
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 88, No. 27

July 3, 2003

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199-03-BZ B.BK. 148 Classon Avenue, between Myrtle and Park Avenues, Block 1895, Proposed Lot 42, Borough of Brooklyn. N.B.#301350151. Proposed seven story residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

COMMUNITY BOARD #3BK

200-03-BZ B.BK. 152 Classon Avenue, between Myrtle and Park Avenues, Block 1895, Proposed Lot 46, Borough of Brooklyn. N.B.#301350160. Proposed seven story residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

COMMUNITY BOARD #3BK.

201-03-BZ B.BK. 156 Classon Avenue, between Myrtle and Park Avenues, Block 1895, Proposed Lot 47, Borough of Brooklyn. N.B.#301350179. Proposed seven story residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

COMMUNITY BOARD #3BK

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COMMUNITY BOARD #3BK

203-03-BZ B.BK. 81 Emerson Place, between Myrtle and Park Avenues, Block 1895, Proposed Lot 116, Borough of Brooklyn. N.B.#301350124. Proposed seven story residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

COMMUNITY BOARD #3BK

204-03-BZ B.BK. 85 Emerson Place, between Myrtle and Park Avenues, Block 1895, Proposed Lot 115, Borough of Brooklyn. N.B.#301350133. Proposed seven story residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

COMMUNITY BOARD #3BK

205-03-BZ B.BK. 89 Emerson Place, between Myrtle and Park Avenues, Block 1895, Proposed Lot 114, Borough of Brooklyn. N.B.#301350142. Proposed seven story residential building, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-00.

COMMUNITY BOARD #3BK

206-03-BZ B.M. 980 Madison Avenue, west side, between East 76th and East 77th Streets, Block 1391, Lot 14, Borough of Manhattan. Applic.#103459963. Proposed physical establishment, located on the second floor of a five story commercial building, in a C5-1 (MP) zoning district, requires a special permit from the Board as per Z.R. §32-10.

COMMUNITY BOARD #8M

207-03-BZ B.BK. 2316 Avenue "J", south side, between East 23rd and East 24th Streets, Block 7605, Lot 47, Borough of Brooklyn. Applic.#301537460. Proposed enlargement 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, and side and rear yards, is contrary to §23-141, §23-461 and §23-47.

COMMUNITY BOARD #14BK

208-03-BZ B.BK. 2555 Shell Road, east side, between Avenue "X" and Bouck Court, Block 7192, Lot 74, Borough of Brooklyn. Alt.1#301263816. 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.

COMMUNITY BOARD #

209-03-BZ B.M. 150 Central Park South, south side, between Avenue of the Americas and Seventh Avenue, Block 1011, Lot 52, Borough of Manhattan. Applic.#103473224. Proposed physical culture establishment, located in a portion of the cellar, first floor and second floor of subject thirty-six (36) story residential building, in an R10-H zoning district, is contrary to Z.R. §22-00.

COMMUNITY BOARD #5M

DOCKET

210-03-BZ B.BK. 1455 East 24th Street, east side, 450' south of Avenue "N", Block 7678, Lot 26, Borough of Brooklyn. Applic.#301546815. Proposed erection of a two-story enlargement, at the rear of an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio and rear yard, is contrary to Z.R. §23-141, §23-47 and §54-31.

COMMUNITY BOARD #14BK

211-03-BZ B.Q. 5-29/33 48TH Avenue, between Vernon Boulevard and Fifth Street, Block 30, Lot 9, Borough of Brooklyn. Applic.#401581793. 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.

COMMUNITY BOARD #2M

212-03-A B.Q. 129-32 Hook Creek Boulevard, east side, between 129th Road and 130th Avenue, Block 12891, Lot 2, Borough of Queens. N.B.#401623711. Proposed single family dwelling, located partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General Law.

213-03-A B.Q. 129-36 Hook Creek Boulevard, east side, between 129th Road and 130th Avenue, Block 12891, Lot 4, Borough of Queens. N.B.#401623169. Proposed single family dwelling, located partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General Law.

214-03-BZ B.M. 388 Broadway, east side, , between White and Walker Streets, Block 195, Lot 3, Borough of Manhattan. Applic.#103444916. 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, requires a special permit from the Board as per Z.R. §73-36.

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 5, 2003, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday morning*, August 5, 2003, at 10 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

578-71-BZ

APPLICANT - Walter T. Gorman, P.E., for The Richard W. Schenkel Trust and Schenkel Investments, L.P., owner; One Hess Plaza, lessee.

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

PREMISES AFFECTED - 833/47 4th Avenue, southeast corner of 30th Street, Block 673, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

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 31st Street, east side of 31st Street, 217.71' North of 36th Avenue, Block 604, Lot 10, Borough of Queens.

COMMUNITY BOARD #1Q

830-86-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for A & J Properties, LLC, owner; Jack LaLanne Fitness Centers, Inc., lessee.

SUBJECT - Application June 20, 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 - 1720/28 Sheepshead Bay Road, 123.21' south of intersection of Vorhies Avenue, Block 8770, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #15BK

PREMISES AFFECTED - 18 Exeter Street, east side, 126'-4½" south of Oriental Boulevard, north of Hampton Avenue, Block 8730, Lot 53, Borough of Brooklyn.

COMMUNITY BOARD #15BK

263-98-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for Joseph Elegudin, owner.

SUBJECT - Application June 3, 2003 - reopening for an extension of time to complete construction which expired July 24, 2003.

PREMISES AFFECTED - 118 Oxford Street, Oxford Street, 115' south of Shore Boulevard, Block 8757, Lot 90, Borough of Brooklyn.

COMMUNITY BOARD #15BK

212-03-A & 213-03-A

APPLICANT - Tai Lawal Calibre Building Services, Inc., for Nabat Development Corp., owner.

SUBJECT - Application June 20, 2003 - Proposed single family dwelling, located partially within the bed of a mapped street, is contrary to Section 35, Article 3 of the General Law.

PREMISES AFFECTED -

129-32 Hook Creek Boulevard, east side, between 129th Road and 130th Avenue, Block 12891, Lot 2, Borough of Queens.

129-36 Hook Creek Boulevard, east side, between 129th Road and 130th Avenue, Block 12891, Lot 4, Borough of Queens.

COMMUNITY BOARD #13Q

AUGUST 5, 2003, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, August 5, 2003, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

281-02-BZ

APPLICANT - Harold Weinberg, P.E., for Jacob Farhi, owner.

SUBJECT - Application October 18, 2002- under Z.R. §73-622 to permit the legalization of an enlargement at the rear of an existing one family residence, Use Group 1, located in an R3-1 zoning district, which does not comply with the zoning requirements for floor area ratio, also side and rear yards, and is contrary to Z.R. §23-141, §54-31, §23-47 and §23-461.

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

CALENDAR

located in an area designated as a manufacturing district, to be used for a day care center, Use Group 3, and office use, Use Group 6, without the required parking, and is contrary to Z.R. §42-00 and §44-21.

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

COMMUNITY BOARD #7BK

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 39th Street, southeast corner of Sixth Avenue, Block 914, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #7BK

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

96-03-BZ

APPLICANT - Agusta & Ross, for Brucha Building Corp., owner.

SUBJECT - Application March 27, 2003 - under Z.R. §72-21 to permit the proposed erection of a five story, ten unit multiple dwelling, Use Group 2, upon a vacant shallow corner zoning lot, located in an M1-1 zoning district, which is contrary to Z.R. §42-

REGULAR MEETING

TUESDAY MORNING JUNE 24, 2003

10:00 A.M.

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, April 29, 2003, were approved as printed in the Bulletin of May 8, 2003, Volume 88, No. 19.

10.

PREMISES AFFECTED - 86 Franklin Avenue, aka 450/52 Park Avenue, southwest corner, Block 1898, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #3BK

97-03-BZ-98-03-BZ

APPLICANT - Agusta & Ross, for Coconut International Realty Corp./Blue Sky, Inc., owner.

SUBJECT - Application March 27, 2003 - under Z.R. §72-21 to permit the proposed erection of a multiple dwelling, Use Group 2, upon a vacant irregularly shaped zoning lot, located in an R7-1/M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED -

461 Flushing Avenue, northside, 72' east of Bedford Avenue, Block 2263, Lot 86, Borough of Brooklyn.

463 Flushing Avenue, northside, 124'10" east of Bedford Avenue, Block 2263, Lot 84, Borough of Brooklyn.

COMMUNITY BOARD #1BK

181-03-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Abraham Gutwein and Shirley Gutwein, owners.

SUBJECT - Application May 28, 2003 - under Z.R. §73-6223 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 and open space ratio, which is contrary to Z.R. §23-141.

PREMISES AFFECTED - 2615 Avenue "N", north side, 40' west of East 27th Street, Block 7662, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Pasquale Pacifico, Executive Director

SPECIAL ORDER CALENDAR

763-59-BZ

APPLICANT - Vassalotti Associates Architects, LLP, for Exxonmobile Fuels Marketing Co., owner.

SUBJECT - Application October 10, 2002 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1764 University Avenue, southeast corner of Macombs Road and University Avenue, Block 2876, Lot 122, Borough of The Bronx.

MINUTES

COMMUNITY BOARD #5BX

APPEARANCES -

For Applicant: Janice Cahalane for Hiram A. Rothkrug.

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, the decision of the Borough Commissioner dated April 19, 2002 and updated on September 23, 2003 acting on Application No. 200700786 reads:

"PROPOSED ADDITION OF PUMP ISLAND IS CONTRARY TO BOARD OF STANDARDS AND APPEALS APPROVAL UNDER CAL #763-59 BZ."; and

WHEREAS, a public hearing was held on this application on December 17, 2002, and laid over to February 11, 2003 for decision, reopened and laid over to April 15 2003, May 6 2003, May 20, 2003, June 17, 2003 and then to June 24, 2003 for decision; and

WHEREAS, on June 1, 1960, the Board granted an application for reconstruction of an existing gasoline service station with accessory uses; and

WHEREAS, the applicant now proposes to remove two (2) existing pump islands with one multi-product dispenser on each island and install three (3) new islands with one multi-product dispenser on each island; and

Resolved, that the Board of Standards and Appeals hereby waives the Rules of Practice and Procedure and reopens and amends the variance pursuant to '73- 11, said resolution having been adopted November 16, 1971, so that as amended this portion of the resolution shall read:

"to permit the removal two (2) existing pump islands with one multi-product dispenser on each island and installation three (3) new islands with one multi-product dispenser on each island, on condition

THAT the premises shall be maintained in substantial compliance with the proposed drawing submitted with the application marked "Received April 8, 2003"-(1) sheet and "June 20, 2003"-(1) sheet; and that other than as herein amended the resolution above cited shall be complied with in all respects; and on

WHEREAS, the applicant requested a waiver of the Rules of Practice and Procedure and a reopening for an extension of the term of the variance which expired on June 16, 1979; and

WHEREAS, a public hearing was held on this application on November 19, 2002, after due notice by publication in The City Record, and laid over to December 17, 2002, and then to February 4, 2002, and then to April 15, 2002, and then June 3, 2002 and then to June 24, 2003 for decision; and

WHEREAS, on June 16, 1974, the Board granted an application to permit in a C1-5 and R10 district, transient parking for passenger cars in unused and surplus tenant spaces within the existing Multiple Dwelling accessory garage for a term of fifteen years; and

Resolved, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, reopens and amends the

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under 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 24, 2003

352-64-BZ

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

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

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

COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Rules of Practice and Procedure 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 -

resolution to extend the term of the variance which expired on June 16, 1979, 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 24, 2003 to expire on June 24, 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 September 4, 2002"-(3) 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

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;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the 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 #102944405)

Adopted by the Board of Standards and Appeals, June 24, 2003.

89-65-BZ

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

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

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

COMMUNITY BOARD #11BK

APPEARANCES - None.

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 June 3, 2002, after due notice by publication in The City Record, and then to June 24, 2003 for decision; and

WHEREAS, the applicant has requested an amendment to the variance for the erection of a horizontal enlargement to the existing

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the 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 # 301520316)

Adopted by the Board of Standards and Appeals, June 24, 2003.

374-75-BZ

APPLICANT - New York City Board of Standards and Appeals.

SUBJECT: to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 380-394 Amsterdam Avenue,

structure, increasing the floor area from 5,400 square feet to approximately 9,200 square feet, as well as, a change in the use from a eating drinking establishment with a drive thru to an as of right retail establishment with accessory parking and a loading area; and

WHEREAS, on May 4, 1965, the Board granted an application to permit in a C8-2, C2-3, and R-5 district the extension of an accessory parking area into an R-5 district, in conjunction with, the erection of a one-story eating and drinking establishment; and

WHEREAS, on August 9, 1988, the Board granted an application to permit the demolition of the structure, the construction of a new one-story eating and drinking establishment with a drive thru facility, and the rearrangement of parking spaces to decrease the number of available spaces; and

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 erection of a horizontal enlargement to the existing structure, increasing the floor area from 5,400 square feet to approximately 9,200 square feet, as well as, a change in the use from a eating drinking establishment with a drive thru to an as of right retail establishment with accessory parking and a loading area"; and

THAT all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received April 3, 2003"-(10) sheets and "Received June 9, 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 this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

Manhattan.

COMMUNITY BOARD #8M

APPEARANCES - None.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

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

Adopted by the Board of Standards and Appeals, June 24, 2003.

669-80-BZ

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

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

PREMISES AFFECTED - 7 Buttonwood Road, east side, 200'

MINUTES

North of Willow Pond Road, Block 879, Lot 12, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES - None.

ACTION OF THE BOARD - Application re-opened 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 April 15, 2003, after due notice by publication in The City Record, and laid over to June 3, 2003 and then to June 24, 2003 for decision; and

WHEREAS, the applicant has requested an amendment to the variance for the extension of the cellar, first story, second story, and attic of an existing two-story, one-family residence with two-car garage; and

WHEREAS, on January 14, 1981, the Board granted an application to permit the enlargement of the first floor of an existing one-family dwelling in an R1-1 district that encroached into the side yard contrary to Z.R. §23-44; and

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 enlargement of the cellar, first floor, second floor, and attic of an existing two-story, one-family dwelling in an R1-1 district, located in a required side yard," 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 5, 2003"- (10) sheets; and on further condition;

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

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 3, 2003, after due notice by publication in The City Record, and then to June 24, 2003 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 May 12, 2002; and

WHEREAS, the subject application also seeks an amendment to the Variance to permit the legalization of the expansion of a physical culture establishment in a C2-2 (R3-2) district; and

WHEREAS, on May 12, 1992, the Board granted an application to permit in a C2-2 (R3-2) district, the installation of a physical culture establishment for a term of ten years; and

Resolved, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, reopens and amends the resolution to extend the term of the Variance which expired on May 12, 2002, so that as amended this portion of the resolution shall read:

"to permit the legalization of the expansion of a physical culture

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

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

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

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

(DOB Application # ALT. I. 500386147)

Adopted by the Board of Standards and Appeals, June 24, 2003.

41-91-BZ

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

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

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

COMMUNITY BOARD #18BK

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 -

establishment in a C2-2 (R3-2) district and to permit the extension of the term of the Variance for an additional ten (10) years from May 12, 2002 to expire on May 12, 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 March 25, 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;

THAT this approval 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."

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(DOB Application #300051431)

Adopted by the Board of Standards and Appeals, June 24, 2003.

812-61-BZ

APPLICANT - Omer Fenik Architects, for 80 Park Avenue Condominium, owner.

SUBJECT - Application February 12, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired October 24, 2002.

PREMISES AFFECTED - 74-82 Park Avenue, East 39th Street, Block 868, Lot 42, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Peter Hirshman.

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 August 5, 2003, at 10 A.M., for decision, hearing closed.

202-62-BZ

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

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

206-91-BZ

APPLICANT - Rampulla Associates, Architects, for Thomas Nicolosi, owner.

SUBJECT - Application April 16, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired July 28, 2002.

PREMISES AFFECTED - 4300 Hylan Boulevard, south side of Hylan Boulevard and Windchester Avenue, Block 5319, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #3S.I.

APPEARANCES -

For Applicant: Philip P. Agusta.

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 July 22, 2003, at 10 A.M., for decision, hearing closed.

owners.

SUBJECT - Application April 1, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired April 3, 2001 and for an amendment to the resolution.

PREMISES AFFECTED - 950 Allerton Avenue, triangular lot bound by Allerton Avenue, Williamsbridge Road and Paulding Avenue, Block 4447, Lot 62, Borough of The Bronx.

COMMUNITY BOARD #11BX

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Laid over to August 12, 2003, at 10 A.M., for continued hearing.

36-70-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for 200 West 79th Street Owners, Inc., owner; Amstore Limited Partnership, lessee.

SUBJECT - Application April 22, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 200-204 West 79th Street, aka 380 Amsterdam Avenue, west side of Amsterdam between West 78th Street and 79th Streets, Block 1170,, Lot 7501 FKA 29, 30, 32, 34, 35, 36, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES -

For Applicant: Howard Hornstein and Peter Geis.

For Opposition: Jeremy Harwood and Edward Rogoff.

77-99-BZ

APPLICANT - The Agusta Group, for Turnpike Auto Laundry Inc. Phil Frank President, owner.

SUBJECT - Application January 21, 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 December 5, 2002.

PREMISES AFFECTED - 255-39 Jamaica Avenue, north side of Jamaica Avenue (a.k.a Jericho Turnpike) 80' west of 256th Street, Block 8830, Lot 52, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Nelly Bravo.

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 July 22, 2003, at 10 A.M., for decision, hearing closed.

259-02-A

MINUTES

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

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

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

COMMUNITY BOARD #3S.I.

APPEARANCES -

For Applicant: Philip Rampulla.

ACTION OF THE BOARD -Appeal granted on condition.

THE VOTE TO GRANT -

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele4

Negative:0

THE RESOLUTION-

WHEREAS, the decision of the Staten Island Borough Commissioner, dated August 23, 2002 acting on N.B. Application No. 500556187, reads in pertinent part:

"The proposed construction is located within the bed of a mapped street is contrary to Section 35 of the General Law"; and

WHEREAS, by letter dated November 22, 2002, the Fire Resolved, that the decision of the Staten Island Borough Commissioner, dated August 23, 2002 acting on N.B. Application No. 500556187, is modified under the power vested in the Board by §35 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, "Received June 20, 2003"- (1) sheet and that the proposal comply with all applicable R3-2 (SRD) zoning district requirements; that all applicable laws, rules, and regulations shall be complied with; on further condition

THAT the 15 foot sewer corridor easement that is acceptable to the DEP is created and recorded prior to the issuance of the Certificate of Occupancy;

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

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under 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 24, 2003

332-02-A

APPLICANT - Rothkrug, Rothkrug, Weinberg & Spector, for

Department has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 24, 2003, the Department of Transportation has reviewed the above project and has indicated that this property is not presently included in DOT's Capital Improvement Program and therefore has no objections; and

WHEREAS, by the letter dated May 15, 2003, the Department of Environmental Protection has reviewed the above project and is requiring that to guarantee the construction, maintenance and or reconstruction of the future sanitary sewer and storm sewer, a minimum 25ft wide easement be provided as a "Sewer Corridor" in the bed of Correll Avenue, the mapped street. Since there is an existing house in part of the bed of Correll Avenue and there is approximately 10 ft. clearance from that house to the above captioned property, DEP requires only an additional 15'. for the "Sewer Corridor" from Lot #35 on which the new building is to be built. DEP requires that no structures of permanent nature be built on Lot#37 within the existing 10ft. clearance, and on the additional 15' clearance on Lot #35; and

WHEREAS, the applicant has by letter dated June 20, 2003 agreed to provide a 15' easement in response to DEP's request; and

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

Thomas Gennarelli, owner.

SUBJECT - Application November 12, 2002 - 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 - 107 City Boulevard, east side, 200' north of Crosshill Street, Block 262, Lot 126, Borough of Staten Island.

COMMUNITY BOARD #1S.I.

APPEARANCES -

For Applicant: Philip Rampulla.

ACTION OF THE BOARD - Appeal granted

THE VOTE TO GRANT -

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele4

Negative:0

THE RESOLUTION-

WHEREAS, the decision of the Staten Island Commissioner, dated November 6, 2002, N.B. Application No. 500564150 reads in pertinent part:

" Proposed Construction 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, this case was filed with a companion application under BSA Calendar No. 333-02-A which is being withdrawn at the request of the applicant; and

WHEREAS, this appeal is filed to allow a single two family dwelling to be built in the bed of a mapped street known as Norma Place between City Boulevard and Metropolitan Avenue; and

WHEREAS, by a letter dated January 8, 2003 , the Fire Department has reviewed the above project and has no objections provide hydrant is added at the end of the presently paved section of Norma Place in proximity to the proposed dwelling; and

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WHEREAS, by the letter dated May 20, 2003, the Department of Environmental Protection has reviewed the above revised project and requires the applicant to revise the location of the proposed construction to provide a 25ft. Sewer Corridor Easement within the bed of Norma Place for the future drainage for the purpose of installation, maintenance and or reconstruction of the 10 inch dia. Sanitary and 12inch dia. Storm sewers; and

WHEREAS, by letter dated April 24, 2003, the Department of Transportation has reviewed the above revised project and objects to the proposal since it will create a dead end section on Norma Place that is approximately 175 feet long, without a turn around; 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 November 6, 2002 acting on N.B. Application No. 500564150, is modified under the power vested in the Board by §35 of the General City Law, and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the drawing filed with the application marked, "Received March 7, 2003"-(1) sheet; and that the proposal comply with all applicable R3X (HS) zoning district

333-02-A

APPLICANT - Rothkrug, Rothkrug, Weinberg & Spector, for Thomas Gennarelli, owner.

SUBJECT - Application November 12, 2002 - 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 - 148 Norma Place, 175' west of Metropolitan Avenue, Block 262, Lot 127, Borough of Staten Island.

COMMUNITY BOARD #1S.I.

APPEARANCES -

For Applicant: Philip Rampulla.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele4

Negative:0

Adopted by the Board of Standards and Appeals, June 24, 2003.

115-02-A thru 118-02-A

APPLICANT - Francis R. Angelino, Esq., for Sage Realty Corporation, owner.

SUBJECT - Application April 16, 2002 - An application for an interpretative appeal of Local Law 5 regarding various regulations pertaining to the Fire Safety Plan for subject premises.

PREMISES AFFECTED - 767 Third Avenue, southeast corner of East 48th Street, Block 1321, Lots 41-47, Borough of Manhattan. 747 Third Avenue, east side, between East 46th and East 47th Streets, Block 1320, Lots 1-5 and 46-49, Borough of Manhattan. 437 Madison Avenue, east side, between East 49th and East 50th Streets, Block 1285, Lot 21, Borough of Manhattan. 320 West 13th Street, northwest corner of Horatio Street, Block

requirements; that all applicable laws, rules, and regulations shall be complied with; on further condition

THAT the 25 foot sewer corridor easement that is acceptable to the DEP is created and recorded prior to the issuance of the Certificate of Occupancy;

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

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under 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 24, 2003.

627, Lot 43, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Francis R. Angelino.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele4

Negative:0

Adopted by the Board of Standards and Appeals, June 24, 2003.

116-03-A

APPLICANT - Harvey Epstein, Esq., for 340 Owners Corp. et.al. OWNER OF RECORD: 55th Street and 9th Avenue Partners.

SUBJECT - Application April 9, 2003 - An appeal challenging the Department of Buildings' determination dated March 11, 2003, in which the Department has determined that the construction permits for the new building at said premises was granted appropriately. PREMISES AFFECTED - 400 West 55th Street, southwest corner of Ninth Avenue, Block 1064, Lot 36, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES -

For Administration: Janine Gaylard, Department of Buildings.

ACTION OF THE BOARD - Appeal Denied.

THE VOTE TO GRANT -

Affirmative:.....0

Negative: Commissioner Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele4

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THE RESOLUTION-

WHEREAS, a public hearing was held on this application on June 3, 2003, after due notice by publication in The City Record, and laid over to June 24, 2003 for decision; and

WHEREAS, this is an administrative appeal challenging the Department of Buildings' ("DOB") determinations dated February 11, 2003 and March 11, 2003, in which the DOB stated that the construction permits for a new building at the above premises were granted appropriately; and

WHEREAS, the premises is located on the southwest corner of Ninth Avenue and 55th Street and is situated within the Special Clinton Zoning District; and

WHEREAS, the portion of the property located within 100 feet of Ninth Avenue is zoned R8 with a C1-5 overlay, and the portion located more than 100 feet from Ninth Avenue is zoned "The height restrictions of this Section apply to any development or enlargement. For all zoning lots or portions thereof located within 100 feet from the street line of a wide street, the height and setback regulations of the underlying district shall apply.

The height of a building or other structure on a zoning lot or portion thereof located more than 100 feet from the street line of a wide street, shall not exceed seven stories or 66 feet above curb level, whichever is less."; and

WHEREAS, the record indicates that the proposed building has a height of 173 feet 2 inches for the portion of the building within the first 100 feet from 9th Avenue (a wide street) and a height of 52 feet 2 inches in the portion more than 100 feet from 9th Avenue; and

WHEREAS, the appellant claims that the second paragraph of ZR §96-104 should be read so that the entire proposed building is subject to the seven story or 66 foot height restriction because a portion of the building is located more than one hundred feet from Ninth Avenue, a wide street; and

WHEREAS, upon review of ZR §96-104, the Board has determined that it is the portion of the proposed structure, which is located more than 100 feet from a wide street, that is the subject of the seven story or 66 feet height restriction; and

WHEREAS, therefore, the Board agrees with the DOB's interpretation of ZR §96-104 ; and

WHEREAS, the record indicates that the owner of the premises has merged the zoning lot of the development site (Lot 36) with those of adjacent Lots 22 and 25 and has acquired development rights from those parcels; and

WHEREAS, the record indicates that Lot 22 and Lot 25, contain a two-story garage and five four-story tenement buildings respectively; and

WHEREAS, the appellant contends that the merger of the zoning lots and the transfer of unused Floor Area to be used for the proposed building triggers the parameters of ZR §96-109, and therefore necessitates the issuance of a Certificate of No Harassment from the New York City Department of Housing Preservation and Development; and

WHEREAS, ZR §96-109 applies to "Alterations of buildings" and states that a Certificate of No Harassment is required only "prior to the issuance of an alteration permit by the Department of Buildings for an alteration other than incidental alteration of a

C6-2; and

WHEREAS, the record indicates that on December 13, 2002, the DOB issued permits to Gotham Construction Co. to develop the premises with an as-of-right 18-story mixed-use residential and commercial building; and

WHEREAS, the appellant contends that the DOB attempted to circumvent the intent and the language of the Special Clinton District by incorrectly interpreting the Special District regulations and/or incorrectly interpreting and processing the building owner's permit applications; and

WHEREAS, the appellant asserts that the proposed building exceeds the height regulations set forth in Zoning Resolution ("ZR") §96-104; and

WHEREAS, ZR §96-104 states that:

building containing residential uses within the Preservation Area."; and

WHEREAS, the term "alteration" is defined in §27-232 of the New York City Administrative Code as:

"Any addition, or change or modification of a building, or the service equipment thereof, that affects safety or health and that is not classified as a minor alteration or ordinary repair. The moving of a building from one location or position to another shall be deemed an alteration"; and

WHEREAS, the Board concurs with DOB's determination that "since the application did not involve any addition, change, or modification to the residential buildings on Lot 25, it is not an alteration permit subject to ZR §96-109."; and

WHEREAS, further, the Board finds that the merger of the zoning lots and the transfer of floor area does not result in the alteration of any of the residential buildings on Lot 25, which would trigger the requirements of ZR §96-109 for a Certificate of No Harassment; and

WHEREAS, by letter dated January 27, 2003 to the DOB, the appellant contends that the proposed building does not comply with the requirements of ZR §§96-103, 96-01 and 33-23 with regards to open space, lot coverage and permitted obstructions in the rear yard or rear yard equivalent; and

WHEREAS, by letter dated February 11, 2003, the DOB responded to the appellant regarding the alleged non-compliances and stated that the proposed building did, in fact, comply with all the requirements for open space, lot coverage and permitted obstructions in the rear yard or rear yard equivalent; and

WHEREAS, the Board has reviewed the alleged non-compliances with regard to open space, lot coverage and permitted obstructions in the rear yard or rear yard equivalent and accepts the DOB's determination that the proposed building does comply in the aforementioned categories; and

WHEREAS, the appellant has argued that it is not possible to merge Lot 22 with Lots 25 and 36 because Lot 22 contains a non-complying rear yard; and

WHEREAS, in its letter dated June 11, 2003, the DOB states that although the definition in ZR §12-10 prohibits the subdivision of zoning lots which would create non-compliances with all applicable zoning regulations, "it does not bar a merger of zoning lots that has this effect"; and

WHEREAS, the DOB further states that although ZR §54-31

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"prohibits the enlargement or conversion of a non-complying building that would create a new non-compliance or increase the building's degree of non-compliance". "it does not prohibit such non-compliance where no enlargement of the building takes place."; and

WHEREAS, upon review, the Board finds that the Zoning Resolution does not prohibit the proposed merger of the subject zoning lots; and

WHEREAS, in a letter to the Board dated "June 16, 2003," the appellant states:

"We do not argue that the lot merger in and of itself is a

WHEREAS, the Board has a copy of the aforementioned decision in its files and finds that the determination of the Court of Appeals is not applicable in the subject appeals case; and

WHEREAS, in *Bella Vista v. Bennett*, the court found that:

". . .excess residential use development rights enjoyed by property that specifically benefits from a commercial use variance may not be transferred to and tacked onto an adjoining property even for an as-of-right use by that lot owner, without discrete BSA approval"; and

WHEREAS, the Court of Appeals did not find that the transfer of development rights from a non-complying building to an as-of-right development required a variance as the appellant asserts; and

WHEREAS, in *Bella Vista v. Bennett*, the Court found that since the site from which the development rights were being taken was the subject of a Board variance, the Board was effectively required to approve the transfer of its variance; and

WHEREAS, in the subject application, Lot 22 (the non-complying) building does not have a BSA variance, and therefore the transfer of its excess FAR does not trigger the need for a variance; and

WHEREAS, the appellant further asserts that the DOB ignored the clear language and intent of the Special Clinton District; and

WHEREAS, the appellant further contends that the intent of the ZR §96-00 mandates that all new developments maintain the character of this community; and

WHEREAS, §96-00 outlines the "General Purposes" of the Special Clinton District and lists a number of goals of the special zoning designation; and

WHEREAS, these goals include:

"to preserve and strengthen the residential character of the community to permit rehabilitation and new construction within the area in character with the existing scale of the community .to preserve the small-scale character and variety of existing stores and activities"; and

WHEREAS, in a response letter dated May 27, 2003, the Department of Buildings states that ". the general purposes preamble does not function as a prerequisite for construction in the Special Clinton District"; and

WHEREAS, the Board notes that all the sections of the ZR concerning Special Purpose Districts begin with an outline of the overall goals of the special district designation, and follow with specific rules and regulations which dictate development within these districts; and

WHEREAS, although the appellant contends that these

problem, it's the use of the FAR from the non-complying building. The reality is that the two story commercial building is noncompliant. Use of the FAR from the non-complying building is prohibited without a variance based on the noncompliance in addition to the fact that the FAR is commercial, not residential building."; and

WHEREAS, as evidence of his claims, the appellant cites *Bella Vista v. Bennett*, 89 N.Y.2d 465, 655 N.Y. S.2d 742 (1997), a Court of Appeals decision concerning the transfer of development rights from a building which benefited from a use variance from the BSA; and

"General Purposes" mandate the strict compliance with the goals outlined in ZR §96-00; and

WHEREAS, the Board concurs with the DOB and finds that it is not ZR §96-00 which sets out the development goals for the Special Clinton Districts; and

WHEREAS, however, the sections which follow provide detailed regulations and requirements; and

WHEREAS, in its letter dated June 2, 2003, the appellant has argued that "the BSA is obligated to look at the intent of the regulation if unambiguous"; and

WHEREAS, the appellant has also contended that pursuant to ZR §11-22 (Applications of Overlapping Regulations), the DOB should have determined that although the proposed building may meet the specific requirements of the Special Clinton District regulations, the proposed building would not fit in the character of the neighborhood as described in the General Purposes section; and

WHEREAS, the Board finds that ZR §96-00 was intended to serve as a preamble and not as a definitive set of rules which must be strictly complied with; and

WHEREAS, therefore the Board also notes that the goals listed in ZR§96-00 do not control the more specific regulations which follow in the chapter; and

WHEREAS, the Board has reviewed the issues presented by the appellant and has determined that the appellant has not established an adequate basis upon which the Board could grant this appeal and reverse the DOB's decision to issue construction permits for the proposed building.

Resolved, the Borough Commissioner's determinations dated February 11, 2003 and March 11, 2003, are sustained and this appeal is denied.

113-02-A

APPLICANT - Francis R. Angelino, Esq., for Sage Realty Corporation, owner.

SUBJECT - Application April 11, 2002 - An application for an interpretative appeal of Local Law 5 regarding various regulations pertaining to the Fire Safety Plan for subject premises.

PREMISES AFFECTED - 777 Third Avenue, east side, between East 48th and East 49th Streets, Block 1322, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES -

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For Applicant: Francis R. Angelino.
For Administration: Janine Gaylard, Department of Buildings.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Commissioner Chin, Vice-Chair Babbar,
Commissioner Caliendo and Commissioner Miele4

Negative:0

121-03-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative, Inc., owner; Edward Kelly, lessee.

SUBJECT - Application April 16, 2003 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has an upgraded private disposal system located partially 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 - 4 Kildare Walk, west side, 44.08' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

THE VOTE TO CLOSE HEARING -

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

.....0

ACTION OF THE BOARD - Laid over to July 22, 2003, at 10 A.M., for decision, hearing closed.

122-03-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative, Inc., owner; April Forgina, lessee.

SUBJECT - Application April 16, 2003 - 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 - 72 Hillside Avenue, Block 16340, Lot 50, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

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 July 22, 2003, at 10 A.M., for decision, hearing closed.

135-03-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative, Inc., owner; David Kelly, lessee.

SUBJECT - Application April 25, 2003 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped

Adopted by the Board of Standards and Appeals, June 24, 2003.

street, and has an upgraded private disposal system located 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 - 31 Marion Walk, east side, 70.35' south of West End Avenue, Block 16350, Lot 400, Borough of Queens.

APPEARANCES -

For Applicant: Loretta Papa.

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 July 22, 2003, at 10 A.M., for decision, hearing closed.

136-03-A

APPLICANT - Joseph A. Sherry, for Breezy Pt. Cooperative, Inc., owner; Roberta Ludovico, lessee.

SUBJECT - Application April 25, 2003 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street, and has an upgraded private disposal system located 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 - 5 Irving Walk, east side, 45.40' north of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Loretta Papa.

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 July 22, 2003, at 10 A.M., for decision, hearing closed.

137-03-A

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative, owner; Bradley J. Palummeri, lessee.

SUBJECT - Application April 29, 2003 - Proposed enlargement and the upgrading of the septic system, to an existing one family dwelling, not fronting on a legally mapped street, and simultaneously lies within the bed of two mapped streets, is contrary to Sections 35 and 36, Article 3 of the General City Law.

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PREMISES AFFECTED - 3 Arcadia Walk, east side, 10.71' south of Oceanside Avenue, Block 16350, Part of Lot 400, Borough of Queens.

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 July 22, 2003, at 10 A.M., for decision, hearing closed.

153-03-A

APPLICANT - Francis R. Angelino, Esq, c/o DeCampo, Diamond & Ash, for Hudson Street Properties, LLC, c/o AFC Company, owner.

SUBJECT - Application May 15, 2003 - Pursuant to Section 666 of the City Charter for an interpretation of Z.R. §23-145, regarding lot coverage regulations as it applies to said premises.

PREMISES AFFECTED - 114/16 Hudson Street, between North Moore and Franklin Streets, Block 189, Lots 18 and 19, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: Francis R. Angelino and George Schieferdecker.
For Opposition: Janine Gayland, Department of Buildings.

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 August 5, 2003, at 10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 11:25 P.M.

WHEREAS, this is an application under Z.R. §72-21 to permit, in an R5 zoning district, the erection of a six-story building containing residential uses on the upper floors and community

COMMUNITY BOARD #14Q

APPEARANCES -

For Applicant: Arthur Sullivan.

REGULAR MEETING

TUESDAY AFTERNOON, JUNE 24, 2003

1:30 P.M.

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

ZONING CALENDAR

91-02-BZ

APPLICANT - Sheldon Lobel, P.C., for David Winiarski, owner.
SUBJECT - Application September 11, 2002 - under Z.R. § 72-21 to permit the proposed construction of a six story building, with residential uses on the upper floors and community facility use on the first floor, located in an R5 zoning district, which exceeds the permitted residential and community facility floor area ratios, is contrary to Z.R. §24-11 and §23-141.

PREMISES AFFECTED - 3032/42 West 22nd Street, 180' north of Highland View Avenue, Block 7071, Lot 19 (prev. 19, 29 and 22), Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES -

For Applicant: Jordan Most.

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

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

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 26, 2002 acting on Application No. 301111384 reads:

"Proposed plans are contrary to Zoning Resolution 24-11 in that the proposed community facility floor area ratio exceeds the maximum permitted community facility floor area ratio of .35

Proposed plans are contrary to Zoning Resolution 23-141 in that the proposed residential floor area ratio exceeds the maximum permitted residential floor area ratio of 1.65"; and

WHEREAS, a public hearing was held on this application on December 10, 2002 after due notice by publication in The City Record and laid over to March 18, 2003, April 29, 2003, May 20, 2003 and then to June 24, 2003, for decision; and

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

facility uses on the ground floor, which is contrary to Z.R. §§24-11 and 23-141; and

WHEREAS, the subject is located in the Coney Island Section

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of Brooklyn with frontage along the west side of West 22nd Street, between Surf Avenue and Highland View Avenue; and

WHEREAS, the applicant notes that the site is burdened by various foundations requiring significant and costly excavation work, a high water table, an existing long brick wall that is over 50 years old, poor load bearing soil; and

WHEREAS, therefore, the Board finds that there are unique conditions to the lot, namely: poor load bearing soil, the need to provide special foundation waterproofing causing the development to be in conflict with applicable bulk requirements creating an undue hardship and a practical difficulty in conforming with the current zoning; and

WHEREAS, evidence in the record, including a feasibility study, demonstrates that developing the site with a complying development would not yield a reasonable return; and

WHEREAS, the record indicates that the degree of non-compliance has been reduced from the original application, that the community facility space has been redesigned to improve vehicle mobility and that the residential layout has been modified to reduce the building's density; and

WHEREAS, the applicant notes that the inclusion of 23 parking spots on-site illustrates that this project has been designed to mitigate adverse parking impacts; and

WHEREAS, the Board finds that the proposed development, as modified, will neither alter the essential character of the neighborhood, nor impair the appropriate use or development of adjacent property nor be detrimental to the public welfare; and

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

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

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

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

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

Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 to permit, in an R5 zoning district, the erection of a six-story building containing residential uses on the upper floors

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

and community facility uses on the ground floor, which is contrary to Z.R. §§24-11 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 marked Received "May 6, 2003"-(12) sheets, and "June 17, 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 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, June 24, 2003.

268-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Williamsburg Bridge Towers, LLC, owner.

SUBJECT - Application October 4, 2002 - under Z.R. §72-21 to permit the proposed construction of a seven story Class Multiple A Dwelling, with nine dwelling units, Use Group 2, located in an M1-1 zoning district, which is contrary to Z.R.§42-00.

PREMISES AFFECTED - 176 South Fourth Street, between Driggs Avenue and South Fifth Place, Block 2446, Lot 78, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Sheldon Lobel.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

WHEREAS, the decision of the Borough Commissioner, dated September 24, 2002 acting on Application No. 301408322 reads: "PROPOSED RESIDENTIAL BUILDING IN AN M1-1 ZONING DISTRICT IS CONTRARY TO SECTION 42-00 OF THE ZONING RESOLUTION AND REQUIRES A VARIANCE FROM 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,

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and laid over to May 20, 2003, and then to June 24, 2003 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M1-1 zoning district, the construction of a six-story and cellar Class A multiple dwelling, Use Group 2, containing nine dwelling units and five off-street accessory parking spaces, contrary to Z.R. Section 42-00; and

WHEREAS, the subject parcel measures 42 feet by 100 feet, and is located between Driggs Avenue and South Fifth Place; and

WHEREAS, the record indicates that the subject property is currently a vacant lot; and

WHEREAS, the record indicates that the applicant has provided documentation attempting to obtain a conforming tenant; and

WHEREAS, the applicant asserts that the subject property fronts a narrow street of 60 feet in width, in which residential vehicles park on both sides, making it difficult and unsuitable for the movement of trucks affiliated with a conforming manufacturing use; and

WHEREAS, the applicant represents that block on which the subject site is located on is comprised only of either residential or community facility use; and

WHEREAS, the Board finds that aforementioned unique physical conditions, namely the narrowness of the street and the dominant residential character of the block, create an unnecessary hardship in developing the site in conformity with the current zoning resolution; and

WHEREAS, evidence in the record, including a feasibility study, demonstrates that developing the site with a complying development would not yield a reasonable return; and

WHEREAS, the record indicates that within a 400-foot radius of the subject site, there are a multitude of non-conforming residential properties, a park, some garages, parking, and non-conforming community facilities; and

WHEREAS, at the request of the Board, the applicant has reduced the height of the building from seven floors to six floors to better fit within the context of the neighborhood; and

WHEREAS, therefore, Board finds that the proposed application will not alter the essential character of the surrounding

Adopted by the Board of Standards and Appeals, June 24, 2003.

277-02-BZ

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

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

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

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 M1-1 zoning district, the construction of a six-story and cellar Class A multiple dwelling, Use Group 2, containing nine dwelling units and five off-street accessory parking spaces, contrary to Z.R. §42-00, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 6, 2003"-(6) sheets and "May 6, 2003"-(5) sheets, and on further condition;

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

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

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

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

THAT 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.

yard is contrary to Z.R. §23-141, §54-31 and §23-47.

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

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Harold Weinberg.

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

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October 10, 2003, acting on Application No. 300987591 reads:

"THE ENLARGEMENT OF THE ONE FAMILY RESIDENCE IN AN R3-1 ZONING DISTRICT:

1. INCREASES THE DEGREE OF NONCOMPLIANCE FOR FLOOR AREA RATIO AND IS CONTRARY TO SECTIONS 23-141 AND 54-31 OF THE ZONING RESOLUTION (ZR);
2. CREATES A NEW NON-COMPLIANCE WITH RESPECT TO THE REQUIRED REAR YARD AND IS CONTRARY TO SECTION 23-47 (ZR); and

WHEREAS, a public hearing was held on this application on June 3, 2003 and then laid over to June 24, 2003 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 the enlargement of a one-family residence in an R3-1 zoning district which increases the degree of non-compliance for floor area ratio and is contrary to Z.R. §23-141 and §54-31 of the zoning resolution and which creates a new non-compliance with respect to the rear yard requirements and is contrary to Z.R. §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 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 enlargement of a one-family residence in an R3-1 zoning district which increases SUBJECT - Application October 18, 2003 - under Z.R. §73-622 to permit the proposed two story enlargement, to an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, rear and side yards, is contrary to Z.R. §23-141, §54-31, §23-47 and §23-461.

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

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Harold Weinberg.

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 October 11, 2002, acting on Application No. 301419980 reads:

the degree of non-compliance for floor area ratio and is contrary to Z.R. §23-141 and §54-31 of the zoning resolution and which creates a new non-compliance with respect to the rear yard requirements and is contrary to Z.R. §23-47, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received October 15, 2002- (5) sheets, March 27, 2003- (4) sheets, March 28, 2003- (1) sheet; and June 5, 2003- (4) sheets"; 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;

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, June 24, 2003.

283-02-BZ

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

"THE ENLARGEMENT OF THE ONE FAMILY RESIDENCE IN AN R2 ZONING DISTRICT:

1. INCREASES THE DEGREE OF NONCOMPLIANCE FOR 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.
3. REDUCES THE REAR YARD BELOW 30' AND IS CONTRARY TO SECTION 23-47 OF THE ZONING RESOLUTION.
4. INCREASES THE DEGREE OF NON-COMPLIANCE WITH RESPECT TO SIDE YARDS AND IS CONTRARY TO SECTIONS 23-461 AND 54-31."; and

WHEREAS, a public hearing was held on this application on

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June 3, 2003 and then laid over to June 24, 2003 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 the enlargement of a one-family residence in an R2 zoning district, which increases the degree of non-compliance with respect to floor area ratio, open space ratio, side yards, and reduces the size of the rear yard below 30' and is contrary to Z.R. §§23-141, 54-31, 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 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 enlargement of a one-family residence in an R2 zoning district, which increases the degree of non-compliance with respect to floor area ratio, open space ratio, side yards, and reduces the size of the rear yard below 30' and is contrary to Z.R. §§23-141, 54-31, 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
SUBJECT - Application November 15, 2002 - under Z.R. §73-53 to permit the legalization of an enlargement to an existing non-conforming manufacturing use, located in C1-2 within an R5 zoning district, which requires a special permit.

PREMISES AFFECTED - 6206 20th Avenue, between 62nd and 63rd Streets, Block 5534, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Jordan Most.

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 October 17, 2002 acting on Application No. ALT. 301423680 reads:

"The proposed legalization of an expansion of a non-conforming use in a C1-2 district mapped within an R5 zoning district is not permitted as-of-right, and requires a special permit from the Board of Standards and Appeals."; and

WHEREAS, a public hearing was held on this application on May 20, 2003 and then laid over to June 24, 2003 for decision; and

WHEREAS, the premises and surrounding area had site and

marked "Received March 28, 2003-(11) sheets and June 5, 2003 -(1) sheet"; 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;

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, June 24, 2003.

342-02-BZ

APPLICANT - Sheldon Lobel, P.C., for John Dioguardi, owner. 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. §§ 73-03 and 73-53 to permit, in a C1-2 within an R5 zoning district, the legalization of an enlargement to an existing non-conforming manufacturing use; and

WHEREAS, the subject site is located on 20th Avenue between 62nd and 63rd Streets, containing approximately 2,000 square feet housing a building containing approximately 2,957 square feet; and

WHEREAS, the record indicates that the portion of the building that is the subject of this application consists of approximately 1,920 square feet located on the first floor; and

WHEREAS, the applicant has demonstrated that the premises is listed in Section 15-50 of the Zoning Resolution, is operated as a Use Group 17B Use, is not subject to termination pursuant to Section 52-70, the underlying use has lawfully existed for more than 5 years, the subject building has not received an enlargement pursuant to Sections 11-412, 43-121 or 72-21 and the subject use is listed in Use Group 17, not Use Group 18; and

WHEREAS, the Board notes that Section 73-53(a)(5) is not applicable because the premises is located in a C1-2 district mapped within an R5 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 2,500 square feet additional to

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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 enlarged portion and use generated by the enlargement, including storage and processing will be housed in an entirely enclosed building and will meet applicable performance standards; and

WHEREAS, further, no open uses of any kind, including storage or processing are located within 30 feet of the rear lot line; and

WHEREAS, the Board notes that Sections 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, 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 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.

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, June 24, 2003.

343-02-BZ

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

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

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

COMMUNITY BOARD #5M

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough Commissioner, dated October 30, 2002 acting on ALT I. Application No. 103157343 reads:

"The Physical Culture Establishment at the 8th floor in a

§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 a C1-2 within an R5 zoning district, the legalization of an enlargement to an existing non-conforming manufacturing use, 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 15, 2002" -(6) sheets; and on further condition;

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

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

THAT the above conditions shall 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;

(M1-6M) zoning district requires a special permit from the Board of Standards and Appeals, as per Section 73-36(ZR) rectify."; and

WHEREAS, a public hearing was held on this application on April 29, 2003, after due notice by publication in The City Record, laid over to June 3, 2003 for continued hearing and held over to June 24, 2003 for decision; and

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

WHEREAS, this is an application under Z.R. §73-36 to permit, within an M1-6M zoning district, the installation of a physical culture establishment on the eighth floor of a twelve-story commercial building; and

WHEREAS, the subject PCE is located on the eighth floor of a 54 West 21st Street and consists of approximately 8,930 square feet; and

WHEREAS, the applicant represents that the hours of operation are Monday through Friday 6:00 A.M. to 9:30 A.M. and Saturday and Sunday 8:00 A.M. to 5:00 P.M.; and

WHEREAS, the applicant asserts that the surrounding area is comprised largely of commercial and manufacturing uses; and

WHEREAS, the applicant represents that the remainder of the building is occupied by commercial tenants, and that there are no residential units in the subject building; and

WHEREAS, the applicant has provided the Board with an acoustical decibel report demonstrating that the noise generated by the PCE use is below the permitted levels of the subject manufacturing district; and

WHEREAS, the applicant has installed rubber flooring,

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padding and raised platforms that are designed to minimize sound transmission to the floor below; 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 adjacent manufacturing 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 applicant represents that the proposed physical culture establishment will contain facilities for classes, instruction, and programs for physical improvement, body building, weight reduction, and cardiovascular fitness; and

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

WHEREAS, the Department of Investigation has performed a

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental quality Review and makes the required findings under Z.R. §73-36 to permit, within a M1-6M zoning district, the installation of a physical culture establishment, located on the eighth floor of a twelve-story commercial building, on condition that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application marked "Received November 18, 2002"-(1) sheet; and on further condition;

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

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

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

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

THAT the hours of operation shall be limited to Monday through Friday 6:00 A.M. to 9:30 P.M. and Saturday and Sunday 8:00 A.M. to 5:00 P.M.;

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

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

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

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

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

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

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

background check on the corporate owner and operator of the establishment and the principals of the owner and operator of such facility and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §73-03 and §73-36; and

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

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

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

Adopted by the Board of Standards and Appeals, June 24, 2003.

364-02-BZ

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

SUBJECT - Application December 16, 2002 - under Z.R. §72-21, to permit a five-story mixed use building with commercial use on the ground floor, which does not comply with the zoning requirements for floor area ratio, open space ratio, and commercial use, which is contrary to §22-10.

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

COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Mitchell Ross.

ACTION OF THE BOARD - Application granted on condition.

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 decision of the Borough Commissioner, dated November 18, 2002 acting on Application No. 301410863 reads: "1.) STORE, U.G. 6, IS NOT A PERMITTED, AS OF RIGHT, USE IN AN R6 DISTRICT AS PER SECTION 22-00 OF THE ZONING RESOLUTION AND, AS SUCH, MUST BE REFERRED TO THE BOARD OF STANDARDS AND APPEALS FOR APPROVAL."

MINUTES

2.) PROPOSED FLOOR AREA AND OPEN SPACE RATIO CONTRARY TO Z.R. §142 AND, AS SUCH, MUST BE REFERRED TO THE BOARD OF STANDARDS AND APPEALS."; and

WHEREAS, a public hearing was held on this application on June 3, 2003 after due notice by publication in The City Record, and then to June 24, 2003 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit a five-story mixed use building with commercial use on the ground floor, which does not comply with the zoning requirements

WHEREAS, the applicant asserts that the subject property is extremely small and has a very unusual triangular shape, which make a complying or conforming development difficult thus posing an unnecessary hardship on the owner; 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, the evidence in the record, including a feasibility study, indicates that due to the unusual shape and small size of the subject lot, an as of right residential development would not yield a reasonable rate of return; and

WHEREAS, the record indicates that the surrounding area consists largely of residential uses mixed with some commercial and ground floor retail uses; and

WHEREAS, the applicant represents that although the adjoining properties are primarily three stories in height, the lots upon which they are situated, are significantly larger than that of the subject property; and

WHEREAS, the applicant represents that there are four and five story located in the area, including a six story building under construction across the street; 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

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 R6 zoning district, the construction of a five-story mixed use multiple dwelling with ground floor commercial use, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked

for floor area ratio, open space ratio, and commercial use, which is contrary to §22-10; and

WHEREAS, the subject parcel is triangularly shaped and measures 28'3" by 27'9" by 39'8", with a lot area of 392.6 square feet, located on the south side of West Ninth Street abutting the Gowanus Expressway and Hamilton Avenue; and

WHEREAS, the subject property currently contains a vacant, substandard former dwelling, which the applicant intends to demolish; and

WHEREAS, the owner proposes a five-story mixed use multiple dwelling containing ground floor retail and or office use, a studio apartment on the second floor, and a two bedroom triplex apartment on the third, fourth, and fifth floors; and

"Received March 27, 2003"-(6) sheets and "June 19, 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 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, June 24, 2003.

32-03-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Jeffrey J. Edelman, owner.

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

PREMISES AFFECTED - 1052 East 26th Street, between Avenues "J" and "M", Block 7607, 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: 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 March 6, 2003, acting on Application No. ALT. 301483455 reads:

1. PROPOSED PLANS ARE CONTRARY TO Z.R. 23-141 IN THAT IT EXCEEDS THE MAXIMUM PERMITTED FLOOR AREA RATIO OF .5 AND DOES NOT PROVIDE THE MINIMUM REQUIRED

WHEREAS, a public hearing was held on this application on May 20, 2003 and then laid over to June 24, 2003 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 the enlargement of an existing one-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 and side yard requirements and is contrary to Z.R. §23-141 and §23-47, and §23-461 of the zoning resolution; 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 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 enlargement of an existing one-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 and side yard requirements and is contrary to Z.R. §23-141 and §23-47, and §23-461 of the zoning resolution, 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 23, 2003"-(7) sheets, "March 19, 2003"-(3) sheets, and "June 6, 2003"-(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;

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

OPEN SPACE RATIO OF 150.

2. PROPOSED PLANS ARE CONTRARY TO Z.R. 23-47 IN THAT THE PROPOSED REAR YARD IS LESS THAN 30 FEET.
3. PROPOSED PLANS ARE CONTRARY TO Z.R. 23-461 IN THAT THE ONE PROPOSED SIDE YARD IS LESS THAN THE MINIMUM 5 FEET REQUIRED, AND A STRAIGHT LINE ENLARGEMENT IS BEING PROPOSED WHICH WILL CREATE A NEW NON-COMPLIANCE"; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the 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, June 24, 2003.

75-02-BZ

APPLICANT - Law Offices of Howard Goldman, PLLC, for 460 Union Street LLC, contract vendee.

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.

For Opposition: Linda Marianno, Joseph Mariano, Bette Stoltz, Peter Colarito, Ernest Migliaccio, Enid Braun and Mrs. Cela Maniero Cacace.

ACTION OF THE BOARD - Laid over to October 21, 2003, at 1:30 P.M., for continued hearing.

156-02-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for 8021 15th Avenue Corp., owner; Aspen Ford, lessee.

SUBJECT - Application May 15, 2002 - under Z.R. §11-411 to permit the reestablishment of a variance previously granted under Cal. No.606-85-BZ, which permitted the maintenance of a new and used car sales lot with an accessory office and parking, located in a C2-3 within and R5 zoning district.

PREMISES AFFECTED - 964/70 65th Street, south side, 100' west of Tenth Avenue, Block 5750, Lot 47, Borough of Queens.

MINUTES

COMMUNITY BOARD #10Q

APPEARANCES - None.

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

SUBJECT - Application June 5, 2002 - under Z.R. §72-21 to permit the proposed construction of three floors, to be used for residential purposes, above an existing one story building, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 93/101 North Ninth Street, north side, between Wythe Avenue and Berry Street, Block 2303, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jordan Most.

ACTION OF THE BOARD - Laid over to August 5, 2003, at 1:30 P.M., for continued hearing.

202-02-BZ

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

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 133rd and 134th Streets, Block 11757, Lot 55, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Jeffrey Chester.

ACTION OF THE BOARD - Laid over to August 5, 2003, at 1:30 P.M., for continued hearing.

242-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Helen Fullam, owner.

SUBJECT - Application August 30, 2002 - under Z.R. §72-21 to permit the proposed construction of a two family residence, Use Group 2, located within an R3X/SR zoning district, which does not comply with the zoning requirements for lot area per dwelling unit, front yards, and has less than the minimum required lot area for a proposed two family occupancy, is contrary to Z.R. §23-222, §23-45, §107-461 and §107-42.

PREMISES AFFECTED - One North Railroad Street, between Burchard Court and Belfield Avenue, Block 6274, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES -

For Applicant: Richard Lobel and Helen Fullam.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar,

185-02-BZ

APPLICANT - Sheldon Lobel, P.C., for North Ninth Street Realty, LLC., owner.

Commissioner Caliendo and Commissioner Miele4

Negative:0

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

362-02-BZ

APPLICANT - Harold Weinberg, P.E., for Ronnie Hasson, owner.

SUBJECT - Application December 13, 2002 - under Z.R. §73-622 to permit the proposed erection of a rear enlargement at the level of the second floor, of an existing two story single family dwelling, which does not comply with the zoning requirements for floor area ratio, open space and lot coverage, and is contrary to Z.R. §23-141 and §54-31.

PREMISES AFFECTED - 4211 Ocean Avenue, east side, 52'-6" north of Oriental Boulevard, Block 8748, Lot 209, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Harold Weinberg and Ronnie Hasson.

For Opposition: Harold Rosenthal, Ed Eisenberg and Rosalie Rosenthal.

THE VOTE TO REOPEN HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar and Commissioner

Caliendo and Commissioner Miele.....4

Negative:0

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

29-03-BZ

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

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

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

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Sheldon Lobel and Lewis Garfinkel.

THE VOTE TO REOPEN HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele4

Negative:0

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

MINUTES

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

161-02-BZ

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

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

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Peter Hirshman.

ACTION OF THE BOARD - Laid over to September 16, 2003, at 1:30 P.M., for postponed hearing.

210-02-BZ thru 213-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Mark Grane, owner.
SUBJECT - Application July 15, 2002 - under Z.R. §72-21 to permit the proposed mixed use building, Use Groups 2 and 6, which does not comply with the zoning requirements for lot coverage, open space and lot area per dwelling unit, and is contrary to Z.R. §§23-141, §23-22 and §35-40.

PREMISES AFFECTED -

78-01 Myrtle Avenue, northeast corner of 78th Street, Block 3827, Lot 50, Borough of Queens.

78-03 Myrtle Avenue, between 78th and 79th Streets, (20' east of 78th Street), Block 3827, Lot 49, Borough of Queens.

78-05 Myrtle Avenue, between 78th and 79th Streets, (39.15' east of 78th Street), Block 3827, Lot 48, Borough of Queens.

78-07 Myrtle Avenue, between 78th and 79th Streets, (58.30' east of 78th Street), Block 3827, Lot 47, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES -

For Applicant: Richard Lobel.

For Opposition: BC Eugene J. ?

THE VOTE TO REOPEN HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele4

Negative:0

ACTION OF THE BOARD - Laid over to August 5, 2003, at 1:30 P.M., for continued hearing.

SUBJECT - Application October 25, 2002 - under Z.R. §72-21 to permit the proposed construction of a mixed-use building, containing college facilities and apartments, Use Groups 2 and 3,

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.

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.

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

234-02-BZ

APPLICANT - Gerald J. Caliendo, R.A., A.I.A., Steve Tallidis, owner.

SUBJECT - Application August 23, 2002 - under Z.R. § 72-21 to permit the proposed construction of a three-story, four family multiple dwelling with an accessory garage, located in an R5 zoning district, which does not comply with the zoning requirements for floor area ratio, front yard, open space, height and/or setback is contrary to Z.R. §23-45, §23-12C and §23-631.

PREMISES AFFECTED - 24-64 27th Street, corner of 27th Street and Hoyt Avenue, Block 852, Lot 60, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Sandy ?.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele4

Negative:0

ACTION OF THE BOARD - Laid over to August 5, 2003, at 1:30 P.M., for decision, hearing closed.

315-02-BZ

APPLICANT - Davidoff & Malito, LLP by Howard S. Weiss, Esq., for 225-227 West 60th Street, LLC, owner.

located in an R8 zoning district, which does not comply with the zoning requirements for floor area ratio, number of dwelling units, setback, rear setback, sky exposure plane and lot coverage, is

MINUTES

contrary to Z.R. §23-142, §24-11, §24-20, §24-16, §24-33 and §24-522.

PREMISES AFFECTED - 223/27 West 60th Street, north side, between Amsterdam and West End Avenues, Block 1152, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES -

For Applicant: Howard Weiss.

For Opposition: Eric Wilson, Shampa Chanda and Hope Cohen.

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

367-02-BZ

APPLICANT - Sullivan Chester & Gardner, LLP, for Rudolf Alonzo, owner.

SUBJECT - Application December 18, 2002 - under Z.R. §72-21 to permit the legalization of an existing dance studio, Use Group 9, located in the cellar of a five story multi-family building, which is not permitted in an R8-B zoning district, and is therefore contrary to Z.R. §22-10.

PREMISES AFFECTED - 434 East 75th Street, between First and York Avenues, Block 1469, Lot 34, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Jeffrey Chester.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele4

Negative:0

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

375-02-BZ

APPLICANT - Moshe M. Friedman, P.E., for Congregation Tzlosa D'Shlomo, owner.

SUBJECT - Application December 30, 2002 - under Z.R. §72-21 to permit the proposed new synagogue and Rabbi's apartment (rectory), Use Group 4, located in an R5 zoning district, which does not comply with the zoning requirements for floor area, side yards, front yard, maximum lot coverage, front wall height, narrow outer court and the sky exposure plane, is contrary to Z.R. §24-11, §24-34, §24-35, §24-521 and §24-631.

PREMISES AFFECTED - 1559 59th Street, north side, 200' west of 16th Avenue, Block 5502, Lot 54, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Moshe Friedman.

THE VOTE TO CLOSE HEARING -

31-03-BZ

APPLICANT - Eric Palatnik, P.C., for Abraham Malek, owner.

SUBJECT - Application January 21, 2003 - under Z.R. §73-622 to permit the proposed enlargement of an existing one family dwelling, Use Group 1, located within an R2 zoning district, which does not comply with the zoning requirements for floor area and

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele4

Negative:0

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

377-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Rabbi Naftali Babad, owner; Cong. Kahal Tarnopol (long term lessee).

SUBJECT - Application December 31, 2002- under Z.R. §72-21 to permit the proposed merging and expansion of two, two-story plus basement buildings, to become one-three story, cellar and basement synagogue, with Rabbi's apartment, Use Group 4, located in an R5 zoning district, which creates non-compliance with respect to lot coverage ratio, also side and rear yards, is contrary to Z.R. §24-11, §24-35 and §24-36.

PREMISES AFFECTED - 163/65 Parkville Avenue, north side, 198' west of Ocean Parkway, Block 5423, Lots 60 and 61, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Janice Cahalane and Louis Garfinkey.

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

28-03-BZ

APPLICANT - Martyn & Don Weston, for Minc Platform, LLC, owner.

SUBJECT - Application January 15, 2003 - under Z.R. §72-21 to permit the proposed conversion of the upper floors, and a small portion of the ground floor, of a partially vacant three story manufacturing building, for residential units of loft type housing, which is contrary to §42-00.

PREMISES AFFECTED - 61/65 Green Street, northeast corner of West Street, Block 2511, Lots 1 and 8, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Don Weston.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele4

Negative:0

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

open space ratio is contrary to Z.R. §23-141.

PREMISES AFFECTED - 2502 Avenue "M" southeast corner of Bedford Avenue, Block 7661, Lot 40, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

MINUTES

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar,
Commissioner Caliendo and Commissioner Miele4

Negative:0

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

75-03-BZ

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

SUBJECT - Application February 27, 2003 - under Z.R. § 72-21
to permit the legalization of the residential use, Use Group 2, on the
second through fifth floors, of a mixed-use building, located in an
M1-6 zoning district, which is contrary to §42-00.

PREMISES AFFECTED - 326 Seventh Avenue, between West
28th and 29th Streets, Block 778, Lot 38, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Janice Cahalane.

For Opposition: Isabella Caruso.

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

93-03-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, for John
Mauro, owner.

SUBJECT - Application March 25, 2003 - under Z.R. §72-21 to
permit the proposed addition 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
and front yard, is contrary to Z.R. §§23-141 and 54-313.

PREMISES AFFECTED - 217-20 39th Avenue, northeast corner
of 218th Street, Block 6255, Lots 18, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Hiram Rothkrug.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar,
Commissioner Caliendo and Commissioner Miele4

Negative:0

ACTION OF THE BOARD - Laid over to August 5, 2003,
Affirmative: Commissioner Chin, Vice-Chair Babbar,
Commissioner Caliendo and Commissioner Miele4

Negative:0

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

111-03-BZ thru 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 the proposed three story, three family residential building,

at 1:30 P.M., for decision, hearing closed.

99-03-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for
Yehekel & Beatrice Frankel, owners.

SUBJECT - Application March 28, 2003 - 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 and side and rear yards, is contrary to Z.R. §23-141, §23-461
and §23-47.

PREMISES AFFECTED - 1173 East 24th Street, between
Avenues "K and L", Block 7624, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Lyra Altman, Lewis Garfinkel and Mr. Frankel.

THE VOTE TO CLOSE HEARING -

Affirmative: Commissioner Chin, Vice-Chair Babbar, Commissioner
Caliendo and Commissioner Miele4

Negative:0

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

104-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Gila Realty, owner; 61
Strickland Fitness Center, LLC, lessee.

SUBJECT - Application May 20, 2003 - under Z.R. §72-21 to
permit

the proposed physical cultural establishment, to be located in a
portion of an existing one story building, located in an R3-1 and C2-
2 zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 6161 Strickland Avenue, between Mill
Avenue and East 60th Place, Block 8470, Lot 1110, Borough of
Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Jordan Most.

For Opposition: Carl Kruger, Dorothy Turano, Sol Needle, Roberta
Sherman, Judith Gargano and Stephen F. Gordon.

THE VOTE TO CLOSE HEARING -

Use Group 2, located in an R5 zoning district, which does not
comply with the zoning requirements for floor area ratio, open
space, lot coverage, wall and building height, front yard and the
parking requirements, is contrary to Z.R. §23-141, §23-631,
§23-45 and §25-23.

PREMISES AFFECTED -

1685 60TH Street, northwest corner of 17th Avenue, Block 5510,
Lot 150, Borough of Brooklyn.

1687 60TH Street, northwest corner of 17th Avenue, Block 5510,
Lot 149, Borough of Brooklyn.

1689 60TH Street, northwest corner of 17th Avenue, Block 5510,
Lot 148, Borough of Brooklyn.

1691 60TH Street, northwest corner of 17th Avenue, Block 5510,

MINUTES

Lot 147, Borough of Brooklyn.
1693 60TH Street, northwest corner of 17th Avenue, Block 5510,
Lot 47, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Peter Geis

For Opposition: Max Saken, Deborah Rosen and E. Dusdner.

ACTION OF THE BOARD - Laid over to August 5, 2003,
at 1:30 P.M., for continued hearing.

146-03-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for 1511
Third Avenue Associates, LLC, c/o The Related Companies, L.P.,
owner; Equinox 85th Street, Inc, lessee.

SUBJECT - Application May 9, 2003 - under Z.R. §73-36 to
permit the legalization of an existing physical culture establishment,
located on the second floor, and portions of the third and fourth
floors, in a four story commercial and community facility building, in
an C2-8A zoning district, which requires a special permit.

PREMISES AFFECTED - 1511 Third Avenue, a/k/a 201 East
85th Street, southwest corner of Block bounded by Second and
Third Avenues, and East 85th and 86th Streets, Block 1531, Lot
1, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Michael T. Sillerman and Leah Ferster.

For Opposition: Jonathan Federico, Anthony Scaduto, Michael
Levin and Marvin Mitzner.

ACTION OF THE BOARD - Laid over to August 12,
2003, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 5:35 P.M.

CORRECTIONS

*CORRECTION

This resolution adopted on June 17, 2003, under Calendar No. 340-41-BZ and printed in Volume 88, Bulletin No.26, is hereby corrected to read as follows:

340-41-BZ

APPLICANT - Walter T. Gorman, P.E, for Paul & Marie Sinanis, owner; S & J Service Station, Inc., lessee.

SUBJECT - Application March 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 1, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 72-09 Main Street, southeast corner of 72nd Avenue, Block 6660, Lot 1, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES -

For Applicant: John Ronan.

ACTION OF THE BOARD - Waiver of the Rules of Practice and Procedure, application reopened, resolution amended and term of Variance 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 May 6, 2003, after due notice by publication in *The City Record*, and then to June 17, 2003 for decision; and

WHEREAS, the applicant has requested a waiver of the Rules of Practice and Procedure, re-opening, an extension of the term of the variance which expires on May 1, 2002; and

WHEREAS, the subject application also seeks an amendment to the resolution for the legalization of the removal of a portion of the planting area on 72nd Road side of the property, legalization of a planting area along Vleigh Place which had been designated for parking, legalization of modifications to the interior, which include a wall to divide the office area into a smaller office and auto accessories sales area and the installation of a new slop sink, legalization of the erection of a chain link fence in lieu of a wooden railing at the corner of Vleigh Place and 72nd Road, legalization of the construction of a masonry wall rather than brick piers and wooden pickets along 72nd Avenue, legalization of the bricking over of the windows on the service building and its cupola, and elimination of the prohibition of vending machines at gasoline service stations located in a C1-2 within in a R4 zoning district; and

WHEREAS, on June 24, 1941, the Board granted an application to permit the erection of a gasoline service station with accessory uses; and

WHEREAS, on September 18, 1951, the Board extended the term of the variance for a period of ten years;

and

WHEREAS, on February 3, 1953, the Board approved the installation of additional gasoline tanks on the premises; and

Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens and amends* the resolution to extend the term of the Variance which expires on May 1, 2002, so that as amended this portion of the resolution shall read:

“to permit the legalization of the removal of a portion of the planting area on 72nd Road side of the property, legalization of the parking spaces in a portion of the area that had been designated for planting along 72nd Road; legalization of a planting area along Vleigh Place which had previously been designated for parking, legalization of modifications to the interior, which include a wall to divide the office area into a smaller office and auto accessories sales area and the installation of a new slop sink, legalization of the erection of a chain link fence in lieu of a wooden railing at the corner of Vleigh Place and 72nd Road, legalization of the construction of a masonry wall rather than brick piers and wooden pickets along 72nd Avenue, legalization of the bricking over of the windows on the service building and its cupola, elimination of the prohibition of vending machines at gasoline service stations located in a C1-2 within in a R4 zoning district, and to extend the term of the Variance for an additional ten (10) years from May 1, 2002 to expire on May 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 May 15, 2003”- (5) sheets; and on further condition;

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

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

THAT the 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 #401612572)

Adopted by the Board of Standards and Appeals, June 17, 2003.

***The resolution has been corrected to add in that the part of the resolved:** “ legalization of the parking spaces in a portion

CORRECTIONS

Road; ". Corrected in Bulletin No. 27, Vol. 88, dated July 3,

*CORRECTION

This resolution adopted on June 14, 2003, under Calendar No. 87-02-BZ and printed in Volume 88, Bulletin No. 27, is hereby corrected to read as follows:

87-02-BZ

CEQR #02-BSA-160K

APPLICANT - Sheldon Lobel, P.C., for Harvinder Singh, owner.
SUBJECT - Application March 27, 2002 - under Z.R. §72-2, to permit in an R5 zoning district to replace the existing structure with a new 4,741 square foot automotive service station with an accessory retail convenience store, installation of underground storage tanks, construction of a new overhead canopy with 5 pump islands and the installation of new signage contrary to Z.R. Section 32-00 and Calendar Number 483-69-BZ.

PREMISES AFFECTED - 8401 Flatlands Avenue, between East 83rd and East 84th Streets, Block 8005, Lots 2 and 6, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Janice Calahane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Vice-Chair Babbar.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 28, 2002 acting on Application No. 301292553 reads:

“PROPOSED EXTENSION OF A GASOLINE SERVICE STATION USE GROUP 16 IN A R5 DISTRICT PREVIOUSLY APPROVED BY THE BOARD OF STANDARDS AND APPEAL UNDER RESOLUTION 483-69-BZ IS CONTRARY TO SECTION 32-00 OF THE ZONING RESOLUTION”; and

WHEREAS, a public hearing was held on this application on October 1, 2002 after due notice by publication in *The City Record* and laid over to November 12, 2002 and December 17, 2002 and then to January 14, 2003 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, on a site previously before the Board, in an R5 zoning district

to permit the enlargement and modification of an existing automotive service station with repairs, Use Group 16, to include an accessory retail convenience store contrary to Z.R. Section 32-00 and Calendar Number 483-69-BZ; and
WHEREAS, the site is located at the corner of Flatlands Avenue and East 84th Street improved with an existing automotive service station; and

WHEREAS, the record indicates that the proposal provides parking for seven vehicles in addition to spaces at the pump islands, illuminated signage of 215.09 square feet and no non-illuminated signage; and

WHEREAS, the proposal also provides a 6-foot high chain link fence with privacy slats, six-foot high evergreens to screen and buffer the adjoining 3-story apartment at block 8005 Lot 11 in addition to an existing 6-foot high opaque wood fence along the Northern property line which provides a buffer to the property at Block 8005, Lot 1; and

WHEREAS, the applicant represents that under Calendar # 483-69-BZ, in 1969, the Board permitted the rehabilitation and enlargement of the then existing automotive service station; and

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

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

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

WHEREAS, the Board notes that the site has housed non-conforming uses similar to the one proposed for over 33 years; and

WHEREAS, the record indicates that the subject proposal would meet the special permit findings of Zoning Resolution Section 73-211, and provides sufficient parking, screening, fencing and vegetation along the residential district to avoid congestion and adverse traffic and noise impacts; 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

CORRECTIONS

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

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, on a site previously before the Board, in an R5 zoning district to permit the enlargement and modification of an existing automotive service station with repairs, Use Group 16, to include an accessory retail convenience store contrary to Z.R. Section 32-00 and Calendar Number 483-69-BZ, *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 29, 2002"- (4) sheets, and "December 10, 2002"- (2) sheets; and on further condition;

THAT the term of the variance shall be limited to ten (10) years from the date of this grant, to expire on January 14, 2013;

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, January 14, 2003.

***The resolution has been corrected in that the portion of which read:** *"to replace the existing structure with a new 4,741 square foot automotive service station with an accessory retail convenience store, installation of underground storage tanks, construction of a new overhead canopy with 5 pump islands and the installation of new signage "* **now reads:** *"to permit the enlargement and modification of an existing automotive service station with repairs, Use Group 16, to include an accessory retail convenience store ". Corrected in Bulletin No. 27, Vol. 88, dated July 3, 2003.*

*CORRECTION

This resolution adopted on October 29, 2002, under Calendar No. 274-59-BZ, Vol. II and printed in Volume 87, Bulletin No. 44, is hereby corrected to read as follows:

274-59-BZ, Vol. II

APPLICANT - Laurence Dalfino, R.A., for Manorwood Realty Corp., owner.

SUBJECT - Application February 15, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired September 28, 2001. PREMISES AFFECTED - 3356-3358 Eastchester Road and 1510-1514 Tillotson Avenue, south side Tillotson Avenue from Eastchester Road to Mickle Avenue, Block 4744, Lot 1, Borough of The Bronx.

COMMUNITY BOARD #12BX

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

THE RESOLUTION -

WHEREAS, the applicant has requested a waiver of the Rules of Procedure and a reopening for an extension of the term of the variance which expired September 28, 2001; and

WHEREAS, a public hearing was held on this application on August 6, 2002, after due notice by publication in The City Record, laid over to September 10, 2002, October 8, 2002 and then to October 29, 2002 for decision; and

WHEREAS, the applicant represents that there are no substantial changes from what was previously approved by the Board;

WHEREAS, the applicant seeks to extend the term of the variance, permitting a private parking lot, for an additional ten years.

CORRECTIONS

Resolved, that the Board of Standards and Appeals hereby waives the Rules of Practice and Procedure and reopens and extends the term of the variance, said resolution having been adopted January 17, 1961, 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 September 28, 2001 expiring September 28, 2011, on condition;

THAT the premises shall be maintained in substantial compliance with the proposed drawings submitted with the application marked "Received February 15, 2002"- (3) sheets and "June 19, 2002"- (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 all landscaping shall be maintained according to BSA approved plans;

THAT the conditions from all prior BSA resolutions for this site shall remain in effect;

THAT the Certificate of Occupancy shall expire with the termination of Certificate of Occupancy for the catering establishment located on Block 4743, Lot 8;

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."

(DOB. ALT No. 695/64)

Adopted by the Board of Standards and Appeals, October 29, 2002.

***The resolution has been corrected to reflect the approved plans which read: "Received February 15, 2002"- (5) sheets" now reads: "Received February 15, 2002"- (3) sheets and "June 19, 2002"- (2) sheets". Corrected in Bulletin No. 27, Vol. 88, dated July 3, 2003.**

*CORRECTION

This resolution adopted on June 17, 2003, under Calendar No. 190-75-BZ, and printed in Volume 88, Bulletin No. 26, is hereby corrected to read as follows:

190-75-BZ

APPLICANT - Kevin B. McGrath, Esq., for Condominium, owner.

SUBJECT - Application August 14, 2002 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 301-321 East 79th Street, Second Avenue and East 79th Street, Block 1542, Lots 1001-1546, 7501, 12, 49, Block 8, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Kevin B. McGrath and other.

ACTION OF THE BOARD - Application re-opened and resolution amended.

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, a public hearing was held on this application on November 19, 2002, after due notice by publication in *The City Record*, and laid over to March 18, 2003, April 15, 2003, May 20, 2003 and then to June 17, 2003 for decision; and

WHEREAS, the applicant has requested an amendment to the variance for the legalization of an exhaust shed and changes to the fencing and railings on the subject property; and

WHEREAS, the requested amendment includes the legalization of the fence currently situated between the plaza and the rear yard and the closure of the fencing located at the East 80th Street entrance to the driveway; and

CORRECTIONS

WHEREAS, on November 12, 1975 the Board granted an application to permit the enlargement of the lot and floor

that all work would substantially conform with the approved drawings; and

WHEREAS, in a letter dated October 10, 2002, Community Board #8M recommended approval of this application; and

WHEREAS, the record indicates that the New York City Department of City Planning has no objections to the subject 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 an exhaust shed and changes to the fencing and railings including the fence currently situated between the plaza and the rear yard and the closure of the fencing located at the East 80th Street entrance to the driveway, and to allow the said rear yard and driveway leading to the East 80th Street entrance to be used for storage and the removal of garbage”, 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 14, 2003”- (2) sheets; and on further condition;

THAT the posted notice plaques shall contain the following language:

“THIS PLAZA IS OPEN TO THE PUBLIC. Complaints regarding this plaza may be addressed to the Department of City Planning or the Department of Buildings of the City of New York.”;

THAT the public plaza shall remain open 24 hours a day;

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.”

area of a thirty-six story mixed use building, on the condition

(DOB Application #ALT. I. 103182556 and #ALT. I. 103158306)

Adopted by the Board of Standards and Appeals, June 17, 2003.

***The resolution has been corrected to add to the Resolved portion:** “to allow the said rear yard and driveway leading to the East 80th Street entrance to be used for storage and the removal of garbage”. **Corrected in Bulletin No. 27, Vol. 88, dated July 3, 2003.**

*CORRECTION

This resolution adopted on June 14, 2003, under Calendar No. 87-02-BZ and printed in Volume 88, Bulletin No. 27, is hereby corrected to read as follows:

87-02-BZ

CEQR #02-BSA-160K

APPLICANT - Sheldon Lobel, P.C., for Harvinder Singh, owner.
SUBJECT - Application March 27, 2002 - under Z.R. §72-21, on a site previously before the Board, in an R5 zoning district to permit the enlargement and modification of an existing automotive service station with repairs, Use Group 16, to include an accessory retail convenience store contrary to Z.R. Section 32-00 and Calendar Number 483-69-BZ.

PREMISES AFFECTED - 8401 Flatlands Avenue, between East 83rd and East 84th Streets, Block 8005, Lots 2 and 6, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES -

For Applicant: Janice Calahane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Vice-Chair Babbar.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough

CORRECTIONS

SERVICE STATION USE GROUP 16 IN A R5

WHEREAS, a public hearing was held on this application on October 1, 2002 after due notice by publication in *The City Record* and laid over to November 12, 2002 and December 17, 2002 and then to January 14, 2003 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, on a site previously before the Board, in an R5 zoning district to permit the enlargement and modification of an existing automotive service station with repairs, Use Group 16, to include an accessory retail convenience store contrary to Z.R. Section 32-00 and Calendar Number 483-69-BZ; and

WHEREAS, the site is located at the corner of Flatlands Avenue and East 84th Street improved with an existing automotive service station; and

WHEREAS, the record indicates that the proposal provides parking for seven vehicles in addition to spaces at the pump islands, illuminated signage of 215.09 square feet and no non-illuminated signage; and

WHEREAS, the proposal also provides a 6-foot high chain link fence with privacy slats, six-foot high evergreens to screen and buffer the adjoining 3-story apartment at block 8005 Lot 11 in addition to an existing 6-foot high opaque wood fence along the Northern property line which provides a buffer to the property at Block 8005, Lot 1; and

WHEREAS, the applicant represents that under Calendar # 483-69-BZ, in 1969, the Board permitted the rehabilitation and enlargement of the then existing automotive service station; and

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

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

WHEREAS, the record indicates that the subject property is located in an area characterized by commercial

ZONING RESOLUTION"; and

uses; and

WHEREAS, the Board notes that the site has housed non-conforming uses similar to the one proposed for over 33 years; and

WHEREAS, the record indicates that the subject proposal would meet the special permit findings of Zoning Resolution Section 73-211, and provides sufficient parking, screening, fencing and vegetation along the residential district to avoid congestion and adverse traffic and noise impacts; and

WHEREAS, therefore, the Board finds that the proposed application 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 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, on a site previously before the Board, in an R5 zoning district to permit the enlargement and modification of an existing automotive service station with repairs, Use Group 16, to include an accessory retail convenience store contrary to Z.R. Section 32-00 and Calendar Number 483-69-BZ, *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 29, 2002".

(4) sheets, and "December 10, 2002"-(2) sheets; and on further condition;

THAT the term of the variance shall be limited to ten (10) years from the date of this grant, to expire on January 14, 2013:

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

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

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

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

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

THAT the approved plans shall be considered approved

CORRECTIONS

only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under 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 14, 2003.

***The resolution has been corrected in that the portion which read: “to replace the existing structure with a new 4,741 square foot automotive service station with an accessory retail convenience store, installation of underground storage tanks, construction of a new overhead canopy with 5 pump islands and the installation of new signage” now reads: “to permit the enlargement and modification of an existing automotive service station with repairs, Use Group 16, to include an accessory retail convenience store”. Corrected in Bulletin No. 27, Vol. 88, dated July 3, 2003.**

***CORRECTION**

This resolution adopted on January 7, 2003, under Calendar No. 249-02-BZ and printed in Volume 88, Bulletin Nos. 1-3, is hereby corrected to read as follows:

249-02-BZ

CEQR#03-BSA-040X

APPLICANT - Jay Segal, Esq., for Fordham Associates, LLC, owner.

SUBJECT - Application September 20, 2002 - under Z.R. §72-21, to permit the proposed physical culture establishment, to be located in the cellar of an existing five story building, in an R8 and R8/C1-3 zoning district, which is contrary to §32-31.

PREMISES AFFECTED - 2501 Grand Concourse, northwest corner of Fordham Road, Block 3167, Lot 1, Borough of The Bronx.

COMMUNITY BOARD #7BX

APPEARANCES -

For Applicant: Jay Segal.

For Administration: John Yacovone, Fire Department.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative:, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....3

Negative:0

Absent: Chairman Chin, Vice-Chair Babbar.....2

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner dated August 21, 2002 acting on Application number 200675359 reads; “HEALTH CLUB NOT PERMITTED IN C1-3 IN R8 ZONING DISTRICT. VARIANCE REQUIRED AS PER SECTION 32-31 Z.R.”; and

WHEREAS, Community Board #3, Queens, recommends conditional approval of this application; and

WHEREAS, a public hearing was held on this application on November 26, 2002 after due notice by publication in The City Record , and laid over to January 7, 2003 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 Babbar, Commissioner Mitchell Korbey, Commissioner Peter Caliendo and Commissioner Joel Miele; and

WHEREAS, this is an application for under Z.R. §72-21, to permit the proposed physical culture establishment, to be located in the cellar of an existing five story building, in an R8 and R8/C1-3 zoning district, which is contrary to §32-31; and

WHEREAS, subject building was formerly used as a department store, and is located on the northwest corner of the intersection of Fordham Road and the Grand Concourse in the Bronx; and

WHEREAS, the subject building covers its entire 55,197 square foot lot area, with the exception of two small triangular portions at the intersections of the Grand Concourse and Fordham Road, and Fordham Road and East 190th Street; and

WHEREAS, the subject building is located in three zoning districts: a C4-4, an R8/C1-3, and an R8, and is also situated within the Special Grand Concourse District; and

WHEREAS, a variance, rather than a special permit, is required because 13,830 square feet of the proposed PCE would be in the R8 and R8/C1-3 zoning districts in which a special permit may not be granted; and

WHEREAS, the proposed health club would occupy 35,028 square feet of area in the cellar and 1,852 square feet of area on the first floor, to be used as an entrance; and

WHEREAS, the record indicates that the building has a subcellar, cellar, four full stories and a partial fifth story and has always been used as a single purpose department store building; and

WHEREAS, the applicant represents that building is functionally obsolete due to the design and layout of the building as a single purpose department store; and

WHEREAS, evidence in the record indicates that the

CORRECTIONS

subject building has no windows, five escalators and only one passenger elevator, significant bathrooms only on alternate floors, one modest lobby, high ceilings, and a HVAC system that must be either on or off for the entire building; and

WHEREAS, the applicant states that the aforementioned conditions result in extraordinary costs in rehabilitating the building to earn a reasonable return; and

WHEREAS, the applicant represents that the redevelopment plan for the building includes multiple as-of-right retail uses on the first and second floors, with the upper three floors to be used as offices and classrooms; and

WHEREAS, the applicant further represents that retail use in the cellar is not feasible and that the only conforming option would be retail storage, which produces almost no income; and

WHEREAS, the Board finds that there are physical conditions attributed to the existing building, namely the varying zoning designations, the history of use, and the functional obsolescence, which creates an unnecessary hardship in developing the site in conformity with the current zoning; 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; and

WHEREAS, the record indicates that subject building is located on two heavily trafficked thoroughfares and that the surrounding area is primarily commercial in nature; 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 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 zoning district; and

WHEREAS, the proposed physical cultural establishment 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 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.

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 physical culture establishment, to be located in the cellar of an existing five story building, in an R8 and R8/C1-3 zoning district, which is contrary to §32-31, which is contrary to Z.R. §32-31, 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 20, 2002"-(13) sheets; and on further condition;

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 substantial construction shall be completed in accordance with 72-23; and

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

THAT a Certificate of Occupancy shall be obtained within two 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;

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

Adopted by the Board of Standards and Appeals, January 7, 2003.

***The resolution has been corrected to add:** *“to permit the proposed physical culture establishment, to be located in the cellar of an existing five story building, in an R8 and R8/C1-3 zoning district, which is contrary to §32-31, which is contrary to Z.R. §32-31”.* **Corrected in Bulletin No. 27, Vol. 88, dated July 3, 2003.**

Pasquale Pacifico, Executive Directo