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# BULLETIN

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

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February 12, 2004

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145-95-BZ	80 Fifth Avenue, Manhattan
189-99-BZ	460 Quincy Avenue, Bronx
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**Affecting Calendar Numbers:**

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# DOCKETS

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New Case Filed Up to February 3, 2004

**17-04-BZ**            B.BK.            2323 Avenue “S”,  
northwest corner of East 24<sup>th</sup> Street, Block 6829, Lot 42,  
Borough of Brooklyn. Alt. #301677184. The legalization of  
an enlargement in portions of the first and second floors, of  
a single family residence, located in an R3-2 zoning  
district, which does not comply with the zoning  
requirements for floor area ratio, lot coverage, open space,  
side and front yards, also perimeter wall height, is contrary  
to Z.R. §23-141, §23-461A, §23-631B and §23-45.

**COMMUNITY BOARD #15BK**

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

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# CALENDAR

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**MARCH 9, 2004, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, March 9, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

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**SPECIAL ORDER CALENDAR**

**671-56-BZ**

APPLICANT - Walter T. Gorman, P.E., for Benjamin Siegel Properties, LLC, owner; Euclid Enterprises, Inc., lessee.  
SUBJECT - Application December 5, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired September 143, 2002 and for an amendment to the resolution.  
PREMISES AFFECTED - 1249-1265 Sutter Avenue, northside blockfront from Euclid Avenue to Doscher Street, Block 4249, Lots 55 and 59, Borough of Brooklyn.  
**COMMUNITY BOARD #5**

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**198-66-BZ**

APPLICANT - Eric Palatnik, P.C., for 300 East 74 Owners Corp., owner.  
SUBJECT - Application December 16, 2003 - reopening for an amendment to the resolution.  
PREMISES AFFECTED - 300 East 74th Street, southeast corner of 2nd Avenue and East 74th Street, Block 1448, Lot 3, Borough of Manhattan.  
**COMMUNITY BOARD #8**

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**269-98-BZ**

APPLICANT - Mothiur Rahman, for Mothiur Rahman, owner.  
SUBJECT - Application December 9, 2003 - reopening for an extension of time to obtain a Certificate of Occupancy.  
PREMISES AFFECTED - 70 East 184th Street, aka 2363 Morris Avenue, south side of East 184th Street, corner formed by the intersection of Morris Avenue, Block 3183, Lot 42, Borough of The Bronx.  
**COMMUNITY BOARD #5**

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APPLICANT - Moshe M. Friedman, P.E., for Kingsway Realty, LLC, owner.  
SUBJECT - Application September 10, 2003 - under Z.R. §72-21 to permit the proposed extension of an existing two story (2)

**263-01-BZ**

APPLICANT - Francis R. Angelino, Esq., for Lee & Wythe Realty Corp., owner; 85-101 North Third Street Associates, Inc., Lessee.  
SUBJECT - Application January 7, 2004 - reopening for an extension of time to obtain a Certificate of Occupancy which expired on January 7, 2003.  
PREMISES AFFECTED - 85-101 N. 3rd Street, northeast corner of intersection of North 3rd Street and Whythe Avenue, Block 2350, Lot 1, Borough of Brooklyn.  
**COMMUNITY BOARD #1**

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**32-02-BZ**

APPLICANT - Martyn & Don Weston, for Winchester Realty Group, LLC, owner.  
SUBJECT - Application December 12, 2003 - reopening for an amendment to the resolution.  
PREMISES AFFECTED - 176-182 Johnson Street, southwest corner of 92-102 Prince Street, Block 2049, Lot 15, Borough of Brooklyn.  
**COMMUNITY BOARD #2**

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**MARCH 9, 2004, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, *Tuesday afternoon*, March 9, 2004, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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**ZONING CALENDAR**

**288-03-BZ**

APPLICANT - H. Irving Sigman, for Aggressive Realty Corp., owner.  
SUBJECT - Application August 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a three story vertical and horizontal enlargement to an existing two story hotel, Use Group 5, located in a C2-2 within an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, height and non-complying signs, is contrary to Z.R. §33-121, §33-341, §32-641-643, §32-652 and §32-655.  
PREMISES AFFECTED - 109-17 Horace Harding Expressway, northeast corner of Saultell Avenue, Block 1969, Tentative Lot 2, Borough of Queens.  
**COMMUNITY BOARD #4**

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**296-03-BZ**

commercial building, Use Group 6, to three stories, located in a C4-3 zoning district, which is in compliance with the NYC Zoning Resolution for the addition, but does not comply with the required parking requirements, as per Z.R. §36-21.

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# CALENDAR

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PREMISES AFFECTED - 1619 Kings Highway, aka 1601/1621 Kings Highway and 1639/1651 East 17th Street, Block 6779, Lot 22, Borough of Brooklyn.

**COMMUNITY BOARD #15**

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**303-03-BZ**

APPLICANT - Moshe M. Friedman, P.E., for Leon Farhi, owner.

SUBJECT - Application December 8, 2004 - under Z.R. §72-21 to permit the proposed reconstruction of a four story residential building, Use Group 2, that had existed at this location and was demolished by the City of New York, which does not comply with the zoning requirements for floor area, lot size, perimeter wall, dwelling units, side yards and parking, is contrary to Z.R. §23-141(a), §23-32, §23-631(d), §23-22, §23-462 and §25-23.

PREMISES AFFECTED - 433 Columbia Street, northeast corner of Columbia Street and West 9th Street, Block 534, Lot 4, Borough of Brooklyn.

**COMMUNITY BOARD #6**

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**306-03-BZ**

APPLICANT - Law Offices of Howard Goldman, LLC, for Kay Water Properties, LLC, owner.

SUBJECT - Application September 29, 2003 - under Z.R. §72-21 to permit the proposed conversion of a four story industrial building, located in an M1-2 zoning district, into a residential dwelling, also the addition of two floors, for a total of 18 loft-style dwelling units, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 192 Water Street, between Jay and Bridge Streets, Block 41, Lot 11, Borough of Brooklyn.

**COMMUNITY BOARD #2**

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**5-04-BZ**

APPLICANT - Bryan Cave, LLP, for Gerard Avenue LLC, c/o American Self Storage Management Associates, Inc. owner.

SUBJECT - Application January 7, 2004 - under Z.R. §73-19 to permit the proposed construction and operation of a school, without sleeping accommodations on the site, Use Group 3, to be located in an M1-2 zoning district, requires a special permit as per Z.R. §73-19.

PREMISES AFFECTED - 595 Gerard Avenue, a/k/a 587/95 River Avenue, between 150th and 151st Streets, Block 2354, Lot 1, Borough of The Bronx.

**COMMUNITY BOARD #4**

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*Pasquale Pacifico, Executive Director*

**REGULAR MEETING  
TUESDAY MORNING, FEBRUARY 3, 2004**

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# MINUTES

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10:00 A.M.

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, December 9, 2003, were approved as printed in the Bulletin of Volume 88, No. 48-50.

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## SPECIAL ORDER CALENDAR

### 74-49-BZ

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

SUBJECT - Application November 8, 2001 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to complete construction and to obtain a certificate of occupancy which expired April 4, 2001.

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

### COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Jordan Most.

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

THE VOTE TO REOPEN HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

THE VOTE TO GRANT -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, the applicant requested a waiver of the

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 1024600089)

Adopted by the Board of Standards and Appeals, February 3, 2004.

Rules of Practice and Procedure and an extension of time to obtain a Certificate of Occupancy (“CO”) for a building containing a parking garage, a bank and an Off-Track Betting facility; and

WHEREAS, a public hearing was held on this application on February 26, 2002 after due notice by publication in *The City Record*, then laid over to April 9, 2002, May 14, 2002, July 9, 2002, August 6, 2002, November 12, 2002, January 28, 2003, May 20, 2003, September 30, 2003, November 25, 2003, and then to February 3, 2004 for decision; and

WHEREAS, on April 4, 2001, under the referenced calendar number, the Board reopened and amended the previous resolution, originally adopted on March 29, 1949, and required that a new CO be obtained within one year of the date of the amended resolution; and

WHEREAS, the applicant represents that the owner has not obtained a CO due to a number of violations affecting the premises; and

WHEREAS, at the request of the Board, the owner of the premises has reduced the number of outstanding violations affecting the premises.

*Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and *reopens and amends* the resolution pursuant to Section 1-05(g) of the Board’s Rules of Practice and Procedure and Section 11-411 of the Zoning Resolution, said resolution having been originally adopted on March 29, 1949, so that as amended this portion of the resolution shall read: “to permit an extension of the time to obtain a Certificate of Occupancy for an additional two (2) years from the date of this resolution, to expire on February 3, 2006, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received January 27, 2004”-(8) sheets; and *on further condition*;

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

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

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

THAT all outstanding violations related to life, safety and health affecting the premises be resolved prior to issuance of the Certificate of Occupancy;

### 931-57-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Ziya Ercan, owner; Time Service Station, Inc., lessee.

SUBJECT - Application June 13, 2003 - reopening for an extension of term of variance which expires May 9, 2004 and for an amendment to the resolution.

PREMISES AFFECTED - 535 Vanderbilt Avenue, a/k/a 1047

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# MINUTES

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**Van Duzer Street, northeast corner of Vanderbilt Avenue and Van Duzer Street, Block 650, Lot 30, Borough of Staten Island.**

**COMMUNITY BOARD #1SI**

**APPEARANCES -**

**For Applicant: Carl A. Sulfaro.**

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

**THE VOTE TO GRANT -**

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on September 9, 2003, after due notice by publication in *The City Record*, and laid over to October 28, 2003, January 13, 2004 and then to February 3, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, an extension of the term of the variance which expires on May 9, 2004, and an amendment to the resolution; and

WHEREAS, the applicant seeks approval for an increase in the number of gasoline dispensers and creation of a pump island beneath the existing canopy; for the conversion of the existing accessory building from an accessory auto repair facility to an accessory convenience store; and for new signage; and

WHEREAS, since July 29, 1958, the Board has exercised jurisdiction over the premises under the subject calendar number, with further actions occurring since that date, the most recent being a reopening on the SOC calendar for an extension of time to obtain a certificate of occupancy, granted on November 23, 1999; and

WHEREAS, the record indicates that the premises has been continuously occupied as a gasoline service station since 1958.

*Resolved*, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, *reopens and amends* the resolution, pursuant to Zoning Resolution §§11-411 and 11-412, extends the term of the variance which expires on May 9, 2004, so that as amended this portion of the resolution shall read: "to permit the extension

**PREMISES AFFECTED - 3948-52 Amboy Road, south side of Amboy Road between Hillside Terrace and Brown Avenue, Block 5142, Lot 22, Borough of Staten Island.**

**COMMUNITY BOARD #3SI**

**APPEARANCES -**

**For Applicant: Fredrick A. Becker.**

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

**THE VOTE TO GRANT -**

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

of the term of the variance for an additional five (5) years from May 9, 2004 expiring on May 9, 2009, and to permit an increase in the number of gasoline dispensers and creation of a pump island beneath the existing canopy; the conversion of the existing accessory building from an accessory auto repair facility to an accessory convenience store; and new signage; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 21, 2003"- (4) sheets; and *on further condition*;

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

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

THAT landscaping shall be provided and maintained in accordance with BSA approved plans;

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

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB Application #500621400)

Adopted by the Board of Standards and Appeals, February 3, 2004.

**132-92-BZ**

**APPLICANT - The Law Office of Fredrick A. Becker, for Joseph DiStefano, owner.**

**SUBJECT - Application February 27, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expires July 19, 2004 and for an amendment to the resolution.**

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

**THE RESOLUTION -**

WHEREAS, a public hearing was held on this application on August 13, 2003, after due notice by publication in *The City Record*, and laid over to October 7, 2003, December 9, 2003, January 13, 2004 and then to February 3, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the variance which expires on July 19, 2004; and

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# MINUTES

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WHEREAS, on July 19, 1994, the Board granted an application permitting, in a C1-1 and R3-1 district, the conversion of the cellar level from accessory storage (Use Group 6) to a banquet hall (Use Group 9) in an existing one story and cellar commercial building with accessory parking within the residential portion of the lot; and

WHEREAS, the applicant had originally proposed the extension of the day care use in the cellar level, but has since withdrawn their request.

*Resolved*, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, *reopens and amends* the resolution, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional (10) years from July 19, 2004 to expire on July 19, 2014, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 27, 2003"-(2) sheets, "July 30, 2003"-(1) sheet, "December 1, 2003"-(1) sheet, "January 6, 2004"-(1) sheet, and "January 20, 2004"-(1) sheet; and *on further condition*:

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

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

THAT there shall be no simultaneous use of the playground/parking area for both parking and as a playground;

THAT signage shall be posted on both of the gates at the Brown Avenue and Hillside Terrace entrances with text reading "Gate to remain closed, and no access for vehicles when play area is in use";

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

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

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

*Resolved*, that the Board of Standards and Appeals, waives the Rules of Practice and Procedure, *reopens and amends* the resolution, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the special permit for an additional (10) years, from November 13, 2002 to expire on November 13, 2012, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 5, 2003"-(2) sheets; and *on further condition*:

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

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

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

and/or configuration(s) not related to the relief granted." (DOB Application #500590728)

Adopted by the Board of Standards and Appeals, February 3, 2004.

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## 145-95-BZ

APPLICANT - Sullivan Chester & Gardner, P.C., for LRHC, Inc., d/b/a Lucille Roberts, owner.

SUBJECT - Application June 5, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired November 13, 2002.

PREMISES AFFECTED - 80 Fifth Avenue, southwest corner of West 14<sup>th</sup> Street, Block 577, Lot 39, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES - None.

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

THE VOTE TO GRANT -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on August 12, 2003, after due notice by publication in The City Record, and laid over to September 30, 2003, November 25, 2003, January 13, 2004, and then to February 3, 2004 for decision; and

WHEREAS, the applicant requests a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of the term of the special permit, which expired on November 13, 2002; and

WHEREAS, November 13, 1996, the Board granted an application permitting, in a C6-4 zoning district, the legalization of a physical culture establishment located on the second floor of a 16-story commercial building.

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB Application #100908485)

Adopted by the Board of Standards and Appeals, February 3, 2004.

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## 189-99-BZ

APPLICANT -The Agusta Group by Philip P. Agusta, R.A., M.U.P., for 460 Quincy Avenue Realty Corporation, owner.

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# MINUTES

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SUBJECT - Application October 21, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to complete construction which expired November 14, 2001.

PREMISES AFFECTED - 460 Quincy Avenue, southeast corner of Dewey Avenue, Block 5578, Lot 1, Borough of The Bronx.

**COMMUNITY BOARD #10BX**

APPEARANCES -

For Applicant: Sheldon S. Leffler.

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

THE VOTE TO REOPEN HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**THE VOTE TO GRANT -**

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

**THE RESOLUTION -**

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

WHEREAS, a public hearing was held on this application on December 16, 2003 after due notice by publication in *The City Record*, then laid over to January 13, 2004, and then to February 3, 2004 for decision; and

WHEREAS, on November 14, 1999, the Board granted the legalization of a two-story and cellar mixed use building with retail use on the ground floor and cellar, and residential use on the second floor.

PREMISES AFFECTED - 20/24 2nd Avenue a/k/a 30/32 East 1st Street, northeast corner of 2nd Avenue and East 1st Street, Block 443, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #3M**

APPEARANCES -

For Applicant: Heywood Blaufeux.

**ACTION OF THE BOARD -** Laid over to March 2, 2004, at 10 A.M., for continued hearing.

**Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution so that as amended this portion of the resolution shall read: "to permit an extension of the time to obtain a Certificate of Occupancy for an additional two (2) years from the date of this resolution to expire on February 3, 2006, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 23, 2003"- (1) sheet; and on further condition**

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

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

**THAT any signage, including any awning signage, at the site shall contain, in the aggregate, no more than 50 square feet of total area,;**

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

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

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

**(DOB Application No. 200584876)**

**Adopted by the Board of Standards and Appeals, February 3, 2004.**

**85-58-BZ**

APPLICANT - Maxfield Blaufeux & Heywood Blaufeux, for Estate of Hyman Badzanower, owner; Westfield second Associates, owner

SUBJECT - Application October 7, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired and for an amendment to

**731-61-BZ**

APPLICANT - Richard A. Kaplin, Esq., for McLaughlin & Sons, Inc., owner.

SUBJECT - Application October 24, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired October 31, 2001.

PREMISES AFFECTED - 9620 Third Avenue, 97th Street and Third Avenue, Block 6121, Lots 31 and 33, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

APPEARANCES -

For Applicant: Richard Kaplin.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD -** Laid over to February 24,

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# MINUTES

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2004, at 10 A.M., for decision, hearing closed.

## **772-67-BZ Vol. II**

APPLICANT - Carl A. Sulfaro, Esq., for 1234 Forest Avenue Realty Corp., owner.

SUBJECT - Application September 9, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to complete construction which expired January 24, 2003.

PREMISES AFFECTED - 1234 Forest Avenue, southeast corner of Jewett Avenue, Block 354, Lot 32, Borough of Staten Island.

### **COMMUNITY BOARD #1SI**

APPEARANCES -

For Applicant: Carl A. Sulfaro.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to February 24, 2004, at 10 A.M., for decision, hearing closed.

## **62-83-BZ, Vol. II**

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: Shaya B. Pacific, LLC.

SUBJECT - Reopening for possible rescindment.

PREMISES AFFECTED - 696 Pacific Street, 529/39 Dean Street and 549/59 Dean Street, Block 1128, Lots 16, 18, 37, 65, 68, 70, Borough of Brooklyn.

### **COMMUNITY BOARD #8BK**

APPEARANCES -

For Applicant: Chris Wright and Howard Goldman.

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

### **COMMUNITY BOARD #12Q**

APPEARANCES -

For Applicant: Jordan Most.

**ACTION OF THE BOARD** - Appeals granted

THE VOTE TO REOPEN HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**THE VOTE TO GRANT** -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

**THE RESOLUTION-**

## **633-87-BZ**

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

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

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

### **COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Don Weston and Frank Fristacci.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to February 24, 2004, at 10 A.M., for decision, hearing closed.

## **323-03-A and 324-03-A**

APPLICANT - Sheldon Lobel, P.C., for Infinity Homes, Inc., owner.

SUBJECT - Application October 21, 2003 - Proposed construction of a two-story, two-family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City law.

PREMISES AFFECTED -

117-36 166th Street, between 119th Avenue and Foch Boulevard, Block 12356, Lot 36 and p/o of 39, New Lot 38, Borough of Queens.

117-38 166th Street, between 119th Avenue and Foch Boulevard, Block 12356, Part of Lot 39, New Lot 40, Borough of Queens.

WHEREAS, the decision of the Department of Buildings Queens Borough Commissioner, dated September 17, 2003 acting on NB Applications Nos. 401401862 and 401401871, reads, in pertinent part:

“(1) Proposed construction of two new two family homes and a private roadway within a bed of a mapped street (Bedell Street) is contrary to Section 35 of General City Law”; and

WHEREAS, this appeal is filed to allow two two-family dwellings to be built in a portion of the bed of a mapped street known as Bedell Street, Queens; and

WHEREAS, by letter dated January 28, 2004, the Fire Department has reviewed the above project and has no objections to the project; and

WHEREAS, by letter dated February 3, 2004, the Department of Transportation has reviewed the above project and has no objections as this site is not presently included in DOT’s Capital Improvement Program, though the letter does note that the subject lots were acquired from the City subject to a “dollar condemnation recapture clause” for the portion of the property lying in the street bed; and

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WHEREAS, by the letter dated December 12, 2003, the Department of Environmental Protection has reviewed the above revised project and has advised the Board that the latest adapted City Drainage Plan, #41SWC (35) and (14), for the above referenced location calls for the future installation of a 12" inch storm sewer in Bedell Street between Foch Blvd. and 119<sup>th</sup> Avenue; as the tax map for this area shows that the width of Bedell Street at the above location is 99 feet and is paved and open, there is sufficient space in the bed of the street for future installation and maintenance of a drainage sewer plan; DEP had no further comments; and

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

*Resolved*, that the decision of the DOB Queens Borough Commissioner, dated September 17, 2003, acting on N.B. Application Nos. 401401862 and 401401871, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above, *on condition* that construction shall substantially conform to the drawing filed with the application marked, "Received January 26, 2004" - (2) sheets; and that the proposal comply with all applicable zoning requirements; that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

**THAT any graffiti located on the premises shall be**

69 Hall Avenue, north side, 595.62' west of Willowbrook Road, Block 2091, Lot 85, Borough of Staten Island.

67 Hall Avenue, north side, 570.62' west of Willowbrook Road, Block 2091, Lot 80, Borough of Staten Island.

65 Hall Avenue, north side, 545.62' west of Willowbrook Road, Block 2091, Lot 79, Borough of Staten Island.

63 Hall Avenue, north side, 520.62' west of Willowbrook Road, Block 2091, Lot 78, Borough of Staten Island.

61 Hall Avenue, north side, 495.62' west of Willowbrook Road, Block 2091, Lot 77, Borough of Staten Island.

59 Hall Avenue, north side, 465.62' west of Willowbrook Road, Block 2091, Lot 76, Borough of Staten Island.

55 Hall Avenue, north side, 435.62' west of Willowbrook Road, Block 2091, Lot 75, Borough of Staten Island.

53 Hall Avenue, north side, 410.62' west of Willowbrook Road, Block 2091, Lot 74, Borough of Staten Island.

51 Hall Avenue, north side, 385.62' west of

removed within 48 hours;

**THAT within thirty (30) days from the date of this grant, an affidavit from the owner will be submitted stating that the owner understands that the property in the bed of the mapped street is subject to a "dollar condemnation recapture clause";**

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

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

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

**Adopted by the Board of Standards and Appeals, February 3, 2004.**

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## 45-03-A thru 64-03-A

APPLICANT - Robert E. Englert, A.I.A., for Sleepy Hollow Development Corp., owner.

SUBJECT - Application February 10, 2003 - Proposed two family attached frame building, not fronting on a legally mapped street, and located within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED -

Willowbrook Road, Block 2091, Lot 73, Borough of Staten Island.

49 Hall Avenue, north side, 355.62' west of Willowbrook Road, Block 2091, Lot 72, Borough of Staten Island.

45 Hall Avenue, north side, 325.62' west of Willowbrook Road, Block 2091, Lot 71, Borough of Staten Island.

43 Hall Avenue, north side, 300.62' west of Willowbrook Road, Block 2091, Lot 70, Borough of Staten Island.

41 Hall Avenue, north side, 275.62' west of Willowbrook Road, Block 2091, Lot 69, Borough of Staten Island.

39 Hall Avenue, north side, 250.62' west of Willowbrook Road, Block 2091, Lot 68, Borough of Staten Island.

37 Hall Avenue, north side, 225.62' west of Willowbrook Road, Block 2091, Lot 67, Borough of Staten Island.

35 Hall Avenue, north side, 200.62' west of Willowbrook Road, Block 2091, Lot 66, Borough of Staten Island.

31 Hall Avenue, north side, 267.12' west of Willowbrook Road, Block 2091, Lot 65, Borough of Staten Island.

29 Hall Avenue, north side, 143.62' west of Willowbrook Road, Block 2091, Lot 63, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Robert E. Englert.

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

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# MINUTES

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For Applicant: John W. Carroll.

For Administration: Lisa Orrantia, Department of Buildings.

**ACTION OF THE BOARD** - Laid over to March 2, 2004, at 10 A.M., for postponed hearing.

*Pasquale Pacifico, Executive Director.*

Adjourned: 10:50 A.M.

## 263-03-A

APPLICANT - John W. Carroll, Wolfson & Carroll, for Ben Bobker, owner.

SUBJECT - Application August 20, 2003 - An administrative appeal challenging the Department of Buildings' final determination dated August 13, 2003, in which the Department refused to revoke the certificate of occupancy, on the basis that the applicant had satisfied all objections regarding said premises.

PREMISES AFFECTED - 1638 Eighth Avenue, west side, 110-5' east of Prospect Avenue, Block 1112, Lot 52, Borough of Brooklyn.

### COMMUNITY BOARD #7BK

APPEARANCES -

SUBJECT - Application March 12, 2002 - under Z.R. §72-21 to permit the proposed construction of a six story, 64-unit residential building, Use Group 2, located in an M2-1 zoning district, is contrary to §42-00.

PREMISES AFFECTED - 460 Union Street, bounded by Union, Bond and Presidents Streets, and Gowanus Canal, Block 438, Lot 7, Borough of Brooklyn.

### COMMUNITY BOARD #6BK

APPEARANCES -

For Applicant: Chris Wright.

**ACTION OF THE BOARD** - Application Denied.

THE VOTE TO GRANT -

Affirmative: .....0

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

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 12, 2002, acting on Department of Buildings Application No. 301264450, reads:

“The proposed residential dwellings in an M2-1 district are contrary to section 42-00 of the zoning resolution and require a variance from the Board of Standards and Appeals.”; and

WHEREAS, a public hearing was held on this application on December 17, 2002 after due notice by publication in the City Record, with continued hearings on February 25, 2003, April 29, 2003, June 24, 2003, October 21, 2003, and then to February 3, 2004 for decision; and

WHEREAS, the premises and surrounding area had a

## REGULAR MEETING

TUESDAY AFTERNOON, FEBRUARY 3, 2004

2:00 P.M.

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

## ZONING CALENDAR

### 75-02-BZ

#### CEQR #02-BSA-149K

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

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# MINUTES

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

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M2-1 zoning district, the proposed construction of a four-story with penthouse, 44 unit residential building (UG 2), which is contrary to Z.R. §42-00; and

WHEREAS, the application was originally for a six-story, 66 unit residential building, but the applicant reduced the bulk of the proposal over the course of the public hearing process; and

WHEREAS, the subject zoning lot is 28,500 sq. ft., measuring 80 feet in the front, 100 feet in the rear and 300 feet in length, with frontage on the Gowanus Canal; and

WHEREAS, the zoning lot is currently occupied by an existing one-story manufacturing building, which is proposed to be demolished; and

WHEREAS, the applicant states that the following are

WHEREAS, the Board also notes that no showing has been made that the purported soil conditions are not general conditions affecting numerous properties within the immediate vicinity along the Gowanus canal; and

WHEREAS, the Board has reviewed the submitted engineering report and observes that the applicant has not explored alternative methods to mitigate the potential negative impact of pile driving necessary for construction of a conforming use, nor has the applicant, in their engineering analysis, considered less-intensive conforming uses that would require less extensive pile driving; and

WHEREAS, the Board disagrees that the minimum design live load for a conforming heavy manufacturing use would be 600 psf, as stated in the engineering report; the Board finds this number to be inflated and notes that other heavy manufacturing use buildings typically have a live load of around 300 psf; the Board also notes that this number is certainly excessive for less-intensive conforming manufacturing uses; and

WHEREAS, accordingly, the Board does not find the arguments set forth in the engineering report persuasive; and

WHEREAS, therefore, the Board finds that the applicant has failed to provide substantial evidence that the subject lot possesses unique physical conditions that create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning, and that the application consequently fails to meet the finding set forth at Z.R. §72-21(a); and

WHEREAS, the applicant claims that the building has been marketed actively for conforming uses for a recent 2 year period, and prior to that, for a 10 year period, and, in support of this contention, submitted copies of two newspaper advertisements that ran in May and June of 1999 and a letter from a previous owner with a copy of a

unique physical conditions, which create practical difficulties and unnecessary hardships in constructing the proposed building in conformity with underlying district regulations: the functional obsolescence of the existing building for conforming use, due to its age, design, and deteriorated condition; the existence of subsurface conditions, including compressible organic soils and the potential for liquefaction at a shallow depth that necessitates extensive pile driving; and proximity to older residential uses that could be impacted by the pile driving; and

WHEREAS, the applicant has submitted an engineering report that concludes that only residential use, which requires substantially smaller and shallower piles that conforming use, can feasibly be developed; and

WHEREAS, the Board notes that the proposed application contemplates the demolition of the existing building, thus obviating any claim of uniqueness on that basis; and

marketing contract with a 6 month term attached; and

WHEREAS, the Board has reviewed this marketing evidence and finds it to be insufficient, in that two newspaper advertisements in a two month period does not, in the Board's estimation, prove that an active marketing attempt has been made; nor was there sufficient documentary support for the allegations of marketing contained in the previous owner's letter; and

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

WHEREAS, the applicant represents that that the neighborhood surrounding the subject site is in decline, alleging that there are many vacant or underutilized lots near the subject parcel; and

WHEREAS, the applicant further represents that part of the proposed building would be across the street from conforming residential uses in a residential zoning district; and

WHEREAS, however, the Board observes that the building is situated on a block occupied by only conforming uses; that the surrounding blocks to the north, south, east, southeast, and northeast contain predominantly conforming uses, and that no substantial, undisputed evidence has been provided showing that a significant proportion of lots within the area are vacant or underutilized as applicant alleges; and

WHEREAS, the Board notes that only one small side of the proposed building, fronting on the east side of Bond Street, would face a residential district, and that this side of Bond Street is occupied predominantly by conforming manufacturing uses; and

WHEREAS, the Board further notes that the proposed

# MINUTES

development would front on the Gowanus Canal, which both historically and currently has a predominantly industrial character; and

WHEREAS, the applicant has submitted a land use map on December 23, 2003 that shows an area outlined in red that the applicant labels the Union Street Corridor, which extends from Smith Street to 5<sup>th</sup> Avenue, bounded by President and Sackett Streets; and

WHEREAS, the applicant argues that this corridor is mixed-use in nature, with many residential uses, and that, therefore, the proposed development would be compatible with the neighborhood character; and

WHEREAS, the Board considers the submitted land use map to be self-serving, and notes that the so-called Union Street Corridor does even not include conforming uses on the same block as the subject site; and

WHEREAS, based on the a review of the submitted *Resolved*, the decision of the Borough Commissioner, dated February 12, 2002, acting on DOB Alt Application No. 301264450 must be sustained, and the subject application hereby denied.

Adopted by the Board of Standards and Appeals, February 3, 2004.

land use map, other data in the record, and its own site visit, the Board finds that the proposed building, if constructed, would be one of the few residential uses with a large number of units fronting on the Gowanus Canal and within a viable manufacturing area that extends north/south from the site in both directions along Bond Street and continues due east past the canal to Nevins Street, encompassing a number of blocks that predominantly contain conforming uses; and

WHEREAS, based on the above, the Board finds that this action will alter the essential character of the surrounding neighborhood, and that the application therefore fails to meet the finding set forth at Z.R. §72-21(c); and

WHEREAS, because the subject application fails to meet the findings set forth at Z.R. §72-21(a)(b) & (c), it must be denied.

Absent: Commissioner Chin.....1  
**THE RESOLUTION -**

WHEREAS, the decision of the Borough Commissioner, dated August 1, 2002, acting on Department of Buildings Application No. 301377445, reads:

“Proposed residential conversion of existing structures to residential uses within this M2-1 zoning district is contrary to ZR Section 42-00 and therefore must be referred to the Board of Standards and Appeals.”; and

WHEREAS, a public hearing was held on this application on April 15, 2003 after due notice by publication in the City Record, with continued hearings on June 17, 2003, September 9, 2003 and November 18, 2003, and then to February 3, 2004 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, in an M2-1 zoning district, the proposed conversion and combination of existing three-story, two-story and six-story manufacturing buildings to residential use, with 48 residential units (UG 2), which is contrary to Z.R. §42-00; and

WHEREAS, the subject zoning lot is 24,304 sq. ft., with frontage on the Gowanus Canal, as well as on North Third Street, which is a wide street; and

WHEREAS, the zoning lot is currently occupied by three vacant manufacturing buildings, which are proposed to be combined; and

WHEREAS, the applicant alleges that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in using the existing buildings or in constructing the proposed combined building in conformity with underlying district regulations: the

**241-02-BZ**

**CEQR #03-BSA-032K**

APPLICANT - Sheldon Lobel, P.C., for HFK Inc., owner.

SUBJECT - Application August 30, 2002 - under Z.R. §72-21 to permit the proposed conversion to residential use, of two connected vacant manufacturing building, Use Group 2, located in an M2-1 zoning district, that will provide 48 residential loft type units, and is contrary to Z.R. §42-00.

PREMISES AFFECTED - 130 Third Street, corner of Bond and Third Streets, Block 466, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

APPEARANCES -

For Applicant: Janice Cahalane.

**THE ACTION OF BOARD -** Application Denied.

**THE VOTE TO GRANT -**

Affirmative: .....0  
 Negative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3  
 Abstain: Chair Srinivasan.....1

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# MINUTES

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functional obsolescence of the existing buildings for conforming use, due the massing of square footage on the upper floors of the six-story building, the unimproved floors broken up by numerous support columns, the lack of loading docks, the antiquated wiring, elevators, and mechanicals, and the insufficient ceiling heights; and

WHEREAS, the applicant has submitted supplemental documents that allegedly substantiate the claims made in support of the claim that the existing buildings are functionally obsolete; and

WHEREAS, as the applicant notes in its submission of January 20, 2004, the Board does consider the functional

WHEREAS, therefore, the Board finds that although the applicant has tailored its most recent submission, and specifically its representation of functional obsolescence, to be identical to a prior resolution for a Board variance, there is no merit to the applicant's contention that the subject application is identical to any other; and

WHEREAS, the Board disagrees with the applicant's characterization of the buildings as functionally obsolete, finding that: the subject building fronts on a wide street (Third Street), and thus it is possible to create a loading dock system that would conform to the trucking needs of a modern manufacturing use (unlike a building fronting only on a narrow street); and the floor to ceiling height on floors 1 through 4 of the 6-story building are approximately 15 feet high, which the Board finds to be adequate; and

WHEREAS, based on its review of the record and its site visit, the Board finds that the applicant has failed to provide substantial evidence that the subject lot possesses unique physical conditions that create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning, and that the application therefore fails to meet the finding set forth at Z.R. §72-21(a); and

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

WHEREAS, the applicant represents that that residential use is appropriate at the site because: there is a residential zoning district diagonally to the northwest, a bike lane runs along Third Street in front of the site, and the site is adjacent to the Gowanus Canal, which the applicant alleges is now predominantly used for recreation; and

WHEREAS, the Board notes that the residential zoning district that applicant sites is diagonally across a large intersection and a wide street and, within a 400' radius of the site, consists primarily of vacant lots and lots occupied by manufacturing uses; and

WHEREAS, because of the separation between the subject site and the residential zoning district, as well as the minimal amount of residential uses in a 400' radius of the site, the Board finds that there is no real relation in terms of neighborhood character between the site and the

obsolescence of an existing building, if supported by substantial evidence, to be the basis for a claim of unique physical conditions that lead to practical difficulty or unnecessary hardship, as set forth at §72-21(a); and

WHEREAS, however, the Board notes that a claim of functional obsolescence of a building for conforming use is examined on a case by case basis, and that each case is unique - it is highly unlikely that two buildings far apart from each other geographically would exhibit the exact same degree of functional obsolescence or the same combination of physical features; and

residential zoning district; and

WHEREAS, the Board observes that the building is situated on a block occupied by only conforming uses; that the block to the north contains predominantly conforming uses, and that the blocks across the Gowanus Canal from the site contain predominantly conforming uses; and

WHEREAS, the Board notes that the proposed building would not actually face any residential district, and notes further that the east side of Bond Street, on which a small portion of the proposed building would front, is occupied predominantly by conforming manufacturing uses extending from the site due north for several blocks; and

WHEREAS, the Board finds, based on its site visit and evidence in the record, that the site is within, and relates to in terms of character, a viable M2-1 manufacturing area that extends east from Bond Street across the Gowanus Canal to approximately 3rd Avenue, with blocks occupied predominantly by conforming uses; and

WHEREAS, the Board disagrees that a bike lane creates or contributes to any alleged residential character of this particular neighborhood; rather, a bike lane, given that it is actually laid out on the street, is more analogous to a transportation lane for auto vehicles; and

WHEREAS, in support of the argument that the Gowanus Canal is now predominantly used for recreation, the applicant has submitted excerpts from newspapers and a community board website containing anecdotes regarding alleged observed recreational use of the canal; and

WHEREAS, the Board notes that one of the articles submitted by applicant states that barges owned by the Bayside Fuel Oil Corporation continue to use the canal; and

WHEREAS, the information from the community board website, submitted by applicant, states that while overall water quality in the Gowanus Canal has improved, "the bottom of the canal is still lined with decades worth of sediment containing heavy metals, PCBs and other toxic elements"; and

WHEREAS, the Board disagrees with the applicant's assertion that the Gowanus Canal is now predominantly used for recreational use, and concludes based on evidence in the record and its own observations, that the use of the canal for such purposes is at most minimal and in

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its fledgling stages, and that the canal, while cleaner than in the past, remains significantly polluted; and

WHEREAS, the Board notes that even if the Gowanus Canal were to be used primarily for recreational uses in the future, it would not necessarily lead to the conclusion that the area in which the subject site is situated had become more amenable to residential conversions; and

WHEREAS, based on the a review of the submitted land use map, other data in the record, and its own site visit, the Board finds that the proposed building, if constructed, would be one of the only residential uses with a large number of units in a viable manufacturing area, and

*Resolved*, the decision of the Borough Commissioner, dated August 1, 2002, acting on DOB Alt Application No. 301377445 must be sustained, and the subject application is hereby denied.

Adopted by the Board of Standards and Appeals, February 3, 2004.

254-02-BZ

CEQR #03-BSA-038K

APPLICANT - Klein & O'Brien, LLP, for Malka Ausch, owner.

SUBJECT - Application September 18, 2002 - under Z.R. §72-21 to permit the legalization of residential occupancy (U.G. 2), in an existing three-story building, and proposed residential occupancy (U.G. 2) in a one-story building, within an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 41/45 South Fifth Street, bounded on the west by Kent Avenue, and on the east by Wythe Avenue, Block 2441, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES - None.

ACTION OF THE BOARD - Application Approved on Condition.

THE VOTE TO GRANT -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 22, 2002, acting on Department of Buildings

the only large residential building with frontage on the Gowanus Canal; and

WHEREAS, based on the above, the Board finds that this action, if approved, will alter the essential character of the neighborhood, and that the application therefore fails to meet the finding set forth at Z.R. §72-21(c); and

WHEREAS, because the subject application fails to meet the findings set forth at Z.R. §72-21(a), (b) & (c), it must be denied.

Alt. Application No. 301158039 reads:

“Proposed residential apartments (J-2) U.G. 2 in Manufacturing district M1-2 Zoning is not permitted as per Z.R. 42-00. Must be referred to B.S.A. for approval {sic}.”; and

WHEREAS, a public hearing was held on this application on April 15, 2003 after due notice by publication in the City Record, with continued hearings on June 17, 2003, August 15, 2003, September 9, 2003, October 21, 2003, January 13, 2004 and then to February 3, 2004 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit the legalization of residential occupancy (U.G. 2), in an existing three-story building, and proposed residential occupancy (U.G. 2) in a one-story building, within an M1-2 zoning district, which is contrary to Z.R. §42-00; and

WHEREAS, the subject site consists of a rectangular shaped lot, with a total lot area of approximately 7,321 square feet; and

WHEREAS, the site is presently occupied by a U-shaped, 3-story building and a one-story building, with approximately 13,109 square feet of floor area, excluding the basement; there is an interior courtyard between the two buildings connected to South Fifth Street by a driveway; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in developing the site in conformity with underlying district regulations: the floor plate size of both buildings is small; there is no elevator service; and the existence of the courtyard does not lend itself to conforming use; all of which contributes to the buildings' functional obsolescence and leads to an inability to attract conforming tenants; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning;

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and

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

WHEREAS, based upon its review of the record, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility

WHEREAS, in response to a request from the Board, the applicant has submitted a land-use study in January 2004 that purports to show many legal residential conversions in the vicinity of the subject site; and

WHEREAS, the Board has reviewed the land-use study, and finds that there are a number of lawful residential uses in the immediate vicinity, including lawful pre-existing residential buildings on the same block as the subject property; and

WHEREAS, moreover, the applicant has adequately addressed the concerns of the Board regarding fire safety issues and outstanding violations; and

WHEREAS, the Board has determined that the proposed project is consistent with the City's Local Waterfront Revitalization Program policies; and

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

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

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

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

WHEREAS, the applicant has submitted a January 17, 2003 recommendation from an environmental consultant, suggesting that specific conditions be part of the approval on the subject proposal to ensure that potential air quality and noise impacts on the proposed residents will not occur; these environmental concerns are based on the proximity of the subject site to the Williamsburg Bridge approach and the industrial operations in the area; and

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

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

*Resolved*, that the Board of Standards and Appeals issues a Negative Declaration with the conditions stipulated

that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that while the subject site is the only one on the northern side of Park Avenue not developed with conforming manufacturing uses, the site is nevertheless appropriate for residential development because it is proximate to other existing residential uses; and

below under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, to permit the legalization of residential occupancy (U.G. 2), in an existing three-story building, and proposed residential occupancy (U.G. 2) in a one-story building, within an M1-2 zoning district, which is contrary to Z.R. §42-00; *on condition* that all work substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 7, 2004"-(7) sheets and "Received January 20, 2004"-(1) sheet, and *on further condition*:

THAT the Applicant shall provide operable windows in the proposed building which shall include an alternate means of ventilation. Alternate means of ventilation shall include, but not be limited to the following options:

- (1) Central air-conditioning in the apartments.
- (2) Provision for air conditioner sleeves for use with an air conditioner or HUD-approved fan. Additionally, the air intake duct for the building's HVAC system shall be provided on the top of the proposed building. The alternate means of ventilation shall be designed to achieve a minimum window/wall attenuation of 35 dBA for all facades of the building;

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, February 3, 2004.

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83-03-BZ

**SUBJECT - Application March 12, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-family dwelling (Use Group 2) located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, front yard and the maximum number of dwelling units, which is contrary to Z.R. §§23-141, 23-45 and 23-22.**

**PREMISES AFFECTED - 2100 Hermany Avenue, southeast corner of Olmstead Avenue, Block 3685, Lot 9, Borough of The Bronx.**

**COMMUNITY BOARD #9BX**

**APPEARANCES -**

**For Applicant: Sheldon S. Leffler.**

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

**THE VOTE TO GRANT -**

**Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3**

**Negative:.....0**

**Abstain: Chair Srinivasan.....1**

**Absent: Commissioner Chin.....1**

**THE RESOLUTION -**

**WHEREAS, the decision of the Borough Commissioner, dated June 30, 2003 acting on Application No. 200706458 reads:**

**“the proposed two family dwelling is contrary to the following zoning sections:**

- 1. Floor area proposed exceeds max. F.A.R. contrary to section 23-141 of the ZR.**
- 2. Front yard along Hermany Ave. is less than 10 ft. contrary to section 23-45 of the ZR.**
- 3. The side yard along the southern lot line is less than 5'-0" contrary to section 23-461 of the ZR.**
- 4. Area and width of lot is contrary to section 23-32 of the ZR.**
- 5. Density proposed exceeds maximum allowed, contrary to section 23-22 of the ZR.”; and**

**WHEREAS, a public hearing was held on this application on August 5, 2003 after due notice by publication in *The City Record*, laid over September 16, 2003, October 7, 2003, November 5, 2003, December 23, 2003, January 13, 2004, and then to February 3, 2004 for decision; and**

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

**WHEREAS, this is an application under Z.R. §72-21, to Resolved that the Board of Standards and Appeals issues a Type II Determination under 6 NYCRR Part 617 and §6-**

**CEQR #03-BSA-146X**

**APPLICANT - The Agusta Group, for Ms. Hilda Lovera, owner.**

**permit the proposed construction of a two-family dwelling (Use Group 2) located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, front yard and the maximum number of dwelling units, which is contrary to Z.R. §§23-141, 23-45 and 23-22; and**

**WHEREAS, the record indicates that the subject premises is a corner lot located at the southeast corner of Olmstead Avenue and Hermany Avenue, with a frontage of 25 feet along Olmstead Avenue and 89.44 feet along Hermany Avenue; and**

**WHEREAS, the applicant states that a corner zoning lot located in an R3-2 district requires two front yards with minimum dimensions of 10 and 15 feet; and**

**WHEREAS, the applicant represents that compliance with the required front yard regulations would result in a house with a 15 foot width; and**

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

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

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

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

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

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

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

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

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

**WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and 07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the**

# MINUTES

required findings under Z.R. §72-21, to permit the proposed construction of a two-family dwelling (Use Group 2) located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, front yard and the maximum number of dwelling units, which is contrary to Z.R. §§23-141, 23-45 and 23-22, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received March 12, 2002”-(7) sheets, and “January 6, 2003”-(1) sheet; and *on further condition*:

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, February 3, 2004.

## 219-03-BZ

### CEQR #03-BSA-219Q

APPLICANT - Fischbein Badillo Wagner Harding, for Homes for the Homeless Summer Camp, Inc., owner.

SUBJECT - Application June 25, 2003 - under Z.R. §72-21 to permit the proposed legalization of an existing philanthropic institution with sleeping accommodations (U.G. 3), within an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 175-15 Rockaway Boulevard, north side, between 175<sup>th</sup> Street and 149<sup>th</sup> Road, Block 13381, Lot 1, Borough of Queens.

### COMMUNITY BOARD #13Q

APPEARANCES - None.

THE ACTION OF BOARD - Application granted on condition.

### THE VOTE TO GRANT -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and

WHEREAS, a small portion of the site is occupied by a non-conforming dwelling structure that was used most

Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 20, 2003, acting on Department of Buildings Application No. 401685798 reads:

“1) Proposed non-profit institution with sleeping accommodations (Use Group 3) is not permitted in as {sic} M1-1 Zoning District as per Z.R. 42-00”; and

WHEREAS, a public hearing was held on this application on September 9, 2003 after due notice by publication in the City Record, with continued hearings on September 30, 2003, October 28, 2003, December 16, 2003, and then laid over to February 3, 2004 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed legalization of an existing philanthropic institution with sleeping accommodations (U.G. 3) within an M1-1 zoning district, which is contrary to Z.R. §42-00; and WHEREAS,

WHEREAS, the Board notes that there is a companion variance application under BSA Calendar No. 220-03-BZ, which would allow the expansion of the subject institution (a homeless shelter) through construction of a new building on Lots 11 and 63, resulting in the addition of 91 families to the existing capacity of the facility on the subject site, as well as the legalization of the use of a building on Lot 11; and

WHEREAS, the subject site is comprised of the three above mentioned tax lots, and is irregularly shaped with 252' of frontage on Rockaway Boulevard, 250' of frontage on 148<sup>th</sup> Road, 140' of frontage on 149<sup>th</sup> Avenue, 215' of frontage on 177<sup>th</sup> Street and 180' of frontage on 149<sup>th</sup> Road, with a total area of approximately 112,750 square feet; and

WHEREAS, the site is presently occupied by two structures, built as hotels, which contain a total of 106,878 square feet of floor area; and

WHEREAS, the hotel structure on the subject lot was purchased by a homeless service provider, Homes for the Homeless (“HFH”), in the 1980s, and is currently used by HFH as emergency transitional housing for families; and

WHEREAS, the facility at the site also includes a cafeteria, medical clinic, adult and preschool education services, and other support services; and

recently as a mechanics shop; and

WHEREAS, the applicant states that the following are

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unique physical conditions, which create practical difficulties and unnecessary hardships in developing the site in conformity with underlying district regulations: the lot is irregular in shape; and the existing hotel structure is no longer viable for its intended use and thus is functionally obsolete; and

WHEREAS, the applicant also states that the existing structure on the subject lot serves HFH's programmatic needs of providing transitional shelter services to families, and that HFH has an existing contract with the City of New York to provide such services; and

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

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

WHEREAS, the applicant represents that HFH has been operating at the site for approximately 15 years; that the site is a self-contained area within an M1-1 zoning district; and that the existing use of the site by HFH as a shelter facility does not materially affect the surrounding area or impact neighboring uses; and

WHEREAS, the applicant states that the site is significantly removed geographically from any residential district, and that increased traffic concerns are mitigated by the provision of van service to and from subway stations and other areas of the vicinity; and

WHEREAS, based on the above, the Board finds that legalization of the use in the existing building on the subject tax lot, with its current capacity, will not alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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

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

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

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

SUBJECT - Application June 25, 2003 - under Z.R. §72-21 to permit only the proposed legalization of an existing philanthropic institution with sleeping accommodations (U.G. 3), within an M1-1

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

*Resolved*, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, to permit the proposed legalization of an existing philanthropic institution with sleeping accommodations (U.G. 3), within an M1-1 zoning district, which is contrary to Z.R. §42-00; *on condition* that any work related to the legalization that is the subject of this application shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "P-1"- "Received February 2, 2004"; "A-2"- "Received June 25, 2003"; "A-7"- "Received June 25, 2003"; "A-9"- "Received June 25, 2003"; and "A-11"- "Received June 25, 2003"; and *on further condition*:

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

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

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

THAT the shelter units at the facility will be occupied exclusively by families with children, and not by single men or women;

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

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

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

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

Adopted by the Board of Standards and Appeals, February 3, 2004.

220-03-BZ

CEQR #03-BSA-219Q

APPLICANT - Fischbein Badillo Wagner Harding, for Homes for the Homeless Summer Camp, Inc., owner.

zoning district, in the existing building on Lot 11, which is contrary to Z.R. §42-00

PREMISES AFFECTED - 175-21 149<sup>th</sup> Avenue, a/k/a 175-48

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148<sup>th</sup> Road, 140' east of 175<sup>th</sup> Street, Block 13380, Lots 11 and 63 (Tentative Lot 11), Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES - None.

**ACTION OF THE BOARD** - Application granted in part and denied in part.

### THE VOTE TO ADOPT THE RESOLUTION -

Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3

Negative:.....0

Abstain: Chair Srinivasan.....1

Absent: Commissioner Chin.....1

### THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 20, 2003, acting on Department of Buildings Application No. 401685805, reads:

- “1) Proposed non-profit institution with sleeping accommodations (Use Group 3) is not permitted in as {sic} M1-1 Zoning District as per Z.R. 42-00
- 2) Proposed new building violates rear yard requirements of Z.R. 43-23 and 43-27”; and

WHEREAS, a public hearing was held on this application on September 9, 2003 after due notice by publication in the City Record, with continued hearings on September 30, 2003, October 28, 2003, December 16, 2003, and then laid over to February 3, 2004 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed legalization of an existing philanthropic institution (a homeless shelter) with sleeping accommodations (U.G. 3), within an M1-1 zoning district, and the expansion of the shelter through the construction of a new building that does not comply with the applicable rear yard requirement, which is contrary to Z.R. §§42-00 and 43-23; and

WHEREAS, the subject site is comprised of three tax lots - Lots 1, 11 and 63 - but the subject application only concerns Lots 11 and 63; and

WHEREAS, the Board notes that there is a companion

WHEREAS, only as to the legalization component, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate and in conjunction with the programmatic needs of HFH, create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning, and that the finding set forth at Z.R. §72-21(a) has therefore been met as to this component; and

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

variance application under BSA Calendar No. 219-03-BZ, which proposes the legalization of a shelter facility existing on Lot 1; and

WHEREAS, the subject application contains two components: (1) the legalization of the use of the building on Lot 11 as a shelter facility by a homeless service provider, Homes for the Homeless (the “legalization component”), and (2) the expansion of the Homes for the Homeless (“HFH”) facility, through construction of a new building on Lots 11 and 63 (which additionally requires a waiver of applicable rear yard requirements), resulting in the addition of 91 families to the existing capacity of the entire facility located on the subject site (the “expansion component”); and

WHEREAS, the subject site is irregularly shaped with 252' of frontage on Rockaway Boulevard, 250' of frontage on 148<sup>th</sup> Road, 140' of frontage on 149<sup>th</sup> Avenue, 215' of frontage on 177<sup>th</sup> Street and 180' of frontage on 149<sup>th</sup> Road, with a total area of approximately 112,750 square feet; and

WHEREAS, the site is presently occupied by two large buildings, built as hotels and connected with a bridge, which contain a total of 106,878 square feet of floor area; and

WHEREAS, the hotel structure on Lot 11 was purchased by HFH in the 1980s, and is currently used as a facility for emergency transitional housing for families; and

WHEREAS, a small portion of Lot 63 is occupied by a non-conforming dwelling structure that was allegedly used most recently as a mechanic’s shop; and

WHEREAS, the HFH facility at the site also includes a cafeteria, medical clinic, adult and preschool education services, and other support services; and

WHEREAS, because the subject application contains two separate and distinct components, the Board renders its determination as to each component separately; and

WHEREAS, as to the legalization component, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in developing the site in conformity with underlying district regulations: the lot is irregular in shape, and the existing hotel structure on Lot 11 is no longer viable for its intended use and thus is functionally obsolete; and

WHEREAS, the applicant also states that the existing structure on Lot 11 serves HFH’s existing programmatic needs of providing transitional shelter services to families, and that HFH has an existing contract to provide such services; and

WHEREAS, the applicant represents that HFH has been operating at the site for approximately 15 years and that the site is a self-contained area within an M1-1 zoning district that does not materially affect the surrounding area or impact neighboring uses; and

WHEREAS, the applicant states that the site is significantly removed geographically from any residential district, and that increased traffic concerns are mitigated by the provision of van service to and from subway stations and other areas of the vicinity; and

WHEREAS, based on the above, the Board finds that the

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

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

WHEREAS, only as the legalization component, the proposal is the minimum necessary to afford the owner relief; and

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

WHEREAS, in support of the expansion component of the subject application, the applicant claims that homelessness is a major social issue facing the City of New York, and that there is a general need to provide shelter and other services to homeless families, which leads to the specific need for the proposed expansion of the shelter use and the attendant increase in capacity at the site; and

WHEREAS, the applicant states that the City's Department of Homeless Services ("DHS") has issued an open request for proposals ("RFP") for transitional residences for families, and argues that the existence of this RFP supports the contention that the provision of increased shelter is needed at the subject site; and

WHEREAS, the Board has reviewed the RFP and notes that its mere existence does not mean that the City will contract with HFH and utilize the increase in shelter units and related services that would result from the proposed expansion at this site, and further notes that DHS did not submit any statement or provide any testimony during the course of the hearings that such a contract would be entered into or was contemplated; and

WHEREAS, additionally, the Board notes that evidence in the record suggests that the City has not had inordinate difficulty in placing families with children; specifically, a DHS report states that since February 2003, no families with children arriving before 10

WHEREAS, the record in the instant application is notably devoid of any substantial evidence showing an actual or proposed increase in enrollment at the HFH facility, but rather contains testimony only as to the proposed increase in capacity; and

WHEREAS, the Board also notes that a religious or educational use before the Board for an expansion variance could quantify any increase in the size of the congregation, or increase in enrollment, but in the instant matter, the applicant has failed to provide evidence showing that the homeless population has increased at their site such that the expansion is necessary, or showing that the City can not provide temporary shelter to homeless families because of the HFH facility's current capacity; and

WHEREAS, the Board further notes that no showing has been made by the applicant that HFH is subject to any City or State mandate to increase the capacity of their facility, or that any other law or regulation requires them to do so; and

WHEREAS, the Board, while not denying the existence of the serious problem of homelessness in the City, finds that the applicant

PM have stayed overnight in the City's Emergency Assistance Unit; and

WHEREAS, testimony provided at hearing, which was not directly refuted by the applicant, suggests that DHS may not need the increase in shelter beds that would result from the proposed expansion, and that DHS has not requested that HFH expand its facility; and

WHEREAS, the applicant has conceded on the record that they have not entered into any agreements with the City regarding the proposed expansion, and stated that if they do not get a contract for the additional beds, they will use the proposed new building as an ancillary support facility for the existing population of homeless families at the HFH facility; and

WHEREAS, the record does not contain any evidence that the programmatic needs of HFH require an expansion just for the creation of an ancillary support facility for the existing population of homeless families; and

WHEREAS, the Board questions how pressing the need for new shelter units can be in light of the fact that the applicant is considering alternative plans for the proposed new building in the event that the units are not needed; and

WHEREAS, the applicant contends that other community facilities, such as schools and religious institutions, when before the Board for expansions, have not been required to show existing contracts for increased enrollment, and that to deny the proposed expansion on that basis would be arbitrary; and

WHEREAS, the Board disagrees that educational or religious uses are comparable to the subject use; specifically, the Board notes that the religious and educational uses previously before the Board for expansion variances typically do not contract with the City for use of their facilities or for provision of services, and that usually such applications are bulk variance applications, rather than a combined use legalization/bulk waiver application, as here; and

has not submitted substantial evidence that the unique physical conditions present at the subject site lead to unnecessary hardship or practically difficulties requiring an expansion of the proposed use and provision of increased shelter and services at the site through construction of a new building, nor has the claim of increased programmatic needs been substantiated, and thus, as to the expansion component, the Board finds that the applicant has failed to provide substantial evidence in support of the finding set forth at Z.R. §72-21(a); and

WHEREAS, the applicant contends that the proposal is the minimum variance required necessary to afford relief, and supports this contention by stating that they have reduced the number of proposed new shelter units from the amount originally proposed; and

WHEREAS, the Board disagrees that a reduction in the degree of requested relief made during the course of the hearing supports the contention that the proposal therefore reflects the minimum variance necessary to afford relief, and notes again that the applicant

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has failed to show that the new building and increased number of shelter units are needed; and

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

WHEREAS, the Board notes that certain community members and political representatives have testified that they are opposed to the proposed expansion of HFH, primarily because they are concerned about the amount of comparable facilities providing similar services in the general vicinity, characterizing the amount of such uses in the area as over-saturation; and

WHEREAS, the applicant argues, and the Board agrees, that a determination as to whether a larger geographical area than the neighborhood in which the site is situated is indeed over-saturated with certain community facilities is not a proper determination for the Board to make in deciding whether to grant the subject application; and

WHEREAS, therefore, the Board, while not questioning the sincerity of the concerns expressed about over-saturation at hearing and through submissions, expressly discounts such testimony as the basis for any part of its decision as set forth herein; and

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

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

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

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

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

*Be it further resolved*, as to the expansion component, because the applicant has failed to meet the findings set forth at Z.R. §72-21(a) and (e), this component of the application is hereby denied.

Adopted by the Board of Standards and Appeals, February 3, 2004.

**264-03-BZ**

**CEQR #04-BSA-029K**

**APPLICANT - The Law Office of Fredrick A. Becker, for Samuel Halon and Chaya Halon, owner.**

**SUBJECT - Application August 21, 2003 - under Z.R. §73-**

*Resolved*, as to the legalization component, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited above, to permit only the proposed legalization of an existing philanthropic institution with sleeping accommodations (U.G. 3), within an M1-1 zoning district, in the existing building on Lot 11, which is contrary to Z.R. §42-00; *on condition* that any work related to the legalization component of the subject of application shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "P-1"- "Received February 2, 2004"; "A-13"- "Received June 25, 2003"; "A-15"- "Received August 12, 2003"; "A-17"- "Received June 25, 2003"; "A-19"- "Received August 12, 2003"; "A-21"- "Received August 12, 2003"; and "A-23"- "Received August 12, 2003"; and *on further condition*:

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

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

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

THAT the shelter units at the facility will be occupied exclusively by families with children, and not by single men or women;

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

**622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliance with regard to floor area ratio, open space ratio, and side yard requirements, and is contrary to Z.R §§23-141 and 23-461.**

**PREMISES AFFECTED - 2713 Avenue "N", 66' west of East 28th Street, Block 7663, Lot 5, Borough of Brooklyn. COMMUNITY BOARD #14BK**

**APPEARANCES -**

**For Applicant: Lyra Altman.**

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

**THE VOTE TO GRANT -**

**Affirmative: Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....3**

**Negative:.....0**

**Abstain: Chair Srinivasan.....1**

**Absent: Commissioner Chin.....1**

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## THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 11, 2003, acting on Application No. 301620850 reads:

“Proposed plans are contrary to ZR 23-141 in that the proposed building exceeds the maximum permitted floor area ratio of .50.

Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required open space ratio of 150.

Proposed plans are contrary to ZR 23-461 in that the proposed straight line enlargement continues with the existing non-complying side yard of 3'-11" and is less than the minimum required side yard of 5'-0".”; and

WHEREAS, a public hearing was held on this application on December 16, 2003, laid over to January 13, 2004 and then to February 3, 2004 for decision; and

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

WHEREAS, a special permit is sought under Z.R. §73-622 to permit the proposed enlargement of an existing single-

*Resolved* that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliance with regard to floor area ratio, open space ratio, and side yard requirements, and is contrary to Z.R §§23-141 and 23-461, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked “Received August 21, 2003”-(11) sheets, and “January 20, 2004”-(1) sheet; and *on further condition*;

THAT there shall be no habitable room in the cellar;

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

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

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

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

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

THAT the approved plans shall be considered approved

family dwelling in an R2 zoning district, which creates non-compliance with regard to floor area ratio, open space ratio, and side yard requirements, and which is contrary to Z.R §§23-141 and 23-461; and

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

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

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

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

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

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

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

only for the portions related to the specific relief granted;

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

THAT substantial construction be completed and a new Certificate of Occupancy be obtained within four (4) years of this grant.

Adopted by the Board of Standards and Appeals, February 3, 2004.

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## 161-02-BZ

APPLICANT - SFS Associates, for Coral Cove, LLC, owner.

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

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

## COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Peter Hirshman and Donald Letnik.

For Opposition: Dan Cavanagh.

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# MINUTES

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

**164-02-BZ**

APPLICANT - Stuart A. Klein, Esq, for Marian Begley, owner.  
SUBJECT - Application May 23, 2002 - under Z.R. §72-21 to permit the legalization of an enlargement to an existing two family dwelling, which does not comply with the zoning requirements for side yards, is contrary to Z.R. § 23-48(b), §23-48 and §23-461(a).

PREMISES AFFECTED - 1913 Hobart Avenue, west side, bounded by St. Theresa Avenue to the south and Wilkinson Avenue to the north, Block 4234, Lot 58, Borough of The Bronx.

**COMMUNITY BOARD #10BX**

APPEARANCES -

For Applicant: Richard Budd.

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

**203-02-BZ**

APPLICANT - Sheldon Lobel, P.C., for Marcello Porcelli, owner; BP Amoco, PLC, lessee.

SUBJECT - Application December 13, 2002 - under Z.R. §72-21 to permit the proposed conversion and enlargement of an existing warehouse, into a residential building with 83 units and 41 parking spaces, located in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 130 North Fourth Street, between Berry Street and Bedford Avenue, Block 2351, Lot 6, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES -

For Applicant: Chris Wright.

**ACTION OF THE BOARD** - Laid over to February 24, 2004, at 1:30 P.M., for continued hearing.

**69-03-BZ**

APPLICANT - Friedman & Gotbaum, LLP, by Shelly S. Friedman, Esq., for Bond Street, LLC, owner.

SUBJECT - Application February 12, 2003 - under Z.R. § 72-21 to permit the proposed development of a 15-story mixed-use building, consisting of residential apartments and local retail usage, located in an M1-5B zoning district, where residential use is not

SUBJECT - Application July 1, 2002 - under Z.R. §72-21 to permit the proposed construction of a new automotive service station with an accessory convenience store, Use Group 16, that is located in a C1-2 within an R5 zoning district, is contrary to §32-31.

PREMISES AFFECTED - 110-18 Northern Boulevard, between 110th and 111th Streets, Block 1725, Lots 1, 3, 4, 7, 8, 11, 12 and 13, (Tentative Lot 1), Borough of Queens.

**COMMUNITY BOARD #3Q**

APPEARANCES -

For Applicant: Janice Cahalane.

THE VOTE TO REOPEN HEARING -

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

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 1:30 P.M., for decision, hearing closed.

**360-02-BZ**

APPLICANT - Law offices of Howard Goldman, PLLC, for S & Y Enterprises, LLC, owner.

permitted is contrary to Z.R. §42-10.

PREMISES AFFECTED - 32/40 Bond Street, mid-block portion fronting on north side, of Bond Street between Lafayette and Bowery, Block 530, Lot 48, Borough of Manhattan.

**COMMUNITY BOARD #2M**

APPEARANCES -

For Applicant: Shelly Friedman, Richard Boru, Marus Simons, Robert Pauls and Jennifer Morris.

For Opposition: Peter Hoffman, Doris Diether, Marilyn Geyer, Allison Rosenthal and Jeffrey Weinstein.

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

**77-03-BZ & 78-03-BZ**

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

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

PREMISES AFFECTED -

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

260-34 Grand Central Parkway, east side, 9' south of 267th Street, Block 8443, Lot 120, Borough of Queens.

**COMMUNITY BOARD #13Q**

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# MINUTES

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## APPEARANCES -

For Applicant: Gerald J. Caliendo.

## THE VOTE TO REOPEN HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

## THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to February 24, 2004, at 1:30 P.M., for decision, hearing closed.

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## 92-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Parkside Inc., owner.  
SUBJECT - Application March 25, 2003 - under Z.R. §73-52 to permit the proposed residential development of an entire zoning lot,  
PREMISES AFFECTED - 140/42 Pennsylvania Avenue, southeast corner of Liberty Avenue, Block 3703, Lot 21, Borough of Brooklyn.

## COMMUNITY BOARD #5BK

### APPEARANCES -

For Applicant: Richard Lobel.

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

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## 221-03-BZ

APPLICANT - Martyn & Don Weston, for 253 West 28th Street, Corp., owner.

SUBJECT - Application June 26, 2003 - under Z.R. §72-21 to permit the legalization of three existing residential units, located on the third, fourth and fifth floors, of a five story mixed use building, in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 253/55 West 28th Street, north side, 105'-1" east of Eighth Avenue, Block 778, Lot 7, Borough of Manhattan.

## COMMUNITY BOARD #5M

### APPEARANCES -

For Applicant: Don Weston, Vincent Hanley, Peter Markie, Marianna Vadukuz, Elba Damast, Rafael Damast and Francis R. Angelino.

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 1:30 P.M., for continued hearing.

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## 262-03-BZ

APPLICANT - Eric Palatnik, P.C., for Sam Dagan, owner.

SUBJECT - Application August 18, 2003 - under Z.R. §73-622 to

on a lot divided by an R7-2 and M1-1 district boundary, which requires a special permit.

PREMISES AFFECTED - 472 West 130<sup>th</sup> Street, southwesterly corner of the intersection of West 130th Street and Convent Avenue, Block 1969, Lots 64, 67 and 68, Borough of Manhattan.

## COMMUNITY BOARD #9M

### APPEARANCES -

For Applicant: Janice Cahalane.

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

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## 217-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Mr. Vincenzo Adragna, owner.

SUBJECT - Application June 24, 2003 - under Z.R. §72-21 to permit the proposed one story and cellar expansion, of an existing one story and cellar retail building, Use Group 6, located in an R5 zoning district, which is contrary to Z.R. §52-22.

permit the legalization of an enlargement to an existing one family dwelling, which does not comply with the zoning requirements for floor area and rear yard, is contrary to Z.R. §23-47 and §23-142.  
PREMISES AFFECTED - 1564 East 28th Street, west side, between Avenue "P" and Kings Highway, Block 7688, Lot 82, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

### APPEARANCES -

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 1:30 P.M., for continued hearing.

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## 273-03-BZ thru 285-03-BZ

APPLICANT - Sheldon Lobel, P.C., for 211 Building Corp., owner.

SUBJECT - Application August 27, 2003 - under Z.R. §72-21 to permit the proposed construction of a two-story, semi-detached, two family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for zoning district, number of dwelling units, floor area, floor area ratio, and open space ratio, is contrary to Z.R. §23-22, §23-141 (a) and §23-141.

### PREMISES AFFECTED -

211-51 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 92, Borough of Queens.

211-49 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 93, Borough of Queens.

211-47 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 94, Borough of Queens.

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# MINUTES

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211-45 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 95, Borough of Queens.

211-43 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 96, Borough of Queens.

211-41 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 97, Borough of Queens.

211-54 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 98, Borough of Queens.

211-52 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 99, Borough of Queens.

211-50 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 100, Borough of

For Opposition: Nagassar Ramgarib, Thomas Burton, Ray Cloutier, Gabriella Krill, John Stiller and Robert Hellenbrecht.

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

### 337-03-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for 340 Madison Owner, LLC c/o Macklowe Properties, 142 West 57th Street, owners.

SUBJECT - Application October 31, 2003 - under Z.R. §72-21 to permit the proposed enlargement of an existing 21-story office, retail and church building with irregular E-shaped floor plates, will require variances to modify the Special Street Wall requirement of the Grand Central subdistrict, and permit the transfer of floor area across a zoning district boundary, which is not permitted as per Z.R. §81-621, §77-02, §33-17 and §81-211.

PREMISES AFFECTED - 342 Madison Avenue,(a/k/a 16 East 44th Street), west blockfront, between East 43rd and 44th Streets, Block 1278, Lots 8, 14, 15, 17, 62, 63 and 65, Borough of Manhattan.

### COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Robert E. Flahive and Gary Tarnoff.

THE VOTE TO CLOSE HEARING -

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

Negative: .....0

Absent: Commissioner Chin.....1

**ACTION OF THE BOARD** - Laid over to March 23, 2004, at 1:30 P.M., for decision, hearing closed.

### 354-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Edelman, Edward &

Queens.

211-48 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 101, Borough of Queens.

211-46 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 102, Borough of Queens.

211-44 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 103, Borough of Queens.

211-42 94th Road, center of the block between Jamaica and 94th Avenues, Block 10546, Lot 104, Borough of Queens.

### COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: Richard Lobel, Sheldon Lobel, Jerry Caliendo, Marc Esrig, Haim Levy, and Akiva Emergi.

UNED Associates, LLC, owner.

SUBJECT - Application November 18, 2003 - under Z.R. §72-21 to permit the proposed physical culture establishment, in the cellar of a multi-story mixed -use building which sits on property divided by an R8-B and a C6-6/R8-B district boundary, which is contrary to Z.R. §22-10 and §32-10.

PREMISES AFFECTED - 209/15 East 51st Street, between Second and Third Avenues, Block 1325, Lot6, Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Janice Calahane.

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

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*Pasquale Pacifico, Executive Director.*

Adjourned: 6:10 P.M.