
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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April 20, 2006

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DOCKETS

New Case Filed Up to April 11, 2006

60-06-A

1824 53rd Street, South side of the street 127.95 feet east of the intersection of 53rd Street and 18th Avenue., Block 5480, Lot 14, Borough of **Brooklyn, Community Board: 12**. Appeal-Proposed catering use (UG9), is not an accessory use to the synagogue and school (UG 4 & 3) in an R5 zone.

160 East 83rd Street, Lexington Avenue and Third Avenue, Block 1511, Lot 45, Borough of **Manhattan, Community Board: 8**. Appeal-Seeking to revoke permits and approvals which allows an enlargement to an existing dwelling, which violates various provisions of the Zoning Resolution and Building Code regarding required setbacks and building frontage.

61-06-A

152 Ocean Avenue, Westerly side of Ocean Avenue, 0' from Oceanside Avenue., Block 16350, Lot 400, Borough of **Queens, Community Board: 14**. General City Law Section 35, Article 3-Proposed to rebuild and enlarge the existing first floor and add a new second floor on a home, which lies within the bed of a mapped street.

64-06-BZ

363-371 Lafayette Street, Lafayette between Great Jones and Bond Streets, Block 530, Lot 17, Borough of **Manhattan, Community Board: 2**. Under 72-21- To allow a seven (7) story multi-family residential building with ground floor retail contains fourteen (14) dwelling units.

62-06-BZ

657 Logan Avenue, West side of Logan Avenue 100 feet south of Randall Avenue., Block 5436, Lot 48, Borough of **Bronx, Community Board: 10**. Under 72-21-To allow the addition of a second floor and attic to an existing one story, one family dwelling. The enlargement will increase the degree of non-compliance for the rear yard and side yards and exceed the permitted floor area.

65-06-BZ

72-45 43 Avenue, Corner of 43 Avenue and 74th Street., Block 1353, Lot 46, Borough of **Queens, Community Board: 4**. Under 72-21- proposed 3 Family building in an R5 zoning district which violates front and side yard requirements.

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.

63-06-A

CALENDAR

MAY 9, 2006, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, May 9, 2006, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

32-38-BZ

APPLICANT – Steven M. Sinacori, Esq., for 88 Third Avenue Associates, owner.

SUBJECT – Application March 21, 2006 – Reopening for an amendment to the resolution to eliminate the twenty year (20) term for the change in occupancy from Manufacturing (UG17) to Office (UG6) in a four story and cellar building located in an R-6 zoning district, as adopted by the Board of Standards and Appeals on March 16, 1993.

PREMISES AFFECTED – 88 Third Avenue, west side of Third Avenue, between Bergen and Dean Streets, Block 197, Lot 28, Borough of Brooklyn.

COMMUNITY BOARD #2BK

26-94-BZ

APPLICANT – Rampulla Associates Architects, for CDC Realty, LLC, owner.

SUBJECT – Application March 24, 2006 – Reopening for an Extension of Term for a Special Permit renewal for an eating and drinking establishment (UG6, located in a C3A zoning district.

PREMISES AFFECTED – 141 Mansion Avenue, intersection of Mansion Avenue and McKeon Avenue, Block 5201, Lot 33, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEALS CALENDAR

206-05-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Joanne & Thomas DeRosa, lessee.

SUBJECT – Application September 6, 2005 – Proposed construction of an existing single family frame dwelling situated in the bed of a mapped street contrary to General City Law Article 3, Section 35 and upgrading an existing private disposal system which is contrary to Department of Buildings policy. Premises is located within an R4 zoning

district.

PREMISES AFFECTED – 9 Bayside Drive, in the bed of Bayside Drive 109.72 northwest of Rockaway Point Boulevard, Block 16340, part of Lot 50, Borough of Queens.

COMMUNITY BOARD#14Q

294-05-A thru 296-05-A

APPLICANT – Rothkrug RothkrugWeinberg & Spector, LLP for Pleasant Place, LLC, owner.

SUBJECT – Application September 29, 2005 – Proposed construction of three two- family homes not fronting on a mapped street is contrary to GCL 36, Article 3. Current R3-2 Zoning District.

PREMISES AFFECTED – 146-34, 36, 38 Pleasant Place, Queens, West side of Pleasant Place, 100ft north of intersection with 146th Drive, Block 13351, Tentative Lot #s 100, 101, 103, Borough of Queens

COMMUNITY BOARD #13Q

372-05-BZY/373-05-BZY

APPLICANT – Adam Rothkrug, for Woodrow Estates North LLC, owner.

SUBJECT – Application December 27, 2005 – Proposed extension of time to renew building permits and complete construction of a development pursuant to Z.R. 11-332. Prior R4 Zoning District. Current R3-A (HS) Zoning District.

PREMISES AFFECTED – 28 Webster Avenue (aka 101 Stanley Avenue) Block 111, Lot 15, Borough of Staten Island.

COMMUNITY BOARD #1SI

MAY 9, 2006, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, May 9, 2006, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following

CALENDAR

matters:

SPECIAL ORDER CALENDAR

ZONING CALENDAR

151-05-BZ

APPLICANT – The Law Office of Frederick A. Becker for 100 Varick Street, LLC, Owner.

SUBJECT – Application June 16, 2005 – Zoning Variance (use) pursuant to ZR §72-21 to allow a proposed ten (10) story residential building containing seventy-nine (79) dwelling units located in an M1-6 district; contrary to ZR § 42-00.

PREMISES AFFECTED – 100 Varick Street, located on the easterly side of Varick Street between Watts and Broome Streets, Block 477, Lots 35 & 42, Borough of Manhattan
COMMUNITY BOARD #2M

15-06-BZ

APPLICANT – Eric Palatnik, PC for the Yeshiva Tifereth Moshe, Owner.

SUBJECT – Application January 26, 2006 – Zoning Variance (bulk) pursuant to Zoning Resolution Section §72-21 to facilitate the construction of a new yeshiva located in an R4 zoning district. The proposed variance would allow modifications of zoning requirements for lot coverage, side yards, rear yard and height and setback; contrary to Z.R. §§ 24-11, 24-35, 24-36, 24-521 and 24-551.

PREMISES AFFECTED – 147-22 73rd Avenue located on the south side of 73rd Avenue between 147th and 150th streets (Block 6682, Lots 11 & 13), Borough of Queens
COMMUNITY BOARD #8Q

Jeff Mulligan, Executive Director

MAY 16, 2006, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, May 16, 2006, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

499-29-BZ, Vol. III

APPLICANT – Eric Palatnik, P.C., for Spartan Petroleum, owner; BP Products, lessee.

SUBJECT – Application March 3, 2006 - Application for the Extension of Term of an Automotive Service Station with an accessory automotive repair establishment located in a C1-2/R3-2 zoning district. The term expired on March 23, 2006. The application is seeking a 10 year extension.

PREMISES AFFECTED – 248-70 Horace Harding Expressway, southwest corner of Marathon Parkway, Block 8276, Lot 660, Borough of Queens.

COMMUNITY BOARD #11Q

565-57-BZ

APPLICANT – Arcadius Kaszuba, for Ann Shahikian, owner.

SUBJECT – Application to consider Dismissal.

PREMISES AFFECTED – 5832 Broadway (5848 Broadway or 196-198 West 239th Street) southeast corner of Broadway and 239th Street, Block 3271, Lot 198, Borough of The Bronx.

COMMUNITY BOARD #8BX

364-04-BZ

APPLICANT – Sheldon Lobel, for New Lots Avenue, LLC, owner.

SUBJECT – Application to consider Dismissal.

PREMISES AFFECTED – 690-702 New Lots Avenue, south side of New Lots Avenue between Jerome Street and Warwick Street, Block 4310, Lots 5, 7, 8 & 10, Borough of Brooklyn

COMMUNITY BOARD #5BK

370-03-BZ

APPLICANT – Fischbein Badillo Wagner Harding for Metroeb Realty Corp., owner.

SUBJECT – Application to consider Dismissal.

PREMISES AFFECTED – 143-153 Roebling Street, aka 17-19 Hope Street, east side of Roebling between Hope Street and Metropolitan Avenue, Block 2368, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

CALENDAR

379-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Hieronima Rutkowska, owner.

SUBJECT – Application to consider Dismissal.

PREMISES AFFECTED –107 Debevoise Avenue (aka 20Division Place), southwest corner of Debevoise Avenue and Division Place, Block 2849, Lot 15, Brooklyn.

COMMUNITY BOARD #1BK

328-04-BZ

APPLICANT – Law Offices of Howard Goldman, LLC, for Rockaway Improvements, LLC, owner.

SUBJECT – Application October 5, 2004 – Variance Z.R. §72-21 to permit the proposed construction of a six story residential building, with twelve dwelling units, Use Group 2, located in an M1-1 zoning district, does not comply with zoning requirements for use, bulk and parking provisions, is contrary to Z.R. §42-00, §43-00 and §44-00.

PREMISES AFFECTED – 110 Franklin Avenue, between Park and Myrtle Avenues, Block 1898, Lots 49 & 50, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEALS CALENDAR

53-06-A

APPLICANT – Valentino Pompeo for Breezy Point Co-op Inc., owner, Karen Lindsay, lessee

SUBJECT – Application filed March 22, 2006 – Proposed reconstruction and enlargement of a single family dwelling not fronting on a mapped street contrary to GCL § 36 , Article 3

PREMISES AFFECTED – 104 Beach 215th Street, south of Beach 215th Street east of Breezy Point Blvd., Block 11635, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

334-04-BZ

APPLICANT – Sheldon Lobel, P.C., for L & L Realty, owner. Great Roosevelt Plaza Corporation, lessee.

SUBJECT – Application October 8, 2004 – Variance Z.R. §72-21 to permit the proposed construction of a seven-story mixed-use building containing retail, general office and community facility space. No parking will be provided. The site is currently occupied by two commercial buildings which will be demolished as part loading of the proposed action. The site is located is located in a C4-2 zoning district. The proposal is contrary to Z.R. §36-21 (Required parking), §36-62 (Required loading berth), and §33-432(Sky exposure plane and setback requirements).

PREMISES AFFECTED – 135-28 Roosevelt Avenue, Roosevelt Avenue between Prince Street and Main Street. Block 5036, Lots 26(fka 25/26), Borough of Queens.

COMMUNITY BOARD #7Q

205-05-A

APPLICANT – Zygmunt Staszewski, P.E. for Sheila Cardinale, lessee; Breezy Point Cooperative, Inc. owner .

SUBJECT – Application August 30, 2005 - Proposed enlargement of an existing one family dwelling, not fronting on a mapped street, is contrary to GCL §36, Article 3 and is also located partially within the bed of the mapped street including the upgrade of the existing private disposal system is contrary to GCL §35.

PREMISES AFFECTED – 47 Graham Place, north side of Graham Place, 52.20 West of beach 204th Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD # 14Q

165-05-BZ

APPLICANT – Sullivan Chester & Gardner, P.C., for 801-805 Bergen Street, LLC, owner.

SUBJECT – Application July 25, 2005 - Variance Z.R. §72-21 to permit the propose four-story residential building, located in an M1-1 zoning district.

PREMISES AFFECTED – 799-805 Bergen Street, North Side, 156’-3” East of Grand Avenue, Block 1141, Lots 76-79, Borough of Brooklyn

COMMUNITY BOARD #8BK

MAY 16, 2006, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, May 16, 2006, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

352-05-BZ

APPLICANT – Jeffrey A. Chester, Esq., for Peter Procops, owner; McDonald’s Corporation, owner.

SUBJECT – Application December 14, 2005 - Z.R. §73-243 proposed re-establishment of an expired special permit for

CALENDAR

an eating and drinking establishment with an accessory drive-through, located in a C1-2 zoning district.

PREMISES AFFECTED – 21-41 Mott Avenue, Southeast corner of intersection at Beach Channel Drive, Block 15709, Lot(s) 101, Borough of Queens

COMMUNITY BOARD #14Q

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, APRIL 11, 2006
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Babbar,
Commissioner Chin and Commissioner Collins.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, February 7, 2006, were approved as printed in the Bulletin of February 16, 2006, Volume 91, No.7.

SPECIAL ORDER CALENDAR

410-68-BZ

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

SUBJECT – Application January 21, 2006 – Extension of time to complete construction and to obtain a certificate of occupancy pursuant to Z.R. §11-412.

PREMISES AFFECTED – 85-05 Astoria Boulevard, Block 1097, Lot 1, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, this is an application, for an extension of time to complete construction and obtain a new certificate of occupancy, related to the previously granted variance which permitted the conversion of a portion of an existing automotive service station to a convenience store, the construction of a new building to contain two automotive service repair bays, service attendant area and customer waiting area, an extension of the existing canopy, the relocation of the pump islands, and the addition of one new fuel dispenser; and

WHEREAS, a public hearing was held on this application on March 28, 2006, after due notice by publication in *The City Record*, and then to decision on April 11, 2006; and

WHEREAS, the Board has exercised jurisdiction over the subject premises since February 24, 1954, under BSA Calendar No. 676-53-BZ, when the Board granted an application to permit the erection and maintenance of a gasoline service station, with an auto wash, lubricatorium, and motor vehicle repairs; and

WHEREAS, most recently, on January 11, 2005, the Board granted an application to amend the variance to permit the conversion of the existing 1,868 sq. ft., three-bay automotive

service station to a one-bay service station, with an office, utility room, and convenience store, and to permit a new 934 sq. ft. addition to the building; and

WHEREAS, a condition of the most recent amendment was that a new Certificate of Occupancy be obtained by January 11, 2006; and

WHEREAS, however the applicant represents that 50 percent of construction has been completed; and

WHEREAS, at hearing, the Board asked the applicant how much time was needed to complete the construction and obtain the certificate of occupancy; and

WHEREAS, the applicant represents that construction could be completed in 7-9 months and that a certificate of occupancy could be obtained in 18 months; and

WHEREAS, the Board may permit an extension of term for a previously granted variance; and

WHEREAS, based upon the submitted evidence, the Board finds the requested extension of term appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, as adopted on November 26, 1968, under the subject calendar number, and as subsequently extended and amended, so that as amended this portion of the resolution shall read: “to permit an extension of time to complete construction and obtain a certificate of occupancy, for an additional period of two years from the prior grant’s expiration, to expire on January 11, 2008, *on condition*:

THAT a new certificate of occupancy shall be obtained by January 11, 2008;

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

THAT a new certificate of occupancy be obtained by the grant expiration date;

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

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

(DOB No. 401856997).

Adopted by the Board of Standards and Appeals, April 11, 2006.

1038-80-BZ

APPLICANT – Davidoff Malito & Hutcher, LLP, for Feinrose Downing LLC, owner; Expressway Arcade Corp, lessee.

SUBJECT – Application December 1, 2005 – Extension of Term of a Special Permit for an amusement arcade (UG15) in an M2-1 zoning district which expired on January 6, 2006.

PREMISES AFFECTED – 31-07/09/11 Downing Street, Whitestone Expressway, Block 4327, Lot 1, Borough of

MINUTES

Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Patricia Prothro.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of the term of the special permit, which expired on January 6, 2006; and

WHEREAS, a public hearing was held on this application on March 28, 2006, after due notice by publication in *The City Record*, and then to April 11, 2006 for decision; and

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

WHEREAS, on January 6, 1981, the Board granted a special permit for the operation of an amusement arcade on the subject premises; and

WHEREAS, on May 13, 1986, the special permit was amended to increase the number of amusement arcade games from 112 to 130; and

WHEREAS, the Board finds that the instant application is appropriate to grant, based upon the evidence submitted.

Therefore it is Resolved that the Board of Standards and Appeals, *reopens and amends* the resolution, said resolution having been adopted on January 6, 1981 as amended May 13, 1986, so that, as amended, this portion of the resolution shall read: “to permit the extension of the term of the special permit for an additional one (1) year from January 6, 2006 expiring on January 6, 2007; *on condition* that all conditions and drawings associated with the previous grant remain in effect; and *on further condition*:

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

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

THAT there shall be no more than 130 amusement games on the subject premises;

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

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

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

(DOB Alt. No. 435/81)

Adopted by the Board of Standards and Appeals, April 11, 2006.

263-98-BZ

APPLICANT – Rothkrug Rothkrug Weinberg Spector, for Joseph Elegudin, owner.

SUBJECT – Application November 18, 2005 – Extension of time to complete construction pursuant to Special Permit Z.R. §73-622 for an enlargement of a single family home which expired on September 9, 2005; and for an amendment to the previously approved plans to add an elevator to the residence.

The premise is located in an R3-1 zoning district.

PREMISES AFFECTED – 118 Oxford Street, 115’ south of intersection with Shore Boulevard, Block 8757, Lot 90, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, this application is a request for a re-opening for an amendment and an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on March 14, 2006, after due notice by publication in *The City Record*, and then to decision on April 11, 2006; and

WHEREAS, the subject site is located on the west side of Oxford Street, south of Shore Boulevard, and is within an R3-1 zoning district; and

WHEREAS, on April 27, 1999, the Board granted an application under the subject calendar number to permit the enlargement of a single-family home; and

WHEREAS, on April 3, 2003, under the subject calendar number, the Board granted an extension of time to complete construction; and

WHEREAS, the resolution for the extension required that a certificate of occupancy be obtained within two years of the date of the grant; and

WHEREAS, the applicant represents that due to unforeseen construction delays and a change in personal circumstances, construction has not been completed since the grant date; and

WHEREAS, however, the applicant represents that the owner is now able to resume and complete construction; and

WHEREAS, further, the applicant represents that a family member’s severe injury now necessitates the requested minor amendment to the approved plans that provides for an elevator; and

WHEREAS, at hearing, the Board asked the applicant if the addition of the elevator would create any new non-compliance; and

WHEREAS, the applicant represents that the addition of the elevator would not create any new non-compliance; and

WHEREAS, based upon the above, the Board finds it appropriate to grant the requested amendment and extension of

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time.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on April 27, 1999, so that as amended this portion of the resolution shall read: “to permit an extension of time to complete construction and obtain a certificate of occupancy, for an additional period of one year from the date of this resolution, to expire on April 11, 2007; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application, marked “Received November 18, 2005”-(2) sheets and on further condition:

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

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

THAT 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. 302058467)

Adopted by the Board of Standards and Appeals, April 11, 2006.

280-01-BZ

APPLICANT – Stadtmauer Bailkin LLP & Cozin O’Connor, for Perbinder Holdings, LLC, owner; Metropolitan Transportation Auth., lessee.

SUBJECT – Application January 23, 2006– Extension of Time to complete construction for a variance ZR§72-21 to permit a mixed use building located in a C1-9 zoning district. PREMISES AFFECTED – 663/673 Second Avenue & 241/249 East 36th Street, Block 917, Lots 21, 24/30, 32 & 34, Borough of Manhattan.

COMMUNITY BOARD #6

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4
Negative:.....0

THE RESOLUTION –

WHEREAS, this application is a request for a re-opening for an extension of time to complete construction; and

WHEREAS, a public hearing was held on this application on March 28, 2006, after due notice by publication in *The City Record*, and then to decision on April 11, 2006; and

WHEREAS, the subject site is located the west side of Second Avenue, between East 36th Street, and East 37th Street,

and is within an C1-9 zoning district; and

WHEREAS, on May 7, 2002, the Board granted an application under the subject calendar number pursuant to ZR § 72-21, to permit the development of a mixed use building; and

WHEREAS, on September 24, 2002, the Board granted an amendment to the resolution, under the subject calendar number; and

WHEREAS, the applicant represents that due to unforeseen construction delays concerning its location and complex engineering methods, the construction has not begun since the grant date; and

WHEREAS, the applicant notes that the majority of the site is improved with a recessed roadway exit for the Queens-Midtown Tunnel; and

WHEREAS, the exit is more than 14 feet below street grade at Second Avenue and rises steadily as it travels westerly across the site; and

WHEREAS, as a result of these unique conditions at the site, an extensive truss system must be installed over the tunnel exit; and

WHEREAS, the design of the system was time-consuming, and delayed the commencement of construction; and

WHEREAS, the applicant has provided a letter from the Metropolitan Transportation Authority stating that it has no objection to an extension of time to complete construction; and

WHEREAS, based upon the above, the Board finds it appropriate to grant the requested extension of time.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on May 7, 2002, so that as amended this portion of the resolution shall read: “to permit an extension of time to complete construction and obtain a certificate of occupancy, for an additional period of four years from the date of the prior grant’s expiration, to expire on May 7, 2010; on condition:

THAT a new certificate of occupancy shall be obtained by May 7, 2010;

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

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

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

(DOB Application No. 102973926)

Adopted by the Board of Standards and Appeals, April 11, 2006.

360-49-BZ

APPLICANT – Sheldon Lobel, P.C., for Leemilt’s Petroleum, Inc., owner.

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SUBJECT – Application November 14, 2005 – Pursuant to Z.R. §72-21 for an extension of term of the previously granted variance permitting the use of the site as a gasoline service station with accessory uses which expired on February 25, 2005. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 69-05 Eliot Avenue, northern corner of Eliot Avenue and 69th Street, Block 2838, Lot 38, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Josh Rinesmith.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to May 2, 2006, at 10 A.M., for decision, hearing closed.

414-59-BZ

APPLICANT – Bryan Cave, LLP, for Royal Charter Properties, owner.

SUBJECT – Application December 8, 2005 – Extension of Term of a Variance to allow 77 transient parking spaces at the first and cellar floors of an existing multiple dwelling accessory garage. The premise is located in an R-9 and R-10 zoning district.

PREMISES AFFECTED – 1285 York Avenue, aka 435-445 East 68th Street, Block 1463, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Margery Perlmutter and Martin Cohen.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to April 25, 2006, at 10 A.M., for decision, hearing closed.

1180-80-BZ

APPLICANT – SFS Associates, for One Tiffany Place Condominium, owner.

SUBJECT – Application September 21, 2005 – Reopening for an amendment to the resolution to include superintendents' apartment in the cellar of the existing building.

PREMISES AFFECTED – 1 Tiffany Place, Block 320, Lot 20, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Peter Hirshman.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to May 2, 2006, at 10 A.M., for decision, hearing closed.

705-81-BZ

APPLICANT – Augusta & Ross, for Fraydon Enterprises, owner; New York Health & Racquet Club, lessee.

SUBJECT – Application May 23, 2005 – Application for an Extension of Term/Amendment/Waiver for a Variance Z.R. 72-21 to continue the operation of a physical culture establishment and to permit the change in hours of operation.

The premise is located in an R-10 zoning district.

PREMISES AFFECTED – 1433-37 York Avenue, northwest corner of York Avenue and East 76th Street, Block 1471, Lots 21, 22 and 23, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Ellen Stegman, Mary Noonan and Mitchell Ross.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to May 2, 2006, at 10 A.M., for decision, hearing closed.

173-94-BZ

APPLICANT – Rothkrug Rothkrug Weinberg Spector, for Richard Shelala, owner; Compass Forwarding Co., Inc., lessee.

SUBJECT – Application July 25, 2005 – Reopening for an amendment of variance to permit the change in hours of operation of a freight transfer facility. The premise is located in a C2-2(R3-2) zoning district.

PREMISES AFFECTED – 159-15 Rockaway Boulevard a/k/a 165-10 144th Road, southeast corner of Rockaway Boulevard and 144th Road, Block 1327, Lot 17, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Adam Rothkrug.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to April 25, 2006, at 10 A.M., for decision, hearing closed.

132-97-BZ/24-06-A

APPLICANT – Alan R. Gaines, Esq., for Deti Land, LLC, owner; Fiore Di Mare LLC, lessee.

SUBJECT – Application June 7, 2005 and January 3, 2006 – Extension of Term/Amendment/Waiver for an eating and drinking establishment with no entertainment or dancing and

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occupancy of less than 200 patrons, UG 6 located in a C-3 (SRD) zoning district. Proposed legalization of four on-site parking spaces for an eating and drinking establishment (Fiore Di Mare) located in the bed of a mapped street, is contrary to Section 35 of the General City Law.

PREMISES AFFECTED – 227 Mansion Avenue, Block 5206, Lot 26, Borough of Staten Island

COMMUNITY BOARD# 3SI

APPEARANCES –

For Applicant: Joseph D. Manno, Esq.

ACTION OF THE BOARD – Laid over to June 6, 2006, at 10 A.M., for continued hearing.

83-00-BZ

APPLICANT – Eric Palatnik, P.C., for KFC US Properties, Inc., owner.

SUBJECT – Application September 21, 2005 – Reopening for a waiver of the Rules of Practice and Procedure and for an extension of the term of special permit which expired September 26, 2003.

PREMISES AFFECTED – 87-11/21 Northern Boulevard, northern corner of 88th Street, Block 1417, Lot 36, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to May 16, 2006, at 10 A.M., for continued hearing.

370-05-BZY

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Affirmation Arts Limited, owner.

SUBJECT – Application December 22, 2005 – Proposed extension of time to complete construction pursuant to Z.R. 11-332 for a one story and mezzanine addition to an existing three-story building, previously located in a C6-2(CC) zoning district. The current zoning district is now C6-2(HY).

PREMISES AFFECTED – 523 West 37th Street, interior lot, block bounded by West 37th and West 38th Streets, Tenth and Eleventh Avenues, Block 709, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: James P. Power.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4
Negative:.....0

Adopted by the Board of Standards and Appeals, April 11, 2006.

371-05-A

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Affirmation Arts Limited, owner.

SUBJECT – Application December 22, 2005 – An appeal seeking a determination that the owner of said premises has acquired a common law vested rights to complete construction pursuant to Z.R. 11-332 for a one story and mezzanine addition to an existing three-story building, previously located in a C6-2(CC) zoning district. The current zoning district is now C6-2(HY).

PREMISES AFFECTED – 523 West 37th Street, interior lot, block bounded by West 37th and West 38th Streets, Tenth and Eleventh Avenues, Block 709, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: James P. Power and Dawn Thompson.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4
Negative:.....0

THE RESOLUTION:

WHEREAS, this is an appeal requesting a Board determination that the owner of the premises has obtained a vested right under the common law to complete a proposed enlargement of a building at the referenced premises; and

WHEREAS, this application was brought concurrently with a companion application under BSA Cal. No. 370-05-BZY, which is a request to the Board for a finding that the owner of the premises has obtained a right to continue construction pursuant to ZR §11-332; and

WHEREAS, because the instant application is hereby granted, the applicant withdrew this BZY application, as the extension of time to complete construction that the Board could provide under ZR § 11-332 was deemed insufficient given the amount of construction that remains; and

WHEREAS, a public hearing was held on this application on March 28, 2006 after due notice by publication in *The City Record*, and then to decision on April 11, 2006; and

WHEREAS, the site was inspected by a committee of the Board, including Chair Srinivasan and Commissioner Collins; and

WHEREAS, Community Board 4, Manhattan, did not oppose this application, though it indicated it had no objection to a three month extension; and

WHEREAS, this application is for an extension of a lawfully-issued building permit issued before the effective date of the Hudson Yards Rezoning and Redevelopment Program (the "Hudson Yards Program"), specifically the map change to Zoning Map 8d, which rezoned the premises from C6-2 (CC) to C6-2 (HY) (the "Zoning Change"), and the zoning text amendment that prohibited new developments

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and enlargements at the premises (the "Text Amendment"), to allow completion of the construction of a proposed 3,206 square foot enlargement to an existing three-story, 10,438 square foot commercial building at the site (the "Enlargement").

WHEREAS, the City Council approved the Zoning Change and the Text Amendment on January 19, 2005 (the "Effective Date"); and

WHEREAS, the applicant states that the site is a 4,955 square foot parcel consisting of a midblock portion of Block 709, which is the block bounded by West 37th Street to the south, Tenth Avenue to the east, West 38th Street to the north and Eleventh Avenue to the west; the site has 50.20 feet of frontage on West 37th Street and a depth of 98.70 feet; and

WHEREAS, the site is currently improved with a three-story commercial building previously used as a studio (the "Building"); and

WHEREAS, the applicant states that the Enlargement would be a one-story and mezzanine addition to the existing Building, and would consist of a 3,206 square foot enlargement; and

WHEREAS, the contemplated work includes: extensive demolition, the addition of a third floor mezzanine and a fourth floor and a conversion from photographic studio and accessory uses (Use Group 6) to art exhibition gallery on the first floor (Use Group 6), administrative offices accessory to the studio (Use Group 9) on the second floor, office/working craft studio/art storage (Use Group 9) on the third floor, working art studio/art storage (Use Group 9) on the mezzanine and directors office and meeting room accessory to the studio (Use Group 9) on the fourth floor; and

WHEREAS, the applicant represents that the site is located in the Phase 2 Hudson Boulevard and Park area, which is a subdistrict of the Hudson Yards Program intended to implement the later stages of the park plan; and

WHEREAS, the applicant further represents that Section 93-32 of the Special Hudson Yards District regulations entitled "Floor Area Regulations in the Phase 2 Hudson Boulevard and Park," provides that "[i]n the Phase 2 Hudson Boulevard and Park, no new development shall be permitted, and, except as provided in Section 93-051 (applicability of Chapter 1 of Article 1) no existing development shall be enlarged; ZR Section 93-051(b) provides that "Section 11-332 (Extension of period to complete construction) shall apply, except that notwithstanding the provisions of paragraph (a) of such Section, in the event that other construction for which a building permit has been lawfully issued and for which construction has been commenced but not completed on January 19, 2005, such other construction may be continued provided that the construction is completed and a temporary or permanent certificate of occupancy is obtained not later than January 19, 2006; and

WHEREAS, the applicant notes that on October 14, 2005, DOB issued a Notice of Intent to Revoke All Permits based upon information that it received that indicated that work on the Enlargement began after January 19, 2005, contrary to the Text Amendment; and

WHEREAS, the applicant further notes that on November 29, 2005, DOB Manhattan Deputy Borough Commissioner Christopher Santulli, P.E., accepted documentation that construction had commenced prior to January 19, 2005 and approved continuation of construction, provided that "in the event a [temporary or permanent certificate of occupancy] is not obtained by January 19, 2006 no work shall proceed beyond January 19, 2006 without prior approval from BSA."; and

WHEREAS, the Board observes that in addition to the rights conferred by the above-referenced ZR provisions and DOB determination, the applicant retained the right to file for the subject common law vesting determination; and

WHEREAS, the Board notes that established precedent exists for the proposition that seeking relief pursuant to ZR 11-30 et seq. does not prevent a property owner from also seeking relief under the common law; and

WHEREAS, accordingly, the applicant requests that the Board find that based upon the amount of financial expenditures, including irrevocable commitments, and the amount of work completed, the owner has a vested right to continue construction and finish the Enlargement; and

WHEREAS, as a threshold matter in determining this appeal, the Board must find that the completed work was conducted pursuant to a valid permit; and

WHEREAS, the applicant has submitted into the record the following: copies of DOB Permit Nos. 103847544-01-EW.OT (Alt2-Demo) (renewal), dated August 23, 2004, authorizing demolition; 103830649-01-AL (Alt1) (renewal), dated June 9, 2005, authorizing construction of the Enlargement; 013842139-01-EW.OT (Alt2-Gen Const) (renewal), dated June 9, 2005, authorizing repair and modification of the Building's façade; 1030332-01-AL..(Alt1) (renewal), dated June 9, 2004, authorizing changes of use to obtain a new certificate of occupancy; and 104147184-01-EQ-SH (Alt3-Sidewalk shed), dated June 29, 2005, authorizing construction of a sidewalk shed; and

WHEREAS, the applicant notes that the Alt 1 construction permit (the "A1 Permit") was originally issued on November 18, 2004, and subsequently renewed; and

WHEREAS, the Board agrees that valid permits authorizing the Enlargement were issued prior to the enactment of the Rezoning or the Text Amendment; and

WHEREAS, turning to the substantive findings of the amount of work done and the amount of expenditure, the Board notes that a common law vested right to continue construction generally exists where the owner has undertaken substantial construction and made substantial expenditures prior to the effective date of an amendment; and

WHEREAS, as discussed by the court in Kadin v. Bennett, 163 A.D.2d 308 (2d Dept. 1990) "there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess 'a vested right'. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action"; and

WHEREAS, in its written statements and testimony, the applicant represents that as of the dates of the zoning

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changes, substantial construction had been completed and substantial expenditures were made after the issuance of the A1 Permit; and

WHEREAS, more specifically, the applicant represents that: the affidavits, photographs and schedules of construction costs and the other affidavits submitted with this application, demonstrate that substantial construction, however analyzed, had been completed and that substantial expenditures had been made on the Enlargement as of January 19, 2006; and

WHEREAS, as to actual work completed, the applicant states that, as set forth in the affidavit of Michael J. Strauss, President of Vanguard Construction & Development Co. Inc. ("VCD"), the construction manager for the Enlargement, as of December 16, 2005, the following work had been completed: selective demolition; cutting and excavation of the pit foundation for the new art elevator; new steel wind bracing and columns, inclusive of footings and slab on grade; masonry shaft construction and masonry wall extensions; reinforcement of existing vertical and horizontal columns and beams; erection of structural steel and installation of the Q-decking; installation of the underground plumbing and 70% of the above ground plumbing roughing; installation of air conditioning units, and completion of 60% of the ductwork distribution and insulation; and completion of 50% of the electrical distribution, 90% of the rough carpentry, 45% of the framing of partitions and 25% of the curtain wall; and

WHEREAS, the applicant states that the work completed through January 19, 2006 represents approximately 79 percent of the total working days, including pre-construction working days, and approximately 71 percent of the working days under the DOB Permits; and

WHEREAS, the applicant represents that the following elements of the Enlargement remain to be constructed: installation of building skin, and skylights, installation or finish light fixtures, diffusers, doors and hardware, complete roofing and window system, all finish flooring systems, installation of stairs, installation of millwork, and installation and finishing of carpentry and ceilings; and

WHEREAS, the applicant concludes that the amount and type of construction on the Enlargement clearly satisfies the standards for substantial construction under the case law of New York State, in that there has been tangible physical change to the site, the existing Building has been gutted and exposed to the elements, and the completed elements are an integral part of the alteration; and

WHEREAS, as to costs, the Board first observes that unlike an application for relief under ZR § 11-30 et seq., soft costs and irrevocable financial commitments can be considered in an application under the common law; accordingly, these costs are included in the applicant's analysis; and

WHEREAS, the applicant states that the affidavits and schedules of construction costs, and the other affidavits submitted with this application demonstrate that, on a cost basis, substantial construction had been completed and substantial expenditures made as of January 19, 2006; and

WHEREAS the applicant notes that a total of

\$6,471,176, or 82 percent of the total project cost, had been spent through January 19, 2006, and the total irrevocable financial commitments as of January 19, 2005 were \$7,745,226, or approximately 98 percent of the total project cost; and

WHEREAS, more specifically, the applicant states that work under the VCD contract for the Enlargement is currently estimated to cost \$6,665,163; as of January 19, 2006, \$5,249,552, or approximately 79 percent of the total project cost, had been completed or purchased and stored either on or off-site; and

WHEREAS, the applicant further states that through February 16, 2005, VCD had submitted Applications and Certificates for Payment to the Owner for amounts totalling \$4,974,600.60, and through February 24, 2006, VCD had received payment from the Owner in the amount of \$4,724,596.80; and

WHEREAS, the applicant contends that if work on the Enlargement could not be continued, the developer would be obligated to pay the subcontractors and VCD cancellation fees constituting between 90 to 95 percent of the unfinished amount of the unfinished trade contracts and other work under the VCD Contract, or at least \$1,274,050; and

WHEREAS, the applicant has submitted an affidavit establishing that the total amount of hard costs for the Enlargement incurred is estimated to be \$370,387, of which \$84,435, representing 23 percent, had been incurred as of January 19, 2006; the entire \$84,435 was incurred after the DOB Permits were issued; and

WHEREAS, the applicant states that the total soft costs for the Enlargement will be approximately \$1,320,521, of which approximately \$1,137,189, or approximately 86 percent were incurred as of January 19, 2006; approximately \$733,006 of this amount was incurred after the DOB Permits were issued; and

WHEREAS, the applicant summarizes as follows: the total project cost is \$7,935,072, including costs to be incurred by VCD (\$6,244,164), hard costs to be directly incurred by developer (\$370,387), and soft costs to be incurred (\$1,320,521); of this amount, a total of \$6,471,176, or 82 percent, was spent through January 19, 2006; and

WHEREAS, subsequent to the first hearing, the applicant submitted additional evidence to the Board at its request, in support of the common law vesting claim; and

WHEREAS, specifically, the Board asked for clarification as to the following issues: (1) the amount of work and expenditure related to creation of new floor area; and (2) whether any work was performed during the period when the job was "on hold", as indicated by DOB computer records; and

WHEREAS, the applicant provided an analysis that illustrated the new floor area accounts for a very high percentage of the structural work in the Enlargement because the new floor area requires substantial steel reinforcement and bracing of the exterior wall, as well as structural carpentry shear wall on the lower floors in order to support the new construction; and

WHEREAS, as to expenditure, the applicant stated that

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the new floor area in the Enlargement would account for a percentage of the project cost approximately corresponding to the percentage of the floor area in the building that it constitutes, or 23.5%; thus, the new floor area accounts for approximately \$2,421,909, or 36% of the total project cost under the VCD contract, and, of that amount, approximately \$2,070,858, or 86%, was completed or stored as of January 19, 2006; and

WHEREAS, the applicant states that, with respect to the soft costs and the hard costs to be directly incurred by the owner, the new floor area in the Enlargement would account for a percentage of the cost of the Enlargement approximately corresponding to the percentage of the floor area in the building that it constitutes, or 23.5%; thus, the new floor area accounts for approximately \$310,322 in soft costs, of which approximately 86 percent or \$266,877, were incurred as of January 19, 2006, and approximately \$87,041 in hard costs to be directly incurred by the owner, of which approximately 23 percent, or \$20,019, were incurred as of January 19, 2006; and

WHEREAS, the Board notes that the work related to the construction of the new floor area and the remainder of the interior work within the Building are, as the applicant noted, integrally related, but asked for this analysis as further evidence that vesting had been achieved; and

WHEREAS, as to the "on hold" status of the job, the applicant responded that this status does not prevent work from continuing under the issued permits; rather, it prevents new permits from being issued; and

WHEREAS, in other words, no stop work order was issued; instead, the applicant was required to address some outstanding issues raised by DOB as to the issued permits before the "on hold" status was lifted; and

WHEREAS, based upon its review of the applicant's statements as noted above and the evidence submitted in support of them, the Board finds that the degree of work done and expenditures incurred is sufficient to meet the common law vesting standard; and

WHEREAS, thus, the applicant is entitled to the requested six-month extension of the A1 Permit, and all other related permits necessary to complete construction.

Therefore it is Resolved that this appeal made pursuant to the common law of vested rights requesting a reinstatement of Alteration Permit No. 1030332-01, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete the proposed enlargement for one term of six months from the date of this resolution, to expire on October 11, 2006.

Adopted by the Board of Standards and Appeals, April 11, 2006.

350-05-BZY

APPLICANT – Eric Palatnik, P.C., for 49 Properties, LLC, owner.

SUBJECT – Application December 08, 2005 – Proposed extension of time to complete construction of a minor

development pursuant to Z.R. 11-331 for a multi family 4 story residential building under the prior Zoning R6. New Zoning District is R6B as of November 16, 2005.

PREMISES AFFECTED – 245 16th Street, Brooklyn, north side between 4th and 5th Avenue, Block 1048, Lot 51, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Marie Ciccone.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO REOPEN HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application under ZR § 11-331, to renew a building permit and extend the time for the completion of the foundation of a minor development under construction; and

WHEREAS, a public hearing was held on this application on March 29, 2006 after due notice by publication in *The City Record*, and then to closure and decision on April 11, 2006; and

WHEREAS, the site was inspected by a committee of the Board, consisting of Chair Srinivasan, Vice Chair Babbar, Commissioner Chin, and Commissioner Collins; and

WHEREAS, Community Board 7, Brooklyn, opposed the granting of any relief to the applicant, citing concerns that some work took place after hours or on weekends, which was not covered by the issued permit; and

WHEREAS, the Concerned Citizens of Greenwood Heights opposed the granting of any relief to the applicant, citing concerns similar to the Community Board's; and

WHEREAS, the opposition states that DOB issued a Stop Work Order related to illegal work prior to the cessation of construction due to the rezoning; and

WHEREAS, at the request of the Board, applicant made a submission that analyzed the DOB complaint history; and

WHEREAS, the Board reviewed this submission, which details the complaints and issued violations, and observes that no complaints resulted in violations and that there was no Stop Work Order issued prior to the SWO issued on November 16, 2005 (which was related to the rezoning); and

WHEREAS, specifically, DOB records indicate that there were 11 complaints made while construction was on-going, that three remain active (i.e. no inspections were made in response to them), but that no violations were issued for after-hours work;

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and

WHEREAS, the subject premises consists of one lot on the north side of 16th Street between Fourth and Fifth Avenues; and

WHEREAS, the subject premises is located within an R6B zoning district; and

WHEREAS, the subject premises is proposed to be developed with a four-story, multi-family dwelling; and

WHEREAS, however, on November 16, 2005 (hereinafter, the "Rezoning Date"), the City Council voted to enact the South Park Slope rezoning proposal, which changed the zoning district from R6 to R6B, rendering the development non-complying as to floor area, street wall height, building height, and parking; and

WHEREAS, ZR § 11-331 reads: "If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued as set forth in Section 11-31 paragraph (a), to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations."; and

WHEREAS, ZR § 11-31(a) reads: "For the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met."; and

WHEREAS, because the proposed development contemplates construction of one building, it meets the definition of Minor Development; and

WHEREAS, the applicant represents that the relevant Department of Buildings' permit was lawfully issued to the owner of the subject premises; and

WHEREAS, the record indicates that on October 7, 2005 a new building permit (Permit No. 301965112-01-NB; hereinafter, the "NB Permit") for the new building was lawfully issued to the applicant by the Department of Buildings; and

WHEREAS, the Board has reviewed the record and agrees that the NB Permit was lawfully issued to the owner of the subject premises; and

WHEREAS, the applicant represents that, as of the Rezoning Date, excavation had been completed and substantial progress had been made on foundations; and

WHEREAS, the applicant represents that excavation of the site took place from October 7th to the 16th, 2005; and

WHEREAS, applicant represents that the foundation was framed and other site work was performed during the same dates; and

WHEREAS, the applicant represents that 183.56 cubic yards of concrete were poured during the period of October 17 through November 16, 2005 (when DOB issued a SWO); and

WHEREAS, the applicant represents that as of the Rezoning Date, 100 percent of the excavation has been completed, 100 percent of footings have been installed, and 90 percent of foundation wall including reinforcement and concrete pouring have been completed; and

WHEREAS, in support of the contention that the specified amount of work has been completed and the specified amount of concrete was poured during this period, the applicant has submitted affidavits from both the project's architect and general contractor documenting the status of said completion; and

WHEREAS, the applicant has also submitted photographs of the site and a color-coded copy of the foundation plan depicting the extent of work done on the foundation; the latter is signed and sealed by a professional engineer; and

WHEREAS, in support of the contention that 183.56 cubic yards of concrete were poured by November 16, 2005, the applicant has submitted receipts from two concrete batching companies reflecting the pouring of 183.56 cubic yards of concrete, during the period of October 17 through November 9, 2005; and

WHEREAS, the applicant represents that the only remaining work on the foundation is the pouring of approximately 22.44 cubic yards of concrete; and

WHEREAS, the affidavit from the project architect, noted above, asserts that approximately 20 cubic yards of concrete are all that remain to be poured; and

WHEREAS, the Board has reviewed the affidavits from the architect and general contractor and the other evidence submitted, and agrees that they support the conclusion that 100 percent of the excavation, 100 percent of the footings, and a substantial amount of the other elements of the foundation were completed as of November 16, 2005; and

WHEREAS, the Board finds all of above-mentioned submitted evidence sufficient and credible; and

WHEREAS, based upon the above, the Board finds that excavation was complete and that substantial progress had been made on the foundation, and additionally, that the applicant has adequately satisfied all the requirements of ZR § 11-331.

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Therefore it is resolved that this application to renew New Building permit No. 301965112-01-NB pursuant to ZR § 11-331 is granted, and the Board hereby extends the time to complete the required foundations for one term of six months from the date of this resolution, to expire on October 11, 2006.

Adopted by the Board of Standards and Appeals, April 11, 2006.

14-06-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Jeanine & Dan Fitzgerald, lessee.

SUBJECT – Application January 24, 2006 – Proposed reconstruction and enlargement of an existing single family dwelling not fronting a mapped street contrary to GCL §36, Article 3.

PREMISES AFFECTED – 54 Graham Place, south side Graham Place, 158.86’ west of Beach 204th Street, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart, R.A.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4
Negative:.....0

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4
Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated January 19, 2006, acting on Department of Buildings Application No. 402260860, reads:

“A1- The Street giving access to the existing building to be altered is not duly placed on the official map of the City of New York. Therefore :

- a) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.
- b) Existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space [which] is contrary to Section 27-291 of the Administrative Code.”; and

WHEREAS, a public hearing was held on this application on April 11, 2006 after due notice by publication in the *City Record*, and then to decision on April 11, 2006, and

WHEREAS, by letter dated February 2, 2006, the Fire Department states that it has reviewed the above project and has

no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, January 19, 2006 , acting on Department of Buildings Application No. 402260860 is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received April 11, 2006”- (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals, April 11, 2006.

20-06-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Mary Jane & Anthony Fortunato, lessee.

SUBJECT – Application February 7, 2006 – Proposed reconstruction and enlargement of a single family dwelling not fronting a mapped street contrary to GCL§36, Article 3. Upgrade existing non-conforming private disposal system in the bed of the service road contrary to Building Department policy.

PREMISES AFFECTED – 38 Kildare Walk, west side of Kildare Walk, 92.51’ north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart, R.A.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4
Negative:.....0

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4
Negative:.....0

THE RESOLUTION:

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WHEREAS, the decision of the Queens Borough Commissioner, dated January 25, 2006, acting on Department of Buildings Application No. 402221591, reads:

“A1- The Street giving access to the existing building to be altered is not duly placed on the official map of the City of New York. Therefore:

- c) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.
- d) Existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space [which] is contrary to Section 27-291 of the Administrative Code., and

A2- The proposed upgraded private disposal system is in the bed of the service lane contrary to Department of Buildings Policy.”; and

WHEREAS, a public hearing was held on this application on April 11, 2006 after due notice by publication in the *City Record*, and then to decision on April 11, 2006, and

WHEREAS, by letter dated February 16, 2006, the Fire Department states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, January 19, 2006, acting on Department of Buildings Application No. 402221591 is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received February 7, 2006”- (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals, April 11, 2006.

173-05-A

APPLICANT – Stuart Klein for Trevor Fray, owner.

SUBJECT – Application July 28, 2005 – An appeal seeking a determination that the owner of said premises has acquired a common-law vested right to continue development commenced under the prior R5 zoning district. Current Zoning District is R4A.

PREMISES AFFECTED – 85-24 168th Place, west side of 168th Place, 200 feet south of the corner formed by the intersection of 18th Place and Gothic Drive. Block 9851, Lot 47, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Stuart Klein.

For Opposition: Lisa Orrantia.

ACTION OF THE BOARD – Laid over to June 6, 2006, at 10 A.M., for continued hearing.

92-05-A

APPLICANT – Sheldon Lobel, P.C., for Patrick & Susan Kim, owner.

SUBJECT – Application April 15, 2005 – Proposed enlargement of an existing one family dwelling, not fronting on mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED – 43-36 Cornell Lane, westerly side of Cornell Lane, north of Northern Boulevard, Block 8129, Lot 154, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Zara Fernandes.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to April 25, 2006, at 10 A.M., for decision, hearing closed.

374-05-BZY thru 399-05-BZY

APPLICANT – Eric Palatnik, P.C., for Carmel Homes LLC, owner.

SUBJECT – Application December 27, 2005 – Proposed extension of time to renew building permits and complete construction of a development pursuant to Z.R. 11-332. Prior R3-2 Zoning District. Current R3-X Zoning District.

PREMISES AFFECTED – Riga Street, Carmela Court, Mill Road, Block 4690, Lots Nos. 130-135, 135-139, 126-129, 120-125, 110-115, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Eric Palatnik and Arthur Tucci.

For Opposition: John Lafemina.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

MINUTES

Commissioner Chin and Commissioner Collins.....4
Negative:.....0

ACTION OF THE BOARD – Laid over to April 25, 2006, at 10 A.M., for decision, hearing closed.

402-05-BZY thru 424-05-BZY

APPLICANT – Eric Palatnik, P.C., for Grymes Hill Estates, Inc., owner.

SUBJECT – Application December 28, 2005 – Proposed extension of time to renew building permits and complete construction of a development pursuant to Z.R. 11-332. Prior R3-2 zoning district. Current R3-A zoning district.

PREMISES AFFECTED – Tessa Court, Maxie Court, Block 616, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to May 16, 2006, at 10 A.M., for continued hearing.

428-05-BZY thru 431-05-BZY

APPLICANT – Sheldon Lobel, P.C., for Islandview Homes Development Corp., owner.

SUBJECT – Application December 28, 2005 – Proposed extension of time to renew building permits and complete construction of a minor development pursuant to Z.R. 11-332. Current R3-X zoning district.

PREMISES AFFECTED – 475, 473, 471, 470 Father Capodanno Boulevard, located 91.90’ west of Cross Streets, Father Capodanno Boulevard and McLaughlin Street, Block 3500, Tentative Lot Nos. 30, 31, 32, 33. Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Jordan Most and Alto Puletti.

ACTION OF THE BOARD – Laid over to May 2, 2006, at 10 A.M., for continued hearing.

30-06-A

APPLICANT - Eric Hecker, Esq. of Emery Celli, Brinkcerhoff & Abady, LLP for Lamar Outdoor Advertising, lessee, EG Clemente Bros. owner .

SUBJECT - Application February 21, 2006 – For an appeal of the Department of Buildings decision dated January 19, 2006 revoking Advertising sign approvals and permits under Application Nos. 5000684324 and 500684315 in that it allows advertising signs that are not within 1/2 mile of the NYC Boundary and as such are in violation of Section 42-55 of the Zoning Resolution.

PREMISES AFFECTED – 50 South Bridge Street, between

Arthur Kill Road and Page Avenue, Block 7584, Lot 122, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Eric Hecker and Peter Herrigel.

For Administration: Deborah Glikin, Department of Buildings.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to May 9, 2006, at 10 A.M., for decision, hearing closed.

Jeffrey Mulligan, Executive Director.

Adjourned: 12:00 P.M.

REGULAR MEETING TUESDAY AFTERNOON, APRIL 11, 2006 1:30 P.M.

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Chin and Commissioner Collins.

ZONING CALENDAR

338-04-BZ

APPLICANT – Martyn & Don Weston, for Hi-Tech Equipment Rental Inc., owner.

SUBJECT – Application October 12, 2004 – Under Z.R. §72-21 to permit the proposed construction of a one story and cellar extension to an as-of-right six story hotel, and to permit on grade accessory parking and below grade showroom/retail use, in an R5 zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED – 806/14 Coney Island Avenue, west side, 300.75’ north of Ditmas Avenue, Block 5393, Tentative Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Don Weston.

ACTION OF THE BOARD – Application granted on

MINUTES

condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough
Commissioner, dated October 3, 2005, acting on Department of
Buildings Application No. 301933790, reads, in pertinent part:

“1. Catering facilities, as part of the proposed
transient hotel (UG5), is not a permitted as- of-
right use in a R5 district, as per Section 22-00 . . .

2. Meeting room, as part of the proposed
transient hotel (UG 5) is not a permitted as-of-
right use in a R5 district . . .

3. Accessory parking, as part of the proposed
transient hotel (UG 5) is not a permitted as-of-
right use in a R5 district . . .

4. The commercial bulk exceeds the allowable
commercial bulk in a C8-2 district, as per Sec.
33-122 . . .”; and

WHEREAS, this is an application under ZR § 72-21, to
permit, on a site partially within a C8-2 zoning district and
partially within an R5 zoning district which has previously been
before the Board, a proposed transient hotel with an accessory
catering facility/meeting room and accessory parking, which is
contrary to ZR §§ 22-00 and 33-122; and

WHEREAS, the applicant proposes to construct a four-
story Use Group 5 transient hotel, with 54 rooms, a meeting
room, and a catering hall, with total floor area of 38,932, a total
Floor Area Ratio (FAR) of 1.21, a street wall height of 20’-0”, a
total height of 48’-0”, and a maximum of 75 accessory attended
parking spaces in an open parking lot; and

WHEREAS, the four-story portion of the building will be
set back 24 feet from the street wall, as well as at the rear; and

WHEREAS, a portion of the hotel, as well as the majority
of the accessory parking lot, will be within the R5 zoning
district, thus necessitating the requested use waivers; and

WHEREAS, the commercial FAR within the C8-2 district
is approximately 2.5, which exceeds the amount that is
permitted (2.0 FAR), thus necessitating the requested bulk
waiver for the C8-2 portion of the zoning lot; and

WHEREAS, the applicant initially proposed to construct a
six-story hotel, with 75 rooms, a total floor area of 57,244 sq.
ft., a total FAR of 1.83, and approximately 32,000 sq. ft. of
below grade commercial use, including a catering hall and
meeting and show rooms, as well as 62 accessory parking
spaces; and

WHEREAS, the Board expressed concern about this
proposal, noting that while the cellar space and the rooms
therein did not technically count as zoning floor area, its
inclusion in the program of the project nevertheless resulted in a
significantly increased commercial presence, based on usable
floor area, which was too large for the character of the
community in terms of size, parking and traffic impacts, and
which did not represent the minimum variance; and

WHEREAS, the applicant’s second proposal was a five-
story hotel, with 57 rooms, a total floor area of 49,924 sq. ft., a
total FAR of 1.55, with a catering hall and a meeting room, but
no below grade show rooms; and

WHEREAS, after the Board continued to express
concerns, the applicant submitted a third proposal, which was a
four-story hotel, with 54 rooms, a total floor area of 44,452 sq.
ft., a total FAR of 1.38, a catering hall and a meeting room, and
parking for 63 cars; and

WHEREAS, the Board expressed concern about the
proposed occupancy of the catering hall (340 persons) and the
meeting room (470 persons), as well as the limited parking; and

WHEREAS, the applicant responded to these concerns by
submitting the current version, as described above, which the
Board finds acceptable in terms of impacts and minimum
variance; and

WHEREAS, a public hearing was held on this
application on September 13, 2005, after due notice by
publication in the *City Record*, with continued hearings on
November 15, 2005, January 10, 2006, March 14, 2006 and then
to decision on April 11, 2006; and

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

WHEREAS, Community Board No. 12, Brooklyn,
recommends disapproval of the application, contending that
hotel use is inappropriate for the surrounding community; and

WHEREAS, certain neighbors to the premises also
appeared in opposition to this application, alleging that illegal
activity would occur at the hotel; however, the Board has before
it no evidence in support of this contention; and

WHEREAS, certain other neighbors raised concerns about
parking impacts; and

WHEREAS, the subject premises is located on the south
side of the Coney Island Avenue, and consists of four
contiguous tax lots (Lots 27, 50, 93, & 140); and

WHEREAS, as noted above, the premises is partially
within a C8-2 zoning district and partially within an R5 zoning
district; the R5 zoning district begins approximately 100 ft. from
the Coney Island Avenue street line, though it does not bisect
the site in a straight line, due to the trapezoidal shape of the
subject block; and

WHEREAS, Lot 27, which has a total lot area of 16,972
sq. ft., fronts on Coney Island Avenue to a width of 120’-4”, and
extends approximately 137 ft. from the street line; thus, roughly
16,972 sq. ft. of the lot area is within the C8-2 district, and
roughly 4,939 sq. ft. is within the R5 district; and

WHEREAS, Lot 93, which has a total lot area of 13,585
sq. ft., is an interior, landlocked lot, and is adjacent to the east of
Lot 27, and is almost entirely within the R5 district; and

WHEREAS, Lot 140, which has a total lot area of 800 sq.
ft., is another interior, landlocked lot that is adjacent to Lot 93 to
the north, and is located entirely within the R5 district; and

WHEREAS, Lot 50, which has a total lot area of 796 sq.
ft., is a 5 ft. wide sliver lot with frontage on Ditmas Avenue, and

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is adjacent to Lot 93 to the west; it is bisected by the district boundary line; and

WHEREAS, the total lot area over the entire site is 32,153 sq. ft.; approximately 13,354 sq. ft. is within the C8-2 district, and approximately 18,799 sq. ft. is within the R5 district; and

WHEREAS, the majority of the hotel, including the four-story section, will be constructed on Lot 27, within the C8-2 district; and

WHEREAS, a portion of the hotel, including the first floor that will be occupied by the catering hall and the meeting room, will be constructed on Lot 27, within the R5 district; and

WHEREAS, the accessory parking lot will be constructed on Lots 93 and 140, primarily with the R5 district; and

WHEREAS, all of Lot 50 will be landscaped with plants; and

WHEREAS, the parking lot will be accessed from Coney Island Avenue through a driveway located on Lot 36 (under the same ownership as the site before the Board), which is adjacent to Lot 93 to the north, and which will be affected by a restrictive declaration for access, described in more detail below; and

WHEREAS, the site is currently improved upon with a one-story garage-type building, constructed on Lot 27, currently occupied by an automotive use and

WHEREAS, auto repair use within this one-story building was previously approved by the Board in 1948, under BSA Cal. No. 65-48-BZ, when the site was partially within a residence district; this grant was subsequently modified and extended at various times up until 1985; and

WHEREAS, at some point prior to 1985, the use was discontinued; thus, under BSA Cal. No. 1016-84-BZ, the Board permitted the reestablishment of the grant; and

WHEREAS, the building on the site was subsequently permitted to be enlarged in 1997, under BSA Cal. No. 49-95-BZ; and

WHEREAS, because the proposed hotel development is in a different use group from any use previously approved by the Board, and because the configuration of the development site have changed through the addition of new tax lots, the applicant was required to file a new variance application; and

WHEREAS, the applicant proposes to re-use the existing one-story building on the site as the first floor of the hotel; there will be no cellar level as originally proposed; and

WHEREAS, the applicant states that the catering hall and the meeting room will not be used simultaneously, but, at the Board's request, nevertheless analyzed the parking requirement based upon simultaneous use; and

WHEREAS, the applicant states that the parking lot, and the entrance to it, will be closed from 11PM until 7 AM daily; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the site divided by a district boundary line between the C8-2 and R5 district, where permitted uses in each district are prohibited in the other district; (2) the site includes

interior, landlocked lots without any street frontage in the C8 district portion; and (3) the site includes a lot that is only 5'-0" wide; and

WHEREAS, as an initial matter, the Board observes it has previously concluded that the Lot 27 portion of the site is unique, due to the location of the district boundary; and

WHEREAS, the Board also recognizes that the interior, landlocked lots (Lots 93 and 140) can not be used for either residential or commercial use, both due to their division by the district boundary and because of their landlocked nature; and

WHEREAS, the Board also agrees that Lot 50 is unusable, due to its width; however, given the small square footage of this lot relative to the entire development site, the Board does not view its lack of development potential to be an actual hardship; and

WHEREAS, finally, the Board notes that the shape of the development site is unusual, and further compromises conforming development over the entire site; and

WHEREAS, accordingly, the Board finds that certain of the aforementioned unique physical conditions – namely, the existence of the district boundary, the landlocked status of a portion of the lot, and the lot's unusual shape - when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant initially submitted a feasibility study analyzing a retail development scenario, with 16,692 sq. ft. of floor area located in the existing one-story building; and

WHEREAS, the applicant concluded that such a scenario would not result in a reasonable return, due to costs related to the above-stated unique physical conditions; and

WHEREAS, however, the Board had concerns regarding certain aspects of this study, and identified them at hearing; and

WHEREAS, specifically, the Board questioned the claimed site valuation, and suggested that it was too high because it ascribed too much value to the interior, landlocked portions of the site, that, while zoned for residential use, were unable to sustain such use; and

WHEREAS, in response, the applicant revised its analysis, and adjusted the site valuation based upon the Board's comments; and

WHEREAS, the Board also questioned whether the return from a retail scenario could be increased by adding a second and third floor to the existing building for office use, using available commercial floor area allowed under the district; and

WHEREAS, the applicant, in a subsequent submission, analyzed a three-story retail/office scenario, and concluded that it did not realize a reasonable return, due to construction costs related to the adaptation of the existing building to accommodate the additional floors; and

WHEREAS, based upon its review of the subsequent submissions of the applicant, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable zoning requirements will provide a reasonable return; and

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WHEREAS, the Board also notes that the landlocked nature of the portion of the site within the R5 district and its shape restrict any possibility of conforming use in said portion; and

WHEREAS, as a result, in both conforming scenarios as presented by the applicant, the site is significantly under-built in terms of actual available development rights; and

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

WHEREAS, the applicant initially noted that the proposed hotel use is a permitted use within C8-2 district portion of the site; and

WHEREAS, however, the Board observes that except for some auto repair uses and other commercial uses along Coney Island Avenue, the site is adjacent to two to three story dwellings and other residentially compatible uses such as a playground; and

WHEREAS, thus, as discussed above, notwithstanding the permissibility of hotel use on the commercially zoned portion of the site, the Board expressed reservations about both the amount of commercial floor area (whether zoning floor area or not) initially proposed over the entire site and the proposed height, given the potential impact that the bulk and height could have on nearby residential uses; and

WHEREAS, more specifically, the Board expressed concern that the hotel contained excessively large accessory use spaces (i.e., catering hall, meeting rooms, show rooms, retail spaces) and too many individual rooms, which increased the bulk and height, which would, in turn, create negative impacts; and

WHEREAS, the applicant subsequently modified the proposal to the current version, which reflects a reduced height and floor area; and

WHEREAS, the Board notes that the reduced height is more in context with other four-story buildings along Coney Island Avenue; and

WHEREAS, the Board also notes that the currently proposed bulk and the amount of rooms reflects a lesser-intensity commercial presence on the site, which will not negatively impact the adjacent uses or the character of the neighborhood; and

WHEREAS, the Board also observes that the four-story portion of the proposed hotel will be set back 24 feet from the street wall, so that the street wall height along Coney Island Avenue will remain approximately what it is now; and

WHEREAS, the Board further notes that the commercial encroachment into the R5 district is restricted to the same degree of encroachment that currently exists on the site; and

WHEREAS, in addition to the height and bulk of the proposed hotel, the Board, over the course of the hearing process, expressed concern about the traffic and parking impacts that could be generated by the hotel; and

WHEREAS, the Board observes that the accessory parking lot is almost entirely within the R5 district, and that residential uses abut the proposed lot; and

WHEREAS, in response to this concern, the applicant proposes to keep the parking lot closed from 11 PM until 7 AM, and states that all lighting in the parking area will be directed downwards and away from the adjacent residential uses; and

WHEREAS, the applicant also proposes to install and maintain proper screening around the parking lot, consisting of a 6 ft. high wooden fence and 3 ft. planting strips; and

WHEREAS, the Board also expressed concern about the amount of parking generated by the proposed bulk; and

WHEREAS, the Board observed that part of the problem was that the applicant stated that the meeting room and the catering hall would not be used simultaneously, and calculated the parking requirement based on this assumption; and

WHEREAS, however, the Board rejected this assumption, and asked that the applicant revise the parking analysis to assume simultaneous uses of both spaces; and

WHEREAS, the applicant responded by calculating the parking requirement assuming simultaneous use of both spaces; and

WHEREAS, the applicant concludes that based upon the amount of rooms and the proposed occupancy of the catering and meeting rooms, the parking requirement is 55 cars; the proposed accessory parking lot will provide spaces for 75 cars, which shall only be accessory to the hotel and catering uses and shall not be used for transient commercial parking or other uses; and

WHEREAS, the Board notes that the applicant agreed to landscape Lot 50, which will improve the appearance of this site, and also agreed to provide opaque fencing around the parking lot and Lot 50 adjacent to the residences, which will screen the parking area from the adjacent residential uses; and

WHEREAS, the Board also notes that the applicant has executed and recorded a driveway restrictive declaration, which will dedicate a portion of lot 36 for access purposes to the accessory parking lot from Coney Island Avenue; and

WHEREAS, the Board has reviewed this declaration, and has determined that its form and content are acceptable; and

WHEREAS, finally, the Board notes that while the site will be occupied by a Use Group 5 hotel and parking lot, this use will replace a more intensive Use Group 16 commercial use, with loading and unloading of trucks, that currently uses the entire site; and

WHEREAS, moreover, the hotel will occupy the same footprint as the existing building; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the trapezoidal shape of the block and the placement of the district boundary line; and

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WHEREAS, as noted above, in addition to its concerns about the impact that the initial and intermediate proposed hotel buildings would have on the community and adjacent residential uses, the Board also concluded that these two proposals did not represent the minimum variance; and

WHEREAS, accordingly, in addition to the revised analysis of the conforming scenario, at the request of the Board, the applicant also submitted an analysis of the current proposal, which is much smaller, scaled-back version of the initial proposal; and

WHEREAS, the applicant concluded that the current proposal would realize a minimal return sufficient to overcome the site's inherent hardship; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05BSA051K, dated October 12, 2004; and

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site partially within an R5 zoning district and partially within an C8-2 zoning district which has previously been before the Board, a proposed transient hotel with an

accessory catering facility/meeting room and accessory parking, which is contrary to ZR § 22-00, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 23, 2006"- four (4) sheets and marked "Received March 28, 2006"- one (1) sheet; and *on further condition*:

THAT all fencing as shown on the BSA-approved plans shall be opaque;

THAT all lighting on the site shall be directed downwards and away from any adjacent residential use;

THAT a maximum of 75 and a minimum of 55 attended parking spaces shall be provided in the accessory parking lot;

THAT there shall be no commercial parking in the accessory parking lot;

THAT the roll down gate at the entrance of the driveway to the parking lot shall be closed and locked from 11 PM to 7 AM;

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

THAT the recording information for the driveway restrictive declaration shall be listed on the certificate of occupancy;

THAT the following shall be the bulk parameters of the proposed building: a maximum of four stories, with no cellar, with 54 hotel rooms, a meeting room with a capacity of 270 occupants, a catering hall with a capacity of 330 occupants, a total floor area of 38,932, a total FAR of 1.21, a wall height of 20'-0", a total height of 48'-0", setbacks of 24 ft. from the street wall and the rear lot line at the second floor, and a maximum of 75 accessory attended parking spaces in an open parking lot, all as illustrated on the BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, April 11, 2006.

373-04-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Brendan McCartan, owner.

SUBJECT – Application November 26, 2004 – Under Z.R. §72-21 in an R4 district, permission sought to allow the construction of a two-story one-family dwelling on a 25' x 53.55' lot consisting of 1,338 SF. The structure does not comply with floor area allowed, open space, lot area, front

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yard.

PREMISES AFFECTED – 57-69 69th Street, north side of 69th Street 24' west of 60th Avenue, Block 2830, Lot 33, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated November 15, 2004, acting on Department of Buildings Application No. 401843243, reads, in pertinent part:

“ZR 23-141, Floor area ratio (FAR) exceeds that permitted;

ZR 23-141, Open space ratio (OSR) is deficient from that required;

ZR 23-45, Proposed front yard is contrary to the requirements for a corner lot;

ZR 23-32, Minimum area of lot is contrary to section 23-32 . . .”; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R4 zoning district, the proposed construction of a 1.49 Floor Area Ratio, single-family, two-story plus attic, (FAR) home that exceeds the permitted FAR and Open Space Ratio (OSR), does not provide the required front yard or side yards, and does not have the required lot area, contrary to ZR §§ 23-141, 23-45, and 23-32; and

WHEREAS, the applicant originally proposed a 1.8 FAR, two-family dwelling that would have required additional variances as to parking and density, and a smaller rear yard, but abandoned this proposal in response to concerns of the Community Board that it was overreaching and not in context with the surrounding neighborhood; and

WHEREAS, the applicant subsequently revised the proposal to the current version; and

WHEREAS, a public hearing was held on this application on November 1, 2005 after due notice by publication in *The City Record*, with continued hearings on December 6, 2005, January 10, 2006, February 7, 2006 February 28, 2006, and then to decision on April 11, 2006; and

WHEREAS, Community Board 5, Queens, recommends approval of this application, on condition that the dwelling should be a one-family residence, that the size should be limited to 25 ft. in width and 40 ft. in depth, that one parking space be provided, and that the rear yard should be 13.55 ft. in depth; and

WHEREAS, the Queens Borough President recommends approval of this application on condition that the rear yard of the proposed development be more consistent with the surrounding built context; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board, including Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins; and

WHEREAS, the site is located on the north side of 68th Street, 24 ft. west of 60th Avenue; and

WHEREAS, the site is 25'-0" in width and approximately 53'-4" in depth, with a total lot area of 1,339 sq. ft.; and

WHEREAS, the applicant states that the lot has existed in its present configuration since prior to 1961; and

WHEREAS, the site is currently improved upon with a one-story 471 sq. ft. home, that the applicant contends is in poor condition and is an extremely small structure for a single-family home; and

WHEREAS, the applicant states that the home can not be enlarged as of right, and thus proposes its demolition and replacement; and

WHEREAS, the applicant proposes to construct a two-story, single-family home, with one parking space located in a garage; and

WHEREAS, the proposed home will be 25 ft. in width by 40 ft. in depth; have a total residential floor area of 2,000 sq. ft. (1,816 sq. ft. is the maximum permitted); a total residential FAR of 1.49 (1.35 is the maximum permitted); an OSR of 26% (45% is the minimum required); no front yard (a front yard of 10 ft. is required); no side yards (two side yards of 8 ft. and 5 ft. are required; and a 13 ft. rear yard (no rear yard is required because the lot is within 100 ft. of a corner); a single off-street parking space will be provided; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the site is a pre-existing 25'-0" ft. wide and 53'-6" deep lot that can not accommodate as of right development; and

WHEREAS, as to uniqueness, the applicant has submitted a land use survey and property chart that illustrates that of the 147 total properties reflected in the survey's radius, only four have a depth equal to the subject premises; the majority of the lots have depths of 100 ft.; and

WHEREAS, the applicant represents that the requested side yard waivers are necessary to develop the site with a habitable home; and

WHEREAS, the Board observes that if the applicant were to provide the required 5 ft. and 8 ft. side yards, the result would be a home of approximately 12 ft. in width; and

WHEREAS, likewise, the front yard waiver is necessary in order to create a home of a reasonable depth, while still providing a rear yard that would provide sufficient distance between the proposed home and the neighboring home abutting the rear of the site; and

WHEREAS, the Board observes that the lot area is a pre-existing condition, and that the existing home is sub-standard when measured against modern requirements for a single-family home; and

WHEREAS, the Board further observes that the FAR

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waiver is necessary because the site is small and is unable to accommodate the required parking space in a side yard or within the home where it would not count as floor area, unlike other sites where such an accommodation can be made; and

WHEREAS, the Board notes that the FAR increase is only necessary to address the increase in FAR caused by the garage; and

WHEREAS, based upon the above, the Board finds that the cited unique physical condition creates practical difficulties in developing the site in strict compliance with the applicable zoning regulations; and

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

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the Board observes that the applicant originally proposed a two-family home with an FAR of 1.8; and

WHEREAS, in response to Board concerns, the applicant reduced the FAR to 1.49 (0.14 of which is floor area for the interior garage), which is an FAR that the Board agrees is consistent with the bulk of the homes in the neighborhood; and

WHEREAS, the Board also expressed concern that a two-family home would be out of context with the character of the neighborhood, and, in response, the applicant revised the proposal to reflect a single-family home; and

WHEREAS, the Board notes that the absence of side yards and a front yard will not negatively impact the adjacent uses, as the site to the west is occupied commercially, the site to the east is on a corner and has minimal side yards, and the proposed development will leave a 13 ft. rear yard as a buffer to the home located on the lot abutting the rear lot line of the premises; and

WHEREAS, the Board further notes that the location of the home on the front lot line is consistent with the context along 69th Street on the subject block; 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, as noted above, the applicant reduced the density and FAR of the proposed home and increased the rear yard in response to Board concerns that the initial proposal did not reflect the minimum variance; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part

617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 72-21, to permit, within an R4 zoning district, the proposed construction of a 1.49 Floor Area Ratio, single-family, two-story plus attic, home that exceeds the permitted FAR and OSR, does not provide the required front yard or side yards, and does not have the required lot area, contrary to ZR §§23-141, 23-45, and 23-32; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 28, 2006"-(2) sheets and "April 7, 2006"-(3) sheets; and *on further condition*:

THAT the parameters of the proposed building shall be as follows: an FAR of 1.49; a floor area of 2,000 sq. ft.; an OSR of 26%; a rear yard of 13 ft.; and one parking space in an internal garage;

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

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

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

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

Adopted by the Board of Standards and Appeals, April 11, 2006.

65-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Leemilt's Petroleum, Inc., owner.

SUBJECT – Application March 16, 2005 – Special Permit filed pursuant to sections 11-411 and 11-413 of the zoning resolution to request the instatement of an expired, pre-1961, variance, and to request authorization to legalize the change of use from a gasoline service station with accessory automotive repairs, to an automotive repair facility without the sale of gasoline, located in a C1-4/R8 zoning district.

PREMISES AFFECTED – 269-275 East Burnside Avenue, northside of East Burnside Avenue between Ryer Avenue and Anthony Avenue, Block 3156, Lot 85, Borough of Bronx.

COMMUNITY BOARD #5BX

APPEARANCES –

For Applicant: Ron Mandel.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

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Commissioner Chin and Commissioner Collins.....4
Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Bronx Borough Commissioner, dated February 24, 2005, acting on Department of Buildings Application No. 200929200, reads:

“Continued use of the automotive service station is contrary to Board of Standards and Appeals resolution 931-86-BZ, and is not permitted as-of-right in an R8/C1-4 zoning district.”; and

WHEREAS, this is an application for a reinstatement of a prior Board approval and an extension of term, pursuant to ZR § 11-411, and a legalization of a change in use from a gasoline service station with accessory automotive repairs (UG 16), to an automotive service station without the sale of gasoline (UG 16), pursuant to ZR § 11-413; and

WHEREAS, a public hearing was held on this application on March 14, 2006 after due notice by publication in the *City Record*, and then to decision on April 11, 2006; and

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

WHEREAS, Community Board 5, Bronx, recommends approval of this application, on condition that there be no parking or repairs on the sidewalk, that a fence without barbed wire be installed around the property, and that exterior signage be removed; and

WHEREAS, the premises is located on the north side of East Burnside Avenue between Ryer Avenue and Anthony Avenue, in a C1-4 zoning district within an R8 zoning district; and

WHEREAS, the subject zoning lot is trapezoidal-shaped with frontage on East Burnside Avenue, and has a total lot area of approximately 13,106 sq. ft.; and

WHEREAS, the site is currently occupied by a 1,624 sq. ft. automotive service station, with accessory parking for vehicles awaiting service; and

WHEREAS, the Board originally granted a variance to permit the erection and maintenance of a gasoline service station with accessory uses at the site, including the parking and storage of more than five cars, for a term of fifteen years, on December 10, 1957, under BSA Cal. No. 91-27-BZ Vol. II; and

WHEREAS, subsequently, the variance was re-established, amended, and extended by the Board at various times, most recently on January 6, 1988, under BSA Cal. No. 931-86-BZ, to permit an extension of term for a gasoline service station with accessory uses for a term of five years, expiring on January 6, 1993; and

WHEREAS, the applicant represents that the premises is improved upon with an existing automotive service station without the sale of gasoline (UG 16); and

WHEREAS, the applicant represents further that there has been no enlargement to the zoning lot or the building, and the only change to the site from the time of the last grant is the removal of the gasoline pumps; a UG 16 use has been

continuous since the expiration noted above; and

WHEREAS, the applicant now proposes to reinstate the prior grant, legalize the existing use, and obtain a new 10-year term; and

WHEREAS, pursuant to ZR § 11-411, the Board may extend the term of an expired variance; and

WHEREAS, pursuant to ZR § 11-413, the Board may grant a request for a change in use from one non-conforming use to another non-conforming use in the same use group; and

WHEREAS, the Board has determined that evidence in the record supports the findings required to be made under ZR §§ 11-411 and 11-413.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR §§ 11-411 and 11-413, for a reinstatement of a prior Board approval, an extension of term, and a legalization of a change in use from a gasoline service station with accessory automotive repairs (UG 16), to an automotive service station without the sale of gasoline (UG 16); *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked “Received March 16, 2005”-(1) sheet and “March 28, 2006”-(2) sheets; and *on further condition*:

THAT this permit shall be for a term of ten years, to expire on April 11, 2016;

THAT the hours of operation shall be from 8 A.M. to 7 P.M., Monday through Saturday;

THAT no repairs or servicing of automobiles shall take place on the sidewalk;

THAT no gas pumps shall be installed on the site;

THAT barbed wire or razor wiring will not be installed and any existing barbed or razor wire will be removed;

THAT the lot shall be kept free of dirt and debris;

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

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

THAT the layout of the property, location and size of the fence shall be as approved by the Department of Buildings;

THAT all signage shall comply with C1-1 zoning regulations;

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

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

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

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Adopted by the Board of Standards and Appeals, April 11, 2006.

133-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Yitzchok Shindler.
SUBJECT – Application November 30, 2005 – Under Z.R. §73-622 to allow the enlargement of a single family residence which exceeds the allowable floor area and lot coverage per Z.R. §23-141 of the Zoning Resolution. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1231 East 21st Street, southeast corner of Avenue K and East 21st Street, Block 7621, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Richard Lobel.

For Opposition: Sondra Safier.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 24, 2005, acting on Department of Buildings Application No. 301691097, reads:

“The proposed enlargement of the existing one family residence in an R2 zoning district:

1. Creates non-compliance with respect to floor area by exceeding the allowable floor area ratio and is contrary to section 23-141 of the Zoning Resolution.
2. Creates non-compliance with respect to the Open Space Ratio and is contrary to section 23-141 of the Zoning Resolution.”; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03 to permit, in an R2 zoning district, the legalization of an existing detached single-family dwelling, which does not comply with the zoning requirements for Floor Area Ratio (FAR) and Open Space Ratio (OSR), contrary to ZR § 23-141; and

WHEREAS, a public hearing was held on this application on February 7, 2006, after due notice by publication in *The City Record*, with continued hearings on February 7, 2006 and March 14, 2006 and then to decision on April 11, 2006; and

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

Board, consisting of Chair Srinivasan, Vice Chair Babbar, Commissioner Chin, and Commissioner Collins; and

WHEREAS, Community Board 14, Brooklyn, recommends disapproval of this application because it opposes legalization of completed work; and

WHEREAS, the subject lot is located on 21st Street, at the southeast corner of 21st Street and Avenue K; and

WHEREAS, the subject lot has a total lot area of 5,000 sq. ft.; and

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

WHEREAS, the applicant seeks to legalize the increase in the floor area from 2,569 sq. ft. (0.51 FAR) to 4,135 sq. ft. (0.83 FAR); the maximum floor area permitted is 2,500 sq. ft. (0.50 FAR) or 2,750 sq. ft. (0.60 FAR), with attic; and

WHEREAS, the applicant also seeks to legalize the decrease in the OSR from 151 percent to 75 percent; the minimum required OSR is 150 percent; and

WHEREAS, two complying front yards of 15 feet each, one complying side yard of eight feet, and one complying side yard of five feet, as required for a corner lot in the subject zoning district, have been maintained; and

WHEREAS, the existing street wall height of 24 ft., 2 in. and total building height of 35 ft., are also in compliance; and

WHEREAS, the Board notes that the applicant submitted into the record professionally-certified plans filed at the DOB for an alteration permit, to enlarge the existing building as-of-right; and

WHEREAS, the Board notes that these plans show that much of the original home would be retained, and that it would be enlarged by making several additions primarily on the second floor and attic; and

WHEREAS, however, during the process of constructing the as-of-right alterations, the contractor hired by the owners proceeded illegally to construct floors within voids and double height spaces that were to be retained under the as-of-right alteration permit; and

WHEREAS, the Board notes that this construction within the voids and double height spaces creates new floor area, rendering the building non-compliant with FAR and OSR, and necessitating the instant special permit application; and

WHEREAS, at hearing, the property owners stated that they did not have knowledge that their home was being enlarged in floor area beyond what was permitted through the as-of-right alteration permit; and

WHEREAS, the Board did not find such statements credible or persuasive; and

WHEREAS, nonetheless, though the Board does not condone applications for legalization of work already completed in violation of issued permits, the relief sought in the instant application is within the parameters of the relief that the Board can grant and has granted in the past; and

WHEREAS, specifically, the Board notes that the special permit text allows it to waive FAR and OSR provisions to the degree that is being requested; and

WHEREAS, moreover, the applicant represents that

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after construction began, it was discovered that the home's original framing had been severely damaged by termites and age; and

WHEREAS, the applicant further represents that the project's contractor concluded that the original home could not be saved as a result of the damage; and

WHEREAS, at hearing, the Board requested records documenting the need to demolish the pre-existing building, which was not contemplated or reflected in the professionally-certified plans for the as of right enlargement; and

WHEREAS, the applicant presented the Board with affidavits from a contractor and plumber asserting that, upon further inspection, they discovered that the house's wood framing had suffered severe termite damage, and damage due to age, such that it was beyond repair; and

WHEREAS, the Board has reviewed the affidavits from the contractor and plumber, and agrees that they support the conclusion that the original wood framing could not be retained; and

WHEREAS, thus, leaving aside the contention that the owners did not know that work was done in violation of the as of right alteration permit, the Board acknowledges that such work may have been necessary given the damage to the existing home; and

WHEREAS, further, the applicant rebuilt on the existing foundations as contemplated under the as of right permit, which the Board views as evidence of an intent to comply with the permit, absent the termite damage; and

WHEREAS, as to the effect of the enlargement, the Board finds that the completed building neither alters the essential character of the surrounding neighborhood, nor impairs the future use and development of the surrounding area; and

WHEREAS, specifically, the Board finds that the increase from 0.51 FAR to 0.83 FAR is modest, and that neither the FAR nor the OSR waiver results in a home that alters the essential character of the neighborhood or is incompatible with other nearby homes; and

WHEREAS, the completed building does not interfere with any pending public improvement project; and

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the legalization of an enlargement of a detached single-family dwelling, which does not comply with the zoning requirements for Floor Area Ratio and Open Space Ratio,

contrary to ZR § 23-141; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application, marked "Received January 11, 2006"-(11) sheets and *on further condition*:

THAT there shall be no habitable room in the cellar;

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

THAT DOB shall inspect all work performed prior to issuance of any certificate of occupancy;

THAT the total FAR on the premises shall not exceed 0.83;

THAT two front yards of 15 feet each, one side yard of eight feet, and one side yard of five feet will be maintained;

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

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

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

Adopted by the Board of Standards and Appeals, April 11, 2006.

146-05-BZ

APPLICANT – Howard Weiss, Esq., Davidoff, Malito & Hutcher,LLP, for Spafumiere Inc., lessee, Manhattan Embassy Co., owner.

SUBJECT – Application June 10, 2005 – Approval sought for a proposed physical cultural establishment located on a portion of the first floor of a mixed-use building. The PCE use will contain 2,300 square feet. The site is located in a C1-9 TA Zoning District.

PREMISES AFFECTED – 900 Second Avenue, a/k/a 884-900 Second Avenue, 301-303 East 47th Street, 300-306 East 49th Street, Block 1340, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Patricia Prothro.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Manhattan Borough Commissioner, dated May 13, 2005, acting on Department of Buildings Application No. 104063656, reads, in pertinent part:

“Proposed change of use to physical cultural establishment is not as of right as per 32-00 (ZR) &

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section 12-10 (ZR) definition ‘physical cultural establishment’.”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, within a C1-9 zoning district in a Special Land Use Transit District (TA), the legalization of an existing physical culture establishment (“PCE”) located on the ground floor of an existing 21-story residential building, contrary to ZR § 32-00; and

WHEREAS, a public hearing was held on this application on March 14, 2006, after due notice by publication in *The City Record*, and then to decision on April 11, 2006; and

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

WHEREAS, the New York City Fire Department has indicated to the Board that it has no objection to this application; and

WHEREAS, the subject site is located on the east side of Second Avenue, between 47th and 48th Streets, and has a lot area of 20,010 sq. ft.; and

WHEREAS, the subject PCE occupies 2,300 sq. ft. on the ground floor; and

WHEREAS, the applicant represents that the PCE will provide massage services by licensed massage professionals; and

WHEREAS, the PCE will have the following hours of operation: weekdays, 6:30 A.M. to 9:00 P.M. and weekends, 8:00 A.M. to 8:00 P.M.; and

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

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

WHEREAS, the legalization of the PCE does not interfere with any pending public improvement project; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 05-BSA-136M, dated February 14, 2005; and

WHEREAS, the EAS documents show that the continued operation of the PCE would not have significant adverse impacts on Land Use, Zoning, and Public Policy;

Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, the Board has determined that the continued operation of the PCE will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, within a C1-9 (TA) zoning district, the legalization of an existing physical culture establishment located on the ground floor of an existing 21-story residential building, contrary to ZR § 32-00; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received March 23, 2006”-(2) sheets; and *on further condition*:

THAT the term of this grant shall be for ten years from the date of the grant, expiring on April 11, 2016;

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

THAT the hours of operation shall be limited to weekdays, 6:30 A.M. to 9:00 P.M. and weekends, 8:00 A.M. to 8:00 P.M.;

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, April 11, 2006.

290-02-BZ thru 314-02-BZ

APPLICANT – Rothkrug Rothkrug Weinberg & Spector, for

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Edgewater Development, Inc., owner. (Taipei Court)
SUBJECT – Application October 24, 2002 – Variance: Z.R. §72-21, to permit the construction of 28 attached, three-story and cellar, two-family dwellings on a vacant site. The subject site is located in an M1-1 zoning district. The proposal would create 56 dwelling units and 56 parking spaces. The 28 proposed dwellings are intended to be part of a larger and substantially complete development which is located within the adjacent C3 zoning district. The proposed project has been designed to conform and comply with the C3 district regulations that govern the remainder of the subject property and which permits residential development in accordance with the C3 district's equivalent R3-2 zoning district regulations (pursuant to Sections 32-11 and 34-112). The development as a whole is the subject of a homeowners' association that will govern maintenance of the common areas, including the parking area, driveways, planted areas and the proposed park. The proposal is contrary to applicable use regulations pursuant to Z.R. Section 42-10.
PREMISES AFFECTED – 114-01/03/05/07/09/11/13/17/19/15/21/21/23/25/27/29/31/33/35/20/22/24/26/28/30/32/34 Taipei Court, west of 115th Street, Block 4019, Lot 120, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Adam Rothkrug, Tom Theodore and Ed Hogan.

For Opposition: Dr. James M. Cervino.

ACTION OF THE BOARD – Laid over to June 6, 2006, at 1:30 P.M., for continued hearing.

374-03-BZ thru 376-03-BZ

APPLICANT – Rothkrug Rothkrug Weinberg & Spector, for Edgewater Development, Inc., owner.
SUBJECT – Application December 2, 2003 – Variance: Z.R. §72-21, to permit the construction of 28 attached, three-story and cellar, two-family dwellings on a vacant site. The subject site is located in an M1-1 zoning district. The proposal would create 56 dwelling units and 56 parking spaces. The 28 proposed dwellings are intended to be part of a larger and substantially complete development which is located within the adjacent C3 zoning district. The proposed project has been designed to conform and comply with the C3 district regulations that govern the remainder of the subject property and which permits residential development in accordance with the C3 district's equivalent R3-2 zoning district regulations (pursuant to Sections 32-11 and 34-112). The development as a whole is the subject of a homeowners' association that will govern maintenance of the common areas, including the parking area, driveways, planted areas and the proposed park. The proposal is contrary to applicable use regulations pursuant to Z.R. Section 42-10.

PREMISES AFFECTED – 114-17/19/36-A Taipei Court, west of 115th Street, Block 4019, Lot 120, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Adam Rothkrug, Tom Theodore and Ed Hogan.

For Opposition: Dr. James M. Cervino.

ACTION OF THE BOARD – Laid over to June 6, 2006, at 1:30 P.M., for continued hearing.

229-04-BZ

APPLICANT – Eric Palatnik, P.C., for Absolute Power & Fitness Center, Inc., owner.

SUBJECT – Application June 16, 2004 – Under Z.R. §72-21 – the legalization of an existing physical cultural establishment, occupying approximately 8000 square feet of floor area spread over two stories, located in an R-5 (OPSD) zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED – 202/04 Caton Avenue, between East 2nd and East 3rd Streets, Block 5325, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Adam Rothkrug.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4
Negative:.....0

ACTION OF THE BOARD – Laid over to May 9, 2006, at 1:30 P.M., for decision, hearing closed.

249-04-BZ

APPLICANT – Harold Weinberg, PE for Prince Parkside LLP, owner.

SUBJECT – Application July 13, 2004 – Zoning Variance (bulk) pursuant to ZR §72-21 to allow an enlargement of an existing non-complying UG 2 residential building in an R7-1 district; contrary to ZR §§ 23-121, 54-31, 23-462, 25-241, 23-22.

PREMISES AFFECTED – 205 Parkside Avenue, Brooklyn; located between Ocean Avenue and Parkside Court (Block 5026, Lot 302), Borough of Brooklyn.

COMMUNITY BOARD #9BK

APPEARANCES –

For Applicant: Harold Weinberg, P.E.

For Opposition: Jeffrey Corman, Cecil A. Jordan and Sisi Tahafarro

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4
Negative:.....0

ACTION OF THE BOARD – Laid over to June 6, 2006, at 1:30 P.M., for decision, hearing closed.

66-05-BZ

MINUTES

APPLICANT – Sheldon Lobel, P.C., for Leemilt’s Petroleum Inc., owner.

SUBJECT – Application March 16, 2005 – Special Permit filed Under Z.R. §§11-411 and 11-413 of the zoning resolution to request the reinstatement of an expired, pre-1961, variance, and to request authorization to legalize the change of use from a gasoline service station with accessory automotive repairs, to an automotive repair facility without the sale of gasoline, located in a C2-4/R7-1 zoning district. PREMISES AFFECTED – 1236 Prospect Avenue, southeast corner of Prospect Avenue and Home Street, Block 2693, Lot 29, Borough of The Bronx.

COMMUNITY BOARD #2BX

APPEARANCES –

For Applicant: Ron Mandel.

ACTION OF THE BOARD – Laid over to May 16, 2006, at 1:30 P.M., for continued hearing.

74-05-BZ

APPLICANT – Snyder & Snyder, LLP, for The Island Swim Club, Inc., Ominipoint Communications, Inc., lessee.

SUBJECT – Application March 29, 2005 – Under Z.R. §§73-30 and 22-21 – to permit the proposed construction of a non-accessory radio tower for public utility wireless communications (disguised as a 50-foot tall flagpole), located in an R3-2 zoning district.

PREMISES AFFECTED – 1089 Rockland Avenue, northeast side, between Borman and Shirra Avenues, Block 2000, Lot 7, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Robert B and Gary A.

For Opposition: Stuart B.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to May 16, 2006, at 1:30 P.M., for decision, hearing closed.

89-05-BZ

APPLICANT – Stadtmauer Bailkin, LLP (Steven M. Sinacori, Esq.) for 18 Heyward Realty, Inc., owner.

SUBJECT – Application April 12, 2005 – Under Z.R. §72-21 to allow an enlargement of the rear portion of an existing five-story community facility/commercial building; site is located in an R6 district; contrary to ZR §24-11, 24-37 and 24-33.

PREMISES AFFECTED – 18 Heyward Street, Heyward Street, between Bedford and Wythe Avenues, Block 2230, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Richard Bower and Jack Freeman.

For Opposition: Kenneth Fisher.

ACTION OF THE BOARD – Laid over to May 9, 2006, at 1:30 P.M., for continued hearing.

108-05-BZ

APPLICANT – Rothkrug Rothkrug, Weinberg & Spector, for Avi Mansher, owner.

SUBJECT – Application May 11, 2005 – Under Z.R. §72-21 to permit the construction of a one-family semi attached dwelling that does not provide the required front yard, contrary to section 23-462 of the zoning resolution. The site is located in an R3-2 zoning district. The subject site is Tax Lot #74, the companion case, 109-05-BZ is Tax Lot #76 on the same zoning lot.

PREMISES AFFECTED – 224-22 Prospect Court, northwest corner of Prospect Court and 225th Street, Block 13071, Lot 13, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Adam W. Rothkrug

For Opposition: Bolane Begh and Ira Cooper.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to May 16, 2006, at 1:30 P.M., for decision, hearing closed.

109-05-BZ

APPLICANT – Rothkrug Rothkrug, Weinberg & Spector, for Avi Mansher, owner.

SUBJECT – Application May 11, 2005 – Under Z.R. §72-21 to permit the construction of a one-family semi attached dwelling that does not provide the required front yard, contrary to section 23-462 of the zoning resolution. The site is located in an R3-2 zoning district. The subject site is Tax Lot #76, the companion case, 108-05-BZ is Tax Lot #74 on the same zoning lot.

PREMISES AFFECTED – 224-26 Prospect Court, northwest corner of Prospect Court and 225th Street, Block 13071, Lot 76, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Adam W. Rothkrug

For Opposition: Bolane Begh and Ira Cooper.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to May 16, 2006, at 1:30 P.M., for decision, hearing closed.

MINUTES

132-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Sami Alboukai, owner.

SUBJECT – Application May 26, 2005 – Under Z.R. §73-622 to request a special permit to allow the enlargement of a single family residence which exceeds the allowable floor area and lot coverage per ZR 23-141, a rear yard less than the minimum per ZR 23-47 and a perimeter wall height greater than the maximum per ZR23-31. The premise is located in an R3-1 zoning district.

PREMISES AFFECTED – 220 West End Avenue, west side of West End Avenue between Oriental Boulevard and Esplanade, Block 8724, Lot 158, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

For Opposition: Judith Baron and Martin Baron.

ACTION OF THE BOARD – Laid over to May 2, 2006, at 1:30 P.M., for continued hearing.

293-05-BZ

APPLICANT – Sheldon Lobel, P.C., for 342 Realty, LLC, owner.

SUBJECT – Application September 29, 2005 – This application is filed pursuant to Z.R. §73-44 to request a Special Permit to allow a reduction of required parking for an as-of-right commercial building located within a C8-1 zoning district.

PREMISES AFFECTED – 8751 18th Avenue, between 18th Avenue and Bay 19th Street approximately 100 feet East of Bath Avenue, Block 6403, Lot 6, Borough of Brooklyn

COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Richard Lobel, John Lundstein, Michael Marino and Tom Abilable.

ACTION OF THE BOARD – Laid over to May 2, 2006, at 1:30 P.M., for continued hearing.

321-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Little Neck Commons, LLC, owner; Dunkin Donuts, lessee.

SUBJECT – Application November 2, 2005 – Under Z.R. §73-243 – requesting a Special Permit in order to legalize an existing accessory drive-through window in an as-of-right eating and drinking establishment.

PREMISES AFFECT – 245-02 Horace Harding Expressway, South side of Horace Harding Expressway, west of the intersection with Marathon Parkway, Block 8276, Lot 100, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to June 20, 2006, at 1:30 P.M., for continued hearing.

19-06-BZ

APPLICANT – Sheldon Lobel, P.c., for MiCasa HDFC, owner.

SUBJECT – Application January 27, 2006 – Under §72-21 to permit a proposed eight-story residential building which requires variance of Z.R. §§23-145 (floor area), 23-633 (height and setback) 25-25c (parking), 23-851(court regulations) and 23-861 (legal window), located in an R7-1 zoning district.

PREMISES AFFECTED – 745 Fox Street, entire block front of East 156th Street between Fox Street and Beck Street, Block 2707, Lot 11, Borough of The Bronx.

COMMUNITY BOARD #2BX

APPEARANCES –

For Applicant: Richard Lobel, Tony Shitemi, Samir Shah and Carol Jackson.

For Opposition: Deborah Stuart.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4
Negative:.....0

ACTION OF THE BOARD – Laid over to May 2, 2006, at 1:30 P.M., for decision, hearing closed.

Jeffrey Mulligan, Executive Director.

Adjourned: 5:30 P.M.