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# BULLETIN

OF THE  
NEW YORK CITY BOARD OF STANDARDS  
AND APPEALS

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Volume 91, No. 33

August 24, 2006

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## DIRECTORY

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291-05-BZ	10-33 Burton Street, Queens
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# DOCKETS

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New Case Filed Up to August 15, 2006  
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**169-06-A**

175 Oceanside Avenue, 35.16 X 114.24 (0'-0" from intersection of B.211 Street and Oceanside Avenue.), Block 16350, Lot 400, Borough of **Queens, Community Board: 14**. Appeals-To demolish existing building lying partially in the bed of a mapped street and repalce with a new building partially in the bed of a mapped street which is contrary to General City Law 35.  
-----

**170-06-A**

3546 Ely Avenue, North of Boston Road, Block 4892, Lot 24, Borough of **Bronx, Community Board: 12**. Appeals-To permit the two proposed developments which rest within the bed of a mapped but unbuilt street (Needham Avenue).  
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**171-06-A**

3548 Ely Avenue, North of Boston Road, Block 4892, Lot 25, Borough of **Bronx, Community Board: 12**. Appeal-To permit the two proposed developments which rest within the bed of a mapped but unbuilt stret (Needham Avenue).  
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**172-06-A**

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-----

**173-06-A**

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**174-06-A**

22-44 119th Street, North west corner of 23rd Avenue and 119th Street., Block 4194, Lot 20, Borough of **Queens, Community Board: 7**. General City Law Section 35, Article 3-To permit construction in the bed of a final mapped street (119th Street).  
-----

**175-06-BZ**

1653/9 Richmond Road, West side of Richmond Road, 417.06 feet south of intersection with Four Corners Road., Block 883, Lot (tent 27), Borough of **Staten Island, Community Board: 2**. (SPECIAL PERMIT)73-243,73-44-Proposed eating and drinking establishment with accessory drive-through facility and proposed to reduce required accessory parking for UG 6 (B-1) uses.  
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**DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.**

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# CALENDAR

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**SEPTEMBER 26, 2006, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, September 26, 2006, 10:00 A.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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**SPECIAL ORDER CALENDAR**

**933-28-BZII**

APPLICANT – Michael M. Robbins, R.A., A.I.A., P.C., for Roger Budhu, owner.

SUBJECT – Application September 12, 2005 - Pursuant to ZR 11-411 for the extension of term/waiver of an automotive service station with auto repairs which expired on October 29, 2004, and an amendment to legalize a portion of the building to an accessory convenience store. The premise is located in an R-5 zoning district.

PREMISES AFFECTED – 125-24 Metropolitan Avenue, southwest corner of 126<sup>th</sup> Street and Metropolitan Avenue, Block 9271, Lot 4, Borough of Queens.

**COMMUNITY BOARD #9Q**

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**229-84-BZ**

APPLICANT – Cozen O'Connor by Barbara Hair, for High Definition Realty, LLC, owner; Bally Total Fitness Corp., lessee.

SUBJECT – Application June 30, 2006 - Extension of Term/Waiver for a previously approved Physical Culture Establishment, located in an M1-1 zoning district, which was granted under section 73-36 of the zoning resolution and expired on November 27, 2004.

PREMISES AFFECTED – 75-28 Queens Boulevard, southside between Kneeland and Jacobus Streets, Block 2450, Lot 1, Borough of Queens.

**COMMUNITY BOARD #4Q**

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**286-05-A**

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Ezra G. Levin, owner.

SUBJECT – September 14, 2006 - Proposed reconstruction and alteration of an existing building located in the bed of a mapped street (Sycamore Avenue) is contrary to General City Law Section 35. Premises is located within the R1-2 Zoning District.

PREMISES AFFECTED – 5260 Sycamore Avenue, east side of Sycamore between West 252<sup>nd</sup> Street and West 254<sup>th</sup> Street, Block 5939, Lot 380, Borough of The Bronx.

**COMMUNITY BOARD #8BX**

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**61-06-A**

APPLICANT – Miro C. Stracar, P.E., for Breezy Point

Cooperative, Inc., owner; Mrs. Allie Hagen, lessee.

SUBJECT – Application April 5, 2006 – Proposed reconstruction and enlargement of an existing one family home located within the bed of a mapped street which is contrary to General City Law Section 35. Premises is located within the R4 Zoning District.

PREMISES AFFECTED – 152 Ocean Avenue, westerly side of Ocean Avenue, block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

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**85-06-BZY**

APPLICANT – Sanford Solny, for Menachem Realty, Inc., owner.

SUBJECT – Application May 5, 2006 - Proposed extension of time to complete construction of a minor development pursuant to ZR 11-331 for a mixed use building under the prior R6 zoning district. New zoning district is R4-1.

PREMISES AFFECTED – 1623 Avenue P, northwest corner of Avenue P and East 17<sup>th</sup> Street, Block 6763, Lot 46, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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**92-06-A**

APPLICANT – Vito J. Fossella, P.E., for Norris Heath, owner.

SUBJECT – Application May 9, 2006 - Proposed construction of a two story/two family detached not fronting on a mapped street contrary to General City Law Section 36. Premises is located within R3A Zoning District.

PREMISES AFFECTED – 5 Lockman Place, Block 1236, Lot 122 (tentative), Borough of Staten Island.

**COMMUNITY BOARD #1SI**

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**164-06-A**

APPLICANT – Cozen O'Connor Attorneys, for Elba and Jeanette Bozzo, owners.

SUBJECT – Application July 26, 2006 - Appeal filed to challenging the Order of Closure issued by the Department of Buildings on June 30, 2006 pursuant to Administrative Code Section 26-127.2 regarding the use of the basement, first, second and third floor of the subject premises which constitutes an illegal commercial use in a residential district.

PREMISES AFFECTED – 148 East 63<sup>rd</sup> Street, south side of East 63<sup>rd</sup> Street, 120' east of Park Avenue, Block 1397, Lot 48, Borough of Manhattan.

**COMMUNITY BOARD #8M**

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**SEPTEMBER 26, 2006, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, September 19, 2006, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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# CALENDAR

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## ZONING CALENDAR

### 50-06-BZ

APPLICANT– Jeffrey A. Chester, Esq., for 461 Carool Strait, LLC, owner.

SUBJECT – Application March 20, 2006 – Use Variance pursuant to Z.R.§72-21 to permit the conversion and expansion of a commercial/industrial building to a two-family residence. The premise is located in a M1-2 zoning district. The waiver requested relates to the use regulations pursuant to Z.R. Section 42-00. The subject site was previously used by Linda Tool Co., a custom tool and dye manufacturer which occupied the premises for several decades.

PREMISES AFFECTED – 461 Carroll Street, between Nevins Street and Third Avenue, Block 447, Lot 45, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

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### 112-06-BZ

APPLICANT– Sheldon Lobel, P.C., for Audubon Housing Dev. Fund Corp., owner.

SUBJECT – Application June 5, 2006 – Variance application pursuant to Z.R. Section 72-21 to permit the construction of a seven-story and cellar residential and commercial building with accessory supportive social services. The accessory supporting social services programs and commercial component will be located on the first floor. The residential component will be located on floors 1 through 7. The Premises is located in an M1-4 zoning district. The site was most recently used for automobile sales and storage. The proposal seeks to vary, based on the nearby R7-1 zoning district, Z.R. Sections 23-142 (Residential Floor Area), 24-111 (Total Floor Area), 23-142 (Open Space), 23-22 (Number of Dwelling Units), and 23-632 (for Wall Height, Total Height, Setbacks, Sky Exposure Plane, and Number of Parking Spaces).

PREMISES AFFECTED – 507 East 176<sup>th</sup> Street, northwest corner of Third Avenue and 176<sup>th</sup> Street, Block 2924, Lots 38, 39, 42, Borough of The Bronx.

**COMMUNITY BOARD # 6BX**

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### 149-06-BZ

APPLICANT – Sheldon Lobel, P.C., for NYC Department of Citywide Admin. Services, owner; Boro Park Volunteers of Hatzolah, Inc., lessee.

SUBJECT – Application July 7, 2006 - Variance pursuant to Z.R. Section 72-21 to permit the development of the site to accommodate a not-for-profit ambulance/emergency vehicle garage, dispatch, and training facility. The premise is located in an M2-1 zoning district. The proposal is requesting

variance waivers relating to floor area (Z.R. Section 43-12 and the number of parking spaces (Z.R. Section 44-21.

PREMISES AFFECTED – 3701 14<sup>th</sup> Avenue, southwest corner of the intersection formed by 14<sup>th</sup> Avenue and 37<sup>th</sup> Street, Block 5348, Lot 9 (portion), Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, AUGUST 15, 2006  
10:00 A.M.**

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

The motion is to approve the minutes of regular meetings of the Board held on Tuesday morning and afternoon, June 7, 2006, as printed in the bulletin of June 16, 2006, Vol. 91, Nos. 23 & 24. If there be no objection, it is so ordered.

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## SPECIAL ORDER CALENDAR

### 106-76-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Amerada Hess Corp., owner.

SUBJECT – Application May 2, 2006 – Pursuant to ZR 72-01 to reopen and amend the BSA resolution to construct a new one story accessory convenience store, replace the existing metal canopy, pumps and pump islands and to remove two curb cuts and replace with one curb cut. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 129-15 North Conduit Avenue, northeast corner of 129<sup>th</sup> Street, Block 11863, Lot 12, Borough of Queens.

### COMMUNITY BOARD #10Q

APPEARANCES –

For Applicant: Carl A. Sulfaro.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3

Negative:.....0

**THE RESOLUTION** –

WHEREAS, this application is a request for a reopening and an amendment to a previously granted variance, to permit the construction of an accessory convenience store and to permit other modifications to an existing gasoline service station; and

WHEREAS, a public hearing was held on this application on July 25, 2006, after due notice by publication in *The City Record*, and then to decision on August 15, 2006; and

WHEREAS, on July 20, 1976, the Board granted an application, pursuant to ZR §72-21, to permit the construction and maintenance of a gasoline service station with an accessory convenience store and accessory parking in an R3-2 zoning district; and

WHEREAS, subsequently, at various times, the grant was amended and extended; and

WHEREAS, most recently, on January 7, 2003, the grant

was amended to permit the addition of a one-story convenience store, new fuel dispensers, a new canopy, and a change in the curb cuts and was extended for a ten-year term to expire on July 10, 2011; and

WHEREAS, the Board notes that the convenience store was never constructed; and

WHEREAS, the applicant now seeks to proceed with the construction of a convenience store with modest changes to the interior layout, and also seeks to replace the existing metal canopy, pumps and pump islands, remove one curb cut, and relocate a second curb cut; and

WHEREAS, at hearing, the Board asked if the applicant could provide 100 percent opaque, six-foot tall fence along the rear of the site; and

WHEREAS, the applicant agreed to install such fencing; and

WHEREAS, based upon its review of the evidence, the Board finds it appropriate to approve the proposed amendment.

*Therefore it is Resolved* that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on July 20, 1976, so that as amended this portion of the resolution shall read: “to permit the construction of an accessory convenience store, the replacement of the existing metal canopy, pumps and pump islands, the removal of one curb cut and the relocation of another; *on condition* that all work shall substantially conform to drawings filed with this application and marked ‘Received August 1, 2006’-(6) sheets and ‘August 10, 2006’-(1) sheet; and *on further condition*:

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

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

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

(DOB Application No. 401504412)

Adopted by the Board of Standards and Appeals, August 15, 2006.

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### 269-98-BZ

APPLICANT – Mothiur Rahman, for Mothiur Rahman, owner.

SUBJECT – Application April 12, 2006 – Pursuant to ZR §72-01 for the Extension of Time to Complete Construction and to obtain a Certificate of Occupancy for the construction of a two story building for commercial use (Retail UG6) in a residential use district.

PREMISES AFFECTED – 70 East 184<sup>th</sup> Street, a/k/a 2363 Morris Avenue, south side of East 184<sup>th</sup> Street, corner formed by the intersection of Morris Avenue, Block 3183, Lot 42,

# MINUTES

Borough of The Bronx.

## COMMUNITY BOARD #5BX

### APPEARANCES –

For Applicant: Mothiur Rahman.

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

### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3

Negative:.....0

### THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of time to complete construction of a two-story commercial building permitted by a prior grant, which expired on April 13, 2006; and

WHEREAS, a public hearing was held on this application on June 13, 2006, after due notice by publication in the *City Record*, with continued hearings to July 18, 2006, and then to decision on August 15, 2006; and

WHEREAS, on January 11, 2000, under the subject calendar number, the Board granted a variance application to permit the construction of a two-story commercial building (UG 6) in an R8 zoning district; and

WHEREAS, on April 13, 2004, the Board reopened and amended the resolution to permit an extension of time to complete construction and obtain a certificate of occupancy, which expired on April 13, 2006; and

WHEREAS, the applicant states that the reason for the requested extension of time is that construction has not commenced due to financing issues; and

WHEREAS, at hearing, the Board asked the applicant how much time would be required to complete construction; and

WHEREAS, the applicant responded that construction could begin immediately and be completed in two years; and

WHEREAS, the Board has determined that the evidence in the record supports the grant of the requested extension.

*Therefore it is Resolved* that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on January 11, 2000, so that as amended this portion of the resolution shall read: “to permit an extension of time to complete construction, for a period of two years from the date of this resolution to expire on August 15, 2008; *on condition*:

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

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

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

(DOB Application No. 200483422)

Adopted by the Board of Standards and Appeals,

August 15, 2006.

## 291-00-BZ

APPLICANT – Sheldon Lobel, P.C., for Torah Academy High School, owner.

SUBJECT – Application May 9, 2006 – Extension of Time to complete construction of a Special Permit, Use Group 3 for a yeshiva (Torah Academy High School) which expired on April 9, 2006. The premise is located in an C8-2 zoning district.

PREMISES AFFECTED – 2316-2324 Coney Island Avenue, Block 7112, Lots 9, 10, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

### APPEARANCES –

For Applicant: Josh Rhinesmith.

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

### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3

Negative:.....0

### THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of time to complete construction of a school granted under a special permit, which expired on April 9, 2006; and

WHEREAS, a public hearing was held on this application on July 25, 2006, after due notice by publication in the *City Record*, and then to decision on August 15, 2006; and

WHEREAS, on April 9, 2002, under the subject calendar number, the Board granted an application to permit the construction of a school (UG 3A) in a C8-2 zoning district, which expired on April 9, 2006; and

WHEREAS, the applicant states that the reason for the requested extension of time is that construction has not commenced due to funding issues; and

WHEREAS, the applicant represents that construction could be completed in three years; and

WHEREAS, the Board has determined that the evidence in the record supports the grant of the requested extension.

*Therefore it is Resolved* that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on April 9, 2002, so that as amended this portion of the resolution shall read: “to permit an extension of time to complete construction, for a period of three years from the date of this resolution to expire on August 15, 2009; *on condition*:

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

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

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

# MINUTES

Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”  
(DOB Application No. 301079124)

Adopted by the Board of Standards and Appeals,  
August 15, 2006.

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## 189-03-BZ

APPLICANT – Sheldon Lobel, P.C., for Bill Wolf Petroleum Corp., owner.

SUBJECT – Application June 14, 2006 – Extension of Time/Waiver to complete construction and obtain a Certificate of Occupancy for an automotive service station with an accessory convenience store which expired on October 21, 2005. The premise is located in a C2-2/R-5 zoning district.

PREMISES AFFECTED – 836 East 233<sup>rd</sup> Street, southeast corner of 233<sup>rd</sup> Street and Bussing Avenue, block 4857, Lots 44, 41, Borough of The Bronx.

## COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Josh Rhinesmith.

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

**THE VOTE TO GRANT** –

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

Collins.....3

Negative:.....0

**THE RESOLUTION:**

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time to complete construction and obtain a certificate of occupancy for a gasoline service station with accessory convenience store, which expired on October 21, 2005; and

WHEREAS, a public hearing was held on this application on July 25, 2006, after due notice by publication in the *City Record*, and then to decision on August 15, 2006; and

WHEREAS, on April 7, 1959, under BSA Cal. No. 292-58-BZ, the Board granted a variance for Lot 44, to permit, in an R5(C2-2) zoning district, the construction of a gasoline service station with accessory uses; and

WHEREAS, subsequently, at various times, the grant was amended and extended, most recently on June 27, 1995; and

WHEREAS, on October 21, 2003, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-211, to permit the legalization of the enlargement of the zoning lot to include Lot 41; and

WHEREAS, on June 14, 2005, the grant was amended to permit the enlargement and conversion of the existing service bays to an accessory convenience store; and

WHEREAS, a condition of the June 14, 2005 grant was that a certificate of occupancy be obtained by October 21, 2005; and

WHEREAS, the applicant states that a certificate of occupancy was not obtained; and

WHEREAS, the applicant states that construction was delayed, but is to begin shortly and is expected to last between six and twelve months; and

WHEREAS, the Board has determined that the evidence in the record supports the finding that the requested extension of time to complete construction and obtain a certificate of occupancy is appropriate, with the conditions listed below.

*Therefore it is Resolved* that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, dated October 21, 2003, so that as amended this portion of the resolution shall read: “to grant an extension of time to complete construction and obtain a certificate of occupancy for a gasoline service station with accessory convenience store for an additional term of three years from the expiration of the prior grant, to expire on October 21, 2008; *on condition:*

THAT a certificate of occupancy be obtained by October 21, 2008;

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. 200869916)

Adopted by the Board of Standards and Appeals,  
August 15, 2006.

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## 362-03-BZ

APPLICANT – Sheldon Lobel, P.C., for Reiss Realty Corporation, owner.

SUBJECT – Application June 1, 2006 – Extension of Time to obtain a Certificate of Occupancy for an accessory parking lot to a commercial use group which expired on May 11, 2006. The premise is located in an R8 zoning district.

PREMISES AFFECTED – 428 West 45<sup>th</sup> Street, south side of West 45<sup>th</sup> Street, between 9<sup>th</sup> and 10<sup>th</sup> Avenues, Block 1054, Lot 48, Borough of Manhattan.

## COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Josh Rhinesmith.

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

**THE VOTE TO GRANT** –

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

Collins.....3

Negative:.....

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# MINUTES

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0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of time to obtain a certificate of occupancy for an accessory parking lot to a commercial use, which expired on May 11, 2006; and

WHEREAS, a public hearing was held on this application on July 25, 2006, after due notice by publication in the *City Record*, and then to decision on August 15, 2006; and

WHEREAS, on April 15, 1941, the Board granted an application under BSA Cal. No. 1071-40-BZ, to permit the parking of more than five motor vehicles; and

WHEREAS, this grant was subsequently amended and extended at various times, including on February 8, 1944 to permit the storage of chemical solvents in a one-story structure at the rear of the lot; and

WHEREAS, the grant lapsed in 1996 and, on May 11, 2004, under the subject calendar number, the Board granted an application to re-establish the variance for a ten-year term to expire on May 11, 2014; and

WHEREAS, the applicant represents that a certificate of occupancy was not obtained due to administrative oversight; and

WHEREAS, at hearing, the Board asked the applicant how much time would be needed to secure a new certificate of occupancy; and

WHEREAS, the applicant responded that one year would be sufficient time to obtain the new certificate of occupancy; and

WHEREAS, additionally, the Board notes that a condition of the May 11, 2004 grant was that the use of the small building at the site for the storage of chemical solvents be discontinued; and

WHEREAS, at hearing, the Board asked the applicant if chemical solvents were still being stored in the building; and

WHEREAS, the applicant responded that the storage of chemicals has been discontinued; and

WHEREAS, the applicant submitted a letter from the property owner stating that the building had not been used for storage of chemicals since the mid-1960s; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of the requested amendment to the prior resolution with the conditions listed below.

*Therefore it is Resolved* that the Board of Standards and Appeals reopens and amends the resolution, dated May 11, 2004, so that as amended this portion of the resolution shall read: "to grant an extension of time to obtain a new certificate of occupancy for an additional term of one year from date of this grant, to expire on August 15, 2007; *on condition*:

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

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

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

configuration(s) not related to the relief granted." (DOB Application No. 103568827)

Adopted by the Board of Standards and Appeals, August 15, 2006.

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**802-48-BZ**

APPLICANT – Rothkrug Rothkrug Weinberg & Spector, for Sheldon Rodbell 1993 Trust #2, owner; Beach Channel Island Drive, lessee.

SUBJECT – Application November 2, 2005 – Pursuant to ZR 11-411 for the Extension of Term of a UG16 gasoline service station with automotive repair for a term of ten years, to expire in June 24, 2015. This application also purposes to legalize the conversion of two service bays to an accessory convenience store, maintain one service bay for minor auto repairs and the continuation of gasoline service sales. The premise is located in an R5 zoning district.

PREMISES AFFECTED – 13-46 Beach Channel Dr., a/k/a 2118 Dix Place, Northeast corner of Beach Channel Drive and Dix Place, Block 15527, Lot 1, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES –

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** – Laid over to September 26, 2006, at 10 A.M., for continued hearing.

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**1888-61-BZ**

APPLICANT – Alfonso Duarte, for Ali Amanolahi, owner.

SUBJECT – Application June 21, 2005 – Pursuant to Z.R. §11-412 for an Amendment to an eating and drinking establishment and catering hall for the further increase in floor area and the to legalize the existing increase in floor area, the separate entrance to the catering hall and the drive thru at the front entrance. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 93-10 23<sup>rd</sup> Avenue, southwest corner of 94<sup>th</sup> Street, Block 1087, Lot 1, Elmhurst, Borough of Queens.

**COMMUNITY BOARD #3Q**

APPEARANCES –

For Applicant: Alfonso Duarte, P.E.

For Administration: John Yacavone, Fire Department.

**ACTION OF THE BOARD** – Laid over to October 17, 2006, at 10 A.M., for continued hearing.

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**441-65-BZ**

APPLICANT – Sheldon Lobel, P.C. for Eleanor Barrett c/o JP Morgan Chase, owner; Hess Amerada Corporation, lessee.

SUBJECT – Application March 20, 2006 – Pursuant to ZR 73-11 & 73-211 an Amendment to a previously granted special permit for the redevelopment of a gasoline service station, to construct an accessory convenience store (Hess Express), to construct a new canopy and six pump islands with MPD dispensers and one diesel fuel dispenser. The

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# MINUTES

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premise is located in C2-1/R3-2 zoning district.

PREMISES AFFECTED – 2488 Hylan Boulevard, located on the east side of Hylan Boulevard between Jacques Avenue and New Dorp Lane, Block 3900, Lot 12, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

APPEARANCES –

For Applicant: Josh Rinesmith and Marc Pilotta.

**ACTION OF THE BOARD** – Laid over to October 17, 2006, at 10:00 A.M., for continued hearing.

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**203-92-BZ**

APPLICANT – Sullivan, Chester & Gardner, P.C., for Austin-Forest Assoc., owner; Lucille Roberts Org., d/b/a Lucille Roberts Figure Salon, lessee.

SUBJECT – Application January 26, 2005 – Extension of Term/Amendment/Waiver for a physical culture establishment. The premise is located in an R8-2 zoning district.

PREMISES AFFECTED – 70-20 Austin Street, south side, 333’ west of 71<sup>st</sup> Avenue, Block 3234, Lot 173, Borough of Queens.

**COMMUNITY BOARD #6Q**

APPEARANCES –

For Applicant: Jeffrey Chester.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to September 12, 2006, at 10 A.M., for decision, hearing closed.

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**68-94-BZ, Vol. II**

APPLICANT – Cozen O’Connor, for Bay Plaza Community Center LLC, owner; Jack Lalanne Fitness Centers, Incorporated, lessee.

SUBJECT – Application June 30, 2006 – This application is to Reopen and Extend the Time to Obtain a Certificate of Occupancy for the operation of a PCE (Bally Total Fitness) on the first and second floors of the Co-Op City Bay Plaza shopping center which expires on August 23, 2006. The requested amount of time is 18 months. The premise is located in an C4-3 zoning district.

PREMISES AFFECTED – 2100 Bartow Avenue, Southside at eastern-most side of Baychester Avenue, Block 5141, Lot 810, Borough of the Bronx.

**COMMUNITY BOARD #10BX**

APPEARANCES –

For Applicant: Peter Geis.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to September 12, 2006, at 10 A.M., for decision, hearing closed.

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**114-94-BZ, Vol. II**

APPLICANT – Ralph Giordano, AIA for Freehold SL Limited Partnership, owner; Kentucky Fried Chicken Corporation, lessee.

SUBJECT – Application March 24, 2006 – Extension of Term/Waiver – to allow the continuation of a drive-thru-facility that is accessory to an existing eating and drinking establishment located in a C1-2 zoning district which expired on July 2, 2005. The application seeks to renew the term for an additional 5 years.

PREMISES AFFECTED – 44 Victory Boulevard, Bay Street and Van Duzer Street, Block 498, Lot 40, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES –

For Applicant: John Lafemina.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to September 12, 2006, at 10 A.M., for decision, hearing closed.

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**182-95-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, for 2465 Broadway Associates, owner; Equinox 92<sup>nd</sup> Street, Inc., lessee.

SUBJECT – Application February 21, 2006 – Pursuant to ZR §73-11 to reopen and amend the resolution for the Extension of Term of a Physical Culture Establishment (Equinox) in the cellar, first and second floors of a commercial building. This is a companion case to 183-95-BZ. The special permit expired on October 1, 2005.

PREMISES AFFECTED – 2465/73 Broadway, west Broadway, 50’ south of intersection with 92<sup>nd</sup> Street, Block 1239, Lot 52, Borough of Manhattan.

**COMMUNITY BOARD #7M**

APPEARANCES –

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** – Laid over to September 12, 2006, at 10 A.M., for continued hearing.

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**183-95-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, for Haymes Broadway, LLC, owner; Equinox 92<sup>nd</sup> Street, Inc., lessee.

SUBJECT – Application February 21, 2006 – Pursuant to ZR §73-11 to reopen and amend the resolution for the Extension of Term of a Physical Culture Establishment (Equinox) in the cellar of a commercial building. This is a companion case to 182-95-BZ. The special permit expired on October 1, 2005.

PREMISES AFFECTED – 2473/5 Broadway, southwest corner of Broadway, and West 92<sup>nd</sup> Street, Block 1239, Lot 55, Borough of Manhattan.

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## COMMUNITY BOARD #7M

### APPEARANCES –

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** – Laid over to September 12, 2006, at 10 A.M., for continued hearing.

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## APPEALS CALENDAR

### 353-05-BZY

APPLICANT – Cozen & O'Connor for Emet Veshlom Development, LLC, owner.

SUBJECT – Application December 14, 2005 – Proposed extension of time to complete construction of a minor development pursuant to Z.R. §11-331 for a 38 unit multiple dwelling and community facility under the prior Zoning R6. New Zoning District is R6B as of November 16, 2005.

PREMISES AFFECTED – 614 7<sup>th</sup> Avenue, Brooklyn, northwest corner of 7<sup>th</sup> Avenue and 23<sup>rd</sup> Street, Block 900, Lot 39, Borough of Brooklyn.

### COMMUNITY BOARD #7BK

#### APPEARANCES –

For Applicant: Howard Hornstein and Peter Geis.

For Opposition: John Keefe for Assembly Member Brennan, Joe Levine, Monica Staline, Mic Hollvin, Joe Ferri, and other.

For Administration: Angelina Martinez-Rubio, Department of Buildings.

#### THE VOTE TO REOPEN HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3

Negative:.....0

#### THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3

Negative:.....0

**ACTION OF THE BOARD** – Laid over to September 12, 2006, at 10 A.M., for decision, hearing closed.

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### 63-06-A

APPLICANT – Sheldon Lobel, P.C.,

OWNERS: Kevin and Alix O'Mara

SUBJECT – Application April 11, 2006 – 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.

PREMISES AFFECTED – 160 East 83<sup>rd</sup> Street, Lexington Avenue and Third Avenue, Block 1511, Lot 45, Borough of Manhattan.

### COMMUNITY BOARD #8M

#### APPEARANCES –

For Applicant: Jay Segal, Jane Swanson for Council Member Jessica Lappin, Norman Marcus, Cornelies Dennis, Barnett Brimberg, Michael Parley, Brian Cook, Lo Van der Valk,

Bridget O'Brien, Brenda Levin and other.

For Opposition: Margerie Perlmutter, Kevin O'Mara and Alix O'Mara.

For Administration: Felicia Miller, Department of Buildings.

#### THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3

Negative:.....0

**ACTION OF THE BOARD** – Laid over to September 26, 2006, at 10 A.M., for decision, hearing closed.

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### 81-06-A

APPLICANT – Whitney Schmidt, Esq.

OWNERS: Kevin and Alix O'Mara

SUBJECT – Application May 2, 2006 – 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.

PREMISES AFFECTED – 160 East 83<sup>rd</sup> Street, Lexington Avenue and Third Avenue, Block 1511, Lot 45, Borough of Manhattan.

### COMMUNITY BOARD #8M

#### APPEARANCES –

For Applicant: Whitney Schmidt, Esther Schmidt, Michael Parley, Brian Cook, Lo Van der Valk, Bridget O'Brien, Brenda Levin and other.

For Opposition: Margerie Perlmutter, Kevin O'Mara and Alix O'Mara.

For Administration: Felicia Miller, Department of Buildings.

#### THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3

Negative:.....0

**ACTION OF THE BOARD** – Laid over to September 26, 2006, at 10 A.M., for decision, hearing closed.

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*Jeffrey Mulligan, Executive Director*

Adjourned: A.M.

# MINUTES

**REGULAR MEETING  
TUESDAY AFTERNOON, AUGUST 15, 2006  
1:30 P.M.**

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

**ZONING CALENDAR**

**128-05-BZ**

APPLICANT – Law Office of Fredrick A. Becker, for Yisroel Y. Leshkowitz & Esther S. Leshkowitz, owner.

SUBJECT – Application May 24, 2005 – under Z.R. § 73-622 – to permit the proposed enlargement of an existing single family residence, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space ratio, also side and rear yard, is contrary to Z.R. § 23-141, § 23-461 and § 23-47.

PREMISES AFFECTED – 1406 East 21<sup>st</sup> Street, between Avenue “L” and “M”, Block 7638, Lot 79, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

**APPEARANCES –**

For Applicant: Lyra Altman, David Shteierman and Jacob Leshkowitz.

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

**THE VOTE TO CLOSE HEARING –**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3

Negative:.....0

**THE VOTE TO GRANT –**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated May 3, 2005, acting on Department of Buildings Application No. 301946438, reads, in pertinent part:

- “1. Proposed floor area contrary to ZR 23-141.
- 2. Proposed open space ratio contrary to ZR 23-141.
- 3. Proposed side yard contrary to ZR 23-461.
- 4. Proposed rear yard contrary to ZR 23-47.”; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a single-family dwelling, which does not comply with the zoning requirements for floor area, open space ratio, side yard, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, as a threshold matter in this application, the Board notes that when the case was initially filed, the

applicant essentially proposed a full demolition of the existing building, with only a single wall being maintained; and

WHEREAS, subsequently, the applicant indicated that even this single wall would not remain; instead, the only elements of the existing building proposed to be retained were certain sub-grade foundational elements and first floor joists; and

WHEREAS, at hearing, the Board expressed concern about this proposal, and noted that the text of ZR § 73-622 allows enlargements only of existing buildings, not what is better characterized as new ground-up development; and

WHEREAS, ZR § 73-622, reads, in pertinent part: “The Board of Standards and Appeals may permit an enlargement of a single-or-two-family detached or semi-detached residence . . . .”; and

WHEREAS, when the Board makes a grant under this section, it may modify zoning requirements related to floor area, side and rear yards, lot coverage and open space, and street wall height, assuming certain parameters are met; and

WHEREAS, the Board observes that nowhere in the text of ZR § 73-622 is there any language giving it the authority to permit construction of a new building that retains almost none of the existing residence to be enlarged; and

WHEREAS, the Board also notes that ZR § 12-10 defines “Enlargement”, in part, as an addition to the floor area of an *existing* building; and

WHEREAS, a site that only is improved upon with foundational elements and the first floor joists contains no floor area to be enlarged, since there is no existing building; and

WHEREAS, further, the Board notes that ZR § 12-10 defines “Residence” as a building containing dwelling or rooming units; and

WHEREAS, since the existing building will be demolished to the point where no dwelling or rooming units remain, there is no residence to be enlarged; and

WHEREAS, based on these definitions, as well as the language of the introductory paragraph of ZR § 73-622, the Board reasonably determined that the proposal initially filed by the applicant was beyond its jurisdiction to approve through this special permit; and

WHEREAS, accordingly, the Board informed the applicant that the proposal should be modified to reflect the retention of a reasonable portion of the existing residence; and

WHEREAS, the applicant returned to the Department of Buildings, and over the course of the hearing process, produced two opinions of the Brooklyn Borough Commissioner, which it contends support a conclusion that construction of a home where only foundational elements of the existing residence have been retained may still be an enlargement; and

WHEREAS, the Board notes that the first of these opinions, dated May 15, 2006, merely confirms that the applicant’s initial could be characterized as an alteration by DOB, and thus appropriate for issuance of an alteration permit rather than a new building permit; and

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WHEREAS, the Board reviewed this opinion, and informed the applicant that notwithstanding DOB's willingness to issue an alteration permit, it only had authority to grant the home enlargement special permit where the plain language of ZR § 73-622 was respected; and

WHEREAS, the Board explained that DOB's practice as to permitting is not binding upon the Board as it applies the special permit language; and

WHEREAS, the applicant then obtained and produced a second opinion, dated July 7, 2006, which indicated that the proposal, as described by the applicant in the opinion request form, meets the definition of an "enlargement"; and

WHEREAS, on this request form, the applicant's representative stated that there was an existing single-family home on the premises that was proposed to be enlarged; and

WHEREAS, the representative then set forth that part of the ZR § 12-10 "Enlargement" definition that states that an enlargement is also an increase in the size of "any other structure"; and

WHEREAS, the representative proceeded to use the Building Code definition of "structure" to establish that the portions of the foundation and first floor joist proposed to be retained constituted a "structure"; and

WHEREAS, the representative concluded that since the proposal contemplated an increase in the size of a structure, it could be properly characterized as an enlargement; and

WHEREAS, the applicant submitted this second opinion to the Board and stated that it was binding upon the Board in the instant application; and

WHEREAS, while the Board does not question the logic of the Borough Commissioner's conclusion that the abstract description of the proposal as presented by the applicant's representative would technically meet one of the definitions of "enlargement" as set forth in the ZR, it disagrees with the applicant that this conclusion has any bearing on the instant application; and

WHEREAS, as noted above, the word "enlargement" as set forth in ZR § 73-622 relates to an existing residence, with existing dwelling or rooming units; and

WHEREAS, the word "enlargement" must be construed and applied in a way that respects the plain language of the special permit text in its entirety; and

WHEREAS, the applicant's representative's definitional argument completely ignores the context of the word "enlargement" within the special permit text; and

WHEREAS, further, if this argument was accepted by the Board, it would reduce the subject special permit to nothing more than a bulk bonus for new development; and

WHEREAS, this is clearly contrary to both the plain language and the intent of the special permit; and

WHEREAS, a letter entered into the record in this case by the Department of City Planning (DCP), the drafters of the special permit text, confirms this fact; and

WHEREAS, specifically, in a letter dated August 8, 2006, counsel to DCP agrees with the Board that the word "enlargement" must be read in conjunction with what it modifies (i.e. a single-or two-family detached or residence); and

WHEREAS, DCP counsel states "[T]his special permit is limited to enlargement of buildings that are, both in fact and in law, single- or two-family detached or semi-detached residences"; and

WHEREAS, DCP counsel concludes that the interpretation offered by the applicant is contrary to this plain language; and

WHEREAS, DCP counsel also notes that the intention of the special permit (as set forth in the Report of the City Planning Commission, dated December 22, 1997, approving the special permit text) is "to provide a means for owners of single and two-family residences to make enlargements to their *existing* homes"; and

WHEREAS, finally, DCP counsel agreed with the Board that DOB's permitting practice is not binding as to the Board's application of the special permit; and

WHEREAS, based upon the above, the Board rejects all of the applicant's arguments on this issue; and

WHEREAS, the Board notes that the applicant subsequently revised its proposal to reflect the retention of a significant amount of the existing residence, such that the Board concludes that both the plain language and the intent of the special permit provision is respected; and

WHEREAS, specifically, the applicant revised the plans to indicate that portions of the walls would be retained from the basement up to the second floor and that some parts of the floor joists, and therefore the level of the floors, would be maintained; and

WHEREAS, a public hearing was held on this application on February 28, 2006, after due notice by publication in *The City Record*, with continued hearings on March 28, 2006, May 9, 2006, June 20, 2006, and July 25, 2006, and then to decision on August 15, 2006; and

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

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

WHEREAS, the subject lot is located on the west side of 21st Street, between Avenue L and Avenue M; and

WHEREAS, the subject lot has a total lot area of 4,000 sq. ft., and is occupied by a 2,069.7 sq. ft. (0.52 FAR) single-family dwelling; and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,069.7 sq. ft. (0.52 FAR) to 4,001.5 sq. ft. (1.0 FAR); the maximum floor area permitted is 2,000 sq. ft.; and

WHEREAS, the proposed enlargement will decrease the open space from 2,940.8 sq. ft. to 2,255.5 sq. ft. (the minimum required open space is 3,000 sq. ft.) and decrease the open space ratio from 142.1 percent to 56.4 percent (the minimum required open space ratio is 150 percent); and

WHEREAS, the proposed enlargement will maintain one 3'-10 1/4" side yard (an existing non-compliance) and reduce one side yard from 11'-0" to 8'-6" (the minimum side

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yard requirement is a total of 13'-0" with a minimum width of 5'-0"); and

WHEREAS, the proposed enlargement will reduce the rear yard from 28'-1/4" to 20'-8" (the minimum rear yard required is 30'-0"); and

WHEREAS, the enlargement of the building into the rear yard is not located within 20'-0" of the rear lot line; and

WHEREAS, the enlargement will reduce the front yard from 26'-0" to 15'-8" (the minimum front yard required is 15'-0"); and

WHEREAS, the Board notes that the proposed wall height and overall height complies with applicable R2 district requirements; and

WHEREAS, additionally, the applicant reduced the proposed FAR from 1.04 to 1.0, at the Board's request; and

WHEREAS, the Board notes that this FAR is comparable to other FAR increases that the Board has granted through the subject special permit for lots of comparable size; and

WHEREAS, however, the Board required the applicant to remove the porches from the plans, so that any proposed porches may be approved by DOB; and

WHEREAS, accordingly, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under 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 proposed enlargement of a single-family dwelling, which does not comply with the zoning requirements for floor area, open space ratio, side yard, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received August 1, 2006"-(4) sheets and "August 15, 2006"-(7) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

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

THAT the following shall be the bulk parameters of the building: a total floor area of 4,001.5 sq. ft., a total FAR of 1.0, a street wall height of 22'-1 1/2", and a total height of 35'-8 1/2", all as illustrated on the BSA-approved plans;

THAT the portions of the foundation, floors, and walls

shall be retained and not demolished as indicated on the BSA-approved plans labeled A-3, A-4, A-5 and A-10A, dated August 15, 2006 and A-10, dated August 1, 2006;

THAT those portions of the foundation, floors, and walls to be retained as indicated on the BSA-approved plans shall be indicated on any plan submitted to DOB for the issuance of alteration and/or demolition permits;

THAT DOB shall review and approve the size and location of the front and rear porches (notwithstanding the illustration of any porch element on the BSA-approved plans);

THAT DOB shall review and approve the location of any garage;

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

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

Adopted by the Board of Standards and Appeals, August 15, 2006.

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## 11-06-BZ

APPLICANT – The Law Office of Frederick A. Becker for Miriam Schubert and Israel Schubert, owner.

SUBJECT – Application January 18, 2006 – Under Z.R. § 73-622 to permit the enlargement to an existing single family residence, located in an R-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio and rear yard (Z.R. § 23-141 and § 23-47). PREMISES AFFECTED – 1245 East 22<sup>nd</sup> Street, East 22<sup>nd</sup> Street between Avenue K and Avenue L, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra Altman, Fredrick A. Becker and David Shtierman.

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

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3  
Negative:.....0

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins.....3  
Negative:.....0

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## THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 12, 2006 acting on Department of Buildings Application No. 302039336, reads, in pertinent part:

1. Proposed floor area contrary to ZR 23-141.
2. Proposed open space ratio contrary to ZR 23-141.
3. Proposed rear yard contrary to ZR 23-47.”; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a single-family dwelling, which does not comply with the zoning requirements for floor area, open space ratio, and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, as a threshold matter in this application, the Board notes that when the case was initially filed, the applicant essentially proposed a full demolition of the existing building, with only a single wall being maintained; and

WHEREAS, subsequently, the applicant indicated that even this single wall would not remain; instead, the only elements of the existing building proposed to be retained were certain sub-grade foundational elements; and

WHEREAS, at hearing, the Board expressed concern about this proposal, and noted that the text of ZR § 73-622 allows enlargements only of existing buildings, not what is better characterized as new ground-up development; and

WHEREAS, accordingly, the Board informed the applicant that the proposal should be modified to reflect the retention of a reasonable portion of the existing residence; and

WHEREAS, the Board notes that the same applicant brought another ZR § 73-622 application under BSA Cal. No. 128-05-BZ, which raised the same issue; and

WHEREAS, for the reasons set forth in the resolution issued under Cal. No. 128-05-BZ, also decided the date hereof, the Board rejects all of the applicant’s arguments on this issue; and

WHEREAS, the Board notes that the applicant subsequently revised its proposal to reflect the retention of a significant amount of the existing residence, such that the Board concludes that both the plain language and the intent of the special permit provision is respected; and

WHEREAS, specifically, the applicant revised the plans to indicate that portions of the walls would be retained from the basement up to the second floor and that some parts of the floor joists, and therefore the level of the floors, would be maintained; and

WHEREAS, a public hearing was held on this application on May 9, 2006, after due notice by publication in *The City Record*, with continued hearings on June 20, 2006 and July 25, 2006, and then to decision on August 15, 2006; and

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

Collins; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and  
WHEREAS, the subject lot is located on the east side of East 22nd Street, between Avenue K and Avenue L; and

WHEREAS, the subject lot has a total lot area of 4,000 sq. ft., and is occupied by a 2,367.24 sq. ft. (0.59 FAR) single-family dwelling; and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,367.24 sq. ft. (0.59 FAR) to 4,116.92 sq. ft. (1.03 FAR); the maximum floor area permitted is 2,000 sq. ft.; and

WHEREAS, the proposed enlargement will decrease the open space from 3,129.3 sq. ft. to 2,289 sq. ft. (the minimum required open space is 3,000 sq. ft.) and decrease the open space ratio from 132.2 percent to 55.6 percent (the minimum required open space ratio is 150 percent); and

WHEREAS, the proposed enlargement will maintain one 5’-4” side yard and reduce one side yard from 9’-4 ½” to 8’-0” (the minimum side yard requirement is a total of 13’-0” with a minimum width of 5’-0”); and

WHEREAS, the proposed enlargement will reduce the rear yard from 32’-7 ½” to 20’-0” (the minimum rear yard required is 30’-0”); and

WHEREAS, the enlargement of the building into the rear yard is not located within 20’-0” of the rear lot line; and

WHEREAS, the enlargement will reduce the front yard from 30’-0” to 15’-0” (the minimum front yard required is 15’-0”); and

WHEREAS, the Board notes that the proposed wall height and overall height complies with applicable R2 district requirements; and

WHEREAS, the Board notes that the proposed FAR is comparable to other FAR increases that the Board has granted through the subject special permit for lots of comparable size; and

WHEREAS, nonetheless, the Board required the applicant to remove the porch from the plans, so that any proposed porch may be approved by DOB; and

WHEREAS, accordingly, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under 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)

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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 proposed enlargement of a single-family dwelling, which does not comply with the zoning requirements for floor area, open space ratio, and rear yard, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received August 1, 2006"-(5) sheets and "August 15, 2006"-(7) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

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

THAT the following shall be the bulk parameters of the building: a total floor area of 4,116.92 sq. ft., a total FAR of 1.03, a street wall height of 22'-1 1/2", and a total height of 34'-10 1/2", all as illustrated on the BSA-approved plans;

THAT the portions of the foundation, floors, and walls shall be retained and not demolished as indicated on the BSA-approved plans labeled A-3, A-4, A-5, and A-7A, dated August 15, 2006 and A-7, dated August 1, 2006;

THAT those portions of the foundation, floors, and walls to be retained as indicated on the BSA-approved plans shall be indicated on any plan submitted to DOB for the issuance of alteration and/or demolition permits;

THAT DOB shall review and approve the size and location of the front and rear porches (notwithstanding the illustration of any porch element on the BSA-approved plans);

THAT DOB shall review and approve the location of any garage;

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

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

Adopted by the Board of Standards and Appeals, August 15, 2006.

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## 127-06-BZ

APPLICANT – Stadtmauer Bailkin, LLP, for Kaufman Center, owner.

SUBJECT – Application June 16, 2006 – Zoning variance pursuant to Z.R. Section 72-21 to enlarge an existing community facility building. Proposal is non-compliant regarding floor area ratio (FAR) and rear yard. The site is located within a C4-7(L) zoning district; contrary to Z.R. 33-123 and 33-26.

PREMISES AFFECTED – 129 West 67<sup>th</sup> Street, north side of 67<sup>th</sup> Street, between Broadway and Amsterdam Avenue, Block 1139, Lots 1, 8, 57, 107, Borough of Manhattan.

## COMMUNITY BOARD #7M

APPEARANCES –

For Applicant:

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

**THE VOTE TO GRANT** –

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

Collins.....3

Negative:.....0

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**THE RESOLUTION:**

WHEREAS, the decision of the Manhattan Borough Commissioner, dated June 5, 2006, acting on Department of Buildings Application No. 104290946, reads, in pertinent part:

1. Proposed floor area for community facility exceeds the maximum floor area. This is contrary to ZR 33-123.
2. Proposed new enlargement projects in required rear yard. This is contrary to ZR 33-26.”; and

WHEREAS, this is an application under ZR § 72-21, to permit an enlargement to an existing community facility building located in a C4-7 zoning district within the Special Lincoln Square District zoning district, which is contrary to ZR §§ 33-123 and 33-26; and

WHEREAS, the application is brought on behalf of the Elaine Kaufman Center (the “Center”), a nonprofit music and dance school and performance space which occupies the community facility building located on Lot 8; and

WHEREAS, a public hearing was held on this application on July 18, 2006, after due notice by publication in the *City Record*, and then to decision on August 15, 2006; and

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

WHEREAS, the New York City Department of Education and the Special Music School (P.S. 859), which occupies part of the Center, provided testimony in support of the Center’s programs and its application; and

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

WHEREAS, the site is located on the north side of 67<sup>th</sup> Street between Broadway and Amsterdam Avenue; and

WHEREAS, the zoning lot is comprised of four tax lots (Lot Nos. 1, 8, 57, and 107); and

WHEREAS, the Center occupies Lot 8; the other lots are separately owned and occupied by residential uses; and

WHEREAS, on June 11, 1984, the Center, then known as the Hebrew Arts School for Music and Dance, entered into a Zoning Lot and Development Agreement with the owners of the other tax lots; and

WHEREAS, through the creation of this combined zoning

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lot, the Center transferred 57,359.51 sq. ft. of its buildable floor area on Lot 8 to Lot 1, for construction of a 47-story residential building; and

WHEREAS, the applicant notes that, pursuant to ZR § 33-123, a community facility building in a C4-7 zoning district may have a maximum FAR of 10.0; and

WHEREAS, therefore, a significant amount of floor area would be available under applicable zoning regulations but, because of the prior floor area transfer, none is available for the proposed enlargement; and

WHEREAS, the Center occupies a six-story community facility building with approximately 35,131 sq. ft. of floor area; and

WHEREAS, the applicant proposes to enlarge the facility by inserting new floors within double-height spaces in the basement and on the first floor and by enclosing first and second floor terraces at the rear of the building; and

WHEREAS, the applicant notes that the majority of the proposed increase in floor area is within the building envelope; and

WHEREAS, the proposed insertion of the new floors and enclosure of the terrace increases the floor area on Lot 8 by 3,200 sq. ft.; and

WHEREAS, however, the floor area objection issued by DOB (cited above) relates to the entire zoning lot; the total floor area of the combined zoning lot is 636,897.35 sq. ft.; the proposed enlargement of 3,200 sq. ft. would result in a new total of 640,097.35 sq. ft.; and

WHEREAS, the enclosure of the terraces also creates a new non-compliance as to the required rear yard at the second floor (the proposed community facility use within the required rear yard is a permitted obstruction only for one floor or a height of 23 ft.); and

WHEREAS, the applicant represents that the variance request is necessitated by the programmatic needs of the Center, a non-profit multi-cultural arts organizations which includes three divisions – the Merkin Concert Hall, the Lucy Moses School for Music and Dance, and the Special Music School of America (P.S. 859, a New York City public school with a music focus); and

WHEREAS, however, the applicant represents that there will be no increase in patronage or enrollment associated directly with the Center's enlargement; and

WHEREAS, instead, the applicant seeks to alleviate current space constraints and develop educational, cultural, and artistic programming while improving physical accessibility; and

WHEREAS, specifically, the applicant states that the following are the programmatic space needs of the Center which require the requested waivers: (1) an increase in attendance over the past 22 years; (2) a need for better visitor circulation within the building, and (3) an interest in making the building more handicapped-accessible; and

WHEREAS, as to attendance, the Center now serves 2,400 students (an increase from 400 in 1984), 145 of which are full-time New York City public school students; and

WHEREAS, additionally, the applicant represents that the increased attendance requires more space to conduct staff meetings, plan events and programs and to meet with parents; and

WHEREAS, the applicant has identified underutilized space in the basement and on the first floor and on the two levels of terraces at the rear of the building which could be enclosed to accommodate increased space needs; and

WHEREAS, as to visitor circulation, the applicant represents that the entry into Merkin Concert Hall is constrained; and

WHEREAS, as to handicapped-accessibility, the Center proposes to enlarge lower level restrooms and establish two accessible restrooms on the first floor; and

WHEREAS, in sum, the building as enlarged will provide additional study and meeting space, efficient ingress and egress, waiting space, technical improvements to the auditorium, and handicapped-accessibility; and

WHEREAS, the Board finds that these programmatic needs are legitimate, and agrees that the enlargement is necessary to address the Center's programmatic needs, given the limitations of the existing building; and

WHEREAS, accordingly, based upon the above, the Board finds that the limitations and inefficiencies of the existing building, when considered in conjunction with the programmatic needs of the Center, creates unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the Center is a non-profit educational institution and the variance is needed to further its non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

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

WHEREAS, the applicant notes that the majority of the increase in floor area will be achieved by using several double-height spaces from the basement and first floor; and

WHEREAS, additionally, the applicant represents that the enclosure of the first floor terrace is a permitted rear yard obstruction; and

WHEREAS, the only change to the building's envelope will be the enclosure of the existing terrace in the rear of the building; and

WHEREAS, the applicant represents that there will be no significant impact on adjacent neighbors' light and air since there are no windows on the façade of the adjacent residential building and the enclosed terrace will not block any of the windows of the residential building at the rear of the Center; and

WHEREAS, further, the applicant represents that there will be no increase in patronage or enrollment associated directly with the Center's enlargement because the enlargement seeks solely to alleviate current insufficient

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space needs and circulation inefficiencies; and

WHEREAS, the Board also observes that the Center contributes to the Special Lincoln Square District's goals of advancing the performing arts; and

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

WHEREAS, the applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of the Center could occur on the existing lot; and

WHEREAS, the applicant states that while the 1984 zoning lot merger negated the opportunity for any increase in zoning floor area as of right, this fact in of itself does not mean that the need for additional floor area is a self-created hardship; and

WHEREAS, however, the applicant has provided evidence that demonstrates that the Center's programmatic needs have changed dramatically since the zoning lot merger; and

WHEREAS, specifically, the applicant represents that at the time of the lot merger, it was not anticipated that a public school would be part of the Center; and

WHEREAS, the Board notes that the school was not established and did not occupy the Center until 1996; and

WHEREAS, the applicant represents that the present needs of the Center and P.S. 859, operating at capacity with 145 full-time students, could not have been foreseen in 1984, when there was only 400 students of the predecessor center for arts and dance; and

WHEREAS, accordingly, the applicant asserts that the development rights were transferred in good faith since the future requirements of the Center with the public school component, in addition to its original programming, were not contemplated; and

WHEREAS, the Board agrees with the applicant that there is no nexus between the 1984 merger and the present need for this request for additional floor area to be located primarily within the building envelope; and

WHEREAS, the Board also understands that there was no intent to create a hardship in 1984, and that the Center was compelled to pursue the merger because of financial pressures; and

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

WHEREAS, the applicant represents that the requested floor area waiver is the minimum waiver necessary to accommodate the current and projected programmatic needs; and

WHEREAS, the Board notes that the applicant will locate this floor area completely within the building footprint and almost completely within the building envelope so as to minimize any impact; and

WHEREAS, accordingly, the Board finds that the

requested relief is the minimum necessary to allow the Center to fulfill its programmatic needs; 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 6 NYCRR; 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. 06BSA099M, dated June 16, 2006; 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 an enlargement to an existing community facility building located in a C4-7 zoning district within the Special Lincoln Square District zoning district, which is contrary to ZR §§ 33-123 and 33-26, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 16, 2006"- eight (8) sheets and marked "Received August 15, 2006" – one (1) sheet; and *on further condition*:

THAT the total building floor area post-enlargement shall not exceed 38,331.0 sq. ft., as illustrated on the BSA-approved plans;

THAT the total zoning lot floor area post-enlargement shall not exceed 640,097.35 sq. ft.;

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

THAT the approved plans shall be considered approved

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

Adopted by the Board of Standards and Appeals, August 15, 2006.

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## **47-05-BZ**

APPLICANT – Cozin O’Connor, LLP, for AMF Machine, owner.

SUBJECT – Application March 1, 2005 – Under Z.R. §72-21 to permit the proposed eight story and penthouse mixed-use building, located in an R6B zoning district, with a C2-3 overlay, which exceeds the permitted floor area, wall and building height requirements, is contrary to Z.R. §23-145 and §23-633.

PREMISES AFFECTED – 90-15 Corona Avenue, northeast corner of 90<sup>th</sup> Street, Block 1586, Lot 10, Borough of Queens.

## **COMMUNITY BOARD #4Q**

APPEARANCES –

For Applicant: B. Hair.

**ACTION OF THE BOARD** – Laid over to August 22, 2006, at 1:30 P.M., for deferred decision.

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## **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**

APPEARANCES –

For Applicant: Jeffrey A. Chester, Dan Segal, Chadwick Castle, and Alberto Dange.

**ACTION OF THE BOARD** – Laid over to September 26, 2006, at 1:30 P.M., for continued hearing.

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## **290-05-BZ**

APPLICANT – Stuart A. Klein, for Yeshiva Imrei Chaim Viznitz, owner.

SUBJECT – Application September 19, 2005 and updated 4/19/06 – Variance pursuant to Z.R. Section 72-21 to permit a catering hall (Use Group 9) accessory to a synagogue and yeshiva (Use Groups 4 & 3). The site is located in an R5 zoning district.

PREMISES AFFECTED – 1824 53<sup>rd</sup> Street, south side, 127.95’ east of the intersection of 53<sup>rd</sup> and 18<sup>th</sup> Avenue, Block 5480, Lot 14, Borough of Brooklyn.

## **COMMUNITY BOARD #12BK**

APPEARANCES –

For Applicant: Stuart A. Klein, Chaim Weinberg, Esther Drezdner, Abraham Einhorn, Pinchas, Dembiler.

For Opposition: Mr. Steinberg, Rabbi Israel Steinberg and David Garber.

For Administration: Angelina Martinez-Rubio, Department of Buildings.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3

Negative:.....0

**ACTION OF THE BOARD** – Laid over to September 19, 2006, at 1:30 P.M., for decision, hearing closed.

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## **60-06-A**

APPLICANT – Stuart A. Klein, for Yeshiva Imrei Chaim Viznitz, owner.

SUBJECT – Application April 5, 2006 - Request pursuant to Section 666 of the New York City Charter for a reversal of DOB's denial of a reconsideration request to allow a catering use as an accessory use to a synagogue and yeshiva in an R5 zoning district.

PREMISES AFFECTED – 1824 53<sup>rd</sup> Street, south side, 127.95’ east of the intersection of 53<sup>rd</sup> and 18<sup>th</sup> Avenue, Block 5480, Lot 14, Borough of Brooklyn.

## **COMMUNITY BOARD #12BK**

APPEARANCES –

For Applicant: Stuart A. Klein, Chaim Weinberg, Esther Drezdner, Abraham Einhorn, Pinchas, Dembiler.

For Opposition: Mr. Steinberg, Rabbi Israel Steinberg and David Garber.

For Administration: Angelina Martinez-Rubio, Department of Buildings.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3

Negative:.....0

**ACTION OF THE BOARD** – Laid over to September 19, 2006, at 1:30 P.M., for decision, hearing closed.

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## **291-05-BZ**

APPLICANT – Eric Palatnik, P.C. for Rallaele DelliGatti, owner.

SUBJECT – Application September 22, 2005 – Pursuant to ZR 72-21 for a Variance to allow for the demolition of an existing single family residence and its re-development with a new single family residence which has less than the required front yard, ZR 23-45. The premise is located in an R-2A zoning district.

PREMISES AFFECTED - 10-33 Burton Street, Burton Street between 12th Avenue and 12th Road, Block 4607, Lot 26, Borough of Queens.

## **COMMUNITY BOARD #7Q**

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APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to September 26, 2006, at 1:30 P.M., for continued hearing.

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**37-06-BZ**

APPLICANT – Leo Weinberger, Esq., for 180 Lafayette Corporation, owner, Skin Care 180, Incorporated, lessee.

SUBJECT - Application March 2, 2006 – under Z.R. §73-36 to allow the proposed PCE (Jasmine Spa) on the first floor and cellar level in an existing seven-story building. The premise is located in a M1-5B zoning district.

PREMISES AFFECTED – 180 Lafayette Street, east side of Lafayette Street between Grand and Broome Streets, Block 473, Lot 43, Borough of Manhattan.

**COMMUNITY BOARD #2M**

APPEARANCES –

For Applicant: Leo Weinberger and Doris Diether, Community Board #2M.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar and Commissioner Collins.....3  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to September 12, 2006, at 10 A.M., for decision, hearing closed.

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*Jeff Mulligan, Executive Director*

*Adjourned: 7:00 P.M.*