Borough of Brooklyn.

## COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Janice Cahalane.

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 October 5, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 287-03-BZ

APPLICANT - Stuart A. Klein, Esq., for First Step Realty, LLC, owner.

---

# MINUTES

---

SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit the proposed construction of a six-story residential building, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 430 Keap Street, southeast corner of Hope Street, Block 2387, Lot 2, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 1:30 P.M., for continued hearing.

---

**306-03-BZ**

APPLICANT - Law Offices of Howard Goldman, LLC, for Kay Water Properties, LLC, owner.

SUBJECT - Application September 29, 2003 - under Z.R. §72-21 to permit the proposed conversion of a four story industrial building, located in an M1-2 zoning district, into a residential dwelling, also the addition of two floors, for a total of 18 loft-style dwelling units, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 192 Water Street, between Jay and Bridge Streets, Block 41, Lot 11, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

APPEARANCES -

For Applicant: Emily Simons.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

**358-03-BZ**

APPLICANT - Harold Weinberg, P.E., for Rita Citronenbaum, owner.

SUBJECT - Application November 19, 2003 - under Z.R. §72-21 to permit the proposed enlargement to an existing single family residence, Use Group 1, located in an R5 zoning district, which does not comply with the zoning requirements for lot coverage, also rear and side yards, is contrary to Z.R. §23-146 and §23-47.

PREMISES AFFECTED - 1651 52<sup>nd</sup> Street, north side, 334'-4 1/2" west of 17<sup>th</sup> Avenue, Block 5466, Lot 69, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

APPEARANCES -

For Applicant: Harold Weinberg and Rita Citronenbaum.

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 October 5, 2004, at 1:30 P.M., for decision, hearing closed.

---

**364-03-BZ**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Alprof Realty LLC/VFP Realty LLC, owners.

SUBJECT - Application November 24, 2003 - under Z.R. §72-21

Negative:.....0

**ACTION OF THE BOARD**- Laid over to November 9, 2004, at 1:30 P.M., for decision, hearing closed.

---

**343-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Pasquale Pescatore, owner.

SUBJECT - Application November 12, 2003 - under Z.R. §72-21 to permit the proposed construction of seven story, nineteen unit, residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 90 Havemeyer Street, between Hope Street and Metropolitan Avenue, Block 2368, Lot 26(Former Lots 26, 27 and 28), Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Janice Cahalane.

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 October 19, 2004, at 1:30 P.M., for decision, hearing closed.

---

to permit the proposed construction of an automotive car wash and Lubratorium, Use Group 2, located in a C2-2(R6) zoning district, which is contrary to Z.R. §32-00.

PREMISES AFFECTED - 34-11 Far Rockaway Boulevard, southeast corner of Sea Girt Boulevard, Block 15950, Lots 14 and 24, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Adam W. Rothkrug, and Alan Profeter.

For Opposition: Marlen Waaijer and Stephen Cooper.

**ACTION OF THE BOARD** - Laid over to October 26, 2004, at 1:30 P.M., for continued hearing.

---

**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.

---

# MINUTES

---

## COMMUNITY BOARD #12BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to November 16, 2004, at 1:30 P.M., for continued hearing.

---

### 390-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Dobbins Street, LLC, owner.

SUBJECT - Application December 18, 2003 - under Z.R. §72-21 to permit the legalization of residential use on the second floor, of a two story mixed use building, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 95 Dobbins Street, between Norman and Messerole Avenues, Block 2616, Lot 18, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane.

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 December 7,

### 17-04-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Renee Kubie, owner.

SUBJECT - Application January 28, 2004 - under Z.R. §72-21 to permit the legalization of an enlargement in portions of the first and second floors, of a single family residence, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, side and front yards, also perimeter wall height, is contrary to Z.R. §23-141, §23-461A, §23-631B and §23-45.

PREMISES AFFECTED - 2323 Avenue "S", northwest corner of East 24<sup>th</sup> Street, Block 6829, Lot 42, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Lyra Altman.

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 October 19, 2004, at 1:30 P.M., for decision, hearing closed.

---

### 134-04-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for 184 Kent Avenue Associates, owner.

SUBJECT - Application March 19, 2004 - under Z.R. §§72-22 and 1-05(e) to permit the proposed construction of a public esplanade between the building and bulkhead line, also the proposed

2004, at 1:30 P.M., for decision, hearing closed.

---

### 391-03-BZ

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 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 19<sup>th</sup> 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: Richard Lobel and Marc Esrig.

**ACTION OF THE BOARD** - Laid over to November 23, 2004, at 1:30 P.M., for continued hearing.

---

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 October 26, 2004, at 1:30 P.M., for continued hearing.

---

### 136-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Exxon Mobil Oil Corporation, owner.

SUBJECT - Application March 22, 2004 - under Z.R. §73-21 to permit the proposed redevelopment of gasoline service station, with an accessory convenience store, located in an C2-3 within an R-5 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 3132 Fort Hamilton Parkway, between McDonald Avenue and East Second Street, Block 5315, Lot 1, Borough of Brooklyn.

## COMMUNITY BOARD #12

APPEARANCES -

For Applicant: Janice Cahalane and Chris Tartaglia.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

---

# MINUTES

---

**ACTION OF THE BOARD** - Laid over to October 26, 2004, at 1:30 P.M., for decision, hearing closed.

**139-04-BZ**

APPLICANT - Eric Palatnik, P.C., for Miriam Brecher, owner.  
SUBJECT - Application March 24, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, located within an R2 zoning district, which does not comply with the zoning requirement for allowable floor area, open space and rear yard, is contrary to Z.R. §23-141 and §23-47.  
PREMISES AFFECTED - 1259 East 28th Street, between Avenues "M" and "L", Block 7646, Lot 21, Borough of Brooklyn.

**COMMUNITY BOARD #14**

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

APPEARANCES -

For Applicant: Mitchell Ross.

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 October 5, 2004, at 1:30 P.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 5:20 P.M.

Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5  
Negative:.....0

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 1:30 P.M., for decision, hearing closed.

**162-04-BZ**

APPLICANT - Agusta & Ross, for Ronald Nizza, owner.  
SUBJECT - Application April 21, 2004 - under Z.R. §11-411 to permit the proposed reestablishment of an expired variance, previously granted under Cal.#147-52-BZ, which permitted a factory (specialty woodworking for custom forms and molds), in an R-4 zoning district.

PREMISES AFFECTED - 90-06 Pitkin Avenue, southwest corner of Linden Boulevard, Block 11401, Lot 1, Borough of Queens.

**COMMUNITY BOARD #10**

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 39

September 30, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**SATISH BABBAR, *Vice-Chair***

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	687
<b>CALENDAR</b> of October 26, 2004	
Morning .....	688
Afternoon .....	688

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, September 21, 2004**

Morning Calendar .....690

**Affecting Calendar Numbers:**

949-57-BZ	2100 Williamsbridge Road, The Bronx
40-63-BZ	1199 Park Avenue, Manhattan
1018-65-BZ	159-04 Cross Bay Boulevard, Queens
722-68-BZ	388-392 Kings Highway, Brooklyn
221-88-BZ	102-01 66 <sup>th</sup> Road, Queens
67-91-BZ	260-09 Nassau Boulevard, 54-47 to 54-67 Little Neck Parkway, Queens
234-98-BZ	2600-2614 Adam Clayton Powell Jr. Boulevard, Manhattan
256-01-BZ	219-06 Hempstead Avenue, Queens
263-03-A	1638 Eighth Avenue, Brooklyn
15-04-A	8 Reynolds Street, Staten Island
25-04-A	506 Bradford Avenue, Staten Island
26-04-A	510 Bradford Avenue, Staten Island
213-04-A	40 Queens Walk, Queens
214-04-A	18 Essex Walk, Queens
215-04-A	4 Jamaica Walk, Queens
216-04-A	14 Essex Walk, Queens
217-04-A	464 Seabreeze Walk, Queens
218-04-A	100-23 39 <sup>th</sup> Avenue, Queens
221-04-A	39 Irving Walk, Queens

Afternoon Calendar.....694

**Affecting Calendar Numbers:**

128-04-BZ	351/53 West 14 <sup>th</sup> Street, Manhattan
184-04-BZ	1824 Bronxdale Avenue, The Bronx
199-03-BZ thru	
205-03-BZ	148, 152, 156, Classon Avenue and 77, 81, 85, 89 Emerson Place, Brooklyn
147-02-BZ	201-06 Hillside Avenue, Queens
208-03-BZ	2555 Shell Road, Brooklyn
221-03-BZ	253/55 West 28 <sup>th</sup> Street, Manhattan
373-03-BZ	293 East 207 <sup>th</sup> Street, The Bronx
388-03-BZ	444 Broadway, Manhattan
142-04-BZ	516 Arbutus Avenue, Staten Island
143-04-BZ	522 Arbutus Avenue, Staten Island
147-04-BZ	459 Carroll Street, Brooklyn
156-04-BZ	9712 Flatlands Avenue, Brooklyn
158-04-BZ	1035 Ocean Parkway, Brooklyn
188-04-BZ	1378 East 28 <sup>th</sup> Street, Brooklyn

---

# DOCKETS

---

New Case Filed Up to September 21, 2004

**303-04-BZY** B.S.I. 81 Lorrain Avenue, north side, 220' west of Ralph Avenue, Block 6212, Lot 62, Borough of Staten Island. N.B.#500733110. Application to extend time to complete construction for a major development as per Z.R. §11-331.

**304-04-BZY** B.S.I. 85 Lorrain Avenue, north side, 220' west of Ralph Avenue, Block 6212, Lot 61, Borough of Staten Island. N.B.#500733147. Application to extend time to complete construction for a major development as per Z.R. §11-331.

**305-04-BZY** B.S.I. 89 Lorrain Avenue, north side, 220' west of Ralph Avenue, Block 6212, Lot 58, Borough of Staten Island. N.B.#500733165. Application to extend time to complete construction for a major development as per Z.R. §11-331.

**306-04-BZY** B.S.I. 93 Lorrain Avenue, north side, 220' west of Ralph Avenue, Block 6212, Lot 56, Borough of Staten Island. N.B.#500733156. Application to extend time to complete construction for a major development as per Z.R. §11-331.

**307-04-BZY** B.S.I. 88 Jeannette Avenue, south side, 220' east of Ralph and Lorrain Avenues, Block 6212, Lot 26, Borough of Staten Island. N.B.#500733129. Application to extend time to complete construction for a major development as per Z.R. §11-331.

**308-04-BZY** B.S.I. 92 Jeannette Avenue, south side, 220' east of Ralph and Lorrain Avenues, Block 6212, Lot 27, Borough of Staten Island. N.B.#500733138. Application to extend time to complete construction for a major development as per Z.R. §11-331.

**309-04-BZY** B.S.I. 65 North Burgher Avenue, east side, 630.42' south of Richmond Terrace, Block 158, Lot 173, Borough of Staten Island. N.B.#500702402. Application to extend time to complete construction for a major development as per Z.R. §11-331.

**310-04-BZY** B.S.I. 67 North Burgher Avenue, east side, 655.42' south of Richmond Terrace, Block 158, Lot 171, Borough of Staten Island. N.B.#500702395. Application to extend time to complete construction for a major development as per Z.R. §11-331.

**311-04-BZ** B.S.I. 380 Lighthouse Avenue, south side, 579' west of Winsor Avenue, Block 2285, Lots 1 and 45, Borough of Staten Island. Applic.#500733646. 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.

**COMMUNITY BOARD #2SI.**

**312-04-A** B.S.I. 14 Letty Court, 185.87' west of Van Name Avenue, Block 1188, Lot 115, Borough of Staten Island. Applic.#500624247. Proposed construction of a three-story, one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

**313-04-A** B.Q. 132-02 Hook Creek Boulevard, southwest corner of 132nd Avenue, Block 12981, Lot 117, Borough of Queens. Applic.#401874126. 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.

**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**

---

# CALENDAR

---

Department; F.D.-Fire Department.

---

# CALENDAR

---

**OCTOBER 26, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, October 26, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

## **SPECIAL ORDER CALENDAR**

### **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 #18**

\_\_\_\_\_

### **813-63-BZ**

APPLICANT - Howard A. Zipser/Stadtmauer Bailkin, LLP, for Selma R. Miller, owner; Central Parking Corporation, lessee.

SUBJECT - Application March 16, 2004 - reopening for an amendment to reflect the existence of 125 parking spaces in accordance with Consumer Affairs License 0914278.

PREMISES AFFECTED - 699/711 West End Avenue, west side of West End Avenue between West 94th and 95th Streets, Block 1253, Lot 21, Borough of Manhattan.

**COMMUNITY BOARD #7**

\_\_\_\_\_

### **1046-63-BZ**

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for 61st Street and Park Avenue Corp., d/b/a The Regency Hotel, 540 Park Avenue, owners; Distinctive Parking, LLC, lessee.

SUBJECT - Application August 30, 2004 - reopening for an amendment to the resolution to permit the use of surplus parking spaces for transient parking.

PREMISES AFFECTED - 540 Park Avenue, 35-39 East 61st Street, southeast corner, block bounded by Park and Madison Avenues, East 61st and East 62nd Streets, Block 1376, Lot 36, Borough of Manhattan.

**COMMUNITY BOARD #8**

\_\_\_\_\_

the proposed construction of a nine story residential and community facility building, Use Groups 2 and 4, on a narrow vacant lot, encumbered by a massive rock outcropping, in an R8 zoning district, which does not comply with the zoning requirements for height and setback, is contrary to Z.R. §23-692 and §23-62.

PREMISES AFFECTED - 703 West 171st Street, Fort Washington Avenue on the east and Haven Avenue on the west,

### **211-94-BZ**

APPLICANT - The Agusta Group, for Steve Polisenio, Astoria Ice, Inc., owner.

SUBJECT - Application July 26, 2004 - reopening for an extension of term of variance which expired October 24, 2003 and for an amendment to relocate the PCE from the third floor and mezzanine to the 4 story portion of the building to the mezzanine of the one story portion of the building. In addition, a new PCE is proposed at the second floor level which is currently the roof the one story portion of the building.

PREMISES AFFECTED - 34-38 38th Street, thru block between 37th & 38th Streets 115' north of 35th Avenue, Block 645, Lot 10, Borough of Queens.

**COMMUNITY BOARD #1**

\_\_\_\_\_

**OCTOBER 26, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, October 26, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

## **ZONING CALENDAR**

### **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**

\_\_\_\_\_

### **200-04-BZ**

APPLICANT - David Vandor, for Mr. Frank Renna, President of D'Aprile Development and Leasing, owner.

SUBJECT - Application May 12, 2004 - under Z.R. §72-20 to permit

Block 2139, Lot 199, Borough of Manhattan.

**COMMUNITY BOARD #12**

\_\_\_\_\_

### **168-04-BZ**

APPLICANT - Jay A. Segal, Esq., Greenberg Traurig LLP, for Greenwich Triangle 1, LLC, owner.

---

# CALENDAR

---

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 #1**

---

## **200-04-BZ**

APPLICANT - David Vandor, for Mr. Frank Renna, President of D'Aprile Development and Leasing, owner.

SUBJECT - Application May 12, 2004 - under Z.R. §72-20 to permit the proposed construction of a nine story residential and community facility building, Use Groups 2 and 4, on a narrow vacant lot, encumbered by a massive rock outcropping, in an R8 zoning district, which does not comply with the zoning requirements for height and setback, is contrary to Z.R. §23-692 and §23-62.

PREMISES AFFECTED - 703 West 171st Street, Fort Washington Avenue on the east and Haven Avenue on the west, Block 2139, Lot 199, Borough of Manhattan.

**COMMUNITY BOARD #12**

---

## **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 #14**

---

*Pasquale Pacifico, Executive Director*

---

# MINUTES

---

**REGULAR MEETING  
TUESDAY MORNING, SEPTEMBER 21, 2004  
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, June 22, 2004, were approved as printed in the Bulletin of July 1, 2004, Volume 89, No. 27.

---

**SPECIAL ORDER CALENDAR**

**949-57-BZ**

APPLICANT - Sheldon Lobel, P.C., for Motiva Enterprises, LLC, owner

SUBJECT - Application February 9, 2004 - reopening for an extension of term of variance which expires October 29, 2004 and for an amendment to authorize the legalization of the conversion of the building to an accessory convenience store.

PREMISES AFFECTED - 2100 Williamsbridge Road, northeast corner of Williamsbridge Road and Lydig Avenue, Block 4310, Lot 30, Borough of The Bronx.

**COMMUNITY BOARD #11**

APPEARANCES -

For Applicant: Janice Cahalane.

For Administration: John Yacovone.

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 10 A.M., for continued hearing.

---

**40-63-BZ**

APPLICANT - Francis R. Angelino, Esq., for Park Hill Tenants Corp., owner; Majestic Car Park LLC, lessee.

SUBJECT - Application January 12, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which permitted transient parking in the unused and surplus spaces in an existing multiple dwelling accessory garage.

PREMISES AFFECTED - 1199 Park Avenue, northeast corner of East 94th Street, Block 1525, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #8**

APPEARANCES -

For Applicant: Francis R. Angelino.

For Administration: John Yacovone.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Chin.....4

Negative:.....0

Not Voting: Commissioner Miele.....1

SUBJECT - Application April 16, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired on December 6, 2003, to allow an open parking on the roof of an accessory parking garage, located in

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 10 A.M., for decision, hearing closed.

---

**1018-65-BZ**

APPLICANT - Sheldon Lobel, P.C., for Colin Development Corp., owner.

SUBJECT - Application June 8, 2004 - reopening for an amendment to the resolution to redevelop the existing gasoline service station and eliminate the automotive service bays and construction of a new convenience store.

PREMISES AFFECTED - 159-04 Cross Bay Boulevard, between 159th and 160th Avenues, Block 14013, Lot 64, Borough of Queens.

**COMMUNITY BOARD #10**

APPEARANCES -

For Applicant: Janice Cahalane.

For Administration: John Yacovone.

**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 October 19, 2004, at 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 3<sup>rd</sup> Street and Kings Place, Block 6678, Lot 68, Borough of Brooklyn.

**COMMUNITY BOARD #11BK**

APPEARANCES -

For Applicant: Janice Cahalane.

For Administration: John Yacovone.

**ACTION OF THE BOARD** - Laid over to January 11, 2005, at 10 A.M., for continued hearing.

---

**221-88-BZ**

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for North Shore University Hospital, owner; Central Parking System of New York, Inc., lessee.

an R7-1 zoning district.

PREMISES AFFECTED - 102-01 66th Road, 102-14 66th Avenue, 66-06 103rd Street, Block 2131, Part of Lot 16, Borough of Queens.

---

# MINUTES

---

## COMMUNITY BOARD #6

### APPEARANCES -

For Administration: John Yacovone.

### 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 October 19, 2004, at 10 A.M., for decision, hearing closed.

---

## 67-91-BZ

APPLICANT - Davidoff & Malito, LLP by Howard S. Weiss, Esq., for HNF Realty LLC, owner; Cumberland Farms, Inc., lessee.

SUBJECT - Application March 16, 2004 and updated June 29, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired March 17, 2002 and for an amendment to allow the sale of convenience store items in place of accessory gasoline service station items.

PREMISES AFFECTED - 260-09 Nassau Boulevard, 54-47 to 54-67 Little Neck Parkway, northeast corner of the intersection with Little Neck Parkway, Block 8274, Lots 134, 135, Borough of Queens.

## COMMUNITY BOARD #11

### APPEARANCES -

For Applicant: Juan Reyes.

For Administration: John Yacovone.

### 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 October 19, 2004, 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 7<sup>th</sup> Avenue, west side of Adam Clayton Powell Jr. Boulevard, blockfront from W. 150<sup>th</sup> Street to W. 151<sup>st</sup> Street, Block 2036, Lot 29, Borough of Manhattan.

## COMMUNITY BOARD #10M

### APPEARANCES -

For Applicant: John Ronan.

For Administration: John Yacovone.

**ACTION OF THE BOARD** - Laid over to November 9, 2004, at 10 A.M., for continued hearing.

---

## 256-01-BZ

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 #13

### APPEARANCES -

For Applicant: John Ronan.

For Administration: John Yacovone.

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 10 A.M., for continued hearing.

---

## 263-03-A

APPLICANT - John W. Carroll, Wolfson & Carroll, for Ben Bobker, owner.

SUBJECT - Application August 20, 2003 - An administrative appeal challenging the Department of Buildings' final determination dated August 13, 2003, in which the Department refused to revoke the certificate of occupancy, on the basis that the applicant had satisfied all objections regarding said premises.

PREMISES AFFECTED - 1638 Eighth Avenue, west side, 110-5' east of Prospect Avenue, Block 1112, Lot 52, Borough of Brooklyn.

## COMMUNITY BOARD #7BK

### APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 10 A.M., for continued hearing.

---

---

# MINUTES

---

## 15-04-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Fred Corona, owner.

SUBJECT - Application January 21, 2004 - Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 8 Reynolds Street, south side, 100' west of St. Mary's Avenue, Block 2989, Tentatively Lot 28, Borough of Staten Island.

### COMMUNITY BOARD #1

APPEARANCES -

For Applicant: Adam W. Rothkrug.

For Opposition: Eileen McLee.

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 10 A.M., for continued hearing.

---

## 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 #3

APPEARANCES -

For Applicant: Adam W. Rothkrug.

For Opposition: Richard Preis.

For Administration: John Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to December 7, 2004, 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 #3

APPEARANCES -

For Applicant: Adam W. Rothkrug.

For Opposition: Richard Preis.

For Administration: John Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 10 A.M., for continued hearing.

---

## 213-04-A

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; Sheila Schaberich, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 40 Queens Walk, west side, 203.23' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14

APPEARANCES -

For Applicant: Catherine O'Reilly.

For Administration: John Yacovone, Fire Department.

**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 October 19, 2004, at 10 A.M., for decision, hearing closed.

---

## 214-04-A

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; Gregory Allen, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, has a private disposal system in the bed of a service road and is located partially within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 18 Essex Walk, north west corner of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14

APPEARANCES -

For Applicant: Catherine O'Reilly.

For Administration: John Yacovone, Fire Department.

**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 October 19, 2004, at 10 A.M., for decision, hearing closed.

---

---

# MINUTES

---

## 215-04-A

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; Michael Behringer, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 4 Jamaica Walk, west side, 30' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Catherine O'Reilly.

For Administration: John Yacovone, Fire Department.

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 October 19, 2004, at 10 A.M., for decision, hearing closed.

---

## 216-04-A

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; John Whelan, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 14 Essex Walk, west side, 55.80' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Catherine O'Reilly.

For Administration: John Yacovone, Fire Department.

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 October 19, 2004, at 10 A.M., for decision, hearing closed.

---

## 217-04-A

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; Kathryn Byrnes, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of PREMISES AFFECTED - 39 Irving Walk, north side of Breezy Point Boulevard, 518.38' west of Beach 207th Street, Block 16350,

an existing one family dwelling, not fronting on a legally mapped street and located partially within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law. PREMISES AFFECTED - 464 Seabreeze Walk, east side, 30.71' east of Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Catherine O'Reilly.

For Administration: John Yacovone, Fire Department.

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 October 19, 2004, at 10 A.M., for decision, hearing closed.

---

## 218-04-A

APPLICANT - The Agusta Group, for Tanya Tang, owner.

SUBJECT - Application May 26, 2004 - Proposed construction of a four story and cellar eight family residential building, which is located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 100-23 39th Avenue, north side, between 100 and 102nd Streets, Block 1767, Lot 60, Borough of Queens.

### COMMUNITY BOARD #3Q

APPEARANCES -

For Applicant: Sol Korman.

For Administration: John Yacovone, Fire Department.

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 October 19, 2004, at 10 A.M., for decision, hearing closed.

---

## 221-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Laura & Glenn Pfister, owners.

SUBJECT - Application June 2, 2004 - Proposed alteration and enlargement of an existing one family dwelling, located within the bed of a mapped street, and has a private disposal system in the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law and Department of Buildings' Policy.

Lot 400, Borough of Queens.

### COMMUNITY BOARD #3Q

---

# MINUTES

---

## APPEARANCES -

For Applicant: Gary Lenhart.

For Administration: John Yacovone, Fire Department.

## 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 October 5, 2004, at 10 A.M., for decision, hearing closed.

\_\_\_\_\_

*Pasquale Pacifico, Executive Director.*

Adjourned: 11:25 A.M.

## REGULAR MEETING TUESDAY AFTERNOON, SEPTEMBER 21, 2004 2:00 P.M.

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

\_\_\_\_\_

## ZONING CALENDAR

### 182-04-BZ

APPLICANT - Howard A. Zipser/Stadtmauer Bailkin, for Chelsea/Village Associates, for Harmic III, LLC, lessee.

SUBJECT - Application April 29, 2004 - under Z.R. §72-21 to permit proposed eating and drinking establishment (comedy theater), Use Group 12, on a zoning lot, split between a C6-2A and R8B zoning district, of which a portion is located in the R8B district, is contrary to Z.R. §22-10.

PREMISES AFFECTED - 351/53 West 14th Street, north side, between Eighth and Ninth Avenues, Block 738, Lot 8, Borough of Manhattan.

### COMMUNITY BOARD #4M

## APPEARANCES -

For Administration: John Yacovone, Fire Department.

**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

WHEREAS, the ground floor space is approximately 7,915 sq. ft. in size, and includes a 415 sq. ft. mezzanine level; and

WHEREAS, the comedy theater proposal contemplates the addition of 1,345 sq. ft. to the mezzanine level, though the applicant states that this addition is as-of-right; and

WHEREAS, the applicant represents that the following are

## 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 21, 2004, acting on Department of Buildings Application No. 103733925, reads:

"Proposed use group twelve is not permitted as-of-right in portion of zoning lot located in R8B Zoning District. This is contrary to section 22-10 ZR."; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due notice by publication in the City Record, and then to September 21, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, Manhattan Community Board 4 recommends approval of this application, with certain conditions agreed to by the applicant and incorporated herein; and

WHEREAS, this is an application under Z.R. §72-21 to permit, on a zoning lot split between C6-2A and R8B zoning districts, and partially within the Gansevoort Market Historic District, an eating and drinking establishment (comedy theater), Use Group 12, on the ground floor of an existing building, in the portion of said building which is within the R8B zoning district, contrary to Z.R. §22-10; and

WHEREAS, the subject zoning lot is a through lot located on the north side of West 14th Street and the south side of West 15th Street, between 8th and 9th Avenues, with a depth of approximately 206.6 feet and frontages of 50 feet along each street; and

WHEREAS, the zoning lot is currently improved with two residential buildings, with addresses of 362/64 West 15th Street and 351/53 West 14th Street (the "subject building"); and

WHEREAS, the record indicates that the subject building has four stories and contains residential use on the upper stories and a ground floor commercial space 150 feet deep, with 103.25 feet (69%) located in the C6-2A district and the remaining 46.75 feet (31%) located in the R8B district; and

WHEREAS, the upper stories are 50' wide and only 47' 7 1/2" deep, and contain a total of 24 apartments; and

WHEREAS, the subject application seeks a use variance for part of the ground floor commercial space of the subject building; and

unique physical conditions which create practical difficulties and unnecessary hardship in complying with underlying district regulations: (1) the narrow width and extended depth of the ground floor; (2) the split zoning designation, which prohibits Use Group 12 uses only within the rear 47 feet of the building; and (3) the history of development of the zoning lot; and

---

# MINUTES

---

WHEREAS, the applicant states that the ground floor space is unusually deep in relation to its 50 foot width and cannot be efficiently used for its intended retail purpose; and

WHEREAS, evidence in the record indicates that the subject zoning lot and the surrounding area was formerly zoned C6, and then rezoned in 1999 to its current C6-2A/R8B designation, and that the requested variance would merely permit the rear 47 feet of the 150 foot deep ground floor, which is within the R8B district, to be returned to a previously permitted Use Group 12 use; and

WHEREAS, the Board notes that a Use Group 6 use could occupy the entirety of the ground floor space as-of-right; 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 compliance with current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; and

WHEREAS, the applicant represents that the building owner's attempts to solicit as-of-right tenants for the ground floor commercial space were unsuccessful; and

WHEREAS, the record indicates that the space was previously used as a slaughterhouse and, more recently, occupied by a supermarket; and

WHEREAS, the applicant states that the supermarket failed due to the narrow configuration of the ground floor space and the lack of commercial storage space in the cellar and elsewhere in the building; and

WHEREAS, the applicant further states that the ground floor is unattractive to retail uses because of a lack of a rear loading berth, which is not possible to install due to the building located on the West 15th Street side of the zoning lot; 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 of the rear 47 feet of the subject building in strict conformity with zoning will provide a reasonable return; and

WHEREAS, the applicant maintains that the proposed comedy theater will be located in a mixed-use area, characterized by numerous commercial businesses, retail stores, eating and drinking establishments and residential uses; and

WHEREAS, the applicant will provide sound attenuation measures, such as a second, suspended ceiling and double doors, to

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 Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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, on a zoning lot split between C6-2A and R8B zoning districts, and partially within the Gansevoort Market Historic District, an eating and drinking establishment (comedy theater), Use Group 12, on the ground floor of an existing building, in the portion of said building which is within the R8B

minimize sound transfer to the residential uses above and near the proposed establishment; and

WHEREAS, the applicant agrees that the rear egress of the premises, which exits into the residential courtyard between the two buildings on the zoning lot, shall only be used in case of emergency, and will be guarded while patrons are in the comedy theater; 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

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 Type I action pursuant to 6NYCRR, Part 617.4 because the subject premises is partially within a designated historic district; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 04-BSA-187M dated April 8, 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, additional environmental studies were conducted and submitted for Board review on the following categories: traffic and parking, and hazardous materials assessment; and

WHEREAS, the Board, based upon its review of the additional studies, determined that there would not be any environmental impacts in these categories; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

zoning district, contrary to Z.R. §22-10; on condition that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received April 29, 2004" - (1) sheet and "September 23, 2004" - (1) sheet; and on further condition:

THAT the term of this variance shall be limited to fifteen (15) years from the date of this resolution, to expire on September 21, 2019;

THAT there shall be no change in use of the space to be occupied by the comedy theater to another use not permitted as-of-right without prior BSA approval;

THAT the applicant shall install sound attenuation measures, including double doors and a second, suspended ceiling, as shown

# MINUTES

on BSA-approved plans, prior to obtaining a certificate of occupancy;

THAT the residential courtyard between the two buildings, which is at the rear egress point of the subject premises, shall be: (1) used only in case of emergency for egress, and not for commercial use of any type or as a patron waiting area or employee break area, (2) appropriately designated as an emergency exit with signs, (3) fully alarmed, and, (4) during times when patrons are in the comedy theater, guarded by a staff member;

THAT all applicable fire safety measures, including those shown on the BSA-approved plans, shall be complied with;

THAT any and all kitchen/cooking area exhaust vents shall be located in such a way that, to the maximum extent possible, exhaust shall be vented away from any adjacent residential use;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all exiting requirements, including from the cellar area, shall be as reviewed and approved by the Department of Buildings;

THAT substantial construction be completed and a Certificate of Occupancy be obtained 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, September 21, 2004.

## 184-04-BZ

APPLICANT - Robert Piscioneri, R.A., for Morris Park Community Association, owner.

4- Proposed side yard contrary [to] ZR Section 24-37 in that two side yards must be provided of 8' minimum.

5- Rear yard contrary to ZR Section 24-37."; and

WHEREAS, a public hearing was held on this application on August 17, 2004, after due notice by publication in The City Record, and then to decision on September 21, 2004; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 11, Bronx, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed enlargement of an existing community facility, Use Group 4, located in an R4 zoning district, which does not comply with the zoning requirements applicable to enlargements of an existing non-complying building, as well as lot coverage, front yard, side yard and rear yard requirements, contrary to Z.R. §§54-31,

SUBJECT - Application May 3, 2004- under Z.R. §72-21 to permit the proposed addition of a second floor, to be used as accessory offices, in conjunction with the community center on the first floor, located in an R4 zoning district, which does not comply with the zoning requirements for lot coverage, front, side and rear yards, is contrary to Z.R. §54-31, §24-11, §24-34 and §24-37.

PREMISES AFFECTED - 1824 Bronxdale Avenue, east side, 251' north of Morris Park Avenue, Block 4123, Lot 42, Borough of The Bronx.

## COMMUNITY BOARD #11BX

APPEARANCES -

For Administration: John Yacovone, Fire Department.

**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 April 30, 2004, acting on Department of Buildings Application No. 200749538, reads:

" 1- Proposed Alteration to an existing Non-Complying structure is contrary to ZR 54-31.

2- ZR 24-11 Proposed lot coverage exceeds the maximum permitted.

3- Proposed front yard is contrary to ZR Section 24-34 in that 15' must be provided.

24-11, 24-34, and 24-37; and

WHEREAS, the subject premises is located on the east side of Bronxdale Avenue, 251 feet north of Morris Park Avenue and has a total lot area of approximately 2,888 sq. ft.; and

WHEREAS, the site is currently occupied by a one-story building, with 2,164 sq. ft of floor area, which the applicant represents was constructed in 1958 and occupied as a factory pursuant to the Business Use District regulations applicable to the site at that time; and

WHEREAS, the existing building is on a shallow lot with a depth of 54' on the north side and 60' 8" on the south side and a width of 50 feet; and

WHEREAS, the building occupies the entire lot except for the parking area on the south side of the lot; and

WHEREAS, since 1985, the building has been occupied by the Morris Park Community Association (the "Association"), a

---

# MINUTES

---

not-for-profit entity that serves the Morris Park community by providing various educational, cultural and counseling services; and

WHEREAS, the instant application contemplates the addition of a second story to the existing building, increasing the total floor area to 4,843 sq. ft.; and

WHEREAS, the proposal leads to the following non-compliances: an increase in the degree of non-compliance of the existing one-story structure, which is prohibited; a proposed lot coverage of 2,679 sq. ft. (maximum lot coverage is 1,588 sq. ft.); a proposed front yard of from 5'-3/8" to 6'-7" (15' is required); one proposed side yard of 1'6", and no side yard on the opposite side (two 8' minimum side yards are required); and no rear yard (17' minimum rear yard is required); and

WHEREAS, the applicant represents that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the site in compliance with underlying district regulations: the combination of the small size and shallowness of the lot and the existing building makes the proposed vertical expansion the only feasible means of increasing necessary floor space; and

WHEREAS, the applicant represents that the following is a programmatic need of the Association that will be fulfilled through the proposed variance: the addition of a second floor to be used as an accessory office, which will support the other community services of the Association; and

WHEREAS, the applicant states that the Association provides the following services: a neighborhood safety patrol, free after-school programs, bedtime stories and arts and crafts programs, and recreational, educational and transportation services for seniors; and

WHEREAS, the applicant states the enlargement will allow the Association to provide more and better services that are needed in this neighborhood; 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 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, the Board has determined that the evidence in the record supports the findings 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 an Environmental Assessment Statement (EAS) CEQR No. 04-BSA-189X, dated April 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; Hazardous Materials; Waterfront Revitalization Program;

WHEREAS, the applicant represents that to obtain the necessary space to accommodate this programmatic need while still respecting the surrounding building heights, relief from applicable front, rear and side yard requirements is necessary; and

WHEREAS, the applicant notes that an as-of-right enlargement would result in a second floor with limited useable space and would necessitate the construction of a supporting structure that would render the first floor unusable for its current uses; and

WHEREAS, the Board finds that the applicant has submitted sufficient information explaining its programmatic needs in relation to the requested variance; and

WHEREAS, the Board notes that the above-mentioned physical constraints inherent to the site make it impractical for the applicant to use the available as-of-right floor area in order to meet the stated programmatic needs; and

WHEREAS, based upon the foregoing, the Board finds that the unique condition mentioned above, when considered in conjunction with the programmatic needs of the applicant, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with applicable zoning regulations; and

WHEREAS, the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the proposed application will be in furtherance of its programmatic needs; and

WHEREAS, the Board has reviewed the submitted radius map and has conducted a site visit, and finds that the bulk and height of the proposed building is not out of context with surrounding buildings, given the variety of building types existing in the vicinity; and

WHEREAS, the Board notes that the height of the proposed building is comparable to that of the numerous two and three-story buildings in the vicinity, and that the floor area is within district limitations; and

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.

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 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 the proposed enlargement of an existing community facility, Use Group 4, located in an R4 zoning district, which does not comply with the zoning requirements applicable to enlargements of an existing non-complying building, as well as lot coverage, front yard, side yard and rear yard requirements, contrary to Z.R. §§54-31, 24-11, 24-34, and 24-37, 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 3, 2004" - (2) sheets, "September 8, 2004"-(2) sheets and

---

# MINUTES

---

"September 17, 2004" - (2) sheets; and on further condition;  
THAT any change in use or ownership of the subject premises must be approved in advance by the BSA;

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 occupancy loads on both floors of the proposed building shall be as reviewed and approved by the Department of Buildings;

THAT substantial construction be completed and a Certificate of Occupancy be obtained 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 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 21, 2004.

\_\_\_\_\_

## 199-03-BZ thru 205-03-BZ

### 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, September 21, 2004.

\_\_\_\_\_

## 147-02-BZ

APPLICANT - Gerald J. Caliendo, R.A., for Joseph Pizzonia, owner.

SUBJECT - Application May 8, 2002 - under Z.R. §72-21 to permit the legalization of the change of use of covered parking area, to automobile repair service bays, and the addition of a mezzanine with an accessory office and storage area, located in a C1-2 within an R-4 zoning district, is contrary to a previous variance granted under Cal. No. 148-87-BZ and Z.R. §32-00.

PREMISES AFFECTED - 201-06 Hillside Avenue, southeast corner of 201<sup>st</sup> Street, Block 10495, Lot 52, Borough of Queens.

### COMMUNITY BOARD #12Q

#### APPEARANCES -

For Applicant: Sandy Anagnostou.

For Administration: John Yacovone, Fire Department.

APPLICANT - Stuart A. Klein, Esq., for Classon Holding Co., owner.

SUBJECT - Application June 17, 2003- under Z.R. §72-21 to permit the proposed seven story residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

#### PREMISES AFFECTED -

148 Classon Avenue, between Myrtle and Park Avenues, Block 1895, proposed Lot 42, Borough of Brooklyn.

152 Classon Avenue, between Myrtle and Park Avenues, Block 1895, proposed Lot 46, Borough of Brooklyn.

156 Classon Avenue, between Myrtle and Park Avenues, Block 1895, proposed Lot 47, Borough of Brooklyn.

77 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 117, Borough of Brooklyn.

81 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 116, Borough of Brooklyn.

85 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 115, Borough of Brooklyn.

89 Emerson Place, between Myrtle and Park Avenues, Block 1895, proposed Lot 114, Borough of Brooklyn.

### COMMUNITY BOARD #3BK

#### APPEARANCES -

For Applicant: Stuart A. Klein.

For Administration: John Yacovone, Fire Department.

**ACTION OF THE BOARD -** Application withdrawn.

**ACTION OF THE BOARD -** Laid over to November 9, 2004, at 1:30 P.M., for continued hearing.

\_\_\_\_\_

## 208-03-BZ

APPLICANT - Law Offices of Stuart A. Klein for Shell Road, LLC, owner; Orion Caterers, Inc., lessee.

SUBJECT - Application June 19, 2003- under Z.R. §72-21 to permit the legalization of an expansion of an existing catering hall, Use Group 9, located in a split C1-2(overlay of R-4) and M1-1 zoning district, which does not comply with the zoning requirements for floor area ratio, rear yard, and parking, is contrary to Z.R. §33-121, 33-292, §36-21, §43-26 and §44-20.

PREMISES AFFECTED - 2555 Shell Road, east side, between Avenue "X" and Bouck Court, Block 7192, Lot 74, Borough of Brooklyn.

### COMMUNITY BOARD #11BK

#### APPEARANCES -

For Applicant: Stuart Klein.

For Administration: John Yacovone, Fire Department.

#### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

---

# MINUTES

---

Negative:.....0  
**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 221-03-BZ

APPLICANT - Martyn & Don Weston, for 253 West 28<sup>th</sup> 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 28<sup>th</sup> Street, north side, 105'-1" east of Eighth Avenue, Block 778, Lot 7, Borough of Manhattan.

### COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Don Weston.

For Administration: John Yacovone, Fire Department.

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 November 9, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 388-03-BZ

APPLICANT - Francis R. Angelino, Esq., for 444 Broadway Associates, LLC, owner; Five Points Fitness, LLC, lessee.

SUBJECT - Application December 12, 2003 - under Z.R. §73-36 to permit the legalization of a physical culture establishment, located on the second floor in an M1-5B zoning district, which requires a special permit.

PREMISES AFFECTED - 444 Broadway, Bounded by Grand, Crosby and Howard Streets, Block 232, Lot 5, Borough of Manhattan.

### COMMUNITY BOARD #2

APPEARANCES -

For Applicant: Francis R. Angelino, Simon Burgess, Kevin McGrath, Caroline Kim and Jan Hartley.

For Administration: John Yacovone, Fire Department.

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 October 19, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 142-04-BZ

APPLICANT - Rampulla Associates Architects, for Frank McErlean, owner.

SUBJECT - Application March 30, 2004 - under Z.R. §72-21 to

2004, at 1:30 P.M., for decision, hearing closed.

---

## 373-03-BZ

APPLICANT - The Agusta Group, for 3235 Hull LLC, owner.

SUBJECT - Application December 2, 2003 - under Z.R. §72-21 to permit the proposed off-site accessory parking lot, to be located in an R7-zoning district, which is contrary to Z.R. §25-52.

PREMISES AFFECTED - 293 East 207<sup>th</sup> Street, north side, 80' west of Perry Avenue, Block 3343, Lot 683, Borough of The Bronx.

### COMMUNITY BOARD #7BX

APPEARANCES -

For Applicant: Sol Korman.

For Administration: John Yacovone, Fire Department.

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 October 19, 2004, at 1:30 P.M., for decision, hearing closed.

---

permit the proposed single family detached residence, Use Group 1, located within the required front yard, which is contrary to Z.R. §23-45.

PREMISES AFFECTED - 516 Arbutus Avenue, north side, at the intersection of Shore Avenue and Trout Place, Block 6529, Lot 15, Borough of Staten Island.

### COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Philip L. Rampulla.

For Administration: John Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to November 9, 2004, at 1:30 P.M., for continued hearing.

---

## 143-04-BZ

APPLICANT - Rampulla Associates Architects, for Charles Farina, owner.

SUBJECT - Application March 30, 2004 - under Z.R. §72-21 to permit the proposed in-ground pool, located within the required front yard, which is contrary to Z.R. §23-12.

PREMISES AFFECTED - 522 Arbutus Avenue, north side, at the intersection of Shore Avenue and Trout Place, Block 6529, Lot 10, Borough of Staten Island

### COMMUNITY BOARD #3SI

APPEARANCES -

For Administration: John Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to November 9, 2004, at 1:30 P.M., for continued hearing.

---

# MINUTES

---

**147-04-BZ**

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 #6**

APPEARANCES -

For Applicant: Jeffrey Chester.

For Opposition: Ernest ?

For Administration: John Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to October 26, 2004, at 1:30 P.M., for continued hearing.

**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.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Chair Srinivasan, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Vice-Chair Babbar .....1

**ACTION OF THE BOARD** - Laid over to October 26, 2004, at 1:30 P.M., for decision, hearing closed.

**188-04-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Joshua Frankel, owner.

SUBJECT - Application May 4, 2004 - under Z.R. §73-622 to permit the legalization of an 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, open space ratio, side and rear yards, and is contrary to Z.R. §23-141(a), §23-47 and §23-48.

PREMISES AFFECTED - 1378 East 28th Street, west side, 130' north of Avenue "N", Block 7663, Lot 82, Borough of Brooklyn.

**COMMUNITY BOARD #14**

APPEARANCES -

For Applicant: Moshe Friedman.

For Administration: John Yacovone, Fire Department.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Chair Srinivasan, Commissioner Caliendo,

PREMISES AFFECTED - 9712 Flatlands Avenue, between East 98th Street and Rockaway Parkway, Block 8205, Lot 40, Borough of Brooklyn.

**COMMUNITY BOARD #18**

APPEARANCES -

For Applicant: Jordan Most and Edwin Umanoff.

For Administration: John Yacovone, Fire Department.

**ACTION OF THE BOARD** - Laid over to November 9, 2004, at 1:30 P.M., for continued hearing.

**158-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Albert Cohen, owner.

SUBJECT - Application April 15, 2004 - under Z.R. §72-21 to permit the proposed horizontal enlargement, to a detached one-family dwelling, Use Group 1, on a narrow lot with non-complying side yards, and also encroaches in the required rear yard, located in an R5 zoning district, which is contrary to Z.R. §23-48, §54-31 and §23-47.

PREMISES AFFECTED - 1035 Ocean Parkway, between Avenues "I" and "K", Block 6527, Lot 76, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

APPEARANCES -

For Applicant: Irving Minkin.

For Administration: John Yacovone, Fire Department.

Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Vice-Chair Babbar .....1

**ACTION OF THE BOARD** - Laid over to October 5, 2004, at 1:30 P.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 4:00 P.M.

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 40

October 7, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN**, *Chair*

**SATISH BABBAR**, *Vice-Chair*

**PETER CALIENDO**

**JOEL A. MIELE, SR.**

**JAMES CHIN**

*Commissioners*

**Pasquale Pacifico**, *Executive Director*

**Roy Starrin**, *Deputy Director*

**John E. Reisinger**, *Counsel*

---

<b>OFFICE -</b>	<b>40 Rector Street, 9th Floor, New York, N.Y. 10006</b>
<b>HEARINGS HELD -</b>	<b>40 Rector Street, 6th Floor, New York, N.Y. 10006</b>
<b>BSA WEBPAGE @</b>	<b><a href="http://www.nyc.gov/html/bsa/home.html">http://www.nyc.gov/html/bsa/home.html</a></b>

<b>TELEPHONE - (212) 788-8500</b>
<b>FAX - (212) 788-8769</b>

### CONTENTS

DOCKET .....	704
<b>CALENDAR</b> of November 9, 2004	
Morning .....	705
Afternoon .....	706

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, September 28, 2004**

Morning Calendar .....707

**Affecting Calendar Numbers:**

519-57-BZ	2071 Victory Boulevard, Staten Island
705-81-BZ	1433/37 York Avenue, Manhattan
554-54-BZ	6201 Avenue U, Brooklyn
739-76-BZ	212-95 26 <sup>th</sup> Avenue, Queens
283-90-BZ	1400 Clove Road, a/k/a Oswego Street, Staten Island
88-92-BZ	3007 East Tremont Avenue, Bronx
244-04-A	44 Pennyfield Avenue, Bronx

Afternoon Calendar .....709

**Affecting Calendar Numbers:**

327-02-BZ	82 Union Street, Brooklyn
183-03-BZ	118 Berry Street, Brooklyn
214-03-BZ	388 Broadway, Manhattan
332-03-BZ	34-38 38 <sup>th</sup> Street, Queens
9-04-BZ	114 Walworth Street, Brooklyn
16-04-BZ	186-05 120 <sup>th</sup> Road, Queens
22-04-BZ	2556 Briggs Avenue, Bronx
71-04-BZ	720 East 86 <sup>th</sup> Street, Brooklyn
128-04-BZ	162-168 East 68 <sup>th</sup> Street, Manhattan
132-04-BZ	310 East Houston Street, Manhattan
137-04-BZ	1755 East 28 <sup>th</sup> Street, Brooklyn
150-04-BZ	129 Elizabeth Street, Manhattan
205-04-BZ	375 Tennyson Drive, Staten Island

---

# DOCKETS

---

New Case Filed Up to September 28, 2004

---

**314-04-A** B.BK. 7202/24 Ridge Boulevard, southwest corner of 72<sup>nd</sup> Street, Block 5906, Lot 18, Borough of Brooklyn. Applic. #301573991(A3). An appeal challenging the Department of Buildings' final determination of August 25, 2004, in which the Department decision of January 14, 2004, rescinded the revocation permits and approvals for garbage fences for subject premises.

---

**315-04-BZ** B.BK. 1732 81<sup>st</sup> Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 127), Borough of Brooklyn. N.B. #301795920. Proposed erection of a three family dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #11BK**

---

**316-04-BZ** B.BK. 1734 81<sup>st</sup> Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 128), Borough of Brooklyn. N.B. #301795948. Proposed erection of a three family dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #11BK**

---

**317-04-BZ** B.BK. 1736 81<sup>st</sup> Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 129), Borough of Brooklyn. N.B. #301795957. Proposed erection of a three family dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #11BK**

---

**318-04-BZ** B.BK. 1738 81<sup>st</sup> Street, east side of New Utrecht Avenue, Block 6314, Lots 26 and 29, (Tentative Lot 130), Borough of Brooklyn. Proposed erection of a three family dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #11BK**

---

**319-04-BZ** B.BK. 35 McDonald Avenue, a/k/a 25/47 McDonald Avenue, east side, between 20<sup>th</sup> Street and Terrace Place, Block 895, Lot 1, Borough of Brooklyn. N.B. #301604299. Proposed erection of a four story residential building, Use Group 2, with 39 dwelling units, located in an R5 zoning district, which does not comply with the zoning requirements for height and setback, is contrary to Z.R. §23-631(e).

**COMMUNITY BOARD #7BK**

---

**320-04-BZ** B.BK. 229 Coleridge Street, east side, 220'-0" south of Oriental Boulevard, Block 8741, Lot 72, Borough of Brooklyn. Applic. #301810100. Proposed erection of a two story and rear enlargement, to an existing one family dwelling, Use Group 1, located in an R3-1 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space and rear yard, is contrary to Z.R. §23-141, §23-47 and §54-31.

**COMMUNITY BOARD #15BK**

---

**321-04-BZ** B.BK. 842 Lefferts Avenue, south side, 262'-1/2" west of Utica Avenue, Block 1430, Lot 22, Borough of Brooklyn. Applic. #301793691. Proposed conversion of a an existing three story commercial building, Use Group 6, to a school, Use Group 3, located in C8-2 zoning district, is contrary to Z.R. §32-00, and requires a special permit from the Board as per Z.R. §73-19.

**COMMUNITY BOARD #9BK**

---

**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 9, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, November 9, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

**SPECIAL ORDER CALENDAR**

**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**

---

**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**

---

**330-04-BZY**

APPLICANT - Law Office of Howard Goldman, for Arlington Suites, LLC, owners.

SUBJECT - Application October 7, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

PREMISES AFFECTED - 3220/28 Arlington Avenue and 3223 Netherland Avenue, 200' north of the intersection of 232nd Street and Arlington and Netherland Avenues, Block 5788, Lots 78, 80, 84 and 117.

---

333-04-BZY

**159-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Civic Builders, Inc., owner.

SUBJECT - Application April 19, 2004 - under Z.R. §72-21 to

APPLICANT - Michael T. Sillerman/Gary R. Tarnoff, for 3618, LLC owner.

SUBJECT - Application October 8, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

PREMISES AFFECTED - 640 West 237th Street, block bounded by Henry Hudson Parkway, West 236th Street and Independence Avenue, Block 5903, Lots 283 (tentative), and 299 and 300 (tentative), Borough of The Bronx.

---

**NOVEMBER 9, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, November 9, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

**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**

---

**137-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Steven Sharabli, owner.

SUBJECT - Application March 24, 2004- under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, located within an R3-2 zoning district, which exceeds the allowable floor area, lot coverage, perimeter wall height, and side yard and rear yards, is contrary to Z.R. §23-141, §23-631, §23-48 and §23-47.

PREMISES AFFECTED - 1755 East 28th Street, between Quentin Road and Avenue "R", Borough of Brooklyn.

**COMMUNITY BOARD #15**

---

permit the proposed construction of a charter school, Use Group 3, located within an M2-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 950/60 Longfellow Avenue, east side, between Bruckner Boulevard and Garrison Avenue, Block 2755,

---

# MINUTES

---

Lots 125 and 127, Borough of The Bronx.

**COMMUNITY BOARD #2**

---

**167-04-BZ**

APPLICANT - Dennis D. Dell'Angelino, R.A., for Steven Katz, owner.

SUBJECT - Application April 23, 2004 - under Z.R. §73-622 to permit Proposed enlargement of an existing single family detached 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 and the required rear yard, is contrary to Z.R. §23-14 and §23-47.

PREMISES AFFECTED - 1336 East 22nd Street, West side, 180.0' north of Avenue "M", Block 7639, Lot 76, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

---

**170-04-BZ**

APPLICANT - Dennis Dell'Angelo, R.A., for Jean Teichman, owner.

SUBJECT - Application April 26, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family residence, which does not comply with the zoning requirements for floor area ratio and open space ratio, is contrary to Z.R. §23-141.

PREMISES AFFECTED - 2409 Avenue "K", north side, 53.0' east of East 24th Street, Block 7606, Lot 6, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

---

**285-04-BZ**

APPLICANT - Slater & Beckerman, LLP, for Augustana Lutheran Home, owners.

SUBJECT - Application August 16, 2004 - under Z.R. §73-49 to permit parking on the roof of an existing four-story accessory parking garage contrary to Z.R. §36-11, located in a C1-3/R6 zoning district.

PREMISES AFFECTED - 5435 First Avenue aka 5424/5434 Second Avenue, west side, between 54th and 56th Streets, Block 820, Lot 36, Borough of Brooklyn.

**COMMUNITY BOARD #7BK**

---

*Pasquale Pacifico, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, SEPTEMBER 28, 2004  
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, July 13, 2004, were approved as printed in the Bulletin of July 22, 2004, Volume 89, No. 28-30.

**SPECIAL ORDER CALENDAR**

**519-57-BZ**

APPLICANT - Carl A. Sulfaro, Esq., for BP Amoco Corporation, owner.

SUBJECT - Application November 24, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired June 19, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 2071 Victory Boulevard, northwest corner of Bradley Avenue, Block 462, Lot 35, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES -

For Applicant: Carl A. Sulfaro.

**ACTION OF THE BOARD** - Application re-opened and resolution amended.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

**THE RESOLUTION** -

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, July 13, 2004 and September 14, 2004 and then laid over to September 28, 2004 for decision; and

WHEREAS, the applicant has requested a waiver of the Rules of Practice and Procedure, a re-opening and an amendment to the resolution, and an extension of the term of the variance that expired on June 19, 2003; and

WHEREAS, the Board has exercised jurisdiction over the subject property since July 9, 1957, when it granted a variance under the subject calendar number to permit, in a Retail Use District, the erection and maintenance of a gasoline service station, lubricatorium, sale of accessories, minor motor vehicle repairs with hand tools, and parking of

THAT the Department of Buildings must ensure compliance 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 #500654954)

more than five motor vehicles for a term of fifteen years; and  
WHEREAS, the Board has granted subsequent amendments to extend the term of the variance for periods of ten years on June 19, 1973, October 18, 1983 and October 5, 1993; and

WHEREAS, on January 8, 1995, the Board granted an application to convert the sale of gasoline to self-service, to erect a canopy over two new gasoline pump islands with new self-service dispensers, to install a kiosk on one of the pump islands and to construct a new 6' wide retaining wall with chain link fence on the westerly lot line; and

WHEREAS, the instant application seeks to extend the term of the variance for a period of ten years and to legalize the conversion of an existing salesroom area to an accessory convenience store; and

WHEREAS, the application also contemplates the removal of the vending machines and vacuums, and the relocation of the wood shed and air pump to the portion of the lot not adjacent to residential uses; and

WHEREAS, Community Board #1, Staten Island recommends approval of this application.

*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 legalization of the conversion of an existing salesroom area to an accessory convenience store and to extend the term of the variance for a term of ten years from June 19, 2003 to expire on June 19, 2013; on condition that all work shall substantially conform to drawings as filed with this application, marked ‘Received June 28, 2004’ - (6) sheets; and on further condition;

THAT the number of parking spaces on the premises shall be limited to a total of eleven spaces, with four spaces designated for the exclusive use of patrons of the accessory convenience store, as shown on the BSA-approved plans;

THAT all outdoor lighting at the premises shall be directed downward and away from all adjacent residential properties;

THAT the trash dumpster and automotive air pumps shall be located on the side of the site that does not abut residential uses, as shown on the BSA-approved plans;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions and all relevant Board conditions from the previous Certificate of Occupancy shall appear on the new Certificate of Occupancy;

THAT all signage shall conform to applicable zoning district requirements;

THAT 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

Adopted by the Board of Standards and Appeals, September 28, 2004.

**705-81-BZ**

---

# MINUTES

---

APPLICANT - The New York City Board of Standards and Appeals

OWNER OF PREMISES: Fraydun Enterprises.

LESSEE: New York Health and Racquet Club.

SUBJECT - Application - reopening for compliance.

PREMISES AFFECTED - 1433/37 York Avenue, northeast corner of East 76<sup>th</sup> Street, Block 1471, Lots 21, 22 and 23, Borough of Manhattan.

**COMMUNITY BOARD #8M**

APPEARANCES -

For Applicant: Mitchell Ross.

For Opposition: Ellen Stegman and Mary Noonan.

**ACTION OF THE BOARD** - Application withdrawn.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

Adopted by the Board of Standards and Appeals, September 28, 2004.

---

**554-54-BZ**

APPLICANT - Sheldon Lobel, P.C., for Mill Basin Realty Corp., owner.

SUBJECT - Application June 22, 2004 - reopening for an extension of time to obtain a Certificate of Occupancy.

PREMISES AFFECTED - 6201 Avenue U, Avenue U and Mill Avenue, Block 8405, Lot 44, Borough of Brooklyn.

**COMMUNITY BOARD #18BK**

APPEARANCES -

For Applicant: Janice Cahalane and John Lambardo.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

**ACTION OF THE BOARD** - Laid over to October 19, 2004, 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 June 22, 2004 - request for a waiver of the

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 10 A.M., for decision, hearing closed.

---

**244-04-A**

APPLICANT - Sheldon Lobel, P.C., for Mr. Alfonso Angelisi, owner.

Rules of Practice and Procedure, reopening for an extension of term of variance which expired April 10, 2004.

PREMISES AFFECTED - 212-95 26th Avenue, 26th Avenue and Bell Boulevard, Block 5900, Lot 2, Borough of Queens.

**COMMUNITY BOARD #7Q**

APPEARANCES -

For Applicant: Joseph Morsellino

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

**ACTION OF THE BOARD** - Laid over to October 26, 2004, at 10 A.M., for decision, hearing closed.

---

**283-90-BZ**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for OPM Holdings, LLC, owner.

SUBJECT - Application January 7, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1400 Clove Road, a/k/a Oswego Street, southwest corner of Clove Road and Oswego Street, Block 658, Lot 1, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES -

For Applicant: Adam W. Rothkrug, Mark D. Andrea.

For Opposition: Vincent DiGesh and Algaede.

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 10:00 A.M., for continued hearing.

---

**88-92-BZ**

APPLICANT - Kenneth H. Koons, Architect, for 3007 Enterprise, Inc., owner.

SUBJECT - Application April 9, 2004 - reopening for an extension of term of variance which expired June 28, 2004 for an existing Diner which was enlarged in 1994 under Z.R. Section 11-411.

PREMISES AFFECTED - 3007 East Tremont Avenue, northeast corner Ericson Place, Block 5381, Lot 38, Borough of The Bronx.

**COMMUNITY BOARD #10BX**

APPEARANCES - None.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

SUBJECT - Application June 30, 2004 - Proposed two family dwelling, located partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 44 Pennyfield Avenue, northwest corner of Alan Place, Block 5529, Lots 417 and 418, Borough of The Bronx.

**COMMUNITY BOARD #10BX**

---

# MINUTES

---

APPEARANCES -

For Applicant: Jon Popin.

**ACTION OF THE BOARD** - Appeal granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

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 Bronx Borough Commissioner, dated June 03, 2004, acting on Department of Buildings New Building Application No. 200755619, reads, in pertinent part:

“Proposed building in the bed of a mapped street is contrary to General City Law Section 35 Subdivision 2.”; and

WHEREAS, a public hearing was held on this application on September 14, 2004, after due notice by publication in the *City Record*, and then to decision on September 28, 2004; and

WHEREAS, by letter dated August 4, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated August 10, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated August 20, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Resolved, that the decision of the Bronx Borough Commissioner, dated June 03, 2004 acting on Department of Buildings N.B. Application No. 200755619, 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 24, 2004”-(1)

APPEARANCES -

For Applicant: Harold Weinberg and Grace Scire.

For Opposition: Lilla Lo Curto and Nancy Haynes.

**ACTION OF THE BOARD**- Laid over to November 23, 2004, at 1:30 P.M., for continued hearing.

**183-03-BZ**

APPLICANT - Agusta & Ross, for North Berry Capital Group, LLC, owner.

one sheet; that the proposal comply with all applicable zoning district requirements; and that all 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 28, 2004.

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director.*

Adjourned: 11:15 A.M.

**REGULAR MEETING  
TUESDAY AFTERNOON, SEPTEMBER 28, 2004  
2:00 P.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, 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**

SUBJECT - Application June 3, 2003- under Z.R. §72-21 to permit the proposed forty-three unit multiple dwelling, with retail space on the ground floor, and underground accessory parking throughout for twenty-two vehicles, Use Groups 2 and 6, located in an M1-2 zoning district, which is contrary to Z.R. §42-10.

PREMISES AFFECTED - 118 Berry Street, 116 North Seventh Street, a/k/a 116/26 North Seventh Street and 118/20 Berry Street, northwest corner, Block 2326, Lots 18 and 19 (tentative Lot 18), Borough of Brooklyn.

---

# MINUTES

---

## COMMUNITY BOARD #1BK

### APPEARANCES -

For Applicant: Mitchell Ross.

### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 10 A.M., for decision, hearing closed.

---

### 214-03-BZ

APPLICANT - The Agusta Group, for 388 Broadway Owners LLD, owner; Sunny Cheuck, lessee.

SUBJECT - Application December 23, 2003 - under Z.R. §73-36 to permit the legalization of an existing physical culture establishment, located on the first floor of a five story loft building, in an M1-5 zoning district, which requires a special permit.

PREMISES AFFECTED - 388 Broadway, east side, between White and Walker Streets, Block 195, Lot 3, Borough of Manhattan.

### COMMUNITY BOARD #1M

#### APPEARANCES -

For Applicant: Sol Korman and Sun Cheuck.

**ACTION OF THE BOARD** - Laid over to November 23, 2004, at 1:30 P.M., for continued hearing.

---

### 332-03-BZ

APPLICANT - The Agusta Group, for Steve Polisoano, 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

### 22-04-BZ

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 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: Sheldon Lobel, Evan Lemonides, Rita Kessler, Burt Schoenbach, Frank Bagatta, Sandra Erickson, Steve Wygoda, Yvel

between 37th and 38th Streets, 115' north of 35th Avenue, Block 645, Lot 10, Borough of Queens.

### COMMUNITY BOARD #1Q

#### APPEARANCES -

For Applicant: Sol Korman, Steve Palicano and Hiram Rothkrug.

For Opposition: John Paskalis.

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 1:30 P.M., for continued hearing.

---

### 9-04-BZ

APPLICANT - Marvin B. Mitzner, Esq., Fischbein Badillo Wagner Harding for Walworth Condominium, Inc., owner.

SUBJECT - Application January 12, 2004 - under Z.R. §72-21 to permit the proposed multiple dwelling, which will contain forty-seven dwelling units, located in an M1-1 zoning district, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 114 Walworth Street, northwest corner of Myrtle Avenue, Block 1735, Lot 24, Borough of Brooklyn.

### COMMUNITY BOARD #3BK

#### APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 10 A.M., for continued hearing.

---

### 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, at the subject premises, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 186-05 120<sup>th</sup> Road, southwest corner of Farmers Boulevard, Block 12458, Lot 421, Borough of Queens.

### COMMUNITY BOARD #12Q

#### APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 1:30 P.M., for continued hearing.

---

Calderon, Rosanna Viera, Sallie Caldwell and Wilhelm Ronda.

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 1:30 P.M., for continued hearing.

---

### 71-04-BZ

APPLICANT - Rudolf Gedeon, for Joseph Duton St. Jour, owner.

SUBJECT - Application March 5, 2004 - under Z.R. §72-21 to permit the proposed construction of a three family residence, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for floor area ratio and side yard, is contrary to Z.R. §23-141(b) and §23-462(a).

PREMISES AFFECTED - 720 East 86th Street, between Glenwood Road and Flatlands Avenue, Block 8006, Lot 47,

---

# MINUTES

---

Borough of Brooklyn.

**COMMUNITY BOARD #18BK**

APPEARANCES -

For Applicant: Rudolf Gedeon.

**ACTION OF THE BOARD** - Laid over to November 9, 2004, at 1:30 A.M., for continued hearing.

---

**128-04-BZ**

APPLICANT - Marvin B. Mitzner, Fischbein Badillo Wagner Harding for Sam and Esther Minskoff Cultural Center, Park East Day School, Inc., owner.

SUBJECT - Application March 11, 2004- under Z.R. §72-21 to permit the enlargement of an existing school (Use Group 3) in an R8B zoning district, which is contrary to Z.R. §23-633, §24-11, §24-33 and §24-552.

PREMISES AFFECTED - 162-168 East 68<sup>th</sup> Street, southside of East 68<sup>th</sup> Street, 100 feet west of Third Avenue, Block 1402, Lots 41 and 42 (tent. 42), Borough of Manhattan.

**COMMUNITY BOARD #8M**

APPEARANCES -

For Applicant: Marvin Mitzner and Peter Geis.

For Opposition: Jack Lester, Jane Smith, Pauline Kislik, Ross Moscowitz, Wendy J. Schriber and Weng Liff.

**ACTION OF THE BOARD** - Laid over to November 9, 2004, at 1:30 P.M., for continued hearing.

---

**132-04-BZ**

APPLICANT - Eric Palatnik, P.C. of Counsel to Charles Foy, Esq., for Malu Properties, Inc., owner.

SUBJECT - Application March 15, 2004 - under Z.R. §72-21 to permit the proposed commercial (Use Group 6), use of the ground floor of the otherwise as-of-right proposed mixed use building, located in an R7-2 zoning district, which is contrary to Z.R. §32-15.

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 J. Grossman.

**ACTION OF THE BOARD** - Laid over to November 16, 2004, at 1:30 P.M., for continued hearing.

---

**205-04-BZ**

APPLICANT - Philip L. Rampulla, for Dominick Casale, owner.

SUBJECT - Application May 18, 2004 - under Z.R. §72-21 to permit the proposed construction of a single family detached dwelling, Use Group 1, located within an R3-1 South Richmond District, which does not provide the required front yard and exceeds the floor area requirement, is contrary to Z.R. §107-461 and §23-14.

PREMISES AFFECTED - 375 Tennyson Drive, southwest corner

PREMISES AFFECTED - 310 East Houston Street, southeast corner of Avenue "P", Block 384, Lot 4, Borough of Manhattan.

**COMMUNITY BOARD #3M**

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

**ACTION OF THE BOARD** - Laid over to November 9, 2004, at 10 A.M., for decision, hearing closed.

---

**137-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Steven Sharabli, owner.

SUBJECT - Application March 24, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, located within an R3-2 zoning district, which exceeds the allowable floor area, lot coverage, perimeter wall height, and side yard and rear yards, is contrary to Z.R. §23-141, §23-631, §23-48 and §23-47.

PREMISES AFFECTED - 1755 East 28th Street, between Quentin Road and Avenue "R", Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to November 9, 2004, at 1:30 P.M., for postponed 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.

of Groton Street, Block 5317, Lot 48, 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, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 10 A.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 6:30 P.M.

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 41

October 14, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**SATISH BABBAR, *Vice-Chair***

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	715
<b>CALENDAR</b> of November 16, 2004	
Morning .....	716
Afternoon .....	717

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, October 5, 2004**

Morning Calendar .....718

**Affecting Calendar Numbers:**

585-91-BZ	222-44 Braddock Avenue, Queens
53-86-BZ	350 Wadsworth Avenue, Manhattan
111-01-BZ	9001 Ditmas Avenue, Brooklyn
149-04-A	14 Gotham Walk, Queens
171-04-A	42 Olive Walk, Queens
221-04-A	39 Irving Walk, Queens
248-04-A	13 Courtney Lane, Queens
251-04-A	14 Thetford Lane, Queens
383-03-A	5 Beekman Street, Manhattan
44-04-A	1491 Richmond Road, Staten Island
68-04-A	96 Driggs Street, Staten Island
69-04-A	23 Lillian Place, Staten Island
148-04-A	133 Sterling Place, Brooklyn

Afternoon Calendar.....724

**Affecting Calendar Numbers:**

231-03-BZ	63 and 65 Columbia Street, Brooklyn
358-03-BZ	1651 52 <sup>nd</sup> Street, Brooklyn
365-03-BZ	224-20 Prospect Court aka 225 <sup>th</sup> Street, Queens
38-04-BZ	70-15 164 <sup>th</sup> Street, Queens
162-04-BZ	90-06 Pitkin Avenue, Queens
188-04-BZ	1378 East 28 <sup>th</sup> Street, Brooklyn
361-02-BZ	214 25 <sup>th</sup> Street, Brooklyn
102-03-BZ	291 Kent Avenue, 35/37 South Second Street, Brooklyn
186-03-BZ	525 Union Avenue, Brooklyn
291-03-BZ	1380 62 <sup>nd</sup> Street, Brooklyn
3-04-BZ	147-08 46 <sup>th</sup> Avenue, Queens
40-04-BZ	2252 Linden Boulevard, Brooklyn
70-04-BZ	69-91 75 <sup>th</sup> Street aka 75-13 71 <sup>st</sup> Avenue, Queens
139-04-BZ	1259 East 28 <sup>th</sup> Street, Brooklyn
166-04-BZ	1765 East 23 <sup>rd</sup> Street, Brooklyn
183-04-BZ	206 West 23 <sup>rd</sup> Street, Manhattan
191-04-BZ	1376 East 24 <sup>th</sup> Street, Brooklyn
237-04-BZ	5722 Faraday Avenue, The Bronx
284-04-BZ	2064/2128 Atlantic Avenue, Brooklyn

---

# DOCKETS

---

New Case Filed Up to October 5, 2004

---

**322-04-BZ** B.BK. 1124 East 21st Street, aka Kenmore Place, aka 2015/25 Avenue "J", northwest corner of East 21st Street, Block 7584, Lot 1, Borough of Brooklyn. Applic.#301828529. Proposed extension to an existing synagogue and Rabbi's apartment (rectory), located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, side and front yards, is contrary to Z.R. §24-111(a), §23-141(a), §24-34 and §24-35.  
**COMMUNITY BOARD #14BK**

---

**323-04-A** B.M. 5 East 19th Street, north side, 125' east of Fifth Avenue, Block 848, Lot 6, Borough of Manhattan. Applic.#103581367. An appeal seeking to reverse the decision of the Department of Buildings dated September 1, 2004, which refused to revoke permits and approvals for an application to construct a new sixth floor atop subject premises.

---

**324-04-BZY** B.S.I 1150 Arden Avenue, northeast side, 736.38' southeast of Ralph and Arden Avenues, Block 6212, Lot 115, Borough of Staten Island. Applic.#500577271. Application to extend time to complete construction for a major development pursuant to Z.R. §11-331.

---

**325-04-A** B.S.I. 91 Wakefield Road, west side, 825.19 north of Woods of Arden Road, Block 5415, Lot 85, Borough of Staten Island. N.B.#500681390. 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.

---

**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 16, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, November 16, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

## SPECIAL ORDER CALENDAR

### **410-68-BZ**

APPLICANT - Sheldon Lobel, P.C., for Alessandro Bartellino, owner.

SUBJECT - Application June 29, 2004 - reopening for an 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.

PREMISES AFFECTED - 85-05 Astoria Boulevard, fronting 85th Street and 24th Avenue, Block 1097, Lot 1, Borough of Queens.

**COMMUNITY BOARD #3Q**

\_\_\_\_\_

### **239-02-BZ**

APPLICANT - Deidre A. Carson, Esq., for Babbo Realty, LLC, owner.

SUBJECT - Application September 16, 2004 - reopening for an amendment to the resolution for an existing variance for the enlargement of a restaurant cellar to house a wine cellar-UG6A.

PREMISES AFFECTED - 110 Waverly Place, 132' west of intersection of Waverly Place and Washington Square West, Block 552, Lot 53, Borough of Manhattan.

**COMMUNITY BOARD #2M**

\_\_\_\_\_

**NOVEMBER 16, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, November 16, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

## ZONING CALENDAR

### **250-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Avrohom & Chava Dusowitz, owners.

SUBJECT - Application July 14, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family dwelling,

### **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**

\_\_\_\_\_

### **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.

PREMISES AFFECTED - 2275 East Second Street, between Avenue "W" and Gravesend Neck Road, Block 7154, Lot 64, Borough of Brooklyn.

**COMMUNITY BOARD #15**

\_\_\_\_\_

### **193-04-BZ**

APPLICANT - Harold Weinberg, P.E., for Cherie & Don Lang, owners.

SUBJECT - Application May 10, 2004- under Z.R. §73-622 to permit the proposed one story enlargement over the existing first floor of a one family residential dwelling, which does not comply with the zoning requirements for rear yard, floor area ratio, side yards and lot coverage, is contrary to Z.R. §54-31, §23-141, §23-48 and §23-47.

PREMISES AFFECTED - 92 Gotham Avenue, south side, 366'-0" east of Fane Court, Block 8923, Lot 936, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

\_\_\_\_\_

which does not comply with the zoning requirements for side and rear yards, floor area and open space ratio, is contrary to Z.R. §23-461, §23-47 and §23-141.

PREMISES AFFECTED - 1220 East 27th Street, between Avenues "L" and "M", Block 7644, Lot 54, Borough of Brooklyn.

---

# CALENDAR

---

## COMMUNITY BOARD #14

---

### 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 #15

---

*Pasquale Pacifico, Executive Director*

---

# MINUTES

---

**REGULAR MEETING  
TUESDAY MORNING, OCTOBER 5, 2004  
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, July 20, 2004, were approved as printed in the Bulletin of July 29, 2004, Volume 89, No. 27.

---

**SPECIAL ORDER CALENDAR**

**585-91-BZ**

APPLICANT - Tarek M. Zeid, for Luis Mejia, owner.  
SUBJECT - Application December 10, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired March 30, 2003 and for an amendment to the resolution.

PREMISES AFFECTED - 222-44 Braddock Avenue, Braddock Avenue between Winchester Boulevard and 222<sup>nd</sup> Street, Block 10740, Lot 12, Borough of Queens.

**COMMUNITY BOARD #13Q**

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, this is an application under Z.R. §§11-411 and 11-412 to request a waiver of the rules of practice and procedure, a re-opening to amend the resolution, a renewal of term for a previously granted variance that expired March 30, 2003, and approval of an enlargement; and

WHEREAS, a public hearing was held on this application on May 18, 2004 after due notice by publication in The City Record, with continued hearings on June 22, 2004 and September 14, 2004 and then to October 5, 2004 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. 13 Queens has recommended approval upon the following conditions: (1) that the applicant removes curb-cut on Winchester Boulevard; (2) that the applicant will not park cars on the sidewalks or work on car engines outside of the shop bays; and (3) that the applicant will not offer motor vehicles for sale on the subject premises; and

WHEREAS, in response to the concerns of the Board, the applicant has agreed to reduce the total number of curb cuts, as shown on the BSA-approved plans.

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

WHEREAS, the premises is located on the southeast corner formed by the intersection of Braddock Avenue and Winchester Boulevard, Queens, and has a total lot area of 9,350 square feet; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since January 14, 1958, when under Calendar No. 658-52-BZ, the Board granted a variance for a change of use in a retail use district, to allow the erection and maintenance of a gasoline service station with accessory uses; and

WHEREAS, on April 11, 1989, the Board granted an amendment of the resolution, pursuant to Z.R. §11-412, to enlarge the existing accessory building through the addition of a 300 sq. ft. service bay; and

WHEREAS, on March 30, 1993, under Calendar No. 585-91-BZ, the Board: (1) extended the term of the variance for ten (10) years (expiring March 30, 2003); and (2) legalized both an enlargement to the existing accessory building and a change of use to automobile repair service with accessory automotive sales (Use Group 16) and accessory parking; and

WHEREAS, pursuant to Z.R. §11-411, the Board may, in appropriate cases, renew the term of a previously granted variance for a term of not more than ten years; 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 building may not be enlarged in excess of 50 percent of the floor area of such building as existed as of December 15, 1961; and

WHEREAS, the applicant represents that prior to December 15, 1961, the subject original building had a floor area of 1,305 sq. ft and therefore Z.R. §11-412 permits a maximum enlargement of 50% or approximately 652 sq. ft.; and

WHEREAS, the applicant seeks to enlarge the existing building under ZR §11-412, through the installation of an additional service bay of 12 feet 6 inches by 28 feet 2 inches (350 sq. ft.), to be added to the west elevation of the existing building; and

WHEREAS, the applicant asserts that because the 1989 expansion entailed a 300 sq. ft. expansion, there remains an additional 352 sq. ft. of expansion available under Z.R. §11-412 that will be utilized to accommodate the proposed enlargement; and

WHEREAS, the applicant represents that since the prior BSA approval, the premises has been continuously utilized as an automobile service station with lubritorium, non-automatic auto wash, minor repairs with hand tools only, office, storage, sales of auto accessories and accessory parking for twelve (12) cars awaiting sales and six (6) cars awaiting service; and

WHEREAS, the applicant represents that there is no sale of autos currently at the premises and that this particular accessory use will not take place in the future; therefore, the applicant has no objection to a condition prohibiting sale of autos; and

resolution shall read: "To extend the term of the variance for ten (10) years from March 30, 2003, to expire on March 30, 2013, and to permit the installation of an additional service bay of 12 feet 6 inches by 28 feet 2 inches (350 sq. ft.) to be added to the West elevation of the existing building; on condition that all work shall substantially conform to drawings as they apply to the objections

---

# MINUTES

---

above noted, filed with this application marked "Received September 20, 2004" - (8) 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/or maintained in accordance with the BSA-approved plans;

THAT all signage shall comply with the C1 zoning district regulations;

THAT the terms of this grant shall be for ten (10) years from March 30, 2003, to expire on March 30, 2013;

THAT these conditions appear on the Certificate of Occupancy;

THAT all other relevant conditions from prior Board grants remain in effect;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

(DOB Application Nos. ALT 70/87 & 401749658)

Adopted by the Board of Standards and Appeals, October 5, 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, 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

Lot 281, Borough of Manhattan.

## COMMUNITY BOARD #12

APPEARANCES -

For Applicant: Elisa B. Hwu/Sheldon Lobel.

**ACTION OF THE BOARD** - Laid over to November 9, 2004, at 10 A.M., for continued hearing.

---

## 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 #17

APPEARANCES -

For Applicant: Eric Palatnik, Wayne Tomlin and Gregg Mackenzie.

**ACTION OF THE BOARD** - Laid over to November 16, 2004, at 10 A.M., for continued hearing.

---

## 149-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; John & Mary Mathis, owners.

SUBJECT - Application April 6, 2004 - Proposed alteration and enlargement of an existing one family dwelling and upgrade private disposal system not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 14 Gotham Walk, west side, 167.23' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14

APPEARANCES -

For Applicant: Gary Lenhart.

**ACTION OF THE BOARD** -Appeal 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-

### THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated May 26, 2004 acting on Department of Buildings Application No. 401827902, reads in pertinent part:

"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

---

# MINUTES

---

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

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 September 14, 2004 after due notice by publication in the City Record, and then to decision on October 5, 2004; and

WHEREAS, by letter dated April 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 May 26, 2004 acting on Department of Buildings Application No. 401827902 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 30, 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 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 5, 2004.

---

## 171-04-A

WHEREAS, a public hearing was held on this application on September 14, 2004 after due notice by publication in the City Record, and then to decision on October 5, 2004; and

WHEREAS, by letter dated May 7, 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 June 21, 2004

APPLICANT - Zygmunt Staszewski, for Breezy Point Cooperative, Inc, owner; William Schlageter, lessee.

SUBJECT - Application April 26, 2004 - Proposed alteration upgrade of private disposal system of an existing one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 42 Olive Walk, west side, 99.25' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14

APPEARANCES -

For Applicant: Michele Harley.

**ACTION OF THE BOARD** - Appeal 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 Queens Borough Commissioner, dated June 21, 2004 acting on Department of Buildings Application No. 401833735, which reads in pertinent part:

"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

The proposed upgraded private disposal system is in the bed of the service lane contrary to Department of Buildings Policy."; and

acting on Department of Buildings Application No.401833735 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 1, 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

---

# MINUTES

---

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 5, 2004.

---

## 221-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Laura & Glenn Pfister, owners.

SUBJECT - Application June 2, 2004 - Proposed alteration and enlargement of an existing one family dwelling, located within the bed of a mapped street, and has a private disposal system in 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 - 39 Irving Walk, north side of Breezy Point Boulevard, 518.38' west of Beach 207th Street, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #3

APPEARANCES -

For Applicant: Gary Lenhart.

**ACTION OF THE BOARD** - Appeal granted on condition.

**THE VOTE TO GRANT-**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Queens Borough Commissioner, dated May 26, 2004 acting on Department of Buildings Application No. 401842994 which 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.

The proposed upgraded private disposal system is in the bed of a mapped street contrary to Department of Buildings Policy."; and

PREMISES AFFECTED - 13 Courtney Lane, north side, 107.43' east of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

### COMMUNITY BOARD #14

APPEARANCES -

For Applicant: Gary Lenhart.

**ACTION OF THE BOARD** - Appeal 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-**

WHEREAS, a public hearing was held on this application on September 21, 2004, after due notice by publication in the City Record, and then to decision on October 5, 2004; and

WHEREAS, by letter dated June 16, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated July 15, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; 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, 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 26, 2004 acting on Department of Buildings Application No. 401842994 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 27, 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 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 5, 2004.

---

## 248-04-A

APPLICANT - Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Michael & Jessica Ball, owners.

SUBJECT - Application July 13, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legal mapped street, is contrary to Section 36, Article 3 of the General City Law.

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 Queens Borough Commissioner, dated June 28, 2004 acting on Department of Buildings Application No. 401802279 reads in pertinent part:

---

# MINUTES

---

"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 September 14, 2004 after due notice by publication in the City Record, and then to decision on October 5, 2004; and

WHEREAS, by letter dated August 2, 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 June 28, 2004 acting on Department of Buildings Application No. 401802279 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 30, 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 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 5, 2004.

---

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

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 scheduled on this application on September 14, 2004 after due notice by publication in the City Record, and then to decision on October 5, 2004; and

WHEREAS, by letter dated August 10, 2004, the Fire Department states that it has reviewed the above project and has no objections; and

## 251-04-A

APPLICANT - Zygmunt Staszewski for Breezy Point Cooperative, Inc., owner; Gary Wilson, lessee.

SUBJECT - Application July 15, 2004 - Proposed alteration and extension to an existing one family dwelling, not fronting on a legally mapped street is contrary to Section 36, Article 3 of the General City Law, also the upgrading of the existing septic system that is in the bed of the service road which is contrary to the Department of Buildings' Policy.

PREMISES AFFECTED - 14 Thetford Lane, southeast corner of Beach 203rd Street, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14

### APPEARANCES -

For Applicant: Michael Harley.

**ACTION OF THE BOARD -** Appeal 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 Queens Borough Commissioner, dated July 21, 2004 acting on Department of Buildings Application No. 401947248 reads in pertinent part:

"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;

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 21, 2004 acting on Department of Buildings Application No. 401947248 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 1, 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

---

# MINUTES

---

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 5, 2004.

---

### 383-03-A

APPLICANT - Zygmunt Staszewski, P.E., for Cammeby's Management Company, LLC, owner; Barry Pincus, lessee.

SUBJECT - Application December 9, 2003 - Proposed retention of the existing 10-story atrium and open access stair unenclosed, which is contrary to the "Old Code", Art.26-209(6.4.1.9)(2), as part of a "residential conversion" of an existing Commercial Class "E" building to a residential J-2 occupancy.

PREMISES AFFECTED - 5 Beekman Street, southwest corner of Nassau Street, southeast corner of Theater Alley, Block 90, Lot 14, Borough of Manhattan.

#### COMMUNITY BOARD #1

APPEARANCES -

For Applicant: Gene Kaufman, Zygmunt Staszewski and Caroline Harris.

**ACTION OF THE BOARD** - Laid over to October 19, 2004, at 10 A.M., for continued hearing.

---

### 44-04-A

APPLICANT - NYC Department of Buildings.

OWNER OF RECORD: Martin Suss

LESSEE: William J. Newstad; Endeavor Abstract; Paladin Abstract.

**ACTION OF THE BOARD** - Laid over to October 26, 2004, at 10 A.M., for decision, hearing closed.

---

### 69-04-A

APPLICANT - Steven Barshov/Sive, Paget & Riesel, for Lawrence M. Garten, owner.

SUBJECT - Application March 2, 2004 - Proposed erection of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 23 Lillian Place, Block 5275, Tentative Lot 11, Borough of Staten Island.

#### COMMUNITY BOARD #3

APPEARANCES -

For Applicant: Steven Barshov

THE VOTE TO CLOSE HEARING-

SUBJECT - Application February 25, 2004 - Application to revoke or modify Certificate of Occupancy No. 500353422, issued on 2/28/00, on the grounds that the CO was issued with the mistaken understanding that the non-conforming use was continuous, thus improperly allowing a retail store in a residential zoning district.

PREMISES AFFECTED - 1491 Richmond Road, bounded by Norden Street and Forest Road, Block 869, Lot 374, Borough of Staten Island.

#### COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Janine Gaylard.

For Opposition: James P. Molinaro

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 October 26, 2004, at 10 A.M., for decision, hearing closed.

---

### 68-04-A

APPLICANT - Steven Barshov/Sive, Paget & Riesel, for Lawrence M. Garten, owner.

SUBJECT - Application March 2, 2004 - Proposed erection of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 96 Driggs Street, Block 5275, Tentative Lot 10, Borough of Staten Island.

#### COMMUNITY BOARD #3

APPEARANCES -

For Applicant: Steven Barshov

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

**ACTION OF THE BOARD** - Laid over to October 26, 2004, at 10 A.M., for decision, hearing closed.

---

### 148-04-A

APPLICANT - Jenkins & Gilchrist Parker Chaplin, LLP and Fischbein Badillo Wagner Harding

OWNER OF RECORD: Sterling & Seventh LLC.

SUBJECT - Application April 5, 2004 - Under Z.R. §12-10 to reverse the NYC Department of Buildings' revocation of the above referenced permits. The permits had allowed for the subdivision of Lot 52 from Lots 55, 58, and 61 and the construction of new building on Lot 52.

PREMISES AFFECTED - 133 Sterling Place, a/k/a 22 Seventh

---

# MINUTES

---

Avenue, northwest corner, Block 942, lots 48 and 52, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

APPEARANCES -

For Applicant: Howard Goldman and Caroline Harris.

For Administration: Lisa Orantia, Department of Buildings.

**ACTION OF THE BOARD** - Laid over to November 16, 2004, at 10 A.M., for continued hearing.

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director.*

Adjourned: 12:05 A.M.

**REGULAR MEETING  
TUESDAY AFTERNOON, OCTOBER 5, 2004  
2:00 P.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

\_\_\_\_\_  
**ZONING CALENDAR**

**231-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for Isaac Douek Jacqueline Douek Maurice Douek, owners.

WHEREAS, Community Board 6, Brooklyn recommended approval of this application, on condition that the proposed ground floor retail space be limited to Use Group 6 uses; and

WHEREAS, the Community Board notes that the applicant has worked diligently with the community and elected officials and has been responsive to its concerns regarding the inclusion of commercial use on the ground floor of the building, leading to support of the subject application; and

WHEREAS, the subject lot: (1) is located on the southeast corner of the intersection of Columbia and Congress Streets in Brooklyn; (2) is an irregularly shaped parcel that is comprised of two tax lots (lot numbers 7 and 8); and (3) has a total lot area of approximately 4,773 sq. ft.; and

WHEREAS, the applicant states that when the subject lot was purchased, the property contained two vacant four-story buildings, the upper three floors of which previously had been used for residential use; and

WHEREAS, the applicant initially intended to rehabilitate the

SUBJECT - Application July 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a six story building, with a mezzanine and cellar, to contain eighteen residential units, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 63 and 65 Columbia Street, southeast corner of Congress Street, Block 299, Lots 7 and 8, 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 Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Borough Commissioner, dated June 16, 2003, acting on Department of Buildings Application No. 301481037, reads:

"The proposed construction of the residential building is not permitted [within] an M1-1 district as per Section 42-00 of the Zoning Resolution"; and

WHEREAS, a public hearing was held on this application on October 21, 2003 after due publication in The City Record, with continued hearings on January 27, 2004, March 23, 2004, May 11, 2004, and July 13, 2004, and then to September 14, 2004 for decision; the case was re-opened on September 14, 2004 and the decision was deferred until October 5, 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. §72-21, to permit the proposed construction of a five-story, mixed-use residential/commercial building (Use Groups 2 and 6) with a mezzanine and cellar, to contain eleven residential units and two commercial units, located in an M1-1 zoning district; and

buildings and continue the residential use on the premises, but instead the buildings sat vacant for several years; and

WHEREAS, the applicant states that in 1992, the Department of Buildings ordered the demolition of both buildings after declaring the building on lot 8 to be unsafe; and

WHEREAS, the applicant further states that, upon actual demolition, the foundation walls were not removed, the cellar was filled in to grade, and the lots were paved; and

WHEREAS, the subject application originally contemplated the construction of a six-story residential building with a mezzanine and cellar, to contain eighteen residential units, but, in response to Board and community concerns, has now been modified to a proposal for a five-story with cellar, 55' high, mixed-use residential/commercial building to contain eleven (11) residential units, with six parking spaces and two commercial units on the ground level; and

WHEREAS, the proposal calls for inclusion of laundry facilities, double-glazed windows, a refuse room, and planting of street trees; and

---

# MINUTES

---

WHEREAS, the proposed building will contain 10,495 sq. ft. of residential floor area on the first through fifth floors, and 1,200 sq. ft. of commercial floor area on the first floor; the total FAR is 2.45; and

WHEREAS, the applicant's architect has submitted a letter dated September 10, 2004, stating that the indoor recreation area shown on the first floor plan is not included in the floor area of the submitted zoning analysis, as per Z.R. §28-31, which allows for an exclusion of indoor recreation space up to the minimum amount 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 conformity with underlying district regulations: (1) the site is poorly situated for an as-of-right manufacturing use because many of the lots within a block and a half area are developed residentially and a large public park is located directly across the street from the subject site; (2) the subject site is too far from the main commercial thoroughfares in the area (four blocks from Court Street and two blocks from Atlantic Avenue) to attract the commercial use sufficient to support an exclusively commercial building; (3) the additional cost of the removal of the sub-surface conditions increases the construction costs, causing an as-of-right scenario to become less feasible; (4) the site has a history of residential use; and (5) the lack of demand for manufacturing use and lack of manufacturing activity in the area discourages occupancy for manufacturing use; and

WHEREAS, the Board observes that given the historical use of the site for residential uses, and its small size, the site is not conducive to manufacturing use; and

WHEREAS, the Board finds that certain of the aforementioned unique physical conditions - namely, that the subject site is located too far from main commercial areas to support a wholly commercial

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map, and concludes that residential use of the site is appropriate given the context of the neighborhood; and

WHEREAS, specifically, the Board notes that there is a residential building adjacent to the site, and that there are many other residential buildings in the same block; and

WHEREAS, the Board also notes that the site is across the street from a park; 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 while still 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 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

building, that the site is adjacent to residential uses, and that the site has a history of residential use - when considered in the aggregate, and with the small size of the lot, create unnecessary hardship and practical difficulties in developing the site in conformity with the current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; and

WHEREAS, the Board questioned certain components of the feasibility study; specifically, the valuation of the site, the residential rental rate, and the rate of the maintenance and operating expense; and

WHEREAS, in response to the concerns of the Board, the applicant's financial consultant submitted a letter dated September 16, 2004, addressing the above concerns; and

WHEREAS, the Board also asked for an analysis of a reduced FAR, entirely residential scenario, which would comply with the R6 zoning district regulations applicable to Quality Housing development on a narrow street; and

WHEREAS, the applicant's financial consultant submitted an analysis of such a scenario, which concluded that it was not feasible; and

WHEREAS, the Board finds both responses from the financial consultant credible and sufficient; 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 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 is compatible with the mixed-use commercial/residential uses prevalent in the area; and

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 an Environmental Assessment Statement (EAS) CEQR No. 04-BSA-005K, dated August 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; 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 July 10, 2003 submission by the applicant's environmental consultant specifically examined the proposed action for potential hazardous materials, air quality, and noise impacts and determined that there would not be any impacts; 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

---

# MINUTES

---

WHEREAS, per the Landmarks Preservation Commission's ("LPC") comments of July 16, 2003, the applicant shall submit an archaeological documentary study for the above-referenced project site to the LPC for its evaluation and approval; this study is requested based on LPC's review of archaeological sensitivity models and historic maps which indicate that there is the potential for the recovery of remains from 19th Century occupation on the project site; the applicant shall not receive a building permit nor commence any site grading, excavation, or building construction on the project site until the LPC approves of this study and determines that there are no archaeological 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.

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 the proposed construction of a five-story mixed use residential/commercial building (Use Groups 2 and 6) with a mezzanine and cellar, to contain eleven residential units and two commercial units, located in an M1-1 zoning district, which

THAT the Department of Buildings must ensure compliance 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 5, 2004.

### 358-03-BZ

APPLICANT - Harold Weinberg, P.E., for Rita Citronenbaum, owner.

SUBJECT - Application November 19, 2003 - under Z.R. §72-21 to permit the proposed enlargement to an existing single family residence, Use Group 1, located in an R5 zoning district, which does not comply with the zoning requirements for lot coverage, also rear and side yards, is contrary to Z.R. §23-146 and §23-47.

PREMISES AFFECTED - 1651 52<sup>nd</sup> Street, north side, 334'-4½" west of 17<sup>th</sup> Avenue, Block 5466, Lot 69, Borough of Brooklyn.

### COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Harold Weinberg.

**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

is contrary to Zoning Resolution §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 September 13, 2004" - (12 sheets); and on further condition:

THAT no building permit shall be issued unless and until an archaeological documentary study reviewed and approved by LPC, which states that construction can proceed, is submitted to the Board, and the Board, through a letter from its executive director, subsequently informs DOB that this condition has been satisfied; THAT the maximum FAR of the proposed building shall be limited to 2.45;

THAT use of the ground floor commercial spaces shall be limited to Use Group 6 uses;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT substantial construction 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

### 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 November 17, 2003, acting on Application No. 301642453, reads: "The proposed enlargement of the existing one family residence in an R5 zoning district.

1. creates non-compliance with respect to the rear yard and is contrary to section 23-47.

2. increases the degree of non-compliance with respect to side yards and is contrary to sections 23-146 and 54-31.

3. creates non-compliance with respect to lot coverage and is contrary to section 23-146."; and

WHEREAS, a public hearing was held on this application on August 10, 2004 after due notice by publication in The City Record, with a continued hearing on September 14, 2004, and then to October 5, 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. §72-21, to permit the proposed enlargement of an existing one-family dwelling (Use Group 1) located in an R5 zoning district, which does not comply

---

# MINUTES

---

with the zoning requirements for lot coverage and rear yards, and which increases the degree of non-compliance with respect to side yards, contrary to Z.R. §§23-146, 23-47 and 54-31; and

WHEREAS, Community Board No. 12, Brooklyn, recommended approval of this application; and

WHEREAS, the record indicates that the subject premises consists of a interior zoning lot, with a frontage of 28'-1 1/2" along the north side of 52nd Street, between 16th and 17th Avenues, and a depth of 100', with a total lot area of approximately 2,817 square feet; and

WHEREAS, the record indicates that the subject premises is currently improved with a three-story, one-family dwelling with existing non-complying side yards of 2'-8 1/2" and 3', and a non-complying rear yard of 23'-10 1/4"; and

WHEREAS, the subject application seeks an enlargement at the rear of the house, which will reduce the rear yard to 20', increase the degree of non-compliance with respect to the side yards, and increase the lot coverage ratio from 0.587 to 0.625; 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

WHEREAS, specifically, the applicant asserts that were the existing side yards in compliance with the total eight foot minimum, Z.R. §23-146 would allow for a single-family residence to project ten feet into the required rear yard, resulting in a 20 foot rear yard as proposed; and

WHEREAS, the Board finds that the aforementioned unique physical condition, namely the narrowness and small size of the subject lot, creates a practical difficulty in developing the site in compliance with the current zoning; and

WHEREAS, the Board has determined no financial feasibility study is required for this single-family dwelling development proposal; and

WHEREAS, the applicant represents that the rear enlargement would not be visible from the street and therefore would not impact the residential character of the community; and

WHEREAS, the submitted radius map, plans and photos indicate that the bulk of the subject proposal would be compatible with the surrounding residential buildings; 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 an existing one-family dwelling (Use

site is uniquely small and narrow; and

WHEREAS, the applicant represents that the subject lot meets the definition of an Existing Narrow Zoning Lot under Z.R. §23-48, and that, pursuant to Z.R. §23-32, a one-family dwelling would not be able to be constructed on a zoning lot with a width of less than 40 feet or with a lot area of less than 3,800 sq. ft.; and

WHEREAS, at the request of the Board, the applicant conducted a survey of lots in a 200' radius of the subject lot, in order to establish 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, the applicant states that the survey shows that the majority of the lots in the radius are wider than the subject lot - of the 34 buildings surveyed, only 9 are 28' or less in width; and

WHEREAS, the applicant concludes that the subject lot is uniquely afflicted due to its atypical narrowness; and

WHEREAS, the applicant represents that the optional as-of-right provisions set forth at Z.R. §23-146, which permit a maximum 1.8 FAR in the subject R5 zoning district, do not allow for the proposed construction (1.78 FAR) due to the narrowness of the lot and the pre-existing non-complying side yards; and

Group 1) located in an R5 zoning district, which does not comply with the zoning requirements for lot coverage and rear yards, and which increases the degree of non-compliance with respect to side yards, contrary to Z.R. §§23-146, 23-47 and 54-31, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 27, 2004"-(3) sheets and "October 1, 2004" - (3) sheets; and on further condition;

THAT substantial construction be completed and a Certificate of Occupancy be obtained in accordance with §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 5, 2004.

## **365-03-BZ**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Avi Mansher, owner.

SUBJECT - Application November 25, 2004 - under Z.R. §72-21 to permit the construction of a two story, two family dwelling, Use Group 2, which does not provide the required side yard which is contrary to Z.R. §23-462.

PREMISES AFFECTED - 224-20 Prospect Court, a/k/a 225<sup>th</sup> Street, northwest corner, Block 13071, Lot 74, Borough of Queens.

## **COMMUNITY BOARD #13Q**

APPEARANCES -

For Applicant: Adam W. Rothkrug.

---

# MINUTES

---

For Opposition: Judith Charrington, Rolade Begh and Loretta DeSantia.

**ACTION OF THE BOARD** - Application granted on condition.  
**THE VOTE TO DISMISS-**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5  
Negative:.....0

Adopted by the Board of Standards and Appeals, October 5, 2004.

**38-04-BZ**

APPLICANT - Eric Palatnik, P.C., for Sanford Becker and Howard Ochs, owner.

SUBJECT - Application February 13, 2004- under Z.R. §72-21 to permit the legalization of the northern side yard at an existing

**162-04-BZ**

APPLICANT - Agusta & Ross, for Ronald Nizza, owner.

SUBJECT - Application April 21, 2004 - under Z.R. §11-411 to permit the proposed reestablishment of an expired variance, previously granted under Cal.#147-52-BZ, which permitted a factory (specialty woodworking for custom forms and molds), in an R-4 zoning district.

PREMISES AFFECTED - 90-06 Pitkin Avenue, southwest corner of Linden Boulevard, Block 11401, Lot 1, Borough of Queens.

**COMMUNITY BOARD #10**

APPEARANCES -

For Applicant: Mitchell Ross.

**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 12, 2004, acting on Department of Buildings Application No. 401294675, reads:

"Proposed use not permitted in R4. BSA Cal. # 147-52-BZ expired, must be referred to BSA."; and

WHEREAS, a public hearing was held on this application on September 14, 2004 after due notice by publication in The City Record, and then to October 5, 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. §11-411, on a site previously before the Board and within an R4 zoning district, to reestablish a variance previously granted under Calendar Number 147-52-BZ, which permitted the conversion of a pre-existing commercial building to factory use (specialty woodworking for custom forms and molds); and

WHEREAS, Community Board Number 10, Queens, submitted a letter stating that they had no objection to the instant proposal; and

WHEREAS, the subject lot has a depth of 100 feet and a frontage of 27.87 feet along Pitkin Avenue, and is improved upon

dentist's office, Use Group 4, located in an R3-2 zoning district, which is in non-compliance with Z.R. §23-464 and §24-35.

PREMISES AFFECTED - 70-15 164<sup>th</sup> Street, east side, between Jewel and 71<sup>st</sup> Avenues, Block 6933, Lot 78, Borough of Queens.

**COMMUNITY BOARD #8Q**

APPEARANCES -

For Applicant: Eric Palatnik.

**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, October 5, 2004.

with a one-story building, originally constructed in 1933 as a commercial structure; and

WHEREAS, the record indicates that the subject building originally housed a restaurant and cabaret use that was initially permitted, but which became non-conforming after a 1941 change in the zoning district from business to residential; and

WHEREAS, in 1948, the building was converted to factory use, which the Board legalized on June 11, 1955 under Calendar No. 147-52-BZ; and

WHEREAS, the Board granted extensions of term of the 1955 grant on June 18, 1957, September 11, 1962, October 3, 1967, October 24, 1972, April 11, 1978, and, most recently, on October 18, 1983, which expired on October 18, 1993; and

WHEREAS, pursuant to Z.R. §11-411, the Board may, in appropriate cases, renew the term of a previously granted variance for a term of not more than ten years; and

WHEREAS, the applicant states that although the term of the variance was not extended due to owner oversight, the ownership and use of the subject premises has remained unchanged since the most recent extension of term in 1983; and

WHEREAS, the applicant represents that the surrounding area is mixed-use, with residential, commercial and light industrial uses, and that the continued operation of the factory use previously legalized would not alter the essential character of the neighborhood, impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and

WHEREAS, the applicant reinforced this point in a subsequent submission dated September 20, 2004, which the Board finds credible and sufficient; 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 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 finding under Z.R. §11-411 and, on a site previously before the Board and within an R4 zoning district, reestablishes a variance previously granted under Calendar Number 147-52-BZ, which permitted the conversion of a pre-existing commercial building to

---

# MINUTES

---

factory use (specialty woodworking for custom forms and molds), 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 21, 2004" -(1) sheet; and on further condition;

THAT the term of the variance shall be limited to ten (10) years from the date of this grant, expiring on October 5, 2014;

THAT the premises shall be maintained free of debris and graffiti;

THAT the Department of Buildings must ensure compliance 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 5, 2004.

---

## 188-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Joshua Frankel, owner.

SUBJECT - Application May 4, 2004 - under Z.R. §73-622 to permit the legalization of an 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, open space ratio, side and rear yards, and is contrary to Z.R. §23-141(a), §23-47 and §23-48.

PREMISES AFFECTED - 1378 East 28th Street, west side, 130' north of Avenue "N", Block 7663, Lot 82, Borough of Brooklyn.

### COMMUNITY BOARD #14

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 27, 2004, acting on Department of Buildings Application No. 301738813 reads:

"Extension to existing 1 family dwelling is contrary to  
ZR 23-141(a) Floor Area Ratio,  
ZR 23-141(a) Open Space Ratio,  
ZR 23-47 Rear Yard,  
ZR 23-48 Minimum Side 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 September 21, 2004 after due publication in The City Record, and then to October 5, 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. §73-622 to

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 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 permit the legalization of a prior enlargement to an existing single family residence (Use Group 1) located in an R2 zoning district, as well as a proposed small extension in the front of the residence, neither of which comply with the zoning requirements for floor area ratio, open space ratio, rear yards, and minimum side yard, contrary to Z.R. §§23-141(a), 23-47 and 23-48; and

WHEREAS, Community Board 14, Brooklyn recommended disapproval of this application, as it is for legalization of work already completed; and

WHEREAS, the subject lot is located 130 feet north of the intersection of Avenue N and East 28th Street, and has a total lot area of approximately 3,000 sq. ft.; and

WHEREAS, the applicant states that the subject premises is an existing two and a half-story residential structure, which was enlarged in the rear by its owner approximately two years ago without proper permits; and

WHEREAS, the applicant now seeks a legalization of this enlargement; and

WHEREAS, the proposal also contemplates a small extension in the front of the structure; and

WHEREAS, the application proposes a floor area ratio of 1.02 (the maximum floor area ratio is .5); an open space ratio of 61.0 (the minimum open space ratio is 150.0); a rear yard of 21.88 feet (a rear yard of 30 feet is required) and a minimum side yard of 4.13 feet (a side yard of 5.0 feet is required); 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 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. §§73-622 and 73-03.

---

# 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 617.13 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 to permit the legalization of a prior enlargement to an existing single family residence (Use Group 1) located in an R2 zoning district, as well as a proposed small extension in the front of the residence, neither of which comply with the zoning requirements for floor area ratio, open space ratio, rear yards, and minimum side yard, 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 marked "Received May 4, 2004" - (7) sheets and "September 23, 2004" -(1) sheet; and on further condition;

THAT a new Certificate of Occupancy will be obtained for the subject premises from the Department of Buildings within one year from the date of this grant;

THAT there shall be no habitable room in the cellar;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT 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;

THAT the Department of Buildings must ensure compliance 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 5, 2004.

---

### 361-02-BZ

APPLICANT - Marianne Russo, for 214 25<sup>th</sup> Street Corporation, owner.

SUBJECT - Application December 13, 2002 and updated January 5, 2004 - under Z.R. §72-21 to permit the proposed renovation and conversion of an existing factory building, to create 15 unit loft type apartments, with five parking spaces in the mews, a garden courtyard, and the addition of floor area to the center of the front structure, located in an M1-1D district, which does not meet the zoning requirements for rear lot line, parking, height and setback, is contrary to Z.R. §42-00, §43-61(d), §43-61(c) and §44-27.

PREMISES AFFECTED - 214 25<sup>th</sup> Street, between Fourth and Fifth Avenues, Block 655, Lot 13, Borough of Brooklyn.

### COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Peter Hirshman, Marianne Ross, Doris Sibling and Demyse Montegot.

**ACTION OF THE BOARD** - Laid over to December 14, 2004, at 1:30 P.M., for continued hearing.

### 102-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Southside Realty Holdings, LLC, owner.

SUBJECT - Application April 3, 2003 - under Z.R. §72-21 to permit the proposed development of two residential buildings with underground accessory parking and an open recreation space between the two buildings, Use Group 2, located in an M3-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 291 Kent Avenue, 35/37 South Second Street and 29/33 South Third Street, east side of Kent Avenue, between South Second and Third Streets, Block 2415, Lots 10, 14, 15, 41-43, 114 and 116, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jordan Most.

For Opposition: Peter Bassett, Steven Frankel, Philipp Mohr, David Brody and Janyce ?.

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 1:30 P.M., for continued hearing.

---

### 186-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Mount Carmel Plaza, LLC, owner.

SUBJECT - Application June 4, 2003 - under Z.R. §72-21 to permit the proposed seven story multiple dwelling, Use Group 2, with a total of sixty residential units and twenty-four parking spaces, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 525 Union Avenue, west side, 48' south of Withers Street, Block 2315, Lot 14, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jordan Most and Harold Weinberg.

**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 November 23, 2004, 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.

PREMISES AFFECTED - 1380 62<sup>nd</sup> Street, northwest corner of 14<sup>th</sup> Avenue, Block 5733, Lot 36, Borough of Brooklyn.

### COMMUNITY BOARD #10BK

APPEARANCES -

---

# MINUTES

---

For Applicant: Stuart Klein, S. Schirripa, and Joseph Lervasi.

**ACTION OF THE BOARD**- Laid over to December 7, 2004, at 1:30 P.M., for continued hearing.

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 #7

### APPEARANCES -

For Applicant: Eric Palatnik.

For Opposition: Beverly McDermott and Beverly McDermott.

**ACTION OF THE BOARD**- Laid over to December 7, 2004, at 1:30 P.M., for continued hearing.

---

## 40-04-BZ

APPLICANT - Agusta & Ross, for Steven Witriol, owner.

SUBJECT - Application February 13, 2004 - under Z.R. §72-21 to permit the proposed change of use from an automobile repair and used vehicles sales (Use Group 16), previously approved by the Board under Cal. No. 56-95-BZ, to a retail store (Use Group 6), located in an R5 zoning district, which is contrary to Z.R. §22-00.  
PREMISES AFFECTED - 2252 Linden Boulevard, southeast corner of Cleveland Street, Block 4360, Lot 1, Borough of Brooklyn.

## COMMUNITY BOARD #5BK

### APPEARANCES -

For Applicant: Mitchell Ross.

### 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 October 26, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 70-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Rudolph Semar, owner; Coliseum Gym & Fitness Center, lessee.

SUBJECT - Application March 2, 2004 - under Z.R. §73-36 to permit the legalization of a change in occupancy from a "factory and storage" building, to a physical culture establishment, located in an M1-1 zoning district.

PREMISES AFFECTED - 69-91 75th Street, a/k/a 75-13 71st Avenue, northeast corner, Block 3794, Lot 77, Borough of Queens.

## COMMUNITY BOARD #5Q

---

## 3-04-BZ

### APPEARANCES -

For Applicant: Adam W. Rothkrug and Stacy Theodosopoulos.

### 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 October 26, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 139-04-BZ

APPLICANT - Eric Palatnik, P.C., for Miriam Brecher, owner.

SUBJECT - Application March 24, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, located within an R2 zoning district, which does not comply with the zoning requirement for allowable floor area, open space and rear yard, is contrary to Z.R. §23-141 and §23-47.

PREMISES AFFECTED - 1259 East 28th Street, between Avenues "M" and "L", Block 7646, Lot 21, Borough of Brooklyn.

## COMMUNITY BOARD #14

### APPEARANCES -

For Applicant: Eric Palatnik.

### 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 October 19, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 166-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Rhonda Schwerd, owner.

SUBJECT - Application April 22, 2004 - 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, lot coverage, side yard, rear yard and perimeter wall height, is contrary to Z.R. §23-141, §23-461A, §23-47 and §23-631.

PREMISES AFFECTED - 1765 East 23rd Street, east side, between Quentin Road and Avenue "R", Block 6806, Lot 65, Borough of Brooklyn.

## COMMUNITY BOARD #15

### APPEARANCES -

---

# MINUTES

---

For Applicant: Richard Lobel.

**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 October 26,  
2004, at 1:30 P.M., for decision, hearing closed.

---

**183-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Dynasty 23rd Street  
Realty, Inc., owner; MOA, lessee.

SUBJECT - Application April 30, 2004 - under Z.R. §73-36 to  
permit the proposed physical culture establishment on the second  
floor of a five story commercial building, located in a C6-3X zoning  
district, which requires a special permit as per Z.R. §32-10.

PREMISES AFFECTED - 206 West 23rd Street, south side,  
between Seventh and Eighth Avenues, Block 772, Lot 52,  
Borough of Manhattan.

**COMMUNITY BOARD #4M**

APPEARANCES -

For Applicant: Janice Cahalane.

**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 October 26,  
2004, at 1:30 P.M., for decision, hearing closed.

---

**191-04-BZ**

APPLICANT - Eric Palatnik, P.C., for Jeffrey Knobel, owner.

SUBJECT - Application May 7, 2004 - under Z.R. §73-622 to  
permit the proposed enlargement of an existing single family  
residence, Use Group 2, located in R5 zoning district, which does  
not comply with the zoning requirements for floor area, open space  
and rear yard, is contrary to Z.R. §23-141(a) and §23-47.

PREMISES AFFECTED - 1376 East 24th Street, between  
Avenues "N and "M", Block 7659, Lot 79, Borough of Brooklyn.

**COMMUNITY BOARD #14**

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 October 26,  
2004, at 1:30 P.M., for decision, hearing closed.

---

**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 #8**

APPEARANCES -

For Applicant: Jordan Most.

**ACTION OF THE BOARD -** Laid over to November  
23, 2004, at 1:30 P.M., for continued hearing.

---

**284-04-BZ**

APPLICANT - Raymond Levin, Wachtel & Masyr, LLP, for  
ERMA Realty LLC, owner.

SUBJECT - Application August 11, 2004 - under Z.R. §§73-03  
and 73-50 to permit the proposed construction of a one story  
warehouse building, located in an M1-1 and R6/C2-3C zoning  
district, that will encroach within the 30-foot open area along district  
boundaries coincident with rear lot lines of two adjoining zoning lots,  
is contrary to Z.R. §43-302.

PREMISES AFFECTED - 2064/2128 Atlantic Avenue and 268/80  
Saratoga Avenue, between Howard and Saratoga Avenues, Block  
1432, Lots 5-19, 22,25, 28, 30-33 and 35, Borough of Brooklyn.

**COMMUNITY BOARD #16**

APPEARANCES -

For Applicant: Raymond Levin.

**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 October 26,  
2004, at 1:30 P.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 5:45 P.M.

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 42-43

October 28, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**SATISH BABBAR, *Vice-Chair***

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	737-738
<b>CALENDAR</b> of November 23, 2004	
Morning .....	739
Afternoon .....	740

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, October 19, 2004**

Morning Calendar .....741

**Affecting Calendar Numbers:**

554-54-BZ	6201 Avenue U, Brooklyn
40-63-BZ	1199 Park Avenue, Manhattan
1018-65-BZ	159-04 Cross Bay Boulevard, Queens
221-88-BZ	102-01 66 <sup>th</sup> Road, 102-14 66 <sup>th</sup> Avenue and 66-06 103 <sup>rd</sup> Street, Queens
67-91-BZ	260-09 Nassau Boulevard, 54-47 to 54-67 Little Neck Parkway, Queens
88-92-BZ	3007 East Tremont Avenue, Bronx
371-29-BZ	1210-1230 East 233 <sup>rd</sup> Street, Bronx
457-56-BZ	152/4 India Street, Brooklyn
780-56-BZ	137-21 Liberty Avenue, Queens
949-57-BZ	2100 Williamsbridge Road, Bronx
799-62-BZ	501 First Avenue, a/k/a 350 East 30 <sup>th</sup> Street, Manhattan
67-79-BZ	80 Varick Street and 4 Grand Street, Manhattan
283-90-BZ	1400 Clove Road, a/k/a Oswego Street, Staten Island
173-94-BZ	165-10 144 <sup>th</sup> Road, Queens
236-98-BZ	103-117 Kent Avenue, Brooklyn
256-01-BZ	219-06 Hempstead Avenue, Queens
383-03-A	5 Beekman Street, Manhattan
213-04-A	40 Queens Walk, Queens
214-04-A	18 Essex Walk, Queens
215-04-A	4 Jamaica Walk, Queens
216-04-A	14 Essex Walk, Queens
217-04-A	464 Seabreeze Walk, Queens
218-04-A	100-23 39 <sup>th</sup> Avenue, Queens
263-03-A	1638 Eighth Avenue, Brooklyn
15-04-A	8 Reynolds Street, Staten Island

---

# CONTENTS

---

Afternoon Calendar .....757

**Affecting Calendar Numbers:**

183-03-BZ	118 Berry Street, Brooklyn
208-03-BZ	2555 Shell Road, Brooklyn
260-03-BZ	20 Grand Avenue, Brooklyn
373-03-BZ	293 East 207 <sup>th</sup> Street, Bronx
388-03-BZ	444 Broadway, Manhattan
17-04-BZ	2323 Avenue "S", Brooklyn
139-04-BZ	1259 East 28 <sup>th</sup> Street, Brooklyn
205-04-BZ	375 Tennyson Drive, Staten Island
193-03-BZ	824/34 Kent Avenue, Brooklyn
255-03-BZ	1019 Surf Avenue, Brooklyn
273-03-BZ thru 285-03-BZ	211-51/49/47/45/43/41 and 211-54/52/50/48/46/44/42 94 <sup>th</sup> Road, Queens
287-03-BZ	430 Keap Street, Brooklyn
343-03-BZ	90 Havemeyer Street, Brooklyn
9-04-BZ	114 Walworth Street, Brooklyn
125-04-BZ	247-39 Jamaica Avenue, Queens
136-04-BZ	3132 Fort Hamilton Parkway, Brooklyn
168-04-BZ	500 Canal Street, Manhattan
173-04-BZ	5/9 West 37 <sup>th</sup> Street, Manhattan
190-04-BZ	2184 Mill Avenue, a/k/a 6001 Strickland Avenue, Brooklyn
242-04-BZ	1440 East 26 <sup>th</sup> Street, Brooklyn

---

# DOCKETS

---

New Case Filed Up to October 19, 2004

---

**326-04-BZ** B.BK. 6208/16 Strickland Avenue, northeast corner of Mill Avenue, Block 8656, Lot 19, Borough of Brooklyn. Applic.#301780874. Proposed construction of a new synagogue on the subject location, to replace an existing one already located on the site, creates non-compliance with respect to floor area ratio, wall height, sky exposure plane, also the proposed number of parking spaces is less than minimum required, is contrary to Z.R. §24-111, §23-141, §24-521, §25-18 and §25-31.

**COMMUNITY BOARD #18BK**

---

**327-04-BZ** B.Q. 66-35 108<sup>th</sup> Street, between 66<sup>th</sup> Road and 67<sup>th</sup> Avenue, Block 2175, Lot 1, Borough of Queens. Applic. #401995828. Proposed enlargement to an existing community facility(school), which does not meet the floor area, front yard, height and setback requirements, is contrary to Z.R. §24-11, §24-34 and §24-521.

**COMMUNITY BOARD #1Q**

---

**328-04-BZ** B.BK. 110 Franklin Avenue, between Park and Myrtle Avenues, Block 1898, Lots 49 and 50, Borough of Brooklyn. N.B. #301792503. Proposed construction of a six story residential building, with twelve dwelling units, Use Group 2, located in an M1-1 zoning district, does not comply with zoning requirements for use, bulk and parking provisions, is contrary to Z.R. §42-00, §43-00 and §44-00.

**COMMUNITY BOARD #3BK**

---

**329-04-A** B.Q. 10-03 Channel Road, (aka 100<sup>th</sup> Place), west side, 33.94' south of 197<sup>th</sup> Avenue, Block 15475, Lot 26, Borough of Queens. Applic. #401970863. 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.

**330-04-BZY** B.BX. 3220/28 Arlington Avenue and 3223 Netherland Avenue, 200' north of the intersection of 232<sup>nd</sup> Street, also Arlington and Netherland Avenues, Block 5788, Lots 78, 80, 84 and 117. N.B. #200859053-01. Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

**331-04-BZ** B.M. 26 Cortlandt Street, northeast corner of Dey Street, Block 63, Lots 3 and 6, Borough of Manhattan. Applic. #101013957. Proposed expansion of an existing mezzanine (department store), located in a C5-5LMSD zoning district, which exceeds the maximum floor area, is contrary to Z.R. §33-122.

**COMMUNITY BOARD #1M**

---

**332-04-BZ** B.BK. 1410/14 East 24<sup>th</sup> Street, between Avenues "N and O", Block 7677, Lots 33 and 34 (tentative 33), Borough of Brooklyn. Applic. #301598858. Proposed enlargement of a single family frame dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for open space, floor area and rear yard, is contrary to Z.R. §23-141(a) and §23-47.

**COMMUNITY BOARD #14BK**

---

**333-04-BZY** B.BX. 640 West 237<sup>th</sup> Street, block bounded by Henry Hudson Parkway, West 236<sup>th</sup> Street and Independence Avenue, Block 5903, Lots 283 (tentative), and 299 and 300 (tentative), Borough of The Bronx. N.B. #200876436-01. Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

**334-04-BZ** B.Q. 135-28 Roosevelt Avenue, between Prince and Main Streets, Block 5036, Lot 26(aka 25/26), Borough of Queens. N.B. #401746713. Proposed construction of a seven-story mixed-use building containing retail, general office and community facility space, which does not meet the requisite parking, loading, sky exposure plane and setback requirements, is contrary to Z.R. §36-21, §33-432 and §36-62.

**COMMUNITY BOARD #7Q**

---

**335-04-BZ** B.Q. 60-11 83<sup>rd</sup> Place, a/k/a 60-13 83<sup>rd</sup> Place, between Elliot and 60<sup>th</sup> Avenues, Block 2913, Tentative Lot 63, Borough of Queens. Applic. #401958832. Proposed erection of a three-story, three family dwelling, located in an R4 zoning district, which does not qualify under the Predominantly Built Up Regulations, is contrary to Z.R. §12-10.

**COMMUNITY BOARD #5Q**

---

---

# DOCKETS

---

**336-04-BZ** B.Q. 60-15 83<sup>rd</sup> Place,  
between Elliot and 60<sup>th</sup> Avenues, Block 2913, Tentative  
Lot 62, Borough of Queens. Applic. #401958841.  
Proposed erection of a three-story, three family dwelling,  
located in an R4 zoning district, which does not qualify  
under the Predominantly Built Up Regulations, is contrary  
to Z.R. §12-10.

**COMMUNITY BOARD #5Q**

---

**337-04-BZ** B.Q. 60-17 83<sup>rd</sup>  
Place,  
between Elliot and 60<sup>th</sup> Avenues, Block 2913, Tentative  
Lot 161, Borough of Queens. Applic. #401958850.  
Proposed erection of a three-story, three family dwelling,  
located in an R4 zoning district, which does not qualify  
under the Predominantly Built Up Regulations, is contrary  
to Z.R. §12-10.

**COMMUNITY BOARD #5Q**

---

**338-04-BZ** B.BK. 806/14 Coney  
Island  
Avenue, west side, 300.75' north of Ditmas Avenue, Block  
5393, Tentative Lot 27, Borough of Brooklyn. Alt.1  
#301261612. 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.

**COMMUNITY BOARD #12BK**

---

**339-04-BZ** B.Q. 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. Alt.1 #401976723. The  
reestablishment of an expired special permit, previously  
granted by the Board under Calendar Number 202-29-BZ,  
which permitted an automotive service station in an R3-1  
zoning district, also the proposed installation of a new  
steel framed canopy over the existing fuel dispenser  
islands, requires a special permit from the Board as per  
Z.R.§§11-411 and 11-412.

**COMMUNITY BOARD #7Q**

---

**340-04-BZ** B.S.I. 1579 Forest  
Avenue,  
northeast corner of Decker Avenue, Block 1053, Lot 149,  
Borough of Staten Island. N.B. #500735136. Proposed  
two story drugstore, Use Group 6, located in a C4-1 zoning  
district, without the required parking, and partially intrudes  
in the height permitted in the rear yard, is contrary to Z.R.  
§33-23(B) and §36-21.

**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.**

---

# CALENDAR

---

**NOVEMBER 23, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, November 23, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## **SPECIAL ORDER CALENDAR**

### **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**

---

## **APPEALS CALENDAR**

### **273-04-A**

APPLICANT - Michael S. Greun , 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 & 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**

---

### **268-04-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, for Paula Saff, owner.

SUBJECT - Application July 30, 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

**NOVEMBER 23, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, November 23, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## **ZONING CALENDAR**

### **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 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**

---

### **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**

---

### **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**

---

requirements for floor area ratio, open space ratio and side and rear yards, is contrary to Z.R. §23-461, §23-141 and §23-47.

PREMISES AFFECTED - 1246 East 22nd Street, between Avenues "K" and "L", Block 7621, Lot 78, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

---

# CALENDAR

---

---

## **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 Winsor Avenue, Block 2285, Lots 1 and 45, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

---

*Pasquale Pacifico, Executive Director*

**REGULAR MEETING  
TUESDAY MORNING, OCTOBER 19, 2004  
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, August 10, 2004, were approved as

printed in the Bulletin of August 19, 2004, Volume 89, No. 32-34.

---

## **SPECIAL ORDER CALENDAR**

### **554-54-BZ**

APPLICANT - Sheldon Lobel, P.C., for Mill Basin Realty Corp., owner.

# MINUTES

SUBJECT - Application June 22, 2004 - reopening for an extension of time to obtain a Certificate of Occupancy.

PREMISES AFFECTED - 6201 Avenue U, Avenue U and Mill Avenue, Block 8405, Lot 44, 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, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, this application under Z.R §§72-01 and 72-22, for a waiver of the Rules of Practice and Procedure and an extension of time to obtain a Certificate of Occupancy for a gas station; and

WHEREAS, a public hearing was held on this application on September 28, 2004 after due notice by publication in *The City Record*, and then to decision on October 19, 2004; and

WHEREAS, Community Board 18, Brooklyn submitted a letter to the Board, stating that the property owner had abandoned the site, erected a make-shift fence and allowed garbage to accumulate; and

WHEREAS, the applicant has submitted invoices that indicate over \$25,000 spent during the last year to clean and maintain the site, including disposal of garbage, removal of weeds, removal of snow and ice and maintenance of a fence which was installed for security purposes; and

WHEREAS, the applicant also submitted photos showing the condition of the site; and

WHEREAS, the applicant states that construction will occur in the second quarter of 2005, and that construction will be completed and a new certificate of occupancy obtained by the end of 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 April 13, 1966, 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

WHEREAS, this application is a request for a waiver of the Rules of Practice and Procedure, a re-opening and an extension of the term of the variance, which expired on April 23, 1978; 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 21, 2004, and then to decision on October 19, 2004; and

WHEREAS, Community Board No. 8, Manhattan, recommended approval of this application; and

WHEREAS, on April 23, 1968, the Board granted an application 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; on the

an additional two years from the date of this resolution to expire on October 19, 2006; *on condition*;

THAT all fencing shall be maintained in good 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 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, October 19, 2004.

**40-63-BZ**

APPLICANT - Francis R. Angelino, Esq., for Park Hill Tenants Corp., owner; Majestic Car Park LLC, lessee.

SUBJECT - Application January 12, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which permitted transient parking in the unused and surplus spaces in an existing multiple dwelling accessory garage. PREMISES AFFECTED - 1199 Park Avenue, northeast corner of East 94th Street, Block 1525, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #8M**

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, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

same day, the Board also granted an appeal application under Calendar No. 41-63-A, pursuant to Section 60 of the Multiple Dwelling Law; and

WHEREAS, the subject garage is located on East 94<sup>th</sup> Street between Park and Lexington Avenues, and is in the cellar and sub-cellar levels of the multiple dwelling ("the Building") located at 1199 Park Avenue; and

WHEREAS, the applicant represents that at around the expiration date of the first 15 year term of the variance, the Building was being converted from a rental building to a cooperative corporation, and that the need to renew the variance was apparently not conveyed to the new owners when they took title in 1980; and

WHEREAS, the applicant asserts that the use and physical conditions of the garage have remained unchanged

# MINUTES

since the original grant, and that it was only upon a change in the operator of the garage that the expired variance was discovered; and

WHEREAS, the record indicates that at the time of the original grant neither the Board's resolution nor its approved drawings specified the number of parking spaces within the garage; and

WHEREAS, however, the current Certificate of Occupancy (No. 102441, issued in 1993), states the number of spaces as 31 in the sub-cellar and 28 in the cellar level, for a total of 59 spaces; and

WHEREAS, the applicant states that Z.R. §25-62, which provides that attended parking facilities must provide a minimum of 200 square feet of unobstructed standing or maneuvering area per space, allows 74 parking spaces in the subject garage, which has approximately 14,750 square feet of unobstructed standing or maneuvering area; and

WHEREAS, the Board has reviewed the evidence in the record and agrees with the Applicant's assertion that the maximum number of parking spaces was never specified by the previous Board grant and, therefore, the Board has no objection to an increase in the maximum number of parking spaces listed on the Certificate of Occupancy provided that the Department of Buildings ensures compliance with all applicable sections of the Zoning Resolution.

*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 April 23, 1968, 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 October 19, 2004 expiring on October 19, 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 October 5, 2004"- (3) sheets; and *on further condition*;

THAT the maximum number of parking spaces shall be 74;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5  
Negative:.....0

## THE RESOLUTION -

WHEREAS, this is an application under Z.R. §11-412, to request a waiver of the Rules of Practice and Procedure, and a re-opening to amend 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*, and then to decision on October 19, 2004; and

WHEREAS, Community Board No. 10, Queens, recommended approval of this application; and

WHEREAS, the premises and surrounding area had a site visit and neighborhood examination by a committee of the Board; 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 the layout of the parking garage shall be as approved by the Department of Buildings;

THAT appropriate notice of the parking space recapture rights of the residents of the building shall be given, including placement of signage in a conspicuous location within the garage;

THAT 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 #103582801)

Adopted by the Board of Standards and Appeals, October 19, 2004.

## 1018-65-BZ

APPLICANT - Sheldon Lobel, P.C., for Colin Development Corp., owner.

SUBJECT - Application June 8, 2004 - reopening for an amendment to the resolution to redevelop the existing gasoline service station and eliminate the automotive service bays and construction of a new convenience store.

PREMISES AFFECTED - 159-04 Cross Bay Boulevard, between 159th and 160th Avenues, Block 14013, Lot 64, Borough of Queens.

## COMMUNITY BOARD #10Q

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO GRANT -

WHEREAS, the premises is located on Cross Bay Boulevard, between 159<sup>th</sup> Street and 160<sup>th</sup> Street, Queens, on a lot split between C2-2/R3-1 and R2 zoning districts, and has a total lot area of 12,485 square feet; and

WHEREAS, the instant application seeks an amendment to redevelop the existing gasoline service station, through the removal of the old gasoline pumps, underground storage tanks and a 1,565 square foot accessory automotive service building, the installation of new gasoline pumps, underground storage tanks, and a canopy, construction of a 1,200 square foot convenience store with 600 square feet of sales area, and the provision of accessory parking spaces; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since March 30, 1954, when, under BSA Cal. No. 696-53-BZ, the Board granted a variance to permit the erection and maintenance of a gasoline service

# MINUTES

station, lubricatorium, car wash, motor vehicle repairs, storage and sale of accessories and office, and to permit the parking and storage of motor vehicles; and

WHEREAS, on December 1, 1954, the Board granted an amendment to the resolution, to allow an accessory building to be reduced in size; and

WHEREAS, on January 25, 1966, the Board granted another amendment of the resolution, to allow an enlargement of the existing accessory building; and

WHEREAS, on October 14, 1976, under BSA Cal. No. 258-75-BZ, an application was filed for a one story enlargement, which was withdrawn at the request of the applicant; and

WHEREAS, on September 6, 1988, under both BSA Cal. Nos. 1018-65-BZ and 144-88-BZ, the Board permitted additional amendments to the resolutions, allowing additional self-service pumps and installation of a fire suppression system, among other things; 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 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, so that as amended this portion of the resolution shall read: "To permit the redevelopment of the existing gasoline service station, through the removal of the old gasoline pumps, underground storage tanks and a 1,565 square foot accessory automotive service building, the installation of new gasoline pumps, underground storage tanks, and a canopy, construction of a 1,200 square foot convenience store with 600 square feet of sales area, and the provision of accessory parking spaces; *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 30, 2004'-(4) sheets; and *on further condition*;

THAT the premises shall be maintained free of debris and graffiti;

## 221-88-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for North Shore University Hospital, owner; Central Parking System of New York, Inc., lessee.

SUBJECT - Application April 16, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired on December 6, 2003, to allow an open parking on the roof of an accessory parking garage, located in an R7-1 zoning district.

PREMISES AFFECTED - 102-01 66th Road, 102-14 66th Avenue, 66-06 103rd Street, Block 2131, Part of Lot 16, Borough of Queens.

## COMMUNITY BOARD #6Q

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

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;

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 all fencing and landscaping shall be installed and/or maintained in accordance with the BSA-approved plans;

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 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. 401871854)

Adopted by the Board of Standards and Appeals, October 19, 2004.

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

## THE RESOLUTION -

WHEREAS, this application is a request for a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the special permit, which expired on December 6, 2003; and

WHEREAS, a public hearing was held on this application on September 21, 2004, after due notice by publication in *The City Record*, and then to decision on October 19, 2004; and

WHEREAS, the Queens Borough President and Community Board No. 6, Queens, recommend approval of this application; and

WHEREAS, on December 6, 1988, the Board granted a special permit under the subject calendar number to allow

# MINUTES

for open parking on the roof of an accessory parking garage for a proprietary hospital; and

WHEREAS, on December 14, 1993, the Board reopened and amended its resolution to extend the term of the special permit for an additional term of ten years from December 6, 1993; and

WHEREAS, the applicant represents that the subject garage has, for the last 15 years, operated in accordance with the terms and conditions of the Board's prior resolutions.

*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 special permit, which expired on December 6, 2003, 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 from December 6, 2003 expiring on December 6, 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 April 16, 2004"-(1) 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 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. 401820464)

WHEREAS, Community Board No. 11, Queens, recommends approval of this application; and

WHEREAS, the instant application seeks to extend the term of the variance for a period of ten years and amend the previous resolution by allowing a minor reconfiguration of the sales area, private office and utility room, in order to facilitate the sale of convenience store items, as well as to allow the placement of a container for storage and refrigeration of soft drinks; and

WHEREAS, the Board has exercised jurisdiction over the subject property since July 9, 1957, when it granted a variance under BSA Cal. No. 721-41-BZ, to permit a gasoline service station at the subject premises in a business use district for a term of ten years; on September 12, 1950, the Board extended the term of the variance for fifteen years; and

WHEREAS, on July 14, 1964, the Board approved an amendment allowing the addition of gasoline storage tanks and an extension of the term of this variance for a ten year term on September 28, 1965; and

Adopted by the Board of Standards and Appeals, October 19, 2004.

## 67-91-BZ

APPLICANT - Davidoff & Malito, LLP by Howard S. Weiss, Esq., for HNF Realty LLC, owner; Cumberland Farms, Inc., lessee. SUBJECT - Application March 16, 2004 and updated June 29, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired March 17, 2002 and for an amendment to allow the sale of convenience store items in place of accessory gasoline service station items.

PREMISES AFFECTED - 260-09 Nassau Boulevard, 54-47 to 54-67 Little Neck Parkway, northeast corner of the intersection with Little Neck Parkway, Block 8274, Lots 134, 135, 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, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application under Z.R. §§ 11-411 and 11-412, for a waiver of the Rules of Practice and Procedure, a re-opening and an amendment to the resolution, and an extension of the term of the variance that expired on March 17, 2002; 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 21, 2004 and then to decision on October 19, 2004; and

WHEREAS, on May 20, 1969, under BSA Cal. No. 66-69-BZ, the Board granted an application to amend the variance to allow an enlargement in lot area and floor area of the existing automotive service station; the term of this variance was extended for a ten year term by a resolution adopted on October 28, 1975; and

WHEREAS, on February 15, 1984, the Board adopted two resolutions under BSA Cal. Nos. 1058-83-A and 66-69-BZ, to permit the erection of a 28' x 48' canopy island for self-service devices, the installation of new self-service dispensers and a change of the office and sales area of the accessory building to an attendant's office; and

WHEREAS, the applicant states that the ownership of the property changed in 1986 and the new owner failed to apply to the Board to renew the variance upon its expiration on October 28, 1985; and

WHEREAS, in 1991, the new owner applied to the Board to renew the variance under BSA Cal. No 7-91-BZ; and on March 17, 1992, the Board adopted a resolution, granting a special permit pursuant to Z.R. § 11-411 for the

# MINUTES

operation of a gasoline station for a ten (10) year period; and

WHEREAS, pursuant to Z.R. §11-411, the Board may, in appropriate cases, renew the term of a previously granted variance for a term of not more than ten years; 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. §§11-411 and 11-412.

*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 minor reconfiguration of the sales area, private office and utility room to facilitate the sale of convenience store items, and the placement of a container for storage and refrigeration of soft drinks and to extend the term of the variance for a term of ten years, from March 17, 2002 to expire on March 17, 2012; *on condition* that all work shall substantially conform to drawings as filed with this application, marked 'Received March 16, 2004'-(3) sheets; and 'Received September 7, 2004'-(2) sheets; and *on further condition*;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT all signage shall conform to applicable zoning district requirements;

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 special permit is limited to a term of ten (10) years from the prior special permit's expiration, to expire on March 17, 2012;

THE RESOLUTION -

WHEREAS, this is an application under Z.R. §11-411, for a re-opening and an extension of the term of the variance, which expired on June 28, 2004; and

WHEREAS, a public hearing was held on this application on September 28, 2004, after due notice by publication in *The City Record*, and then to decision on October 19, 2004; and

WHEREAS, the premises and surrounding area had a site visit and neighborhood examination by a committee of the Board; and

WHEREAS, the premises is located on the northeast corner formed by the intersection of East Tremont Avenue and Ericson Place; and

WHEREAS, on January 12, 1954, under BSA Cal. No. 247-35-BZ, Vol. II, the Board granted, for a term of fifteen years, an application to permit the premises to be occupied as a eating and drinking establishment, on condition that the owner would acquire or lease, for the term of the variance, the site on the east side of Ericson Place for the parking of cars and motor vehicles patronizing the establishment; and

WHEREAS, on January 4, 1955, the grant was

THAT 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 #401822550)

Adopted by the Board of Standards and Appeals, October 19, 2004.

## 88-92-BZ

APPLICANT - Kenneth H. Koons, Architect, for 3007 Enterprise, Inc., owner.

SUBJECT - Application April 9, 2004 - reopening for an extension of term of variance which expired June 28, 2004 for an existing Diner which was enlarged in 1994 under Z.R. Section 11-411.

PREMISES AFFECTED - 3007 East Tremont Avenue, northeast corner Ericson Place, Block 5381, Lot 38, Borough of The Bronx.

### COMMUNITY BOARD #10BX

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, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

amended to permit a cellar under the building; and

WHEREAS, on November 26, 1968 and January 16, 1979, the Board granted extensions of term for ten years each; and

WHEREAS, on July 8, 1980, the Board amended the grant, to omit the required off-site parking on the east side of Ericson Place; and

WHEREAS, on May 9, 1989, the Board granted an extension of term for ten years from January 16, 1989; and

WHEREAS, on July 26, 1994, under BSA Cal. No. 88-92-BZ, the Board granted an application under Z.R. Sections 11-411 and 11-412, to permit a one-story enlargement to the existing establishment and an extension of the term for ten years to expire June 28, 2004; and

WHEREAS, pursuant to Z.R. § 11-411, the Board may, in appropriate cases, renew the term of a previously granted variance for a term of not more than ten years; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §11-411.

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens and amends* the resolution, said

---

# MINUTES

---

resolution having been adopted on June 26, 1994, 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 28, 2004, expiring on June 28, 2014; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked 'Received April 9, 2004'-(4) sheets and *on further condition*;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the 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."

Adopted by the Board of Standards and Appeals, October 19, 2004.

---

## 371-29-BZ

APPLICANT - Maduakolam Mish. Nnabuihe, for Getty Petroleum Corp., owner; Besan Trading Inc., lessee.

SUBJECT - Application January 9, 2004 - reopening for an APPEARANCES -

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 10 A.M., for continued hearing.

---

## 780-56-BZ

APPLICANT - Vassalotti Associates Architects, LLP, for John Desiderio, owner.

SUBJECT - Application April 1, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired December 1, 2002 for an additional ten (10) years for an automobile service station with accessory convenience store, located in an R4 zoning district.

PREMISES AFFECTED - 137-21 Liberty Avenue, Block 10017, lots 17 and 18, Borough of Queens.

## COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Hiram Rothkrug.

**ACTION OF THE BOARD** - Laid over to November 23, 2004, at 10 A.M., for continued hearing.

amendment to the resolution for tire shop as an accessory use to the existing automotive service station.

PREMISES AFFECTED - 1210-1230 East 233<sup>rd</sup> Street, northwest corner of Grenada Place and Edson Avenue, Block 4934, Lot 66, Borough of The Bronx.

## COMMUNITY BOARD #13BX

APPEARANCES -

For Applicant: Larry Atah.

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 November 9, 2004, at 10 A.M., for decision, hearing closed.

---

## 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

## 949-57-BZ

APPLICANT - Sheldon Lobel, P.C., for Motiva Enterprises, LLC, owner

SUBJECT - Application February 9, 2004 - reopening for an extension of term of variance which expires October 29, 2004 and for an amendment to authorize the legalization of the conversion of the building to an accessory convenience store.

PREMISES AFFECTED - 2100 Williamsbridge Road, northeast corner of Williamsbridge Road and Lydig Avenue, Block 4310, Lot 30, Borough of The Bronx.

## COMMUNITY BOARD #11BX

APPEARANCES -

For Applicant: Janice Cahalane.

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 November 9, 2004, at 10 A.M., for decision, hearing closed.

---

## 799-62-BZ

---

# MINUTES

---

APPLICANT - Sheldon Lobel, P.C., for 350 Condominium Association, owner.

SUBJECT - Application February 24, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance for an existing multiple dwelling, the use of the surplus spaces in the accessory garage for transient parking.

PREMISES AFFECTED - 501 First Avenue, a/k/a 350 East 30th Street, lower level parking garage along west of First Avenue, between East 30th and East 29th Streets, Block 935, Lot 7501, Borough of Manhattan.

**COMMUNITY BOARD #6M**

APPEARANCES -

For Applicant: Janice Cahalane.

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 November 9, 2004, at 10 A.M., for decision, hearing closed.

---

**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

**173-94-BZ**

APPLICANT - Board of Standards and Appeals

OWNER OF PREMISES: Richard Shelala.

SUBJECT - Application reopening for compliance to the resolution.

PREMISES AFFECTED - 165-10 144<sup>th</sup> Road, Block 13271, Lot 17, Borough of Queens.

**COMMUNITY BOARD #13Q**

APPEARANCES -

For Applicant: Adam W. Rothkrug and Robert Shelala.

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 10 A.M., dismissal calendar, for continued hearing.

---

**236-98-BZ**

APPLICANT - Deidre A. Carson, Esq., Greenberg Traurig, LLP, for Anthony Fericola, owner.

SUBJECT - Application June 1, 2004 - reopening for an extension of time to complete construction.

PREMISES AFFECTED - 103-117 Kent Avenue, northeast corner of the intersection of Kent Avenue and North 7th Street, Block 2317, Lots 1, 3, 5, 6, 7 and 36, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

Applicant:

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

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: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to January 25, 2005, at 10 A.M., for continued hearing.

---

**283-90-BZ**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for OPM Holdings, LLC, owner.

SUBJECT - Application January 7, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1400 Clove Road, a/k/a Oswego Street, southwest corner of Clove Road and Oswego Street, Block 658, Lot 1, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES -

For Applicant: Adam W. Rothkrug.

For Opposition: Mary Ann McGowan and Ali Alisedi.

**ACTION OF THE BOARD** - Laid over to November 16, 2004, at 10:00 A.M., for continued hearing.

---

Commissioner Chin.....5  
Negative:.....0

**ACTION OF THE BOARD** - Laid over to November 9, 2004, at 10 A.M., for decision, hearing closed.

---

**256-01-BZ**

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** - Laid over to November 23, 2004, at 10 A.M., for continued hearing.

---

**383-03-A**

APPLICANT - Zygmunt Staszewski, P.E., for Cammeby's Management Company, LLC, owner; Barry Pincus, lessee.

SUBJECT - Application December 9, 2003 - Proposed retention of

---

# MINUTES

---

the existing 10-story atrium and open access stair unenclosed, which is contrary to the "Old Code", Art.26-209(6.4.1.9)(2), as part of a "residential conversion" of an existing Commercial Class "E" building to a residential J-2 occupancy.

PREMISES AFFECTED - 5 Beekman Street, southwest corner of Nassau Street, southeast corner of Theater Alley, Block 90, Lot 14, Borough of Manhattan.

## COMMUNITY BOARD #1M

### APPEARANCES -

For Applicant: Caroline Harris, Zygmunt Staszewski, Gene Kaufman and Romona Franklin, Department of Buildings.

**ACTION OF THE BOARD - Appeal granted on condition.**

### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

WHEREAS, this is an administrative appeal, filed pursuant to section 666 of the New York City Charter, which requests relief from sections 26-238 of the old New York City Building Code (the "Old Code"), with respect to enclosure of a multi-level open shaft, and sections 277(9)(B)(i) and 277(9)(C) of the Multiple Dwelling Law (the "MDL"), with respect to proper egress through enclosed hallways and stairwells; and

WHEREAS, the subject building (the "Building") is known as the Temple Court Building and Annex, and was built in 1881-1890 with brick, stone and terra cotta above a two-story granite base; and

WHEREAS, appellant states: (1) that the exterior of the Building was designated as a Landmark on February 10, 1998; and (2) that it was designed under the Old Code and is currently not sprinklered; and

WHEREAS, the Building features a full-height interior skylighted atrium on one side (the "Atrium Side"), and a smaller open courtyard on the other side (the "Courtyard Side"); and

WHEREAS, there are ten stories on the Courtyard Side and nine stories and three penthouse levels on the Atrium Side; and

WHEREAS, the Building was designed for commercial use, and has historically been occupied commercially; and

WHEREAS, the overall development proposal is to retain retail on the first floor, with 128 residential rental apartments to be developed on the upper floors; and

WHEREAS, appellant represents that apartments may be combined in the future, resulting in reduction of the number of doorways leading into the atrium and/or enclosed corridors; and

WHEREAS, appellant seeks to retain the existing 10-story atrium and open access stair unenclosed; and

WHEREAS, section 26-238 of the Old Code requires

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 11, 2003, acting on Department of Buildings Application No. 103497823, reads, in pertinent part:

"Proposed egress from apartments via a multi-level open shaft (atrium) is contrary to Section 277(9)(B)(I) M.D.L.

Multi-level opening of shaft is contrary to Section 26-638 . . . (Old Code) [and] should be enclosed with materials having a three hour rating.

Atrium does not comply with M.D.L. Section 277(9)c. Provide access through an unenclosed corridor."; and

WHEREAS, a public hearing was held on this application on August 17, 2004 after due publication in The City Record, with a continued hearing on October 5, and then to decision on October 19, 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, Commissioner Joel Miele, and the Board's appeals examiner; and

that all multi-level shafts must be enclosed with three-hour fire resistive rated construction; and

WHEREAS, section 277(9)(B)(i) of the MDL requires an enclosed hallway and two independently enclosed stairs in a fireproof building; and

WHEREAS, section 277(9)(C) of the MDL provides that no more than two dwelling units shall open directly to a stair without an intervening enclosed hallway; and

WHEREAS, the Old Code objection originally applied to both sides of the Building, but, through a reconsideration granted by the Deputy Commissioner of the Department of Buildings on September 13, 2004, which removed the referenced and certain other Old Code objections related to the Courtyard Side, now only applies to the Atrium Side; and

WHEREAS, however, DOB, who appeared in opposition to this appeal, notes that the objection based upon Old Code §26-238 has not been waived, as it still applies to the Courtyard Side; and

WHEREAS, DOB states that the referenced objections pertain to appellant's proposal in the following ways: (1) the atrium, consisting of a series of more than two floor openings in successive floors, is a shaft and must be enclosed with three-hour fire resistive rated construction materials per Old Code §C26-638; according to the revised plans, the atrium remains unenclosed and thus violates Old Code §C26-638; (2) the central hallway to the stairs on the second through ninth floors still abuts the ten-story atrium without a fire resistive-rated assembly separating the hallways from the atrium; therefore, the hallways abutting the atrium on the second through ninth floors are unenclosed and do not comply with MDL §277(9)(b)(1); and (3) six apartment units on the second through eighth floors and four apartment units on the ninth floor open directly onto the central unenclosed hallway abutting the atrium in violation of

---

# MINUTES

---

MDL §277(9)(c); and

WHEREAS, appellant does not challenge the application of the referenced objections to its proposal, but rather argues that strict application of the Old Code and MDL requirements causes practical difficulties such that a waiver of strict application by the Board is warranted; and

WHEREAS, as discussed below and in various submissions made to the Board, appellant will provide various fire safety measures in lieu of strict compliance, and argues that such measures will provide for the safety of the proposed residential occupants in the event of a fire or other emergency; and

WHEREAS, appellant states that the practical difficulties of complying with enclosing and eliminating the atrium are significant from a cost and historic preservation perspective; and

WHEREAS, appellant notes that the cost of the entire renovation and rehabilitation of the Building is \$20 million, and that enclosing the atrium from the second floor to the top, creating inner corridors, theoretically could be done in one of two ways; and

WHEREAS, both of the stairwells will discharge to the street via enclosed fire rated passageways on the first floor, and the open staircase inside the atrium and the first floor of the atrium itself is not a required means of egress for upper floors; and

WHEREAS, appellant will provide all legally required signage in the atrium; and

WHEREAS, appellant will provide area smoke detectors around the atrium on each floor, spaced in accordance with New Building Code Reference Standard ("RS") 17-5 (NFPA 72/1993), and, in addition, will install two smoke beam detectors at the top of the atrium; and

WHEREAS, all detectors will be tested in accordance with NFPA 72/2002 National Fire Alarm Code; and

WHEREAS, all detectors will be connected to a new smoke detection/sprinkler alarm panel to be located in the 1<sup>st</sup> floor lobby; and

WHEREAS, appellant will also install low voltage addressable system smoke detectors with sounder bases in all apartments in the building; and

WHEREAS, appellant also proposes a detection/sprinkler alarm panel to be located in the 1<sup>st</sup> floor lobby, which will allow the 24-hour concierge to verify the alarm and call the Fire Department if necessary; and

WHEREAS, appellant states that such arrangement will provide early warning in case of an apartment fire; and

WHEREAS, appellant states that a new combination sprinkler/standpipe riser will be installed in the unenclosed staircase, in addition to the riser in one of the enclosed staircases, and that a fire hose cabinet will be provided as required for high rise residential buildings, to be located at the concierge desk in lobby; and

WHEREAS, appellant states that sprinkler requirements will be complied with through provision of a new 500 GPM fire pump and a jockey pump; and

WHEREAS, quick response extended coverage horizontal sprinkler heads (Reliable EC-9) will be utilized

WHEREAS, one of the ways would involve enclosing the landings and walkways in fire-rated glass that would cost in excess of \$5 million, which the applicant represents would be prohibitively expensive; and

WHEREAS, the other way is to enclose the atrium in fire rated sheetrock with small glass openings, which would cost approximately \$1 million, but which, according to the applicant, would cause the loss of visual access to a splendid historic interior, and consequently devalue the entire historic renovation aesthetically, decrease the value of the residential building, significantly reduce the price for the residential space, and thus cause practical difficulties for the project; and

WHEREAS, appellant notes that the existing atrium has horizontal dimensions of 40'-8 2" x 35'-5 2" for a total of 1,443 square feet, which exceeds the minimum dimension of 1,200 square feet as required by the currently applicable Building Code (the "New Building Code"); and

WHEREAS, appellant proposes to construct two new, enclosed fire rated stairs meeting the egress requirements for the residential load of the building; and throughout the residential areas of the building, including all apartments; horizontal, wall-mounted extended coverage sprinkler heads will be able to dispense water across the atrium; and

WHEREAS, in addition, the atrium opening will be provided with sprinkler heads at 6'-0" spacing; and

WHEREAS, exposed structural steel brackets supporting the atrium balconies will be provided with additional sprinkler heads to protect them from heat; and

WHEREAS, appellant states that sprinkler alarm waterflow switches and valve tamper switches will be installed on each floor and connected to the new smoke detection/sprinkler alarm panel to be located in the 1<sup>st</sup> floor lobby, and fire pump operation, pump failure and phase reversal will also be monitored by this smoke detection/sprinkler alarm panel; and

WHEREAS, appellant proposes that the panel will transmit all alarms, supervisory and trouble conditions to a FDNY approved Central Station; and

WHEREAS, appellant states that smoke purge requirements will be complied with through provision of a mechanical smoke purge system (exhaust and make-up fan) and manually released spring-loaded skylights; and

WHEREAS, in response to Board concerns, appellant amended its proposal in the following manner: (1) the total fan size was increased to 25,000 CFM, which will translate to 9.4 air changes per hour; (2) the purge system design was modified to include the third smoke intake at the top of the atrium; and (3) the entire smoke purge system, including the fans and controls, is now connected to the emergency power system, which will allow for uninterrupted operation of the smoke purge during a blackout; and

WHEREAS, appellant states that the smoke exhaust system will be activated by area smoke detectors located in the atrium, smoke beam detectors at the top of the atrium, duct smoke detectors on all HVAC units serving the atrium, sprinkler waterflow switches on sprinkler branches serving

---

# MINUTES

---

the atrium, as well as manually from the smoke purge panel in the 1<sup>st</sup> floor lobby; and

WHEREAS, activation of the smoke purge system will be preceded by release of all self-closing smoke-stop doors, which will separate the atrium from the egress corridors; and

WHEREAS, initial acceptance testing will be conducted in accordance with NFPA 92B "Guide for Smoke Management Systems in Malls, Atria and Large Areas", 2000 edition; and

WHEREAS, subsequent smoke exhaust system tests will be conducted monthly, as per a memorandum submitted by Cosentini Associates, dated 9/1/2004, which is part of the record; and

WHEREAS, a log book will be maintained of all tests; said log book shall comply with all legal requirements; and

WHEREAS, appellant states that it will install a one-way

WHEREAS, all emergency power systems will be tested in accordance with the NYC Building Code; and

WHEREAS, appellant states that a back-up gravity exhaust system will be provided by means of skylights located at the top of the atrium, which will be manually operable from the smoke purge panel and which will also feature fusible links; and

WHEREAS, at the request of the Board, smoke-stop doors to separate the atrium from the corridors leading to the two enclosed staircases on each floor have been added; and

WHEREAS, these doors will swing only in towards the Courtyard Side of the Building; and

WHEREAS, appellant states that: (1) these doors will be self-closing and normally held open by electromagnetic door holders connected to the fire alarm system; (2) activation of any automatic smoke or heat detection devices in the building (including sprinkler system activation) will release all the self-closing doors, which will then latch to create smoke barriers; and (3) door latching shall be adequate to prevent the doors from being opened under the pressures that may be created by hot smoke in the atrium area or in the enclosed corridors; and

WHEREAS, all smoke-stop door releases will be tested in accordance with NFPA 72/2002 National Fire Alarm Code; and

WHEREAS, also at the request of the Board, an enclosed, appropriately fire-rated corridor through a portion of the courtyard will be constructed, which will further facilitate access from all units of the Courtyard Side to the two newly created egress stairwells; and

WHEREAS, appellant has prepared a comparison of the proposed life-safety features to be installed against those required by the New Code, which shows that many requirements of the New Code are exceeded by the proposed conditions; and

WHEREAS, at the request of the Board, appellant has shown other examples of open atriums in building in New York City that have been approved, and which contain comparable fire safety features as those proposed; and

WHEREAS, the Fire Department made a submission dated August 17, 2004, and indicated that it has no

voice paging system for notification of the occupants and conducting effective evacuation, if necessary, and that this system will consist of a microphone and amplifiers to be built into the sprinkler/smoke detection panel in the 1<sup>st</sup> floor lobby, two loudspeakers per floor in the atrium area on floors 2 - 10, two loudspeakers per floor in the enclosed corridors near the staircase entrances on each floor, speakers in all staircases (every 4 floors) and speakers in each apartment for notification of the occupants; and

WHEREAS, this system will be tested semi-annually and a log book, which will comply with all legal requirements, will be maintained to indicate such testing; and

WHEREAS, appellant states that emergency power requirements will be met through provision of a diesel emergency generator sized to power all fire safety systems, including the emergency lighting; and

objection to the fire safety scheme and individual components as proposed for the Building by appellant; and

WHEREAS, the Board has reviewed the fire safety measures proposed by appellant and finds that such measures, when considered in the aggregate, will afford the proposed residential occupants a sufficient degree of safety should a fire or other emergency occur; and

WHEREAS, therefore, the Board finds that appellant has proven that there are practical difficulties in the way of carrying out the strict letter of the law and has proposed measures sufficient to address the fire safety concerns inherent to the site and the proposed use, such that the spirit of the law shall be observed, public safety secured, and substantial justice done; and

WHEREAS, accordingly, the Board finds that waiver of the above-mentioned Old Code and MDL provisions is warranted, upon certain conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals, pursuant to its authority under Section 666 of the Charter of the City of New York, waives the objections of the Department of Buildings as set forth above, and approves the plans labeled A203, A204, A205, A206, A207, A208 and A209, marked "Received October 15, 2004"-(7) sheets, and plan A301, marked "Received October 19, 2004"-B (1) sheet, on condition:

THAT the following fire safety measures shall be installed and maintained:

- two new, enclosed 2-hour fire rated stairs meeting the egress requirements for the residential load of the building;
- legally required signage in the atrium;
- area smoke detectors around the atrium on each floor, spaced in accordance with RS 17-5 (NFPA 72/1993);
- two smoke beam detectors at the top of the atrium;
- a smoke detection/sprinkler alarm panel to be located in the 1<sup>st</sup> floor lobby, which will monitor fire pump running, pump failure and phase reversal, as well as transmit all alarms, supervisory and trouble conditions to a FDNY

---

# MINUTES

---

- approved Central Station;
- a low voltage addressable system smoke detectors with sounder bases in all apartments in the building;
- a new combination sprinkler/standpipe riser to be installed in the unenclosed staircase;
- a fire hose cabinet to be provided as required for high rise residential buildings, located at the concierge desk in lobby;
- a 500 GPM fire pump and a jockey pump;
- quick response extended coverage horizontal sprinkler alarm waterflow switches and valve tamper switches, to be installed on each floor and connected to the new smoke detection/sprinkler alarm panel;
- a mechanical smoke purge system (exhaust and make-up fan) and manually released spring-loaded skylights, with a total fan size of 25,000 CFM, three smoke intakes at the top of the atrium, and with connection to the emergency power system;
- area smoke detectors at the top of the atrium, smoke beam detectors at the top of the atrium, duct smoke detectors on all HVAC units serving the atrium, sprinkler waterflow switches on sprinkler branches serving the atrium, as well as manual operation of the switches from the smoke purge panel in the 1<sup>st</sup> floor lobby;
- a one-way voice paging system for notification of the occupants and conducting effective evacuation, consisting of a microphone and amplifiers to be built into the sprinkler/smoke detection panel in the 1<sup>st</sup> floor lobby, two loudspeakers per floor in the atrium area on floors 2 - 10, two loudspeakers per floor in the enclosed corridors near the staircase entrances on each floor, speakers in all staircases (every 4 floors) and speakers in each apartment;
- a diesel emergency generator sized to power all fire safety systems, including the emergency lighting;
- a back-up gravity exhaust system, to be provided by means of skylights located at the top of the atrium, which will also be manually operable from the smoke purge panel and also will feature fusible links;
- smoke-stop doors to separate the atrium from the corridors leading to the two enclosed staircases on each floor have been added; and
- an enclosed, appropriately fire-rated corridor through a portion of the courtyard.

THAT testing of certain fire protection systems shall occur as follows:

- initial acceptance of the smoke purge system shall be conducted in accordance with NFPA 92B "Guide for Smoke Management Systems in Malls, Atria and Large Areas", 2000 edition;

- sprinkler heads (Reliable EC-9) to be sited throughout the residential areas of the building, including all apartments;
- horizontal, wall-mounted extended coverage sprinkler heads will be able to dispense water across the atrium;
- sprinkler heads at 6'-0" spacing at the atrium opening;
- exposed structural steel brackets supporting the atrium balconies, to be provided with additional sprinkler heads;
- subsequent smoke exhaust system tests shall be conducted monthly, as per a memorandum submitted by Cosentini Associates, dated 9/1/2004, which is part of the BSA record;
- a log book of all testing shall be maintained;
- all detectors shall be tested in accordance with NFPA 72/2002 National Fire Alarm Code;
- the one-way voice paging system shall be tested semi-annually and a log book (which will comply with all legal requirements) will be maintained to indicate such testing;
- all emergency power systems shall be tested in accordance with the New Building Code; and
- all smoke-stop door releases shall be tested in accordance with NFPA 72/2002 National Fire Alarm Code.

THAT apartment units may be combined without further review by the BSA if there is no increase in the amount of units doors into the atrium or courtyard;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all of the above-mentioned components of the various fire protection systems shall comply with all applicable legal provisions and materials acceptance protocol, as determined and approved by the Department of Buildings;

THAT notwithstanding the above-mentioned testing regime, any and all additional testing as required by the New Building Code or any other applicable law, rule or regulation, as determined by the Department of Buildings, shall be complied with;

THAT notwithstanding the above-mentioned safety measures, any and all additional safety measures as required by the New Building Code or any other applicable law, rule or regulation, as determined by the Department of Buildings, shall be complied with;

THAT the Board reserves its right to impose further conditions, based upon its own initiative or upon the recommendation of any governmental agency having jurisdiction over the subject building;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant

---

# MINUTES

---

laws, including those that pertain to fire safety, 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 19, 2004.

**213-04-A**

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; Sheila Schaberich, lessee.

APPEARANCES -

For Applicant: Catherine O'Reilly.

**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 May 13, 2004, acting on Department of Buildings Application No. 401820712, reads in pertinent part:

"A1- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law: also no permit can be issued since proposed construction does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code of the City of New York.

A2- The private disposal system is in the bed of a private 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 21, 2004 after due notice by publication in the *City Record*, and then to decision on October 19, 2004; 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, 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 13, 2004 acting on Department of Buildings Application No. 401820712, 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 4, 2004"- (1) sheet; and that the proposal comply with all applicable zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *and on further*

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 40 Queens Walk, west side, 203.23' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

*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 19, 2004.

**214-04-A**

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; Gregory Allen, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, has a private disposal system in the bed of a service road and is located partially within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 18 Essex Walk, north west corner of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Catherine O'Reilly.

**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 May 13, 2004 acting on Department of Buildings Application No. 401816558 which reads in pertinent part:

"A1- The site is located partially in the bed of a mapped street therefore no permit of Certificate of Occupancy can be issued as per Art. 3. Sect 35 of the General City Law.

# MINUTES

A2- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law: also no permit can be issued since proposed construction does not have at least 8% of total perimeter of the building

WHEREAS, a public hearing was held on this application on September 21, 2004 after due notice by publication in the *City Record*, and then to decision on October 19, 2004; 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 July 15, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; 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, 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 13, 2004 acting on Department of Buildings Application No. 401816558 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 October 4, 2004" - (1) sheet; and that the proposal comply with all applicable zoning district requirements; that all 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 5, 2004.

## 215-04-A

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; Michael Behringer, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 4 Jamaica Walk, west side, 30' south of

fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code of the City of New York.

A3- The private disposal system is in the bed of a mapped street is contrary to Department of Buildings Policy."; and

Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14Q

### APPEARANCES -

For Applicant: Catherine O'Reilly.

**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 May 13, 2004, acting on Department of Buildings Application No. 401816549, reads in pertinent part:

"A1- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law: also no permit can be issued since proposed construction does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code of the City of New York.

A2- The private disposal system is in the bed of a private 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 21, 2004 after due notice by publication in the *City Record*, and then to decision on October 19, 2004; 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, 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 13, 2004 acting on Department of Buildings Application No. 401816549, 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 4, 2004"- (1) sheet; and that the proposal comply with all applicable zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *and on further*

---

# MINUTES

---

*condition:*

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 5, 2004.

**216-04-A**

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; John Whelan, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has a private disposal system in the bed of a service road, is contrary to Section 36, Article 3 of the General City Law and Department of Buildings' Policy.

PREMISES AFFECTED - 14 Essex Walk, west side, 55.80' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Catherine O'Reilly.

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 May 13, 2004, acting on Department of Buildings Application No. 401820909 which reads in pertinent part:

"A1- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law: also no permit can be issued since proposed construction does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code of the City of New York.

A2- The private disposal system is in the bed of a private 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 21, 2004 after due notice by publication in the *City Record*, and then to decision on October 19, 2004; and

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, 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 13, 2004 acting on Department of Buildings Application No. 401820909 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 4, 2004"-(1) sheet; and that the proposal comply with all applicable zoning district requirements; that all 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 5, 2004.

**217-04-A**

APPLICANT - Joseph A. Sherry for Breezy Point Inc., owner; Kathryn Byrnes, lessee.

SUBJECT - Application May 25, 2004 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street and located partially within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED - 464 Seabreeze Walk, east side, 30.71' east of Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Catherine O'Reilly.

**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

# MINUTES

Negative:.....0

## THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated May 13, 2004 acting on Department of Buildings Application No. 401805490 which reads in pertinent part:

“A1- The site & building are located partially in the bed of a mapped street therefore no permit of Certificate of Occupancy can be issued as per Art. 3. Sect 35 of the General City Law.

A2- The site and building is not fronting on an official mapped street therefore no permit or Certificate of Occupancy can be issued as per Article 3, Section 36 of the General City Law: also no permit can be issued since proposed construction does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code of the City of New York.”; and

WHEREAS, a public hearing was held on this application on September 21, 2004 after due notice by publication in the *City Record*, and then to decision on October 19, 2004; 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 July 15, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated August 16, 2004, the Department of Transportation has reviewed the above project and states that the improvement of Rockaway Point Boulevard to the full mapped width, which would involve the taking of a portion of the applicant’s property (Block 16350, Lot 400) is not presently included in DOT’s Capital Improvement Program and therefore has no objection; 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 13, 2004 acting on Department of Buildings Application No. 401805490 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 October 4, 2004”- (1) sheet; and that the proposal comply with all applicable zoning district requirements; that all 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 5, 2004.

## 218-04-A

APPLICANT - The Agusta Group, for Tanya Tang, owner.

SUBJECT - Application May 26, 2004 - Proposed construction of a four story and cellar eight family residential building, which is located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 100-23 39th Avenue, north side, between 100 and 102nd Streets, Block 1767, Lot 60, Borough of Queens.

## COMMUNITY BOARD #3Q

APPEARANCES - None.

**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 14, 2004 acting on Department of Buildings Application No. 401862542 which reads in pertinent part:

“Respectfully request to waive objection #1- proposed building is within bed of a mapped street contrary to GCL 35”; and

WHEREAS, a public hearing was held on this application on September 21, 2004 after due notice by publication in the *City Record*, and then to decision on October 19, 2004; 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 July 15, 2004, the Department of Environmental Protection states that it has reviewed the above project and has requested that the applicant to amend the drainage plan to DEP’s satisfaction prior to the issuance of a building permit by the Department of Buildings; 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

---

# 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 July 14, 2004 acting on Department of Buildings Application No. 401862542 is modified under the power vested in the Board by Sections 35 of the General City Law, and that this appeal is granted, limited to the decision noted above, *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received October 5, 2004" (1) sheet; and that the proposal comply with all applicable zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; *and on further condition*:

THAT no building permit be issued by the Department of Buildings unless and until the Department of Environmental Protection has approved the amendment to the drainage plan, and proof of said approval is submitted to the Board;

THAT 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 5, 2004.

---

## 263-03-A

APPLICANT - John W. Carroll, Wolfson & Carroll, for Ben Bobker, owner.

SUBJECT - Application August 20, 2003 - An administrative appeal challenging the Department of Buildings' final determination dated August 13, 2003, in which the Department refused to revoke the certificate of occupancy, on the basis that the applicant had satisfied all objections regarding said premises.

PREMISES AFFECTED - 1638 Eighth Avenue, west side, 110-5' east of Prospect Avenue, Block 1112, Lot 52, Borough of Brooklyn.

### COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Romona Franklin, Department of Buildings.

**ACTION OF THE BOARD** - Laid over to without date, at 10 A.M., for continued hearing.

---

## 15-04-A

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on condition.

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Fred Corona, owner.

SUBJECT - Application January 21, 2004 - Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 8 Reynolds Street, south side, 100' west of St. Mary's Avenue, Block 2989, Tentatively Lot 28, Borough of Staten Island.

### COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Adam W. Rothkrug.

**THE VOTE TO CLOSE HEARING** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

**ACTION OF THE BOARD** - Laid over to November 9, 2004, at 10 A.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 11:25 A.M.

## REGULAR MEETING TUESDAY AFTERNOON, OCTOBER 19, 2004 2:00 P.M.

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

---

## ZONING CALENDAR

### 183-03-BZ

#### CEQR #03-BSA-199K

APPLICANT - Agusta & Ross, for North Berry Capital Group, LLC, owner.

SUBJECT - Application June 3, 2003 - under Z.R. §72-21 to permit the proposed construction of a four-story and cellar multiple dwelling (Use Group 2), to contain twenty-seven residential units and underground accessory parking for fourteen vehicles, located in an M1-2 zoning district, which is contrary to Z.R. Section 42-10.

PREMISES AFFECTED - 118 Berry Street, 116 North Seventh Street, a/k/a 116/26 North Seventh Street and 118/20 Berry Street, northwest corner, Block 2326, Lots 18 and 19 (tentative Lot 18), Borough of Brooklyn.

### COMMUNITY BOARD #1BK

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

---

# MINUTES

---

Negative:.....0

## THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated May 8, 2003, acting on Department of Buildings Application No. 301542141, reads:

“Proposed multiple dwelling (Use Group 2) is contrary to Z.R. 42-10. There are no applicable bulk, parking, or yard regulations for a new residential development in a manufacturing district. Must be referred to the B.S.A.”; and

WHEREAS, a public hearing was held on this application on January 13, 2004 after due publication in The City Record, with continued hearings on March 2, 2004, May 25, 2004, July 13, 2004, August 17, 2004, and September 28, 2004, and then to decision on October 19, 2004; 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 proposed construction of a four-story and cellar multiple dwelling (Use Group 2), to contain twenty-seven residential units and underground accessory parking for fourteen vehicles, located in an M1-2 zoning district, which is contrary to Z.R. §42-10; and

WHEREAS, Community Board 1, Brooklyn recommended disapproval of this application although its ULURP Committee recommended approval; and

WHEREAS, the subject site is a corner lot located at the intersection of North 7<sup>th</sup> and Berry Streets in Brooklyn, comprised of two tax lots (lot numbers 18 and 19) with 100 feet of frontage along Berry Street and 150 feet of frontage along North 7<sup>th</sup> Street, and a total lot area of 15,840 sq. ft.; and

WHEREAS, the record indicates that the site is improved with a one-story structure, used in the past as a food processing facility, which was erected on lot 19 in 1970 and which interconnects with a pre-existing former garage located on lot 18; and

WHEREAS, the proposal entails the demolition of the existing now-vacant structure and the construction of a multiple dwelling; and

WHEREAS, the subject application originally contemplated the construction of a six-story and cellar residential building with a Floor Area Ratio (“FAR”) of 3.25, to contain forty-three residential units, but, in response to Board and community concerns, has now been modified to a proposal for a four-story and cellar residential building with an F.A.R. of 2.0, to contain twenty-seven residential units, with fourteen accessory parking spaces on the cellar level; and

WHEREAS, the Board finds that the aforementioned unique physical conditions - namely, that the subject site is burdened with a functionally obsolete structure which cannot be reused and must be demolished, that the subway tunnel is located less than 10 feet from the site, and that the site has a history of residential use - when considered in the aggregate, create unnecessary hardship and practical

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 subject site is burdened with a functionally obsolete structure; (2) the site is in close proximity to an underground subway tunnel; and (3) the site is irregularly shaped and surrounded by residential uses; and

WHEREAS, the applicant represents that existing building is functionally obsolete, as its design was limited to food processing, with much attention and space given to refrigeration aspects and small compartmentalization of the spaces for food handling and storage; and

WHEREAS, the applicant states that after approximately a decade of use by the company which designed and constructed the building, both the company and the building fell into decline; and

WHEREAS, the record indicates that the exiting building is noncompliant with both modern Food and Drug Administration requirements for its intended use, as well as New York City Building Code requirements; and

WHEREAS, therefore, the applicant asserts that the building - with its host of design and other deficiencies - is unsuitable for any modern industrial use; and

WHEREAS, the applicant has provided subway location and survey plans obtained from the NYC Metropolitan Transportation Authority, which demonstrate that the site is located less than 10 feet from the “L” train line; and

WHEREAS, the applicant represents that the proximity to the subway tunnel distinguishes this property from others in the subject M1-2 portion of the submitted radius map, because all the other sites have already been developed with existing apartment buildings or otherwise active uses, leaving the subject site as the only remaining “soft” site in the vicinity; and

WHEREAS, the applicant has provided an additional engineering analysis which documents the significant additional expenditures necessary for foundation work due to the proximity of the subway tunnel; and

WHEREAS, the applicant notes the historical use of the site for residential uses: the subject site was developed from prior to the turn-of-the-century until the early 1960’s with eight multiple dwellings; and

WHEREAS, the applicant further notes that the subject site is located across both Berry and North 7<sup>th</sup> Street from R6 (M1-2) zoning, and that the majority of the uses immediately surrounding the site are residential four or five-story multiple dwellings; and

difficulties in developing the site in conformity with the current zoning; and

WHEREAS, the applicant states that there have been no economically acceptable offers by conforming users of the site, despite being actively marketed by local brokers; and

WHEREAS, the applicant has submitted a revised

---

# MINUTES

---

feasibility study, reflecting the increased cost of foundation work on the site owing to the proximity to the subway tunnel, which demonstrates that developing the entire premises with a conforming use would not yield the owner a reasonable return; and

WHEREAS, the Board finds the this feasibility study credible and sufficient; 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 is compatible with the mixed-use commercial/residential uses prevalent in the area; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map, and concludes that residential use of the site is appropriate given the context of the neighborhood; and

WHEREAS, specifically, the Board observes that the site is adjacent to an R6 (M1-2) residential zoning district, and that there are numerous residential uses surrounding the subject site; and

WHEREAS, the proposed bulk complies with the parameters of the proposed rezoning of the area, as promulgated by the Department of City Planning; 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 while still 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 and FAR, to a level that complies with the proposed rezoning noted above and the bulk regulations applicable to conforming manufacturing development, such that the waiver granted herein is one of use only; 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

THAT substantial construction 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

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-199K dated June 2, 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, 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 the proposed construction of a four-story and cellar multiple dwelling (Use Group 2), to contain twenty-seven residential units and underground accessory parking for fourteen vehicles, located in an M1-2 zoning district, which is contrary to Z.R. Section 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 September 28, 2004"-(10) sheets and "Received October 5, 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 the above conditions shall be noted in the Certificate of Occupancy; 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 19, 2004.

---

**208-03-BZ**

**CEQR #03-BSA-212K**

APPLICANT - Law Offices of Stuart A. Klein for Shell Road, LLC, owner; Orion Caterers, Inc., lessee.

# MINUTES

SUBJECT - Application June 19, 2003 - under Z.R. §72-21 to permit the legalization of an enlargement of a one-story commercial building to a two-story commercial building, occupied as a catering hall (Use Group 9), within a lot split by C1-2(R4) and M1-1 zoning district boundaries, which does not comply with underlying district regulations applicable to FAR, rear yard, and parking, contrary to Z.R. §§33-121, 33-292, 36-21, 43-12, 43-26, and 44-21.

PREMISES AFFECTED - 2555 Shell Road, east side, between Avenue "X" and Bouck Court, Block 7192, Lot 74, Borough of Brooklyn.

## COMMUNITY BOARD #11BK

APPEARANCES - None.

**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 October 31, 2003, acting on Department of Buildings Application No. 301263816, sets forth the following non-compliances with the Zoning Resolution:

1. Commercial: FAR (ZR 33-121), Rear Yard (ZR 33-292), Parking (ZR 36-21)
2. Manufacturing: FAR (ZR 43-12), Rear Yard (ZR 43-26), Parking (ZR 44-21); and

WHEREAS, a public hearing was held on this application on January 13, 2004 after due publication in *The City Record*, with continued hearings on February 24, 2004, March 23, 2004, May 14, 2004, June 22, 2004, July 20, 2004, August 17, 2004, September 21, 2004, and then to decision on October 19, 2004; 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 legalization of an enlargement of a one-story commercial building to a two-story commercial building, occupied as a catering hall (Use Group 9), within a lot split

WHEREAS, upon a Board request for further amplification of the site's uniqueness, the applicant stated a complying commercial building would be narrow and unmarketable, due to the convergence of the dimensions of the lot and the presence of the zoning district boundaries; and

WHEREAS, the Board finds that the aforementioned unique physical conditions (except for the alleged irregular shape of the lot), 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 has submitted a feasibility study purporting to show that developing the entire premises with a conforming use would not yield the owner a

by C1-2(R4) and M1-1 zoning district boundaries, which does not comply with underlying district regulations applicable to Floor Area Ratio ("FAR"), rear yard, and parking, contrary to Z.R. §§33-121, 33-292, 36-21, 43-12, 43-26, and 44-21; and

WHEREAS, Community Board No. 15, Brooklyn recommended disapproval of this application; and

WHEREAS, the subject lot: (1) is located on the east side of Shell Road between Avenue X and Bouck Court; (2) is an irregularly shaped parcel, with 104.3' of frontage along Shell Road, a depth of 152.9' on its northern boundary and 172.3' on its southern boundary, and a width of 102.5'; and (3) has a total lot area of approximately 16,666 sq. ft.; and

WHEREAS, the lot was originally improved upon with a one-story, 22' high commercial building with 11,175 sq. ft. of total floor area and a total FAR of .67; and

WHEREAS, through an illegal enlargement, the lot is now occupied by a two-story, 27' high building with 25,050 sq. ft. of total floor area and a total FAR of 1.5; and

WHEREAS, the existing catering hall purportedly had lawful non-conforming use status within the C1-2 portion of the lot upon commencement of the illegal enlargement, as evidenced by an issued certificate of occupancy; and

WHEREAS, approval of this variance will lead to the following non-compliances: (1) Commercial: an FAR of 1.44 (1.0 is permitted); no rear yard (30' feet is required); and 0 parking spaces (26 are required); and (2) Manufacturing: an FAR of 1.65 (1.0 is permitted); no rear yard (20' feet is required); and 0 parking spaces (19 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 strict compliance with underlying district regulations: (1) the site is split by three zoning districts; (2) the section of the lot within the C1-2(R4) zoning district has just 50' of frontage and can not be used for manufacturing, but only for commercial and retail uses; (3) the lot is irregularly shaped; and (4) the section of the lot within the M1-1 zoning district is too small for a viable manufacturing use and is poorly located for viable retail uses given that Shell Road is primarily industrial in nature; and

reasonable return; and

WHEREAS, the applicant's financial consultant approached the analysis of the subject application as if the illegal enlargement had not taken place, and did not figure in the cost of alteration of the building back to its original, permitted configuration; and

WHEREAS, the feasibility study analyzed the following alternative development scenarios: (1) the proposed legalization of the enlargement; (2) office use; and (3) retail use; and

WHEREAS, the feasibility study concludes that only the proposed enlargement obtained the owner a reasonable return; and

WHEREAS, the Board has determined that because of

---

# MINUTES

---

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 variance will not affect the character of the neighborhood and is compatible with the other buildings in the area in terms of height and bulk; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map, and concludes that the building as enlarged is compatible in terms of height and bulk with the surrounding buildings; and

WHEREAS, the Board notes that the applicant secured, through a lease, rights to a parking area for use of the patrons of the catering hall, located at 25-69 Shell Road, which provides 80 attended parking spaces; 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 applicant acknowledges that the enlargement was constructed illegally, but argues that the site conditions (the split lot condition and the location of the lot in an industrial area) compromise complying development regardless of any illegal construction; and

WHEREAS, the applicant further states, and the Board agrees, that the illegal addition, in of itself, does not constitute a self-created hardship

WHEREAS, therefore, 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 notwithstanding the absence of a DOB objection regarding Z.R. §52-43, its grant herein legalizes the otherwise unlawful enlargement of the non-conforming catering hall use; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; and

WHEREAS, the Board has conducted an environmental THAT the term of this variance shall be for five years, to expire on October 19, 2009;

THAT valet parking shall be provided for patrons of the catering establishment for the duration of the variance, and any renewal of the grant shall contain this condition;

THAT all fire safety measures as shown on the BSA-approved plans shall be installed and maintained;

THAT all sound attenuation measures as shown on the BSA-approved plans shall be installed and maintained;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT a certificate of occupancy be obtained within six

review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 03-BSA-212K, dated January 20, 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, 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 the legalization of an enlargement of a one-story commercial building to a two-story commercial building, occupied as a catering hall (Use Group 9), within a lot split by C1-2(R4) and M1-1 zoning district boundaries, which does not comply with underlying district regulations applicable to FAR, rear yard, and parking, contrary to Z.R. §§33-121, 33-292, 36-21, 43-12, 43-26, and 44-21; *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 21, 2004"-(2) sheets and "November 26, 2003"-(4) sheets; and *on further condition*;

months from the date of this grant;

THAT no temporary or permanent certificate of occupancy shall be issued until removal of all DOB objections as set forth on the DOB Objection Sheet, dated August 4, 2004;

THAT there shall be no occupancy of the second floor of the building until a certificate of occupancy is issued;

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

---

# 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) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 5, 2004.

---

## 260-03-BZ

### CEQR #04-BSA-026K

APPLICANT - Law Offices of Howard Goldman, PLLC, for 376 East 94th Street, Realty LLC, owner.

SUBJECT - Application August 14, 2003 - under Z.R. §72-21 to permit the legalization of sixty (60) residential units, in an existing seven story building, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 20 Grand Avenue, between Flushing and Park Avenues, Block 1877, Lot 35, Borough of Brooklyn.

### COMMUNITY BOARD #2BK

APPEARANCES - None.

**ACTION OF THE BOARD** - Applicant withdrawn.

**THE VOTE TO WITHDRAW** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5  
Negative:.....0

Adopted by the Board of Standards and Appeals, October 19, 2004.

---

## 373-03-BZ

### CEQR #04-BSA-099X

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 an off-site accessory parking lot, to be utilized by residents of a nearby apartment house, contrary to Z.R. §25-52; and

WHEREAS, the proposed parking lot would provide a maximum of eight parking spaces to be used by the residents of 3235 Hull Avenue, which is located on the corner of East 207<sup>th</sup> Street and Hull Avenue, approximately 300 feet from the subject site; and

WHEREAS, the subject site is an interior lot located on East 207<sup>th</sup> Street, 80 feet from the intersection of East 207<sup>th</sup> and Perry Avenue; 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 uniquely narrow (width of 25') and irregular in shape; and

APPLICANT - The Agusta Group, for 3235 Hull LLC, owner.

SUBJECT - Application December 2, 2003 - under Z.R. §72-21 to permit an off-site accessory parking lot, to be utilized by residents of a nearby apartment house, which is contrary to Z.R. §25-52.

PREMISES AFFECTED - 293 East 207<sup>th</sup> Street, north side, 80' west of Perry Avenue, Block 3343, Lot 683, Borough of The Bronx.

### COMMUNITY BOARD #7BX

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO REOPEN HEARING** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5  
Negative:.....0

**THE VOTE TO CLOSE HEARING** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5  
Negative:.....0

**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 November 10, 2003, acting on Department of Buildings Application No.200804353, reads:

“Accessory off-site parking lot located in an R7-1 zoning district contrary to section 25-52.”; and

WHEREAS, a public hearing was held on this application on August 10, 2004 after due publication in *The City Record*, with continued hearings on September 21, 2004, and then to decision on October 19, 2004; and

WHEREAS, the applicant states that although there are other narrow zoning lots within the 400 foot radius and beyond, most of these lots are developed with one or two-story pre-1961 buildings with no on-site parking; and

WHEREAS, the applicant states that in order to develop the property with an as-of-right residential building with the required on-site parking, the parking would have to be placed underground, and, with the provision of an elevator and stairs in the 1170 sq. ft. footprint building, there would be no room for a 10-foot parking corridor; and

WHEREAS, the Board finds that one of the aforementioned unique physical conditions - namely, the narrowness of the subject lot – when considered with the vacant status of the lot, creates a practical difficulty in developing the site in conformity with the current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the premises with a conforming residential use would not yield the owner a reasonable return; and

WHEREAS, the applicant asserts that in this area of the

# MINUTES

Bronx, on-street parking is extremely limited and off-street parking availability is scarce, and thus the proposed parking lot would have a beneficial impact on the surrounding area; and

WHEREAS, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under §72-21 of the Zoning Resolution; and

WHEREAS, the project is classified as a n 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-099X dated April 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; 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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 19, 2004.

## 388-03-BZ

### CEQR #04-BSA-107M

APPLICANT - Francis R. Angelino, Esq., for 444 Broadway Associates, LLC, owner; Five Points Fitness, LLC, lessee.

SUBJECT - Application December 12, 2003 - under Z.R. §73-36 to permit the legalization of a proposed physical culture establishment use, on the second floor of an existing mixed-use building, located within a M1-5B zoning district, contrary

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; 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 each and every one of the required findings under Z.R. §72-21, to permit an off-site accessory parking lot, to be utilized by residents of a nearby apartment house, which is contrary to Z.R. §25-52; 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, 2004"- (1) sheet; and on further condition;

THAT the term of this variance shall be for five years from the date of this grant, to expire on October 19, 2009, at which time the applicant must return to the Board with a revised financial analysis discussing the feasibility of conforming development at the site;

THAT appropriate signage be erected on each side of the vehicle gate facing the public sidewalk so that pedestrians are warned about vehicles backing out from the parking lot;

THAT an audible alarm system, warning of vehicles backing out from the parking lot, be installed and maintained;

THAT the above conditions be placed on the certificate of occupancy;

THAT substantial construction be completed and a certificate of occupancy be obtained in accordance with §72-23;

to Z.R. §42-31.

PREMISES AFFECTED - 444 Broadway, Bounded by Grand, Crosby and Howard Streets, Block 232, Lot 5, Borough of Manhattan.

### COMMUNITY BOARD #2M

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, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner dated September 10, 2003, acting on Department of Buildings Application No. 103469747, reads:

"The Proposed Physical Culture Establishment is not a permitted 'As-Of-Right' use in a M1-5B District. This use is contrary to ZR 42-31"; and

---

# MINUTES

---

WHEREAS, a public hearing was held on this application on September 21, 2004 after due notice by publication in *The City Record*, hearing closed and then to decision on October 19, 2004; 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, recommends approval of this application; and

WHEREAS, this is an application for under Z.R. §§73-36 and 73-03, to permit the legalization of a proposed physical culture establishment ("PCE") use on the second floor of an existing mixed-use building, located within a M1-5B zoning district, contrary to Z.R. §42-31; and

WHEREAS, the subject premises is a through lot between Broadway and Crosby Street, improved upon with a five story commercial loft building; and

WHEREAS, the applicant represents that the PCE has a total area (including the mezzanine) of 7,501 sq. ft., the majority of which (5,500 sq. ft.) is devoted to an open gym area where there are training machines and a boxing ring; and

WHEREAS the applicant represents that the PCE opened on September 23, 2003, prior to filing an application with the Board, because the build-out took longer than expected and the applicant needed to start paying rent and investors; and

WHEREAS, the applicant further states the PCE provides facilities for classes, instruction and programs for physical improvement, such as strength and resistance training, martial arts, Pilates stretching exercises and yoga,

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-107M dated December 12, 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, per the Landmarks Preservation Commission's ("LPC") comments of May 25, 2004, as the site is located in the Soho Cast Iron Historic District, a permit from LPC is required for all work prior to construction, and 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.

as well as the practice of massage performed by New York State licensed masseurs or masseuses; and

WHEREAS, the applicant represents that the subject premises is occupied by a number of commercial uses, all of which are compatible with the PCE; and

WHEREAS, the applicant has installed two layers of flooring to absorb vibrations and noise, as well as rubber brackets on all speakers, as a courtesy to neighbors; 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 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 73-03; and

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR Part 617.4 and;

*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 legalization of a proposed physical culture establishment use, on the second floor of an existing mixed-use building, located within a M1-5B zoning district, contrary to Z.R. §42-31; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 5, 2004"-(1) sheet; and *on further condition*;

THAT this grant shall be limited to a term of ten years from September 23, 2003, expiring September 23, 2012;

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 5:30 AM to 10:00 PM; Saturday 7:00 AM to 5:00 PM and Sunday 8:00 AM to 3:00 PM;

THAT sound attenuation measures shall be taken as

# MINUTES

reflected on the BSA-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT no building permit shall be issued until the Landmarks Preservation Commission issues its own permit;

THAT 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 19, 2004.

## 17-04-BZ

### CEQR #04-BSA-123K

APPLICANT - The Law Office of Fredrick A. Becker, for Renee Kubie, owner.

SUBJECT - Application January 28, 2004 - under Z.R. §72-21 to permit the legalization of an enlargement to an existing one-family dwelling (Use Group 1) located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, side and front

“The proposed legalization 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 Section 23-141 of the Zoning Resolution.
2. causes an increase in the lot coverage exceeding the allowable lot coverage and an increase of non-compliance in the open space as required by Section 23-141 of the Zoning Resolution.
3. proposed side yard is contrary to Section 23-461(a) of the Zoning Resolution.
4. proposed perimeter wall height is contrary to Section 23-631(b) of the Zoning Resolution.
5. proposed front yard is contrary to Section 23-45 of the Zoning Resolution.”; and

WHEREAS, a public hearing was held on this application on August 10, 2004, after due notice by publication in *The City Record*, with a continued hearing on September 14, 2004, and then to decision on October 19, 2004; 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 legalization of an enlargement to an existing one-family dwelling (Use Group 1) located in an R3-2 zoning

yards, and perimeter wall height, contrary to Z.R. §§23-141, 23-461(a), 23-631(b) and 23-45.

PREMISES AFFECTED - 2323 Avenue “S”, northwest corner of East 24<sup>th</sup> Street, Block 6829, Lot 42, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

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, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

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 20, 2004, acting on Department of Buildings Application No. 301677184, reads:

district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, side and front yards, and perimeter wall height, contrary to Z.R. §§23-141, 23-461(a), 23-631(b) and 23-45; and

WHEREAS, Community Board No. 15, Brooklyn, recommended approval of this application; and

WHEREAS, the record indicates that the subject premises consists of a corner lot located at the northwest corner of Avenue S and East 24<sup>th</sup> Street, with a width of 32' and a depth of 95', and a total lot area of approximately 3,040 square feet; and

WHEREAS, the lot is an Existing Narrow Lot as defined by the Zoning Resolution; and

WHEREAS, the record indicates that the subject premises is currently improved with a two-story, one-family dwelling, enlarged on the northerly side at the first and second floors; and

WHEREAS, the applicant represents that the building was constructed before 1961, and that prior to the illegal enlargement, the building was non-compliant with regard to Floor Area Ratio (“FAR”), lot size, lot coverage ratio, perimeter wall height, and side and front yards; and

WHEREAS, the enlargement increased the FAR from the pre-existing 0.66 to 0.77 (the maximum permitted is 0.5), increased the lot coverage ratio from 0.38 to 0.42 (the maximum permitted is 0.35), reduced one front yard from 10'-6" to 10'-1" (15'-0" is required), and legally reduced one side yard from 23'-0" to 17'-10" (a minimum of 5'-0" is

---

# MINUTES

---

required); and

WHEREAS, the Board notes that the subject application seeks to legalize pre-existing non-compliances which were unchanged by the illegal enlargement: the perimeter wall height remains at 22'-0" (the maximum permitted is 21'-0"), one side yard remains at 2'-11" (a minimum of 5'-0" is required), and one front yard remains at 10'-1" (15'-0" is required); and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties in developing the subject corner lot in compliance with underlying district regulations: the site is uniquely small and narrow; and

WHEREAS, as noted above, the applicant represents that the subject lot meets the definition of an Existing Narrow Zoning Lot, and that, pursuant to Z.R. §23-32, a one-family dwelling may not be constructed on a zoning lot with a width of less than 40 feet or with a lot area of less than 3,800 sq. ft.; and

WHEREAS, the applicant states that since the lot is a corner lot, a front yard of fifteen feet and ten feet is required, and since the lot is in an R3-2 zoning district, side yards of five feet and five feet four inches is required; when both requirements are applied, the resulting enlargement would be limited to 12 feet in width, with an interior space of only ten feet; and

WHEREAS, the applicant represents that the overall design of the enlargement is in keeping with other development in the area, and therefore would not impact the residential character of the community; and

WHEREAS, the submitted radius map, plans and photos indicate that the bulk of the subject proposal would be compatible with the surrounding residential buildings; 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 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 legalization of an enlargement to an existing one-family dwelling (Use Group 1) located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space, side and front yards, and perimeter wall height, contrary to Z.R. §§23-141, 23-461(a), 23-631(b) 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 June 9,

WHEREAS, the applicant states that a ten foot interior width would not produce a functional layout; and

WHEREAS, at the request of the Board, the applicant conducted a survey of nine blocks near the subject lot, in order to establish 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, the applicant states that the survey shows that the majority of the lots in the study area are deeper and smaller than the subject lot - of the 557 lots surveyed, only 12 (2.2%) are less than 100 feet deep and have a lot area equal to or less than the subject lot; and

WHEREAS, the applicant concludes that the subject lot is uniquely afflicted due to its atypical size and depth; and

WHEREAS, the Board finds that the aforementioned unique physical condition - namely the narrowness and small size of the subject corner lot - creates practical difficulties in developing the site in compliance with the applicable zoning provisions; and

WHEREAS, no financial feasibility study is required for this single-family dwelling development proposal; and

WHEREAS, however, the Board finds that without the requested waivers, the hardship inherent to the lot would result in a residential development that would not be habitable; and

2004"- (7) sheets; and "Received October 18, 2004"- (1) sheet; and *on further condition*;

THAT a 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;

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 19, 2004.

---

## 139-04-BZ

### CEQR #04-BSA-150K

APPLICANT - Eric Palatnik, P.C., for Miriam Brecher, owner.

SUBJECT - Application March 24, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R2 zoning district,

# MINUTES

which does not comply with the zoning requirements for floor area, open space and rear yards, contrary to Z.R. §§23-141 and 23-47.

PREMISES AFFECTED - 1259 East 28th Street, between Avenues "M" and "L", Block 7646, Lot 21, Borough of Brooklyn.

## COMMUNITY BOARD #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, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo 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 rear yards, contrary to Z.R. §§23-141 and 23-47; and

WHEREAS, the subject lot is located on East 28<sup>th</sup> Street, Brooklyn, between Avenues L and M, and has a total lot area of approximately 3,000 sq. ft.; and

WHEREAS, the subject premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the lot is improved upon with an existing two-story residential structure; and

WHEREAS, the applicant seeks a proposed floor area ratio of 0.95 (the maximum floor area ratio is 0.5); an open space ratio of 120.0 (the minimum open space ratio is 150.0); and a rear yard of 20 feet (a rear yard of 30 feet is required); and

WHEREAS, the applicant states that due to a sloping roof, only a portion of the attic level is deemed habitable floor area pursuant to the Zoning Resolution; 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 are outweighed by the advantages to be derived by the

Commissioner Chin.....5  
Negative:.....0

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 5, 2004, acting on Department of Buildings Application No. 301688911, reads, in pertinent part:

“(1) ZR 23-141 floor area proposed exceeds the allowable floor area ?

(2) ZR 23-47 proposed rear yard is less than the required rear yard of 30'

(3) open space ratio is contrary to ZR 23-141.”; and

WHEREAS a public hearing was held on this application on September 14, 2004 after due notice by publication in *The City Record*, and then to October 5, 2004 for decision; the decision date was then deferred to October 19, 2004; 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 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 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 marked “Received August 17, 2004”- (4) sheets and “October 19, 2004”-(2) sheets; and *on further condition*;

THAT there shall be no habitable room in the cellar;

THAT the FAR of the building shall be limited to .95;

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 the Department of Buildings shall review and confirm the total proposed floor area, including any floor area in the attic;

THAT all rooms to be occupied must comply with Building Code requirements as to habitability, as determined 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

# MINUTES

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, October 19, 2004.

**205-04-BZ**  
**CEQR #04-BSA-204R**

APPLICANT - Philip L. Rampulla, for Dominick Casale, owner.  
SUBJECT - Application May 18, 2004 - under Z.R. §72-21 to permit the proposed construction of a one-family dwelling located both in an R3-1 zoning district and the Special South Richmond Development District ("SRD"), which does not

- "1. ZR 107-461 The proposed single family detached dwelling located within an R3-1 Special South Richmond District does not provide the required front yard of 18' and 10' and is contrary to Section 107-461 ZR.
- 2. ZR 23-14 The proposed single family detached residence exceeds the Bulk requirements of Section 23-14 ZR, Floor Area Ratio.;" and

WHEREAS a public hearing was held on this application on September 28, 2004, after due notice by publication in *The City Record*, and then to decision on October 19, 2004; 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. 3, Staten Island, recommended approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a one-family dwelling located both in an R3-1 zoning district and the Special South Richmond Development District ("SRD"), which does not comply with the zoning requirements for front yard and floor area, contrary to Z.R. §§ 107-461 and 23-14; and

WHEREAS, the record indicates that the subject site is a corner lot located at the intersection of Tennyson Drive, Groton Street and an unnamed alley, which the applicant states was created by a filed map when this area was a bungalow community; 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 irregularly shaped, shallow in size, and small; and

WHEREAS, the subject zoning lot has four sides but a

comply with the zoning requirements for front yard and floor area, contrary to Z.R. §§107-461 and 23-14.

PREMISES AFFECTED - 375 Tennyson Drive, southwest corner of Groton Street, Block 5317, Lot 48, Borough of Staten Island.

**COMMUNITY BOARD #3SI**

APPEARANCES - None.

For Applicant: Philip Rampulla.

**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 May 11, 2004, acting on Department of Buildings Application No. 500690665, reads, in pertinent part:

triangular appearance, with a width of 40 feet at its widest point, and frontages of approximately 75 feet along Tennyson Drive and 76 feet along the unnamed alley; and

WHEREAS, the R3-1(SRD) regulations mandate the provision of an 18 foot front yard along Tennyson Drive, a 10 foot front yard along the unnamed alley, and one 5 foot side yard, which the applicant states would result in a single family dwelling with a total lot coverage of only 152.12 sq. ft. and a total floor area of 456 sq. ft.; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create practical difficulties in developing the site in strict compliance with the applicable zoning provisions; and

WHEREAS, no financial feasibility study is required for this single-family dwelling development proposal; and

WHEREAS, however, the Board finds that without the requested waivers, the hardship inherent to the lot would result in a residential development that would not be habitable; and

WHEREAS, the record indicates that the bulk of the subject proposal is consistent with the surrounding residential buildings; 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 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)

---

# MINUTES

---

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 dwelling located both in an R3-1 zoning district and the Special South Richmond Development District ("SRD"), which does not comply with the zoning requirements for front yard and floor area, contrary to Z.R. §§107-461 and 23-14; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received July 24, 2004"-(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;

THAT the Department of Buildings must ensure

APPEARANCES -

For Applicant: Steven Epstein.

**ACTION OF THE BOARD** - Laid over to January 11, 2005, at 1:30 P.M., for continued hearing.

---

## 255-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Surf Avenue Enterprise, owner.

SUBJECT - Application August 11, 2003 - under Z.R. §72-21 to permit the legalization of an existing furniture store, Use Group 10, located in a C7 zoning district, also a request to vary the requirement of maintaining a loading berth on the premises, is contrary to Z.R. §32-10 and §36-62.

PREMISES AFFECTED - 1019 Surf Avenue, between West 8<sup>th</sup> and West 12<sup>th</sup> Streets, Block 7628, Lot 236, Borough of Brooklyn.

### COMMUNITY BOARD #13BK

APPEARANCES -

For Applicant: Richard Lobel.

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 December 7, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 273-03-BZ thru 285-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED -

compliance 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 19, 2004.

---

## 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

211-51 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 92, Borough of Queens.

211-49 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 93, Borough of Queens.

211-47 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 94, Borough of Queens.

211-45 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 95, Borough of Queens.

211-43 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 96, Borough of Queens.

211-41 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 97, Borough of Queens.

211-54 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 98, Borough of Queens.

211-52 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 99, Borough of Queens.

211-50 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 100, Borough of Queens.

211-48 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 101, Borough of Queens.

211-46 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 102, Borough of Queens.

211-44 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 103, Borough of Queens.

211-42 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 104, Borough of

---

# MINUTES

---

Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Richard Lobel.

For Opposition: Marc Cloutier, Nagassar Ramgarib, R. Cloutier, J. Burton, John Stiller and Richard Hellenbrecht.

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 December 7, 2004, at 1:30 P.M., for decision, hearing closed.

**ACTION OF THE BOARD** - Laid over to December 14, 2004, at 1:30 P.M., for continued hearing.

---

## 343-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Pasquale Pescatore, owner.

SUBJECT - Application November 12, 2003 - under Z.R. §72-21 to permit the proposed construction of seven story, nineteen unit, residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 90 Havemeyer Street, between Hope Street and Metropolitan Avenue, Block 2368, Lot 26(Former Lots 26, 27 and 28), Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to November 9, 2004, at 1:30 P.M., for deferred decision.

---

## 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 December 14, 2004, at 1:30 P.M., for continued hearing.

---

## 125-04-BZ

APPLICANT - Steven M. Sinacori/Stadtmayer Bailkin, for Everest Realty, LLC, owner.

SUBJECT - Application March 9, 2004 - under Z.R. §72-21 to permit the proposed two story expansion of an existing one story

## 287-03-BZ

APPLICANT - Stuart A. Klein, Esq., for First Step Realty, LLC, owner.

SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit the proposed construction of a six-story residential building, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 430 Keap Street, southeast corner of Hope Street, Block 2387, Lot 2, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES - None.

commercial building, for residential use, Use Groups 2 and 6, located in R4, C2-2 and R3A zoning districts, which does not comply with the zoning requirements for floor area, lot coverage, open space, number of dwelling units and height of building, is contrary to Z.R. §23-141, §35-31, §23-22 and §23-631.

PREMISES AFFECTED - 247-39 Jamaica Avenue, north side, between 91<sup>st</sup> Avenue and Commonwealth Boulevard, Block 8662, Lot 50, Borough of Queens.

### COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Rich Hellenbrecht.

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 December 7, 2004, at 1:30 P.M., for decision, hearing closed.

---

## 136-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Exxon Mobil Oil Corporation, owner.

SUBJECT - Application March 22, 2004 - under Z.R. §73-21 to permit the proposed redevelopment of gasoline service station, with an accessory convenience store, located in an C2-3 within an R-5 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 3132 Fort Hamilton Parkway, between McDonald Avenue and East Second Street, Block 5315, Lot 1, Borough of Brooklyn.

### COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Janice Cahalane, Sean Mulrayav and Chris Tartaglia.

**ACTION OF THE BOARD** - Laid over to December 14, 2004, at 1:30 P.M., for continued hearing.

---

## 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

---

# MINUTES

---

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 #1

APPEARANCES - None.

### 173-04-BZ

APPLICANT - Eric Palatnik, P.C., for 345 Park South LLC, owner; NY Midtown Corp., lessee.

SUBJECT - Application April 26, 2004 - under Z.R. §73-36 to permit the legalization of a portion of the cellar level of said premises, as a physical culture establishment, located in an M1-6 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 5/9 West 37th Street, 200' east of Fifth Avenue, Block 839, Lot 34, Borough of Manhattan.

## COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Eric Palatnik.

For Opposition: William H. Daly and Chester Hochbaum.

For Administration: Anthony Scaduto, Fire Department.

**ACTION OF THE BOARD** - Laid over to November 9, 2004, 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, Mark Fertig, Meryl Magadino, Miriam Steinberg, Mike Rudy, Ahtony Sciortino and Sabrina Sarrentino.

For Opposition: Senator Carl Kruger, Councilman Lew Fidler, Alan Maisel, Assemblyman Seddio Office, Chair of Community Board 18, Dorothy Turano, Roberta Sherman, Paul Needle, George Kyriakides and Mel Levy.

Administration: Evens Joseph.

**ACTION OF THE BOARD** - Laid over to December 14, 2004, at 1:30 P.M., for continued hearing.

---

**ACTION OF THE BOARD** - Laid over to October 26, 2004, at 1:30 P.M., for postponed hearing.

---

### 242-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Yeruchem Miller, contract vendee.

SUBJECT - Application June 29, 2004 - under Z.R. §73-622 to permit the 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. §223-141(a), §23-47 and §23-48.

PREMISES AFFECTED - 1440 East 26th Street, west side, 527'-8" north of Avenue "O", Block 7679, Lot 69, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Moshe Friedman.

**ACTION OF THE BOARD** - Laid over to November 23, 2004, at 1:30 P.M., for continued hearing.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 6:55 P.M.

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 44

November 4, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**SATISH BABBAR, *Vice-Chair***

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	775
<b>CALENDAR</b> of December 7, 2004	
Morning .....	776
Afternoon .....	777
<b>CALENDAR</b> of December 8, 2004	
Morning .....	777

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, October 26, 2004**

Morning Calendar .....778

**Affecting Calendar Numbers:**

739-76-BZ 212-95 26<sup>th</sup> Avenue, Queens  
198-66-BZ 300 East 74<sup>th</sup> Street, Manhattan  
135-46-BZ 3802 Avenue U, Brooklyn  
813-63-BZ 699/711 West End Avenue, Manhattan  
1046-63-BZ 540 Park Avenue, Manhattan  
211-94-BZ 34-38 38<sup>th</sup> Street, Queens  
44-04-A 1491 Richmond Road, Staten Island  
68-04-A 96 Driggs Street, Staten Island  
69-04-A 23 Lillian Place, Staten Island  
243-04-A 11 Essex Street, Manhattan

Afternoon Calendar.....784

**Affecting Calendar Numbers:**

40-04-BZ 2252 Linden Boulevard, Brooklyn  
70-04-BZ 69-91 75<sup>th</sup> Street, Queens  
158-04-BZ 1035 Ocean Parkway, Brooklyn  
166-04-BZ 1765 East 23<sup>rd</sup> Street, Brooklyn  
183-04-BZ 206 West 23<sup>rd</sup> Street, Manhattan  
191-04-BZ 1376 East 24<sup>th</sup> Street, Brooklyn  
284-04-BZ 2064/2128 Atlantic Avenue, Brooklyn  
153-04-BZ 2948 Voorhies Avenue, Brooklyn  
168-04-BZ 500 Canal Street, Manhattan  
194-03-BZ 739 East New York Avenue, Brooklyn  
200-04-BZ 703 West 171<sup>st</sup> Street, Manhattan  
228-04-BZ 1400 East 22<sup>nd</sup> Street, Brooklyn  
258-03-BZ 47 Thames Street, Brooklyn  
364-03-BZ 34-11 Far Rockaway Boulevard, Queens  
134-04-BZ 184 Kent Avenue, Brooklyn  
147-04-BZ 459 Carroll Street, Brooklyn

---

# DOCKETS

---

New Case Filed Up to October 5, 2004

---

**341-04-A** B.Q. 115 Beach 215th Street, east side, 280' south of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens. Alt.1#401946034. 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.

---

**342-04-A** B.Q. 124 Reid Avenue, west side, 230' south of Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens. Alt.1#401946025. 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.

---

**343-04-A** B.Q. 35 Beach 220th Street, east side, 260.92' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens. Alt.1#401990976. 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.

---

**344-04-BZ** B.Q. 202-01 Northern Boulevard, northeast corner of 202nd Street, Block 6263, Lot 29, Borough of Queens. Alt.1#401624444. Proposed use of an open lot for the sale of new and used automobiles, located in a C2-2 within and R3-2 zoning district, is contrary to Z.R.§32-25.  
**COMMUNITY BOARD #11Q**

---

**345-04-BZ** B.BK. 1036/44 Ocean Parkway, west side, between Avenues "J and "L", Block 5495, Lots 911 and 914, Borough of Brooklyn. N.B.#301759372.

Proposed construction of a new synagogue, Use Group 4, located in an R5 (SOPD) zoning district, which does not comply with the zoning requirements for open space, lot coverage, side yards, rear yard, front yard, perimeter wall height, sky exposure plane, landscaping and parking, is contrary to Z.R. §23-141, §23-464, §23-47, §113-12, §23-631(d), §113-30, §25-28 and §25-31.

**COMMUNITY BOARD #12BK**

---

**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 7, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, December 7, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## SPECIAL ORDER CALENDAR

### **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**

---

### **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**

---

**DECEMBER 7, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, December 7, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## ZONING CALENDAR

### **385-03-BZ**

APPLICANT - Joseph P. Morsellino, for Fabian Organization II, LLC, owner.

SUBJECT - Application December 12, 2003 - under Z.R. §72-21  
PREMISES AFFECTED - 2822 Avenue "L", southwest corner of East 29th Street, Block 7646, Lot 51, Borough of Brooklyn.

**COMMUNITY BOARD #14**

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**

---

### **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**

---

### **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**

---

### **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.

### **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,

---

# CALENDAR

---

floor area ratio, and side and rear yards, is contrary to Z.R. §23-141(a), §23-47 and §23-48.

PREMISES AFFECTED -1335 East 22nd Street, between Avenues "L and M", Block 7640, Lot 18, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

\_\_\_\_\_

**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 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**

\_\_\_\_\_

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,( aka 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**

\_\_\_\_\_

*Pasquale Pacifico, Executive Director*

**DECEMBER 8, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Wednesday morning*, December 8, 2004, at 10:00 A.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

**ZONING CALENDAR**

**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

---

# MINUTES

---

**REGULAR MEETING  
TUESDAY MORNING, OCTOBER 26, 2004  
10:00 A.M.**

Present: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.

Absent: Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, August 17, 2004, were approved as printed in the Bulletin of August 26, 2004, Volume 89, No. 35.

---

## SPECIAL ORDER CALENDAR

### 739-76-BZ

APPLICANT - Joseph P. Morsellino, Esq., for Cord Meyer Development Corp., owner; Peter Pan Games of Bayside, lessee.  
SUBJECT - Application June 22, 2004 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired April 10, 2004.

PREMISES AFFECTED - 212-95 26th Avenue, 26th Avenue and Bell Boulevard, Block 5900, Lot 2, Borough of Queens.

### COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Joseph Morsellino

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

THE RESOLUTION:

WHEREAS, a public hearing was held on this application on September 28, 2004, after due notice by publication in The City Record, and then to October 26, 2004 for decision; and

WHEREAS, Community Board No. 7, Queens, recommended approval of this application; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the special permit which expired on April 10, 2004; 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 (1) year, on condition that the hours of operation be limited to 11:00 a.m. to 9:30 p.m. Monday through Saturday and 11:00 a.m. to 6:00 p.m. on Sunday; the Board has granted subsequent extensions of the special permit for a term of one (1) year each.

Therefore it is Resolved that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, reopens and

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 #18

amends the resolution, pursuant to § 73-03(f), said resolution having been adopted on February 8, 1977 as amended through April 10, 2004, 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 (1) year from April 10, 2004 to expire on April 10, 2005, on condition;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions shall appear on the certificate of occupancy;

THAT the 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; and

THAT the Department of Buildings must ensure compliance 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 #401710430)

Adopted by the Board of Standards and Appeals, October 26, 2004.

---

### 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 74<sup>th</sup> Street, southeast corner of 2<sup>nd</sup> Avenue and East 74<sup>th</sup> Street, Block 1448, Lot 3, Borough of Manhattan.

### COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to January 11, 2005, at 10 A.M., for continued hearing.

---

### 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.

APPEARANCES -

For Applicant: Harold Weinberg, P.E..

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 10 A.M., for continued hearing.

---

# MINUTES

---

---

## 813-63-BZ

APPLICANT - Howard A. Zipser/Stadtmauer Bailkin, LLP, for Selma R. Miller, owner; Central Parking Corporation, lessee.

SUBJECT - Application March 16, 2004 - reopening for an amendment to reflect the existence of 97 parking spaces in accordance with Consumer Affairs License 0914278.

PREMISES AFFECTED - 699/711 West End Avenue, west side of West End Avenue between West 94th and 95th Streets, Block 1253, Lot 21, Borough of Manhattan.

### COMMUNITY BOARD #7

APPEARANCES -

For Applicant: Steve Sinacori.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 10 A.M., for decision, hearing closed.

---

## 1046-63-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for 61st Street and Park Avenue Corp., d/b/a The Regency Hotel, 540 Park Avenue, owners; Distinctive Parking, LLC, lessee.

SUBJECT - Application August 30, 2004 - reopening for an amendment to the resolution to permit the use of surplus parking spaces for transient parking.

PREMISES AFFECTED - 540 Park Avenue, 35-39 East 61st Street, southeast corner, block bounded by Park and Madison Avenues, East 61st and East 62nd Streets, Block 1376, Lot 36, Borough of Manhattan.

### COMMUNITY BOARD #8

APPEARANCES -

For Applicant: James P. Power and Gary R. Tarnoff.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

**ACTION OF THE BOARD** - Laid over to November 23, 2004, at 10 A.M., for decision, hearing closed.

---

## 211-94-BZ

APPLICANT - The Agusta Group, for Steve Poliseno, Astoria Ice,

WHEREAS, a public hearing was held on this application on May 5, 2004, after due notice by publication in the City Record, with continued hearings on July 13, 2004, August 17, 2004, and October 5, 2004, and then to decision on October 26, 2004; and

WHEREAS, the Department of Buildings ("DOB") seeks to modify Certificate of Occupancy Number 500353422 (the "Current

Inc., owner.

SUBJECT - Application July 26, 2004 - reopening for an extension of term of variance which expired October 24, 2003 and for an amendment to relocate the PCE from the third floor and mezzanine to the 4 story portion of the building to the mezzanine of the one story portion of the building. In addition, a new PCE is proposed at the second floor level which is currently the roof the one story portion of the building.

PREMISES AFFECTED - 34-38 38th Street, thru block between 37th & 38th Streets 115' north of 35th Avenue, Block 645, Lot 10, Borough of Queens.

### COMMUNITY BOARD #1

APPEARANCES -

For Applicant: Sol Korman.

For Opposition: John Paskalis, Steve Poliseno and Matthew Cocca.

**ACTION OF THE BOARD** - Laid over to without date.

---

## 44-04-A

APPLICANT - NYC Department of Buildings.

OWNER OF RECORD: Martin Suss

LESSEE: William J. Newstad; Endeavor Abstract; Paladin Abstract.

SUBJECT - Application February 25, 2004 - Application to revoke or modify Certificate of Occupancy No. 500353422, issued on 2/28/00, on the grounds that the CO was issued with the mistaken understanding that the non-conforming use was continuous, thus improperly allowing a retail store in a residential zoning district. PREMISES AFFECTED - 1491 Richmond Road, bounded by Norden Street and Forest Road, Block 869, Lot 374, Borough of Staten Island.

### COMMUNITY BOARD #2SI

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

THE RESOLUTION:

WHEREAS, the application brought by the Commissioner of the Department of Buildings, dated March 12, 2004, reads:

"Application to revoke or modify Certificate of Occupancy (CO) No. 500353422 pursuant to Section 52-61 of the Zoning Resolution, because of a non-conforming use which was discontinued for more than two years. The CO was issued with the mistaken understanding that the non-conforming use was continuous, thus improperly allowing a retail store in a residential zoning district."; and

CO"), issued to 1491 Richmond Road in Staten Island, on the basis that the lawful non-conforming commercial use on the first floor of a previously existing building located at the premises was discontinued for a continuous period of greater than two years; and

WHEREAS, Staten Island Borough President James P. Molinaro submitted testimony in opposition to the instant application, stating revocation or modification of the Current CO would cause

---

# MINUTES

---

hardship to the current owners and that DOB had made previous determinations, at the Borough Office level, that the uses proposed to be listed on the Current CO were permitted; and

WHEREAS, the subject premises is located in an R2 zoning district, and is currently improved upon with a two-story plus cellar building, completed in 1999; and

WHEREAS, the record indicates that the Current CO, issued on February 28, 2000, permits: (1) "Community Facility (Medical)", Use Group 4, in the cellar; (2) "Retail Store", Use Group 6, on the first floor; and (3) "One family dwelling w/home occupancy", Use Group 2, on the second floor; and

WHEREAS, DOB states that its records indicate that the Use Group 6 use for the first floor originated when the prior certificate of occupancy for the premises was issued in 1954 (Certificate of Occupancy No. 11407, hereinafter, the "1954 CO"); and

WHEREAS, in 1961, subsequent to issuance of the 1954 CO, the premises was rezoned to an R2 zoning district; and

WHEREAS, DOB states that before the building currently existing at the premises was built, the project architect building first sought from DOB a "reconsideration prior to filing" concerning the uses that would be permitted at the premises; the reconsideration request as presented by the project architect indicated that the first floor could be used for a store or commercial use as per the 1954 CO; and

WHEREAS, the record indicates that the project architect represented at DOB that the proposed DOB permit filing would be for an alteration of an existing building; and

WHEREAS, DOB states that based upon the 1954 certificate of occupancy and the architect's representation that a building existed at the site and that commercial use on the first floor of the alleged building was an existing legal non-conforming use, DOB accepted the pre-filing reconsideration request; and

WHEREAS, DOB further states that a building permit application was subsequently filed in May of 1999 for vertical alteration of the allegedly existing one story structure; said alteration proposed the addition of a second story, and a redesign of interior partitions in the cellar and first floor; and

WHEREAS, upon completion of the job, DOB issued the Current CO; and

WHEREAS, DOB now concludes that there was no existing building to be altered, alleging instead that the current building was built from the ground up; and

WHEREAS, as noted above, the record indicates that the commercial use on the first floor began in 1954 as a lawful use, and

WHEREAS, DOB notes that the Comments Section of the inspection report, as shown on the BIS printout, describes the property as follows: "Building removed to first tier. Not occupied. Occupancy impossible."; and

WHEREAS, DOB further notes that the photo submitted by the Civic Association shows that there was no structure on the premises in 1998, and that the sign in the photo specifically advertises a site for sale, not a building; and

WHEREAS, in addition, the record contains City Planning Commission Report No. C940532PPR, for the disposition of city-owned property, and identifies 1491 Richmond Road as a vacant lot; and

became non-conforming in 1961 when the area was zoned R2; 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 there was discontinuance of the non-conforming commercial use of the first floor level of the previously existing building at the premises for a period in excess of two years; and

WHEREAS, DOB states that from 1993 to 1999, the City of New York ("the City"), held title to the subject premises and it existed as vacant land; and

WHEREAS, in support of this statement, DOB submitted property records of the City of New York Department of General Services ("DGS"), Division of Real Estate Services, which DOB claims show that the City was the owner of the subject premises, and that the property was classified as vacant land since June 14, 1993; and

WHEREAS, DOB also submitted a memorandum dated April 4, 1996 from DGS, to the Department of City Planning, which contained a revised fact sheet prepared in connection with a 1996 Uniform Land Use Review Procedure ("ULURP") application that also listed the property as vacant land; and

WHEREAS, DOB asserts that since the property was "vacant land," there could not have been an existing, occupied building and therefore there could not have been any continuous commercial use at the property; and

WHEREAS, DOB states that any further use of the first floor premises for commercial purposes would be invalid as a matter of law, and that this floor must only be occupied for uses that are permitted in an R2 zoning district; and

WHEREAS, at the August 17, 2004 public hearing, the Board requested that DOB submit supplemental evidence of discontinuance if such was available; and

WHEREAS, in response, DOB submitted: (1) a printout of a DOB inspection report (the inspection was conducted on September 19, 1991) from the DOB Building Information System that indicates that active operation of any commercial use at the premises was possibly discontinued as early as 1991; and (2) a photograph and letter submitted by the Dongan Hills United Civic Association, Inc. (the "Civic Association"), which indicates that there was no existing one-story structure at the premises when the project architect filed the afore-mentioned alteration application; and

WHEREAS, opposition to this application challenged DOB's submitted evidence, stating: (1) that the various City records (the BIS printout, the DRES records, and the CPC report) can not be treated as reliable; and (2) that the submitted photos have not been authenticated; and

WHEREAS, as to the City records, opposition states that the BIS printout reflects an inspection report conducted in response to a complaint about work without a permit, which opposition alleges is contradictory to the supposed vacant status of the land; and

WHEREAS, opposition also cites to other work without a permit violations issued to the premises by DOB after 1991 (attached as Exhibit D to the opposition submission dated

---

# MINUTES

---

September 21, 2004); and

WHEREAS, however, the Board disagrees that such violations prove that there was continuous commercial use of the first floor of the premises; and

WHEREAS, the Board notes that even assuming some part of a building remained on the site and work was being performed on it, there is no evidence of actual continuous use on the first floor that contradicts the evidence proffered by DOB in support of its claim of discontinuance; and

WHEREAS, Z.R. § 52-61 only references continued active operation of the non-conforming use, not preservation of some portion of the structure that once housed such use; and

WHEREAS, thus, evidence as to the structure is irrelevant in the absence of any evidence - such as utility bills, invoices, COLES directory listings, phone book advertisements, or business licenses - that there was a commercial use actively and continuously operating on the first floor of the structure; and

WHEREAS, the Board asked opposition on numerous occasions to present such evidence of continuous commercial occupancy, but no evidence of such was submitted; and

WHEREAS, in fact, opposition did not even explain to the Board why such evidence could not be obtained and submitted; and

WHEREAS, opposition also claims that the ULURP report and DGS records do not establish that there was a discontinuance of the non-conforming commercial use even though they list the land as vacant; and

WHEREAS, however, the Board notes again that even assuming there was some structural elements of a building left on the site, no evidence that a commercial use was in existence at the site was submitted by opposition; and

WHEREAS, as to the photo submitted by the Civic Association via DOB, opposition notes that the photographer, date and location were not authenticated; and

WHEREAS, the Board agrees that no actual authentication the photo aside from the Civic Association's letter was submitted; and

WHEREAS, nevertheless, the Board finds the letter credible, and views the photo as contributory evidence in support of DOB's claim of discontinuance; and

WHEREAS, the Board notes, though, that even without the photo in the record, it would reach the same final conclusion in the instant application; and

Therefore it is Resolved, that the application brought by the Commissioner of the Department of Buildings, dated March 12, 2004, seeking modification of Certificate of Occupancy No. 500353422, is hereby granted, and that this Certificate of Occupancy shall be modified consistent with the instant resolution.

Adopted by the Board of Standards and Appeals, October 26, 2004.

WHEREAS, opposition makes other arguments in its various submissions; specifically, opposition claims that the current owners of the premises, who purchased it from the afore-mentioned architect, have acquired a vested right to use the premises pursuant to the CO; and

WHEREAS, the Board notes that no authority for such a claim was presented by opposition, except for two old BSA cases that did not address discontinuance; and

WHEREAS, the Board finds opposition's reliance on these two BSA cases unpersuasive; neither of the resolutions for the cases state that operation of Z.R. § 52-61 is precluded by any equitable consideration, as claimed; and

WHEREAS, opposition also contends that DOB acted contrary to Section 27-197 of the Administrative Code of the City of New York, which provides that DOB may revoke an issued permit given certain circumstances; and

WHEREAS, however, opposition fails to explain how such an allegation, even if properly before the Board and borne out by evidence, would impact the operation of Z.R. § 52-61; and

WHEREAS, in sum, the Board has reviewed the evidence submitted by DOB in support of its claim of discontinuance and finds it sufficient and credible; and

WHEREAS, the Board has likewise reviewed the claims made by opposition as to the evidence submitted by DOB and does not find them persuasive; and

WHEREAS, the Board notes that were there actual continuance of the non-conforming use of the first floor of the previously existing building, evidence of such should not have been difficult for opposition to obtain; 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 Use Group 6 use had been discontinued; and

WHEREAS, therefore, the Board concludes that the reference on the CO to UG6 retail use on the first floor is without legal effect; and

WHEREAS, the Board also concludes that the first floor of the premises must hereafter be used only for conforming uses currently permitted in the underlying R2 zoning district, notwithstanding the existence of any prior certificate of occupancy issued to the subject premises.

two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 96 Driggs Street, Block 5275, Tentative Lot 10, Borough of Staten Island.

## COMMUNITY BOARD #3

### APPEARANCES -

For Applicant: Steven Barshov

**ACTION OF THE BOARD -** Appeal granted on condition.

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

### THE RESOLUTION:

WHEREAS, the decision of the Staten Island Borough

---

## 68-04-A

APPLICANT - Steven Barshov/Sive, Paget & Riesel, for Lawrence M. Garten, owner.

SUBJECT - Application March 2, 2004 - Proposed erection of a

---

# MINUTES

---

Commissioner, dated February 2, 2004 acting on Department of Buildings Application No. 500664453 reads in pertinent part:

"Proposed Building is in the bed of a mapped street contrary to Article 3, Section 35 of the General City Law. Therefore, approval from the Board of Standards and Appeals is required."; and

WHEREAS, a public hearing was held on this application on September 14, 2004 after due notice by publication in the City Record, laid over for continued hearing to October 5, 2004 and then to decision on October 26, 2004; and

WHEREAS, by letter dated May 25, 2004, the Fire Department states that it has reviewed the above project and has no objections provided that 23 Lillian Place be fully sprinklered in compliance with Local Law 10 of 1999 as well as Reference Standard 17-2B of the NYC Building Code; and

WHEREAS, by letter dated April 28, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated July 13, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, in response to a request from the adjacent property owner at 20 Lillian Place, the applicant has agreed to seek from the Department of Transportation, a "No Parking" designation for the curb in front of 23 Lillian Place; 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, February 2, 2004 acting on Department of Buildings Application Nos. 500664453 & 500664444 is modified under the power vested in the Board by Sections 35 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked "Received October 14, 2004"-(1) sheet; that the proposal comply with all applicable zoning district requirements; and that all applicable laws, rules, and regulations shall be complied with; and on further condition;

THE RESOLUTION:

WHEREAS, the decision of the Staten Island Borough Commissioner, dated February 2, 2004 acting on Department of Buildings Application No. 500664444 reads in pertinent part:

"Proposed Building is in the bed of a mapped street contrary to Article 3, Section 35 of the General City Law. Therefore, approval from the Board of Standards and Appeals is required."; and

WHEREAS, a public hearing was held on this application on September 14, 2004 after due notice by publication in the City Record, laid over for continued hearing to October 5, 2004 and then to decision on October 26, 2004; and

WHEREAS, by letter dated May 25, 2004, the Fire Department states that it has reviewed the above project and has no objections provided that 23 Lillian Place be fully sprinklered in compliance with Local Law 10 of 1999 as well as Reference Standard 17-2B of the NYC Building Code; and

WHEREAS, by letter dated April 28, 2004, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

THAT a "No Parking" sign shall be installed to prevent parking along the new curb that will be constructed in front of 23 Lillian Place;

THAT evidence that such sign has been obtained shall be submitted to the Board within 6 months 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, October 26, 2004.

---

## 69-04-A

APPLICANT - Steven Barshov/Sive, Paget & Riesel, for Lawrence M. Garten, owner.

SUBJECT - Application March 2, 2004 -Proposed erection of a two family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 23 Lillian Place, Block 5275, Tentative Lot 11, Borough of Staten Island.

### COMMUNITY BOARD #3

APPEARANCES -

For Applicant: Steven Barshov

### ACTION OF THE BOARD -

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

WHEREAS, by letter dated July 13, 2004, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, in response to a request from the adjacent property owner at 20 Lillian Place, the applicant has agreed to seek from the Department of Transportation, a "No Parking" designation for the curb in front of 23 Lillian Place; 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, February 2, 2004 acting on Department of Buildings Application Nos. 500664453 & 500664444 is modified under the power vested in the Board by Sections 35 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked "Received October 14, 2004"-(1) sheet; that the proposal comply with all applicable zoning district requirements; and that all applicable laws, rules, and regulations shall be complied with; and on further

---

# MINUTES

---

condition;

THAT a "No Parking" sign shall be installed to prevent parking along the new curb that will be constructed in front of 23 Lillian Place;

THAT evidence that such sign has been obtained shall be submitted to the Board within 6 months 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, October 26, 2004.

---

## 243-04-A

APPLICANT - Sion Misrahi, for Sion Misrahi, President, owner.  
SUBJECT - Application June 30, 2004 - An appeal challenging the Department of Buildings' decision dated June 7, 2004, in which the department refused to issue a vacate order regarding subject premises, to facilitate needed repairs without endangering the occupants thereof.

PREMISES AFFECTED - 11 Essex Street, between Canal and Hester Streets, Block 297, Lot 24, Borough of Manhattan.

### COMMUNITY BOARD #3

APPEARANCES -

For Applicant: Irving E. Minkin, Sion Misrahi and Bill Eberight.

#### REGULAR MEETING

**TUESDAY AFTERNOON, OCTOBER 26, 2004**

**2:00 P.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.

**Absent:** Commissioner Miele and Commissioner Chin.

---

### ZONING CALENDAR

## 40-04-BZ

APPLICANT - Agusta & Ross, for Steven Witriol, owner.  
SUBJECT - Application February 13, 2004 - under Z.R. §72-21 to permit the proposed change of use from an automobile repair and used vehicles sales (Use Group 16), previously approved by the Board under Cal. No. 56-95-BZ, to a retail store (Use Group 6), located in an R5 zoning district, which is contrary to Z.R. §22-00.  
PREMISES AFFECTED - 2252 Linden Boulevard, southeast corner of Cleveland Street, Block 4360, Lot 1, Borough of Brooklyn.

## THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 10 A.M., for decision, hearing closed.

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director.*

Adjourned: 12:00 P.M.

## COMMUNITY BOARD #5BK

APPEARANCES - None.

For Applicant: Mitchell Ross.

**ACTION OF THE BOARD** - Application granted on condition.

## THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

## THE RESOLUTION:

WHEREAS, the decision of the Borough Commissioner dated January 15, 2004, acting on Department of Buildings Application No. 301574053, reads:

"Comply with Section 22.00 ZR. U.G.6 is not permitted in R5 Zone."; and

WHEREAS, a public hearing was held on this application on May 18, 2004 after due publication in The City Record, with a continued hearing on June 8, 2004; the case was adjourned to June 22, 2004 and then to August 10, 2004; a continued hearing was then held on October 5, 2004, and then to decision on October 26, 2004; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting

---

# MINUTES

---

of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit a one-story retail store (Use Group 6) on a site previously before the Board and permitted to be used as Auto Repair with Open Vehicle Sales (Use Group 16), in an R5 zoning district, contrary to Z.R. § 22-00; and

WHEREAS, Community Board No. 5, Brooklyn recommended approval of this application; and

WHEREAS, the subject lot: (1) is located on the southeast corner of the intersection of Cleveland Street and Linden Boulevard; (2) is 160' by 85'; and (3) has a total lot area of approximately 13,600 sq. ft.; and

WHEREAS, the lot is currently improved upon with a one-story, 20' high building with 1,740 sq. ft. of total floor area; and

WHEREAS, the lot has been the subject of two prior Board cases: (1) a variance case under BSA Cal. No. 277-56-BZ, which permitted use as an Automotive Service Station; and (2) a variance case under BSA Cal. No. 56-95-BZ, which allowed reinstatement of the auto repair use (which had lapsed since the previous variance grant); and

WHEREAS, the applicant represents that the lot has been used for automotive repairs and used car sales since 1995 until 2001, when business diminished to the point that the owner proceeded to attempt to sell the property (due to increased and costly environmental regulation of gas sales); and

WHEREAS, after failing to sell the property for the uses allowed per the BSA grants, the owner was approached by a dollar store chain that was interested in purchasing the site for a retail outlet; and

WHEREAS, the proposal is to demolish the existing building

WHEREAS, the applicant represents that the proposed variance will not affect the character of the neighborhood, and that the use is compatible with other commercial uses in the immediate area; and

WHEREAS, the Board notes that through its prior grants, it permitted a Use Group 16 use on the lot; and

WHEREAS, the applicant represents that the proposed use is a Use Group 6 use, and would impact on the character of the neighborhood to a lesser degree than the existing use, because all retail activity will be enclosed and the number of existing curb cuts will be reduced, simplifying the site's circulation; and

WHEREAS, the Board agrees that the proposed use would be more compatible with the surrounding residential uses than the current use; and

WHEREAS, a parking study was conducted, which revealed that adequate on-site and street parking would exist to accommodate the parking needs generated by the proposed use; and

WHEREAS, the applicant represents that the adjacent residential uses will be buffered from the subject site by planting areas; and

WHEREAS, the applicant also represents that impact on adjacent residential uses will be minimized because such uses are at a lower grade than the subject site, and are further separated from the site by a retaining wall and an alleyway; and

WHEREAS, the applicant also states that the area character is

and erect a one-story retail building with approximately 8,000 sq. ft. of floor area and accessory off-street parking for 19 cars; and

WHEREAS, the applicant represents that the development as proposed complies with a typical C1-1 zoning district except for the parking (such district would require 53 spaces, whereas the proposal contemplates 19); 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 strict conformity with underlying district regulations: (1) the historic use of the site for automotive uses; (2) the remnants of such uses in and on the site; and (3) the fact that the site is surrounded by commercial districts; and

WHEREAS, the Board notes that it has twice found the subject site unique, as noted in the resolutions for the above-mentioned prior Board actions; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate and along with the environmental contamination present at the site, create unnecessary hardship and practical difficulties in developing the site in conformity with the current zoning; and

WHEREAS, the applicant has submitted a feasibility study purporting to show that developing the entire premises with a conforming residential use would not yield the owner a reasonable return; and

WHEREAS, based upon its review of the submitted feasibility study, 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

dominated by Linden Boulevard, which is a multi-lane commercial thoroughfare with some commercial uses near the subject lot; and

WHEREAS, the Board has conducted its own site visit and has reviewed the submitted land use map; and

WHEREAS, based upon the representations of the applicant, its review of the land use map and its site visit, 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 an Environmental Assessment Statement (EAS) CEQR No. 04-BSA-133K, dated April 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

---

# MINUTES

---

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 a one-story retail store (Use Group 6) on a site previously before the Board and permitted to be used as Auto Repair with Open Vehicle Sales (Use Group 16), in an R5 zoning district, 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 13, 2004"-(3) sheets and "Received October 14, 2004"-(1) sheet; and on further

THAT the Department of Buildings must ensure compliance 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 26, 2004.

---

## 70-04-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Rudolph Semar, owner; Coliseum Gym & Fitness Center, lessee. SUBJECT - Application March 2, 2004 - under Z.R. §73-36 to permit the legalization of a change in occupancy from a "factory and storage" building, to a physical culture establishment, located in an M1-1 zoning district.

PREMISES AFFECTED - 69-91 75th Street, a/k/a 75-13 71st Avenue, northeast corner, Block 3794, Lot 77, Borough of Queens.

### COMMUNITY BOARD #5Q

#### APPEARANCES -

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** - Application granted on condition.

#### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

#### THE RESOLUTION:

WHEREAS, the decision of the Borough Commissioner dated February 3, 2004, acting on Department of Buildings Application

condition;

THAT all landscaping and fencing as shown on the BSA-approved plans shall be installed and maintained;

THAT all fencing adjacent to residential uses shall be 100 percent opaque; the remaining screening shall be 50 percent opaque;

THAT all lighting at the site shall be directed down and away from adjacent residential uses;

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 one existing curb cut near Cleveland Street shall be removed, and, on Linden Boulevard, one existing curb cut shall be relocated and shortened, as shown on BSA-approved plans;

THAT substantial construction be performed 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

No. 401719556, reads;

"Proposed Physical Culture Establishment, in an M1-1 District requires a special permit from the Board of Standards and Appeals (Section 73-36 ZR)"; 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 October 26, 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 5, Queens, recommends approval of this application; and

WHEREAS, Borough President Marshall, Queens, recommends approval of this application; and

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit the legalization of an existing physical culture establishment ("PCE") use in a building which is located within a M1-1 zoning district, contrary to Z.R. § 32-10; and

WHEREAS, the subject premises is improved upon with a one-story building designed and previously used for manufacturing purposes and is located on the northeast corner of 75th Street and 71st Avenue; and

WHEREAS, the applicant represents that the PCE occupies the entire building and has a total area of 12,176 square feet; and

WHEREAS the applicant represents that the proposed PCE will include full men's and women's locker rooms, a juice bar, café, and retail area, as well as a variety of strength and fitness equipment, an aerobic room and a children's playroom; and

WHEREAS, the PCE is located within an M1-1 manufacturing district directly south of Long Island Railroad tracks, and a majority of the surrounding area is used by existing manufacturing and automobile related uses; and

WHEREAS, therefore, the Board finds that this action will not

---

# MINUTES

---

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 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; and

Therefore it is Resolved that the Board of Standards and Appeals issues Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6NYCRR Part 617 and the Rules of Procedures 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 and permits the legalization of an existing PCE use in a building which is located within an M1-1 zoning district, 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 April 28, 2004"-(2) sheets and "Received October 14, 2004" -(1) sheet; and on further condition;

THAT this Special Permit shall be limited to a term of ten years from June 1, 2003, expiring June 1, 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: Monday through Friday 5:00 AM to 12:00 AM, Saturday and Sunday 7:00AM to 10:00PM;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 26, 2004.

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-137Q, dated March 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 ; Archaeological 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.

## 158-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Albert Cohen, owner.

SUBJECT - Application April 15, 2004 - under Z.R. §72-21 to permit the proposed horizontal enlargement, to a detached one-family dwelling, Use Group 1, on a narrow lot with non-complying side yards, and also encroaches in the required rear yard, located in an R5 zoning district, which is contrary to Z.R. §23-48, §54-31 and §23-47.

PREMISES AFFECTED - 1035 Ocean Parkway, between Avenues "I" and "K", Block 6527, Lot 76, Borough of Brooklyn.

## COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Irving Minkin.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

**THE RESOLUTION:**

WHEREAS, the decision of the Borough Commissioner, dated March 23, 2004, acting on Department of Buildings Application No. 301817256, reads, in pertinent part:

"1. Proposed horizontal enlargement of building with existing non-complying side yards in an R5 zoning district increases the degree of non-compliance contrary to section 23-48 and 54-31, 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 21, 2004 and then to decision on October 26, 2004; 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

---

# MINUTES

---

WHEREAS, Community Board No. 12, Brooklyn, recommended approval of this application; and

WHEREAS, this is an application under Z.R. § 72-21, to permit the proposed enlargement of a one-family dwelling located in an R5 (OP) Special Zoning District, which does not comply with the zoning requirements for side yards, contrary to Z.R. §§ 23-48 and 54-31; and

WHEREAS, the record indicates that the subject site is an interior zoning lot, with a frontage of 23'-6" on the eastern side of Ocean Parkway between Avenues J and K, a depth of 150'-0", and a total lot area of 3535 sq. ft.; and

WHEREAS, the record indicates that the subject premises is currently improved upon with a two and a half-story, one-family dwelling, with existing non-complying side yards of 1'-3 1/4" and 4'-1 1/2"; and

WHEREAS, the subject application seeks an enlargement at

WHEREAS, the applicant states that the maps shows that almost all of the lots in the radius are wider than the subject lot: of the approximately 75 residential buildings surveyed, only one is located on a lot as narrow as the subject site; and

WHEREAS, the Board notes that the majority of the lots are 40 feet in width, and only five lots are less than 30 feet; and

WHEREAS, the applicant concludes that the subject lot is uniquely afflicted due to its atypical narrowness; and

WHEREAS, the applicant states that while the existing building is 18 feet wide, a complying enlargement at the rear would only be permitted to be 13 feet wide; and

WHEREAS, the Board finds that the aforementioned unique physical condition creates practical difficulties in developing the site in strict compliance with the applicable zoning provisions; and

WHEREAS, no financial feasibility study is required for this single-family dwelling development proposal; and

WHEREAS, however, the Board finds that because of the hardship inherent to the lot, strict compliance with the applicable zoning provisions would result in a residential enlargement that would not be habitable, which necessitates the requested waivers; and

WHEREAS, the record indicates that the bulk of the subject proposal is consistent with the surrounding residential buildings; and

WHEREAS, at the request of the Board, the applicant reduced the proposed depth of the enlargement in order to retain a complying 30 foot rear yard; and

WHEREAS, the adjacent neighbor, who shares a driveway easement with the owner of the subject property, appeared in opposition to the subject application, and submitted a letter dated October 18, 2004, which, among other things, claimed that the proposed enlargement would impact his ability to access his garage; and

WHEREAS, the applicant, in a letter dated October 21, 2004, stated that the neighbor's access would, in fact, not be impacted at all; and

WHEREAS, the Board has reviewed the plans submitted with the instant application and concludes that the applicant is correct in stating that the neighbor's access would not be impacted; 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

the rear of the house, which will increase the degree of non-compliance with respect to the side 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 uniquely narrow, with a width of only 23'-6"; and

WHEREAS, the applicant represents that the subject lot meets the definition of an Existing Narrow Zoning Lot under Z.R. § 23-48, and that, pursuant to Z.R. § 23-32, a one-family dwelling would not be able to be constructed on a zoning lot with a width of less than 40 feet or with a lot area of less than 3,800 sq. ft.; and

WHEREAS, at the request of the Board, the applicant has provided copies of Sanborn Maps detailing the lots in a 400' radius of the subject lot, in order to establish that the subject lot's physical condition is not so prevailing in the area that the lot could not be considered uniquely afflicted; and 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 enlargement of a one-family dwelling located in an R5 zoning district, which does not comply with the zoning requirements for side yards, contrary to Z.R. §§ 23-48 and 54-31; on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received October 12, 2004" - (6) 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, October 26, 2004.

## 166-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Rhonda Schwerd, owner.  
SUBJECT - Application April 22, 2004 - 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, lot coverage, side yard, rear yard and perimeter wall height, is contrary to

---

# MINUTES

---

Z.R. §23-141, §23-461A, §23-47 and §23-631.

PREMISES AFFECTED - 1765 East 23rd Street, east side, between Quentin Road and Avenue "R", Block 6806, Lot 6, Borough of Brooklyn.

## COMMUNITY BOARD #15

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 Caliendo.....3

(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 of the Zoning Resolution;

(4) Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the 30'-0" that is required of the Zoning Resolution;

(5) Proposed perimeter wall height is contrary to ZR 23-631 of the Zoning Resolution.; 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 October 26, 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. § 73-622 to permit the proposed enlargement of an existing single family residence (Use Group 1), located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, lot coverage, side yard, rear yards and perimeter wall height, contrary to Z.R. §§ 23-141, 23-461(a), 23-47 and 23-631; and

WHEREAS, the subject lot is located on the east side of East 23rd Street, Brooklyn, between Quentin Road and Avenue R, 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, with a cellar and attic; and

WHEREAS, the subject premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks a proposed floor area ratio of 0.93 (the maximum floor area ratio permitted by the Z.R. is 0.5); floor area of 3,726 sq. ft. (the maximum floor area permitted is 2000 sq. ft.); lot coverage of 1,676 sq. ft. (the maximum floor area permitted is 1,400 sq. ft.); a perimeter wall height of 22'-0" (the maximum perimeter wall height permitted is 21'-0"); a minimum total side yard of 3'4" (the minimum total side yard permitted is 13'-0"); a front yard of 10'-2" (the minimum front yard permitted is 15'-0"); and a rear yard of 20' (the minimum rear yard permitted is 30'); 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 within the side yards is limited to an enlargement within an existing non-complying side yard, and no decrease in the minimum width of open area between the building and the side lot line results; and

Negative:.....0  
Absent: Commissioner Miele and Commissioner Chin.....2  
THE RESOLUTION:

WHEREAS, the decision of the Borough Commissioner, dated July 28, 2004, acting on Department of Buildings Application No. 301686067, reads, in pertinent part:

"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;

WHEREAS, the applicant has submitted sufficient proof that the increased height of the perimeter wall of the subject building post-enlargement is equal to or less than the height of the adjacent building's non-complying perimeter wall facing the street; 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 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. §§ 73-622 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 R3-2 zoning district, which does not comply with the zoning requirements for floor area, lot coverage, side yard, rear yards and perimeter wall height, contrary to Z.R. §§23-141, 23-461(a), 23-47 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 22, 2004"-(7) sheets; marked "Received August 13, 2004"-(1) sheet; and marked "Received October 12, 2004"-(1) sheet; and on further condition;

THAT there shall be no habitable room in the cellar;

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 the Department of Buildings shall review and confirm the total proposed floor area, including any floor area in the attic;

THAT the proposed shed in the rear yard will be approved by the DOB; the Board is not granting an approval of such shed;

THAT all rooms to be occupied must comply with all legal requirements as to habitability, as determined by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board

---

# MINUTES

---

in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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 **183-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Dynasty 23rd Street Realty, Inc., owner; MOA, lessee.

SUBJECT - Application April 30, 2004 - under Z.R. §73-36 to permit the proposed physical culture establishment on the second floor of a five story commercial building, located in a C6-3X zoning district, which requires a special permit as per Z.R. §32-10.

PREMISES AFFECTED - 206 West 23rd Street, south side, between Seventh and Eighth Avenues, Block 772, Lot 52, Borough of Manhattan.

## COMMUNITY BOARD #4M

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 Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

**THE RESOLUTION:**

WHEREAS, the decision of the Borough Commissioner, dated April 22, 2004, acting on Department of Buildings Application No. 103536023, reads:

"Proposed Physical Culture Establishment is not permitted as of right in a C6-3X district as per 32-10 of the Z.R."; 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 decision on October 26, 2004; 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, 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 ("PCE") use on the second floor of a building which is located within a C6-3X zoning district, contrary to Z.R. § 32-10; and

WHEREAS, the subject building is located on the south side of West 23rd Street between Seventh and Eighth Avenues; and

WHEREAS, the applicant represents that the proposed PCE has a total area of 1,880 square feet; and

WHEREAS the applicant represents that the proposed PCE will include the following services: massage, manicure, pedicure, waxing and a hair salon; and

WHEREAS, the applicant further states the PCE will contain a reception area, three rooms for massage performed by New York

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

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 26, 2004.

State licensed masseurs or masseuse, a nail and hair salon, a waxing room, a shower room, an employee break room, an office, laundry facilities for use of the PCE only and a coat room; and

WHEREAS, the applicant represents that the subject premises is occupied by a restaurant on the first floor and offices on floors three through five, and that such uses are compatible with the PCE; 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 73-03; 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-188M, 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; Archaeological 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.

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

---

# MINUTES

---

required findings under Z.R. §§ 73-36 and 73-03, to permit a proposed physical culture establishment use on the second floor of a building which is located within a C6-3X zoning district, 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 October 7, 2004"- (3) sheets; and on further condition;

THAT this Special Permit shall be limited to a term of ten years from October 26, 2004, expiring on October 26, 2014;

THAT all massages will be performed only by New York State licensed massage therapists;

THAT the applicant must submit massage licenses for the Boards review and approval prior to the issuance of a temporary or permanent Certificate of Occupancy;

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 10:00 AM to 10:00 PM;

THAT sound attenuation measures shall be installed and maintained as reflected on the BSA-approved plans;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all open violations affecting the subject space will be removed prior to DOB's issuance of a temporary 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, October 26, 2004.

---

## 191-04-BZ

APPLICANT - Eric Palatnik, P.C., for Jeffrey Knobel, owner.

SUBJECT - Application May 7, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 2, located in R5 zoning district, which does not comply with the zoning requirements for floor area, open space

WHEREAS, the enlargement within the side yards is limited to an enlargement within an existing non-complying side yard, and no decrease in the minimum width of open area between the building and the side lot line results; and

WHEREAS, the Board finds that the proposed enlargement

and rear yard, is contrary to Z.R. §23-141(a) and §23-47.

PREMISES AFFECTED - 1376 East 24th Street, between Avenues "N and "M", Block 7659, Lot 79, Borough of Brooklyn.

## COMMUNITY BOARD #14

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 Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

**THE RESOLUTION:**

WHEREAS, the decision of the Borough Commissioner, dated September 14, 2004, acting on Department of Buildings Application No. 301797893, reads:

"Proposed enlargement to existing home is contrary to ZR sections 23-141(a) (Floor Area), 23-131(a) (open space), 23-47 (rear yard), and 23-46 (side yards) and therefore requires a special permit pursuant to ZR section 73-622."; 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 October 26, 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 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 R5 zoning district, which does not comply with the zoning requirements for floor area, open space, side yard and rear yards, contrary to Z.R. §§ 23-141(a), 23-131(a), 23-46, and 23-47; and

WHEREAS, the subject lot is located on East 24th 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 lot is improved upon with an existing two-story residential structure; and

WHEREAS, the subject premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks to increase the floor area ratio ("FAR") from 0.623 to 0.953 (the maximum FAR permitted by the ZR is 0.5); increase the total floor area from 2490.73 to 3,814.18 sq. ft. (the maximum floor area permitted is 2000 sq. ft.); reduce the open space from 2859.85 to 2,414.39 sq. ft. (the minimum open space permitted is 3,000 sq. ft.); and legalize both an existing side yard of 3'10 \_" (the minimum side yard permitted is 5') and a rear yard of 20' (the minimum rear yard permitted is 30'); and

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

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

---

# MINUTES

---

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. §§ 73-622 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 R5 zoning district, which does not comply with the zoning requirements for floor area, open space, side yard and rear yards, contrary to Z.R. §§ 23-141(a), 23-131(a), 23-46, 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 marked "Received October 12, 2004" - (8) sheets; and on further condition;

THAT there shall be no habitable room in the cellar;

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 the Department of Buildings shall review and confirm the total proposed floor area, including any floor area in the attic;

THAT the proposed shed in the rear yard will be approved by the DOB; the Board is not granting an approval of such shed;

THAT all rooms to be occupied must comply with all legal requirements as to habitability, as determined 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, October 26, 2004.

WHEREAS, this is an application for a under Z.R. §§ 73-50 and 73-03, to permit on a lot divided by M1-1 and R6/C2-3 district boundaries, the proposed construction of one-story warehouse building, which will encroach within the 30' open area required along district boundaries coincident with rear lot lines of two adjoining zoning lots, contrary to Z.R. § 42-302; and

WHEREAS, the subject site is a 70,000 square foot "L" shaped site, situated primarily on the northern half of the block

## 284-04-BZ

APPLICANT - Raymond Levin, Wachtel & Masyr, LLP, for ERMA Realty LLC, owner.

SUBJECT - Application August 11, 2004 - under Z.R. §§73-03 and 73-50 to permit the proposed construction of a one story warehouse building, located in an M1-1 and R6/C2-3C zoning district, that will encroach within the 30-foot open area along district boundaries coincident with rear lot lines of two adjoining zoning lots, is contrary to Z.R.§43-302.

PREMISES AFFECTED - 2064/2128 Atlantic Avenue and 268/80 Saratoga Avenue, between Howard and Saratoga Avenues, Block 1432, Lots 5-19, 22,25, 28, 30-33 and 35, Borough of Brooklyn.

### COMMUNITY BOARD #16

APPEARANCES -None.

**ACTION OF THE BOARD** - Application granted on condition.

#### THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

#### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

#### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

#### THE RESOLUTION:

WHEREAS, the decision of the Borough Commissioner, dated August 6, 2004, acting on Department of Buildings Application No. 301781409 reads:

"The proposed building to be located within the M1-1 zoning district is contrary to section 43-302 of the Zoning Resolution. Section 43-302 requires that an open area not higher than the curb level and at least 30 feet in depth be provided along the rear lot line of the zoning lot in an adjoining residential district."; 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 October 26, 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 16, Brooklyn recommended approval of this application; and

bounded by Atlantic Avenue, Howard Avenue, Pacific Street, and Saratoga Avenue, and is currently comprised of 23 tax lots; and

WHEREAS, the proposed development will contain two buildings: a two-story and cellar retail/office structure with approximately 14,162 square feet per floor, to be located along Saratoga Avenue between Atlantic Avenue and Pacific Street, which will be developed as-of right; and a one-story warehouse structure with approximately 32,000 sq. ft. of floor area, which will occupy

---

# MINUTES

---

the required 30' open area adjacent to the residential district boundary, and which is the subject of this application; and

WHEREAS, the subject block is divided along its long dimension by a district boundary with an M1-1 zoning district along Atlantic Avenue, and an R6 zoning district along Pacific Street; a C2-3 overlay district is mapped in the R6 district along the Saratoga Avenue frontage; and

WHEREAS, the applicant notes that the entire block, formerly designated an R6 zoning district, was remapped on May 12, 2004 by the City Planning Commission, at the request of the Economic Development Corporation, to permit the use of the property by the applicant; and

WHEREAS, although the proposed warehouse use is permitted as-of-right in the rezoned M1-1 zoning district, Z.R. § 42-302 requires that an open area not higher than curb level and at least 30 feet in depth be provided on a zoning lot within a manufacturing district that abuts a residential district; this open area may not be used for storage or processing of any kind; and

WHEREAS, under Z.R. § 73-50, the Board may grant a waiver of rear yard requirements set forth in Z.R. § 42-30 in appropriate cases; and

WHEREAS, the applicant represents that the subject special permit is necessary to ensure the viability of the project, meet the space requirements for expansion of operations, and provide the minimum floor space necessary to effectively conduct the proposed contracting operations; and

WHEREAS, the applicant asserts that strict compliance with Z.R. § 42-302 could create a disadvantage for the adjacent residential properties in that the required open area could be used by trucks entering and leaving a complying warehouse, creating noise and particulates; and

WHEREAS, the applicant further contends that enclosing the open area internalizes any adverse consequence of the business operations and insulates the existing residential use from the permitted manufacturing use; and

WHEREAS, the applicant notes that the warehouse structure is lower than the 23 feet height above curb level allowed in the rear yard for a permitted obstruction set forth in Z.R. § 43-23, and as a result of the variation in elevation of the site from Atlantic Avenue to Pacific Street, the height of the warehouse building along the rear lot line will be a maximum height of 16 feet descending to 12 feet; and

WHEREAS, the applicant states that the adjoining residential

THAT all lighting be directed down and away from residential uses;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

properties will be effectively screened from the proposed development by the rear wall of the warehouse building and to the east of the warehouse by a retaining wall extending eight feet above the rear yard level of the residential zoning lots; and

WHEREAS, the applicant has proposed offsite improvement of the physical condition of the rear yards of adjacent residential properties with landscaping and proper grading, thereby providing the homeowners with an opportunity to enhance their property in concert with the applicant's adjoining development; and

WHEREAS, the Board finds that the rear yard waiver will not have an adverse affect on the surrounding area; and

WHEREAS, therefore the Board has determined that the application meets the requirements of Z.R. § 73-03(a) in that the disadvantages to the community at large are outweighed by the advantages derived from such special permit; and that the adverse effect, if any, will be minimized by appropriate conditions; and

WHEREAS, the proposed project will not interfere with any pending public improvement project and therefore satisfies the requirements of Z.R. §73-03(b); and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-50 and 73-03.

Therefore it is Resolved that the Board of Standards and Appeals adopts the Negative Declaration issued by the City of New York on December 8, 2003 for CEQR No. 03DME017K and makes the required findings to grant a special permit pursuant to Z.R. §§ 73-50 and 73-03, to permit on a lot divided by M1-1 and R6/C2-3 district boundaries, the proposed construction of one-story warehouse building, which will encroach within the 30' open area required along district boundaries coincident with rear lot lines of two adjoining zoning lots, contrary to Z.R. § 42-302, 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 25, 2004" - (3) sheets and on further condition;

THAT landscaping be provided and maintained in accordance with BSA approved plans;

THAT there shall be no mechanical equipment located within the 30 foot encroachment area;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

Adopted by the Board of Standards and Appeals, October 26, 2004.

---

## 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

---

# MINUTES

---

Haring Street, southwest corner, Block 8794, Lot 10, Borough of Brooklyn.

**COMMUNITY BOARD #15**

APPEARANCES -

For Applicant: Adam Rothkrug.

For Opposition: Dennis Lombardi.

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 1:30 P.M., for continued hearing.

---

**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 #1**

APPEARANCES -

For Applicant: Jay Segal and Jack Freeman.

**ACTION OF THE BOARD** - Laid over to December 14, 2004, at 1:30 P.M., for continued hearing.

---

**194-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for B'nos Menachem Inc., owner.

SUBJECT - Application June 13, 2003 - under Z.R. §72-21 to permit the proposed catering establishment, Use Group 9, in the cellar of an existing one story, basement and cellar building (school for girls), located in an R6 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 739 East New York Avenue, between Troy and Albany Avenues, Block 1428, Lot 47, Borough of Brooklyn.

**COMMUNITY BOARD #9BK**

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 #14**

APPEARANCES -

For Applicant: Lewis Garfinkel.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

**ACTION OF THE BOARD** - Laid over to November 16, 2004, at 1:30 P.M., for decision, hearing closed.

APPEARANCES -

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 1:30 P.M., for decision, hearing closed.

---

**200-04-BZ**

APPLICANT - David Vandor, for Mr. Frank Renna, President of D'Aprile Development and Leasing, owner.

SUBJECT - Application May 12, 2004 - under Z.R. §72-20 to permit the proposed construction of a nine story residential and community facility building, Use Groups 2 and 4, on a narrow vacant lot, encumbered by a massive rock outcropping, in an R8 zoning district, which does not comply with the zoning requirements for height and setback, is contrary to Z.R. §23-692 and §23-62.

PREMISES AFFECTED - 703 West 171st Street, Fort Washington Avenue on the east and Haven Avenue on the west, Block 2139, Lot 199, Borough of Manhattan.

**COMMUNITY BOARD #12**

APPEARANCES -

For Applicant: David Vandor.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3

Negative:.....0

Absent: Commissioner Miele and Commissioner Chin.....2

**ACTION OF THE BOARD** - Laid over to November 23, 2004, at 1:30 P.M., for decision, hearing closed.

---

**228-04-BZ**

APPLICANT - Louis Ari Schwartz, for Louis Ari Schwartz, owner.

---

**258-03-BZ**

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 -

For Applicant: Chris Wright.

THE VOTE TO CLOSE HEARING -

---

# MINUTES

---

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3  
Negative:.....0  
Absent: Commissioner Miele and Commissioner Chin.....2  
**ACTION OF THE BOARD** - Laid over to December 14, 2004, at 1:30 P.M., for decision, hearing closed.

---

### 364-03-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Alprof Realty LLC/VFP Realty LLC, owners.  
SUBJECT - Application November 24, 2003 - under Z.R. §72-21 to permit the proposed construction of an automotive car wash and Lubratorium, Use Group 2, located in a C2-2(R6) zoning district, which is contrary to Z.R. §32-00.

PREMISES AFFECTED - 34-11 Far Rockaway Boulevard, southeast corner of Sea Girt Boulevard, Block 15950, Lots 14 and 24, Borough of Queens.

### COMMUNITY BOARD #14Q

APPEARANCES -  
For Applicant: Adam W. Rothkrug.  
For Opposition: Marlen Waaijer, Cecilia Chapman, Kennard Gopaul and Heather Perkins.

THE VOTE TO CLOSE HEARING -  
Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3  
Negative:.....0  
Absent: Commissioner Miele and Commissioner Chin.....2

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 1:30 P.M., for decision, hearing closed.

---

### 134-04-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for 184 Kent Avenue Associates, owner.  
SUBJECT - Application March 19, 2004 - under Z.R. §§72-22 and 1-05(e) to permit the proposed construction of a public esplanade between the building and bulkhead line, also the proposed construction of an additional forty-seven residential units, located in an M3-1 zoning district, is contrary to a previous variance granted under Cal. No. 191-00-BZ.

PREMISES AFFECTED - 184 Kent Avenue, northwest corner of North Third Street, Block 2348, Lot 1, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES -  
For Applicant: Peter Geis.  
**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 1:30 P.M., for continued hearing.

---

### 147-04-BZ

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 #6

APPEARANCES -  
For Applicant: Jeffrey Chester.  
THE VOTE TO CLOSE HEARING -  
Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo.....3  
Negative:.....0  
Absent: Commissioner Miele and Commissioner Chin.....2

**ACTION OF THE BOARD** - Laid over to November 23, 2004, at 1:30 P.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 4:45 P.M.

---

# MINUTES

---

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 45-46

November 18, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**SATISH BABBAR, *Vice-Chair***

**PETER CALIENDO**

**JOEL A. MIELE, SR.**

**JAMES CHIN**

*Commissioners*

**Pasquale Pacifico, *Executive Director***

**Roy Starrin, *Deputy Director***

**John E. Reisinger, *Counsel***

---

<b>OFFICE -</b>	<b>40 Rector Street, 9th Floor, New York, N.Y. 10006</b>
<b>HEARINGS HELD -</b>	<b>40 Rector Street, 6th Floor, New York, N.Y. 10006</b>
<b>BSA WEBPAGE @</b>	<b><a href="http://www.nyc.gov/html/bsa/home.html">http://www.nyc.gov/html/bsa/home.html</a></b>

<b>TELEPHONE - (212) 788-8500</b>
<b>FAX - (212) 788-8769</b>

### CONTENTS

DOCKET .....	798
<b>CALENDAR</b> of December 14, 2004	
Morning .....	799
Afternoon .....	800

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, November 9, 2004**

Morning Calendar .....801

**Affecting Calendar Numbers:**

371-29-BZ	1210-1230 East 23 <sup>rd</sup> Street, Bronx
949-57-BZ	2100 Williamsbridge Road, Bronx
799-62-BZ	501 First Avenue, a/k/a 350 East 30 <sup>th</sup> Street, Manhattan
236-98-BZ	103-117 Kent Avenue, Brooklyn
53-86-BZ	350 Wadsworth Avenue, Manhattan
234-98-BZ	2600-2614 Adam Clayton Powell Jr. Boulevard, Manhattan
133-99-BZ	1253 Oriental Boulevard, Brooklyn
150-00-BZ	802 Hicksville Road, Queens
15-04-A	8 Reynolds Street, Staten Island
330-04-BZY	3220/28 Arlington Avenue & 3223 Netherland Avenue, Bronx
333-04-BZY	640 West 237 <sup>th</sup> Street, Bronx
346-04-BZY	3329-3333 Giles Place, Bronx

Afternoon Calendar .....806

**Affecting Calendar Numbers:**

306-03-BZ	192 Water Street, Brooklyn
343-03-BZ	90 Havermeyer Street, Brooklyn
132-04-BZ	310 East Houston Street, Manhattan
142-04-BZ	516 Arbutus Avenue, Staten Island
143-04-BZ	522 Arbutus Avenue, Staten Island
147-02-BZ	201-06 Hillside Avenue, Queens
161-02-BZ	2433 Knapp Street, Brooklyn
218-03-BZ	19-73 38 <sup>th</sup> Street, Queens
221-03-BZ	253/55 West 28 <sup>th</sup> Street, Manhattan
63-04-BZ	108-24 Astoria Boulevard, Queens
71-04-BZ	720 East 86 <sup>th</sup> Street, Brooklyn
128-04-BZ	162-168 East 68 <sup>th</sup> Street, Manhattan
137-04-BZ	1755 East 28 <sup>th</sup> Street, Brooklyn
156-04-BZ	9712 Flatlands Avenue, Brooklyn
159-04-BZ	950/60 Longfellow Avenue, Bronx
167-04-BZ	1336 East 22 <sup>nd</sup> Street, Brooklyn
170-04-BZ	2409 Avenue "K", Brooklyn
173-04-BZ	5/9 West 37 <sup>th</sup> Street, Manhattan
285-04-BZ	5435 First Avenue, a/k/a 5424/5434 Second Avenue, Brooklyn

---

# DOCKETS

---

New Case Filed Up to November 9, 2004

---

**346-04-BZY** B.BX. 3329/33 Giles Place (a/k/a 3333 Giles Place), west side, between Canon Place and Fort Independence Street, Block 3258, Lots 5 and 7, Borough of The Bronx. N.B. #200911754-01. Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

---

**347-04-BZY** B.BX. 3056 Cross Bronx Expressway, west side, 176.54' north of Sampson Avenue, Block 5443, Lot 71, Borough of The Bronx. N.B. #200919416. Application to extend time to complete construction for a major development pursuant to Z.R. §11-331.

---

**348-04-BZY** B.BX. 3058 Cross Bronx Expressway, west side, 119.70' north of Sampson Avenue, Block 5443, Lot 80, Borough of The Bronx. N.B. #200910407. Application to extend time to complete construction for a major development pursuant to Z.R. §11-331.

---

**349-04-BZY** B.BX. 1420 Balcom Avenue, east side, 225' north of Latting Street, Block 5370, Lot 10, Borough of The Bronx. N.B. #200819383. Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

---

**350-04-BZ** B.BX. 3450 Wayne Avenue, between Gun Hill Road and East 210<sup>th</sup> Street, Block 3343, Lot 245, Borough of The Bronx. Applic. #200912584. Proposed erection of a non-accessory radio transmission tower and antenna, on top of an existing residential building, located in an R7-1 zoning district with a partial C1-3 overlay, requires a special permit from the Board as per Z.R. §73-30.

## **COMMUNITY BOARD #7BX**

---

**351-04-BZ** B.Q. 210-08/12 Northern Boulevard, thru lot between Northern Boulevard and 45<sup>th</sup> Road, 150' east of 211<sup>th</sup> Street, Block 7309, Lots 21 and 23 (Tentative Lot 21), Borough of Queens. Applic. #401999637. Proposed reduction in the number of required parking spaces, for a proposed addition to an existing professional office building, located in an R6B/C2-

2 and R4 (split lot) zoning district, requires a special permit from the Board as per Z.R. §73-44.

## **COMMUNITY BOARD #11Q**

---

**352-04-BZ** B.S.I. 1845 Richmond Avenue, east side, 500' south of Eaton Place, Block 2030, Lot 57, Borough of Staten Island. Applic. #500531123. Proposed construction of a two story retail establishment, Use Group 6, is contrary to Z.R. §22-00 and to a previously approved BSA Cal. Number 118-01-BZ, which permitted a 1 ½ story office building in an R3-1 zoning district.

## **COMMUNITY BOARD #2SI**

---

**353-04-BZ** B.Q. 18-15 Francis Lewis Boulevard, a/k/a 157-68/72 18<sup>th</sup> Avenue and 18-02/8 160<sup>th</sup> Street, corner of Francis Lewis Boulevard, 18<sup>th</sup> Avenue and 160<sup>th</sup> Street, Block 4748, Lot 35, Borough of Queens. Alt. #401730926. The reestablishment of an expired approval, previously granted by the Board 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.

## **COMMUNITY BOARD #7Q**

---

**354-04-BZ** B.M. 637 Greenwich Street, east side, 75.3' south of Barrow Street, Block 603, Lot 51, Borough of Manhattan. Applic. #102045396. 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.

## **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 14, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, December 14, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

## **SPECIAL ORDER CALENDAR**

### **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**

\_\_\_\_\_

## **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**

### **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**

### **271-04-A**

### **259-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Richard Senior, owner.

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

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.

\_\_\_\_\_

**DECEMBER 14, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, December 14, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

## **ZONING CALENDAR**

### **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, aka 144 North 12th Street, southwest corner of North 12th Street and Berry Street, Block 2290, Lot 5, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

### **238-04-BZ**

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**

\_\_\_\_\_

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**

---

# MINUTES

---

\_\_\_\_\_

*Pasquale Pacifico, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, NOVEMBER 9, 2004  
10:00 A.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, September 14, 2004, were approved as printed in the Bulletin of September 23, 2004, Volume 89, Nos. 36-38.

**SPECIAL ORDER CALENDAR**

**371-29-BZ**

APPLICANT - Maduakolam Mish. Nnabuihe, for Getty Petroleum Corp., owner; Besan Trading Inc., lessee.

SUBJECT - Application January 9, 2004 - reopening for an amendment to the resolution for tire shop as an accessory use to the existing automotive service station.

PREMISES AFFECTED - 1210-1230 East 233<sup>rd</sup> Street, northwest corner of Grenada Place and Edson Avenue, Block 4934, Lot 66, Borough of The Bronx.

**COMMUNITY BOARD #13BX**

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT -**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Caliendo.....4

Negative:.....0

Absent: Commissioner Chin.....1

**THE RESOLUTION -**

WHEREAS, this is an application under Z.R. §11-412 for an amendment to the resolution, to permit the legalization of an existing tire shop as an accessory use to the existing automotive service station; and

WHEREAS, a public hearing was held on this application on May 25, 2004, after due notice by publication in *The City Record*, then postponed to August 10, 2004 with a continued hearing on September 14, 2004 and then to November 9, 2004 for decision; and

WHEREAS, Community Board 12, Bronx, recommended approval of this application; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since December 24, 1929, when the Board granted an application for a variance to permit the

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning

erection and maintenance of a gasoline service station; and  
WHEREAS, most recently, on January 9, 2001, the Board granted an application to extend the term of the variance for a period of ten years from June 6, 1998, and to permit the installation of a metal canopy over two new concrete pump islands; and

WHEREAS, the applicant represents that the premises has been operating as an automotive service station, with accessory tire sales, which is a use not listed on the certificate of occupancy; and

WHEREAS, the applicant represents that the tire repair area, once such use is approved by the Board, shall be enclosed within the existing building; and

WHEREAS, in response to concerns raised by the Board, curb cuts at Grenada Place and 233<sup>rd</sup> Street have been eliminated, as shown on the submitted plans; 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 finding required to be made under Z.R. §11-412, in that legalization of the tire repair use.

*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 legalization of an existing tire shop as an accessory use to the existing automotive service station; *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 26, 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 no tire repairs shall occur on any sidewalk abutting the lot;

THAT all curb cuts and fencing shall be installed and/or maintained as shown on the BSA-approved plans;

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 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

Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or

---

# MINUTES

---

configuration(s) not related to the relief granted.”  
(DOB Application # 200811675)

Adopted by the Board of Standards and Appeals,  
November 9, 2004.

**949-57-BZ**

APPLICANT - Sheldon Lobel, P.C., for Motiva Enterprises, LLC,  
owner

SUBJECT - Application February 9, 2004 - reopening for an  
extension of term of variance which expires October 29, 2004 and  
for an amendment to authorize the legalization of the conversion of  
the building to an accessory convenience store.

OPREMISES AFFECTED - 2100 Williamsbridge Road, northeast  
corner of Williamsbridge Road and Lydig Avenue, Block 4310, Lot  
30, Borough of The Bronx.

**COMMUNITY BOARD #11BX**

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  
Caliendo.....4

Negative:.....0

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, this is an application under Z.R. §11-411,  
for an extension of the term of the variance, which expired on  
October 29, 2004, and for approval of a minor 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*, and laid over to October 19,  
2004 and then to November 9, 2004 for decision; and

WHEREAS, on June 3, 1958, the Board granted an  
application to permit the erection and maintenance of a  
gasoline service station with accessory uses; 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 May 9, 1995; and

WHEREAS, the subject application seeks an extension  
of the term; and

WHEREAS, the application also seeks an amendment  
to the resolution to allow an accessory convenience store on  
the premises, which is a use allowed as-of-right but which  
requires Board approval because the site is under Board

**799-62-BZ**

APPLICANT - Sheldon Lobel, P.C., for 350 Condominium  
Association, owner.

SUBJECT - Application February 24, 2004 - request for a waiver

jurisdiction; and

WHEREAS, this accessory convenience store was  
created when the owner converted the repair bay structure;  
and

WHEREAS, pursuant to Z.R. §11-411, the Board may,  
in appropriate cases, renew the term of a previously granted  
variance for a term of not more than ten years; and

WHEREAS, the Board has determined that the  
evidence in the record supports the findings required to be  
made under Z.R. §11-411.

*Resolved*, that the Board of Standards and Appeals  
*reopens and amends* the resolution, pursuant to Zoning  
Resolution §11-411, so that as amended this portion of the  
resolution shall read: “To extend the term of the variance for  
an additional ten (10) years from October 29, 2004, to  
expire on October 29, 2014, and to allow accessory  
convenience store on the premises; *on condition* that all  
work shall substantially conform to drawings as filed with this  
application, marked “Received September 30, 2004”-(4)  
sheets and “Received October 25, 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 landscaping shall be installed and maintained as  
shown on BSA-approved plans;

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 Application #200742278)

Adopted by the Board of Standards and Appeals,  
November 9, 2004.

of the Rules of Practice and Procedure and reopening for an  
extension of term of variance for an existing multiple dwelling, the use  
of the surplus spaces in the accessory garage for transient parking.  
PREMISES AFFECTED - 501 First Avenue, a/k/a 350 East 30th

# MINUTES

Street, lower level parking garage along west of First Avenue, between East 30th and East 29th Streets, Block 935, Lot 7501, Borough of Manhattan.

## COMMUNITY BOARD #6M

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 Caliendo.....4

Negative:.....0

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, this application is for a re-opening, a waiver of the rules of procedure, and an extension of the term of the variance, which expired on November 9, 2002; and

WHEREAS, a public hearing was held on this application on October 19, 2004, after due notice by publication in *The City Record*, and then to November 9, 2004 for decision; and

WHEREAS, on December 11, 1962, the Board granted an application under Section 60(3) of the Multiple Dwelling Law to permit the use of transient parking for the unused and surplus tenants' spaces in the required accessory garage within the existing building; and

WHEREAS, on November 9, 1977 and June 7, 1994, the Board granted subsequent extensions of the term of this grant; and

WHEREAS, on August 31, 1995, the Board approved by letter a minor clarification as to the garage's capacity, determining that a change in the number of parking spaces to 68 spaces rather than 53 spaces, as erroneously indicated on the previously submitted plans, was minor; and

WHEREAS, the applicant now represents that, based upon the net square footage of the parking area, 68 parking spaces may continue to be provided.

*Therefore it is Resolved* that the Board of Standards and Appeals, *reopens and amends* the resolution, pursuant to Z.R. §§72-01 and 72-22, said resolution having been adopted on December 11, 1962 as amended through June 7, 1994, so that as amended this portion of the resolution shall read: "To extend the term of the variance for an additional ten (10) years from November 9, 2002, to expire

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Caliendo.....4

Negative:.....0

on November 9, 2012; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received October 25, 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 the amount of parking spaces shall be limited to 68;

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 appear 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 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; and

THAT the Department of Buildings must ensure compliance 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 #103484203)

Adopted by the Board of Standards and Appeals, November 9, 2004.

## 236-98-BZ

APPLICANT - Deidre A. Carson, Esq., Greenberg Traurig, LLP, for Anthony Fericola, owner.

SUBJECT - Application June 1, 2004 - reopening for an extension of time to complete construction.

PREMISES AFFECTED - 103-117 Kent Avenue, northeast corner of the intersection of Kent Avenue and North 7th Street, Block 2317, Lots 1, 3, 5, 6, 7 and 36, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane.

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, this application is for an extension of time to complete construction; and

WHEREAS, a public hearing was held on this application on October 19, 2004, after due notice by publication in *The City Record*, and then to November 9,

---

# MINUTES

---

2004 for decision; and

WHEREAS, on May 2, 2000, the Board granted an application under the subject BSA calendar number to permit the conversion and enlargement of an existing one-story manufacturing building for residential use; and

WHEREAS, on May 7, 2002, the Board granted an application for an amendment to the resolution to permit: (1) the substitution of 5 three-bedroom duplex apartments with 10 two-bedroom simplex apartments along the Kent Avenue frontage; (2) an increase in the number of parking spaces provided from 20 to 23; (3) the creation of a cellar level of parking at the location of the existing building; and (4) the installation of a passenger elevator to service the dwelling units in the portion of the proposed building at the corner of Kent Avenue and North Seventh Street; and

WHEREAS, the applicant states that construction has been delayed by a number of factors including design changes, financing difficulties and site preparation requirements, including those imposed by the MTA.

*Therefore it is Resolved* that the Board of Standards and Appeals *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 for a period of three (3) years from the date of this resolution; *on condition*;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions shall appear on the certificate of occupancy;

THAT the construction of the proposed development shall comply with the previously approved Board 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) and/or configuration(s) not related to the relief granted."

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 -

Adopted by the Board of Standards and Appeals, November 9, 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, Lot 281, Borough of Manhattan.

**COMMUNITY BOARD #12M**

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Laid over to January 25, 2005, at 10 A.M., for postponed hearing.

---

**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 7<sup>th</sup> Avenue, west side of Adam Clayton Powell Jr. Boulevard, block front from W. 150<sup>th</sup> Street to W. 151<sup>st</sup> Street, Block 2036, Lot 29, Borough of Manhattan.

**COMMUNITY BOARD #10M**

APPEARANCES -

For Applicant: Deirdre Carson.

**ACTION OF THE BOARD** - Laid over to February 1, 2005, at 10 A.M., for postponed hearing.

---

**133-99-BZ**

APPLICANT - Harold Weinberg, P.E., P.C., for Anna Kadar, owner.

For Applicant: Harold Weinberg.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 10 A.M., for decision, hearing closed.

---

# MINUTES

---

**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 9<sup>th</sup> Street, Block 15583, Lot 16, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Eric Palatnik, Rabbi Cohen and David Sterman.

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 10 A.M., for continued hearing.

**15-04-A**

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Fred Corona, owner.

SUBJECT - Application January 21, 2004 - Proposed building not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 8 Reynolds Street, south side, 100' west of St. Mary's Avenue, Block 2989, Tentatively Lot 28, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Appeal granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Caliendo.....4

Negative:.....0

Absent: Commissioner Chin.....1

**THE RESOLUTION** -

WHEREAS, the decision of the Staten Island Borough Commissioner, dated December 22, 2003, acting on Department of Buildings Application No. 500643878, reads in pertinent part:

“1. The street giving access to the proposed

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 9, 2004.

building is not placed on the official map of the City of New York, therefore:

- A. No Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law;
- B. Permit may not 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 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 September 21, 2004 after due notice by publication in the *City Record*, with a continued hearing on October 19, 2004, and then to decision on November 9, 2004; and

WHEREAS, by letter dated August 31, 2004, the Fire Department states that it has reviewed the above project and has no objections provided that the building be both fully sprinklered and connected to an approved Fire Central Station monitoring company; 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 December 22, 2003, acting on Department of Buildings Application No. 500643878, 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 26, 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;

**330-04-BZY**

APPLICANT - Law Office of Howard Goldman, for Arlington Suites, LLC, owners.

SUBJECT - Application October 7, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

PREMISES AFFECTED - 3220/28 Arlington Avenue and 3223 Netherland Avenue, 200' north of the intersection of 232nd Street and Arlington and Netherland Avenues, Block 5788, Lots 78, 80, 84 and 117.

APPEARANCES -

---

# MINUTES

---

For Applicant: Howard Goldman, Emily Simons, Joe Foster and Samuel Jonas.

For Opposition: Council Member Koppel; Judy Sonett, Senator Eric Schneiderman Office; Charles Moerdler, Community Board 8; Steven Bernardo, Pat Boyle, Richard Weiss and Norman Danzig.

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 10 A.M., for continued hearing.

---

## 333-04-BZY

APPLICANT - Michael T. Sillerman/Gary R. Tarnoff, for 3618, LLC owner.

SUBJECT - Application October 8, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

PREMISES AFFECTED - 640 West 237th Street, block bounded by Henry Hudson Parkway, West 236th Street and Independence Avenue, Block 5903, Lots 283 (tentative), and 299 and 300 (tentative), Borough of The Bronx.

APPEARANCES -

For Applicant: Gary Tarnoff and James Pourc.

For Opposition: Assemblyman Jeffrey Dinowitz, Damian McSharie, Community Board 8 and Lea Caplan.

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 10 A.M., for continued hearing.

---

## 346-04BZY

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 Donna Difara.

For Opposition: Charles Moerdler, Community Board 8; Lynn

APPEARANCES -

For Applicant: Emily Simons.

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Caliendo.....4

Negative:.....0

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough

Schwarz, Karen Argenti and Arax Hogroian.

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 10 A.M., for continued hearing.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 1:15 P.M.

## REGULAR MEETING

**TUESDAY AFTERNOON, NOVEMBER 9, 2004**

**2:00 P.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.

---

## ZONING CALENDAR

### 306-03-BZ

#### CEQR #04-BSA-056K

APPLICANT - Law Offices of Howard Goldman, LLC, for Kay Water Properties, LLC, owner.

SUBJECT - Application September 29, 2003 - under Z.R. §72-21 to permit within a M1-2 zoning district, the conversion of an existing four-story plus cellar building into a five-story, fifteen-unit mixed use commercial/residential building, contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 192 Water Street, between Jay and Bridge Streets, Block 41, Lot 11, Borough of Brooklyn.

#### COMMUNITY BOARD #2BK

Commissioner, dated September 9, 2003, acting on Department of Buildings Application No. 301159537, reads:

- “1. The proposed residential dwellings in an M1-2 district are contrary to Section 42-00 of the Zoning Resolution and require a variance from the Board of Standards and Appeals.
2. The proposed residential dwellings in an M1-2 district are contrary to Section 43-00 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 9, 2004 after due publication in *The*

---

# MINUTES

---

*City Record*, with continued hearings on April 27, 2004, June 15, 2004, July 20, 2004, and September 14, 2004, and then to decision on November 9, 2004; 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 Miele; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, in an M1-2 zoning district, the conversion of an existing four-story plus cellar building into a five-story, fifteen-unit mixed use commercial/residential building, contrary to Z.R. §§ 42-00 and 43-00; and

WHEREAS, Community Board 2, Brooklyn recommended approval of this application; and

WHEREAS, the subject site is located between Jay and Bridge Streets and has a total lot area of 5,750 sq. ft.; and

WHEREAS, the applicant states that the existing building was originally constructed in 1898, and was expanded in the early 1900s to the existing four floors; and

WHEREAS, the applicant further states that the building was most recently used by a maker of wicker baskets for both manufacturing and storage, but that this use was discontinued over ten years ago and that the building has subsequently been vacant; and

WHEREAS, this application contemplates a conversion and enlargement of the existing structure into a 65' high, five-story, fifteen-unit residential dwelling with a Floor Area Ratio ("FAR") of 4.19, which will include both conforming use and residential lobby space on the first floor; and

WHEREAS, the application originally contemplated the construction of a 76' high, six-story and cellar residential building with a FAR of 4.8, to contain eighteen residential units and parking on the first level, but, in response to Board concerns, was modified to reflect the current proposal; 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 subject site is burdened with a functionally obsolete structure; (2) the

WHEREAS, the Board requested that an analysis be done of a hotel scenario and a mixed-use scenario with only one additional story; and

WHEREAS, the applicant's financial consultant opined in a letter as to these scenarios, determining that the only instant proposal will realize a reasonable return for the owner,

WHEREAS, the Board finds the opinion of the financial consultant credible and sufficient; and

WHEREAS, the applicant also submitted evidence of failed marketing attempts for a conforming use, with numerous site visits by prospective occupants; the Board has determined this evidence to be credible; and

WHEREAS, therefore, the Board has determined that

building's narrow size and tightly spaced pillars make it unsuitable for manufacturing or warehouse use; (3) the building's loading dock, which was originally designed for horse and buggies is too small for modern trucks; and (4) the building has an outmoded elevator; and

WHEREAS, the Board agrees that the existing building may be obsolete, but disagrees that the column spacing is a contributing factor to such obsolescence; and

WHEREAS, in support of the argument that the site is unique, the applicant also states that 26 of 38 lots (68%) within the eight-block area surrounding the premises have larger footprints than the premises; and

WHEREAS, the Board views the primary basis for uniqueness and hardship to be the small size of the lot and the resulting small size of the floor plates (approximately 4700 sq. ft.), coupled with the fact that the existing building has multiple floors; and

WHEREAS, the Board credits the submitted evidence regarding the size of the subject lot relative to those in the eight-block area, and notes that it shows that the majority of the lots that are smaller than the subject lot are either vacant or occupied by buildings dissimilar to the existing building (in terms of number of floors or occupancies); and

WHEREAS, accordingly, the Board finds that the aforementioned unique physical conditions (aside from the column spacing), 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 showing that both a conforming manufacturing use scenario and a conforming office use scenario result in unreasonable rates of return; and

WHEREAS, the Board initially questioned the need for two extra stories on top of the existing building; and

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 is compatible with the manufacturing, commercial and residential uses in the surrounding area; and

WHEREAS, the applicant further represents that the neighborhood to the south and west of the lot is becoming increasingly residential and that this residential character is spreading to the to the area in which the property is located (the Vinegar Hill section of Brooklyn); and

WHEREAS, the submitted eight-block area study demonstrated that residential uses were found in 71% of the

---

# MINUTES

---

buildings surveyed; and

WHEREAS, the Board notes that some of the surveyed residential uses are not legal, and specifically disclaims these illegal uses as contributing to the essential character of the neighborhood; and

WHEREAS, however, the Board finds that some residential uses do exist in the eight-block area studied by the applicant; and

WHEREAS, the applicant states that: (1) the block on which the premises is located is bordered on the east by new mixed-use M1-5/R9-1 and M1-2 /R8A zoning districts; (2) the area directly to the west of the site has been recently rezoned R6B and R6A, with commercial overlays; (3) the block on Front Street between Pearl and Jay Streets, which is to the southwest of the premises, was recently rezoned to an M1-5/R9-1 in anticipation of a residential development; and (4) the block directly to the south of the premises, containing 176,542 square feet of vacant land, is the subject of a pending City Planning Commission application for a rezoning to M1-2/R8, which will facilitate a mixed-use residential/commercial development; and

WHEREAS, the proposed five-story building will have a total height of 65 feet, which the applicant states is compatible with the built context of the neighborhood; and

WHEREAS, the applicant has submitted a bulk table, listing building heights in the eight-block study area, which demonstrates that of the 32 buildings studied, 14 are taller than the proposed building's height of 65 feet, and nine of these buildings are 75 feet or taller; and

WHEREAS, the Board notes that an adjacent building is 70' high; and

WHEREAS, the applicant also submitted a traffic study showing that traffic on Water Street was typical of a residential neighborhood versus a manufacturing neighborhood; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map, and concludes

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, the December 3, 2003 EAS specifically

that mixed-use residential/commercial use of the site is appropriate given the uses of the neighborhood; and

WHEREAS, the Board also concludes that the bulk of the proposed building is compatible with the built context of the neighborhood; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; 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 still providing a building that is compatible with the essential character of the neighborhood, the applicant reduced the total number of proposed floors, and included a conforming commercial use on the ground floor of the premises; 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-056K dated December 3, 2003; and

examined the proposed action for potential hazardous materials and air quality impacts and determined that there would not be any impacts; 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, within a M1-2 zoning district, the conversion of an existing four-story plus cellar building into a five-story, fifteen-unit mixed use commercial/residential building, contrary to Z.R. §§42-00 and 43-00; *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 October 26, 2004"- (4) sheets; and *on further condition*:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT the FAR of the proposed building shall be limited to 4.19, and the height shall be limited to 65 feet;

THAT compliance with all applicable 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 compliance 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 9, 2004.

---

## 343-03-BZ

### CEQR #04-BSA-075K

APPLICANT - Sheldon Lobel, P.C., for Pasquale Pescatore, owner.

SUBJECT - Application November 12, 2003 - under Z.R. §72-21 to permit in an M1-1 zoning district, the proposed construction

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M1-1 zoning district, the proposed construction of a five-story multiple dwelling (Use Group 2), to contain thirteen residential units and accessory parking for seven vehicles, contrary to Z.R. §42-00; and

WHEREAS, Community Board 1, Brooklyn, recommended approval of this application; and

WHEREAS, the subject site is located on the west side of Havemeyer Street between Metropolitan Avenue and Hope Street, with a total lot area of 5,075 sq. ft., and is currently vacant; and

WHEREAS, the subject application originally contemplated the construction of a six-story residential building with a Floor Area Ratio ("FAR") of 2.98, to contain sixteen residential units, but, in response to Board concerns,

of a five-story multiple dwelling (Use Group 2), to contain thirteen residential units and accessory parking for seven vehicles, contrary to Z.R. §42-00.

PREMISES AFFECTED - 90 Havemeyer Street, between Hope Street and Metropolitan Avenue, Block 2368, Lot 26(Former Lots 26, 27 and 28), Borough of Brooklyn.

### COMMUNITY BOARD #1BK

#### APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Application granted on condition.

#### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Caliendo.....4

Negative:.....0

Absent: Commissioner Chin.....1

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 23, 2003, acting on Department of Buildings Application No. 301574035, reads:

"The 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 May 11, 2004 after due publication in *The City Record*, with continued hearings on June 22, 2004, August 10, 2004, and September 14, 2004, and then to decision on October 19, 2004; the decision was then deferred to November 9, 2004; 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 Miele; and

has now been modified to a proposal for a five-story residential building with an FAR of 2.37, to contain thirteen residential units; 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 subject site has a history of residential development and is poorly situated for as-of-right use because the adjacent uses are predominantly residential; (2) the site is irregularly shaped; and (3) approximately one-third of the lot has a shallow depth of only fifty feet; and

WHEREAS, the applicant has submitted Sanborn Maps that document a history of residential development on the subject site; maps from 1887 through 1965 indicate that the

---

# MINUTES

---

site was developed with three residential dwellings during that time period; and

WHEREAS, the Sanborn Maps also indicate that these dwellings were demolished and that the site has remained undeveloped since 1978; and

WHEREAS, the applicant represents that the predominant land use in the area is residential; within a 400 foot radius of the site, 71 lots contain residential uses, 11 are vacant, only eight contain manufacturing or warehouse use, five contain garages or auto related uses, four are undeveloped and used for parking, two contain retail uses, one contains a church, and one contains a park; and

WHEREAS, the subject site is irregular in shape, with a width of 94'7" along Havemeyer Street, of which 22'-3½" has a depth of 50 feet and 72'-3 ½" has a depth of 78'-5"; and

WHEREAS, the applicant states that the odd shape and shallowness of a portion of the site result in increased development costs; and

WHEREAS, the Board notes that the irregular shape and shallow depth of the lot would make it difficult to create a building that could viably accommodate conforming uses; and

WHEREAS, the Board finds that the aforementioned unique physical conditions - namely, the irregular shape and shallowness of a portion of the lot, the lot's history of residential development, and the fact that the site is surrounded by residential uses - 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 has submitted a feasibility study, which purports to demonstrate that developing the entire premises with a conforming use would not yield the owner a reasonable return; and

WHEREAS, the Board questioned certain assumptions

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, which reflects a decrease in bulk from that originally proposed, 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-075K

made in the study, particularly those that concerned the acquisition value; and

WHEREAS, the applicant's financial consultant submitted a revised study that took the Board's concerns into account; and

WHEREAS, this revised study showed unreasonable rates of return for the following scenarios: conforming manufacturing, retail, and community facility; and

WHEREAS, the Board finds this revised study credible and sufficient; and

WHEREAS, therefore, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development of the site in strict conformity with zoning will provide a reasonable return; and

WHEREAS, the applicant has reduced the proposed bulk of the building, both in terms of height and FAR, to a level that is more consistent with the surrounding area's built context; and

WHEREAS, the applicant represents that the proposed variance will not affect the character of the neighborhood and is compatible with the residential uses prevalent in the area; and

WHEREAS, the applicant notes that the proposed building is lower in height and density than two of the three existing buildings on the subject block-front; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map, and concludes that residential use of the site is appropriate given the context of the neighborhood; and

dated August 23, 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, per the Landmarks Preservation Commission's ("LPC") comments of December 9, 2003, the applicant shall submit an archaeological documentary study for the above-referenced project site to the LPC for its evaluation and approval; this study is requested based on LPC's review of archaeological sensitivity models and

# MINUTES

historic maps which indicate that there is the potential for the recovery of remains from 19<sup>th</sup> Century occupation on the project site; the applicant shall not receive a building permit nor commence any site grading, excavation, or building construction on the project site until the LPC approves of this study and determines that there are no archaeological concerns; and

WHEREAS, the February 9, 2004 submission by the applicant’s consultant specifically examined the proposed action for potential hazardous materials, air quality impacts and noise impacts and determined that there would not be any hazardous materials impacts; this submission did determine there could be potential air quality and noise impacts on the proposed occupants of the residential building due to the surrounding uses; and

WHEREAS, a Conditional Negative Declaration was published on October 6, 2004, which addressed the potential archaeological resources, air quality and noise impacts noted above; 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 Conditional 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 M1-1 zoning district, the proposed construction of a five-story multiple dwelling (Use Group 2), to contain thirteen

**132-04-BZ**

**CEQR #04-BSA-144M**

APPLICANT - Eric Palatnik, P.C. of Counsel to Charles Foy, Esq., for Malu Properties, Inc.,owner.

SUBJECT - Application March 15, 2004 - under Z.R. §72-21 to permit within an R7-2 zoning district, commercial use on the ground floor of a proposed six-story, mixed-use development at the premises, contrary to Z.R. §32-15.

PREMISES AFFECTED - 310 East Houston Street, southeast corner of Avenue “P”, Block 384, Lot 4, Borough of Manhattan.

**COMMUNITY BOARD #3M**

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT -**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner

residential units and accessory parking for seven vehicles, 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 September 23, 2004” - (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 be noted in the Certificate of Occupancy;

THAT DOB shall not issue a building permit for any work at the site unless and until an archaeological documentary study for the above-referenced project site, showing that there are no archaeological concerns, is submitted to and approved by the Landmarks Preservation Commission, and notice of such approval is submitted to the Board;

THAT 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 9, 2004.

Caliendo.....4  
Negative:.....0  
Absent: Commissioner Chin.....1

**THE RESOLUTION -**

WHEREAS, the decision of the Borough Commissioner, dated February 23, 2004, acting on Department of Buildings Application No. 103673473, reads:

“Proposed retail store (UG6) is not permitted as of right in R7-2 district and it is contrary to ZR 32-15”;  
and

WHEREAS, a public hearing was held on this application on September 28, 2004 after due publication in *The City Record*, and then to decision on November 9, 2004; 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

---

# MINUTES

---

WHEREAS, this is an application under Z.R. §72-21, to permit, within an R7-2 zoning district, commercial use on the ground floor of a proposed six-story, mixed-use development at the premises, contrary to Z.R. §32-15; and

WHEREAS, Community Board 3, Manhattan recommended approval of this application; and

WHEREAS, the premises is a triangular shaped zoning lot located at the southeast corner of East Houston Street and Avenue B, and has a total lot area of 7,860 sq. ft.; and

WHEREAS, the lot is currently improved upon with an existing automotive service station (Use Group 16); and

WHEREAS, the proposal contemplates a six-story plus penthouse, mixed-use building containing storage at the cellar level, commercial use of 3,992 sq. ft on the ground floor, community facility space of 5,558 sq. ft. at the second floor, and residential space of 22,490 sq. ft. and 29 dwelling units on floors 3 thorough 6 and the penthouse; 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 subject lot is oddly configured and contains an irregular triangular shape, which at various points is shallow and narrow in depth; (2) the site has a history of non-conforming development; and (3) there is underground environmental contamination at the site; 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 showing that an as-of-right residential scenario resulted in an unreasonable rate of return; and

WHEREAS, the applicant further states that the proposed ground floor commercial use is more in keeping with the character of the surrounding area than the existing automotive service station; and

WHEREAS, the commercial space on the ground floor will be limited to 3992 square feet, and the space will be occupied only Use Group 6 uses, except for bars and restaurants; 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, at the Board's request, the applicant explained why a full build-out Quality Housing scenario at 4.0 FAR or a full build-out mixed-use community facility/residential building would not work, stating that the building would have to rise higher, and thereby trigger setback requirements that would result in smaller, inefficient, and less viable floor plates, with rent insufficient to offset the increased construction costs; and

WHEREAS, the applicant also explained why residential use was not feasible at the first floor, stating that ground floor residential does not generate revenue sufficient to offset construction costs, whereas ground floor commercial would; and

WHEREAS, the Board reviewed the study, as well as the additional explanations, and finds them credible and sufficient; 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 is compatible with the mixed-use commercial and residential uses in the surrounding area; and

WHEREAS, the applicant states that numerous buildings located on Avenue B, East Houston Street and Second Avenue contain ground floor commercial use and residential use on the higher floors, similar to the proposed building; 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-144M dated June 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; 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 applicant's environmental consultants

---

# MINUTES

---

have examined through various studies (the Phase II report dated September 1, 2000, the Project Status Report dated January 7, 2002, and the Hazardous Materials Update document dated May 24, 2004) the existing petroleum contamination in the groundwater due to prior gasoline spills at the site; 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, within an R7-2 zoning district, commercial use on the ground floor of a proposed six-story, mixed-use development at the premises, contrary to Z.R. § 32-15; *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 26, 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 the ground floor commercial space shall not be occupied by an eating and drinking establishment or a bar;

THAT the above conditions shall be noted in the

**ACTION OF THE BOARD** - Application withdrawn.

**THE VOTE TO WITHDRAW** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

Adopted by the Board of Standards and Appeals, November 9, 2004.

---

## 143-04-BZ

### CEQR #04-BSA-153R

APPLICANT - Rampulla Associates Architects, for Charles Farina, owner.

SUBJECT - Application March 30, 2004 - under Z.R. §72-21 to permit the proposed in-ground pool, located within the required front yard, which is contrary to Z.R. §23-12.

PREMISES AFFECTED - 522 Arbutus Avenue, north side, at the

Certificate of Occupancy;

THAT all signage shall comply with regulations applicable to a C1 zoning district;

THAT 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 9, 2004.

---

## 142-04-BZ

### CEQR #04-BSA-152R

APPLICANT - Rampulla Associates Architects, for Frank McErlean, owner.

SUBJECT - Application March 30, 2004 - under Z.R. §72-21 to permit the proposed single family detached residence, Use Group 1, located within the required front yard, which is contrary to Z.R. §23-45.

PREMISES AFFECTED - 516 Arbutus Avenue, north side, at the intersection of Shore Avenue and Trout Place, Block 6529, Lot 15, Borough of Staten Island.

### COMMUNITY BOARD #3SI

APPEARANCES - None.

intersection of Shore Avenue and Trout Place, Block 6529, Lot 10, Borough of Staten Island

### COMMUNITY BOARD #3SI

APPEARANCES - None.

**ACTION OF THE BOARD** - Application withdrawn.

**THE VOTE TO WITHDRAW** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

Adopted by the Board of Standards and Appeals, November 9, 2004.

---

## 147-02-BZ

APPLICANT - Gerald J. Caliendo, R.A., for Joseph Pizzonia, owner.

---

# MINUTES

---

SUBJECT - Application May 8, 2002 - under Z.R. §72-21 to permit the legalization of the change of use of covered parking area, to automobile repair service bays, and the addition of a mezzanine with an accessory office and storage area, located in a C1-2 within an R-4 zoning district, is contrary to a previous variance granted under Cal. No. 148-87-BZ and Z.R. §32-00.

PREMISES AFFECTED - 201-06 Hillside Avenue, southeast corner of 201<sup>st</sup> Street, Block 10495, Lot 52, Borough of Queens.

**COMMUNITY BOARD #12Q**

APPEARANCES -

For Applicant: Sandy Anagnostou.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to December 7, 2005, at 1:30 P.M., for decision, hearing closed.

---

**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.

APPEARANCES -

for Applicant: Sandy Anagnostou.

**ACTION OF THE BOARD** - Laid over to January 25, 2005, at 1:30 P.M., for continued hearing.

---

**221-03-BZ**

APPLICANT - Martyn & Don Weston, for 253 West 28<sup>th</sup> 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 28<sup>th</sup> 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, Jack Freeman, Vincent Hanley and Mariana Vadukal.

For Opposition: Howard Goldman and Richard Resnik.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

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, Anthony Falotreo and Robert Pauls.

For Opposition: George Broadhead and Dan Cavanaugh..

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to January 11, 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 38<sup>th</sup> Street, corner of 20<sup>th</sup> Avenue, Steinway Street and 38<sup>th</sup> Street, Block 811, Lot 1, Borough of Queens.

**COMMUNITY BOARD #1Q**

Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

**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.

---

# MINUTES

---

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 Showky Kaldawy.

**ACTION OF THE BOARD** - Laid over to January 11, 2005, at 1:30 P.M., for continued hearing.

---

**71-04-BZ**

APPLICANT - Rudolf Gedeon, for Joseph Duton St. Jour, owner.  
SUBJECT - Application March 5, 2004 - under Z.R. §72-21 to permit the proposed construction of a three family residence, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for floor area ratio and side yard, is contrary to Z.R. §23-141(b) and §23-462(a).

PREMISES AFFECTED - 720 East 86th Street, between Glenwood Road and Flatlands Avenue, Block 8006, Lot 47, Borough of Brooklyn.

**COMMUNITY BOARD #18BK**

APPEARANCES -

For Applicant: Rudolf Gedeon.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to December 14, 2004, at 1:30 P.M., for decision, hearing closed.

---

**137-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Steven Sharabli, owner.  
SUBJECT - Application March 24, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, located within an R3-2 zoning district, which exceeds the allowable floor area, lot coverage, perimeter wall height, and side yard and rear yards, is contrary to Z.R. §23-141, §23-631, §23-48 and §23-47.

PREMISES AFFECTED - 1755 East 28th Street, between Quentin Road and Avenue "R", Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES -

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to December 14, 2004, at 1:30 P.M., for decision, hearing closed.

---

**128-04-BZ**

APPLICANT - Marvin B. Mitzner, Fischbein Badillo Wagner Harding for Sam and Esther Minskoff Cultural Center, Park East Day School, Inc., owner.

SUBJECT - Application March 11, 2004 - under Z.R. §72-21 to permit the enlargement of an existing school (Use Group 3) in an R8B zoning district, which is contrary to Z.R. §23-633, §24-11, §24-33 and §24-552.

PREMISES AFFECTED - 162-168 East 68<sup>th</sup> Street, southside of East 68<sup>th</sup> Street, 100 feet west of Third Avenue, Block 1402, Lots 41 and 42 (tent. 42), Borough of Manhattan.

**COMMUNITY BOARD #8M**

APPEARANCES -

For Applicant: Marvin Mitzner and Peter Geis.

For Opposition: Jack Lester, Lah Jacobs, Ken Podziba, Rita Chu, Weng Liff and Mark Hamilton.

THE VOTE TO CLOSE HEARING -

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to November 23, 2004, at 1:30 P.M., for decision, hearing closed.

---

**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 #18BK**

APPEARANCES -

For Applicant: Jordan Most and Edwin Umanoff.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to January 11, 2005, at 1:30 P.M., for decision, hearing closed.

---

**159-04-BZ**

---

# MINUTES

---

APPLICANT - Sheldon Lobel, P.C., for Civic Builders, Inc., owner.

SUBJECT - Application April 19, 2004 - under Z.R. §72-21 to permit the proposed construction of a charter school, Use Group 3, located within an M2-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 950/60 Longfellow Avenue, east side, between Bruckner Boulevard and Garrison Avenue, Block 2755, Lots 125 and 127, Borough of The Bronx.

**COMMUNITY BOARD #2BX**

APPEARANCES -

For Applicant: Richard Lobel and Aun Tirschwell.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to December 14, 2004, at 1:30 P.M., for decision, hearing closed.

---

**167-04-BZ**

APPLICANT - Dennis D. Dell'Angelino, R.A., for Steven Katz, owner.

SUBJECT - Application April 23, 2004 - under Z.R. §73-622 to

**170-04-BZ**

APPLICANT - Dennis Dell'Angelo, R.A., for Jean Teichman, owner.

SUBJECT - Application April 26, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family residence, which does not comply with the zoning requirements for floor area ratio and open space ratio, is contrary to Z.R. §23-141.

PREMISES AFFECTED - 2409 Avenue "K", north side, 53.0' east of East 24th Street, Block 7606, Lot 6, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Dennis Dell'Angelino.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 1:30 P.M., for decision, hearing closed.

---

**173-04-BZ**

APPLICANT - Eric Palatnik, P.C., for 345 Park South LLC, owner; NY Midtown Corp., lessee.

SUBJECT - Application April 26, 2004 - under Z.R. §73-36 to permit the legalization of a portion of the cellar level of said premises,

permit Proposed enlargement of an existing single family detached 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 and the required rear yard, is contrary to Z.R. §23-14 and §23-47.

PREMISES AFFECTED - 1336 East 22nd Street, West side, 180.0' north of Avenue "M", Block 7639, Lot 76, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Dennis Dell'Angelino.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 1:30 P.M., for decision, hearing closed.

---

as a physical culture establishment, located in an M1-6 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED - 5/9 West 37th Street, 200' east of Fifth Avenue, Block 839, Lot 34, Borough of Manhattan.

**COMMUNITY BOARD #5M**

APPEARANCES -

For Applicant: Eric Palatnik and Eur Joo Kim.

For Opposition: Debra Cantor.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to November 23, 2004, at 1:30 P.M., for decision, hearing closed.

---

**285-04-BZ**

APPLICANT - Slater & Beckerman, LLP, for Augustana Lutheran Home, owners.

SUBJECT - Application August 16, 2004 - under Z.R. §73-49 to permit parking on the roof of an existing four-story accessory

---

# MINUTES

---

parking garage contrary to Z.R. §36-11, located in a C1-3/R6 zoning district.

PREMISES AFFECTED - 5435 First Avenue aka 5424/5434 Second Avenue, west side, between 54th and 56th Streets, Block 820, Lot 36, Borough of Brooklyn.

**COMMUNITY BOARD #7BK**

APPEARANCES -

For Applicant: Stuart Beckerman.

**ACTION OF THE BOARD** - Laid over to December 14, 2004, at 1:30 P.M., for continued hearing.

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director.*

Adjourned: 6:20 P.M.

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 47

November 25, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN**, *Chair*

**SATISH BABBAR**, *Vice-Chair*

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	820
<b>CALENDAR</b> of December 14, 2004	
Morning .....	821
Afternoon .....	821

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, November 16, 2004**

Morning Calendar .....822

**Affecting Calendar Numbers:**

410-68-BZ	85-05 Astoria Boulevard, Queens
283-90-BZ	1400 Clove Road, Staten Island
111-01-BZ	9001 Ditmas Avenue, Brooklyn
239-02-BZ	110 Waverly Place, Manhattan
178-03-BZ	114-02 Van Wyck Expressway, Queens
148-04-A	133 Sterling Place, a/k/a 22 Seventh Avenue, Brooklyn

Afternoon Calendar.....823

**Affecting Calendar Numbers:**

228-04-BZ	1400 East 22 <sup>nd</sup> Street, Brooklyn
381-03-BZ	6023 Fort Hamilton Parkway, Brooklyn
8-04-BZ	78-15 Parsons Boulevard, Queens
150-04-BZ	129 Elizabeth Street, Manhattan
185-04-BZ	2275 East Second Street, Brooklyn
193-04-BZ	92 Gotham Avenue, Brooklyn
250-04-BZ	1220 East 27 <sup>th</sup> Street, Brooklyn
261-04-BZ	2824 Avenue "R", Brooklyn

---

# DOCKETS

---

New Case Filed Up to November 16, 2004

---

**355-04-BZ** B.BK. 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. Alt.1#301830400. 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)(N) zoning district, is contrary to Z.R.§97-21 and §42-00.

**COMMUNITY BOARD #1BK**

---

**356-04-BZ** B.M. 60 East 55th Street, south midblock, bounded by Park and Madison Avenues and East 54th and East 55th Streets, Block 1290, Lot 45, Borough of Manhattan. Applic.#103319491. Proposed use of the third, fourth and sixth floors, and portions of the cellar and first floor, of 41-story commercial and residential building, currently under construction, as a physical culture establishment, requires a special permit from the Board as per Z.R. §73-36.

**COMMUNITY BOARD #5M**

---

**357-04-BZ** B.Q. 707 Cross Bay Boulevard, southwest corner of 98th Street, Block 15311, Lot 11, Borough of Queens. N.B.#401807283. 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.

**COMMUNITY BOARD #14Q**

---

**358-04-BZ** B.Q. 728 Cross Bay Boulevard, southeast corner of 194th Avenue, Block 15453, Lot 8, Borough of Queens. Alt.#401819252. Proposed use of the site, for off-site accessory parking, for a proposed medical facility across the street, is contrary to §25-31.

**COMMUNITY BOARD #14Q**

---

**359-04-BZ** B.BK. 1425 East 24th Street, between Avenues "N" and "O", Block 7678, Lot 40, Borough of

Brooklyn. Applic.#300414031. The legalization of an enlargement to an existing 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 and rear yard, is contrary to Z.R. §23-141 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

---

**DECEMBER 14, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, December 14, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

## SPECIAL ORDER CALENDAR

### 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

\_\_\_\_\_

## 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

\_\_\_\_\_

### 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

\_\_\_\_\_

### 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

## REGULAR MEETING

**TUESDAY MORNING, NOVEMBER 16, 2004**

**10:00 A.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

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.

\_\_\_\_\_

**DECEMBER 14, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, December 14, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

\_\_\_\_\_

## ZONING CALENDAR

### 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, aka 144 North 12th Street, southwest corner of North 12th Street and Berry Street, Block 2290, Lot 5, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

\_\_\_\_\_

### 238-04-BZ

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

\_\_\_\_\_

### 259-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Richard Senior, owner.

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

\_\_\_\_\_

*Pasquale Pacifico, Executive Director*

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, September 21, 2004, were approved as printed in the Bulletin of September 30, 2004, Volume 89, No. 39.

\_\_\_\_\_

---

# MINUTES

---

## SPECIAL ORDER CALENDAR

### 410-68-BZ

APPLICANT - Sheldon Lobel, P.C., for Alessandro Bartellino, owner.

SUBJECT - Application June 29, 2004 - reopening for an 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.

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 and Chris T.

For Opposition:

**ACTION OF THE BOARD** - Laid over to December 7, 2004, at 10:00 A.M., for continued hearing.

---

### 283-90-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for OPM Holdings, LLC, owner.

SUBJECT - Application January 7, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1400 Clove Road, a/k/a Oswego Street, southwest corner of Clove Road and Oswego Street, Block 658, Lot 1, Borough of Staten Island.

### COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Adam W. Rothkrug.

For Opposition: Mary Ann McGowan and Ali Alsuede and Mary Ann McGowan.

**ACTION OF THE BOARD** - Laid over to December 14, 2004, at 10:00 A.M., for continued hearing.

---

### 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.

### 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

PREMISES AFFECTED - 9001 Ditmas Avenue, between 91st Street and Remsen Avenue, Block 8108, Lot 6, Borough of Brooklyn.

### COMMUNITY BOARD #17

APPEARANCES -

For Applicant: Eric Palatnik.

For Opposition: Marva Straker and Trevor T.

**ACTION OF THE BOARD** - Laid over to January 11, 2005, at 10 A.M., for continued hearing.

---

### 239-02-BZ

APPLICANT - Deidre A. Carson, Esq., for Babbo Realty, LLC, owner.

SUBJECT - Application September 16, 2004 - reopening for an amendment to the resolution for an existing variance for the enlargement of a restaurant cellar to house a wine cellar-UG6A.

PREMISES AFFECTED - 110 Waverly Place, 132' west of intersection of Waverly Place and Washington Square West, Block 552, Lot 53, Borough of Manhattan.

### COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Deirdre A. Carson.

For Opposition: Stuart Beckerman and Norman J. R.

**ACTION OF THE BOARD** - Laid over to December 14, 2004, at 10 A.M., for continued hearing.

---

### 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** - Laid over to January 25, 2005, at 10 A.M., for continued hearing.

---

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: Caroline Harris and Howard Goldman.

For Administration: Lisa Orantia, Department of Buildings.

---

# MINUTES

---

## 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 December 7,  
2004, at 10 A.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 12:25 P.M.

## REGULAR MEETING TUESDAY AFTERNOON, NOVEMBER 16, 2004 2:00 P.M.

**Present:** Chair Srinivasan, Vice-Chair Babbar, Commissioner  
Caliendo, Commissioner Miele and Commissioner Chin.

---

## ZONING CALENDAR

### 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 - None.

**ACTION OF THE BOARD** - Laid over to December 14,  
2004, at 1:30 P.M., for continued hearing.

### 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.

PREMISES AFFECTED - 2275 East Second Street, between

---

### 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, Councilman Genero, Meyer Jeger,  
Kenneth D. Cohen, A. Cyperstein, Larry Caponigro, Mario  
Petretich, Griselda LaMota and Francisca L.

**ACTION OF THE BOARD** - Laid over to January 11,  
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: Sol Korman.

**ACTION OF THE BOARD** - Laid over to January 11,  
2005, at 1:30 P.M., for continued hearing.

---

Avenue "W" and Gravesend Neck Road, Block 7154, Lot 64,  
Borough of Brooklyn.

### COMMUNITY BOARD #15

APPEARANCES - None.

## 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 11,

---

# MINUTES

---

2005, at 1:30 P.M., for decision, hearing closed.

\_\_\_\_\_

**193-04-BZ**

APPLICANT - Harold Weinberg, P.E., for Cherie & Don Lang, owners.

SUBJECT - Application May 10, 2004- under Z.R. §73-622 to permit the proposed one story enlargement over the existing first floor of a one family residential dwelling, which does not comply with the zoning requirements for rear yard, floor area ratio, side yards and lot coverage, is contrary to Z.R. §54-31, §23-141, §23-48 and §23-47.

PREMISES AFFECTED - 92 Gotham Avenue, south side, 366'-0" east of Fane Court, Block 8923, Lot 936, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES -

For Applicant: Harold Weinberg and Anna Centola.

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 December 14, 2004, at 1:30 P.M., for decision, hearing closed.

\_\_\_\_\_

**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 #14**

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO REOPEN HEARING -

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 #15**

APPEARANCES -

For Applicant: Moshe M. Friedman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo Commissioner Miele and Commissioner Chin.....5

Negative:.....0

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Absent: Commissioner Chin.....1  
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 November 16, 2004, at 1:30 P.M., for decision, hearing closed.

\_\_\_\_\_

**250-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Avrohom & Chava Dusowitz, owners.

SUBJECT - Application July 14, 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 side and rear yards, floor area and open space ratio, is contrary to Z.R. §23-461, §23-47 and §23-141.

PREMISES AFFECTED - 1220 East 27th Street, between Avenues "L" and "M", Block 7644, Lot 54, Borough of Brooklyn.

**COMMUNITY BOARD #14**

APPEARANCES -

For Applicant: Irv Minkin.

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 December 14, 2004, at 1:30 P.M., for decision, hearing closed.

\_\_\_\_\_

**261-04-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Peretz Toiv, owner.

**ACTION OF THE BOARD** - Laid over to November 23, 2004, at 1:30 P.M., for decision, hearing closed.

\_\_\_\_\_

*Pasquale Pacifico, Executive Director.*

Adjourned: 3:15 P.M.

---

# MINUTES

---

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, No. 48

December 2, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN**, *Chair*

**SATISH BABBAR**, *Vice-Chair*

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	828
<b>CALENDAR</b> of January 11, 2005	
Morning .....	829
Afternoon .....	830

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, November 23, 2004**

Morning Calendar .....831

**Affecting Calendar Numbers:**

780-56-BZ	137-21 Liberty Avenue, Queens
1046-63-BZ	540 Park Avenue, Manhattan
256-01-BZ	219-06 Hempstead Avenue, Queens
151-02-BZ	223 West 80 <sup>th</sup> Street, Manhattan
273-04-A	128/0 East 78 <sup>th</sup> Street and 121/23 East 77 <sup>th</sup> Street, Manhattan

Afternoon Calendar .....833

**Affecting Calendar Numbers:**

186-03-BZ	525 Union Avenue, Brooklyn
137-04-BZ	1755 East 28 <sup>th</sup> Street, Brooklyn
173-04-BZ	5/9 West 37 <sup>th</sup> Street, Manhattan
200-04-BZ	703 West 171 <sup>st</sup> Street, Manhattan
242-04-BZ	1440 East 26 <sup>th</sup> Street, Brooklyn
261-04-BZ	2824 Avenue "R", Brooklyn
327-02-BZ	82 Union Street, Brooklyn
214-03-BZ	388 Broadway, Manhattan
355-03-BZ	64-01/07 Grand Avenue, Queens
391-03-BZ	1288 East 19 <sup>th</sup> Street, Brooklyn
147-04-BZ	459 Carroll Street, Brooklyn
203-04-BZ	2801 Avenue "N", Brooklyn
204-04-BZ	1116 East 22 <sup>nd</sup> Street, Brooklyn
237-04-BZ	5722 Faraday Avenue, Bronx
268-04-BZ	1246 East 22 <sup>nd</sup> Street, Brooklyn
311-04-BZ	380 Lighthouse Avenue, Staten Island



---

# CALENDAR

---

**JANUARY 11, 2005, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, January 11, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## SPECIAL ORDER CALENDAR

### **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**

---

### **322-98-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, for HUSA Management Co., LLC, owner; TSI Harlem USA, Inc. dba 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**

---

## APPEALS CALENDAR

### **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

### **342-04-A**

APPLICANT - Gary Lenhart, R.A., for One Breezy Point Cooperative, Inc., owner; Patricia & John Martin, lessees.

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**

---

### **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**

---

### **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**

---

### **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**

---

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.

---

# CALENDAR

---

PREMISES AFFECTED - 124 Reid Avenue, west side, 230' south of Rockaway Point Boulevard, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

**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**

**JANUARY 11, 2005, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, January 11, 2005, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

**ZONING CALENDAR**

**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**

**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

**REGULAR MEETING**

**TUESDAY MORNING, NOVEMBER 23, 2004**

**10:00 A.M.**

Present: Chair Srinivasan, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

Absent: Vice-Chair Babbar.

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**

**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**

**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 Winsor Avenue, Block 2285, Lots 1 and 45, Borough of Staten Island.

**COMMUNITY BOARD #2**

*Pasquale Pacifico, Executive Director*

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, September 28, 2004, were approved as printed in the Bulletin of October 7, 2004, Volume 89, No. 40.

# MINUTES

## SPECIAL ORDER CALENDAR

### 780-56-BZ

APPLICANT - Vassalotti Associates Architects, LLP, for John Desiderio, owner.

SUBJECT - Application April 1, 2004 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired December 1, 2002 for an additional ten (10) years for an automobile service station with accessory convenience store, located in an R4 zoning district.

PREMISES AFFECTED - 137-21 Liberty Avenue, Block 10017, lots 17 and 18, Borough of Queens.

### COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Hiram Rothkrug.

**ACTION OF THE BOARD** - Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

Absent: Vice-Chair Babbar .....1

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

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 re-opening and an extension of the term of the variance, which expired on December 1, 2002; and

WHEREAS, a public hearing was held on this application on October 19, 2004, after due notice by publication in *The City Record*, and then to decision on November 23, 2004; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since December 10, 1957, when it granted an application under the subject calendar number for the erection and maintenance of a gasoline service station, lubritorium, office, accessories, sales, auto washing and motor vehicle repair shop with curb cuts within 75 feet of a residential district; and

WHEREAS, the Board has granted subsequent  
**1046-63-BZ**

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for 61st Street and Park Avenue Corp., d/b/a The Regency Hotel, 540 Park Avenue, owners; Distinctive Parking, LLC, lessee.

SUBJECT - Application August 30, 2004 - reopening for an amendment to the resolution to permit the use of surplus parking spaces for transient parking.

PREMISES AFFECTED - 540 Park Avenue, 35-39 East 61<sup>st</sup> Street, southeast corner, block bounded by Park and Madison

extensions of the term of the variance as well as minor amendments to the resolution, most recently on September 13, 1994, when the term of the variance was extended and the resolution was amended to permit the creation of an accessory retail convenience store; and

WHEREAS, the applicant states that the lapse of the variance since December 1, 2002 is due to a series of corporate changes that have occurred since the late 1990s; and WHEREAS, the applicant asserts that since the original grant in 1957, the service station facility and existing curb cuts have operated in a safe and efficient manner; and

*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 December 1, 2002, 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 December 1, 2002 expiring on December 1, 2012; *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 9, 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 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 Application #401636333)

Adopted by the Board of Standards and Appeals, November 23, 2004.

Avenues, East 61<sup>st</sup> and East 62<sup>nd</sup> Streets, Block 1376, Lot 36, 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, Commissioner Miele,

---

# MINUTES

---

Commissioner Chin and Commissioner Caliendo.....4  
Negative:.....0  
Absent: Vice-Chair Babbar.....1  
THE RESOLUTION -

WHEREAS, this is an application for re-opening, an extension of the term of the variance that expired on January 11, 2004, and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on October 26, 2004, after due notice by publication in *The City Record*, and then to November 23, 2004 for decision; and WHEREAS, Community Board 8, Manhattan, recommended approval of this application; and

WHEREAS, the subject premises is located on the northwest corner of Park Avenue and East 61<sup>st</sup> Street, and is improved with an 18-story and penthouse apartment hotel, with an accessory 129-car garage; and

WHEREAS, on April 7, 1964, the Board granted an application under BSA Cal. No. 1046-63-A to permit use of surplus spaces for transient parking in a garage accessory to a multiple dwelling, on condition that the vehicles parked in the transient spaces would be limited to 65 and that the tenants of the multiple dwelling could recapture any of the space devoted to transient parking on 30 days notice; and

WHEREAS, the Board concurrently granted an appeals application under Cal. No. 1047-63-A, pursuant to Sections 60(1)(b) and (d) of the Multiple Dwelling Law ("MDL"), for a modification of the MDL with respect to the subject premises to allow transient parking for periods of less than one month; and

WHEREAS, on January 11, 1994, the Board granted an extension of the term of the grant for a period of ten years on condition that all tenants would be informed of their right to recapture parking spaces; and

WHEREAS, the subject application seeks an amendment to the resolution to permit an increase in the spaces to be used for transient parking from 65 to 90; and

WHEREAS, the applicant states that over the last several years, there has been a decrease in the demand for long term parking at the garage and an increase in the demand for transient parking; and

WHEREAS, the applicant further represents that the garage could accommodate all of the existing demand for long term parking and still have parking spaces available for approximately 90 transient vehicles at most hours of the day; and

WHEREAS, the Board has reviewed the record and evaluated the representations of the applicant, and finds that  
**256-01-BZ**

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 219<sup>th</sup> Street and Hempstead Avenue, Block 11154, Lot 22, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to January 11, 2005, at 10 A.M., for continued hearing.

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 portion of the resolution shall read: "To extend the term of the variance for an additional ten (10) years from January 11, 2004, to expire on January 11, 2014, and to permit an increase in the spaces to be used for transient parking from 65 to 90; *on condition* that all work shall substantially conform to drawings as filed with this application, dated and received August 30, 2004"- (4) sheets; and *on further condition*;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the amount of spaces used for transient parking shall be limited to 90;

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 appear on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect; THAT the layout

THAT 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 #103613065)

Adopted by the Board of Standards and Appeals, November 23, 2004.

---

## 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 80<sup>th</sup> Street, between Broadway and Amsterdam, Block 1228, Lot 19, Borough of Manhattan.

## COMMUNITY BOARD #7M

APPEARANCES - None.

**ACTION OF THE BOARD** - Laid over to January 11,

# MINUTES

2005, at 10 A.M., for continued hearing.

## 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 78<sup>th</sup> Street and 121/23 East 77<sup>th</sup> 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: Janine Gayland, Department of Buildings.

**ACTION OF THE BOARD** - Laid over to January 25, 2005, at 10 A.M., for continued hearing.

*Pasquale Pacifico, Executive Director.*

Adjourned: 10:45 A.M.

## REGULAR MEETING TUESDAY AFTERNOON, NOVEMBER 23, 2004 2:00 P.M.

Present: Chair Srinivasan, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

Absent: Vice-Chair Babbar.

## ZONING CALENDAR

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M1-2(R6) zoning district within the Special Northside Mixed Use district, the construction of a five-story and cellar residential building, contrary to Z.R. §42-00; and

WHEREAS, the original version of this proposal contemplated the following: seven stories; a Floor Area Ratio ("FAR") of 4.31; 60 units; 24 parking spaces; a perimeter wall height of 62 ft.; and a total height of 74 ft.; and

WHEREAS, Community Board 1, Brooklyn, recommended disapproval of the original version, due to the requested bulk waivers; and

WHEREAS, the City Planning Commission ("C.P.C."), by letter dated February 19, 2004, recommended that the original version not be granted unless modified to conform generally with the height and bulk limitations applicable to the Department of City Planning's proposed rezoning for the Greenpoint-Williamsburg area; and

## 186-03-BZ

### CEQR #03-BSA-202K

APPLICANT - Sheldon Lobel, P.C., for Mount Carmel Plaza, LLC, owner.

SUBJECT - Application June 4, 2003 - under Z.R. §72-21 to permit in an M1-2(R6) zoning district within the Special Northside Mixed Use district, the construction of a five-story and cellar residential building, with 42 units, an FAR of 2.87 FAR, a perimeter wall height of 42 feet, a total height of 54 feet; and 21 parking spaces, contrary to Z.R. §42-00.

PREMISES AFFECTED - 525 Union Avenue, west side, 48' south of Withers Street, Block 2315, Lot 14, 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, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

Absent: Vice-Chair Babbar .....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated May 5, 2003, acting on Department of Buildings Application No. 301545898, reads:

"Proposed residential Use Group 2 not permitted in M1-2[R6 within the Special Northside Mixed Use district] zoning district as per Z.R. 42-00"; and

WHEREAS, a public hearing was held on this application on February 24, 2004 after due publication in *The City Record*, with continued hearings on April 13, 2004, April 27, 2004, June 15, 2004, August 10, 2004, August 17, 2004, and October 5, 2004 and then to decision on November 23, 2004; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, various community members also appeared in opposition to the subject application; and

WHEREAS, the Board, upon reviewing the original version, shared the concerns of the Community Board and C.P.C., and, as discussed below, suggested to the applicant during the public hearing that the proposal be reduced in size; and

WHEREAS, the subject site is located on the west side of Union Avenue, 48 feet south of the intersection of Withers Street and Union Avenue, has a total lot area of 15,545 sq. ft., and is improved upon with an existing one-and-two-story manufacturing building with 19,369 sq. ft. of total floor area; and

WHEREAS, the site is within the Special Northside Mixed Use district, where residential use is allowed through special permit from C.P.C. provided that certain prerequisites are met; however, the subject site does not

---

# MINUTES

---

meet these prerequisites, and a variance for use is therefore required; and

WHEREAS, the current proposal contemplates the demolition of the existing building and the construction of a new building with the following parameters: five stories; a FAR of 2.87; 42 units; 21 parking spaces; a perimeter wall height of 42 ft.; and a total height of 54 ft.; and

WHEREAS, in addition to the original version, an intermediate version of the proposal, submitted on April 12, 2004, contemplated the following: six stories; a FAR of 3.50; 51 units; no parking spaces; a perimeter wall height of 52 ft.; and a total height of 64 ft.; and

WHEREAS, a second intermediate version of the proposal, submitted on June 15, 2004, reinstated the 24 parking spaces; and

WHEREAS, in response to Board concerns about the proposed bulk, the application was subsequently modified to reflect the current proposal; 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 irregularly shaped, in that the property's Union Avenue frontage extends for 175 feet, and, at the southern edge of the lot, the depth of the site from Union Avenue is 90 feet, and over the next 50 feet heading in a northerly direction the depth increases to 120 feet, and thereafter, the depth of the property to its northerly lot line is only 80 feet; (2) the existing building is obsolete, with inadequate freight elevator service, inadequate ceiling height on both floors, and wooden floors with a poor load bearing capacity; (3) the site is in close proximity to the subway line and the air vents located in the sidewalk, which results in substantial additional development costs related to special foundation work and construction materials; and (4) the site is near a church, church school, rectory and convent facility, as well as multiple dwellings, which are uses incompatible with conforming manufacturing uses; and

WHEREAS, in amplification of the first component of the claimed basis for uniqueness (lot shape), the applicant states that a complying commercial/industrial building on the

WHEREAS, over the course of the hearing process, the applicant determined that the premium foundation costs associated with the site's proximity to the subway were estimated to be approximately 1 million dollars; and

WHEREAS, the applicant's financial consultant submitted a revised analysis incorporating the subway costs, which the Board finds credible and sufficient; and

WHEREAS, the Board also asked the applicant to analyze a scenario including conversion and enlargement of the existing building, which would potentially reduce construction costs and the requested FAR waiver; and

WHEREAS, the applicant's engineer made a submission in response, explaining that the existing building is not likely to be able to handle the additional load of new stories due to its structural limitations, so re-use of it is not possible; and

WHEREAS, at the request of the Board, the applicant submitted a letter from its financial consultant regarding

site would need to have a 20 foot rear yard for the southern 125 feet of frontage, and that the resulting configuration would be both costly to build and, due to resulting inefficient floor plates for conforming uses, not particularly attractive to commercial/industrial users; and

WHEREAS, in support of the claim that the site's proximity to the subway and vents poses a hardship, the applicant has submitted a drawing illustrating a cross section of the proposed building and the adjacent subway tunnel and the vent shaft; and

WHEREAS, at the request of the Board, the applicant also submitted documentation from the NYC Transit Authority ("NYCTA") regarding construction practice limitations imposed due to the proximity of the subway tunnel; and

WHEREAS, the Board has reviewed this drawing and the NYCTA documentation and agrees that the site is in close enough proximity to the subway such that construction practices could be impacted; and

WHEREAS, specifically, the Board agrees with the applicant's claim that the proximity of the subway to the development site necessitates expensive underpinning of the subway tunnel; and

WHEREAS, the engineer further explained that due to the weight of pile-driving machinery and equipment, special bridging would be needed to support the subway vents in the sidewalk in front of the site, which lends further credence to the assertion that construction costs will increase due to the proximity of the subway; and

WHEREAS, accordingly, the Board finds that certain of the aforementioned unique physical conditions - specifically, the lot's proximity to the subway and vents and the resulting increased construction costs, and the its irregular shape - 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 purporting to show that a conforming manufacturing use scenario would not yield a reasonable return; and

valuation of the property exclusive of the obsolete building; and

WHEREAS, this letter states that the previously submitted valuation of the site represents the fair market value of the site even if the site were considered vacant; and

WHEREAS, the applicant also submitted evidence of failed marketing attempts for a conforming 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 affect the character of the neighborhood and that residential use of the site is compatible with the numerous residential uses in the surrounding area; and

WHEREAS, the applicant states that the site is within a mixed-use neighborhood, with both residential and community facility uses in the immediate vicinity; and

---

# MINUTES

---

WHEREAS, the applicant cites specifically to residential-compatible uses immediately adjacent to the site (a church, school, rectory and convent next door, as well as a park nearby); and

WHEREAS, as to the bulk of the proposed building given the context of the neighborhood, the applicant states that clustered in various locations in the vicinity are 5-story and 4-story residential buildings, having streetwalls rising straight up at the lot line to the top of their respective parapet walls, and that interspersed throughout the area are other 3- and 4-story buildings; and

WHEREAS, the Board notes that the streetwall rises four stories, but the fifth story is set back, which reduces the visual impact of the fifth story when the building is viewed from the street level; and

WHEREAS, in support of these statements and at the request of the Board, the applicant has submitted a revised land use map with building heights listed, as well as photographs; and

WHEREAS, the Board notes that the site is within the Special Northside Mixed Use district, which contemplates residential use within R6 bulk parameters; and

WHEREAS, as discussed above, the applicant reduced the bulk of the proposal to comply with the bulk parameters applicable to R6 equivalent development, under Quality Housing provisions for wide streets; and

WHEREAS, specifically, the proposed FAR is now 2.87, which is less than the 3.0 FAR allowed for Quality Housing development on a wide street such as Union Avenue; and

WHEREAS, the Board also notes that the proposed bulk now comports with the bulk that would be allowed in the afore-mentioned proposed rezoning area; and

WHEREAS, at the request of the Board and in light of comments made by the Community Board, the height of 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, the December 26, 2003 CEQR submission specifically examined the proposed action for potential hazardous materials, traffic, parking, transit and pedestrian impacts and determined that there would not be any impacts; and

WHEREAS, the December 26, 2003 CEQR submission also specifically examined the proposed action for potential air quality impacts, and due to potential air quality impacts resulting from the subject site's proximity to the Brooklyn-Queens Expressway, the Board is imposing a condition that requires that an alternate means of ventilation (either central air-conditioning or a provision for air-conditioner sleeves for use with an air-conditioner or HUD-approved fan) be provided; and

mechanical equipment to be located on the roof of the proposed building was reduced; and

WHEREAS, the Board has reviewed the submitted maps and photos and has conducted a site visit, and concludes that the proposed use and bulk of the building will be compatible with the surrounding uses and built conditions; 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 both the proper amount of relief necessary to alleviate the hardship associated with the site and the appropriate building form, the applicant significantly modified the proposal to reflect a lower, decreased bulk building that complies with the bulk provisions applicable to the proposed rezoning area; 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. 03-BSA-202K dated October 28, 2003; 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 M1-2(R6) zoning district within the Special Northside Mixed Use district, the construction of a five-story and cellar residential building, with 42 units, an FAR of 2.87 FAR, a perimeter wall height of 42 feet, a total height of 54 feet; and 21 parking spaces, 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 9, 2004" - (10) sheets; and *on further condition*;

THAT alternate means of ventilation (either central air-

# MINUTES

conditioning or a provision for air-conditioner sleeves for use with an air-conditioner or HUD-approved fan) be provided;

THAT the air intake duct for the building's HVAC system shall be located on top of the building;

THAT all exiting requirements shall be as reviewed and approved by the Department of Buildings;

THAT all fire protection measures as set forth in the May 25, 2004 Fire Protection Synopsis and/or as noted on the BSA-approved plans shall be implemented and maintained;

THAT all Quality Housing features as noted on the BSA-approved plans shall be implemented 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, November 23, 2004.

## 137-04-BZ

### CEQR #04-BSA-148K

APPLICANT - Sheldon Lobel, P.C., for Steven Sharabli, owner.

SUBJECT - Application March 24, 2004 - under Z.R. §73-622 to permit within 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, lot coverage, side yard and rear yards, contrary to Z.R. §§23-141(a), 23-48, and 23-47.

PREMISES AFFECTED - 1755 East 28<sup>th</sup> Street, between Quentin Road and Avenue "R", Borough of Brooklyn.

WHEREAS a public hearing was held on this application on November 9, 2004 after due notice by publication in *The City Record*, and then to November 23, 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 15, Brooklyn recommended approval of this application; and

WHEREAS, this is an application under Z.R. §§73-622 and 73-03 to permit, within 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, lot coverage, and side yard and rear yards, contrary to Z.R. §§23-141(a), 23-48, and 23-47; and

WHEREAS, the subject lot is located on East 28<sup>th</sup> Street between Quentin Road and Avenue R, and has a total lot area of approximately 2,580 sq. ft.; and

WHEREAS, the applicant states that the subject lot is improved upon with an existing two-story and cellar residential structure; and

WHEREAS, the applicant seeks an increase in the floor

## COMMUNITY BOARD #15BK

### APPEARANCES -

For Applicant: Jordan Most.

**ACTION OF THE BOARD** - Application granted on condition.

### THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

Absent: Vice-Chair Babbar .....1

### THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

Absent: Vice-Chair Babbar .....1

### THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

Absent: Vice-Chair Babbar.....1

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 29, 2004, acting on Department of Buildings Application No. 301677031, reads, in pertinent part:

- "1. [Floor Area Ratio] and [Lot Coverage] is contrary to ZR section 23-141[a]
2. Side yard required is contrary to [ZR] section 23-48
3. Rear yard required is contrary to [ZR] section 23-47"; and

area from 1,689 sq. ft. (0.66 Floor Area Ratio or "FAR") to 2,055 sq. ft. (0.80 FAR) B the maximum floor area permitted including an extra 100 sq. ft. for the garage is 1,390 sq. ft (0.54 FAR); and

WHEREAS, the proposed enlargement will reduce the open space from 2,389 sq. ft. (0.70 Open Space Ratio or "OSR") to 2,210 sq. ft. (0.58 OSR) - the minimum open space required is 2,210 square feet (0.65 OSR); and

WHEREAS, the proposed enlargement will also increase the lot coverage from 887 sq. ft. (34.4%) to 1,047 sq. ft. (40.6%) - the maximum lot coverage permitted is 903 sq. ft. (35%); and

WHEREAS, the enlargement will reduce the rear yard from 32'-10.5" to 20'-0" (the minimum rear yard permitted 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 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

# MINUTES

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 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. §§73-622 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, within 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, lot coverage, side yard and rear yards, contrary to Z.R. §§23-141(a), 23-48, 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 marked "Received November 12, 2004"-(5) sheets and "Received November 22, 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 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 Negative:.....0  
Absent: Vice-Chair Babbar.....1  
THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated April 20, 2004, acting on Department of Buildings Application No. 103715838, reads:

"Proposed use of physical cultural establishment is not permitted as of right in M1-6 district. It is contrary to ZR 42-10."; 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 November 9, 2004, and then to decision on November 23, 2004; 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, and the Fashion District Business Improvement District recommended disapproval of this application; and

WHEREAS, this is an application under Z.R. §§73-36 and 73-03, to permit a proposed Physical Culture Establishment ("PCE") use in the cellar of an existing twelve-story building, located within an M1-6 zoning district, contrary

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, November 23, 2004.

## 173-04-BZ

### CEQR #04-BSA-178M

APPLICANT - Eric Palatnik, P.C., for 345 Park South LLC, owner; NY Midtown Corp., lessee.

SUBJECT - Application April 26, 2004 - under Z.R. §73-36 to permit a proposed Physical Culture Establishment use in the cellar of an existing twelve-story building, located within an M1-6 zoning district, contrary to Z.R. §42-10.

PREMISES AFFECTED - 5/9 West 37<sup>th</sup> Street, 200' east of Fifth Avenue, Block 839, Lot 34, Borough of Manhattan.

### COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

to Z.R. § 42-10; and

WHEREAS, the subject building is located on the north side of West 37<sup>th</sup> Street between Fifth Avenue and the Avenue of the Americas; and

WHEREAS, the applicant represents that the proposed PCE will have total area of 4,147.5 square feet; and

WHEREAS the applicant represents that the proposed PCE will provide the following services: massage, manicure, pedicure, skincare and body scrubs; and

WHEREAS, the applicant further states the PCE will contain 13 therapy rooms for massage performed by New York State licensed masseurs or masseuses, two private showers and three saunas; and

WHEREAS, the applicant represents that the subject premises is occupied by a restaurant and a retail store on the first floor, offices on floors two through four and six through twelve, and a manufacturing use on the fifth floor, and that such uses are compatible with the PCE; 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

# MINUTES

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 73-03; 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-178M, dated August 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; Archaeological 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

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT sound attenuation measures shall be installed and maintained as reflected on the BSA-approved plans;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT the applicant must submit massage licenses for all employees performing massages for the Board's review and approval prior to the issuance of a temporary or permanent 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, November 23, 2004.

**200-04-BZ**  
**CEQR #04-BSA-199M**

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 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 a proposed Physical Culture Establishment use in the cellar of an existing twelve-story building, located within an M1-6 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 November 15, 2004"-(2) sheets; and *on further condition*;

THAT this special permit shall be limited to a term of ten years from November 23, 2004, expiring on November 23, 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: 10:00 AM to 12:00 AM daily;

APPLICANT - David Vandor, for Mr. Frank Renna, President of D'Aprile Development and Leasing, owner.

SUBJECT - Application May 12, 2004 - under Z.R. §72-20 to permit the proposed construction of a nine story residential and community facility building, Use Groups 2 and 4, on a narrow vacant lot, encumbered by a massive rock outcropping, in an R8 zoning district, which does not comply with the zoning requirements for height and setback, is contrary to Z.R. §23-692 and §23-62.

PREMISES AFFECTED - 703 West 171<sup>st</sup> Street, Fort Washington Avenue on the east and Haven Avenue on the west, Block 2139, Lot 199, Borough of Manhattan.

## COMMUNITY BOARD #12M

APPEARANCES -

For Applicant: David Vandor.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

Absent: Vice-Chair Babbar .....1

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner dated April 19, 2004, acting on Department of Buildings Application No. 103683426, reads in pertinent part:

---

# MINUTES

---

- “1. ZR 23-692 Proposed construction exceeds maximum permitted height, [and] is contrary to Section 23-692 ZR.
2. ZR 23-62 Proposed stair, elevator bulkheads, & water tank exceeds maximum permitted obstruction above the height limitation of narrow buildings, [and] is contrary to 23-62 ZR.”; and

WHEREAS, a public hearing was held on this application on October 26, 2004 after due publication in *The City Record*, and then to decision on November 23, 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. §72-21, to permit, within an R8 zoning district, the proposed construction of a nine-story and cellar mixed-use building, which does not comply with applicable height requirements, contrary to Z.R. §§23-62 and 23-692; and

WHEREAS, Community Board No. 12, Manhattan, recommended conditional approval of this application; and

WHEREAS, the subject lot is a vacant interior lot located on the north side of West 171<sup>st</sup> Street between Washington and Haven Avenues, measuring 25 ft. by 100 ft., with a total lot area of 2500 sq. ft.; and

WHEREAS, the applicant states that an as-of-right multiple dwelling constructed on top of the rock outcropping is not feasible because of the issues related to providing a practical entrance and elevator lobby and because of the inherent difficulties of constructing foundations for a multi-story building along the edge of and on top of unstable rock; and

WHEREAS, therefore, the rock outcropping must be removed down to a level below grade and below the adjacent side yard to the east in order for a stable foundation to be constructed; and

WHEREAS, the applicant asserts that due to the narrowness of the site, the single access point on one street, and the close proximity of adjacent residential uses with windows facing the site across side yards, the removal of more than 45,000 cubic feet of above-grade rock and a significant amount of rock below grade, will need to be done by “hand” demolition, not by blasting or heavy equipment; and

WHEREAS, the applicant represents that the subject premises is further constrained by the requirements of ZR §23-692, which limits the height of developments on lots with a width of less than 45 ft.; and

WHEREAS, the applicant represents that the proposed height of the building is necessary, given the need to use available floor area and the limitations imposed by the applicable height provisions; and

WHEREAS, the Board finds that the aforementioned unique physical conditions create unnecessary hardship and practical difficulties in developing the site in conformity with

WHEREAS, the proposed building will contain community facility use on the cellar level and first floor, with seven residential units on floors 2 through 9; 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 strict compliance with underlying district regulations: (1) the subject site is burdened with an approximately 18'-0" high solid rock outcropping that covers the entire lot; and (2) the rock partially abuts a six-story residential building to the west along a common lot line and abuts a side yard of the six-story residential building to the east; and

WHEREAS, the applicant represents that the rock outcropping extends beyond the boundaries of the zoning lot, to the public right of way in front of the property, where a staircase has been carved into the rock by a prior owner to allow access to the top of the rock; and

WHEREAS, the applicant further states that while the other parcels of land nearby benefited from multifamily development from the early 1900's to the 1930's, the subject property was never developed with more than a single-family house, located on the top of the rock; and

WHEREAS, evidence in the record indicates that after receiving a number of “unsafe building” citations from the Department of Buildings, the single-family house was demolished in 1977 and the site has remained vacant since; and

the current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the premises with a building which complies with the height requirements of Z.R. §§23-692 and 23-62 would not yield the owner a reasonable return; and

WHEREAS, the Board asked the applicant to re-evaluate the feasibility study, to take into account the decreased land value due to “sliver building” zoning restrictions; and

WHEREAS, the financial consultant submitted a letter stating that if such a reduced land value is incorporated into the feasibility study, the return on equity remains below the level that investors would consider reasonable; and

WHEREAS, also at the request of the Board, the financial consultant analyzed a development scheme with a building with a four foot setback at the eighth floor; and

WHEREAS, the financial consultant concluded that such a scenario would not result in a change in overall income; and

WHEREAS, based upon its review of the submitted feasibility study, 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 regulations will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance will not affect the character of the neighborhood, and that the use is compatible with the surrounding neighborhood, which is composed almost entirely of multiple dwellings; and

---

# MINUTES

---

WHEREAS, in response to Board and community-based concerns, the applicant has modified the design of the building to provide a 4'-0" setback on the eighth floor, as well as a street-facade that is more sensitive to the context of the surrounding 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, 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

*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 R8 zoning district, the proposed construction of a nine-story and cellar mixed-use building, which does not comply with the requirements for height, contrary to Z.R. §§23-62 and 23-692; *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 9, 2004"-(1) 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 the proposed building shall comply with the following height and setback calculations as indicated on the approved plans: (1) a 4'-0" setback at 69'-5"; (2) a 15'-0" setback at 78'-0"; (3) a total building height of 88'-6"; and (4) an overall building height, inclusive of the bulkhead, of 100'-3";

THAT 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.

information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04 BSA 199 M dated May 11, 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, 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.

Adopted by the Board of Standards and Appeals, November 23, 2004.

---

## 242-04-BZ

### CEQR #04-BSA-223K

APPLICANT - Moshe M. Friedman, P.E., for Yeruchem Miller, contract vendee.

SUBJECT - Application June 29, 2004 - under Z.R. §73-622 to permit the 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. §223-141(a), §23-47 and §23-48.

PREMISES AFFECTED - 1440 East 26<sup>th</sup> Street, west side, 527'-8" north of Avenue "O", Block 7679, Lot 69, 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, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

Absent: Vice-Chair Babbar.....1

#### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 10, 2004, acting on Department of Buildings Application No. 301756277, reads, in pertinent part:

"Extension to existing 1 family dwelling is contrary to ZR 23-141(a) Floor Area Ratio, ZR 23-141(a)Open Space Ratio, ZR 23-47Rear Yard,

---

# MINUTES

---

## ZR 23-48 Minimum Required Side 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 October 19, 2004 after due notice by publication in *The City Record*, and then to November 23, 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. §§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 ratio, open space ratio, rear yard, and minimum required side yard, contrary to Z.R. §§23-141(a), 23-47 and 23-48; and

WHEREAS, Brooklyn Community Board 14 recommended approval of this application; and

WHEREAS, the applicant represents that there will be no change to the existing non-complying side yards, which measure 3'-5" and 6'-8" - the minimum side required side yard is 5'-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 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 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. §§73-622 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, rear yard, and minimum required side yard, 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

WHEREAS, the subject lot is located on the west side of East 26<sup>th</sup> Street between Avenue N and Avenue O, and has a total lot area of approximately 2,733 sq. ft.; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-story, cellar and attic residential structure; and

WHEREAS, the applicant seeks an increase in the floor area from 1,780.23 sq. ft. (0.65 Floor Area Ratio or "FAR") to 2,759.60 sq. ft. (1.01 FAR) - the maximum floor area permitted is 1,366.65 sq. ft (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the open space ratio (Open Space Ratio or "OSR") from 0.9653 to 0.5552 OSR - the minimum required is 1.5 OSR; and

WHEREAS, the proposed enlargement will maintain the existing non-complying 10'-0" front yard on the first floor and reduce the front yard from 22'-0" to 15'-0" on the second floor - the required front yard is 15'-0"; and

objection above-noted, filed with this application and marked "Received November 4, 2004"-(6) sheets, and "Received June 29, 2004"-(2) 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 any rear porch, side open stoop or bay windows shall be as approved by the Department of Buildings; THAT this a

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 23, 2004.

---

## 261-04-BZ

### CEQR #05-BSA-013K

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 single family residence (Use Group 1), located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area, open space and lot coverage, contrary to Z.R. §23-141(a) and (b).

PREMISES AFFECTED - 2824 Avenue "R", southwest corner of East 29<sup>th</sup> Street, Block 6834, Lot 7, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

#### APPEARANCES -

For Applicant: Moshe M. Friedman.

---

# MINUTES

---

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Commissioner Miele, Commissioner Chin and Commissioner Caliendo.....4

Negative:.....0

Absent: Vice-Chair Babbar.....1

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated July 22, 2004, acting on Department of Buildings Application No. 301778752, reads, in pertinent part:

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 R3-2 zoning district, which does not comply with the zoning requirements for floor area, open space and lot coverage, contrary to Z.R. §23-141(a) and (b); and

WHEREAS, the subject lot is located on the southwest corner of Avenue R and East 29<sup>th</sup> Street, and has a total lot area of approximately 3,400 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 seeks an increase in the floor area from 1,722.0 sq. ft. (0.51 Floor Area Ratio or "FAR") to 3,328.71 sq. ft. (0.98 FAR) - the maximum floor area permitted is 1,700 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the open space from 2,389 sq. ft. (0.70 Open Space Ratio or "OSR") to 2,210 sq. ft. (0.58 OSR) - the minimum open space required is 2,210 square feet (0.65 OSR); and

WHEREAS, the proposed enlargement will also increase the lot coverage from 1,011.0 sq. ft. (30%) to 1,417.13 sq. ft. (42%) - the maximum lot coverage permitted is 1,190 sq. ft. (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 applicant represents that although there are two existing non-complying front yards of 9' and 11'-6", the proposed extension will provide the required 10' and 15' front yards; 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

"Extension to existing 1 family dwelling is contrary to ZR 23-141[a]Floor Area Ratio, ZR 23-141[a]Open Space, ZR 23-141(b)Lot Coverage,

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 November 16, 2004 after due notice by publication in *The City Record*, and then to November 23, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

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. §§73-622 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 R3-2 zoning district, which does not comply with the zoning requirements for floor area, open space and lot coverage, contrary to Z.R. §23-141(a) and (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 July 22, 2004"-(2) sheets; marked "Received November 16, 2004"-(7) sheets; and *on further condition*;

THAT there shall be no habitable room in the cellar;

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 the Department of Buildings shall review and confirm the total proposed floor area, including any floor area in the attic;

THAT all rooms to be occupied must comply with all legal requirements as to habitability, as determined 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.

---

# MINUTES

---

Adopted by the Board of Standards and Appeals,  
November 23, 2004.

**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.

**214-03-BZ**

APPLICANT - The Agusta Group, for 388 Broadway Owners LLD, owner; Sunny Cheuck, lessee.  
SUBJECT - Application December 23, 2003 - under Z.R. §73-36 to permit the legalization of an existing physical culture establishment, located on the first floor of a five story loft building, in an M1-5 zoning district, which requires a special permit.  
PREMISES AFFECTED - 388 Broadway, east side, between White and Walker Streets, Block 195, Lot 3, Borough of Manhattan.

**COMMUNITY BOARD #1M**

APPEARANCES -

For Applicant: Sol Korman.

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Vice-Chair Babbar.....1

**ACTION OF THE BOARD** - Laid over to December 14, 2004, 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 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, Michael D'Alto, Mildred Brown, Paul Marcel, Patrick Arma, Patrick Benenati, Rosemary Marcerie and Carolyn Pair.

For Opposition: Manuel Carvana, Rosemary Felle, Warren Chow, Robert Marwoff, Carrel Broer and Patrick Bennett.

**ACTION OF THE BOARD** - Laid over to January 25, 2005, at 1:30 P.M., for continued hearing.

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 January 11, 2005, at 1:30 P.M., for continued hearing.

**391-03-BZ**

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 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 19<sup>th</sup> 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: Richard Lobel.

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Vice-Chair Babbar.....1

**ACTION OF THE BOARD** - Laid over to December 14, 2004, at 1:30 P.M., for decision, hearing closed.

**147-04-BZ**

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 - None.

**ACTION OF THE BOARD** - Laid over to January 25, 2005, at 1:30 P.M., for deferred decision.

**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

---

# MINUTES

---

open space ratio and floor area ratio, is contrary to Z.R. §23-14.  
PREMISES AFFECTED - 2801 Avenue "N", northeast corner of East 28<sup>th</sup> Street, Block 7664, Lot 9, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

Affirmative: Chair Srinivasan, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Vice-Chair Babbar.....1

**ACTION OF THE BOARD** - Laid over to January 11, 2005, at 1:30 P.M., for decision, hearing closed.

---

**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 22<sup>nd</sup> Street, west side, 340' south of Avenue "J", Block 7603, Lot 65, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Dennis D'Dellangelo.

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Vice-Chair Babbar.....1

**ACTION OF THE BOARD** - Laid over to January 11, 2005, at 1:30 P.M., for decision, hearing closed.

---

**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.

**ACTION OF THE BOARD** - Laid over to January 11, 2005, at 1:30 P.M., for continued hearing.

---

**268-04-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, for Paula

APPEARANCES -

For Applicant: Dennis D'Dellangelo.

THE VOTE TO CLOSE HEARING-

Saff, owner.

SUBJECT - Application July 30, 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 ratio, open space ratio and side and rear yards, is contrary to Z.R. §23-461, §23-141 and §23-47.

PREMISES AFFECTED - 1246 East 22<sup>nd</sup> Street, between Avenues "K" and "L", Block 7621, Lot 78, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES -

For Applicant: Lyra Altman and Esra Saff.

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....4

Negative:.....0

Absent: Vice-Chair Babbar.....1

**ACTION OF THE BOARD** - Laid over to December 14, 2004, 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 (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 Winsor Avenue, Block 2285, Lots 1 and 45, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

APPEARANCES -

For Applicant: Adam Rothkrug.

For Opposition: Dr. Marilyn Aronson, Dr. Natalyn Shuartsfurw, Stephen Lauria and Helen Kravetz.

**ACTION OF THE BOARD** - Laid over to January 11, 2004, at 1:30 P.M., for continued hearing.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 4:00 P.M.

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, Nos. 49-50

December 16, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**SATISH BABBAR, *Vice-Chair***

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	848-849
<b>CALENDAR</b> of January 25, 2005	
Morning .....	850
Afternoon .....	851

# CONTENTS

**MINUTES of Regular Meetings,  
Tuesday, December 7, 2004**

Morning Calendar .....852

**Affecting Calendar Numbers:**

813-63-BZ	699/711 West End Avenue, Manhattan
133-99-BZ	1253 Oriental Boulevard, Brooklyn
135-46-BZ	3802 Avenue U, Brooklyn
457-56-BZ	152/4 India Street, Brooklyn
410-68-BZ	85-05 Astoria Boulevard, Queens
208-78-BZ	2145 Richmond Avenue, Staten Island
218-96-BZ	138 East 39 <sup>th</sup> Street, Manhattan
173-94-BZ	165-10 144 <sup>th</sup> Road, Queens
150-00-BZ	802 Hicksville Road, Queens
148-04-A	133 Sterling Place, Brooklyn
243-04-A	11 Essex Street, Manhattan
25-04-A&26-04-A	506 & 510 Bradford Avenue, Staten Island
330-04-BZY 3220/28	Arlington Avenue, The Bronx
333-04-BZY 640	West 237 <sup>th</sup> Street, The Bronx
346-04-BZY 3329-3333	Giles Place, The Bronx

Afternoon Calendar.....863

**Affecting Calendar Numbers:**

147-02-BZ	201-06 Hillside Avenue, Queens
194-03-BZ	739 East New York Avenue, Brooklyn
255-03-BZ	1019 Surf Avenue, Brooklyn
273-03-BZ thru	
285-03-BZ	211-51/49/47/45/43/54/52/50/48/46/44/42 94 <sup>th</sup> Road, Queens
364-03-BZ	34-11 Far Rockaway Boulevard, Queens
390-03-BZ	95 Dobbin Street, Brooklyn
125-04-BZ	247-39 Jamaica Avenue, Queens
167-04-BZ	1336 East 22 <sup>nd</sup> Street, Brooklyn
170-04-BZ	2409 Avenue K, Brooklyn
102-03-BZ	291 Kent Avenue, Brooklyn
291-03-BZ	1380 62 <sup>nd</sup> Street, Brooklyn
332-03-BZ	34-38 38 <sup>th</sup> Street, Queens
385-03-BZ	85-15 & 85-17 120 <sup>th</sup> Street, Queens
3-04-BZ	147-08 46 <sup>th</sup> Avenue, Queens
16-04-BZ	186-05 129 <sup>th</sup> Road, Queens
22-04-BZ	2556 Briggs Avenue, The Bronx
134-04-BZ	184 Kent Avenue, Brooklyn
135-04-BZ	91-22 188 <sup>th</sup> Street, Queens
153-04-BZ	2948 Voorhies Avenue, Brooklyn
207-04-BZ	2721 Avenue N, Brooklyn
208-04-BZ	2822 Avenue L, Brooklyn
227-04-BZ	1335 East 22 <sup>nd</sup> Street, Brooklyn
263-04-BZ	150 Girard Street, Brooklyn

**MINUTES of Special Hearing**

**Tuesday, December 8, 2004**.....911

**Affecting Calendar Numbers:**

233-04-BZ	136-20 38 <sup>th</sup> Avenue (aka 38-21 Main Street, Queens
-----------	---

---

# DOCKETS

---

New Case Filed Up to December 7, 2004

**365-04-A** B.Q. 85-04 56TH Avenue, south side, 44.16' east of Long Island Railroad right-of-way, Block 2881, Tentative Lot 9, Borough of Queens. Applic.#401971906. Proposed construction, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

**366-04-A** B.Q. 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. Applic.#401992929. Proposed construction, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

**367-04-A** B.Q. 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. Applic.#401970523. Proposed construction, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

**368-04-A** B.Q. 85-03 57TH Avenue, north side, 10.62' east of Long Island Railroad right-of-way, Block 2881, Tentative Lot 52, Borough of Queens. Applic.#401970532. Proposed construction, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

**369-04-A** B.Q. 85-03A 57TH Avenue, north side, 30.62' east of Long Island Railroad right-of-way, Block 2881, Tentative Lot 51, Borough of Queens. Applic.#401970523. Proposed construction, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

**370-04-A** B.Q. 1511 Egmont Place, north side, 705.9' east of Mott Avenue, Block 15685. Lot 48, Borough of Queens. Applic.#402010051. Proposed construction of a two story, one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

**371-04-BZ** B.BK. 1271 East 28th Street, between

Avenues "L and M", Block 7646, Lot 16, Borough of Brooklyn. Applic.#301858274. 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.

**COMMUNITY BOARD #14BK**

**372-04-BZ** B.S.I. 8 Lawn Avenue, corner of Nugent Street, Block 2249, Lot 1, Borough of Staten Island. Applic.#500736386. Proposed construction of a single family dwelling on a lot with less than the required lot width, and which was not owned separately and individually from all other adjoining tracts of land on December 1, 1961, also a minor modification to the side yard requirement, is contrary to Z.R. §23-32 and §23-461.

**COMMUNITY BOARD #2SI**

**373-04-BZ** B.Q. 57-69 69th Street, north side, 24' west of 60th Avenue, Block 2830, Lot 33, Borough of Queens. Applic.#401843243. Proposed construction of a two family, two story and attic residential dwelling, on a pre-existing undersized lot, that does not comply with the zoning requirements for floor area, open space, density, lot area, front yard and parking requirements, is contrary to Z.R. §23-141, §23-22, §23-32, §23-45 and §25-00.

**COMMUNITY BOARD #5Q**

**374-04-BZ** B.M. 246 Front Street, aka 267 ½ Water Street, through lot fronting on Front and Water Streets, 126. north of the intersection of Peck Slip and Front Street, and 130' north of the intersection of Peck Slip and Water Street, Block 107, Lot 34, Borough of Manhattan. Applic.#103582785. Proposed construction of a seven story residential building, with ground floor commercial space, on a vacant lot located in a C6-2A/SLMD zoning district, which does not comply with the zoning requirements for lot width, rear yard equivalent, rear yard, lot coverage, building height and minimum distance between buildings, is contrary to Z.R. §23-145, §23-32, §23-533, §23-692, §23-711 and §28-32.

**COMMUNITY BOARD #1M**

---

# DOCKETS

---

**375-04-BZ** B.BK. 1527, 1529 and 1533 60th Street, north side, between 15th and 16th Avenues, Block 5509, Lots 64, 65 and 68, Borough of Brooklyn. Applic.#301866372. 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.

**COMMUNITY BOARD #12BK**

---

**376-04-A** B.S.I. 238 Billiou Street, south side, 280.00' west of Arbutus Avenue, Block 6559, Lot 133, Borough of Staten Island. Applic.#500497802. Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

---

**377-04-A** B.S.I. 240 Billiou Street, south side, 295.00' west of Arbutus Avenue, Block 6559, Lot 130, Borough of Staten Island. Applic.#500497811. Proposed construction of a 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

---

**JANUARY 25, 2005, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, January 25, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## **SPECIAL ORDER CALENDAR**

### **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 - 1416 Hylan Boulevard, corner of Hylan Boulevard and Reid Street, Block 3350, Lot 30, Borough of Staten Island

**COMMUNITY BOARD #2SI**

---

### **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 - 577/89 Marcy Avenue, Southeast corner of Marcy Avenue and Myrtle Avenue, Block 1755, Lot 4, Borough of Brooklyn.

**COMMUNITY BOARD #3SI**

---

### **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**

### **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

---

## **APPEALS CALENDAR**

### **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 #1S.I.**

---

**JANUARY 25, 2005, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, January 25, 2005, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## **ZONING CALENDAR**

### **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**

---

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.

---

# CALENDAR

---

## COMMUNITY BOARD #6Q

---

### 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

---

### 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

---

### 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, Los 1, 28 and 40, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

---

### 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

**REGULAR MEETING**  
**TUESDAY MORNING, DECEMBER 7, 2004**  
**10:00 A.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on

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

---

### 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 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

---

### 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) & 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

---

*Pasquale Pacifico, Executive Director*

Tuesday morning and afternoon, October 5, 2004, were approved as printed in the Bulletin of October 14, 2004, Volume 89, No. 41.

---

### SPECIAL ORDER CALENDAR

### 813-63-BZ

APPLICANT - Howard A. Zipser/Stadtmauer Bailkin, LLP, for

---

# MINUTES

---

Selma R. Miller, owner; Central Parking Corporation, lessee.  
SUBJECT - Application March 16, 2004 - reopening for an amendment to reflect the existence of 97 parking spaces in accordance with Consumer Affairs License 0914278.

PREMISES AFFECTED - 699/711 West End Avenue, west side of West End Avenue between West 94th and 95th Streets, Block 1253, Lot 21, Borough of Manhattan.

**COMMUNITY BOARD #7**

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** -Application granted on condition.

**THE VOTE TO GRANT** -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:.....0

**THE RESOLUTION:**

WHEREAS, this application is a request for a re-opening and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on October 26, 2004, after due notice by publication in The City Record, and then to decision on December 7, 2004; and

WHEREAS, Community Board No. 7, Manhattan, recommended approval of this application; and

WHEREAS, on January 14, 1964, the Board granted an application 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, on condition that the transient parking spaces shall not exceed thirty in number, in addition to the number of cars parked by tenants of the building and cars parked on a monthly basis; and

WHEREAS, the term of the variance was extended on January 22, 1980, December 11, 2000 and October 22, 2003 - for periods of ten years; and

WHEREAS, the most recently BSA-approved plans indicated 30 spaces for transient parking, and 24 spaces for monthly parking (including tenants of the building) - for a total of 54 parking spaces; and

WHEREAS, the applicant further states that while the garage has not increased in size since the most recent Board grant, the capacity of the garage has increased; and

WHEREAS, the applicant states that the parking garage has a total area of approximately 19,024 square feet and currently has parking for 125 vehicles; and

WHEREAS, however, the applicant represents that in Adopted by the Board of Standards and Appeals, December 7, 2004.

accordance with Z.R. '25-62, which provides that attended parking facilities must provide a minimum of 200 square feet of unobstructed standing or maneuvering area per space, and with the provision of 10 reservoir spaces, the actual number of parking spaces would only total 87 parking spaces in the subject garage; and

WHEREAS, the applicant has submitted a proposed plan which indicates that the number of tenant parking spaces will be 30; the number of monthly parking spaces will be 40 and the number of daily transient spaces will be 17; and

WHEREAS, therefore the applicant seeks to amend the resolution to reflect the existence of 87 parking spaces, in accordance with Consumer Affairs License No. 0914278.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit a modification in the number of total parking spaces from 125 to 87 plus 10 reservoir spaces; 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"- (1) sheet; and on further condition;

THAT the total number of parking spaces, not inclusive of the 10 reservoir spaces, shall be limited to 87 - and that the number of daily transient parking spaces shall be no greater than 30;

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 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 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 #103456920)

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

**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

---

# MINUTES

---

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 11,  
2005, at 10 A.M., for decision, hearing closed.

---

## 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 #18**  
**APPEARANCES -**  
For Applicant: Harold Weinberg, P.E..  
**ACTION OF THE BOARD -** Laid over to January 25, 2004,  
at 10 A.M., for continued hearing.

---

## 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**  
**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 W. Rothkrug.  
**ACTION OF THE BOARD -** Laid over to February 15,  
2005, at 10 A.M., for continued hearing.

---

## 218-96-BZ

**APPLICANT -** The Agusta Group for The Armenian Apostolic  
Church, owners.  
**SUBJECT -** Application August 10, 2004 - request for a waiver of

**APPEARANCES -**  
For Applicant: Adam Rothkrug.  
**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 11,  
2005, at 10 A.M., for decision, hearing closed.

---

## 410-68-BZ

**APPLICANT -** Sheldon Lobel, P.C., for Alessandro Bartellino,  
owner.  
**SUBJECT -** Application June 29, 2004 - reopening for an  
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.  
**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 and Chris T.  
**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 11,  
2005, at 10 A.M., for decision, hearing closed.

---

## 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.  
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 -**  
For Applicant: Sol Korman.  
**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 11,

---

# MINUTES

---

2005, at 10 A.M., for decision, hearing closed.

---

**173-94-BZ**

APPLICANT - Board of Standards and Appeals

OWNER OF PREMISES: Richard Shelala.

SUBJECT - Application reopening for compliance to the resolution.

PREMISES AFFECTED - 165-10 144<sup>th</sup> Road, Block 13271, Lot 17, Borough of Queens.

**COMMUNITY BOARD #13Q**

APPEARANCES -

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** - Laid over to March 1, 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 9<sup>th</sup> Street, Block 15583, Lot 16, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to January 11, 2005, at 10 A.M., for continued hearing.

---

**243-04-A**

APPLICANT - Sion Misrahi, for Sion Misrahi, President, owner.

SUBJECT - Application June 30, 2004 - An appeal challenging the

As explained in detail in the attached Department letter dated April 29, 2004, at this time there is no basis for the Department to vacate the premises pursuant to AC § 27-203, AC § 26-243(c) or other applicable law.

This letter sets forth a final determination that may be appealed to the Board of Standards and Appeals pursuant to New York City Charter § 666(6)(a)."; and

WHEREAS, the attached Department letter dated April 29, 2004 reads, in relevant part:

"The Department is in receipt of your correspondence dated January 23, 2004, March 23, 2004 and April 16, 2004 on behalf of 11 Essex Street Corporation, the owner of the referenced premises, in which you request that the Department order the premises to be vacated pursuant to New York City Administrative Code ("AC") Section 27-203 thereby allowing the owner to perform repair work allegedly necessary to cure Environmental Control Board ("ECB") Violation No. 34431380R citing AC § 27-127 for a failure to maintain the

Department of Buildings' decision dated June 7, 2004, in which the department refused to issue a vacate order regarding subject premises, to facilitate needed repairs without endangering the occupants thereof.

PREMISES AFFECTED - 11 Essex Street, between Canal and Hester Streets, Block 297, Lot 24, Borough of Manhattan.

**COMMUNITY BOARD #3**

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** -Appeal 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 instant appeal comes before the Board in response to a final determination, dated June 4, 2004, issued by the Manhattan Borough Commissioner of the New York City Department of Buildings ("DOB") to counsel of the owner of the subject premises (11 Essex Street Corporation; hereinafter, the "Appellant"), who had requested that DOB issue a vacate order for the building located at the subject premises; and

WHEREAS, a public hearing was held on this appeal on September 14, 2004, after due publication in The City Record, with a continued hearing on October 26, 2004, and then to decision on December 7, 2004; and

WHEREAS, the DOB determination reads, in relevant part: "The Department is in receipt of your correspondence dated January 23, March 23, April 16, and May 19 of 2004 on behalf of 11 Essex Street Corporation, the owner of the referenced premises, in which you request that the Department order the premises to be vacated pursuant to New York City Administrative Code ("AC") Section 27-203 thereby allowing the owner to perform repair work allegedly necessary to cure Environmental Control Board Violation No. 34431380R citing AC § 27-127 for a failure to maintain the premises.

Your letters enclose reports prepared by Anthony C. Szabo, PE, dated October 6, 2003 and March 19, 2004 stating that construction work on an adjacent lot in 2002 undermined the stability of the premises. Mr. Szabo's reports recommend a Department order to vacate.

At this time there is no basis for the Department to vacate the premises pursuant to AC § 27-203, AC § 26-243(c) or other applicable law.

As a preliminary matter, AC § 27-203 does not authorize the Department to grant the relief you seek. AC § 27-203 is among the provisions appearing in Article 20 "Conditions of Permit." This section provides that building operations carried out pursuant to permitted work must comply with safety requirements, including any order that the building be vacated during the progress of the work. AC § 27-203 merely states that permitted work must conform or yield to the terms of a vacate order if a vacate order is issued. AC § 27-203 does not provide the Department with authorization to issue a vacate

---

# MINUTES

---

order upon receipt of a claim that a building subject to a Department vacate order will facilitate repairs.

Instead, AC §§ 26-127, 26-243(c) and 26-245 govern the Department's authority to order occupants to vacate a structure.

In accordance with these provisions, the Department may determine that a vacate order is necessary in the event of a failure to comply with a Department order to correct conditions imminently perilous to life or property; or where there exists actual and immediate danger that a structure or part thereof will fall so as to endanger occupants' life or property, or has fallen and occupants are endangered; or as an emergency measure where defective or illegal work endangers life or property.

A review of Department records of inspections of the premises indicates that no Department inspector or Department engineer has observed that the premises is in actual and immediate danger of collapse. Since the year 2002, the following five complaints were received concerning the building's walls and/or structure:

1. Complaint dated February 12, 2002 claims excavation at 7 Essex Street caused the building at 11 Essex Street to sink. On February 13, 2002 a Department inspector observed cracks in the southeast exterior wall of 11 Essex Street; Violation No. 021202C2AP02 issued to 7 Essex Street for failure to safeguard an adjacent property;
  2. Complaint dated February 26, 2002 claims debris is falling from an exterior wall of 11 Essex Street onto the sidewalk. On February 27, 2002 a Department inspector observed no falling debris;
  3. Complaint dated March 26, 2002 claims construction work in the cellar of 11 Essex Street lowered the cellar wall, thereby making the building at 11 Essex Street unstable. As this complaint was the subject of the recent
- You claim your client cannot cure the ECB violation without a concurrent Department order to vacate the building, however, the Department's March 9th inspection, conducted after issuance of the ECB violation, confirmed that the building was not in immediate danger of collapse and that no vacate order was warranted. Moreover, as stated above, the Department has no statutory authority to vacate a building in the absence of immediate danger of collapse or imminent peril to life or property merely for the purpose of advancing the owner's performance of required repairs. Your letter does not state that conditions at the premises have changed since the date of the Department's last inspection, therefore, no new inspection appears to be warranted at this time."; and

WHEREAS, the subject premises is located on Essex Street, Manhattan, between Canal and Hester Streets, and is improved upon with a five-story plus basement multiple dwelling (hereinafter, the "building"), with ground floor retail, which as this time is only partially residentially occupied; and

WHEREAS, Appellant argues that the building is in imminent danger of collapse, due to damage allegedly caused by construction at the adjacent premises (7 Essex Street), and has submitted a report of a privately retained engineer, who states by letter dated October 6, 2003 that "the residents of 11 Essex Street should be immediately evacuated, because the building is unstable and could collapse at any

inspection and issuance of a violation on February 13, 2002, the premises was not re-inspected;

4. Complaint dated July 24, 2002 claims construction site next to 11 Essex Street caused water damage to the basement wall of 11 Essex Street. On July 26, 2002 a Department inspector observed no water in the basement of 11 Essex Street; and
5. Complaint dated February 4, 2004 claims interior cracking of walls at 11 Essex Street. On February 13, 2004 a Department inspector observed minor cracks in interior walls and minor water damage; No further action by the Department was deemed necessary.

In addition to inspections of the premises by Department inspectors in response to complaints, the premises was inspected twice by a Department engineer. On July 29, 2002, a Department engineer examined cracks in the west and southwest ground floor walls of the premises. The Department's engineer determined that the cracks were not large enough to pose a danger to the building's structure. On March 9, 2004 the same Department engineer who had inspected the premises in 2002 observed no conditions presenting an actual and immediate danger of collapse. Accordingly, there was no basis for a vacate order at the time of either inspection.

Five days prior to the engineer's March 9th inspection, the Department issued ECB Violation No. 34431380R at the premises for failure to maintain the exterior building wall. The issuing inspector observed cracks above and below windows and bulging at the first floor window and stone header at the basement in the southeast corner of the rear wall. The respondent has been ordered to correct the violating conditions cited in the ECB violation.

time"; and

WHEREAS, however, DOB responds that no DOB inspector or engineer observed conditions that warranted ordering the removal of occupants pursuant to the standards for such action set forth in Building Code §§ 26-127, 26-243(c) or 26-245; and

WHEREAS, Building Code § 26-127(b) reads, in relevant part: "In case any order to remedy a condition imminently perilous to life or property issued by the commissioner or the department is not complied with, or the commissioner certifies in writing that an emergency exists requiring such action, he or she may order and immediately cause any building, structure, place or premises . . . to be vacated"; and

WHEREAS, Building Code § 26-243(c) reads: "Where, in the opinion of the superintendent, there shall be actual and immediate danger that any structure or part thereof will fall so as to endanger life or property, or where any structure or part thereof has fallen and life is endangered by the occupation thereof, the superintendent is hereby authorized and empowered to order and require the inmates and occupants of such structure or part thereof to vacate the structure forthwith."; and

WHEREAS, Building Code § 26-245 reads: "In case, in the opinion of the superintendent, any defective or illegal work in violation of or not in compliance with any of the provisions or requirements of this subchapter or chapter one of title twenty-seven

---

# MINUTES

---

of the code shall endanger life or property, the superintendent, or such person as may be designated by him or her, shall have the right and is hereby authorized and empowered to order all further work to be stopped in and about such structure or premises, and to require all persons in and about such structure or premises forthwith to vacate it, and also to cause such work to be done in and about the structure as in his or her judgment may be necessary to remove any danger therefrom. The reason for such order shall be supplied in writing within one working day after the issuance of the order."; and

WHEREAS, DOB represents that it carefully considers the recommendations of privately retained engineers, but that its determination as to whether to issue a vacate order is properly based upon the expert opinion of its inspectors, engineers and borough commissioners, who are either registered architects or professional engineers, in light of the Building Code provisions set forth above; and

WHEREAS, the Board agrees that the above Building Code provisions clearly give DOB the sole authority to initially determine when it is appropriate to vacate a building, notwithstanding the report of a privately retained engineer; and

WHEREAS, DOB conducted inspections of the building in February and July of 2002, and again in February, March and September of 2004; and

WHEREAS, on July 29, 2004, a DOB engineer determined that the building was in no imminent danger of collapse, that the cracks in the ground floor wall were not large enough to pose a danger to the building and that the retaining wall at 7 Essex Street provided support to the building; and

WHEREAS, on March 9, 2004 and again on September 2,

WHEREAS, however, the Board notes that the owner appears to have delayed repairs that could be made immediately out of a desire to gut renovate the entire building, which may not be required to remedy the existing cracks; and

WHEREAS, the Board suggests that the owner of the subject building file plans for the necessary repairs at DOB; and

WHEREAS, Appellant also argues that a vacate order should have been issued to the premises in connection with two events: first, as a condition of the excavation permit issued to 7 Essex Street when the permitted work allegedly damaged 11 Essex Street; and second, upon issuance of a violation for failure to maintain 11 Essex Street; and

WHEREAS, specifically, Appellant states that DOB wrongfully failed to exercise its authority pursuant to Building Code § 27-203 (Compliance with safety requirements) when it did not compel the developer of 7 Essex Street to "remedy conditions at [11 Essex Street]. conjunctively with the construction of the new building [at 7 Essex Street]."; and

WHEREAS, Building Code § 27-203 provides that permits are subject to the condition that the work will meet safety requirements of the Code, and that the permit is subordinate to any Department order that the building under construction be vacated during the progress of work; and

WHEREAS, DOB observes, and the Board agrees, that Building Code § 27-203, unlike Building Code §§ 26-127, 26-243(c) or 26-245, does not grant authority to issue a vacate order, nor does it set forth any criteria by which to determine that a vacate order is warranted; rather, Building Code § 27-203 merely provides

2004, a DOB engineer concluded that the building was not in imminent danger of collapse and that the building at 7 Essex Street provided lateral support to the premises; and

WHEREAS, a committee of the Board, including Chair Srinivasan (who holds a degree in architecture), Vice-Chair Babbar (a Registered Architect), and Commissioner Miele (a Professional Engineer), conducted its own site visit and examination of the building prior to the first hearing of the instant appeal, and personally inspected essentially all areas of the exterior and interior of the building, including the roof and cellar; and

WHEREAS, in the professional judgment of the Board, which, as noted above, includes a Professional Engineer and a Registered Architect, both of whom have served as Commissioners of DOB and possess considerable experience in evaluating distressed buildings, no vacate of the building is warranted at this time; and

WHEREAS, the Board bases its conclusion upon the following observations: (1) all noted cracks in the building were minor with no significant displacement in any plane; (2) no significant bulging of walls was noted; (3) the building walls and floors were out-of-plumb to some degree as is common with such old buildings, but there is no evidence of recent movement; and (4) no partial collapse of any part of the exposed areas of the chimney was noted; and

WHEREAS, the Board also notes that the building is braced on either side by the adjacent buildings; and

WHEREAS, the Board determined that there was no imminent danger of collapse of the building; and

WHEREAS, therefore, the Board agrees with DOB that no vacate order for the building is necessary; and that permits are subject to the limitations of vacate orders at the site of the permitted work; and

WHEREAS, accordingly, the Board finds that Building Code § 27-203 does not compel DOB to issue a vacate order to 11 Essex Street; and

WHEREAS, Appellant also argues that a vacate order must accompany or follow an order to cure a violation for failure to maintain the premises where the owner obtains a statement from an engineer that it is impossible to repair the building while it is occupied; and

WHEREAS, DOB observes, and the Board agrees, that Appellant points to no specific statutory authority in support of this assertion; and

WHEREAS, DOB states that if, during the course of making repairs to cure the violation, there arises an immediate danger that the building or part of the building will fall so as to endanger occupants' life or property, DOB may order the building to be vacated; and

WHEREAS, the Board disagrees with Appellant's claim that repairs cannot occur while the building is occupied, because tenants may be relocated away from work areas as repairs proceed in the building since, as noted above, the building is not fully residentially occupied; and

WHEREAS, Appellant argues that since DOB has issued "hazardous violations" to 11 Essex, this provides the grounds for DOB issuance of a vacate order; and

WHEREAS, DOB observes, and the Board agrees, that conditions establishing a "hazardous" violation are not necessarily

---

# MINUTES

---

equivalent to conditions that are imminently perilous to building occupants' life or property, as such a violation does not inherently constitute an immediate emergency whereby a building must be vacated to preserve life and safety, even though immediate repair may be advisable; and

WHEREAS, Appellant also claims that vacate orders issued to other properties demonstrate the need for a vacate order in this case; and

WHEREAS, DOB responds, and the Board agrees, that the reports prepared by DOB's engineer do not support the necessity for a vacate order in this case, and that DOB has full authority to consider each building on a case by case basis; and

WHEREAS, the Board is unaware of any authority providing that DOB is bound to issue a vacate order for a building just because it has issued a vacate order to other buildings in the past; and

WHEREAS, Appellant also seeks a DOB request that the Department of Housing Preservation and Development ("HPD") perform the necessary repair work at the premises; and

WHEREAS, DOB states that Appellant does not set forth any authority for such a request; and

WHEREAS, DOB also states, and the Board agrees, that the instant facts do not present the type of conditions that would warrant HPD being asked to perform repairs; and

WHEREAS, the Board notes that if Appellant is concerned about the condition of the chimneys in the building, then plans to repair them should be filed with DOB; and

WHEREAS, also at the October 26 hearing, Appellant claimed that the New York City Fire Department ("FDNY") inspected the building and concluded that it was in danger of collapse, and that FDNY personnel indicated that they would not enter the building to put out a fire; and

WHEREAS, the Board received a written statement from FDNY Deputy Chief Inspector Anthony Scaduto, dated October 28, 2004, specifically discounting Appellant's claims; this statement indicates that although the FDNY inspected the site, there was no FDNY determination that the building was in danger of collapsing or that any further FDNY action was necessary; and

WHEREAS, also at the October 26, 2004 hearing, Appellant argued that the DOB engineer who issued the above-mentioned reports should have been present at the hearing and made available for "cross-examination" by Appellant; and

WHEREAS, DOB responded by stating that the reports issued by the engineer contain no ambiguity; consequently, his testimony would not be provide any information that would be helpful to the Board in making a ruling; and

WHEREAS, the Board agrees with DOB: the engineer's reports clearly state that there is no imminent danger of collapse and no need to vacate 11 Essex Street, and also set forth the observations that lead to this conclusion; and

WHEREAS, DOB was ably represented in this appeal by counsel, who was willing to obtain any technical information requested by the Board should the need have arisen; and

WHEREAS, moreover, the need for any Board questioning of the engineer, had such existed, was obviated by the committee of the Board's own inspection, which confirmed the observations of the DOB engineer; and

WHEREAS, further, the Board recognizes that this issue is not before it in the instant appeal, as the above-referenced DOB final determination does not address this issue; and

WHEREAS, at the October 26, 2004 hearing on the subject matter, a new concern was raised by Appellant; specifically, Appellant complained that cracks in the chimneys: (1) indicated an imminent peril that the building was going to collapse, and (2) were allowing unsafe levels of carbon monoxide to enter into 7 Essex Street; and

WHEREAS, the Board again recognizes that such complaints were not the basis of the final DOB determination set forth above and therefore not properly part of the instant appeal; nevertheless, the Board suggested that DOB investigate them; and

WHEREAS, DOB submitted a report from its inspectors stating that: (1) no cracks were observed in the building's chimneys; (2) no condition was observed that would pose a danger to occupants or visitors to the building, including firefighters; and (3) that boilers in the building were not functioning at the time of inspection, and that, consequently, no carbon monoxide could be detected within the premises; and

WHEREAS, the Board is satisfied that DOB has investigated these concerns, and that it will continue to do so should further complaints arise; and

WHEREAS, finally, Appellant misapprehends the hearing process of the Board: the Board's Rules of Practice and Procedure do not provide any mechanism for the cross-examination of witnesses, nor has cross-examination been allowed on an informal basis; and

WHEREAS, in conclusion, the Board finds that all of Appellant's claims are without merit, and that DOB's refusal to vacate the subject premises was appropriate given the observed condition of the building and the applicable law; and

WHEREAS, the Board notes that DOB has indicated that it will continue to monitor the premises; and

WHEREAS, finally, as noted above, the Board understands that the owner of the premises has done nothing to remediate the conditions cited by DOB on numerous occasions and strongly urges the owner to take all necessary steps to make indicated repairs.

Therefore it is Resolved that the final determination of the New York City Department of Buildings, dated June 4, 2004, is upheld and this appeal is denied.

Adopted by the Board of Standards and Appeals, December 7, 2004.

---

## 330-04-BZY

APPLICANT - Law Office of Howard Goldman, for Arlington Suites, LLC, owners.

SUBJECT - Application October 7, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

PREMISES AFFECTED - 3220/28 Arlington Avenue and 3223 Netherland Avenue, 200' north of the intersection of 232nd Street and Arlington and Netherland Avenues, Block 5788, Lots 78, 80,

---

# MINUTES

---

84 and 117.

**APPEARANCES -**

For Applicant: Howard Goldman.

**ACTION OF THE BOARD** -Application granted.

**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. § 11-331, 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 9, 2004 after due notice by publication in The City Record, with a continued hearing on December 7, 2004, on which date the matter was closed and

WHEREAS, the subject premises was formerly located within an R7-1 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 R6A; and

WHEREAS, the subject premises is proposed to be developed with a 13-story high mixed-use building with community facilities and parking on the first two floors, and residential units above, which would comply with the zoning regulations applicable to an R7-1 zoning district, but not those of an R6A 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

a decision was rendered; and

WHEREAS, the following organizations and elected officials appeared in opposition to the subject application: Council Member Koppell, Assembly Member Dinowitz, State Senator Schneiderman and Community Board 8, Bronx ("CB8"); 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 set forth at Z.R. § 11-30 et seq.; and

WHEREAS, the site was inspected by a committee of the Board, including Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Chin and Commissioner Miele; and

WHEREAS, the subject premises is located on the block bounded by Netherland Avenue to the east, West 232nd Street to the south, Arlington Avenue to the west, and West 235th Street to the north; 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 7, 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 was lawfully issued to the owner of the subject premises; and

WHEREAS, the record indicates that on June 17, 2004, a new building permit (Permit No. 200859053-01-NB, hereinafter, the "NB Permit") 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 permits were lawfully issued to the owner of the subject premises; and

WHEREAS, in a letter dated November 17, 2004, Charles Moerdler, Esq., on behalf of CB8, contends that the owner failed to obtain a lawfully issued permit for the entire building, stating that instead a "professionally certified"

---

# MINUTES

---

building permit application was first filed on September 24, 2004 and that permits were issued on September 27, 2004; and

WHEREAS, however, the record reveals that the permit issued on September 27, 2004 was actually for an alteration of the building, to bring it down in size in response to community concerns; the permit issued on September 27 did not supercede the NB Permit; and

WHEREAS, the Board finds that the NB Permit remained in effect from its issuance on June 17, 2004 until the Rezoning Date, when it lapsed by operation of law; and

WHEREAS, CB8 also argues that the NB Permit was revoked on the same day it was issued (June 17, 2004), and cites to a printout from DOB's on-line Building Information System ("BIS") which allegedly supports this argument; and

WHEREAS, however, evidence in the record indicates that such a conclusion is erroneous and based a misinterpretation of the record keeping practices of DOB as reflected on BIS; and

WHEREAS, the applicant represents that on BIS, the status date for a permit will always reflect the issued date of the permit, regardless of when it is revoked, so that even if

WHEREAS, the Board has reviewed the applicant's response and agrees that none of the cases cited in the CB8 submission are relevant; specifically, the Board finds that the cases are either factually dissimilar or were decided under provisions of law other than Z.R. § 11-331; and

WHEREAS, the applicant represents that prior to the Rezoning Date, on September 24, 2004, 100 percent of the excavation had been completed; and

WHEREAS, in support of the contention that excavation was complete as of September 24, 2004, the applicant has submitted photographs of the site, as well as an affidavit from the general manager of the firm that performed the excavation work on the project; and

WHEREAS, the Board has reviewed the photos and the affidavit, and agree that they support the conclusion that excavation was complete as of September 24, 2004; and

WHEREAS, the applicant represents that as of the Rezoning Date, substantial progress had been made on foundations; and

WHEREAS, in support of the contention that substantial progress had been made on foundations as of the Rezoning Date, the applicant has submitted, among other items a color-coded foundation plan that shows the extent of foundation work completed versus not completed, photographs dated September 27 or 28, 2004, various affidavits from construction contractors, and tables showing construction costs; and

WHEREAS, the Board notes that the foundation plan, when evaluated in conjunction with an affidavit from the president of the structural engineering firm for the project, shows that, as of the Rezoning Date, all of the one-sided form pours and underpinning had been completed, all of the reinforcing steel had been bent to the correct size and shape, tied together with wire, and that the pier cages had been constructed; and

WHEREAS, the applicant has submitted a foundation concrete schedule which states that 1,325 of the 1,635 cubic

BIS shows the permit has been revoked, the status date will not be updated; and

WHEREAS, the Board has reviewed the BIS printout in question and agrees that the status date always corresponds to the issued date for each permit listed on the print-out; and

WHEREAS, CB8 did not submit any other evidence aside from the BIS printout that suggests that the NB Permit lapsed or was otherwise invalid at any time prior to the Rezoning Date; and

WHEREAS, CB8 also argues that the applicant is not entitled to a renewal of the building permit and an extension of time to complete foundations because the work that it performed was not performed pursuant to a validly issued permit; and

WHEREAS, the submission made on behalf of CB8 cites to numerous cases which allegedly supports this argument; and

WHEREAS, the applicant responds by showing that none of the cited cases are applicable, and that the foundation work that was completed was performed pursuant to the issued NB Permit, dated June 17, 2004; and yards (or 82.4 percent) of the concrete required for the foundation had been poured as of the Rezoning Date; and

WHEREAS, the applicant has submitted an affidavit from the concrete supervisor which establishes that approximately 86% percent of the concrete work associated with the foundation had been completed as of the Rezoning Date; and

WHEREAS, at the request of the Board, the applicant also submitted an affidavit from the developer and owner (with an accompanying construction costs table) that indicates that \$1,621,704 of the \$1,796,214 estimated total cost of the foundation (or approximately 90 percent), not including excavation costs, had been expended as of the Rezoning Date; and

WHEREAS, the applicant represents that the foundation work began on June 25, 2004, and as of the Rezoning Date, only 10 more working days are needed to complete the foundation; and

WHEREAS, the Board finds all of the 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 notes that it is aware of the conditions that existed at the site as of the Rezoning Date through the submitted photos, and is therefore capable of disregarding any additional work performed post-Rezoning Date for safety reasons (as may have been authorized by the Department of Buildings); 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. 200859053-NB pursuant to Z.R. § 11-331 is granted, and the Board hereby extends the time to

---

# MINUTES

---

complete the required foundations for one term of sixth months from the date of this resolution, to expire on June 7, 2005.

Adopted by the Board of Standards and Appeals, December 7, 2004.

### 333-04-BZY

APPLICANT - Michael T. Sillerman/Gary R. Tarnoff, for 3618, LLC owner.

SUBJECT - Application October 8, 2004 - Application to extend time to complete construction for a minor development pursuant to Z.R. §11-331.

PREMISES AFFECTED - 640 West 237th Street, block bounded by Henry Hudson Parkway, West 236th Street and Independence Avenue, Block 5903, Lots 283 (tentative), and 299 and 300 (tentative), Borough of The Bronx.

WHEREAS, a public hearing was held on this application on November 9, 2004 after due notice by publication in The City Record, with a continued hearing on December 7, 2004, on which date the matter was closed and a decision was rendered; and

WHEREAS, the following organizations and elected officials appeared in opposition to the subject application: Council Member Koppell, Assembly Member Dinowitz, State Senator Schneiderman and Community Board 8, Bronx ("CB8"); 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 set forth at Z.R. §11-30 et seq.; and

WHEREAS, the site was inspected by a committee of the Board, including Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Chin and Commissioner Miele; and

WHEREAS, the subject premises is located on the block bounded by Henry Hudson Parkway to the east, West 235th Street to the south, Independence Avenue to the west, and West 237th Street to the north; and

WHEREAS, the subject premises was formerly located within an R7-1 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 R7A; and

WHEREAS, the subject premises is proposed to be developed with a 19-story high, 119,044 sq. ft. residential building, which would comply with the zoning regulations applicable to an R7-1 zoning district, but not those of an R7A 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

### APPEARANCES -

For Applicant: Gary Tarnoff.

**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. § 11-331, to renew a building permit and extend the time for the completion of the foundation of a minor development under construction; and

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 Board notes that this application was made on October 8, 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 August 30, 2004 an

---

# MINUTES

---

excavation permit (Permit No. 200877694-01-EW; hereinafter, the "EW Permit") for the new building was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the record indicates that on September 10, 2004, a new building permit (Permit No. 2008764346-01-NB, hereinafter, the "NB Permit") 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 permits were lawfully issued to the owner of the subject premises; and

WHEREAS, in a letter dated November 17, 2004, CB8 contends that the NB Permit was revoked on the same day it was

WHEREAS, the Board has reviewed the BIS printout in question and agrees with the opinion expressed in the November 22, 2004 affidavit, and notes that the status date always corresponds to the issued date, for each permit listed on the print-out; and

WHEREAS, the applicant also references a Notice of Violation and Hearing, No. 34448004Y, issued by DOB on September 29, 2004, which describes the violation conditions observed as "failure to conform to zoning requirements" and instructs the applicant to "stop all work"; and

WHEREAS, the applicant states, and the Board agrees, that the NB Permit was revoked by DOB on September 29, 2004 following enactment of the Rezoning, and had the NB Permit been revoked on September 10, 2004, as suggested by the CB8, there would have been no need to revoke it again; and

WHEREAS, CB8 did not submit any other evidence aside from the BIS printout that suggests that the NB Permit lapsed or was otherwise invalid at any time prior to the Rezoning Date; and

WHEREAS, CB8 also argues that the applicant is not entitled to a renewal of the building permit and an extension of time to complete foundations because the work that it performed was not performed pursuant to a validly issued permit; and

WHEREAS, CB8 cites to numerous cases which it states supports its position; and

WHEREAS, the applicant responds by showing that none of the cited cases are applicable, and that the foundation work that was completed was done pursuant to the validly issued NB Permit, dated September 10, 2004; and

WHEREAS, the Board has reviewed the applicant's response and agrees that none of the cases cited by CB8 are relevant; specifically, the Board finds that the cases are either factually dissimilar or were decided under provisions of law other than Z.R. § 11-331; and

WHEREAS, the Board agrees with the applicant's assertion that excavation and foundation work may commence prior to the issuance of a new building permit, pursuant to a lawfully issued excavation permit, and that rights can vest under those permits so long as the statutory requirement of obtaining a new building permit before the effective date of the rezoning is satisfied; and

WHEREAS, the applicant represents that excavation of the site commenced subsequent to issuance of the EW Permit, and, well prior to the Rezoning Date, on September 13, 2004, 100 percent of the excavation had been completed; and

WHEREAS, in support of the contention that excavation was complete as of September 13, 2004, the applicant has submitted

issued (September 10, 2004), and cites to a printout from DOB's on-line Building Information System ("BIS") which allegedly supports this argument; and

WHEREAS, the applicant states, and the Board agrees, that such a conclusion is erroneous and based a misinterpretation of the record keeping practices of DOB as reflected on BIS; and

WHEREAS, the applicant has submitted an affidavit dated November 22, 2004 from the president of a building code and construction consultant company, which states that on BIS, the status date for a permit will always reflect the issued date of the permit, regardless of when it is revoked, so that even if BIS shows the permit has been revoked, the status date will not be updated; and photographs of the site taken on that date, as well as an affidavit from the construction manager; and

WHEREAS, the Board has reviewed the photos and the affidavit, and agree that they support the conclusion that excavation was complete as of September 13, 2004; and

WHEREAS, the applicant represents that, as of the Rezoning Date, substantial progress had been made on foundations; 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, a foundation plan (revised at the request of the Board) marked to show the extent of foundation work completed versus not completed, photographs dated September 28, 2004, various affidavits from construction contractors, and tables showing construction costs; and

WHEREAS, the Board notes that the revised foundation plan as well an affidavit from the president of the structural engineering firm for the project, show that, as of the Rezoning Date, the foundation walls and six of the seven footings had been completed, and the only remaining work was the completion of the form work for the core, one footing and the elevator pit; and

WHEREAS, an affidavit, dated November 22, 2004, from the vice-president of the construction management firm for the project states that 275 of the 330 cubic yards (or 83 percent) of the concrete required for the foundation had been poured as of the Rezoning Date; and

WHEREAS, the applicant has submitted an additional affidavit and schedule of foundation work completed from the project's construction management firm, which states that \$672,680 of the \$687,000 (or 98 percent) of the excavation and foundation costs, excluding nonstructural work such as nonstructural slab-on-grade, grading and gravel below such slab, had been incurred as of the Rezoning Date; and

WHEREAS, the applicant represents that if site preparation and demolition costs are excluded, and the aforementioned nonstructural costs are included, \$672,680 of the \$750,000 of the costs related to foundation work would have been incurred as of the Rezoning Date; and

WHEREAS, at the request of the Board, the applicant also submitted documentation demonstrating that foundation work occurred for 12 of the 14 days scheduled for completion of the foundation, as of the Rezoning Date; and

WHEREAS, the Board finds all of above-mentioned submitted evidence sufficient and credible; and

WHEREAS, additionally, the Board observed on its site visit

---

# MINUTES

---

that excavation was complete and substantial progress had been made on foundations, and notes that it is aware of the conditions that existed at the site as of the Rezoning Date through the submitted photos, and is therefore capable of disregarding any additional work performed post-Rezoning Date for safety reasons (as may have been authorized by the Department of Buildings); and

WHEREAS, based upon the above, the Board finds that excavation was complete and that substantial progress had been

Adopted by the Board of Standards and Appeals, December 7, 2004.

---

## 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 #3

APPEARANCES -

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** - Laid over to March 1, 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 #3

APPEARANCES -

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** - Laid over to March 1, 2005, at 10 A.M., for continued hearing.

---

## 148-04-A

APPLICANT - Jenkens & 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

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. 2008764346-01-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 June 7, 2005.

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, Caroline Harris and Howard Goldman.

For Administration: Lisa Orantia, Department of Buildings.

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 January 11, 2005, at 10 A.M., for continued hearing.

---

## 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.

**ACTION OF THE BOARD** - Laid over to January 11, 2005, at 10 A.M., for continued hearing.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 11:00 A.M.

**REGULAR MEETING  
TUESDAY AFTERNOON, DECEMBER 7, 2004  
2:00 P.M.**

**Present:** Chair Srinivasan, Vice-Chair Babbar and Commissioner Caliendo Commissioner Miele and Commissioner Chin.

---

# MINUTES

---

## ZONING CALENDAR

### 147-02-BZ

APPLICANT - Gerald J. Caliendo, R.A., for Joseph Pizzonia,  
PREMISES AFFECTED - 201-06 Hillside Avenue, southeast  
corner of 201<sup>st</sup> Street, Block 10495, Lot 52, Borough of Queens.

### COMMUNITY BOARD #12Q

#### APPEARANCES -

For Applicant: Sandy Anagnostou.

**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 10, 2002, acting on Application No. 401122584,  
reads:

"Proposed change in use of covered parking area to  
automobile repair service bays (Use Group 16) and  
addition of mezzanine with accessory office (Use Group  
6) and storage area are contrary to previous approval  
granted by Board of Standards and Appeals Calendar  
#148-87-BZ. Refer to the Board of Standards and  
Appeals for a variance and for extension of term of  
previously granted variance."; and

WHEREAS, a public hearing was held on this  
application on June 22, 2004, after due notice by publication  
in The City Record, with continued hearings on August 10,  
2004, September 21, 2004, and November 9, 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,  
and Commissioners Caliendo, Miele and Chin; and

WHEREAS, this is an application under Z.R. § 72-21, on  
a site previously before the Board, to permit, in a C1-2  
zoning district, the continued use of the premises as an  
automobile repair establishment, the legalization of the  
addition of a mezzanine level with accessory office and  
storage area, and the conversion of a previously-approved  
covered parking area to six additional service bays, contrary  
to Z.R. § 32-00; and

WHEREAS, in 1955, under BSA Calendar No.  
780-54-BZ, the Board granted an application to permit in a  
residential use district, the erection and maintenance of a  
gasoline service station, auto laundry, motor vehicle repair  
shop and the parking and storage of motor vehicles on the  
unbuilt portion of the lot; this variance was extended for a  
term of ten years in 1974, expiring in 1984; and

WHEREAS, in 1987, under BSA Calendar No.  
148-87-BZ, the Board granted an application, pursuant to ZR  
§§ 11-412 and 11-413, for (1) the construction of an

owner.

SUBJECT - Application May 8, 2002 - under Z.R. §72-21 to  
permit, in a C1-2 zoning district, the continued use of the  
premises as an automobile repair establishment, the  
legalization of the addition of a mezzanine level with  
accessory office and storage area, and the conversion of a  
previously-approved covered parking area to additional  
service bays, contrary to ZR § 32-00.

enlargement, and the legalization of another enlargement  
which was less than 50 percent, in aggregate, of the total  
floor area of the previously approved building, and (2) a  
change in use from an automobile service station (Use  
Group 16) to an automobile repair establishment (Use  
Group 16) for a term of ten years, expiring November 27,  
2000; and

WHEREAS, the site is located at the southeast corner  
of Hillside Avenue and 201st Street, and has a total lot area  
of approximately 10,412 square feet; and

WHEREAS, the applicant states that the site's history of  
development with Board-approved uses creates an  
unnecessary hardship in conforming strictly with the Zoning  
Resolution; and

WHEREAS, the applicant represents that the since the  
original grant, the business at the subject premises has  
evolved from a gas station/repair shop to an automotive  
repair shop, specializing in automotive transmission repair;  
and

WHEREAS, the applicant further represents that the  
sale of gas has been discontinued; and

WHEREAS, the Board finds that the history of  
development of the site and its continuous use as an  
automotive-related use create unnecessary hardship and  
practical difficulties in developing the site in conformity with  
the current zoning; and

WHEREAS, the applicant has submitted a feasibility  
study demonstrating that developing the premises with a  
conforming retail use would not yield the owner a  
reasonable return; and

WHEREAS, at the request of the Board, the applicant  
has submitted an additional study demonstrating that a four  
bay establishment (based upon the previous approval) is not  
feasible; and

WHEREAS, based upon its review of the submitted  
feasibility studies, the Board has determined there is no  
reasonable possibility that development in strict compliance  
with zoning regulations will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed  
variance will not affect the character of the neighborhood,  
and that the use is compatible with the surrounding  
neighborhood; and

WHEREAS, in response to the concerns of the Board  
regarding sound attenuation measures, the applicant has  
replaced existing windows with glass block to reduce noise  
from the use of air tools; and

WHEREAS, in response to the concerns of the Board  
regarding traffic, the applicant has removed a curb cut on  
201st Street; and

WHEREAS, the applicant states that the establishment

---

# MINUTES

---

has been in operation for over 25 years without any complaints; 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

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. 02-BSA-195Q dated March 8, 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, 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 a C1-2 zoning district, the continued use of the premises as an automobile repair establishment, the legalization of the addition of a mezzanine level with accessory office and storage area, and the conversion of a previously-approved covered parking area to additional service bays, contrary to ZR § 32-00; 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 23, 2004" - (3) sheets and "Received July 26, 2004" - (3) sheets;

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 curb cut along 201st Street;

THAT there shall be no automotive body work or welding on the premises;

THAT there shall be no outdoor storage;

THAT all signage shall comply with the underlying C1-2

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

zoning regulations;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT within 9 months from the date of this grant, the applicant shall obtain an Industrial Waste Discharge Plan approval from the New York City Department of Environmental Protection, to amend the previously approved plan that was submitted to the Board;

THAT no Certificate of Occupancy or Temporary Certificate of Occupancy shall be issued until the applicant submits evidence of this DEP approval to the Board;

THAT 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 7, 2004.

---

## 255-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Surf Avenue Enterprise, owner.

SUBJECT - Application August 11, 2003 - under Z.R. §72-21 to permit the legalization of an existing furniture store, Use Group 10, located in a C7 zoning district, also a request to vary the requirement of maintaining a loading berth on the premises, is contrary to Z.R. §32-10 and §36-62.

PREMISES AFFECTED - 1019 Surf Avenue, between West 8<sup>th</sup> and West 12<sup>th</sup> Streets, Block 7628, Lot 236, Borough of Brooklyn.

### COMMUNITY BOARD #13BK

APPEARANCES -

For Applicant: Richard Lobel.

**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

---

# MINUTES

---

## THE VOTE TO GRANT-

Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Commissioner Caliendo, Commissioner Miele and  
Commissioner Chin.....5

Negative:.....0

"Proposed plans are contrary to ZR 32-10 in that the Use Group 10 is not [a] permitted use in [a] C-7 Zoning District.

1. Proposed plans [are] contrary to ZR 36-62 in that the required accessory off street loading requirements have not been met."; and

WHEREAS, a public hearing was held on this application on February 10, 2004 after due publication in The City Record, with continued hearings on April 13, 2004, May 25, 2004, August 17, 2004, October 19, 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, and Commissioners Caliendo, Miele and Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, on a site previously before the Board currently located in a C7 zoning district, the legalization of the use of a one-story commercial building as a furniture store (Use Group 10), without the required off-street loading berth, contrary to Z.R. §§ 32-10 and 36-62; and

WHEREAS, the subject lot is located on the north side of Surf Avenue between West 8th and West 12th Streets, with a total lot area of approximately 9,746 sq. ft., and is currently improved upon with a one-story 9,746 sq. ft. furniture store; and

WHEREAS, the record indicates that the premises has been the subject of three previous Board actions: (1) in 1931, under BSA Cal. No. 337-31-A, the Board affirmed the decision of the Fire Commissioner, rejecting an application for a permit to display fireworks; (2) in 1938, under BSA Cal. No. 558-38-A, the Board affirmed the decision of the Fire Commissioner, requiring the owner of the premises to restore direct telegraph communication with Fire Department Headquarters; and (3) in 1949, under BSA Cal. No. 1051-48-A, the Board granted an appeal under Section 35 of the General City Law to permit the erection of a building within the bed of a mapped street (West 11th Street), noting that the building would be one-story, 14'-0" in height, 182'-1" by 63'-7½", irregular in area, and occupied by stores; and

WHEREAS, the applicant states that on May 24, 1985, the Department of Buildings, issued Certificate of Occupancy No. 224322, which listed the use of the premises as "Storage, Warehouse, Retail Sales Areas and Arcades"; and

WHEREAS, the applicant further states that since the issuance of such Certificate of Occupancy, the premises has been continuously used as a furniture store; and

WHEREAS, the subject application seeks to legalize the furniture store use and waive the requirements of Z.R. § 36-62, which requires that one off-street loading berth must be provided for commercial uses in a C7 zoning district with a total floor area exceeding 8,000 sq. ft.; 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 strict conformance with

## THE RESOLUTION-

WHEREAS, the decision of the Borough Commissioner, dated August 5, 2003, acting on Department of Buildings Application No. 301502835, reads, in pertinent part:

underlying district regulations: (1) the site is irregularly shaped; (2) the site is burdened with an irregularly shaped existing one-story building with very shallow depths ranging from 63.62 feet to 44.67 feet; and (3) the premises has been used as a furniture store for the past 19 years; and

WHEREAS, in response to the request of the Board for further amplification of the site's uniqueness, the applicant stated a conforming commercial use in the existing building would be unmarketable, due to the dimensions and shape of the lot; and

WHEREAS, the applicant states that the provision of the required off-street loading berth would be infeasible given the shallow depth of the building; and

WHEREAS, the applicant further asserts that the elevated train line in the rear of the premises limits the expansion possibilities and hinders the provision of a functional loading berth; and

WHEREAS, the Board finds that certain of the aforementioned unique physical conditions, namely the irregular shape of the lot and the depth of the building, 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 has submitted a feasibility study purporting to show that developing the premises with a built-out conforming use would not yield the owner a reasonable return; and

WHEREAS, the applicant further asserts that adding a second floor to the building, in order to utilize the maximum Floor Area Ratio permitted, would be cost prohibitive, given the structural limitations of the existing building and the poor marketability of second floor occupancy in the area; and

WHEREAS, the applicant has provided a survey of the second story of buildings on both the north and south side of Surf Avenue, between West 8th and West 12th Streets, demonstrating the lack of conforming uses on the second floors of buildings in this area; and

WHEREAS, the applicant has provided a report of the owner's unsuccessful efforts to market the building for complying uses, which included newspaper advertisements; 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 variance will not affect the character of the neighborhood and is compatible in terms of height and bulk with the other buildings in the area; and

WHEREAS, the applicant has submitted a land use map of the area which indicate a significant number of the conforming C7 uses are located on the opposite side of Surf Avenue, on larger lots that are more accommodating to C7 uses; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map, and has determined that the furniture store use is consistent with the surrounding uses, which include numerous retail and sales establishments; and

# MINUTES

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 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. 02-BSA-195Q 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; 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. §72-21 and grants a variance to permit on a site previously before the Board and currently located in a C7 zoning district, the legalization of the use of a one-story commercial building as a furniture store (Use Group 10) without the required off-street loading berth, contrary to Z.R. §§ 32-10 and 36-62; 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, 2004"- (8) sheets; and on further condition:

THAT the term of this variance shall be for two years, to expire on December 7, 2006;

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5  
Negative:.....0

THAT prior to any application for an extension of the term of the variance, the applicant shall submit proof of marketing attempts and a financial analysis for conforming 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 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, December 7, 2004.

## 273-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED - 211-51 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 92, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Richard Lobel.

**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-**

**THE RESOLUTION -**

WHEREAS, the decision of the Borough Commissioner, dated November 19, 2004, acting on DOB Application No. 401632621, reads in pertinent part:

---

# MINUTES

---

"[1]. The proposed development does not comply with the minimum required open space ratio (OSR) and is contrary to section 23-141 Z.R.

[2]. The proposed development does not comply with the minimum required lot width as per section 23-32 Z.R."; 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 30, 2004, May 18, 2004, July 20, 2004, August 17, 2004 and October 19, 2004, and then to December 7, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for open space and minimum lot width, contrary to Z.R. §§ 23-141 and 23-32; and

WHEREAS, this application is filed with eleven companion cases, under BSA Calendar Nos. 274-03-BZ through 275-03-BZ and 277-03-BZ through 285-03-BZ, for the construction of a total of 12 detached, two-story one-family dwellings, on 12 individual tax lots, formed upon the subdivision of the pre-existing Lots 48 and 92 (hereinafter, the "Zoning Lot"); and

WHEREAS, each of the 12 developments proposed to be constructed on the Zoning Lot will require waivers for floor area, open space and minimum lot width; some of the developments require a waiver for minimum lot area and side yard; and

WHEREAS, the Board notes that although this and the other 11 applications set forth specific DOB objections and request slightly different relief for each proposed dwelling, the Board analyzed the variance application in terms of the findings based upon the Zoning Lot; and

WHEREAS, however, the above-noted DOB objection is for the referenced Tentative Lot 92 only; and

WHEREAS, in response to concerns expressed by the Board that the original proposal for the Zoning Lot (12 semi-detached, two-story two-family dwellings and 1 detached, two-story one-family dwelling, for a total of 25 dwelling units) was in excess of the minimum variance and also altered the essential character of the community, the applicant eventually modified the original proposal to the current proposal; and

WHEREAS, prior to submitting the current proposal, the applicant offered a number of different proposals which the Board also felt were inconsistent with the character of the surrounding community; these included a proposal with 12 two-story, two-family

WHEREAS, the Board notes that a complying proposal would be a development with a maximum of nine dwelling units; and

WHEREAS, the Board notes that the lack of access to the landlocked Lot 92 required creation of a private road on Lot 48, thereby diminishing the amount of area on the Zoning Lot that could be developed residentially; and

WHEREAS, the Board finds that the irregular shape of the Zoning Lot, when considered in conjunction with the current lack of

dwellings (for a total of 24 dwelling units), a proposal with seven two-story, two-family dwellings and five two-story, one-family dwellings (for a total of 19 dwelling units), and a proposal with six detached two-story, two-family dwellings and four detached two-story, one-family dwellings (for a total of 16 dwelling units); and

WHEREAS, Queens Community Board No. 13, after initially recommending denial of the original proposal, later withdrew its objection upon review of current proposal; and

WHEREAS, other community members appeared at the public hearings in opposition to both the original and the intermediate proposals; and

WHEREAS, the Zoning Lot is in the center of the block bounded by Jamaica and 94th Avenues, Hollis Court Boulevard and 212th Street, and has a total lot area 61,211.92 sq. ft.; and

WHEREAS, Lot 48 is a rectangular shaped lot, approximately 100 feet by 60 feet with a total lot area of 5,940 sq. ft., with a frontage of 60 feet on the west side of 212th Street between 94th Avenue and Jamaica Avenue; and

WHEREAS, Lot 92 is a landlocked parcel with an irregular "L" shape, and dimensions of approximately 200 feet by 300 feet by 160 feet by 110 feet by 40 feet by 140 feet, with a total area of approximately 55,272 sq. ft.; and

WHEREAS, the entire Zoning Lot is split between an R2 zoning district and an R3-2(C1-2) zoning district; specifically, Lot 48 is entirely within the R2 zoning district, whereas Lot 92 is split between the R2 zoning district and the R3-2(C1-2) zoning district; and

WHEREAS, the overall development proposal contemplates the construction of a mapped street, to be known as 94th Road, which will be constructed on Lot 48 and provide access to the proposed dwelling on the Zoning Lot from 212th Street; and

WHEREAS, the Board has determined that the area within the bed of the mapped street, totaling 12,296.93 sq. ft., is not considered as lot area for zoning purposes; and

WHEREAS, the applicant states that Zoning Lot was formerly improved upon with two two-story dwellings, but these buildings were demolished in 2003 after being declared unsafe by DOB; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the Zoning Lot in strict compliance with underlying zoning regulations: (1) the Zoning Lot is irregular in shape, with Lot 92 being "L" shaped with dimensions as noted above; and (2) the Zoning Lot is landlocked without any frontage on a public street; access can only be provided through Lot 48; (3) the layout of the land is situated in such a way that any division of the land would create landlocked parcels or functionally limited parcels; and

access to Lot 92 and the afore-mentioned resulting diminished usable floor area resulting from the private road, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the applicant initially submitted a feasibility study, which purported to show that a complying development with nine dwelling units would not realize a reasonable return; and

WHEREAS, the Board questioned certain features of this

---

# MINUTES

---

feasibility study, and, in response, the applicant has provided additional, more accurate financial information with regard to comparables and adjustments for sellout and construction costs used in the financial analysis; and

WHEREAS, at the request of the Board, the applicant has also submitted a revised feasibility study, reflecting the current proposal (nine one-family, two-story dwellings; and

WHEREAS, based upon its review of the revised feasibility study, the Board has determined that because of the above-mentioned unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning district regulations will provide a reasonable return; and

WHEREAS, the applicant represents that the current proposal will not impact 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 record indicates that there is an R3-2 district to the west of the site and R2 and R3-2 districts beyond the railroad track at the southern boundary of the site; and

WHEREAS, the applicant contended that the original proposal, which contemplated semi-detached dwellings, was compatible with the character of the community; and

WHEREAS, however, as discussed above, the above-mentioned committee of the Board conducted a site and neighborhood visit and ascertained that the residential areas surrounding the Zoning Lot are developed primarily with detached single-family dwellings, some with zero-lot line development; and

WHEREAS, the Board instructed the applicant that the original proposal was not compatible with the detached, single-family homes which are the predominant land use in the area surrounding the Zoning Lot; and

WHEREAS, the applicant made the above-mentioned incremental changes in the proposal, none of which were satisfactory to the Board in that they raised the same concerns about community character as the original proposal; and

WHEREAS, in response, the applicant has reduced the number of structures and dwelling units to be constructed on the Zoning Lot; and

WHEREAS, the Board has reviewed the current proposal and the submitted land use map and has determined that the proposed

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, within an R2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space and minimum lot width, contrary to Z.R. §§ 23-141 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 23, 2004"-(2) sheets and "Received December 6, 2004"-(5) sheets; and on further condition;

density is compatible with the built conditions in the area; and

WHEREAS, the Board further notes that a similar sized parcel, not suffering from the land-locked condition that Lot 92 is subject to, would permit construction of a 12 unit development as-of-right; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after accepting guidance from the Board as to both the proper amount of relief necessary to alleviate the hardship associated with the site and the appropriate number and size of the dwelling units, the applicant significantly modified the proposal to reflect the current proposal; 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-038Q 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.

THAT the Floor Area Ratio for the proposed dwelling on Tentative Lot 92 shall be limited to 0.42;

THAT only one dwelling shall be located on Tentative Lot 92;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT the Floor Area Ratio over all of the Tentative Lots, excluding the area within the bed of a mapped street shall be limited to 0.61; the Floor Area Ratio over all of the Tentative Lots, including the area within the bed of a mapped street shall be limited to 0.49;

THAT the residential Floor Area over all 12 of the Tentative Lots, when taking into account the proposed dwelling approved in the instant application and the other companion applications, shall not exceed 29,991.6 sq. ft.;

THAT the total number of dwelling units over all 12 of the Tentative Lots shall be limited to 12, one for each lot;

THAT DOB shall confirm compliance with the Floor Area

---

# MINUTES

---

limitations set forth above;

THAT the total number of parking spaces that shall be provided over all 12 of the Tentative Lots shall be 24, with two accessory parking spaces per dwelling for each dwelling;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 7, 2004.

---

## 274-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.  
SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED - 211-49 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 93, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** -Application granted on condition.

**THE VOTE TO REOPEN HEARING-**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

WHEREAS, this application is filed with eleven companion cases, under BSA Calendar Nos. 274-03-BZ through 275-03-BZ and 277-03-BZ through 285-03-BZ, for the construction of a total of 12 detached, two-story one-family dwellings, on 12 individual tax lots, formed upon the subdivision of the pre-existing Lots 48 and 92 (hereinafter, the "Zoning Lot"); and

WHEREAS, each of the 12 developments proposed to be constructed on the Zoning Lot will require waivers for floor area, open space and minimum lot width; some of the developments require a waiver for minimum lot area and side yard; and

WHEREAS, the Board notes that although this and the other 11 applications set forth specific DOB objections and request slightly different relief for each proposed dwelling, the Board analyzed the variance application in terms of the findings based upon the Zoning Lot; and

WHEREAS, however, the above-noted DOB objection is for the referenced Tentative Lot 92 only; and

WHEREAS, in response to concerns expressed by the Board

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 November 19, 2004, acting on DOB Application No. 401632612, reads:

"1. The proposed Floor Area and FAR exceeds that permitted by section 23-141(a) Z.R.

2. The proposed development does not comply with the minimum required open space ratio (OSR) and is contrary to section 23-141 Z.R.

3. The proposed development does not comply with the minimum required lot width as per section 23-32 Z.R.

4. The proposed development does not comply with the minimum required side yard as per section 23-461."; 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 30, 2004, May 18, 2004, July 20, 2004, August 17, 2004 and October 19, 2004, and then to December 7, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space, minimum lot width and side yard, contrary to Z.R. §§ 23-141 and 23-32; and

that the original proposal for the Zoning Lot (12 semi-detached, two-story two-family dwellings and 1 detached, two-story one-family dwelling, for a total of 25 dwelling units) was in excess of the minimum variance and also altered the essential character of the community, the applicant eventually modified the original proposal to the current proposal; and

WHEREAS, prior to submitting the current proposal, the applicant offered a number of different proposals which the Board also felt were inconsistent with the character of the surrounding community; these included a proposal with 12 two-story, two-family dwellings (for a total of 24 dwelling units), a proposal with seven two-story, two-family dwellings and five two-story, one-family dwellings (for a total of 19 dwelling units), and a proposal with six detached two-story, two-family dwellings and four detached two-story, one-family dwellings (for a total of 16 dwelling units); and

WHEREAS, Queens Community Board No. 13, after initially recommending denial of the original proposal, later withdrew its

---

# MINUTES

---

objection upon review of current proposal; and

WHEREAS, other community members appeared at the public hearings in opposition to both the original and the intermediate proposals; and

WHEREAS, the Zoning Lot is in the center of the block bounded by Jamaica and 94th Avenues, Hollis Court Boulevard and 212th Street, and has a total lot area 61,211.92 sq. ft.; and

WHEREAS, Lot 48 is a rectangular shaped lot, approximately 100 feet by 60 feet with a total lot area of 5,940 sq. ft., with a frontage of 60 feet on the west side of 212th Street between 94th Avenue and Jamaica Avenue; and

WHEREAS, Lot 92 is a landlocked parcel with an irregular "L" shape, and dimensions of approximately 200 feet by 300 feet by 160 feet by 110 feet by 40 feet by 140 feet, with a total area of approximately 55,272 sq. ft.; and

WHEREAS, the entire Zoning Lot is split between an R2 zoning district and an R3-2(C1-2) zoning district; specifically, Lot 48 is entirely within the R2 zoning district, whereas Lot 92 is split between the R2 zoning district and the R3-2(C1-2) zoning district; and

WHEREAS, the overall development proposal contemplates the construction of a mapped street, to be known as 94th Road, which will be constructed on Lot 48 and provide access to the proposed dwelling on the Zoning Lot from 212th Street; and

WHEREAS, the Board has determined that the area within the bed of the mapped street, totaling 12,296.93 sq. ft., is not considered as lot area for zoning purposes; and

WHEREAS, the applicant states that Zoning Lot was formerly improved upon with two two-story dwellings, but these buildings were demolished in 2003 after being declared unsafe by DOB; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and

WHEREAS, based upon its review of the revised feasibility study, the Board has determined that because of the above-mentioned unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning district regulations will provide a reasonable return; and

WHEREAS, the applicant represents that the current proposal will not impact 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 record indicates that there is an R3-2 district to the west of the site and R2 and R3-2 districts beyond the railroad track at the southern boundary of the site; and

WHEREAS, the applicant contended that the original proposal, which contemplated semi-detached dwellings, was compatible with the character of the community; and

WHEREAS, however, as discussed above, the above-mentioned committee of the Board conducted a site and neighborhood visit and ascertained that the residential areas surrounding the Zoning Lot are developed primarily with detached single-family dwellings, some with zero-lot line development; and

WHEREAS, the Board instructed the applicant that the original proposal was not compatible with the detached, single-family homes which are the predominant land use in the area surrounding the Zoning Lot; and

WHEREAS, the applicant made the above-mentioned

unnecessary hardship in developing the Zoning Lot in strict compliance with underlying zoning regulations: (1) the Zoning Lot is irregular in shape, with Lot 92 being "L" shaped with dimensions as noted above; and (2) the Zoning Lot is landlocked without any frontage on a public street; access can only be provided through Lot 48; (3) the layout of the land is situated in such a way that any division of the land would create landlocked parcels or functionally limited parcels; and

WHEREAS, the Board notes that a complying proposal would be a development with a maximum of nine dwelling units; and

WHEREAS, the Board notes that the lack of access to the landlocked Lot 92 required creation of a private road on Lot 48, thereby diminishing the amount of area on the Zoning Lot that could be developed residentially; and

WHEREAS, the Board finds that the irregular shape of the Zoning Lot, when considered in conjunction with the current lack of access to Lot 92 and the afore-mentioned resulting diminished usable floor area resulting from the private road, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the applicant initially submitted a feasibility study, which purported to show that a complying development with nine dwelling units would not realize a reasonable return; and

WHEREAS, the Board questioned certain features of this feasibility study, and, in response, the applicant has provided additional, more accurate financial information with regard to comparables and adjustments for sellout and construction costs used in the financial analysis; and

WHEREAS, at the request of the Board, the applicant has also submitted a revised feasibility study, reflecting the current proposal (nine one-family, two-story dwellings; and incremental changes in the proposal, none of which were satisfactory to the Board in that they raised the same concerns about community character as the original proposal; and

WHEREAS, in response, the applicant has reduced the number of structures and dwelling units to be constructed on the Zoning Lot; and

WHEREAS, the Board has reviewed the current proposal and the submitted land use map and has determined that the proposed density is compatible with the built conditions in the area; and

WHEREAS, the Board further notes that a similar sized parcel, not suffering from the land-locked condition that Lot 92 is subject to, would permit construction of a 12 unit development as-of-right; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after accepting guidance from the Board as to both the proper amount of relief necessary to alleviate the hardship associated with the site and the appropriate number and size of the dwelling units, the applicant significantly modified the proposal to reflect the current proposal; and

WHEREAS, accordingly, the Board finds that the current proposal is the minimum necessary to afford the owner relief; and

---

# MINUTES

---

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-038Q 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

THAT the residential Floor Area over all 12 of the Tentative Lots, when taking into account the proposed dwelling approved in the instant application and the other companion applications, shall not exceed 29,991.6 sq. ft.;

THAT the total number of dwelling units over all 12 of the Tentative Lots shall be limited to 12, one for each lot;

THAT DOB shall confirm compliance with the Floor Area limitations set forth above;

THAT the total number of parking spaces that shall be provided over all 12 of the Tentative Lots shall be 24, with two accessory parking spaces per dwelling for each dwelling;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 7, 2004.

## 275-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.  
SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of

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, within an R2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space and minimum lot width, contrary to Z.R. §§ 23-141 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 23, 2004" -(2) sheets and "Received December 6, 2004"-(5) sheets; and on further condition;

THAT the Floor Area Ratio for the proposed dwelling on Tentative Lot 93 shall be limited to 0.68;

THAT only one dwelling shall be located on Tentative Lot 93;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT the Floor Area Ratio over all of the Tentative Lots, excluding the area within the bed of a mapped street shall be limited to 0.61; the Floor Area Ratio over all of the Tentative Lots, including the area within the bed of a mapped street shall be limited to 0.49; dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED - 211-47 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 94, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** -Application withdrawn.

**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 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, December 7, 2004.

## 276-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.

---

# MINUTES

---

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED - 211-45 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 95, Borough of Queens.

## COMMUNITY BOARD #13Q

### APPEARANCES -

For Applicant: Richard Lobel.

**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

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 30, 2004, May 18, 2004, July 20, 2004, August 17, 2004 and October 19, 2004, and then to December 7, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space, minimum lot width and side yard, contrary to Z.R. §§ 23-141 and 23-32; and

WHEREAS, this application is filed with eleven companion cases, under BSA Calendar Nos. 274-03-BZ through 275-03-BZ and 277-03-BZ through 285-03-BZ, for the construction of a total of 12 detached, two-story one-family dwellings, on 12 individual tax lots, formed upon the subdivision of the pre-existing Lots 48 and 92 (hereinafter, the "Zoning Lot"); and

WHEREAS, each of the 12 developments proposed to be constructed on the Zoning Lot will require waivers for floor area, open space and minimum lot width; some of the developments require a waiver for minimum lot area and side yard; and

WHEREAS, the Board notes that although this and the other 11 applications set forth specific DOB objections and request slightly different relief for each proposed dwelling, the Board analyzed the variance application in terms of the findings based upon the Zoning Lot; and

WHEREAS, however, the above-noted DOB objection is for the referenced Tentative Lot 92 only; and

WHEREAS, in response to concerns expressed by the Board that the original proposal for the Zoning Lot (12 semi-detached, two-story two-family dwellings and 1 detached, two-story one-family dwelling, for a total of 25 dwelling units) was in excess of the minimum variance and also altered the essential character of the

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 November 19, 2004, acting on DOB Application No. 401632603, reads:

"1. The proposed Floor Area and FAR exceeds that permitted by section 23-141(a) Z.R.

2. The proposed development does not comply with the minimum required open space ratio (OSR) and is contrary to section 23-141 Z.R.

3. The proposed development does not comply with the minimum required lot width as per section 23-32 Z.R.

4. The proposed development does not comply with the minimum required side yard as per section 23-461."; and

community, the applicant eventually modified the original proposal to the current proposal; and

WHEREAS, prior to submitting the current proposal, the applicant offered a number of different proposals which the Board also felt were inconsistent with the character of the surrounding community; these included a proposal with 12 two-story, two-family dwellings (for a total of 24 dwelling units), a proposal with seven two-story, two-family dwellings and five two-story, one-family dwellings (for a total of 19 dwelling units), and a proposal with six detached two-story, two-family dwellings and four detached two-story, one-family dwellings (for a total of 16 dwelling units); and

WHEREAS, Queens Community Board No. 13, after initially recommending denial of the original proposal, later withdrew its objection upon review of current proposal; and

WHEREAS, other community members appeared at the public hearings in opposition to both the original and the intermediate proposals; and

WHEREAS, the Zoning Lot is in the center of the block bounded by Jamaica and 94th Avenues, Hollis Court Boulevard and 212th Street, and has a total lot area 61,211.92 sq. ft.; and

WHEREAS, Lot 48 is a rectangular shaped lot, approximately 100 feet by 60 feet with a total lot area of 5,940 sq. ft., with a frontage of 60 feet on the west side of 212th Street between 94th Avenue and Jamaica Avenue; and

WHEREAS, Lot 92 is a landlocked parcel with an irregular "L" shape, and dimensions of approximately 200 feet by 300 feet by 160 feet by 110 feet by 40 feet by 140 feet, with a total area of approximately 55,272 sq. ft.; and

WHEREAS, the entire Zoning Lot is split between an R2 zoning district and an R3-2(C1-2) zoning district; specifically, Lot 48 is entirely within the R2 zoning district, whereas Lot 92 is split between the R2 zoning district and the R3-2(C1-2) zoning district; and

WHEREAS, the overall development proposal contemplates the construction of a mapped street, to be known as 94th Road,

---

# MINUTES

---

which will be constructed on Lot 48 and provide access to the proposed dwelling on the Zoning Lot from 212th Street; and

WHEREAS, the Board has determined that the area within the bed of the mapped street, totaling 12,296.93 sq. ft., is not considered as lot area for zoning purposes; and

WHEREAS, the applicant states that Zoning Lot was formerly improved upon with two two-story dwellings, but these buildings were demolished in 2003 after being declared unsafe by DOB; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the Zoning Lot in strict compliance with underlying zoning regulations: (1) the Zoning Lot is irregular in shape, with Lot 92 being "L" shaped with dimensions as noted above; and (2) the Zoning Lot is landlocked without any frontage on a public street; access can only be provided through Lot 48; (3) the layout of the land is situated in such a way that any division of the land would create landlocked parcels or functionally limited

WHEREAS, the Board questioned certain features of this feasibility study, and, in response, the applicant has provided additional, more accurate financial information with regard to comparables and adjustments for sellout and construction costs used in the financial analysis; and

WHEREAS, at the request of the Board, the applicant has also submitted a revised feasibility study, reflecting the current proposal (nine one-family, two-story dwellings; and

WHEREAS, based upon its review of the revised feasibility study, the Board has determined that because of the above-mentioned unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning district regulations will provide a reasonable return; and

WHEREAS, the applicant represents that the current proposal will not impact 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 record indicates that there is an R3-2 district to the west of the site and R2 and R3-2 districts beyond the railroad track at the southern boundary of the site; and

WHEREAS, the applicant contended that the original proposal, which contemplated semi-detached dwellings, was compatible with the character of the community; and

WHEREAS, however, as discussed above, the above-mentioned committee of the Board conducted a site and neighborhood visit and ascertained that the residential areas surrounding the Zoning Lot are developed primarily with detached single-family dwellings, some with zero-lot line development; and

WHEREAS, the Board instructed the applicant that the original proposal was not compatible with the detached, single-family homes which are the predominant land use in the area surrounding the Zoning Lot; and

WHEREAS, the applicant made the above-mentioned incremental changes in the proposal, none of which were satisfactory to the Board in that they raised the same concerns about community character as the original proposal; and

WHEREAS, in response, the applicant has reduced the number of structures and dwelling units to be constructed on the Zoning Lot; and

parcels; and

WHEREAS, the Board notes that a complying proposal would be a development with a maximum of nine dwelling units; and

WHEREAS, the Board notes that the lack of access to the landlocked Lot 92 required creation of a private road on Lot 48, thereby diminishing the amount of area on the Zoning Lot that could be developed residentially; and

WHEREAS, the Board finds that the irregular shape of the Zoning Lot, when considered in conjunction with the current lack of access to Lot 92 and the afore-mentioned resulting diminished usable floor area resulting from the private road, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the applicant initially submitted a feasibility study, which purported to show that a complying development with nine dwelling units would not realize a reasonable return; and

WHEREAS, the Board has reviewed the current proposal and the submitted land use map and has determined that the proposed density is compatible with the built conditions in the area; and

WHEREAS, the Board further notes that a similar sized parcel, not suffering from the land-locked condition that Lot 92 is subject to, would permit construction of a 12 unit development as-of-right; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after accepting guidance from the Board as to both the proper amount of relief necessary to alleviate the hardship associated with the site and the appropriate number and size of the dwelling units, the applicant significantly modified the proposal to reflect the current proposal; 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-038Q 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

# MINUTES

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 variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within an

THAT the above conditions shall be listed on the certificate of occupancy;

THAT the Floor Area Ratio over all of the Tentative Lots, excluding the area within the bed of a mapped street shall be limited to 0.61; and the Floor Area Ratio over all of the Tentative Lots, including the area within the bed of a mapped street shall be limited to 0.49;

THAT the residential Floor Area over all 12 of the Tentative Lots, when taking into account the proposed dwelling approved in the instant application and the other companion applications, shall not exceed 29,991.6 sq. ft.;

THAT the total number of dwelling units over all 12 of the Tentative Lots shall be limited to 12, one for each lot;

THAT DOB shall confirm compliance with the Floor Area limitations set forth above;

THAT the total number of parking spaces that shall be provided over all 12 of the Tentative Lots shall be 24, with two accessory parking spaces per dwelling for each dwelling;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 7, 2004.

## 277-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.  
SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED - 211-43 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 96, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

R2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space and minimum lot width, contrary to Z.R. §§ 23-141 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 23, 2004"-(2) sheets and "Received December 6, 2004"-(5) sheets; and on further condition;

THAT the Floor Area Ratio for the proposed dwelling on Tentative Lot 94 shall be limited to 0.68;

THAT only one dwelling shall be located on Tentative Lot 94; For Applicant: Richard Lobel.

**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 November 19, 2004, acting on DOB Application No. 401632596, reads:

- "1. The proposed Floor Area and FAR exceeds that permitted by section 23-141(a) Z.R.
2. The proposed development does not comply with the minimum required open space ratio (OSR) and is contrary to section 23-141 Z.R.
3. The proposed development does not comply with the minimum required lot width as per section 23-32 Z.R.
4. The proposed development does not comply with the minimum required side yard as per section 23-461."; 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 30, 2004, May 18, 2004, July 20, 2004, August 17, 2004 and October 19, 2004, and then to December 7, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space, minimum lot width and side yard, contrary to Z.R. §§ 23-141 and 23-32; and

WHEREAS, this application is filed with eleven companion cases, under BSA Calendar Nos. 274-03-BZ through 275-03-BZ

---

# MINUTES

---

and 277-03-BZ through 285-03-BZ, for the construction of a total of 12 detached, two-story one-family dwellings, on 12 individual tax lots, formed upon the subdivision of the pre-existing Lots 48 and 92 (hereinafter, the "Zoning Lot"); and

WHEREAS, each of the 12 developments proposed to be constructed on the Zoning Lot will require waivers for floor area, open space and minimum lot width; some of the developments require

WHEREAS, however, the above-noted DOB objection is for the referenced Tentative Lot 92 only; and

WHEREAS, in response to concerns expressed by the Board that the original proposal for the Zoning Lot (12 semi-detached, two-story two-family dwellings and 1 detached, two-story one-family dwelling, for a total of 25 dwelling units) was in excess of the minimum variance and also altered the essential character of the community, the applicant eventually modified the original proposal to the current proposal; and

WHEREAS, prior to submitting the current proposal, the applicant offered a number of different proposals which the Board also felt were inconsistent with the character of the surrounding community; these included a proposal with 12 two-story, two-family dwellings (for a total of 24 dwelling units), a proposal with seven two-story, two-family dwellings and five two-story, one-family dwellings (for a total of 19 dwelling units), and a proposal with six detached two-story, two-family dwellings and four detached two-story, one-family dwellings (for a total of 16 dwelling units); and

WHEREAS, Queens Community Board No. 13, after initially recommending denial of the original proposal, later withdrew its objection upon review of current proposal; and

WHEREAS, other community members appeared at the public hearings in opposition to both the original and the intermediate proposals; and

WHEREAS, the Zoning Lot is in the center of the block bounded by Jamaica and 94th Avenues, Hollis Court Boulevard and 212th Street, and has a total lot area 61,211.92 sq. ft.; and

WHEREAS, Lot 48 is a rectangular shaped lot, approximately 100 feet by 60 feet with a total lot area of 5,940 sq. ft., with a frontage of 60 feet on the west side of 212th Street between 94th Avenue and Jamaica Avenue; and

WHEREAS, Lot 92 is a landlocked parcel with an irregular "L" shape, and dimensions of approximately 200 feet by 300 feet by 160 feet by 110 feet by 40 feet by 140 feet, with a total area of approximately 55,272 sq. ft.; and

WHEREAS, the entire Zoning Lot is split between an R2 zoning district and an R3-2(C1-2) zoning district; specifically, Lot 48 is entirely within the R2 zoning district, whereas Lot 92 is split between the R2 zoning district and the R3-2(C1-2) zoning district; and

WHEREAS, the overall development proposal contemplates the construction of a mapped street, to be known as 94th Road, which will be constructed on Lot 48 and provide access to the proposed dwelling on the Zoning Lot from 212th Street; and

WHEREAS, the Board has determined that the area within the bed of the mapped street, totaling 12,296.93 sq. ft., is not considered as lot area for zoning purposes; and

WHEREAS, the applicant states that Zoning Lot was formerly improved upon with two two-story dwellings, but these buildings were demolished in 2003 after being declared unsafe by DOB; and

a waiver for minimum lot area and side yard; and

WHEREAS, the Board notes that although this and the other 11 applications set forth specific DOB objections and request slightly different relief for each proposed dwelling, the Board analyzed the variance application in terms of the findings based upon the Zoning Lot; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the Zoning Lot in strict compliance with underlying zoning regulations: (1) the Zoning Lot is irregular in shape, with Lot 92 being "L" shaped with dimensions as noted above; and (2) the Zoning Lot is landlocked without any frontage on a public street; access can only be provided through Lot 48; (3) the layout of the land is situated in such a way that any division of the land would create landlocked parcels or functionally limited parcels; and

WHEREAS, the Board notes that a complying proposal would be a development with a maximum of nine dwelling units; and

WHEREAS, the Board notes that the lack of access to the landlocked Lot 92 required creation of a private road on Lot 48, thereby diminishing the amount of area on the Zoning Lot that could be developed residentially; and

WHEREAS, the Board finds that the irregular shape of the Zoning Lot, when considered in conjunction with the current lack of access to Lot 92 and the afore-mentioned resulting diminished usable floor area resulting from the private road, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the applicant initially submitted a feasibility study, which purported to show that a complying development with nine dwelling units would not realize a reasonable return; and

WHEREAS, the Board questioned certain features of this feasibility study, and, in response, the applicant has provided additional, more accurate financial information with regard to comparables and adjustments for sellout and construction costs used in the financial analysis; and

WHEREAS, at the request of the Board, the applicant has also submitted a revised feasibility study, reflecting the current proposal (nine one-family, two-story dwellings); and

WHEREAS, based upon its review of the revised feasibility study, the Board has determined that because of the above-mentioned unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning district regulations will provide a reasonable return; and

WHEREAS, the applicant represents that the current proposal will not impact 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 record indicates that there is an R3-2 district to the west of the site and R2 and R3-2 districts beyond the railroad track at the southern boundary of the site; and

WHEREAS, the applicant contended that the original proposal, which contemplated semi-detached dwellings, was compatible with the character of the community; and

---

# MINUTES

---

WHEREAS, however, as discussed above, the above-mentioned committee of the Board conducted a site and neighborhood visit and ascertained that the residential areas surrounding the Zoning Lot are developed primarily with detached single-family dwellings, some with zero-lot line development; and

WHEREAS, the Board instructed the applicant that the original proposal was not compatible with the detached, single-family homes which are the predominant land use in the area surrounding the Zoning Lot; and

WHEREAS, the applicant made the above-mentioned incremental changes in the proposal, none of which were satisfactory to the Board in that they raised the same concerns about community character as the original proposal; and

WHEREAS, in response, the applicant has reduced the number of structures and dwelling units to be constructed on the Zoning Lot; and

WHEREAS, the Board has reviewed the current proposal and the submitted land use map and has determined that the proposed density is compatible with the built conditions in the area; and

WHEREAS, the Board further notes that a similar sized parcel, not suffering from the land-locked condition that Lot 92 is subject to, would permit construction of a 12 unit development as-of-right; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after accepting guidance from the Board as to both the proper amount of relief necessary to alleviate the hardship associated with the site and the appropriate number and size of the dwelling units, the applicant significantly modified the proposal to reflect the current proposal; 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-038Q 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;

THAT the Department of Buildings must ensure compliance 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 7,

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 variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within an R2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space and minimum lot width, contrary to Z.R. §§ 23-141 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 23, 2004" -(2) sheets and "Received December 6, 2004"-(5) sheets; and on further condition;

THAT the Floor Area Ratio for the proposed dwelling on Tentative Lot 95 shall be limited to 0.73;

THAT only one dwelling shall be located on Tentative Lot 95;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT the Floor Area Ratio over all of the Tentative Lots, excluding the area within the bed of a mapped street shall be limited to 0.61; the Floor Area Ratio over all of the Tentative Lots, including the area within the bed of a mapped street shall be limited to 0.49;

THAT the residential Floor Area over all 12 of the Tentative Lots, when taking into account the proposed dwelling approved in the instant application and the other companion applications, shall not exceed 29,991.6 sq. ft.;

THAT the total number of dwelling units over all 12 of the Tentative Lots shall be limited to 12, one for each lot;

THAT DOB shall confirm compliance with the Floor Area limitations set forth above;

THAT the total number of parking spaces that shall be provided over all 12 of the Tentative Lots shall be 24, with two accessory parking spaces per dwelling for each dwelling;

THAT 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; 2004.

---

**278-03-BZ**

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp.,

---

# MINUTES

---

owner.

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED - 211-41 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 97, Borough of Queens.

## COMMUNITY BOARD #13Q

### APPEARANCES -

For Applicant: Richard Lobel.

**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 November 19, 2004, acting on DOB Application No. 401632587, reads:

1. The proposed Floor Area and FAR exceeds that permitted by section 23-141(a) Z.R.
2. The proposed development does not comply with the minimum required open space ratio (OSR) and is contrary to section 23-141 Z.R.
3. The proposed development does not comply with the minimum required lot width as per section 23-32 Z.R.
4. The proposed development does not comply with the minimum required side yard as per section 23-461."; 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 30, 2004, May 18, 2004, July 20, 2004, August 17, 2004 and October 19, 2004, and then to December 7, 2004 for decision; and

WHEREAS, the Zoning Lot is in the center of the block bounded by Jamaica and 94th Avenues, Hollis Court Boulevard and 212th Street, and has a total lot area 61,211.92 sq. ft.; and

WHEREAS, Lot 48 is a rectangular shaped lot, approximately 100 feet by 60 feet with a total lot area of 5,940 sq. ft., with a frontage of 60 feet on the west side of 212th Street between 94th Avenue and Jamaica Avenue; and

WHEREAS, Lot 92 is a landlocked parcel with an irregular "L"

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 construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space, minimum lot width and side yard, contrary to Z.R. §§ 23-141 and 23-32; and

WHEREAS, this application is filed with eleven companion cases, under BSA Calendar Nos. 274-03-BZ through 275-03-BZ and 277-03-BZ through 285-03-BZ, for the construction of a total of 12 detached, two-story one-family dwellings, on 12 individual tax lots, formed upon the subdivision of the pre-existing Lots 48 and 92 (hereinafter, the "Zoning Lot"); and

WHEREAS, each of the 12 developments proposed to be constructed on the Zoning Lot will require waivers for floor area, open space and minimum lot width; some of the developments require a waiver for minimum lot area and side yard; and

WHEREAS, the Board notes that although this and the other 11 applications set forth specific DOB objections and request slightly different relief for each proposed dwelling, the Board analyzed the variance application in terms of the findings based upon the Zoning Lot; and

WHEREAS, however, the above-noted DOB objection is for the referenced Tentative Lot 92 only; and

WHEREAS, in response to concerns expressed by the Board that the original proposal for the Zoning Lot (12 semi-detached, two-story two-family dwellings and 1 detached, two-story one-family dwelling, for a total of 25 dwelling units) was in excess of the minimum variance and also altered the essential character of the community, the applicant eventually modified the original proposal to the current proposal; and

WHEREAS, prior to submitting the current proposal, the applicant offered a number of different proposals which the Board also felt were inconsistent with the character of the surrounding community; these included a proposal with 12 two-story, two-family dwellings (for a total of 24 dwelling units), a proposal with seven two-story, two-family dwellings and five two-story, one-family dwellings (for a total of 19 dwelling units), and a proposal with six detached two-story, two-family dwellings and four detached two-story, one-family dwellings (for a total of 16 dwelling units); and

WHEREAS, Queens Community Board No. 13, after initially recommending denial of the original proposal, later withdrew its objection upon review of current proposal; and

WHEREAS, other community members appeared at the public hearings in opposition to both the original and the intermediate proposals; and

shape, and dimensions of approximately 200 feet by 300 feet by 160 feet by 110 feet by 40 feet by 140 feet, with a total area of approximately 55,272 sq. ft.; and

WHEREAS, the entire Zoning Lot is split between an R2 zoning district and an R3-2(C1-2) zoning district; specifically, Lot 48 is entirely within the R2 zoning district, whereas Lot 92 is split between the R2 zoning district and the R3-2(C1-2) zoning district; and

---

# MINUTES

---

WHEREAS, the overall development proposal contemplates the construction of a mapped street, to be known as 94th Road, which will be constructed on Lot 48 and provide access to the proposed dwelling on the Zoning Lot from 212th Street; and

WHEREAS, the Board has determined that the area within the bed of the mapped street, totaling 12,296.93 sq. ft., is not considered as lot area for zoning purposes; and

WHEREAS, the applicant states that Zoning Lot was formerly improved upon with two two-story dwellings, but these buildings were demolished in 2003 after being declared unsafe by DOB; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the Zoning Lot in strict compliance with underlying zoning regulations: (1) the Zoning Lot is irregular in shape, with Lot 92 being "L" shaped with dimensions as noted above; and (2) the Zoning Lot is landlocked without any frontage on a public street; access can only be provided through Lot 48; (3) the layout of the land is situated in such a way that any division of the land would create landlocked parcels or functionally limited parcels; and

WHEREAS, the Board notes that a complying proposal would be a development with a maximum of nine dwelling units; and

WHEREAS, the Board notes that the lack of access to the landlocked Lot 92 required creation of a private road on Lot 48, thereby diminishing the amount of area on the Zoning Lot that could be developed residentially; and

WHEREAS, the Board finds that the irregular shape of the Zoning Lot, when considered in conjunction with the current lack of access to Lot 92 and the afore-mentioned resulting diminished usable floor area resulting from the private road, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the applicant initially submitted a feasibility study, which purported to show that a complying development with nine dwelling units would not realize a reasonable return; and

WHEREAS, the Board questioned certain features of this feasibility study, and, in response, the applicant has provided additional, more accurate financial information with regard to comparables and adjustments for sellout and construction costs used in the financial analysis; and

WHEREAS, at the request of the Board, the applicant has also submitted a revised feasibility study, reflecting the current proposal

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after accepting guidance from the Board as to both the proper amount of relief necessary to alleviate the hardship associated with the site and the appropriate number and size of the dwelling units, the applicant significantly modified the proposal to reflect the current proposal; 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

(nine one-family, two-story dwellings; and

WHEREAS, based upon its review of the revised feasibility study, the Board has determined that because of the above-mentioned unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning district regulations will provide a reasonable return; and

WHEREAS, the applicant represents that the current proposal will not impact 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 record indicates that there is an R3-2 district to the west of the site and R2 and R3-2 districts beyond the railroad track at the southern boundary of the site; and

WHEREAS, the applicant contended that the original proposal, which contemplated semi-detached dwellings, was compatible with the character of the community; and

WHEREAS, however, as discussed above, the above-mentioned committee of the Board conducted a site and neighborhood visit and ascertained that the residential areas surrounding the Zoning Lot are developed primarily with detached single-family dwellings, some with zero-lot line development; and

WHEREAS, the Board instructed the applicant that the original proposal was not compatible with the detached, single-family homes which are the predominant land use in the area surrounding the Zoning Lot; and

WHEREAS, the applicant made the above-mentioned incremental changes in the proposal, none of which were satisfactory to the Board in that they raised the same concerns about community character as the original proposal; and

WHEREAS, in response, the applicant has reduced the number of structures and dwelling units to be constructed on the Zoning Lot; and

WHEREAS, the Board has reviewed the current proposal and the submitted land use map and has determined that the proposed density is compatible with the built conditions in the area; and

WHEREAS, the Board further notes that a similar sized parcel, not suffering from the land-locked condition that Lot 92 is subject to, would permit construction of a 12 unit development as-of-right; 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 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-038Q 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

---

# MINUTES

---

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 variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within an R2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space and minimum lot width, contrary to Z.R. §§23-141 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 23, 2004"-(2) sheets and "Received December 6, 2004"-(5) sheets; and on further condition;

THAT the Floor Area Ratio for the proposed dwelling on Tentative Lot 96 shall be limited to 0.63;

THAT only one dwelling shall be located on Tentative Lot 96;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT the Floor Area Ratio over all of the Tentative Lots, excluding the area within the bed of a mapped street shall be limited to 0.61; the Floor Area Ratio over all of the Tentative Lots, including the area within the bed of a mapped street shall be limited to 0.49;

THAT the residential Floor Area over all 12 of the Tentative Lots, when taking into account the proposed dwelling approved in the instant application and the other companion applications, shall not exceed 29,991.6 sq. ft.;

THAT the total number of dwelling units over all 12 of the Tentative Lots shall be limited to 12, one for each lot;

THAT DOB shall confirm compliance with the Floor Area limitations set forth above;

THAT the total number of parking spaces that shall be provided  
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 November 19, 2004, acting on DOB Application No. 401632578, reads:

"1. The proposed Floor Area and FAR exceeds that permitted by section 23-141(a) Z.R.

over all 12 of the Tentative Lots shall be 24, with two accessory parking spaces per dwelling for each dwelling;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 7, 2004.

---

#### 279-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED - 211-54 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 98, Borough of Queens.

#### COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO REOPEN HEARING-**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

2. The proposed development does not comply with the minimum required open space ratio (OSR) and is contrary to section 23-141 Z.R.

3. The proposed development does not comply with the minimum required lot width as per section 23-32 Z.R.

4. The proposed development does not comply with the minimum required side yard as per section 23-461."; 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 30, 2004, May 18, 2004, July 20, 2004, August 17, 2004 and October 19, 2004, and then to December 7, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R2 and C2-2 within an R3-2 zoning district, the proposed construction of one detached two-story, one-family

---

# MINUTES

---

dwelling which does not comply with the requirements for floor area, open space, minimum lot width and side yard, contrary to Z.R. §§ 23-141 and 23-32; and

WHEREAS, this application is filed with eleven companion cases, under BSA Calendar Nos. 274-03-BZ through 275-03-BZ and 277-03-BZ through 285-03-BZ, for the construction of a total of 12 detached, two-story one-family dwellings, on 12 individual tax lots, formed upon the subdivision of the pre-existing Lots 48 and 92 (hereinafter, the "Zoning Lot"); and

WHEREAS, each of the 12 developments proposed to be constructed on the Zoning Lot will require waivers for floor area, open space and minimum lot width; some of the developments require a waiver for minimum lot area and side yard; and

WHEREAS, the Board notes that although this and the other 11 applications set forth specific DOB objections and request slightly different relief for each proposed dwelling, the Board analyzed the variance application in terms of the findings based upon the Zoning Lot; and

WHEREAS, however, the above-noted DOB objection is for the referenced Tentative Lot 92 only; and

WHEREAS, in response to concerns expressed by the Board that the original proposal for the Zoning Lot (12 semi-detached, two-story two-family dwellings and 1 detached, two-story one-family dwelling, for a total of 25 dwelling units) was in excess of the minimum variance and also altered the essential character of the community, the applicant eventually modified the original proposal to the current proposal; and

WHEREAS, prior to submitting the current proposal, the applicant offered a number of different proposals which the Board also felt were inconsistent with the character of the surrounding community; these included a proposal with 12 two-story, two-family dwellings (for a total of 24 dwelling units), a proposal with seven two-story, two-family dwellings and five two-story, one-family dwellings (for a total of 19 dwelling units), and a proposal with six

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the Zoning Lot in strict compliance with underlying zoning regulations: (1) the Zoning Lot is irregular in shape, with Lot 92 being "L" shaped with dimensions as noted above; and (2) the Zoning Lot is landlocked without any frontage on a public street; access can only be provided through Lot 48; (3) the layout of the land is situated in such a way that any division of the land would create landlocked parcels or functionally limited parcels; and

WHEREAS, the Board notes that a complying proposal would be a development with a maximum of nine dwelling units; and

WHEREAS, the Board notes that the lack of access to the landlocked Lot 92 required creation of a private road on Lot 48, thereby diminishing the amount of area on the Zoning Lot that could be developed residentially; and

WHEREAS, the Board finds that the irregular shape of the Zoning Lot, when considered in conjunction with the current lack of access to Lot 92 and the afore-mentioned resulting diminished usable floor area resulting from the private road, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

detached two-story, two-family dwellings and four detached two-story, one-family dwellings (for a total of 16 dwelling units); and

WHEREAS, Queens Community Board No. 13, after initially recommending denial of the original proposal, later withdrew its objection upon review of current proposal; and

WHEREAS, other community members appeared at the public hearings in opposition to both the original and the intermediate proposals; and

WHEREAS, the Zoning Lot is in the center of the block bounded by Jamaica and 94th Avenues, Hollis Court Boulevard and 212th Street, and has a total lot area 61,211.92 sq. ft.; and

WHEREAS, Lot 48 is a rectangular shaped lot, approximately 100 feet by 60 feet with a total lot area of 5,940 sq. ft., with a frontage of 60 feet on the west side of 212th Street between 94th Avenue and Jamaica Avenue; and

WHEREAS, Lot 92 is a landlocked parcel with an irregular "L" shape, and dimensions of approximately 200 feet by 300 feet by 160 feet by 110 feet by 40 feet by 140 feet, with a total area of approximately 55,272 sq. ft.; and

WHEREAS, the entire Zoning Lot is split between an R2 zoning district and an R3-2(C1-2) zoning district; specifically, Lot 48 is entirely within the R2 zoning district, whereas Lot 92 is split between the R2 zoning district and the R3-2(C1-2) zoning district; and

WHEREAS, the overall development proposal contemplates the construction of a mapped street, to be known as 94th Road, which will be constructed on Lot 48 and provide access to the proposed dwelling on the Zoning Lot from 212th Street; and

WHEREAS, the Board has determined that the area within the bed of the mapped street, totaling 12,296.93 sq. ft., is not considered as lot area for zoning purposes; and

WHEREAS, the applicant states that Zoning Lot was formerly improved upon with two two-story dwellings, but these buildings were demolished in 2003 after being declared unsafe by DOB; and

WHEREAS, the applicant initially submitted a feasibility study, which purported to show that a complying development with nine dwelling units would not realize a reasonable return; and

WHEREAS, the Board questioned certain features of this feasibility study, and, in response, the applicant has provided additional, more accurate financial information with regard to comparables and adjustments for sellout and construction costs used in the financial analysis; and

WHEREAS, at the request of the Board, the applicant has also submitted a revised feasibility study, reflecting the current proposal (nine one-family, two-story dwellings; and

WHEREAS, based upon its review of the revised feasibility study, the Board has determined that because of the above-mentioned unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning district regulations will provide a reasonable return; and

WHEREAS, the applicant represents that the current proposal will not impact 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 record indicates that there is an R3-2 district to the west of the site and R2 and R3-2 districts beyond the railroad

---

# MINUTES

---

track at the southern boundary of the site; and

WHEREAS, the applicant contended that the original proposal, which contemplated semi-detached dwellings, was compatible with the character of the community; and

WHEREAS, however, as discussed above, the above-mentioned committee of the Board conducted a site and neighborhood visit and ascertained that the residential areas surrounding the Zoning Lot are developed primarily with detached single-family dwellings, some with zero-lot line development; and

WHEREAS, the Board instructed the applicant that the original proposal was not compatible with the detached, single-family homes which are the predominant land use in the area surrounding the Zoning Lot; and

WHEREAS, the applicant made the above-mentioned incremental changes in the proposal, none of which were satisfactory to the Board in that they raised the same concerns about community character as the original proposal; and

WHEREAS, in response, the applicant has reduced the number of structures and dwelling units to be constructed on the Zoning Lot; and

WHEREAS, the Board has reviewed the current proposal and the submitted land use map and has determined that the proposed density is compatible with the built conditions in the area; and

WHEREAS, the Board further notes that a similar sized parcel, not suffering from the land-locked condition that Lot 92 is subject to, would permit construction of a 12 unit development as-of-right; 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

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 variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within an R2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space and minimum lot width, contrary to Z.R. §§ 23-141 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 23, 2004" -(2) sheets and "Received December 6, 2004" -(5) sheets; and on further condition;

THAT the Floor Area Ratio for the proposed dwelling on Tentative Lot 98 shall be limited to 0.60;

THAT only one dwelling shall be located on Tentative Lot 98;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT the Floor Area Ratio over all of the Tentative Lots,

detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after accepting guidance from the Board as to both the proper amount of relief necessary to alleviate the hardship associated with the site and the appropriate number and size of the dwelling units, the applicant significantly modified the proposal to reflect the current proposal; 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-038Q 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

excluding the area within the bed of a mapped street shall be limited to 0.61; the Floor Area Ratio over all of the Tentative Lots, including the area within the bed of a mapped street shall be limited to 0.49;

THAT the residential Floor Area over all 12 of the Tentative Lots, when taking into account the proposed dwelling approved in the instant application and the other companion applications, shall not exceed 29,991.6 sq. ft.;

THAT the total number of dwelling units over all 12 of the Tentative Lots shall be limited to 12, one for each lot;

THAT DOB shall confirm compliance with the Floor Area limitations set forth above;

THAT the total number of parking spaces that shall be provided over all 12 of the Tentative Lots shall be 24, with two accessory parking spaces per dwelling for each dwelling;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 7, 2004.

---

# MINUTES

---

## 280-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.  
SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED - 211-52 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 99, Borough of Queens.

## COMMUNITY BOARD #13Q

### APPEARANCES -

For Applicant: Richard Lobel.

**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-

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 30, 2004, May 18, 2004, July 20, 2004, August 17, 2004 and October 19, 2004, and then to December 7, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R2 and C2-2 within an R3-2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space, minimum lot width and side yard, contrary to Z.R. §§ 23-141 and 23-32; and

WHEREAS, this application is filed with eleven companion cases, under BSA Calendar Nos. 274-03-BZ through 275-03-BZ and 277-03-BZ through 285-03-BZ, for the construction of a total of 12 detached, two-story one-family dwellings, on 12 individual tax lots, formed upon the subdivision of the pre-existing Lots 48 and 92 (hereinafter, the "Zoning Lot"); and

WHEREAS, each of the 12 developments proposed to be constructed on the Zoning Lot will require waivers for floor area, open space and minimum lot width; some of the developments require a waiver for minimum lot area and side yard; and

WHEREAS, the Board notes that although this and the other 11 applications set forth specific DOB objections and request slightly different relief for each proposed dwelling, the Board analyzed the variance application in terms of the findings based upon the Zoning Lot; and

WHEREAS, however, the above-noted DOB objection is for the referenced Tentative Lot 92 only; and

WHEREAS, in response to concerns expressed by the Board that the original proposal for the Zoning Lot (12 semi-detached,

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 November 19, 2004, acting on DOB Application No. 401632569, reads:

"1. The proposed Floor Area and FAR exceeds that permitted by section 23-141(a) Z.R.

2. The proposed development does not comply with the minimum required open space ratio (OSR) and is contrary to section 23-141 Z.R.

3. The proposed development does not comply with the minimum required lot width as per section 23-32 Z.R.

4. The proposed development does not comply with the minimum required side yard as per section 23-461."; and

two-story two-family dwellings and 1 detached, two-story one-family dwelling, for a total of 25 dwelling units) was in excess of the minimum variance and also altered the essential character of the community, the applicant eventually modified the original proposal to the current proposal; and

WHEREAS, prior to submitting the current proposal, the applicant offered a number of different proposals which the Board also felt were inconsistent with the character of the surrounding community; these included a proposal with 12 two-story, two-family dwellings (for a total of 24 dwelling units), a proposal with seven two-story, two-family dwellings and five two-story, one-family dwellings (for a total of 19 dwelling units), and a proposal with six detached two-story, two-family dwellings and four detached two-story, one-family dwellings (for a total of 16 dwelling units); and

WHEREAS, Queens Community Board No. 13, after initially recommending denial of the original proposal, later withdrew its objection upon review of current proposal; and

WHEREAS, other community members appeared at the public hearings in opposition to both the original and the intermediate proposals; and

WHEREAS, the Zoning Lot is in the center of the block bounded by Jamaica and 94th Avenues, Hollis Court Boulevard and 212th Street, and has a total lot area 61,211.92 sq. ft.; and

WHEREAS, Lot 48 is a rectangular shaped lot, approximately 100 feet by 60 feet with a total lot area of 5,940 sq. ft., with a frontage of 60 feet on the west side of 212th Street between 94th Avenue and Jamaica Avenue; and

WHEREAS, Lot 92 is a landlocked parcel with an irregular "L" shape, and dimensions of approximately 200 feet by 300 feet by 160 feet by 110 feet by 40 feet by 140 feet, with a total area of approximately 55,272 sq. ft.; and

WHEREAS, the entire Zoning Lot is split between an R2 zoning district and an R3-2(C1-2) zoning district; specifically, Lot 48

---

# MINUTES

---

is entirely within the R2 zoning district, whereas Lot 92 is split between the R2 zoning district and the R3-2(C1-2) zoning district; and

WHEREAS, the overall development proposal contemplates the construction of a mapped street, to be known as 94th Road, which will be constructed on Lot 48 and provide access to the proposed dwelling on the Zoning Lot from 212th Street; and

WHEREAS, the Board has determined that the area within the bed of the mapped street, totaling 12,296.93 sq. ft., is not considered as lot area for zoning purposes; and

WHEREAS, the applicant states that Zoning Lot was formerly improved upon with two two-story dwellings, but these buildings were demolished in 2003 after being declared unsafe by DOB; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the Zoning Lot in strict compliance with underlying zoning regulations: (1) the Zoning Lot is irregular in shape, with Lot 92 being "L" shaped with dimensions as noted above; and (2) the Zoning Lot is landlocked without any

WHEREAS, the Board questioned certain features of this feasibility study, and, in response, the applicant has provided additional, more accurate financial information with regard to comparables and adjustments for sellout and construction costs used in the financial analysis; and

WHEREAS, at the request of the Board, the applicant has also submitted a revised feasibility study, reflecting the current proposal (nine one-family, two-story dwellings; and

WHEREAS, based upon its review of the revised feasibility study, the Board has determined that because of the above-mentioned unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning district regulations will provide a reasonable return; and

WHEREAS, the applicant represents that the current proposal will not impact 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 record indicates that there is an R3-2 district to the west of the site and R2 and R3-2 districts beyond the railroad track at the southern boundary of the site; and

WHEREAS, the applicant contended that the original proposal, which contemplated semi-detached dwellings, was compatible with the character of the community; and

WHEREAS, however, as discussed above, the above-mentioned committee of the Board conducted a site and neighborhood visit and ascertained that the residential areas surrounding the Zoning Lot are developed primarily with detached single-family dwellings, some with zero-lot line development; and

WHEREAS, the Board instructed the applicant that the original proposal was not compatible with the detached, single-family homes which are the predominant land use in the area surrounding the Zoning Lot; and

WHEREAS, the applicant made the above-mentioned incremental changes in the proposal, none of which were satisfactory to the Board in that they raised the same concerns about community character as the original proposal; and

WHEREAS, in response, the applicant has reduced the number

frontage on a public street; access can only be provided through Lot 48; (3) the layout of the land is situated in such a way that any division of the land would create landlocked parcels or functionally limited parcels; and

WHEREAS, the Board notes that a complying proposal would be a development with a maximum of nine dwelling units; and

WHEREAS, the Board notes that the lack of access to the landlocked Lot 92 required creation of a private road on Lot 48, thereby diminishing the amount of area on the Zoning Lot that could be developed residentially; and

WHEREAS, the Board finds that the irregular shape of the Zoning Lot, when considered in conjunction with the current lack of access to Lot 92 and the afore-mentioned resulting diminished usable floor area resulting from the private road, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the applicant initially submitted a feasibility study, which purported to show that a complying development with nine dwelling units would not realize a reasonable return; and of structures and dwelling units to be constructed on the Zoning Lot; and

WHEREAS, the Board has reviewed the current proposal and the submitted land use map and has determined that the proposed density is compatible with the built conditions in the area; and

WHEREAS, the Board further notes that a similar sized parcel, not suffering from the land-locked condition that Lot 92 is subject to, would permit construction of a 12 unit development as-of-right; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after accepting guidance from the Board as to both the proper amount of relief necessary to alleviate the hardship associated with the site and the appropriate number and size of the dwelling units, the applicant significantly modified the proposal to reflect the current proposal; 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-038Q 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

---

# MINUTES

---

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

THAT the above conditions shall be listed on the certificate of occupancy;

THAT the Floor Area Ratio over all of the Tentative Lots, excluding the area within the bed of a mapped street shall be limited to 0.61; the Floor Area Ratio over all of the Tentative Lots, including the area within the bed of a mapped street shall be limited to 0.49;

THAT the residential Floor Area over all 12 of the Tentative Lots, when taking into account the proposed dwelling approved in the instant application and the other companion applications, shall not exceed 29,991.6 sq. ft.;

THAT the total number of dwelling units over all 12 of the Tentative Lots shall be limited to 12, one for each lot;

THAT DOB shall confirm compliance with the Floor Area limitations set forth above;

THAT the total number of parking spaces that shall be provided over all 12 of the Tentative Lots shall be 24, with two accessory parking spaces per dwelling for each dwelling;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 7, 2004.

---

## 281-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.  
SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED - 211-50 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 100,

under Z.R. §72-21, and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within an R2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space and minimum lot width, contrary to Z.R. §§ 23-141 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 23, 2004" -(2) sheets and "Received December 6, 2004"-(5) sheets; and on further condition;

THAT the Floor Area Ratio for the proposed dwelling on Tentative Lot 99 shall be limited to 0.62;

THAT only one dwelling shall be located on Tentative Lot 99; Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Richard Lobel.

**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 November 19, 2004, acting on DOB Application No. 401632550, reads:

- "1. The proposed Floor Area and FAR exceeds that permitted by section 23-141(a) Z.R.
2. The proposed development does not comply with the minimum required open space ratio (OSR) and is contrary to section 23-141 Z.R.
3. The proposed development does not comply with the minimum required lot width as per section 23-32 Z.R.
4. The proposed development does not comply with the minimum required lot area as per section 23-32. Z.R.
5. The proposed development does not comply with the minimum required side yard as per section 23-461."; 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 30, 2004, May 18, 2004, July 20, 2004, August 17, 2004 and October 19, 2004, and then to December 7, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting

---

# MINUTES

---

of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R2 and C2-2 within an R3-2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space, minimum lot width, minimum lot area and side yard, contrary to Z.R. §§ 23-141 and 23-32; and

WHEREAS, this application is filed with eleven companion cases, under BSA Calendar Nos. 274-03-BZ through 275-03-BZ

WHEREAS, the Board notes that although this and the other 11 applications set forth specific DOB objections and request slightly different relief for each proposed dwelling, the Board analyzed the variance application in terms of the findings based upon the Zoning Lot; and

WHEREAS, however, the above-noted DOB objection is for the referenced Tentative Lot 92 only; and

WHEREAS, in response to concerns expressed by the Board that the original proposal for the Zoning Lot (12 semi-detached, two-story two-family dwellings and 1 detached, two-story one-family dwelling, for a total of 25 dwelling units) was in excess of the minimum variance and also altered the essential character of the community, the applicant eventually modified the original proposal to the current proposal; and

WHEREAS, prior to submitting the current proposal, the applicant offered a number of different proposals which the Board also felt were inconsistent with the character of the surrounding community; these included a proposal with 12 two-story, two-family dwellings (for a total of 24 dwelling units), a proposal with seven two-story, two-family dwellings and five two-story, one-family dwellings (for a total of 19 dwelling units), and a proposal with six detached two-story, two-family dwellings and four detached two-story, one-family dwellings (for a total of 16 dwelling units); and

WHEREAS, Queens Community Board No. 13, after initially recommending denial of the original proposal, later withdrew its objection upon review of current proposal; and

WHEREAS, other community members appeared at the public hearings in opposition to both the original and the intermediate proposals; and

WHEREAS, the Zoning Lot is in the center of the block bounded by Jamaica and 94th Avenues, Hollis Court Boulevard and 212th Street, and has a total lot area 61,211.92 sq. ft.; and

WHEREAS, Lot 48 is a rectangular shaped lot, approximately 100 feet by 60 feet with a total lot area of 5,940 sq. ft., with a frontage of 60 feet on the west side of 212th Street between 94th Avenue and Jamaica Avenue; and

WHEREAS, Lot 92 is a landlocked parcel with an irregular "L" shape, and dimensions of approximately 200 feet by 300 feet by 160 feet by 110 feet by 40 feet by 140 feet, with a total area of approximately 55,272 sq. ft.; and

WHEREAS, the entire Zoning Lot is split between an R2 zoning district and an R3-2(C1-2) zoning district; specifically, Lot 48 is entirely within the R2 zoning district, whereas Lot 92 is split between the R2 zoning district and the R3-2(C1-2) zoning district; and

WHEREAS, the overall development proposal contemplates the construction of a mapped street, to be known as 94th Road, which will be constructed on Lot 48 and provide access to the proposed

and 277-03-BZ through 285-03-BZ, for the construction of a total of 12 detached, two-story one-family dwellings, on 12 individual tax lots, formed upon the subdivision of the pre-existing Lots 48 and 92 (hereinafter, the "Zoning Lot"); and

WHEREAS, each of the 12 developments proposed to be constructed on the Zoning Lot will require waivers for floor area, open space and minimum lot width; some of the developments require a waiver for minimum lot area and side yard; and

dwelling on the Zoning Lot from 212th Street; and

WHEREAS, the Board has determined that the area within the bed of the mapped street, totaling 12,296.93 sq. ft., is not considered as lot area for zoning purposes; and

WHEREAS, the applicant states that Zoning Lot was formerly improved upon with two two-story dwellings, but these buildings were demolished in 2003 after being declared unsafe by DOB; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the Zoning Lot in strict compliance with underlying zoning regulations: (1) the Zoning Lot is irregular in shape, with Lot 92 being "L" shaped with dimensions as noted above; and (2) the Zoning Lot is landlocked without any frontage on a public street; access can only be provided through Lot 48; (3) the layout of the land is situated in such a way that any division of the land would create landlocked parcels or functionally limited parcels; and

WHEREAS, the Board notes that a complying proposal would be a development with a maximum of nine dwelling units; and

WHEREAS, the Board notes that the lack of access to the landlocked Lot 92 required creation of a private road on Lot 48, thereby diminishing the amount of area on the Zoning Lot that could be developed residentially; and

WHEREAS, the Board finds that the irregular shape of the Zoning Lot, when considered in conjunction with the current lack of access to Lot 92 and the afore-mentioned resulting diminished usable floor area resulting from the private road, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the applicant initially submitted a feasibility study, which purported to show that a complying development with nine dwelling units would not realize a reasonable return; and

WHEREAS, the Board questioned certain features of this feasibility study, and, in response, the applicant has provided additional, more accurate financial information with regard to comparables and adjustments for sellout and construction costs used in the financial analysis; and

WHEREAS, at the request of the Board, the applicant has also submitted a revised feasibility study, reflecting the current proposal (nine one-family, two-story dwellings); and

WHEREAS, based upon its review of the revised feasibility study, the Board has determined that because of the above-mentioned unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning district regulations will provide a reasonable return; and

WHEREAS, the applicant represents that the current proposal will not impact the essential character of the surrounding

---

# MINUTES

---

neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the record indicates that there is an R3-2 district to

WHEREAS, the applicant contended that the original proposal, which contemplated semi-detached dwellings, was compatible with the character of the community; and

WHEREAS, however, as discussed above, the above-mentioned committee of the Board conducted a site and neighborhood visit and ascertained that the residential areas surrounding the Zoning Lot are developed primarily with detached single-family dwellings, some with zero-lot line development; and

WHEREAS, the Board instructed the applicant that the original proposal was not compatible with the detached, single-family homes which are the predominant land use in the area surrounding the Zoning Lot; and

WHEREAS, the applicant made the above-mentioned incremental changes in the proposal, none of which were satisfactory to the Board in that they raised the same concerns about community character as the original proposal; and

WHEREAS, in response, the applicant has reduced the number of structures and dwelling units to be constructed on the Zoning Lot; and

WHEREAS, the Board has reviewed the current proposal and the submitted land use map and has determined that the proposed density is compatible with the built conditions in the area; and

WHEREAS, the Board further notes that a similar sized parcel, not suffering from the land-locked condition that Lot 92 is subject to, would permit construction of a 12 unit development as-of-right; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after accepting guidance from the Board as to both the proper amount of relief necessary to alleviate the hardship associated with the site and the appropriate number and size of the dwelling units, the applicant significantly modified the proposal to reflect the current proposal; 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-038Q 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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the

the west of the site and R2 and R3-2 districts beyond the railroad track at the southern boundary of the site; and

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 variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within an R2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space and minimum lot width, contrary to Z.R. §§ 23-141 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 23, 2004"-(2) sheets and "Received December 6, 2004"-(5) sheets; and on further condition;

THAT the Floor Area Ratio for the proposed dwelling on Tentative Lot 100 shall be limited to 0.62;

THAT only one dwelling shall be located on Tentative Lot 100;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT the Floor Area Ratio over all of the Tentative Lots, excluding the area within the bed of a mapped street shall be limited to 0.61; the Floor Area Ratio over all of the Tentative Lots, including the area within the bed of a mapped street shall be limited to 0.49;

THAT the residential Floor Area over all 12 of the Tentative Lots, when taking into account the proposed dwelling approved in the instant application and the other companion applications, shall not exceed 29,991.6 sq. ft.;

THAT the total number of dwelling units over all 12 of the Tentative Lots shall be limited to 12, one for each lot;

THAT DOB shall confirm compliance with the Floor Area limitations set forth above;

THAT the total number of parking spaces that shall be provided over all 12 of the Tentative Lots shall be 24, with two accessory parking spaces per dwelling for each dwelling;

THAT 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; Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related

---

# MINUTES

---

to the relief granted.

Adopted by the Board of Standards and Appeals, December 7, 2004.

## 282-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.  
SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED - 211-48 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 101, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Richard Lobel.

**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 November 19, 2004, acting on DOB Application No. 401632541, reads:

1. The proposed Floor Area and FAR exceeds that permitted by section 23-141(a) Z.R.
2. The proposed development does not comply with the minimum required open space ratio (OSR) and is contrary to section 23-141 Z.R.
3. The proposed development does not comply with the minimum required lot width as per section 23-32 Z.R.
4. The proposed development does not comply with the minimum required lot area as per section 23-32. Z.R.
5. The proposed development does not comply with the

WHEREAS, Queens Community Board No. 13, after initially recommending denial of the original proposal, later withdrew its objection upon review of current proposal; and

WHEREAS, other community members appeared at the public hearings in opposition to both the original and the intermediate proposals; and

minimum required side yard as per section 23-461."; 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 30, 2004, May 18, 2004, July 20, 2004, August 17, 2004 and October 19, 2004, and then to December 7, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R2 and C2-2 within an R3-2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space, minimum lot width, minimum lot area and side yard, contrary to Z.R. §§ 23-141 and 23-32; and

WHEREAS, this application is filed with eleven companion cases, under BSA Calendar Nos. 274-03-BZ through 275-03-BZ and 277-03-BZ through 285-03-BZ, for the construction of a total of 12 detached, two-story one-family dwellings, on 12 individual tax lots, formed upon the subdivision of the pre-existing Lots 48 and 92 (hereinafter, the "Zoning Lot"); and

WHEREAS, each of the 12 developments proposed to be constructed on the Zoning Lot will require waivers for floor area, open space and minimum lot width; some of the developments require a waiver for minimum lot area and side yard; and

WHEREAS, the Board notes that although this and the other 11 applications set forth specific DOB objections and request slightly different relief for each proposed dwelling, the Board analyzed the variance application in terms of the findings based upon the Zoning Lot; and

WHEREAS, however, the above-noted DOB objection is for the referenced Tentative Lot 92 only; and

WHEREAS, in response to concerns expressed by the Board that the original proposal for the Zoning Lot (12 semi-detached, two-story two-family dwellings and 1 detached, two-story one-family dwelling, for a total of 25 dwelling units) was in excess of the minimum variance and also altered the essential character of the community, the applicant eventually modified the original proposal to the current proposal; and

WHEREAS, prior to submitting the current proposal, the applicant offered a number of different proposals which the Board also felt were inconsistent with the character of the surrounding community; these included a proposal with 12 two-story, two-family dwellings (for a total of 24 dwelling units), a proposal with seven two-story, two-family dwellings and five two-story, one-family dwellings (for a total of 19 dwelling units), and a proposal with six detached two-story, two-family dwellings and four detached two-story, one-family dwellings (for a total of 16 dwelling units); and

WHEREAS, the Zoning Lot is in the center of the block bounded by Jamaica and 94th Avenues, Hollis Court Boulevard and 212th Street, and has a total lot area 61.211.92 sq. ft.; and

WHEREAS, Lot 48 is a rectangular shaped lot, approximately 100 feet by 60 feet with a total lot area of 5,940 sq. ft., with a frontage of 60 feet on the west side of 212th Street between 94th

---

# MINUTES

---

Avenue and Jamaica Avenue; and

WHEREAS, Lot 92 is a landlocked parcel with an irregular "L" shape, and dimensions of approximately 200 feet by 300 feet by 160 feet by 110 feet by 40 feet by 140 feet, with a total area of approximately 55,272 sq. ft.; and

WHEREAS, the entire Zoning Lot is split between an R2 zoning district and an R3-2(C1-2) zoning district; specifically, Lot 48 is entirely within the R2 zoning district, whereas Lot 92 is split between the R2 zoning district and the R3-2(C1-2) zoning district; and

WHEREAS, the overall development proposal contemplates the construction of a mapped street, to be known as 94th Road, which will be constructed on Lot 48 and provide access to the proposed dwelling on the Zoning Lot from 212th Street; and

WHEREAS, the Board has determined that the area within the bed of the mapped street, totaling 12,296.93 sq. ft., is not considered as lot area for zoning purposes; and

WHEREAS, the applicant states that Zoning Lot was formerly improved upon with two two-story dwellings, but these buildings were demolished in 2003 after being declared unsafe by DOB; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the Zoning Lot in strict compliance with underlying zoning regulations: (1) the Zoning Lot is irregular in shape, with Lot 92 being "L" shaped with dimensions as noted above; and (2) the Zoning Lot is landlocked without any frontage on a public street; access can only be provided through Lot 48; (3) the layout of the land is situated in such a way that any division of the land would create landlocked parcels or functionally limited parcels; and

WHEREAS, the Board notes that a complying proposal would be a development with a maximum of nine dwelling units; and

WHEREAS, the Board notes that the lack of access to the landlocked Lot 92 required creation of a private road on Lot 48, thereby diminishing the amount of area on the Zoning Lot that could be developed residentially; and

WHEREAS, the Board finds that the irregular shape of the Zoning Lot, when considered in conjunction with the current lack of access to Lot 92 and the afore-mentioned resulting diminished usable floor area resulting from the private road, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the applicant initially submitted a feasibility study, which purported to show that a complying development with nine

WHEREAS, the Board further notes that a similar sized parcel, not suffering from the land-locked condition that Lot 92 is subject to, would permit construction of a 12 unit development as-of-right; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after accepting guidance from the Board as to both the proper amount of relief necessary to alleviate the hardship associated with the site and the appropriate number and size of the dwelling units, the applicant significantly modified the proposal to

dwelling units would not realize a reasonable return; and

WHEREAS, the Board questioned certain features of this feasibility study, and, in response, the applicant has provided additional, more accurate financial information with regard to comparables and adjustments for sellout and construction costs used in the financial analysis; and

WHEREAS, at the request of the Board, the applicant has also submitted a revised feasibility study, reflecting the current proposal (nine one-family, two-story dwellings; and

WHEREAS, based upon its review of the revised feasibility study, the Board has determined that because of the above-mentioned unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning district regulations will provide a reasonable return; and

WHEREAS, the applicant represents that the current proposal will not impact 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 record indicates that there is an R3-2 district to the west of the site and R2 and R3-2 districts beyond the railroad track at the southern boundary of the site; and

WHEREAS, the applicant contended that the original proposal, which contemplated semi-detached dwellings, was compatible with the character of the community; and

WHEREAS, however, as discussed above, the above-mentioned committee of the Board conducted a site and neighborhood visit and ascertained that the residential areas surrounding the Zoning Lot are developed primarily with detached single-family dwellings, some with zero-lot line development; and

WHEREAS, the Board instructed the applicant that the original proposal was not compatible with the detached, single-family homes which are the predominant land use in the area surrounding the Zoning Lot; and

WHEREAS, the applicant made the above-mentioned incremental changes in the proposal, none of which were satisfactory to the Board in that they raised the same concerns about community character as the original proposal; and

WHEREAS, in response, the applicant has reduced the number of structures and dwelling units to be constructed on the Zoning Lot; and

WHEREAS, the Board has reviewed the current proposal and the submitted land use map and has determined that the proposed density is compatible with the built conditions in the area; and reflect the current proposal; 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-038Q dated November 10, 2003; and

WHEREAS, the EAS documents that the project as proposed

---

# MINUTES

---

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 variation in the application of the Zoning Resolution, limited to the objections cited, to permit, within an R2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space and minimum lot width, contrary to Z.R. §§ 23-141 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 23, 2004"-(2) sheets and "Received December 6, 2004"-(5) sheets; and on further condition;

THAT the Floor Area Ratio for the proposed dwelling on Tentative Lot 101 shall be limited to 0.63;

THAT only one dwelling shall be located on Tentative Lot 101;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT the Floor Area Ratio over all of the Tentative Lots, excluding the area within the bed of a mapped street shall be limited to 0.61; the Floor Area Ratio over all of the Tentative Lots, including the area within the bed of a mapped street shall be limited to 0.49; PREMISES AFFECTED - 211-46 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 102, Borough of Queens.

## COMMUNITY BOARD #13Q

### APPEARANCES -

For Applicant: Richard Lobel.

**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-

THAT the residential Floor Area over all 12 of the Tentative Lots, when taking into account the proposed dwelling approved in the instant application and the other companion applications, shall not exceed 29,991.6 sq. ft.;

THAT the total number of dwelling units over all 12 of the Tentative Lots shall be limited to 12, one for each lot;

THAT DOB shall confirm compliance with the Floor Area limitations set forth above;

THAT the total number of parking spaces that shall be provided over all 12 of the Tentative Lots shall be 24, with two accessory parking spaces per dwelling for each dwelling;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 7, 2004.

---

## 283-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

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 19, 2004, acting on DOB Application No. 401632532, reads:

"1. The proposed Floor Area and FAR exceeds that permitted by section 23-141(a) Z.R.

2. The proposed development does not comply with the minimum required open space ratio (OSR) and is contrary to section 23-141 Z.R.

3. The proposed development does not comply with the minimum required lot width as per section 23-32 Z.R.

4. The proposed development does not comply with the minimum required lot area as per section 23-32. Z.R.

5. The proposed development does not comply with the

---

# MINUTES

---

minimum required side yard as per section 23-461."; 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 30, 2004, May 18, 2004, July 20, 2004, August 17, 2004 and October 19, 2004, and then on December 7, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R2 and C2-2 within an R3-2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space, minimum lot width, minimum lot area and side yard, contrary to Z.R. §§ 23-141 and 23-32; and

WHEREAS, this application is filed with eleven companion cases, under BSA Calendar Nos. 274-03-BZ through 275-03-BZ and 277-03-BZ through 285-03-BZ, for the construction of a total of 12 detached, two-story one-family dwellings, on 12 individual tax lots, formed upon the subdivision of the pre-existing Lots 48 and 92 (hereinafter, the "Zoning Lot"); and

WHEREAS, each of the 12 developments proposed to be constructed on the Zoning Lot will require waivers for floor area, open space and minimum lot width; some of the developments require a waiver for minimum lot area and side yard; and

WHEREAS, the Board notes that although this and the other 11 applications set forth specific DOB objections and request slightly different relief for each proposed dwelling, the Board analyzed the variance application in terms of the findings based upon the Zoning Lot; and

WHEREAS, however, the above-noted DOB objection is for the referenced Tentative Lot 92 only; and

WHEREAS, in response to concerns expressed by the Board that the original proposal for the Zoning Lot (12 semi-detached, two-story two-family dwellings and 1 detached, two-story one-family

WHEREAS, the overall development proposal contemplates the construction of a mapped street, to be known as 94th Road, which will be constructed on Lot 48 and provide access to the proposed dwelling on the Zoning Lot from 212th Street; and

WHEREAS, the Board has determined that the area within the bed of the mapped street, totaling 12,296.93 sq. ft., is not considered as lot area for zoning purposes; and

WHEREAS, the applicant states that Zoning Lot was formerly improved upon with two two-story dwellings, but these buildings were demolished in 2003 after being declared unsafe by DOB; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the Zoning Lot in strict compliance with underlying zoning regulations: (1) the Zoning Lot is irregular in shape, with Lot 92 being "L" shaped with dimensions as noted above; and (2) the Zoning Lot is landlocked without any frontage on a public street; access can only be provided through Lot 48; (3) the layout of the land is situated in such a way that any division of the land would create landlocked parcels or functionally limited parcels; and

WHEREAS, the Board notes that a complying proposal would

dwelling, for a total of 25 dwelling units) was in excess of the minimum variance and also altered the essential character of the community, the applicant eventually modified the original proposal to the current proposal; and

WHEREAS, prior to submitting the current proposal, the applicant offered a number of different proposals which the Board also felt were inconsistent with the character of the surrounding community; these included a proposal with 12 two-story, two-family dwellings (for a total of 24 dwelling units), a proposal with seven two-story, two-family dwellings and five two-story, one-family dwellings (for a total of 19 dwelling units), and a proposal with six detached two-story, two-family dwellings and four detached two-story, one-family dwellings (for a total of 16 dwelling units); and

WHEREAS, Queens Community Board No. 13, after initially recommending denial of the original proposal, later withdrew its objection upon review of current proposal; and

WHEREAS, other community members appeared at the public hearings in opposition to both the original and the intermediate proposals; and

WHEREAS, the Zoning Lot is in the center of the block bounded by Jamaica and 94th Avenues, Hollis Court Boulevard and 212th Street, and has a total lot area 61,211.92 sq. ft.; and

WHEREAS, Lot 48 is a rectangular shaped lot, approximately 100 feet by 60 feet with a total lot area of 5,940 sq. ft., with a frontage of 60 feet on the west side of 212th Street between 94th Avenue and Jamaica Avenue; and

WHEREAS, Lot 92 is a landlocked parcel with an irregular "L" shape, and dimensions of approximately 200 feet by 300 feet by 160 feet by 110 feet by 40 feet by 140 feet, with a total area of approximately 55,272 sq. ft.; and

WHEREAS, the entire Zoning Lot is split between an R2 zoning district and an R3-2(C1-2) zoning district; specifically, Lot 48 is entirely within the R2 zoning district, whereas Lot 92 is split between the R2 zoning district and the R3-2(C1-2) zoning district; and

be a development with a maximum of nine dwelling units; and

WHEREAS, the Board notes that the lack of access to the landlocked Lot 92 required creation of a private road on Lot 48, thereby diminishing the amount of area on the Zoning Lot that could be developed residentially; and

WHEREAS, the Board finds that the irregular shape of the Zoning Lot, when considered in conjunction with the current lack of access to Lot 92 and the afore-mentioned resulting diminished usable floor area resulting from the private road, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the applicant initially submitted a feasibility study, which purported to show that a complying development with nine dwelling units would not realize a reasonable return; and

WHEREAS, the Board questioned certain features of this feasibility study, and, in response, the applicant has provided additional, more accurate financial information with regard to comparables and adjustments for sellout and construction costs used in the financial analysis; and

WHEREAS, at the request of the Board, the applicant has also submitted a revised feasibility study, reflecting the current proposal

---

# MINUTES

---

(nine one-family, two-story dwellings; and

WHEREAS, based upon its review of the revised feasibility study, the Board has determined that because of the above-mentioned unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning district regulations will provide a reasonable return; and

WHEREAS, the applicant represents that the current proposal will not impact 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 record indicates that there is an R3-2 district to the west of the site and R2 and R3-2 districts beyond the railroad track at the southern boundary of the site; and

WHEREAS, the applicant contended that the original proposal, which contemplated semi-detached dwellings, was compatible with the character of the community; and

WHEREAS, however, as discussed above, the above-mentioned committee of the Board conducted a site and neighborhood visit and ascertained that the residential areas surrounding the Zoning Lot are developed primarily with detached single-family dwellings, some with zero-lot line development; and

WHEREAS, the Board instructed the applicant that the original proposal was not compatible with the detached, single-family homes which are the predominant land use in the area surrounding the Zoning Lot; and

WHEREAS, the applicant made the above-mentioned incremental changes in the proposal, none of which were satisfactory to the Board in that they raised the same concerns about community

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-038Q 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, 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, within an R2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the

character as the original proposal; and

WHEREAS, in response, the applicant has reduced the number of structures and dwelling units to be constructed on the Zoning Lot; and

WHEREAS, the Board has reviewed the current proposal and the submitted land use map and has determined that the proposed density is compatible with the built conditions in the area; and

WHEREAS, the Board further notes that a similar sized parcel, not suffering from the land-locked condition that Lot 92 is subject to, would permit construction of a 12 unit development as-of-right; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after accepting guidance from the Board as to both the proper amount of relief necessary to alleviate the hardship associated with the site and the appropriate number and size of the dwelling units, the applicant significantly modified the proposal to reflect the current proposal; 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 requirements for floor area, open space and minimum lot width, contrary to Z.R. §§ 23-141 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 23, 2004" -(2) sheets and "Received December 6, 2004" -(5) sheets; and on further condition;

THAT the Floor Area Ratio for the proposed dwelling on Tentative Lot 102 shall be limited to 0.67;

THAT only one dwelling shall be located on Tentative Lot 102;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT the Floor Area Ratio over all of the Tentative Lots, excluding the area within the bed of a mapped street shall be limited to 0.61; the Floor Area Ratio over all of the Tentative Lots, including the area within the bed of a mapped street shall be limited to 0.49;

THAT the residential Floor Area over all 12 of the Tentative Lots, when taking into account the proposed dwelling approved in the instant application and the other companion applications, shall not exceed 29,991.6 sq. ft.;

THAT the total number of dwelling units over all 12 of the Tentative Lots shall be limited to 12, one for each lot;

THAT DOB shall confirm compliance with the Floor Area limitations set forth above;

THAT the total number of parking spaces that shall be provided over all 12 of the Tentative Lots shall be 24, with two accessory parking spaces per dwelling for each dwelling;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction

---

# MINUTES

---

objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 7, 2004.

## 284-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.  
SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED - 211-44 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 103,

"1. The proposed Floor Area and FAR exceeds that permitted by section 23-141(a) Z.R.

2. The proposed development does not comply with the minimum required open space ratio (OSR) and is contrary to section 23-141 Z.R.

3. The proposed development does not comply with the minimum required lot width as per section 23-32 Z.R.

4. The proposed development does not comply with the minimum required lot area as per section 23-32. Z.R.

5. The proposed development does not comply with the minimum required side yard as per section 23-461."; 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 30, 2004, May 18, 2004, July 20, 2004, August 17, 2004 and October 19, 2004, and then to December 7, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R2 and C2-2 within an R3-2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space, minimum lot width, minimum lot area and side yard, contrary to Z.R. §§ 23-141 and 23-32; and

WHEREAS, this application is filed with eleven companion cases, under BSA Calendar Nos. 274-03-BZ through 275-03-BZ and 277-03-BZ through 285-03-BZ, for the construction of a total of 12 detached, two-story one-family dwellings, on 12 individual tax lots, formed upon the subdivision of the pre-existing Lots 48 and 92 (hereinafter, the "Zoning Lot"); and

WHEREAS, each of the 12 developments proposed to be

Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Richard Lobel.

**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 November 19, 2004, acting on DOB Application No. 401632523, reads:

constructed on the Zoning Lot will require waivers for floor area, open space and minimum lot width; some of the developments require a waiver for minimum lot area and side yard; and

WHEREAS, the Board notes that although this and the other 11 applications set forth specific DOB objections and request slightly different relief for each proposed dwelling, the Board analyzed the variance application in terms of the findings based upon the Zoning Lot; and

WHEREAS, however, the above-noted DOB objection is for the referenced Tentative Lot 92 only; and

WHEREAS, in response to concerns expressed by the Board that the original proposal for the Zoning Lot (12 semi-detached, two-story two-family dwellings and 1 detached, two-story one-family dwelling, for a total of 25 dwelling units) was in excess of the minimum variance and also altered the essential character of the community, the applicant eventually modified the original proposal to the current proposal; and

WHEREAS, prior to submitting the current proposal, the applicant offered a number of different proposals which the Board also felt were inconsistent with the character of the surrounding community; these included a proposal with 12 two-story, two-family dwellings (for a total of 24 dwelling units), a proposal with seven two-story, two-family dwellings and five two-story, one-family dwellings (for a total of 19 dwelling units), and a proposal with six detached two-story, two-family dwellings and four detached two-story, one-family dwellings (for a total of 16 dwelling units); and

WHEREAS, Queens Community Board No. 13, after initially recommending denial of the original proposal, later withdrew its objection upon review of current proposal; and

WHEREAS, other community members appeared at the public hearings in opposition to both the original and the intermediate proposals; and

---

# MINUTES

---

WHEREAS, the Zoning Lot is in the center of the block bounded by Jamaica and 94th Avenues, Hollis Court Boulevard and 212th Street, and has a total lot area 61,211.92 sq. ft.; and

WHEREAS, Lot 48 is a rectangular shaped lot, approximately 100 feet by 60 feet with a total lot area of 5,940 sq. ft., with a frontage of 60 feet on the west side of 212th Street between 94th Avenue and Jamaica Avenue; and

WHEREAS, Lot 92 is a landlocked parcel with an irregular "L" shape, and dimensions of approximately 200 feet by 300 feet by 160 feet by 110 feet by 40 feet by 140 feet, with a total area of approximately 55,272 sq. ft.; and

WHEREAS, the entire Zoning Lot is split between an R2 zoning district and an R3-2(C1-2) zoning district; specifically, Lot 48 is entirely within the R2 zoning district, whereas Lot 92 is split between the R2 zoning district and the R3-2(C1-2) zoning district; and

WHEREAS, the overall development proposal contemplates the construction of a mapped street, to be known as 94th Road, which will be constructed on Lot 48 and provide access to the proposed dwelling on the Zoning Lot from 212th Street; and

WHEREAS, the Board notes that the lack of access to the landlocked Lot 92 required creation of a private road on Lot 48, thereby diminishing the amount of area on the Zoning Lot that could be developed residentially; and

WHEREAS, the Board finds that the irregular shape of the Zoning Lot, when considered in conjunction with the current lack of access to Lot 92 and the afore-mentioned resulting diminished usable floor area resulting from the private road, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the applicant initially submitted a feasibility study, which purported to show that a complying development with nine dwelling units would not realize a reasonable return; and

WHEREAS, the Board questioned certain features of this feasibility study, and, in response, the applicant has provided additional, more accurate financial information with regard to comparables and adjustments for sellout and construction costs used in the financial analysis; and

WHEREAS, at the request of the Board, the applicant has also submitted a revised feasibility study, reflecting the current proposal (nine one-family, two-story dwellings); and

WHEREAS, based upon its review of the revised feasibility study, the Board has determined that because of the above-mentioned unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning district regulations will provide a reasonable return; and

WHEREAS, the applicant represents that the current proposal will not impact 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 record indicates that there is an R3-2 district to the west of the site and R2 and R3-2 districts beyond the railroad track at the southern boundary of the site; and

WHEREAS, the applicant contended that the original proposal, which contemplated semi-detached dwellings, was compatible with the character of the community; and

WHEREAS, however, as discussed above, the

WHEREAS, the Board has determined that the area within the bed of the mapped street, totaling 12,296.93 sq. ft., is not considered as lot area for zoning purposes; and

WHEREAS, the applicant states that Zoning Lot was formerly improved upon with two two-story dwellings, but these buildings were demolished in 2003 after being declared unsafe by DOB; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the Zoning Lot in strict compliance with underlying zoning regulations: (1) the Zoning Lot is irregular in shape, with Lot 92 being "L" shaped with dimensions as noted above; and (2) the Zoning Lot is landlocked without any frontage on a public street; access can only be provided through Lot 48; (3) the layout of the land is situated in such a way that any division of the land would create landlocked parcels or functionally limited parcels; and

WHEREAS, the Board notes that a complying proposal would be a development with a maximum of nine dwelling units; and

above-mentioned committee of the Board conducted a site and neighborhood visit and ascertained that the residential areas surrounding the Zoning Lot are developed primarily with detached single-family dwellings, some with zero-lot line development; and

WHEREAS, the Board instructed the applicant that the original proposal was not compatible with the detached, single-family homes which are the predominant land use in the area surrounding the Zoning Lot; and

WHEREAS, the applicant made the above-mentioned incremental changes in the proposal, none of which were satisfactory to the Board in that they raised the same concerns about community character as the original proposal; and

WHEREAS, in response, the applicant has reduced the number of structures and dwelling units to be constructed on the Zoning Lot; and

WHEREAS, the Board has reviewed the current proposal and the submitted land use map and has determined that the proposed density is compatible with the built conditions in the area; and

WHEREAS, the Board further notes that a similar sized parcel, not suffering from the land-locked condition that Lot 92 is subject to, would permit construction of a 12 unit development as-of-right; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after accepting guidance from the Board as to both the proper amount of relief necessary to alleviate the hardship associated with the site and the appropriate number and size of the dwelling units, the applicant significantly modified the proposal to reflect the current proposal; 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

---

# MINUTES

---

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-038Q 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

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, within an R2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space and minimum lot width, contrary to Z.R. §§ 23-141 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 23, 2004"-(2) sheets and "Received December 6, 2004"-(5) sheets; and on further condition;

THAT the Floor Area Ratio for the proposed dwelling on Tentative Lot 103 shall be limited to 0.75;

THAT only one dwelling shall be located on Tentative Lot 103;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT the Floor Area Ratio over all of the Tentative Lots, excluding the area within the bed of a mapped street shall be limited to 0.61; the Floor Area Ratio over all of the Tentative Lots, including the area within the bed of a mapped street shall be limited to 0.49;

THAT the residential Floor Area over all 12 of the Tentative Lots, when taking into account the proposed dwelling approved in the instant application and the other companion applications, shall not exceed 29,991.6 sq. ft.;

THAT the total number of dwelling units over all 12 of the Tentative Lots shall be limited to 12, one for each lot;

THAT DOB shall confirm compliance with the Floor Area limitations set forth above;

THAT the total number of parking spaces that shall be provided over all 12 of the Tentative Lots shall be 24, with two accessory parking spaces per dwelling for each dwelling;

THAT 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 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.

Adopted by the Board of Standards and Appeals, December 7, 2004.

---

## 285-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

PREMISES AFFECTED - 211-42 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 104, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Richard Lobel.

**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 November 19, 2004, acting on DOB Application No. 401632514, reads:

"1. The proposed Floor Area and FAR exceeds that permitted by section 23-141(a) Z.R.

2. The proposed development does not comply with the minimum required open space ratio (OSR) and is contrary to section 23-141 Z.R.

---

# MINUTES

---

3. The proposed development does not comply with the minimum required lot width as per section 23-32 Z.R.

4. The proposed development does not comply with the minimum required lot area as per section 23-32. Z.R.

5. The proposed development does not comply with the minimum required side yard as per section 23-461."; and

WHEREAS, a public hearing was held on this application on

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R2 and C2-2 within an R3-2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space, minimum lot width, minimum lot area and side yard, contrary to Z.R. §§ 23-141 and 23-32; and

WHEREAS, this application is filed with eleven companion cases, under BSA Calendar Nos. 274-03-BZ through 275-03-BZ and 277-03-BZ through 285-03-BZ, for the construction of a total of 12 detached, two-story one-family dwellings, on 12 individual tax lots, formed upon the subdivision of the pre-existing Lots 48 and 92 (hereinafter, the "Zoning Lot"); and

WHEREAS, each of the 12 developments proposed to be constructed on the Zoning Lot will require waivers for floor area, open space and minimum lot width; some of the developments require a waiver for minimum lot area and side yard; and

WHEREAS, the Board notes that although this and the other 11 applications set forth specific DOB objections and request slightly different relief for each proposed dwelling, the Board analyzed the variance application in terms of the findings based upon the Zoning Lot; and

WHEREAS, however, the above-noted DOB objection is for the referenced Tentative Lot 92 only; and

WHEREAS, in response to concerns expressed by the Board that the original proposal for the Zoning Lot (12 semi-detached, two-story two-family dwellings and 1 detached, two-story one-family dwelling, for a total of 25 dwelling units) was in excess of the minimum variance and also altered the essential character of the community, the applicant eventually modified the original proposal to the current proposal; and

WHEREAS, prior to submitting the current proposal, the applicant offered a number of different proposals which the Board also felt were inconsistent with the character of the surrounding community; these included a proposal with 12 two-story, two-family dwellings (for a total of 24 dwelling units), a proposal with seven two-story, two-family dwellings and five two-story, one-family dwellings (for a total of 19 dwelling units), and a proposal with six detached two-story, two-family dwellings and four detached two-story, one-family dwellings (for a total of 16 dwelling units); and

WHEREAS, Queens Community Board No. 13, after initially recommending denial of the original proposal, later withdrew its objection upon review of current proposal; and

WHEREAS, other community members appeared at the public hearings in opposition to both the original and the intermediate proposals; and

WHEREAS, the Zoning Lot is in the center of the block bounded by Jamaica and 94th Avenues, Hollis Court Boulevard and 212th Street, and has a total lot area 61,211.92 sq. ft.; and

WHEREAS, Lot 48 is a rectangular shaped lot, approximately

February 3, 2004 after due notice by publication in The City Record, with continued hearings on March 30, 2004, May 18, 2004, July 20, 2004, August 17, 2004 and October 19, 2004, and then to December 7, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

100 feet by 60 feet with a total lot area of 5,940 sq. ft., with a frontage of 60 feet on the west side of 212th Street between 94th Avenue and Jamaica Avenue; and

WHEREAS, Lot 92 is a landlocked parcel with an irregular "L" shape, and dimensions of approximately 200 feet by 300 feet by 160 feet by 110 feet by 40 feet by 140 feet, with a total area of approximately 55,272 sq. ft.; and

WHEREAS, the entire Zoning Lot is split between an R2 zoning district and an R3-2(C1-2) zoning district; specifically, Lot 48 is entirely within the R2 zoning district, whereas Lot 92 is split between the R2 zoning district and the R3-2(C1-2) zoning district; and

WHEREAS, the overall development proposal contemplates the construction of a mapped street, to be known as 94th Road, which will be constructed on Lot 48 and provide access to the proposed dwelling on the Zoning Lot from 212th Street; and

WHEREAS, the Board has determined that the area within the bed of the mapped street, totaling 12,296.93 sq. ft., is not considered as lot area for zoning purposes; and

WHEREAS, the applicant states that Zoning Lot was formerly improved upon with two two-story dwellings, but these buildings were demolished in 2003 after being declared unsafe by DOB; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the Zoning Lot in strict compliance with underlying zoning regulations: (1) the Zoning Lot is irregular in shape, with Lot 92 being "L" shaped with dimensions as noted above; and (2) the Zoning Lot is landlocked without any frontage on a public street; access can only be provided through Lot 48; (3) the layout of the land is situated in such a way that any division of the land would create landlocked parcels or functionally limited parcels; and

WHEREAS, the Board notes that a complying proposal would be a development with a maximum of nine dwelling units; and

WHEREAS, the Board notes that the lack of access to the landlocked Lot 92 required creation of a private road on Lot 48, thereby diminishing the amount of area on the Zoning Lot that could be developed residentially; and

WHEREAS, the Board finds that the irregular shape of the Zoning Lot, when considered in conjunction with the current lack of access to Lot 92 and the afore-mentioned resulting diminished usable floor area resulting from the private road, creates unnecessary hardship and practical difficulties in strictly complying with the applicable provision of the Zoning Resolution; and

WHEREAS, the applicant initially submitted a feasibility study, which purported to show that a complying development with nine dwelling units would not realize a reasonable return; and

WHEREAS, the Board questioned certain features of this feasibility study, and, in response, the applicant has provided

---

# MINUTES

---

additional, more accurate financial information with regard to comparables and adjustments for sellout and construction costs used in the financial analysis; and

WHEREAS, based upon its review of the revised feasibility study, the Board has determined that because of the above-mentioned unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning district regulations will provide a reasonable return; and

WHEREAS, the applicant represents that the current proposal will not impact 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 record indicates that there is an R3-2 district to the west of the site and R2 and R3-2 districts beyond the railroad track at the southern boundary of the site; and

WHEREAS, the applicant contended that the original proposal, which contemplated semi-detached dwellings, was compatible with the character of the community; and

WHEREAS, however, as discussed above, the above-mentioned committee of the Board conducted a site and neighborhood visit and ascertained that the residential areas surrounding the Zoning Lot are developed primarily with detached single-family dwellings, some with zero-lot line development; and

WHEREAS, the Board instructed the applicant that the original proposal was not compatible with the detached, single-family homes which are the predominant land use in the area surrounding the Zoning Lot; and

WHEREAS, the applicant made the above-mentioned incremental changes in the proposal, none of which were satisfactory to the Board in that they raised the same concerns about community character as the original proposal; and

WHEREAS, in response, the applicant has reduced the number of structures and dwelling units to be constructed on the Zoning Lot; and

WHEREAS, the Board has reviewed the current proposal and the submitted land use map and has determined that the proposed density is compatible with the built conditions in the area; and

WHEREAS, the Board further notes that a similar sized parcel, not suffering from the land-locked condition that Lot 92 is subject to, would permit construction of a 12 unit development as-of-right; and

WHEREAS, therefore, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, after accepting guidance from the Board as to both the proper amount of relief necessary to alleviate the hardship associated with the site and the appropriate number and size of the dwelling units, the applicant significantly modified the proposal to reflect the current proposal; and

WHEREAS, accordingly, the Board finds that the current THAT the residential Floor Area over all 12 of the Tentative Lots, when taking into account the proposed dwelling approved in the instant application and the other companion applications, shall not exceed 29,991.6 sq. ft.;

WHEREAS, at the request of the Board, the applicant has also submitted a revised feasibility study, reflecting the current proposal (nine one-family, two-story dwellings; and 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-038Q 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, 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, within an R2 zoning district, the proposed construction of one detached two-story, one-family dwelling which does not comply with the requirements for floor area, open space and minimum lot width, contrary to Z.R. §§ 23-141 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 23, 2004"-(2) sheets and "Received December 6, 2004"-(5) sheets; and on further condition;

THAT the Floor Area Ratio for the proposed dwelling on Tentative Lot 104 shall be limited to 0.76;

THAT only one dwelling shall be located on Tentative Lot 104;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT the Floor Area Ratio over all of the Tentative Lots, excluding the area within the bed of a mapped street shall be limited to 0.61; the Floor Area Ratio over all of the Tentative Lots, including the area within the bed of a mapped street shall be limited to 0.49;

THAT the total number of dwelling units over all 12 of the Tentative Lots shall be limited to 12, one for each lot;

THAT DOB shall confirm compliance with the Floor Area limitations set forth above;

---

# MINUTES

---

THAT the total number of parking spaces that shall be provided over all 12 of the Tentative Lots shall be 24, with two accessory parking spaces per dwelling for each dwelling;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 7, 2004.

---

## 364-03-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Alpro Realty LLC/VFP Realty LLC, owners.

SUBJECT - Application November 24, 2003 - under Z.R. §72-21 to permit the proposed construction of an automotive car wash and Lubritorium, Use Group 2, located in a C2-2(R6) zoning district, which is contrary to Z.R. §32-00.

PREMISES AFFECTED - 34-11 Far Rockaway Boulevard, southeast corner of Sea Girt Boulevard, Block 15950, Lots 14 and 24, Borough of Queens.

## COMMUNITY BOARD #14Q

### APPEARANCES -

For Applicant: Adam W. Rothkrug.

**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 November 3, 2004, acting on Department of Buildings Application No. 401724862, reads:

"Use contrary to Section 32-00 Z.R."; and

WHEREAS, a public hearing was held on this application on May 18, 2004 after due publication in The City Record, with continued hearings on July 13, September 14, 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, Commissioner Chin and

WHEREAS, the Board finds that the applicant has not provided any evidence that the alleged physical conditions compromise the income that could be generated from a conforming residential scenario; and

WHEREAS, instead, the Board observes that the applicant has only offered conclusory assertions that the location and shape of the

Commissioner Miele; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, on a lot within a C2-2(R6) zoning district, an automatic car wash (with one tube), with an accessory store and lubritorium, contrary to Z.R. §32-00; and

WHEREAS, both the Queens Borough President and Queens Community Board No. 14 recommended conditional approval of this application; and

WHEREAS, various individual neighbors, as well as the Bayswater Civic Association and the Frank Avenue Civic Association, opposed the subject application; and

WHEREAS, the subject premises is an irregularly shaped but large lot, located on the southeast corner of Far Rockaway and Sea Girt Boulevards, in the Far Rockaways section of Queens; and

WHEREAS, to the south, the site also borders the Rockaway Freeway (the "Freeway") and elevated subway tracks situated above the Freeway; and

WHEREAS, the site has a total lot area of approximately 37,255 sq. ft., and is currently improved with two connected commercial buildings (hereinafter, the "Existing Building"), with a combined total floor area of 11,500 sq. ft.; and

WHEREAS, the proposed carwash facility, the retail store, and the lubritorium are proposed to have a total floor area of 12,977.3 sq. ft.; and

WHEREAS, the applicant alleges that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in strict conformance with underlying district regulations: (1) access to the site from the Rockaway Freeway frontage is not available, due to a City-owned strip of property directly adjacent to the Freeway, which makes conforming retail and residential use undesirable and less marketable; (2) the Existing Building is obsolete, in that it is in a state of disrepair, and was not designed for and is not suitable for commercial use; (3) the site's irregular configuration limits the viability of conforming residential development, in that it narrows from 225.5 ft. along the easterly lot line, to 121.3 ft. along the westerly lot line; (4) the site's irregular configuration also necessitates the need for creation of an interior road for certain residential scenarios, which results in some conforming residences with only 8 ft. rear yards backing onto Sea Girt Boulevard; (5) the site is affected by a high water table, which increases construction costs for conforming development; and (6) underground storage tanks, pump islands and contaminated soil must be removed from the site; and

WHEREAS, as an initial matter, the Board notes that the mere existence of certain physical conditions on 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 alleged physical conditions must result in practical difficulties or unnecessary hardship in strictly conforming to applicable zoning provisions; and

lot makes such a determination obvious; and

WHEREAS, the Board also finds that the applicant has failed to provide any evidence that the alleged physical conditions lead to premium construction costs that, when considered in the aggregate, would cause a conforming residential development to be infeasible; and

---

# MINUTES

---

WHEREAS, as to those conditions that arguably impact generation of income from residential use, the Board notes that the applicant has not sufficiently proved how the site's shape and alleged access problems impact conforming development; and

WHEREAS, the applicant has submitted two site plans showing semi-detached dwelling scenarios, one with 18 three-story, three-family units (which assumes access from the Freeway), and one with 11 three-story, three-family units; and

WHEREAS, the applicant claims that the 11 unit, three-family scenario represents the most residential floor area that could be placed on the site without access from the Freeway; and

WHEREAS, the applicant notes that due to the site's shape and the lack of access from the Freeway, a private road with a turnaround must be constructed, which allegedly diminishes the amount of lot area available for placement of residential floor area; and

WHEREAS, however, the Board disagrees that the site's shape, which is large, impacts conforming residential development to the degree applicant contends; and

WHEREAS, the Vice-Chair of the Board, who is a Registered Architect, stated at hearing that regardless of the site's minimum dimension of 121 feet, the site was still large enough to accommodate a turnaround and viable conforming development; and

WHEREAS, the Board has reviewed the submitted site plan for the 11 unit scenario, and finds that it fails to utilize the space in a way that is the most effective in terms of maximizing available residential floor area while still providing marketable units; and

WHEREAS, based upon its review of this site plan, the Board is not convinced that more units could not be accommodated on the site; and

WHEREAS, the Board also disagrees that lack of access to the site from the Rockaway Freeway would greatly impact the economic return on residential development, as such access, while perhaps important for a conforming retail scenario, becomes less important for a conforming residential scenario; and

WHEREAS, the Board notes that the site has substantial frontages along two other public ways (Sea Girt Boulevard - 121 ft., and Far Rockaway Boulevard - 206 ft.) from which access may be gained; and

WHEREAS, moreover, the applicant has not quantified any impact that the site's location has on the potential income to be generated from conforming residential use, separating out such impact from general market conditions for residential use in the area; and

WHEREAS, as to those conditions that could arguably create premium construction costs, the Board notes that the only alleged

WHEREAS, over the course of the hearing process, the applicant submitted studies for the following residential scenarios: a multi-story, residential apartment building with 66 rental apartments; a mixed-use retail/residential building with 18 apartments; and the afore-mentioned 18 three-story, three-family dwellings scenario, with assumed access from the Freeway; and

WHEREAS, however, the applicant failed to submit a feasibility study for the afore-mentioned 11 three-story, three-family dwelling scenario, even though this was specifically requested by the Board for comparison purposes; and

WHEREAS, in each case where a feasibility study of a residential scenario was performed, the applicant claimed that a

premium costs identified and quantified by the applicant were those related to the demolition of the Existing Building (\$200,000) and the environmental clean-up and tank removal (\$108,000); and

WHEREAS, the applicant refused to attempt to quantify or prove any premium costs related to the alleged high water table, because, as set forth in a letter dated October 12, 2004 from the applicant's financial consultant, such an exercise was not considered necessary; and

WHEREAS, thus, the Board can only credit the premium costs associated with the demolition of the Existing Building and environmental clean-up and tank removal, which, when aggregated, do not amount to an unnecessary hardship or practical difficulty in developing the site with a conforming residential use, such that a use change is justified; and

WHEREAS, in addition, the Board notes that the Existing Building may not properly be considered a unique physical condition given that it is proposed to be demolished and possesses no structural uniqueness that leads to higher than normal demolition costs; and

WHEREAS, the Board notes that even if the cost of demolition is considered, there is still no significant hardship that would support the use change proposed by applicant; and

WHEREAS, in sum, the applicant has not provided sufficient evidence as to the nexus between the alleged physical conditions (as opposed to prevailing general market conditions) and actual and verifiable financial hardship related to conforming residential development; and

WHEREAS, for the reasons set forth above, 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 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, moreover, even assuming arguendo that the finding set forth at Z.R. § 72-21(a) was met, the applicant has failed to submit credible financial data in support of its claim that conforming residential development on the site will not bring a reasonable return; and

WHEREAS, initially, the applicant only submitted feasibility studies for a one-story retail building and the proposed carwash; and

WHEREAS, however, the Board observed that residential use would be as-of-right on the site and thus requested that studies of residential scenarios be conducted; and

negative return would result from such development; and

WHEREAS, at hearing, the Board expressed skepticism as to the financial information upon which this claim was based; and

WHEREAS, in particular, the Board questioned the methodology of the site valuation, which the applicant stated was \$1,125,000; and

WHEREAS, specifically, the Board notes that certain assumptions made in the site valuation appear to be flawed; and

WHEREAS, the record indicates that the land is valued at \$250,000, which appears reasonable; and

WHEREAS, however, in addition to the land, the site valuation also includes the Existing Building, which is valued at \$875,000; and

---

# MINUTES

---

WHEREAS, the valuation of the Existing Building is based upon comparables reflecting total property values; said total property values include both the value of the building and, impermissibly, the value of the underlying land; and

WHEREAS, this impermissible increase in the valuation of the Existing Building based upon a double-counting of land values inflates the site valuation and skews the rate of return; and

WHEREAS, in addition, the building comparables are questionable with respect to actual comparability, as all are described as being in "average" condition, and no adjustments are made to reflect the actual condition of the Existing Building; and

WHEREAS, as noted above, the applicant contends that the Existing Building is in a state of disrepair, and was not designed for and is not suitable for commercial use; and

WHEREAS, in fact, the applicant described the condition of the Existing Building at hearing as "horrible"; and

WHEREAS, the Board notes that if the Existing Building is as stated by the applicant then there should be no value ascribed to it since it has no contributory economic value to the site; and

WHEREAS, it follows that the site valuation should really only reflect the land value of \$250,000, and minor site preparation costs of \$10,000; and

WHEREAS, even if some value is ascribed to the Existing Building, this valuation should be based on comparables that reflect only the value of a building without land, and that are adjusted for condition; and

WHEREAS, thus, because the site valuation is impermissibly inflated, the Board concludes that the potential income from the proffered conforming residential scenarios is understated, rendering the submitted feasibility studies flawed and unreliable; and

WHEREAS, the Board notes that it asked the applicant to address this deficiency, but the applicant did not provide a response; and

WHEREAS, additionally, the applicant, as discussed above, did not submit a requested study on the 11 three-story, three-family dwellings scenario; and

WHEREAS, for the reasons set forth above, the Board finds that the applicant has failed to provide substantial evidence in support of the finding set forth at Z.R. § 72-21(b); and

## 125-04-BZ

APPLICANT - Steven M. Sinacori/Stadtmauer Bailkin, for Everest Realty, LLC, owner.

SUBJECT - Application March 9, 2004 - under Z.R. §72-21 to permit the proposed two story expansion of an existing one story commercial building, for residential use, Use Groups 2 and 6, located in R4, C2-2 and R3A zoning districts, which does not comply with the zoning requirements for floor area, lot coverage, open space, number of dwelling units and height of building, is contrary to Z.R. §23-141, §35-31, §23-22 and §23-631.

PREMISES AFFECTED - 247-39 Jamaica Avenue, north side, between 91<sup>st</sup> Avenue and Commonwealth Boulevard, Block 8662, Lot 50, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Eric Palatnik.

WHEREAS, since the application fails to provide substantial evidence or other data in support of the findings set forth at Z.R. § 72-21 (a) and (b), it must be denied; and

WHEREAS, additionally, 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 for any variance grant, the Board declines to address the remaining findings.

Therefore it is Resolved that the decision of the Borough Commissioner, dated November 3, 2004, acting on Department of Buildings Application No. 401724862, is sustained and the subject application is hereby denied.

Adopted by the Board of Standards and Appeals, December 7, 2004.

---

## 390-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Dobbins Street, LLC, owner.

SUBJECT - Application December 18, 2003 - under Z.R. §72-21 to permit the legalization of residential use on the second floor, of a two story mixed use building, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 95 Dobbin Street, between Norman and Messerole Avenues, Block 2616, Lot 18, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Elisa Hwu.

**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, December 7, 2004.

---

**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 3, 2004, acting on Department of Buildings Application No. 401766601, reads:

"1. Proposed floor area is contrary to Z.R. section 35-31.

2. Proposed number and location of accessory parking spaces is contrary to Z.R. sections 36-21 and 22-00 respectively."; and

WHEREAS, a public hearing was held on this application on July 20, 2004 after due publication in The City Record, with continued hearings on August 17, 2004 and October 19, 2004, and

---

# MINUTES

---

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 and Commissioners Caliendo, Miele and Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit on a lot within both R4/C2-2 and R3A zoning districts, the enlargement of a one-story commercial building through a minor addition on the first floor and the construction of a second floor, which does not comply with the requirements for floor area and accessory parking, contrary to Z.R. §§ 35-31, 36-21 and 22-00; and

WHEREAS, the subject application originally contemplated the construction of two additional levels for residential use, and an additional studio residential unit on the first floor, but at the request of the Board, the applicant has revised the application to its current form; and

WHEREAS, Queens Community Board No. 13, which recommended denial of the original proposal, now recommends approval of the revised application; and

WHEREAS, the subject premises is an irregularly shaped hexagonal lot, located on the north side of Jamaica Avenue between 91st Avenue and Commonwealth Boulevard, has a total lot area of approximately 11,567 sq. ft., and is currently improved with a 3,417 square foot commercial building; and

WHEREAS, this application seeks a 770 sq. ft. enlargement of the first floor, which includes two egress stairs, an elevator and lobby to the second floor, and a minor addition to the existing first floor retail space; and

WHEREAS, the proposed second floor will be comprised of 4,760 sq. ft. of floor area, to be used for commercial space; and

WHEREAS, the number of parking spaces required, based upon the total 5,530 sq. ft. of added floor area and utilizing the formula of 1 space for every 300 square feet, is 18 spaces; and

WHEREAS, the applicant is proposing to provide 13 parking

WHEREAS, based upon its review of the submitted feasibility study, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance and compliance with the two different zoning district regulations will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance will not affect the character of the neighborhood, and that the use is compatible with other commercial uses in the immediate area; and

WHEREAS, the applicant notes that the immediate neighborhood within the 400 foot radius area is characterized by a mix of two and three-story detached houses and row homes, low-rise, two-story mixed-use buildings with ground floor retail and office uses, and commercial buildings, as well as a two-story church; and

WHEREAS, a parking study was conducted, which revealed that adequate on-site and street parking would exist to accommodate the parking needs generated by the proposed use; and

WHEREAS, the Board has conducted its own site visit and has reviewed the submitted land use map and accompanying photographs of the site; and

WHEREAS, based upon the representations of the applicant, its

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 strict conformance and compliance with underlying district regulations: (1) the site possesses an irregular hexagonal shape; and (2) the site is divided between two zoning districts; and

WHEREAS, the record indicates that approximately 7,198 sq. ft. (62.2%) of the lot is located within an R4/C2-2 zoning district, while approximately 4,396 sq. ft. (37.8%) is within an R3A zoning district; and

WHEREAS, the applicant asserts that the R3A portion of the site is triangularly-shaped, with no street frontage, and cannot be reasonably separated from the remainder of the zoning lot for a conforming use (one and two-family dwellings) because of its land-locked nature; therefore the applicant states that permitted floor area within the R3A portion is unusable; and

WHEREAS, the applicant notes that the maximum permitted Floor Area Ratio ("F.A.R.") in the C2-2 zoning district is 1.0, and the proposed addition would increase the F.A.R. to 1.24 if the site is only viewed in terms of the C2-2, without inclusion of the R3A district portion; and

WHEREAS, however, if viewed in terms of the entire lot area inclusive of the R3A portion, the maximum permitted floor area is 0.81 and the proposed F.A.R. would be 0.77; 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 conformance and compliance with the current zoning; and

WHEREAS, the applicant has submitted a feasibility study purporting to show that developing the entire premises with a conforming and complying development would not yield the owner a reasonable return; and

review of the land use map and its site visit, 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 both the proper amount of relief necessary to alleviate the hardship associated with the site and the appropriate building form, the applicant significantly modified the proposal to reflect a lower, decreased bulk building that more closely conforms with the surrounding area; and

WHEREAS, therefore, 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

---

# MINUTES

---

(EAS) CEQR No. 04-BSA-140Q dated March 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; 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 within R4/C2-2 and R3A zoning districts, the enlargement of a one-story commercial building through a minor addition on the first floor and the construction of a second floor, which does not comply with the requirements for floor area and accessory parking, contrary to Z.R. §§ 35-31, 36-21 and 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 November 22, 2004"- (9) sheets and "Received November 30, 2004"- (1) sheet; and on further condition;

PREMISES AFFECTED - 1336 East 22nd Street, West side, 180.0' north of Avenue "M", Block 7639, Lot 76, 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 March 2, 2004, acting on Department of Buildings Application No. 301687985, reads, in pertinent part:

"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 rear yard contrary to Sec. 23-27, Z.R."; and

WHEREAS a public hearing was held on this application on November 9, 2004 after due notice by publication in The City Record, and then to December 7, 2004 for decision; and

WHEREAS, Community Board 14, Brooklyn recommended approval of this application; and

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 7, 2004.

---

## 167-04-BZ

APPLICANT - Dennis D. Dell'Angelino, R.A., for Steven Katz, owner.

SUBJECT - Application April 23, 2004 - under Z.R. §73-622 to permit Proposed enlargement of an existing single family detached 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 and the required rear yard, is contrary to Z.R. §23-14 and §23-47.

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 rear yard, contrary to Z.R. §§ 23-14 and 23-47; and

WHEREAS, the subject lot is located on the west side of East 22nd Street between Avenues L and M, 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-and-a-half-story and cellar residential structure; and

WHEREAS, the applicant seeks an increase in the floor area from 2412.7 sq. ft. (0.60 Floor Area Ratio or "FAR") to 2746.2 sq. ft. (0.68 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 1.05 to 0.807 - the minimum open space 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 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

---

# MINUTES

---

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 rear yard, contrary to Z.R. §§ 23-14 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 September 2, 2004" - (8) sheets and "Received November 22, 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 use and layout of the cellar shall be as approved by **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 23, 2004, acting on Department of Buildings Application No. 301773132, reads, in pertinent part:

"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."; and

WHEREAS a public hearing was held on this application on November 9, 2004 after due notice by publication in The City Record, and then to December 7, 2004 for decision; 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, contrary to Z.R. § 23-14; and

WHEREAS, the subject lot is located on the north side of Avenue K between Bedford Street and East 24th Street, and has a total lot area of approximately 4,600 sq. ft.; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing two-and-a-half-story and cellar

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, December 7, 2004.

---

## 170-04-BZ

APPLICANT - Dennis Dell'Angelo, R.A., for Jean Teichman, owner.

SUBJECT - Application April 26, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family residence, which does not comply with the zoning requirements for floor area ratio and open space ratio, is contrary to Z.R. §23-141.

PREMISES AFFECTED - 2409 Avenue "K", north side, 53.0' east of East 24th Street, Block 7606, Lot 6, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES - None.

residential structure; and

WHEREAS, the applicant seeks an increase in the floor area from 2,800 sq. ft. (0.60 Floor Area Ratio or "FAR") to 4135.04 sq. ft. (0.9 FAR) - the maximum floor area permitted is 2,300 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the Open Space Ratio ("OSR") from 1.14 to 0.66 - the minimum open space required is 1.50; and

WHEREAS, the record indicates that the existing building has an existing non-complying front yard of 10'-0" which will be unaffected by the proposed enlargement; and

WHEREAS, the applicant represents that because the subject lot is located within 100'-0" from an intersection, no rear yard is required; and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; 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

---

# MINUTES

---

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, contrary to Z.R. §23-14; 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 26, 2004"- (1) sheet, "Received September 2, 2004"- (5) sheets and "Received November 22, 2004"- (2) 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 any yard shed shall be as reviewed and approved by the Department of Buildings;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

THAT the Department of Buildings shall review and confirm the total proposed floor area;

THAT all rooms to be occupied must comply with all legal requirements as to habitability, as determined by the Department of 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: Elisa B. Hwu.

**ACTION OF THE BOARD** - Laid over to January 25, 2005, at 1:30 P.M., for continued hearing.

---

## 194-03-BZ

APPLICANT - Sheldon Lobel, P.C., for B'nos Menachem Inc., owner.

SUBJECT - Application June 13, 2003 - under Z.R. §72-21 to permit the proposed catering establishment, Use Group 9, in the cellar of an existing one story, basement and cellar building (school for girls), located in an R6 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 739 East New York Avenue, between Troy and Albany Avenues, Block 1428, Lot 47, Borough of Brooklyn.

## COMMUNITY BOARD #9BK

### APPEARANCES -

For Applicant: Richard Lobel.

### THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

## 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, December 7, 2004.

---

## 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.

Negative:.....0

**ACTION OF THE BOARD** - Laid over to December 14, 2004, at 1:30 P.M., for continued hearing.

---

## 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 62<sup>nd</sup> Street, northwest corner of 14<sup>th</sup> Avenue, Block 5733, Lot 36, Borough of Brooklyn.

## COMMUNITY BOARD #10BK

APPEARANCES -None.

**ACTION OF THE BOARD** - Laid over to January 25, 2005, at 1:30 P.M., for continued hearing.

---

## 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

---

# MINUTES

---

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 to February 15, 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

## 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, at the subject premises, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 186-05 120<sup>th</sup> Road, southwest corner of Farmers Boulevard, Block 12458, Lot 421, Borough of Queens.

## COMMUNITY BOARD #12Q

APPEARANCES - None.

### 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 11, 2005, at 1:30 P.M., for decision, hearing closed.

---

## 22-04-BZ

APPLICANT - Sheldon Lobel, P.C., for 2556 Miftar Corp., owner.  
SUBJECT - Application February 9, 2004 - under Z.R. §72-21 to

## APPEARANCES -

For Applicant: Joseph P. Morsellino.

**ACTION OF THE BOARD** - Laid over to January 25, 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.

PREMISES AFFECTED - 147-08 46th Avenue, between Parsons Boulevard and 149th Street, Block 5452, Lot 3, Borough of Queens.

## COMMUNITY BOARD #7

### APPEARANCES -

For Applicant: Eric Palatnik.

For Opposition: Joe Amoroso, Beverly McDermott, Mary Hogan, and Robert Tucker, KPCA.

**ACTION OF THE BOARD** - Laid over to February 8, 2005, at 1:30 P.M., for continued hearing.

---

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: Sheldon Lobel, Burt Schoenbach, Harry Bajatari, Elysa Hwu, Jim Heineman, Steve Wygoda and Roger Sterling.

**ACTION OF THE BOARD** - Laid over to January 25, 2004, 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: Peter Geis.

### THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

---

# MINUTES

---

Commissioner Caliendo, Commissioner Miele and  
Commissioner Chin.....5  
Negative:.....0

**ACTION OF THE BOARD** - Laid over to March 15, 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: Jordan Most.

For Opposition: Eugenia Rudmann, Linda S. Mitchell and Edward P.  
Doran.

**ACTION OF THE BOARD** - Laid over to February 1, 2005,  
Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Commissioner Caliendo, Commissioner Miele and  
Commissioner Chin.....5  
Negative:.....0

**ACTION OF THE BOARD** - Laid over to January 11, 2005,  
at 1:30 P.M., for decision, hearing closed.

---

## 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.

**ACTION OF THE BOARD** - Laid over to January 11,  
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

at 1:30 P.M., for continued hearing.

---

## 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 -

For Applicant: Adam Rothkrug.

THE VOTE TO CLOSE HEARING-

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 #14

APPEARANCES -

For Applicant: Lyra Altman.

**ACTION OF THE BOARD** - Laid over to January 11,  
2005, at 1:30 P.M., for continued hearing.

---

## 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.

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.

THE VOTE TO CLOSE HEARING-

Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5  
Negative:.....0

---

# MINUTES

---

**ACTION OF THE BOARD** - Laid over to January 11, 2005, at 1:30 P.M., for decision, hearing closed.

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5  
Negative:.....0

**ACTION OF THE BOARD** - Laid over to January 11, 2005, at 1:30 P.M., for decision, hearing closed.

**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 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 CLOSE HEARING-

**DECEMBER 8, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Wednesday morning*, December 8, 2004, at 10:00 A.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

---

**ZONING CALENDAR**

**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,( aka 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, Matthew Hoelzli, Jack Freeman, William McQuilkin, Bob Michel and Gene Keziv.

**ACTION OF THE BOARD** - Laid over to January 26, 2005, at 10:00 A.M., for continued hearing.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 4:50 P.M.

---

*Pasquale Pacifico, Executive Director*

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 89, Nos. 51-52

December 23, 2004

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**SATISH BABBAR, *Vice-Chair***

**PETER CALIENDO**

**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**

### CONTENTS

DOCKET .....	915
<b>CALENDAR</b> of January 11, 2005	
Morning .....	916
Afternoon .....	917-918

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, December 14, 2004**

Morning Calendar .....919

**Affecting Calendar Numbers:**

40-80-BZ	35-37 West 23 <sup>rd</sup> Street, Manhattan
239-02-BZ	110 Waverly Place, Manhattan
100-71-BZ	61-03 Northern Boulevard, Queens
283-82-A	108-58 68 <sup>th</sup> Road, Queens
283-90-BZ	1400 Clove Road, Staten Island
200-01-BZ	182-15 Hillside Avenue, Queens
253-04-A	102-35 Williams Court, Queens
254-04-A	102-29 Williams Court, Queens
271-04-A	One Pier 63 at 23 <sup>rd</sup> Street, Manhattan

Afternoon Calendar .....921

**Affecting Calendar Numbers:**

194-03-BZ	739 East New York Avenue, Brooklyn
214-03-BZ	388 Broadway, Manhattan
258-03-BZ	47 Thames Street, Brooklyn
287-03-BZ	430 Keap Street, Brooklyn
71-04-BZ	720 East 86 <sup>th</sup> Street, Brooklyn
128-04-BZ	162-168 East 68 <sup>th</sup> Street, Manhattan
159-04-BZ	950/60 Longfellow Avenue, The Bronx
193-04-BZ	92 Gotham Avenue, Brooklyn
250-04-BZ	1220 East 27 <sup>th</sup> Street, Brooklyn
268-04-BZ	1246 East 22 <sup>nd</sup> Street, Brooklyn
285-04-BZ	5435 First Avenue, Brooklyn
361-02-BZ	214 25 <sup>th</sup> Street, Brooklyn
357-03-BZ	33 Berry Street, Brooklyn
381-03-BZ	6023 Fort Hamilton Parkway, Brooklyn
9-04-BZ	114 Walworth Street, Brooklyn
136-04-BZ	3132 Fort Hamilton Parkway, Brooklyn
168-04-BZ	500 Canal Street, Manhattan
190-04-BZ	2184 Mill Avenue, Brooklyn
228-04-BZ	1400 East 22 <sup>nd</sup> Street, Brooklyn
238-04-BZ	62 Cooper Square, Manhattan
259-04-BZ	1181 East 22 <sup>nd</sup> Street, Brooklyn
264-04-BZ	977 Victory Boulevard, Staten Island

---

# DOCKETS

---

New Case Filed Up to December 14, 2004

---

**378-04-BZ** B.BK. 94 Kingsland Avenue, northeast corner of Richardson Street, Block 2849, Lot 1, Borough of Brooklyn. Applic. #301803680. Proposed four-story residential building, with two units per floor, for a total of eight units, with a four-car garage, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #1BK**

---

**379-04-BZ** B.BK. 107 Debevoise Avenue, (aka 20 Division Place), southwest corner, Block 2849, Lot 15, Borough of Brooklyn. Applic. #301803699. Proposed four-story residential building, with two units per floor, for a total of eight units, with a four-car garage, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #1BK**

---

**380-04-BZ** B.Q. 32-12 23<sup>rd</sup> Street, bounded by 33<sup>rd</sup> Avenue and Broadway, Block 555, Lot 36, Borough of Queens. N.B.#401515017. 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.

**COMMUNITY BOARD #1Q**

---

**381-04-BZ** B.BK. 83 Bushwick Place, aka 225/27 Boerum Street, northeast corner, Block 3073, Lot 97, Borough of Brooklyn. Applic. #301866032. Proposed construction of a five-story residential building, containing 25 units, with 22 parking spaces, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

**COMMUNITY BOARD #1BK**

---

**382-04-BZ** B.BK. 2026 Avenue "T", corner of Avenue "T" and East 21<sup>st</sup> Street, Block 7325, Lot 8, Borough of Brooklyn. Applic. #301861466. 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).

**COMMUNITY BOARD #15BK**

---

**383-04-BZ** B.Q. 46-21 Greenpoint Avenue, a/k/a 46-12/20 Queens Boulevard, northwest corner, Block 152, Lot 1, Borough of Queens. Applic. #400946410. The legalization of an existing physical culture establishment, previously granted by the Board under Cal. No. 685-87-BZ, located in the basement, in a two story commercial building, within a C4-2 zoning district, requires a special permit from the Board as per Z.R. §73-36.

**COMMUNITY BOARD #2Q**

---

**384-04-A** B.Q. 37 Jamaica Walk, east side, 75.61' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens. Alt.1 #401947756. 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.

**385-04-A** B.Q. 2 Deauville Walk, in the bed of Beach 214<sup>th</sup> Street, at the intersection of Palmer Drive, Block 16350, Lot 300, Borough of Queens. Alt.1 #402002266. 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.

**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 1, 2005, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, February 1, 2005, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

---

## **SPECIAL ORDER CALENDAR**

### **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**

---

### **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**

---

## **APPEALS CALENDAR**

### **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**

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**

---

**FEBRUARY 1, 2005, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, February 1, 2005, at 1:30 P.M., at 40 Rector Street, 6<sup>h</sup> Floor, New York, N.Y. 10006, on the following matters:

---

## **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**

---

### **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**

---

### **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.

---

### **266-04-BZ**

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

---

# MINUTES

---

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**

---

**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 22nd Street, between Avenue K and Avenue L, Block 7622, Lot 15, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

---

**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**

---

*Pasquale Pacifico, Executive Director*

---

# MINUTES

---

**REGULAR MEETING  
TUESDAY MORNING, DECEMBER 14, 2004  
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 19, 2004, were approved as printed in the Bulletin of October 28, 2004, Volume 89, No. 42-43.

---

## SPECIAL ORDER CALENDAR

### 40-80-BZ

APPLICANT - Sheldon Lobel, P.C., for 35 West 23rd Street Corp., owner; Patrick Montgomery, lessee.

SUBJECT - Application February 9, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 35-37 West 23<sup>rd</sup> Street, between Fifth Avenue and Avenue of the Americas, Block 825, Lot 7501, Borough of Manhattan.

### COMMUNITY BOARD #5M

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, December 14, 2004.

---

### 239-02-BZ

APPLICANT - Deidre A. Carson, Esq., for Babbo Realty, LLC, owner.

SUBJECT - Application September 16, 2004 - reopening for an amendment to the resolution for an existing variance for the enlargement of a restaurant cellar to house a wine cellar-UG6A.

PREMISES AFFECTED - 110 Waverly Place, 132' west of intersection of Waverly Place and Washington Square West, Block 552, Lot 53, Borough of Manhattan.

### COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Deirdre A. Carson.

**ACTION OF THE BOARD** - Application granted.

*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 construction of a new cellar to be used as a wine storage area for the existing restaurant; *on condition* that all work shall substantially conform to drawings as filed with this application, marked 'Received September 16, 2004' - (1) sheet, and 'Received November 30, 2004' - (2) sheets; and

### 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, made pursuant to Z.R. §§ 72-01 and 72-22, for a re-opening and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on November 15, 2004, after due notice by publication in the *City Record*, with a continued hearing on December 14, 2004, on which date the application was closed and granted; and

WHEREAS, Community Board No. 2 in Manhattan recommended conditional approval of the subject application; and

WHEREAS, Chair Srinivasan conducted a site inspection of the subject premises; and

WHEREAS, on December 17, 2002, under the subject calendar number, the Board granted an application under Z.R. § 72-21, to permit the re-establishment of a Use Group 6A eating and drinking establishment, without music or entertainment, located at the cellar level, ground floor, and second floor of the subject premises, and to permit the continuation of a non-conforming accessory business sign; and

WHEREAS, the applicant now seeks an amendment to the resolution to permit the enlargement of the cellar for use as a wine storage area for the existing restaurant; and

WHEREAS, a neighbor occupying the building adjacent to the rear of the subject premises appeared at hearing, and expressed concerns regarding the potential for property damage as a result of the excavation of the cellar; and

WHEREAS, the Board notes that construction safety issues are within the jurisdiction of the Department of Buildings; and

WHEREAS, the applicant states that the enlarged cellar will measure approximately 41 ft. by 17 ft.; and

WHEREAS, the applicant further states that the proposed enlargement will not result in any increase in floor area and that there will be no visual impact, as the enlargement is at the cellar level; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of the requested amendment to the prior resolution.

*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

---

# MINUTES

---

Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

(DOB Permit No. 102702522)

Adopted by the Board of Standards and Appeals, December 14, 2004.

---

## 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 61<sup>st</sup> Street, Block 1162, lot 53, Borough of Queens.

### COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Nelly Minella.

**ACTION OF THE BOARD** - Laid over to January 25, 2005, at 10 A.M., for continued hearing.

---

## 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 68<sup>th</sup> Road, 108<sup>th</sup> Street, Block 2179, Lot 1, Borough of Queens.

### COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Francis Angelino and Stephen H. Katz.

**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.

---

## 283-90-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for OPM Holdings, LLC, owner.

SUBJECT - Application January 7, 2004 - reopening for an **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

amendment to the resolution.

PREMISES AFFECTED - 1400 Clove Road, a/k/a Oswego Street, southwest corner of Clove Road and Oswego Street, Block 658, Lot 1, Borough of Staten Island.

### COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Adam W. Rothkrug.

For Opposition: Mary Ann McGowan and Ali Alsuede.

**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 11, 2005, at 10 A.M., for decision, hearing closed.

---

## 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 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.

**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.

---

Avenue, Block 14239, Lot 1184, Borough of Queens.

### COMMUNITY BOARD #10Q

APPEARANCES -

For Applicant: Joseph Morsellino and Eric Palatnik.

**THE VOTE TO CLOSE HEARING -**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

---

# MINUTES

---

Commissioner Chin.....5  
Negative:.....0  
**ACTION OF THE BOARD** - Laid over to January 11, 2005,  
at 10 A.M., for decision, hearing closed.

**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 of 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 and Eric Palantik.

**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 11, 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 -

For Applicant: Michele A. Luzio and John R. Krevey.

For Administration: Felicia Miller, Department of Buildings.

**ACTION OF THE BOARD** - Laid over to January 25, 2005,  
at 10 A.M., for decision, hearing closed.

---

*Pasquale Pacifico, Executive Director.*

Adjourned: 11:30 A.M.

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 11, 2004, June 22, 2004, August 10, 2004, September  
14, 2004, and October 26, 2004, and then to decision on  
December 7, 2004, on which date the decision was deferred to  
December 14, 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,  
and Commissioners Caliendo, Miele, and Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to

**REGULAR MEETING**  
**TUESDAY AFTERNOON, NOVEMBER 23, 2004**  
**2:00 P.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner  
Caliendo, Commissioner Miele and Commissioner Chin.

**ZONING CALENDAR**

**194-03-BZ**

**CEQR #03-BSA-208K**

APPLICANT - Sheldon Lobel, P.C., for B'nos Menachem Inc.,  
owner.

SUBJECT - Application June 13, 2003 - under Z.R. §72-21 to  
permit the proposed catering establishment, Use Group 9, in the  
cellar of an existing one story, basement and cellar building (school  
for girls), located in an R6 zoning district, which is contrary to Z.R.  
§22-00.

PREMISES AFFECTED - 739 East New York Avenue, between  
Troy and Albany Avenues, Block 1428, Lot 47, Borough of  
Brooklyn.

**COMMUNITY BOARD #9BK**

APPEARANCES -

For Applicant: Richard Lobel.

**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, the decision of the Borough  
Commissioner, dated May 27, 2003, acting on Department  
of Buildings Application No. 300988377, reads:

“Proposed catering establishment (use group 9) is  
not permitted in the cellar in this R6 zoning district  
as per section 22-00 of the zoning resolution.”; and

permit, within an R6 zoning district, a proposed catering  
establishment (Use Group 9) in the cellar of an existing one  
story, basement and cellar building currently used as a  
religious girls school, contrary to Z.R. § 22-00; and

WHEREAS, Community Board 9, Brooklyn,  
recommended approval of this application; and

WHEREAS, State Senator Andrews and Council  
Member Boyland also supported the application; and

WHEREAS, the subject site is located on East New  
York Avenue between Troy and Albany Avenues, has a total  
lot area of 17,385 sq. ft., and is currently improved upon with  
a one-story plus basement and cellar building with a total

---

# MINUTES

---

floor area of 33,646 sq. ft.; and

WHEREAS, the premises is currently owned and occupied by a religious girls school, Bnos Menachem, which is a not-for-profit entity; and

WHEREAS, the existing building was designed for industrial use and was previously occupied by a publishing company, which used the first floor for printing, collating and binding, and the basement level as the storage and shipping facility, as well as for office space; and

WHEREAS, the current certificate of occupancy lists the following uses: on the cellar level "Ordinary Storage; Mechanical Equipment"; on the basement level "Garage; Office; Supply Room; Laundry Room and Office; Building Maintenance; Toilet Room"; and on the first floor "Garage; Office; Conference Room; Lumber Room; Janitor Closet"; and

WHEREAS, the applicant represents that when the girls school purchased the building, a catering facility could have been placed as-of-right on the first floor or the basement, along with a school cafeteria; and

WHEREAS, however, the applicant notes the first floor and basement were needed by the school for classrooms; and

WHEREAS, the proposal before the Board contemplates the use of the cellar as a Use Group 9 catering facility, to be use only after school hours; and

WHEREAS, the applicant represents that approximately 60 percent of the proposed catered events will be for students or employees, or families thereof, and the remainder will be events drawn from the broader community; and

WHEREAS, the applicant agrees that the 60 percent requirement shall be calculated as follows: for any one year period (starting from the date of this grant), school-related functions (related to students, staff, employees, or families thereof) shall comprise at least 60 percent of the total number of events that the catering facility hosts; and

WHEREAS, in the most recent revised statement of facts and findings, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject lot in conformity with underlying district regulations: the size and layout of the building is not feasible for residential use, in that no rear yard exists and requirements for light and ventilation

WHEREAS, the applicant represents that the proposed variance will not affect the character of the neighborhood and that use of the site for commercial catering purposes is compatible with the uses in the surrounding area; and

WHEREAS, in support of this claim, the applicant has submitted a Community Character Assessment, prepared by the applicant's planning and development consultants; and WHEREAS, the Assessment analyzed a six block area within a 400-foot radius of the subject site, and surveyed nine blocks for land use composition; and

WHEREAS, the Assessment notes that most of the lots near the site are in residential use, but that the broader study area as a whole consists of a wide range of land uses, with some mixed residential and commercial uses located at key intersections and side streets; and

can not be met; and

WHEREAS, the Board agrees that the building can not be feasibly be converted to conforming residential use; specifically, the Board notes that it was designed as a manufacturing building and was configured to accommodate the previous occupant, a publishing company; and WHEREAS, accordingly, the Board finds that the aforementioned unique physical condition creates unnecessary hardship and practical difficulties in developing the site in conformity with the current zoning; and

WHEREAS, initially, the subject application was filed as a not-for-profit application, whereby no financial feasibility finding would be required; and

WHEREAS, however, the Board determined that such an exemption was not indicated, as the proposed Use Group 9 commercial catering use was a profit-making venture that did not have a sufficient nexus to the religious nature of the school, given that a Use Group 9 designation would allow any type of commercial catering for any type of clientele or event (notwithstanding representations by the applicant that the catering would primarily be used by members of the neighboring religious community); and

WHEREAS, after accepting guidance from the Board as to this issue, the applicant agreed to treat this application as a for-profit application, and submitted a feasibility study purporting to show that a conforming residential scenario would not yield a reasonable return; and

WHEREAS, in response to Board concerns, the applicant made subsequent submissions, clarifying and expanding upon the original feasibility study; and

WHEREAS, in particular, the Board notes that, in response to a Board request, the applicant analyzed both a residential and community facility scenario entailing the full-build out of the available floor area through a vertical enlargement of the existing building, but determined in both instances that neither was feasible given the cost-prohibitive nature of such enlargements; and

WHEREAS, based upon its review of the study and the subsequent submissions, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict conformity with zoning will provide a reasonable return; and

WHEREAS, the assessment also notes that there are two vacant industrial uses nearby, including a refrigerator factory on East New York Avenue; and

WHEREAS, the Assessment concludes that the proposed catering establishment will be in concert with the existing commercial retail character, since it will be in the cellar of the building, will not be visible from the street, and will not change the scale of the surrounding area; and

WHEREAS, the Assessment also concludes that the proposed catering establishment will not create any negative economic impacts, as there is no similar type of catering business in the neighborhood; and

WHEREAS, the Board agrees that due to the limited use of the catering facility and the scale of the building, impact on the adjoining residential uses and the character of

---

# MINUTES

---

the neighborhood will be minimal; and

WHEREAS, the applicant represents that the parking and traffic impacts of the proposed catering establishment will be minimal; and

WHEREAS, in support of this claim, the applicant has submitted a parking study prepared by its parking consultant; and

WHEREAS, this parking study surveyed streets surrounding the subject site, and estimated that there were a total of 241 on-street parking spaces within a 400 foot radius; and

WHEREAS, the study assumed that the catering facility would require a total of approximately 50 spaces for the weekday peak period, and a total of approximately 60 spaces for the weekend peak period; and

WHEREAS, the study showed that the facility's parking needs could be accommodated with available on-street parking; and

WHEREAS, however, in response to Board concerns, the applicant has also made arrangements to lease parking spaces in nearby lots; specifically, the applicant has entered into long-term lease arrangements for parking spaces located at 840 East New York Avenue (30 spaces, valet parking) and 779 East New York Avenue (45 spaces, valet parking); and

WHEREAS, the applicant has submitted copies of the leases for these parking spaces, and has agreed to a variance term which corresponds to the term of the leases (10 years); and

WHEREAS, the Board also requested a detailed operations plan; and

WHEREAS, the operations plan states that a separate, for-profit company, Razag Inc., has been formed to operate the catering facility, though all profits accruing from the facility will flow through to and be received by the girls school; and

WHEREAS, the applicant represents that the only operator of the catering facility shall be Razag, Inc., and that Razag, Inc. shall not operate any other business at any other location;

WHEREAS, the plan also states that the proposed

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

hours of the catering facility will be from 5 pm to 1 am, Sunday through Thursday; that the maximum number of guests for a catered event (exclusive of staff) shall be 550; and that refuse collection will take place three times a week, on Monday, Wednesday and Saturday, between 10:30 am and 11:30 am; and

WHEREAS, the applicant has explained that a 550 guest occupancy limit is necessary in order to host the type of events that would financially sustain the catering facility; and

WHEREAS, the applicant agrees that during all hours outside of those set forth above, the cellar is to be used only as a cafeteria or event room for the girls school; and

WHEREAS, the applicant consents to the incorporation of certain of the features of the operations plan into this resolution as conditions; and

WHEREAS, the Board has conducted a site and neighborhood evaluation, and agrees that the proposed catering facility will not negatively impact the character of the immediate area, provided that the applicant complies with certain conditions, as set forth below; 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 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-208K dated June 13, 2003; and

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, within an R6 zoning district, a proposed catering establishment (Use Group 9), in the cellar of an existing one story, basement and cellar building, currently used as a religious girls school, 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 December 8, 2004" - (1) sheet; and *on further condition*:

THAT the term of this grant shall be limited to August 6, 2014, at which time an extension of term application must be made, which shall include a financial feasibility study;

# MINUTES

THAT the catering facility shall operate only during the following hours: 5 pm to 1 am, Sunday through Thursday; no catering activity, including preparations, may take place outside of these hours;

THAT the maximum number of guests (exclusive of staff) at the catering facility shall be 550 at any given time during its business hours;

THAT refuse collection will take place three times a week, on Monday, Wednesday and Saturday, between 10:30 am and 11:30 am;

THAT off-street parking for the catering facility shall be provided at 840 East New York Avenue (30 spaces, valet parking) and 779 East New York Avenue (45 spaces, valet parking), and in accordance with the lease agreements entered into the BSA record, and any change to these lease agreements requires the prior approval of the BSA;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT notwithstanding any notation on the BSA-approved plan, DOB shall review and approve required travel distances;

THAT 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.

## 214-03-BZ

### CEQR #03-BSA-216M

APPLICANT - The Agusta Group, for 388 Broadway Owners LLD, owner; Sunny Cheuck, lessee.

WHEREAS, this is an application under Z.R. § 73-36, to permit the legalization of a physical culture establishment ("PCE") on the first floor of an existing five-story commercial building in an M1-5 zoning district, contrary to Z.R. § 42-31; and

WHEREAS, the premises is a through-lot, located between White and Walker Streets with frontages on both Broadway and Cortland Alley, and is currently improved upon with a five-story commercial building; and

WHEREAS, the applicant represents that floors two through five currently being occupied by residential loft units, classified as interim multiple dwellings by the City of New York Loft Board; and

WHEREAS the applicant represents that the PCE commenced operation on July 8, 2003 and has facilities for the practice of massage by New York State licensed masseurs or masseuses; and

WHEREAS, the applicant further states that additional services offered by the PCE include nail services, esthetics and cosmetology; and

SUBJECT - Application December 23, 2003 - under Z.R. §73-36 to permit the legalization of an existing physical culture establishment, located on the first floor of a five story loft building, in an M1-5 zoning district, which requires a special permit.

PREMISES AFFECTED - 388 Broadway, east side, between White and Walker Streets, Block 195, Lot 3, 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 Caliendo, Commissioner Miele and Commissioner Chin:.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner dated May 27, 2003, acting on Department of Buildings Application No. 103444916, reads;

"Proposed legalization of a Physical Culture Establishment on the first floor of an existing 5 story commercial building in an M1-5 zone must be referred to the Board of Standards and Appeals for a Special Permit under section 73-36 of the Zoning Resolution"; and

WHEREAS, a public hearing was held on this application on September 28, 2004 after due notice by publication in *The City Record*, with a continued hearing on November 23, 2004, and then to December 14, 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, and Commissioners Caliendo, Miele and Chin; and

WHEREAS, Community Board 1, Manhattan recommends approval of this application; and

WHEREAS, the PCE is located within an M1-1 manufacturing district along Broadway, which is a major commercial thoroughfare, and the surrounding area is comprised largely of commercial and industrial uses; 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

# MINUTES

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 1 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 CEQR No. 03-BSA- 216M dated September 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; 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, per the NYC Landmarks Preservation Commissions comments of March 18, 2004, as the site is located in the Tribeca East Historic District, a permit from LPC is required for all work prior to construction , and should be appended to the EAS; and

*Therefore it is Resolved* that the Board of Standards and Appeals issues a TYPE 1 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 73-03 to permit the legalization of a physical culture establishment on the first floor of an existing five-story commercial building in an M1-5 zoning district, which is contrary to Z.R. § 42-31; **on 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 -

*condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 30, 2004" - (1) sheet; and *on further condition*;

THAT this Special Permit shall be limited to a term of ten years from July 8, 2003, expiring July 8, 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 all massages will be performed only by New York State licensed massage therapists;

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, December 14, 2004.

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

---

# MINUTES

---

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, Commissioner Caliendo, Commissioner Miele and Commissioner Chin; 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 30 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, 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 practical 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 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 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, 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 change to permit the as-of-right conversion of industrial

---

# MINUTES

---

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

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

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

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

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

---

# MINUTES

---

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 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

## 71-04-BZ

### CEQR #04-BSA-138K

APPLICANT - Rudolf Gedeon, for Joseph Duton St. Jour, owner.

SUBJECT - Application March 5, 2004 - under Z.R. §72-21 to permit the proposed construction of a three family residence, Use Group 2, located in an R5 zoning district, which does not comply with the zoning requirements for floor area ratio and side yard, is contrary to Z.R. §23-141(b) and §23-462(a).

PREMISES AFFECTED - 720 East 86th Street, between Glenwood Road and Flatlands Avenue, Block 8006, Lot 47, 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, Commissioner Caliendo, Commissioner Miele and Commissioner Chin:.....5

Negative:.....0

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated November 30, 2004, acting on Department of Buildings Application No. 301498216 reads, in pertinent part:

"1. Proposed side yard is contrary to ZR 23-461(a)."; and

WHEREAS, a public hearing was held on this application on September 28, 2004, after due notice by

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.

---

## 287-03-BZ

### CEQR #04-BSA-040K

APPLICANT - Stuart A. Klein, Esq., for First Step Realty, LLC, owner.

SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit the proposed construction of a six-story residential building, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 430 Keap Street, southeast corner of Hope Street, Block 2387, Lot 2, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

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, December 14, 2004.

---

publication in *The City Record*, with a continued hearing on November 9, 2004, and then to decision on December 14, 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. § 72-21, to permit the proposed construction of a three-story, two-family dwelling (Use Group 1) located in an R5 zoning district, which does not comply with the zoning requirements for side yards, contrary to Z.R. § 23-461(a); and

WHEREAS, at the request of the Board, the applicant modified the original proposal, which contemplated the construction of a three-story, three-family house, with a Floor Area Ratio ("FAR") of 1.62, which did not comply with the zoning requirements for floor area as well as side yard; and

WHEREAS, the record indicates that the subject premises is located on the south side of East 86<sup>th</sup> Street, between Glenwood Road and Flatlands Avenue, has a total lot area of 2,000 sq. ft., and is currently improved upon with a one-story garage containing 108 sq. ft. of floor area; and

WHEREAS, the subject proposal contemplates the demolition of the existing garage and the construction of a three-story and cellar, two-family dwelling with a complying FAR of 1.25, which would not provide the required 8'-0" side yard; and

WHEREAS, the proposal contemplates a garage located at the cellar level;

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties

---

# MINUTES

---

in developing the subject lot in compliance with underlying district regulations: the underdeveloped site is uniquely small and narrow; and

WHEREAS, the applicant represents that the lot has a width of 20'-0" and the provision of the required side yard, as required by ZR § 23-461, would result in a house with a 12 foot depth, which the applicant represents is neither practical nor marketable; and

WHEREAS, at the request of the Board, the applicant conducted a survey of lots in a 200 ft. radius of the subject lot, 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, the Board also notes that the majority of similarly sized lots in the area were developed prior to implementation of the 1961 zoning; and

WHEREAS, the Board finds that the aforementioned unique physical condition, namely the narrowness of the subject lot, when viewed in conjunction with the applicable side yard requirement, 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

*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, two-family dwelling (Use Group 1) located in an R5 zoning district, which does not comply with the zoning requirements for side yards, contrary to Z.R. § 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 marked "Received November 30, 2004"-(8) sheets and "Received December 9, 2004"-(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, December 14, 2004.

---

## 128-04-BZ

### CEQR #04-BSA-143M

APPLICANT - Marvin B. Mitzner, Fischbein Badillo Wagner Harding for Sam and Esther Minskoff Cultural Center, Park

reasonable possibility that development in strict compliance with the zoning requirements for side yard 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 has conducted a survey of similar narrow lots within a 400 foot radius which indicates that of the 33 narrow lots surveyed, 60% of the structures are built without side yards, while 33% of the structures are built with one side yard measuring less than 5'-0"; 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.

East Day School, Inc., owner.

SUBJECT - Application March 11, 2004- under Z.R. §72-21 to permit the enlargement of an existing school (Use Group 3) in an R8B zoning district, which is contrary to Z.R. §23-633, §24-11, §24-33 and §24-552.

PREMISES AFFECTED - 162-168 East 68<sup>th</sup> Street, southside of East 68<sup>th</sup> Street, 100 feet west of Third Avenue, Block 1402, Lots 41 and 42 (tent. 42), Borough of Manhattan.

### COMMUNITY BOARD #8M

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 March 9, 2004, acting on DOB Application No. 103412807 reads:

- "1. The proposed enlargement to the existing school does not comply with height and setback requirements. This is contrary to ZR 23-633.
2. The maximum floor area and lot coverage exceeds the allowable. This is contrary to ZR 24-11.
3. The proposed community facility space, in excess of 23 feet in height above curb level, is not a permitted obstruction in a required rear yard. This is contrary to ZR 24-33.
4. The proposed enlargement to the existing school does not comply with the required rear

---

# MINUTES

---

yard setback. This is contrary to ZR 24-552.;"

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 and November 9, 2004, and then to December 14, 2004 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 Caliendo, Miele and Chin; and

WHEREAS, this is an application under Z.R. § 72-21 to permit, on a site previously before the Board, the proposed enlargement of an existing school, Use Group 3, located in an R8B zoning district, which does not comply with the zoning requirements for height and setback, floor area, lot coverage and rear yard setback, contrary to Z.R. §§ 23-633, 24-11, 24-33 and 24-552; and

WHEREAS, this application was brought on behalf of the Sam and Esther Minkoff Cultural Center, Park East Day School, Inc., a not-for-profit religious school (the "School"); and

WHEREAS, Community Board 8, Manhattan, took no position as to the subject application; and

WHEREAS, individual neighbors, as well as certain

WHEREAS, the 1973 Grant allowed waivers of lot coverage, rear yard, and sky exposure plane requirements of the then applicable C1-8(R8) zoning district regulations; the site has since been rezoned to R8B; and

WHEREAS, the record indicates that the existing School building is built to the full coverage on the first and second floors, but is only 67 feet deep on floors three through eight (the eighth floor of the building is mechanical space, and technically is classified as a mezzanine), leaving a rear yard of 33 feet at these levels; and

WHEREAS, the instant proposal seeks to construct an enlargement of the School building on Lot 41, which the applicant states would generally mirror the existing School building by lining up to its existing floor levels; and

WHEREAS, the applicant represents that matching up the floors of the enlarged portion with those of the existing building is the only feasible way to construct the enlargement in a way which furthers the goal of providing usable educational space for the School; and

WHEREAS, once enlarged, the new School building on Tentative Lot 42 will possess the following non-compliances: (1) a Floor Area Ratio ("FAR") of 5.17; the maximum permitted FAR is 5.1; (2) 100% lot coverage; the maximum permitted is 70%; (3) a base and building height of 103.5 feet; the district maximums are 60 feet for the base and 75 feet for the total building height; and (4) no front setback and a 20 foot setback at the eighth floor; a 15 foot front setback and 10 foot rear setback are required; and

WHEREAS, at the request of the Board and in response to community concerns, the applicant has reduced the size of the caretaker's apartment at the top floor, from 1,350 sq. ft. to 940 sq. ft., which results in a 20 foot rear setback at this level; and

WHEREAS, this reduction in the size of the apartment also reduces the amount of the FAR waiver; and

cooperative buildings neighboring the subject premises, appeared in opposition, primarily to that component of the application that provides for a caretaker's apartment in the enlarged portion of the building; and

WHEREAS, opposition also contended that due notice of the application was not given to the appropriate parties; however, the Board has reviewed the evidence in the record and finds that notice was properly served in accordance with the Board's Rules of Practice and Procedure; and

WHEREAS, the subject site is located on the south side of East 68<sup>th</sup> Street, with a frontage of approximately 95 feet and a depth of 100 feet, and is comprised of two tax lots (Lots 41 and 42); and

WHEREAS, Lot 41, comprising the easternmost 20 feet of the site, formerly was developed with a recently demolished three-story structure that had been used for storage and as the dwelling for the School caretaker; and

WHEREAS, Lot 42, directly to the west of Lot 41, is improved upon with an existing eight-story building, constructed pursuant to a variance granted by the Board on February 20, 1973 under Calendar No. 658-72-BZ (the "1973 Grant"); and

WHEREAS, the applicant has also reduced the ceiling height of the apartment from 15 ft. to 9 ft., which results in a reduction of the total building height waiver by 6 feet; and

WHEREAS, the applicant represents that in the past 30 years, since the original variance, the educational needs and standards of the School have changed; the current class rooms are undersized for the intended grade level and are without appropriate locker facilities; specialty classrooms such as science and computer rooms are undersized; there are currently no areas for one-on-one instruction or tutoring; and there is no indoor play space for the younger students; and

WHEREAS, the applicant represents that the proposed enlargement would provide ten additional classrooms, a media center, an early childhood playroom, a first aid room, an enhanced library, science and computer rooms, additional resource/conference rooms, and a caretaker's apartment (which was formerly located in the demolished three-story building on Lot 41), all of which would further the School's goal of implementing an international program with video-conferencing with schools in other countries; and

WHEREAS, the applicant states that the strict application of the underlying R8B regulations would conflict with the existing School building as well as the programmatic needs of the School – the rear yard and lot coverage restrictions would require the elimination of the proposed computer room, while the base height, building height and setback regulations would require the elimination of four classrooms, accessory offices and the caretaker's unit; and

WHEREAS, in response to the Board's inquiry regarding the elimination of the proposed 8<sup>th</sup> floor and the relocation of the caretaker's apartment to an off-site location, the applicant has provided adequate documentation showing that such relocation is cost-

---

# MINUTES

---

prohibitive, including evidence of both market apartment rents in the area and the increased security expenditures that would be necessitated by the relocation; and

WHEREAS, the applicant further states that a 24-hour on-site caretaker is required to oversee the security of the building, care for the maintenance and operation of the school and synagogue, and to be on-call for building emergencies; and

WHEREAS, the applicant has represented that there is no possibility of providing a similar space anywhere else within the existing building without affecting existing rooms or required facilities; and

WHEREAS, the applicant represents that the practical difficulties and unnecessary hardship arise from the impact of the applicable zoning restrictions on the subject site; 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 evidence, the enlargement is necessary in order

WHEREAS, specifically, there is an 18-story school building, occupied by Hunter College, to the west, a 19-story multiple dwelling to the east, and a 28-story multiple dwelling to the north, across 68<sup>th</sup> Street; and

WHEREAS, the Board has reviewed the record and has conducted a site visit, and agrees with the applicant that the new School building, once enlarged, will still be considerably smaller than many of the other buildings on the street; and

WHEREAS, in response to the concerns of neighbors about potential noise impacts from additional mechanical equipment (an emergency generator and a cooler) to be placed on the roof of the enlarged portion of the new School building, the applicant states that the equipment will operate at all relevant requirements for noise under the Noise Code and will be installed with additional sound attenuation baffling; and

WHEREAS, the applicant has agreed to a condition that the emergency generator will be tested no more than two times a month and that such test will only occur between the hours of 9:00 A.M. and 5:00 P.M., Monday through Friday; 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 this proposal is the minimum necessary to afford the owner relief and to meet the programmatic needs of the School; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the 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

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 regulation; and

WHEREAS, the Board finds that the applicant need not address Z.R. § 72-21(b) since the applicant is a not-for-profit organization and the development will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant represents that the proposed enlargement will not have any impact on any adjacent property, and will not alter the essential character of the neighborhood; and

WHEREAS, the applicant notes that the R8B zoning is a contextual district, but that the area is characterized by development that does not comply with the zoning; and

WHEREAS, the applicant states that the area is also characterized by other educational institutions; and

Assessment Statement (EAS) CEQR No. 04-BSA-143M dated April 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; 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 variation in the application of the Zoning Resolution, limited to the objections cited, to permit, on a site previously before the Board, the proposed enlargement of an existing school, Use Group 3, located in an R8B zoning district, which does not comply with the zoning requirements for height and setback, floor area, lot coverage and rear yard setback, contrary to Z.R. §§ 23-633, 24-11, 24-33 and 24-552; *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 11, 2004" - (4) sheets, "Received May 20, 2004" - (1) sheet, "Received September 14, 2004" - (5)

# MINUTES

sheets and "Received December 10, 2004" - (1) sheet; and on further condition;

THAT the emergency generator will be tested no more than two times a month and that such test will only occur between the hours of 9:00 A.M. and 5:00 P.M., Monday through Friday;

THAT the above condition shall be listed on the certificate of occupancy;

THAT the enlarged building shall not exceed a total FAR of 5.17;

THAT a rear setback of 20 feet shall be provided at the eighth floor on that portion of the enlarged building on Lot 41;

THAT 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

**159-04-BZ**

**CEQR #04-BSA-166X**

APPLICANT - Sheldon Lobel, P.C., for Civic Builders, Inc., owner.

SUBJECT - Application April 19, 2004 - under Z.R. §72-21 to permit the proposed construction of a charter school, Use Group 3, located within an M2-1 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 950/60 Longfellow Avenue, east side, between Bruckner Boulevard and Garrison Avenue, Block 2755, Lots 125 and 127, Borough of The Bronx.

**COMMUNITY BOARD #2BX**

APPEARANCES -

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** - Application granted.

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 June 21, 2004, acting on Application No. 200772930, reads;

"In an M2-1 zoning district, proposed change of use from factory to school (Use Group 3) is contrary to Section 42-00 of [the] Zoning Resolution."; and

WHEREAS, a public hearing was held on this application on November 9, 2004, after due notice by publication in *The City Record*, and then to decision on December 14, 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 and Commissioners Caliendo, Miele, and Chin; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, in an M2-1 zoning district, the operation of an existing school (Use Group 3), contrary to Z.R. § 42-00; and

WHEREAS, Community Board 2, Bronx, recommended approval of this application; and

WHEREAS, this application also has the support of

compliance 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.

Council Member Serrano and State Senator Diaz; and

WHEREAS, the subject premises is located on the east side of Longfellow Avenue between Bruckner Boulevard and Garrison Avenue, has a total lot area of 18,450 sq. ft., and is currently improved upon with a one-story plus cellar building; and

WHEREAS, the site is located on a dead end street, opposite railroad tracks that are situated below the Bruckner Expressway; and

WHEREAS, the building was formerly used for metal fabricating, printing, truck storage, and meat packing; and

WHEREAS, the building is owned by Civic Builders, Inc., a not-for-profit corporation that provides real estate assistance to educational and community organizations (hereinafter, the "applicant"); and

WHEREAS, the applicant states that the physical layout of the building is well-suited to the programmatic needs of the School; and

WHEREAS, specifically, the applicant states that the large size of the building allows for both the clustering of classrooms around flexible, multi-use spaces and a gallery in which students can show their work; and

WHEREAS, the applicant further states that: (1) the single-story configuration of the building allows the School to have its program on one floor, so that stairs or elevators are not needed; and (2) the large span structure of the building allows large classrooms that maximize the utilization of space, which decreases construction costs; 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 the applicable zoning regulation: (1) the building was designed for manufacturing purposes, was vacant, and was in poor condition; and (2) there is limited access to the site, as it is on a dead end street; and

WHEREAS, the Board notes that the existing building was used by various uses over time, as noted above, and that the building has been unable recently to sustain a conforming use; and

WHEREAS, the applicant also represents that the

---

# MINUTES

---

programmatic needs of the School, discussed above, are an important factor when considering the uniqueness of the premises; and

WHEREAS, 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 conformance with the applicable zoning regulation; and

WHEREAS, the applicant need not address Z.R. § 72-21(b) since the applicant is a not-for-profit organization and the development on this site is in furtherance of its not-for-profit purposes; and

WHEREAS, the applicant represents that the use of the site by the School will not impact the essential character of

WHEREAS, the Board notes that appropriate traffic markings, signage and painted crosswalks have been installed by the New York City Department of Transportation ("DOT"), as evidenced by photographs submitted by the applicant and a letter from DOT (discussed in more detail below); and

WHEREAS, in addition, the Board notes that sound attenuation insulation will be provided in all partition walls, and all windows will be double glazed in order to achieve a noise level of 45DBA; and

WHEREAS, therefore, the Board finds that the proposed action will not alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief and to meet the programmatic needs of the School; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. § 72-21; and

WHEREAS, the 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-166X dated April 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; Construction Impacts; and Public Health; and

WHEREAS, the New York City Department of Environmental Protection specifically examined the proposed action for potential hazardous materials, air

the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the applicant states that the School will not conflict with the existing manufacturing uses located on the same block; and

WHEREAS, as noted above, a committee of the Board has conducted a site and neighborhood inspection, and agrees that the School will have negligible impact on both the nearby conforming uses and on the character of the community; and

WHEREAS, the record indicates that while most of the students are bused to the School, some will arrive by walking or other means of transportation; and

quality, and noise impacts and determined that there would not be any impacts based on the following measure being implemented: sealing of all floor drains currently located in the cellar of the building within four weeks from the date of this grant; and

WHEREAS, DOT's Division of School Safety Engineering states in its November 5, 2004 letter to the Board that it has surveyed the area surrounding the School for child safety concerns and has ordered and installed pavement markings and signs at eight intersections near the School; 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 variation in the application of the Zoning Resolution, limited to the objections cited, to permit, in an M2-1 zoning district, the operation of an existing school (Use Group 3), contrary to Z.R. § 42-00, *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 10, 2004"- (3) sheets; and *on further condition*;

THAT all floor drains currently located in the cellar of the subject building shall be sealed within four weeks from the date of this grant;

THAT all fire protection and sound attenuation measures as noted on the BSA-approved plans and in the letter from Claire Weisz, R.A., dated June 30, 2004 (which is part of the BSA record) shall be installed and maintained;

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;

THAT the approved plans shall be considered

# MINUTES

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.

## 193-04-BZ

### CEQR #04-BSA-197K

APPLICANT - Harold Weinberg, P.E., for Cherie & Don Lang,

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 May 7, 2004, acting on Department of Buildings Application No. 301768763, reads, in pertinent part:

“The proposed enlargement to an existing one family house in an R4 zoning district is contrary to the Zoning Resolution (ZR) in that:

1. The proposed rear yard is less than 30’ and is contrary to Section 23-47 of the ZR;
2. The Floor Area Ratio exceeds the permitted and is contrary to Section 23-141 of the ZR;
3. The side yards are less than required and are contrary to Sections 23-48 & 54-31;
4. The lot coverage ratio is larger than permitted and is contrary to Sections 23-141 & 54-31.”; and

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 December 14, 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 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 R4 zoning district, which does not comply with the zoning requirements for floor area, lot coverage and side and rear

owners.

SUBJECT - Application May 10, 2004- under Z.R. §73-622 to permit the proposed one story enlargement over the existing first floor of a one family residential dwelling, which does not comply with the zoning requirements for rear yard, floor area ratio, side yards and lot coverage, is contrary to Z.R. §54-31, §23-141, §23-48 and §23-47.

PREMISES AFFECTED - 92 Gotham Avenue, south side, 366'-0" east of Fane Court, Block 8923, Lot 936, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

#### APPEARANCES -

For Applicant: Harold Weinberg.

**ACTION OF THE BOARD -** Application granted.

#### THE VOTE TO REOPEN HEARING -

yard, contrary to Z.R. §§ 23-141, 23-47, 23-48 and 54-31; and

WHEREAS, the subject lot is located on the south side of Gotham Avenue between Gerritsen Avenue and Fane Court South, and has a total lot area of approximately 1,680 sq. ft.; and

WHEREAS, the applicant states that the subject premises is improved upon with an existing one-story and cellar residential structure, with existing non-complying side yards of 2'-6" and 3'-2"; and

WHEREAS, the applicant also represents that the subject premises has an existing non-complying lot coverage of 790.3 sq. ft. (47%) – the maximum permitted is 756 sq. ft. (45%); and

WHEREAS, the applicant seeks to enlarge the existing structure through the construction of a one-story enlargement over the first floor; and

WHEREAS, the applicant further represents that the premises has a non-complying rear yard of 16'-7 ¾"; and

WHEREAS, at the request of the Board and in order to satisfy the requirements of Z.R. § 73-622, the applicant has modified the proposal so that the one-story enlargement over the first floor shall not be located within 20 feet of the rear lot line; and

WHEREAS, the applicant seeks an increase in the floor area from 790 sq. ft. (0.47 Floor Area Ratio or "FAR") to 1,518 sq. ft. (0.90 FAR) – the maximum floor area permitted is 1,260 sq. ft. (0.75 FAR); 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

# MINUTES

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

THAT the above condition shall be set forth on the certificate of occupancy;

THAT the one-story enlargement over the first floor shall not be located within 20 feet of the rear lot line;

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, December 14, 2004.

## 250-04-BZ

### CEQR #05-BSA-005K

APPLICANT - Sheldon Lobel, P.C., for Avrohom & Chava Dusowitz, owners.

SUBJECT - Application July 14, 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 side and rear yards, floor area and open space ratio, is contrary to Z.R. §23-461, §23-47 and §23-141.

PREMISES AFFECTED - 1220 East 27th Street, between Avenues "L" and "M", Block 7644, Lot 54, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Richard Lobel.

**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

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, lot coverage and side and rear yard, contrary to Z.R. §§ 23-141, 23-47, 23-48 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 December 8, 2004" - (2) sheets, "Received December 10, 2004" - (2) sheets, and "Received December 13, 2004" - (1) sheet; and on further condition;

THAT there shall be no habitable room in the cellar;

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 June 23, 2004, acting on Department of Buildings Application No. 301741444, reads, in pertinent part:

1. Proposed plans are contrary to Z.R. 23-141 Z.R. in that the proposed straight line enlargement of the existing non-complying side yards of 2 ½' - 11 ½" and 4' - 11" are less than the minimum required side yards of 5' - 0".
2. Proposed plans are contrary to Z.R. 23-47 Z.R. in that the proposed rear yard of 20 ft. is less than the minimum required rear yard of 30 ft.
3. Proposed increase in floor area is contrary to Section 23-141 in that the proposed building exceeds the maximum permitted floor area ratio of 0.50.
4. Proposed plans are contrary to Section 23-141 Z.R. in that the proposed open space ratio is less than the minimum required open space ratio of 1.50."; and

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 December 14, 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 14, Brooklyn recommended 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 and 23-47; and

WHEREAS, the subject lot is located on the west side of East 27<sup>th</sup> Street, between Avenues L and M, and has a total lot area of approximately 2,500 sq. ft.; and

WHEREAS, the applicant states that the subject premises is currently improved upon with a two-story

# MINUTES

residential structure with existing non-complying side yards of 2 ½'-11 ½" and 4'-11", and a non-complying front yard of 10'-1"; and

WHEREAS, the applicant seeks an increase in the floor area from 1,709 sq. ft. (0.68 Floor Area Ratio or "FAR") to 2,561 sq. ft. (1.02 FAR) – the maximum floor area permitted is 1,250 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the Open Space Ratio ("OSR") from 90.6% to 54.3% – the 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 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 November 29, 2004" – (4) sheets and "Received December 9, 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 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, December 14, 2004.

minimum open space 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

## 268-04-BZ

### CEQR #05-BSA-020K

APPLICANT - The Law Office of Fredrick A. Becker, for Paula Saff, owner.

SUBJECT - Application July 30, 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 ratio, open space ratio and side and rear yards, is contrary to Z.R. §23-461, §23-141 and §23-47.

PREMISES AFFECTED - 1246 East 22<sup>nd</sup> Street, between Avenues "K" and "L", Block 7621, Lot 78, 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 Caliendo, Commissioner Miele and Commissioner Chin:.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 9, 2004, acting on Department of Buildings Application No. 301784790, reads, in pertinent part:

1. Proposed enlargement increases the degree of non-compliance of an existing building with respect to floor area ratio, which is contrary to ZR Section 23-141(a).
2. Proposed enlargement increases the degree of non-compliance of an existing building with respect to open space ratio, which is contrary to ZR Section 23-141(a).
3. Proposed enlargement results in one side yard of less than 5 feet contrary to ZR Section 23-461(a)
4. Proposed enlargement results in a rear yard of less than 30 feet, which is contrary to ZR Section 23-47."; and

WHEREAS a public hearing was held on this application on November 23, 2004, after due notice by

# MINUTES

publication in *The City Record*, and then to December 14, 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 14, Brooklyn

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(a), 23-461(a) and 23-47; and

WHEREAS, the subject lot is located on the west side of East 22<sup>nd</sup> Street, between Avenues K and L, and has a total lot area of approximately 3,500 sq. ft.; and

WHEREAS, the applicant states that the subject premises is currently improved upon with a two-story, single-family house, with an existing non-complying side yard of 3' - 4"; and

WHEREAS, the applicant seeks an increase in the floor area from 2,434 sq. ft. (0.695 Floor Area Ratio or "FAR") to 3,219 sq. ft. (0.92 FAR) – the maximum floor area permitted is 1,750 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will reduce the Open Space Ratio ("OSR") from 94% to 65% – the minimum open space 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 side and rear yards, contrary to Z.R. §§ 23-141(a), 23-461(a) and 23-47; *on condition* that all work shall substantially conform to

recommended approval of this application; and

drawings as they apply to the objection above-noted, filed with this application and marked "Received November 30, 2004" – (8) sheets and "Received December 10, 2004" – (2) 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, December 14, 2004.

## 285-04-BZ

### CEQR #05-BSA-028K

APPLICANT - Slater & Beckerman, LLP, for Augustana Lutheran Home, owners.

SUBJECT - Application August 16, 2004 - under Z.R. §73-49 to permit parking on the roof of an existing four-story accessory parking garage contrary to Z.R. §36-11, located in a C1-3/R6 zoning district.

PREMISES AFFECTED - 5435 First Avenue aka 5424/5434 Second Avenue, west side, between 54th and 56th Streets, Block 820, Lot 36, Borough of Brooklyn.

### COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Stuart Beckerman.

**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 July 28, 2004, acting on Department of Buildings Application No. 301744600, reads, in pertinent part:

"1. Proposed accessory rooftop parking is not

---

# MINUTES

---

permitted under ZR 36-11. Special permit from B.S.A. is required pursuant to ZR 73-49.”; and

WHEREAS a public hearing was held on this 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 approval of this application, with conditions to which the applicant has consented; and

WHEREAS, this is an application under Z.R. § 73-49, for a special permit to allow, in a C1-3(R6) zoning district, accessory parking (47 spaces) on the roof of an existing four-story accessory parking garage, contrary to Z.R. § 36-11; and

WHEREAS, the subject lot is located on the north side of a demapped section of 55<sup>th</sup> Street, between First and Second Avenues, and is currently improved upon with a seven-story 240-bed nursing home (the “Nursing Home”) and a four-story 160-space accessory parking garage (the “Garage”); and

WHEREAS, the applicant represents that the Nursing Home is an affiliate of the Lutheran Medical Center, a four-story hospital (the “Hospital”), located directly to the south, across 55<sup>th</sup> Street, and connected to the Nursing Home by a pedestrian bridge over land purchased by the Hospital following a demapping of a section of 55<sup>th</sup> Street; and

WHEREAS, the applicant further represents that the Garage provides accessory parking to the Nursing Home and the Hospital, which is allowed for two adjacent zoning lots within the same commercial zoning district, pursuant to Z.R. §§ 36-43 and 36-44; 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 Board notes that the number of allowed parking spaces is calculated as of right, assuming the Board grants the special permit; and

WHEREAS, the applicant states that the properties immediately abutting the Garage will not be negatively affected by the proposed roof parking, as the lots directly to the north and west of the Garage are improved with industrial uses, while the Hospital and Nursing Home served by the Garage are located to the south and east, respectively; and

WHEREAS, the applicant further states that there are no residential windows within sight of the roof of the Garage, and that the nearest residential uses are located in a mixed-use three-story multiple dwelling located on the east side of Second Avenue between 54<sup>th</sup> and 55<sup>th</sup> Streets; and

WHEREAS, the applicant asserts that the existing 160 spaces in the Garage are insufficient to meet the parking demand generated by the employees, visitors and physicians of the Nursing Home and Hospital, and that the 47 spaces generated as a result of this application will alleviate the parking deficiency; and

WHEREAS, in response to the traffic-based concerns of the Community Board, the applicant has agreed to paint a

application on November 9, 2004 after due notice by publication in *The City Record*, and then to December 14, 2004 for decision; and

traffic line bisecting Former 55<sup>th</sup> Street from First to Second Avenues, and also to post a sign on the corner of First Avenue and Former 55<sup>th</sup> Street indicating that there is no outlet; and

WHEREAS, the applicant has also agreed to the Community Board’s condition to enforce a no parking regulation on the sidewalks of 55<sup>th</sup> Street; and

WHEREAS, in addition, the applicant will place and direct all lighting on the roof of the Garage in such a way as to minimize impact upon surrounding uses; and

WHEREAS, therefore, 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. §§ 73-49 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. § 73-49, for a special permit to allow, in a C1-3(R6) zoning district, accessory parking on the roof of an existing four-story accessory parking garage, 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 August 16, 2004” – (2) sheets and “Received December 1, 2004” – (3) sheets; and *on further condition*;

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.

Adopted by the Board of Standards and Appeals, December 14, 2004.

---

# MINUTES

---

**361-02-BZ**

APPLICANT - Marianne Russo, for 214 25<sup>th</sup> Street Corporation, owner.

SUBJECT - Application December 13, 2002 and updated January 5, 2004 - under Z.R. §72-21 to permit the proposed renovation and conversion of an existing factory building, to create 15 unit loft type apartments, with five parking spaces in the mews, a 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 25<sup>th</sup> Street, between Fourth and Fifth Avenues, Block 655, Lot 13, Borough of Brooklyn.

**COMMUNITY BOARD #7BK**

APPEARANCES -

For Applicant: Peter Hirshman and Marianne Russo.

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 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, aka 144 North 12th Street, southwest corner of North 12th Street and Berry Street, Block 2290, Lot 5, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Mitchell Ross.

**ACTION OF THE BOARD** - Laid over to February 8, 2004, at 1:30 P.M., for continued hearing

---

**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****168-04-BZ**

APPEARANCES -

For Applicant: Moshe M. Friedman.

**ACTION OF THE BOARD** - Laid over to February 15, 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, Peter Geis, Jack Freeman, Felipe Pedrazza.

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.

---

**136-04-BZ**

APPLICANT - Sheldon Lobel, P.C., for Exxon Mobil Oil Corporation, owner.

SUBJECT - Application March 22, 2004 - under Z.R. §73-21 to permit the proposed redevelopment of gasoline service station, with an accessory convenience store, located in an C2-3 within an R-5 zoning district, is contrary to Z.R. §32-00.

PREMISES AFFECTED - 3132 Fort Hamilton Parkway, between McDonald Avenue and East Second Street, Block 5315, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

APPEARANCES -

For Applicant: Janice Cahalane and Sean Mulrayav.

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.

---

APPLICANT - Jay A. Segal, Esq., Greenberg Traurig LLP, for

---

# MINUTES

---

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, Carole DeSaram, and Faber Fredbanda.

**ACTION OF THE BOARD** - Laid over to January 25, 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, Mark Fertig, Miriam Steinberg, Dorothy Turano, Brenda Torres, H.R. Clarke, Francisce Hall, Gary Leg, Emerald Hannays, Gary Silver, and other.

For Opposition: Senator Carl Kruger, Bryan Lee, Councilman Fidler's Office, Saul Needle, Roberta Sherman and Mel Levy.

**ACTION OF THE BOARD** - Laid over to February 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 #14

APPEARANCES -

**ACTION OF THE BOARD** - Laid over to January 11, 2005, at 1:30 P.M., for decision, hearing closed.

---

## 264-04-BZ

APPLICANT - Eric Palatnik, P.C., for Glak Operating Corp., owner.

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 January 25, 2005, at 10 A.M., for continued hearing.

---

## 238-04-BZ

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.

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.

---

## 259-04-BZ

APPLICANT - Sheldon Lobel, P.C., for Richard Senior, owner.

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: Richard Lobel.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5  
Negative:.....0

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.

---

# MINUTES

---

**COMMUNITY BOARD #1SI**

APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to January 25, 2005,  
at 1:30 P.M., for continued hearing.

\_\_\_\_\_  
*Pasquale Pacifico, Executive Director.*

Adjourned: 6:10 P.M.