
BULLETIN

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66-06-BZ

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67-06-BZ

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68-06-A

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69-06-BZY

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70-06-A

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71-06-A

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72-06-BZ

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73-06-BZ

111 Union Street, Northwest corner of Union Street and Columbia Street, Block 335, Lot 7501, Borough of **Brooklyn, Community Board: 6**. SPECIAL PERMIT - 73-36-To permit the legalization of an existing Physical Culture Establishment.

74-06-BZ

1416 80th Street, Southside of 80th Street, approximately 120 feet east of the corner of 80th Street and 14th Avenue., Block 6281, Lot 14, Borough of **Brooklyn, Community Board: 11**. SPECIAL PERMIT - 73-622 - To allow the enlargement of a single family residence, which exceeds allowable floor area23-141, proposes side yards less than the minimum per 23-461 and proposes a rear yard less than the minimum per 23-47.

75-06-BZ

108-20 71st Avenue, Northeast corner of Queens Boulevard and 71st Avenue, Block 2224, Lot 1, Borough of **Queens, Community Board: 6**. Under 72-21 - To permit an increase in the residential bulk, a decrease in the required open space and penetration of the sky exposure plane.

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

CALENDAR

JUNE 6, 2006, 10:00 A.M.

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

SPECIAL ORDER CALENDAR

289-58-BZ

APPLICANT – Eric Palatnik, P.C., for David Oil Corporation, owner.

SUBJECT – Application April 25, 2006 - Extension of Term of a variance for ten years, which expired on November 25, 2005, for a gasoline service station (Sunoco Station) and an Amendment to legalize a small convenience store as an accessory to the UG16-Automotive Service Station. The premise is located in an C2-3/R-7A zoning district.

PREMISES AFFECTED – 398-410 Kings Highway, southwest corner of Kings Place, Block 6678, Lot 73, Borough of Brooklyn.

COMMUNITY BOARD #11BK

540-84-BZ

APPLICANT – Kenneth H. Koons, for Herman Pieck, owner.

SUBJECT – Application December 8, 2005 - Pursuant to section ZR 52-332 to legalize the change in use of a custom cabinet workshop (UG16A) to auto repair shops (UG16B) and to extend the term of the variance for ten years. The previous term expired June 10, 2006. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 341 Soundview Avenue, southwest corner of Bolton Avenue, Block 3473, Lot 43, Borough of The Bronx.

COMMUNITY BOARD #9BX

335-88-BZ

APPLICANT – Eric Palatnik, P.C., for 5808 Flatlands Realty Corp., owner.

SUBJECT – Application December 16, 2005 - Pursuant to ZR 11-411 for the Extension of Term of Variance which expired on July 3, 2005 and to Waive the Rules of Practice and Procedure to file more than 30 days after expiration. The use on site is for an automotive service station (Sunoco) with minor auto repairs and accessory convenience store.

PREMISES AFFECTED – 5808/28 Flatland Avenue,

southwest corner of East 59th Street, and Flatlands Avenue, Block 7784, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEALS CALENDAR

400-04-A

APPLICANT – Sheldon Lobel, P.C., for Sangrok Lee, owner.

SUBJECT –Application December 23, 2004 - Proposed construction of 2, 2 story semi-detached 2 family homes which lie in the bed of a mapped street, (Depew Avenue) is contrary to GCL Section 35. Premises is located in an R3-1 Zoning District.

PREMISES AFFECTED – 42-01 & 42-03 249th Street, 41st Avenue, Little Neck Parkway, 43rd Avenue, and 249th Street, Block 8127, Tentative Lot Number 42 & 45, Borough of Queens.

COMMUNITY BOARD #11Q

299-05-A

APPLICANT – Sheldon Lobel, P.C., for Henry Cheung, owner.

SUBJECT – Application October 4, 2005 - Proposal to build one, two story, one family home which lies in the bed of a mapped street (Getz Avenue), which is contrary to Section 35 of the General City Law, Borough of Queens.

PREMISES AFFECTED – 369 Wilson Avenue, north side of Wilson Avenue between Eltingville Boulevard and Ridgewood, Block 5507, Lot 13, Borough of Staten Island.

COMMUNITY BOARD #3SI

345-05-A

APPLICANT – Marcus Marino Architects, for Lawrence M. Garten, owner.

SUBJECT – Application December 2, 2005 - To permit construction of a 3 story ,2 family dwelling not fronting on a mapped street is contrary to Section 36 of the General City Law, Premises is located within the R3-A Growth Management Area.

PREMISES AFFECTED – 81 White Plains Avenue, 150' south east of St. Mary's Avenue, 50.99' fronting on White Plains Avenue, Block 2972, Lot 35, Borough of Staten Island.

COMMUNITY BOARD #1SI

8-06-A & 9-06-A

APPLICANT – Victor K. Han, for Kim Dong Ouk, owner.

SUBJECT – Application January 11, 2006 - Proposed

CALENDAR

construction of a two family semi- detached dwelling located within the bed of a mapped street which is contrary to Section 35 of the General City Law, Block 5380, Lot 49, Borough of Queens.

PREMISES AFFECTED – 42-32 149 Place, West side of 149 Place, 255' N/W of Beech Avenue, Block 5380, Lot 49, Borough of Queens.

42-34 149 Place, West side of 149 Place, 255' N/W of Beech Avenue, Block 5380, Lot 50, Borough of Queens,

COMMUNITY BOARD #7Q

JUNE 6, 2006, 1:30 P.M.

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

ZONING CALENDAR

14-05-BZ

APPLICANT – The Law Office of Fred Becker, Esq. for Resorts 56 Inc. dba as Spa Ja, lessee; 8th & 56th Street Associates, owner.

SUBJECT – Application January 26, 2005 - §73-36 Special Permit – to allow a physical Culture establishment on second and third floor of a three story commercial building. Premises is located within the C6-4 (CL) zoning district.

PREMISES AFFECTED – 300 West 56th Street – southwest corner of West 56th and 8th Avenue, Block 1046, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #4M

199-05-BZ

APPLICANT – Joseph Morsellino, Esq., for Stefano Troia, owner.

SUBJECT – Application August 23, 2005 - pursuant to ZR § 72-21 to allow a proposed twelve (12) story residential building with ground floor retail containing eleven (11) dwelling units in an M1-6 Zoning District; contrary to ZR § 42-00.

PREMISES AFFECTED – 99 Seventh Avenue, located on the southeast corner of 7th Avenue and West 27th Street (Block 802, Lot 77), Borough of Manhattan

COMMUNITY BOARD #5M

303-05-BZ

APPLICANT – Eric Palatnik, P.C., for Adoo East 102 Street Corp., owner; Aspen Fitness, lessee.

SUBJECT – Application October 12, 2005 - under Z.R. §72-21- to permit the legalization of the second floor of an existing two story commercial structure for use as a physical culture establishment. Premises is located within the R8-B zoning district.

PREMISES AFFECTED – 428 East 75th Street, between York and First Avenues, Block 1469, Lot 36, Borough of Manhattan.

COMMUNITY BOARD #8

313-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Douglas Brenner and Ian Kinniburgh, owners.

SUBJECT – October 20, 2005 - Variance under Section 72-21 to allow a proposed enlargement of an existing residential building located in C6-1 and R7-2 districts to violate applicable rear yard regulations; contrary to Section 23-47.

PREMISES AFFECTED – 26 East 2nd Street, Block 458, Lot 36, Borough of Manhattan.

COMMUNITY BOARD #3M

22-06-BZ

APPLICANT –Harold Weinberg, P.E., for Margret Riordan, owner.

SUBJECT –Application February 9, 2006 - Variance: Under Z.R. §72-21 to permit the enlargement of an existing single family dwelling on a pre-existing undersized lot. The proposed enlargement increases the degree of non-compliance at the front yard, rear yard and side yards; (ZR§23-45, 23-47 and 23-48) the proposed enlargement also exceeds the allowable setback and is contrary to ZR§23-631. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 8 Gotham Avenue, between Fane Court, south side and Shell Bank Creek, Block 8883, Lot 978, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Jeff Mulligan, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, APRIL 25, 2006 10:00 A.M.

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

The motion is to approve the minutes of regular meetings of the Board held on Tuesday morning and afternoon, February 14, 2006 and February 15, 2006 as printed in the bulletin of February 24, 2006, Volume 91, No. 8. If there be no objection, it is so ordered.

SPECIAL ORDER CALENDAR

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, a/k/a 435-445 East 68th Street, Block 1463, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Margery Perlmutter.

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, pursuant to ZR § 11-411, for a reopening and an extension of the term of the prior grant, which expired on December 1, 1979; 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 April 25, 2006 for decision; and

WHEREAS, Community Board 8, Manhattan, recommends approval of this application; and

WHEREAS, on December 1, 1959, the Board granted a zoning variance and a Multiple Dwelling Law waiver under the subject calendar numbers to allow a transient parking lot in the cellar and first floor accessory garage to a multiple dwelling located at the subject premises, for a term of 20 years; and

WHEREAS, the applicant explained that due to an administrative oversight, no application to extend the term of the variance was made since the December 1, 1979 expiration; and

WHEREAS, at hearing, the Board questioned the applicant about the inconsistency regarding the total number of parking spaces on each floor of the parking structure, as reflected on the certificate of occupancy and the approved plans;

and

WHEREAS, the applicant responded that the configuration of the 77 spaces, reflected on the plans is correct and that there has been a longstanding error on the certificate of occupancy which applicant will remedy after the Board's decision; and

WHEREAS, the applicant submitted photographs of the notice to tenants posted in the garage which identifies their right to recapture transient parking spaces pursuant to the Multiple Dwelling Law; and

WHEREAS, the Board has reviewed the record and 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 resolutions, said resolutions having been adopted on December 1, 1959, so that, as amended, this portion of the resolution shall read: "to permit the extension of the term of the grant for an additional ten (10) years from April 25, 2006, expiring on April 25, 2016; *on condition*:

THAT there shall be a maximum of 77 parking spaces used for transient parking at the cellar and first floors at the subject premises;

THAT all residential leases shall indicate that the spaces devoted to transient parking can be recaptured by residential tenants on 30 days notice to the owner;

THAT a sign providing the same information about tenant recapture rights be placed in a conspicuous place within the garage;

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

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

THAT the layout of the parking lot shall be as approved by the Department of Buildings;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the 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 App. No. 104116225)

Adopted by the Board of Standards and Appeals, April 25, 2006.

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

MINUTES

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: 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 reopening and an amendment to the hours of operation of a freight transfer facility; and

WHEREAS, a public hearing was held on this application on March 7, 2006, after due notice by publication in *The City Record*, laid over for continued hearing on April 11, 2006 and then to decision on April 25, 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 13, Queens, withdrew its initial objections to this application, and recommends a conditional approval as it monitors the implementation of the new hours; and

WHEREAS, the subject site is located on the southeast corner of Rockaway Boulevard and 144th Road, and is within a C2-2 (R3-2) zoning district; and

WHEREAS, on January 30, 1996, the Board granted an application under the subject calendar number to permit a one-story enlargement to an existing non-conforming one-story manufacturing building occupied as a freight transfer station, contrary to the district use regulations; and

WHEREAS, this grant was termed for twenty years, to expire January 30, 2016; and

WHEREAS, the hours of operation specified in the original grant are 8 A.M. to 6 P.M, weekdays and 8 A.M. to 4 P.M., Saturdays; the facility was to be closed on Sundays; and

WHEREAS, the applicant represents that due to the recent increase in airport security measures, there are new requirements on tracking and removal of air freight since the original Board grant that include cargo recipients filing an electronic manifest in advance of flight departure, and a four-hour time limit to remove freight from the airport holding area; and

WHEREAS, the applicant represents that because of the new regulations that cargo be removed within four hours of arrival at the airport, the cargo from a client air carrier with Sunday arrivals must be removed from the airport that day; and

WHEREAS, the applicant further represents that if the cargo is not removed within the specified time, then severe

penalties are imposed; and

WHEREAS, at hearing, the Board asked the applicant for documentation on these changes in airport security measures; and

WHEREAS, the applicant provided a letter from the U.S. Customs and Border Protection, Cargo Branch, advising the client air carrier about the regulations, which went into effect August 13, 2004; and

WHEREAS, at hearing, the Board asked the applicant for a description of the operations necessary on Sundays at the site; and

WHEREAS, the applicant responded that only a very limited staff of three or four employees would be required on Sundays to submit the electronic manifest and to aid the cargo deliveries; and

WHEREAS, the applicant initially suggested having just one truck making a number of return trips from the airport, with cargo; and

WHEREAS, at the Board's suggestion to shorten the requested Sunday hours of operation and thus minimize any impact, the applicant modified the operation plan so that there would be two trucks making return trips, with only one on the site at a time; and

WHEREAS, the applicant represents that the time period of 10:30 A.M. to 6:00 P.M., Sundays, is necessary to accommodate potential flight delays, but that the hours of activity on the site will likely be shorter; and

WHEREAS, the applicant represents that there are fewer residences in the area around the site since the original Board grant and that the potential impact of the additional hours of operation therefore has been minimized; and

WHEREAS, based upon the above, the Board finds it appropriate to grant the requested amendment.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on January 30, 1996 so that as amended this portion of the resolution shall read: "to permit a change in hours of operation to include 10:30 A.M. to 6:00 P.M., Sundays; *on condition:*

THAT the hours of operation shall be limited to 8:00 A.M. to 6:00 P.M., weekdays; 8:00 A.M. to 4:00 P.M., Saturdays; and 10:30 A.M. to 6:00 P.M., Sundays;

THAT there shall be a maximum of two trucks, not to exceed 24 ft. in length, operating from the site on Sundays;

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

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

THAT all site lighting shall be directed downward and away from any adjacent residences;

THAT street trees and landscaping shall be planted and maintained in accordance with BSA-approved plans;

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

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

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THAT 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. 402053219)

Adopted by the Board of Standards and Appeals, April 25, 2006.

7-95-BZ

APPLICANT – Francis R. Angelino, Esq., c/o DeCampo, for Redmont Realty Company, LLC, owner; Town Sports International, Inc., lessee.

SUBJECT – Application September 13, 2005 – Reopening for an extension of term and an amendment of a previously granted variance to permit, in a C1-2(R3-2)/R3-2 district, a physical culture establishment (health club) in a cellar and two-story building within a larger shopping center development, which does not conform to district use regulations.

PREMISES AFFECTED – 153-37 Cross Island Parkway, Block 4717, Lot 16, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Francis R. Angelino.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT:

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

THE RESOLUTION –

WHEREAS, this application is a request for a re-opening for an amendment, an extension of term of a variance, and approval of a new operator for a physical culture establishment (PCE); 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 25, 2006; and

WHEREAS, the subject site is located on the Cross Island Parkway, west of Cryders Lane; and

WHEREAS, on August 8, 1995, the Board granted a variance application under the subject calendar number to permit in a C1-2 (R3-2) zoning district, a PCE in a two-story building, which is a part of a larger shopping center development; and

WHEREAS, the term of the variance expired on August 8, 2005; and

WHEREAS, the operator of the PCE has also changed; and

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

WHEREAS, the applicant has also made minor reconfigurations to the interior space at the cellar, first, and second floors and has added exterior signage, all of which the Board finds acceptable; and

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

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on August 8, 1995, so that as amended this portion of the resolution shall read: “to permit an extension of term for an additional period of ten years from the expiration of the prior grant, to expire on August 8, 2015, to approve the change in the operator of the PCE, and to approve minor interior reconfigurations; *on condition* that all work substantially conforms to drawings filed with this application, marked ‘Received April 4, 2006’–(4) sheets and *on further condition*:

THAT the term of this grant shall be for ten years from the expiration of the prior grant, expiring on August 8, 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, 5:30 A.M. to 11:00 P.M. and weekends, 8:00 A.M. to 10:00 P.M.;

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

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

THAT 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 25, 2006.

165-02-BZ thru 190-02-BZ

APPLICANT – Stuart A. Klein, Esq., / Steve Sinacori, Esq., for Park Side Estates, LLC, owner.

SUBJECT – Application March 31, 2005 – Reopening for an amendment to BSA resolution granted under calendar

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numbers 167-02-BZ, 169-02-BZ, 171-02-BZ, 173-02-BZ and 175-02-BZ. The application seeks to add 5 residential units to the overall development (encompassing lots 21 and 28) for a total of 37, increase the maximum wall height by 2'-0", and increase the number of underground parking spaces from 11 to 20, while remaining compliant with the FAR granted under the original variance, located in an M1-1 zoning district.

PREMISES AFFECTED – 143-147 Classon Avenue, a/k/a 380-388 Park Avenue and 149-159 Classon Avenue, southeast corner of Park and Classon Avenues, Block 1896, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Steven Sinacori.

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 amendment to an existing Board variance; and

WHEREAS, the original grant was made on July 15, 2003, and permitted the construction of a five-story, Use Group 2 residential building in an M1-1 zoning district, with a Floor Area Ratio (FAR) of 3.08, a height of 55'-0", 32 dwelling units, and 11 accessory parking spaces; and

WHEREAS, the applicant proposes to maintain the approved building height and FAR, but increase the unit count to 37 units, and the amount of parking spaces to 18, all in the context of a redesign of the approved building that would include creation of a new subcellar in addition to the previously approved cellar, the relocation of the parking from the rear of the building to below grade in the subcellar, creation of dormers at the fifth floor setback, and the separation of the two building parts with an 8 ft. yard; and

WHEREAS, upon initial application, the applicant proposed to increase the height of the building to 57'-0", the total units to 37, and the number of parking spaces to 20, while decreasing the FAR to 3.04 through Quality Housing deductions; and

WHEREAS, however, after the Board expressed concerns about this proposal, particularly the increase in height and the Quality Housing deductions, the applicant ultimately modified the proposal to the current version, which reflects the same height as originally approved and does not include the Quality Housing deductions; and

WHEREAS, a public hearing was held on this application on October 18, 2005 after due notice by publication in *The City Record*, with continued hearings on March 14, 2006, and then on April 25, 2006 for decision; and

WHEREAS, Community Board 2, Brooklyn, did not issue a recommendation as to this proposal; and

WHEREAS, Council Member James and the Central Jewish Council support this proposal; and

WHEREAS, the site and surrounding area had a site and

neighborhood examination by a committee of the Board consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, the applicant states that the proposed increase in units and increase in parking will not affect the Board's prior grant in terms of FAR, and that the proposed redesign will create a more aesthetically pleasing building; and

WHEREAS, the applicant also states that the proposal now includes a subcellar because during excavation it was discovered that poor soil had to be removed to an unanticipated depth, which left space for an additional below-grade level; and

WHEREAS, during the hearing process, the Board asked the applicant for additional information concerning the character of the neighborhood surrounding the site; and

WHEREAS, the applicant submitted a response that states that the area is a mix of residential, community facility, and commercial and manufacturing uses, within R6, C1-3, M1-1 and M1-2 zoning districts; and

WHEREAS, the applicant notes that the site is adjacent to an approximately 75,000 sq. ft. playground, beyond which is a seven story school building; and

WHEREAS, the applicant also cites to community facility uses within three blocks of the site, as well as multiple dwellings across the street; and

WHEREAS, as to bulk, the applicant cites to six to eight story buildings within 900 ft. of the site, five and six story buildings four blocks to the East, and six story residences on nearby Skillman Street; and

WHEREAS, the Board has reviewed this submission and finds that the proposed building is compatible in terms of use and bulk with the surrounding conditions; and

WHEREAS, finally, the Board notes that the applicant is proposing mechanical deductions for floor area; the Board is not approving said deductions through this grant, and they must be approved by the Department of Buildings; and

WHEREAS, based upon the above, the Board finds that the proposed amendment is appropriate to grant, with conditions as specified below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on July 15, 2003, so that as amended this portion of the resolution shall read: "to permit an increase in the amount of units and accessory parking spaces, as well as a redesign of the proposed building; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application, marked 'Received March 30, 2006'-(22) sheets and *on further condition*:

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

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

THAT the proposed work authorized by this grant, to be filed at the Department of Buildings under DOB Job No. 301862410, can not be professionally certified;

THAT DOB shall conduct a full plan examination of any permit application filed for the proposed work, including, but not limited to, a review and approval of FAR calculations and

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all floor area deductions;

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

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

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

(DOB Application No. 301862410)

Adopted by the Board of Standards and Appeals, April 25, 2006.

265-59-BZ

APPLICANT – Martyn & Don Weston, for 11 College Place, Inc., owner.

SUBJECT – Application December 12, 2005 – Extension of term for a variance to permit an eight car garage located in a residential building. The premise is located in an R7-1/LH-1 zoning district.

PREMISES AFFECTED – 11 College Place, west side 89'-6" north of Love Lane, Block 236, Lot 70, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Pamela Weston.

THE VOTE TO CLOSE HEARING –

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

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

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 23rd Avenue, southwest corner of 94th Street, Block 1087, Lot 1, Elmhurst, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Alfonso Duarte, P.E.

ACTION OF THE BOARD – Laid over to June 13, 2006, at 10 A.M., for continued hearing.

374-71-BZ

APPLICANT – Rothkrug Rothkrug Weinberg & Spector, for Evelyn DiBenedetto, owner; Star Toyota, lessee.

SUBJECT – Application February 12, 2004 – Pursuant to Z.R. §§72-01 and 72-22 for an extension of term of a variance permitting an automobile showroom with open display of new and used cars (UG16) in a C2-2 (R3-2) district. The application also seeks an amendment to permit accessory customer and employee parking in the previously unused vacant portion of the premises.

PREMISES AFFECTED – 205-11 Northern Boulevard, Block 6269, Lots 14 and 20, located on the North West corner of Northern Boulevard and the Clearview Expressway, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Steven Sinacori.

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

357-72-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Permanent Mission of the Russian Federation to the U.N., owner.

SUBJECT – Application December 19, 2005 – Amendment to a previously granted Variance ZR 72-21 for a multiple dwelling and community facility complex to allow for the enclosure of an existing swimming pool and the enlargement of an accessory health and sports facility. The premise is located in an R-4 zoning district.

PREMISES AFFECTED – 355 West 255th Street, northwest corner of West 255th Street and Fieldston Road, Block 5846, 5848, Lots 1605, 1774, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES –

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD – Laid over to May 2, 2006, at 10:00 A.M., for decision, hearing closed.

1233-88-A

APPLICANT – Richard Bowers of Stadtmauer Bailkin, LLP, for Sunrise Development, owner.

SUBJECT – Application February 22, 2006 – Extension of Time/Waiver to complete construction of a five-story (with basement) residential building of senior housing (Sunrise) for an additional twenty four months which expired on October 29, 2005. The premise is located in an R3-1 (Hillside Preservation District).

PREMISES AFFECTED – 801 Narrows Road North, north side of Narrows Road, 1162.62' east of Howard Avenue, Block 631, Lot 8, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Richard Bowers.

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THE VOTE TO CLOSE HEARING –

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

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

43-99-BZ

APPLICANT – Windels Marx Lane and MittenDorf, LLP,
for White Castle Systems, Inc., owner.

SUBJECT – Application November 22, 2005 – Extension of
Term/Waiver/Amendment to a previously granted special
permit for a drive-through facility accessory to an eating and
drinking establishment for an additional term of five years.
The amendment is to install and electronic amplification
menu board. The premise is located in a C1-2 in an R-4
zoning district.

PREMISES AFFECTED – 38-02 Northern Boulevard,
southwest corner formed by the intersection of Northern
Boulevard, Block 1436, Lot 1, Flushing, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Jeanine Margiano and Oliver Eichorn.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD - Laid over to May 16,
2006, at 10 A.M., for decision, hearing closed.

143-05-A

APPLICANT – Eric Palatnik, P.C., for Andrew Latos &
Peter Latos, owners.

SUBJECT – Application February 15, 2006 – Extension of
Time to complete construction and to obtain a Certificate of
Occupancy. On November 29, 2005 BSA granted issued a
resolution determining that the owner of the premises had
obtained a vested right to continue construction under DOB
permit No. 4021124879 and reinstated the permit for a period
of six months to expire on May 29, 2006. The premise is
located in a R2A zoning district.

PREMISES AFFECTED – 47-05 Bell Boulevard, between
47th and 48th Avenues, Block 7346, Lot 49, Borough of
Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD - Laid over to May 16,
2006, at 10 A.M., for decision, hearing closed.

149-05-A

APPLICANT – Eric Palatnik, P.C., for Gregory Broutzas,
owner.

SUBJECT – Application February 21, 2006 – Extension of
Time to complete construction and to obtain a Certificate of
Occupancy. On November 1, 2005 BSA issued a resolution
determining that the owner of the premises had obtained a
vested right to continue construction under DOB permit No.
401867618 and reinstated the permit for a period of six
months to expire on May 1, 2006. The premise is located in
an R2A zoning district.

PREMISES AFFECTED – 32-29 211th Street, east corner of
32nd Avenue and 211th Street, Block 6061, Lot 10, Borough
of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING –

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

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

APPEALS CALENDAR

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.

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 March 10, 2005, acting on Department of
Buildings Application No. 401861963, reads:

“Map 11A does not show the location of Property. Verify and
comply with General City Law 36.”; and

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

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Record, and then to closure and decision on April 25, 2006; and

WHEREAS, by letter dated March 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, dated March 10, 2005, acting on Department of Buildings Application No. 401861963, 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 17, 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 25, 2006.

155-05-A

APPLICANT – Richard Kusack, neighbor; 81 East Third Street Realty, LLC., owner.

SUBJECT – Application June 30, 2005 – For an appeal of the Department of Buildings decision dated May 27, 2005 rescinding its Notice of Intent to revoke the approvals and permit for Application No. 102579354 for a community facility (New York Law School) in that it allows violations of the Zoning Resolution and Building Code regarding bulk, light, air, and unpermitted obstructions in rear yards.

PREMISES AFFECTED – 81 East 3rd Street, Manhattan, Block 445, Lot 45, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES – None.

ACTION OF THE BOARD – Application denied.

THE VOTE TO GRANT –

Affirmative:.....0

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

THE RESOLUTION –

WHEREAS, the instant appeal comes before the Board in response to a final determination of the Manhattan Borough

Commissioner, dated May 27, 2005 (the "Final Determination"); and

WHEREAS, the Final Determination was issued in response to a January 27, 2005 request from the appellant, asking that the Department of Buildings ("DOB") cancel the rescission of a 10-day notice to revoke the permit (Application No. 102579354, hereinafter, the "Permit") issued for construction of a 13-story Use Group ("UG") 3 school dormitory building (the "Building") at the subject premises; and

WHEREAS, as reflected in the Final Determination, the Manhattan Borough Commissioner denied this request because all outstanding zoning issues had been resolved and there was no basis to revoke the permits; and

WHEREAS, a public hearing was held on this application on December 6, 2005 after due notice by publication in *The City Record*, with a continued hearing on January 24, 2006, March 14, 2006, March 28, 2006, and then to decision on April 25, 2006; and

WHEREAS, Community Board 3, Manhattan, submitted testimony in support of the appeal and the request to revoke the permits, citing concerns about adherence to zoning regulations; and

WHEREAS, the Greenwich Village Society for Historic Preservation submitted testimony citing the same concerns; and

WHEREAS, the Building is located on the north side of East Third Street, between First and Second Avenues, in an R7-2 zoning district; and

WHEREAS, on March 21, 2001, DOB approved a new building permit application (Application No. 102579354) to construct a seven-story residential building; and

WHEREAS, before any permit was issued, the Building was sold to the current owner who, on October 18, 2002, applied to amend the permit application to construct six stories of UG 2 residential use and six stories of UG 3 student dormitory use, and one story for mechanical equipment and accessory use; this application was approved on November 7, 2002, but no permit was pulled at that time; and

WHEREAS, on May 13, 2003, the owner filed a professionally certified new building application (Application No. 103454717) to construct a seven-story building with medical offices on the first floor and residential uses above; a permit was issued on May 15, 2003 and construction was begun; and

WHEREAS, on June 28, 2004, the Permit was issued, under Application No. 102579354 (the "Final Application"), to construct a 13-story building with six student dormitory floors; and

WHEREAS, in October 2004, in response to a complaint, the DOB determined that the Final Application lacked evidence of institutional control over the six student dormitory floors, and issued a ten-day notice of intent to revoke the permit; and

WHEREAS, the owner documented its plan to comply with DOB's requirements, submitted a draft restrictive declaration, and requested a 45-day extension to the October 20, 2004 notice of intent to revoke; and

WHEREAS, upon completing another audit of the

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application, the DOB notified the owner that the restrictive declaration was not acceptable and issued another ten-day letter of intent to revoke the approvals and permits based upon zoning, Multiple Dwelling Law, and Building Code objections; and

WHEREAS, the owner again responded to DOB's objections and, on May 5, 2005, DOB accepted revised plans reflecting the needed revisions (additional revisions showing new fenestration were filed on May 25, 2005); and

WHEREAS, additionally, on May 24, 2005, the owner submitted a copy of a lease for a ten-year term with New York Law School, and a restrictive declaration, which required UG 3 school dormitory occupancy on the first seven floors and portions of the eighth floor, was subsequently recorded; and

WHEREAS, on May 27, 2005, DOB rescinded its intent to revoke the approvals and permits, and ultimately issued a final certificate of occupancy on August 30, 2005; and

WHEREAS, the appellant now challenges DOB's rescission of its intent to revoke the Permit, based upon the following arguments: (1) the Building as occupied does not satisfy DOB's requirements for a student dormitory; and (2) the Building is not in compliance with certain zoning requirements: open space ratio (ZR §§ 12-10 and 23-142) and rear yard obstructions (ZR § 22-33(b)); and

WHEREAS, as to the first argument, the appellant contends that DOB has "arbitrarily" allowed a "speculative" community facility dormitory contrary to zoning; and

WHEREAS, further, the appellant questions DOB's ability to enforce the restrictive declaration regarding the dormitory use; and

WHEREAS, DOB disputes the appellant's claims, stating in response to the first that it issued its Final Determination only after the owner submitted a copy of an executed ten-year lease (with an option to renew for another ten-year term) with New York Law School, a recognized educational institution, as well as an executed and recorded restrictive declaration that restricts the use of the first seven above-grade floors and part of the eighth floor to UG 3 student dormitory use, as part of the amended Final Application; and

WHEREAS, DOB notes that evidence of institutional control is required, and states that it notified the owner that the permit issued under the Final Application would be revoked if proper documentation of institutional control was not presented; and

WHEREAS, as to the appellant's concern about the enforceability of the restrictive declaration, the DOB states that it was filed as a condition for the issuance of the certificate of occupancy and that there is a provision that the agreement may not be modified without DOB's consent; DOB notes that this is a standard clause in declarations submitted to satisfy a regulatory requirement; and

WHEREAS, on June 20, 2005, subsequent to the Final Determination, the DOB effectuated a rule, 1 RCNY 51-01, (the "Rule") concerning the classification of a student dormitory; DOB notes that since the Rule was not effective as of the date of the Final Determination, it is not a relevant consideration in the instant appeal; and

WHEREAS, the Board agrees with DOB that the objection about the institutional nexus concern was resolved when the owner submitted an executed lease with New York Law School and a restrictive declaration, and further notes that New York Law School now occupies the building with a UG 3 student dormitory, which the appellant does not dispute; and

WHEREAS, the Board further agrees that the subsequent enactment of the Rule concerning student dormitory classification should not be applied retroactively, and that it is therefore not relevant to the subject appeal; and

WHEREAS, the Board finds that DOB was within its discretion at the time the determination was made to accept a ten-year lease as sufficient proof of the necessary institutional nexus for a UG 3 student dormitory classification; and

WHEREAS, the appellant made a further argument that the lease contained an optional termination provision after five years; and

WHEREAS, the appellant argues that there is no lawful basis for the proposition that a five-year lease would be sufficient to establish an institutional nexus to develop a school dormitory; and

WHEREAS, DOB responded that prior to the enactment of the Rule, it accepted lease periods of less than ten years and leases with five-year termination provisions; and

WHEREAS, again, the Board does not find the appellant's argument persuasive, since it is clear that the Rule, and the provisions therein, should not be applied retroactively; and

WHEREAS, accordingly, the Board finds that appellant's first argument is without merit; and

WHEREAS, as to the second argument concerning purported zoning requirement deficiencies, the appellant contends that there is an insufficient amount of open space at the rear of the Building, as required as defined by ZR § 23-142, because the residential occupants apparently could not access the open space and

WHEREAS, DOB responds by pointing out that the revised plans clearly designate the residential tenants' means of access to the required open space through the cellar; and

WHEREAS, secondly, the appellant argues that the curb-level west and east terraces do not contribute to open space, pursuant to ZR § 12-10, because the terraces are less than 25 feet in width; and

WHEREAS, DOB responds that the 25-foot width requirement under ZR § 12-10 applies to open space that is on an above-grade roof and is not relevant to space at curb level for which there is no minimum dimension required; and

WHEREAS, again, the Board agrees with DOB, for the reason given, and notes that the revised plans reflect the required access; and

WHEREAS, accordingly, the Board finds that appellant's arguments concerning the open space requirement is without merit; and

WHEREAS, subsequent to the first hearing on the matter, the appellant submitted supplemental arguments concerning the open space, permitted obstructions, and the

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right to vest; and

WHEREAS, the appellant argued that the open space is not wheelchair-accessible because it appears only to be accessible through a stairwell; and

WHEREAS, DOB responds that the owner has agreed to include an accessible chair on the stairs to provide accessibility between the two levels of public space, and that this is a permitted obstruction pursuant to ZR §§ 23-44 (which allows steps for handicapped access) and 24-33(b) (which allows steps as a permitted obstruction); and

WHEREAS, the Board agrees with DOB that the stairwell, as modified, provides lawful wheelchair access to the entirety of the open space; and

WHEREAS, the appellant also argues that the Building violates ZR § 24-33(b)(3), amended on September 9, 2004 (the "Amendment"), because a dormitory use is not a permitted rear yard obstruction; and

WHEREAS, DOB responds by noting that the Building is not subject to this provision because the owner vested prior its enactment by completing the foundation in February 2004; and

WHEREAS, the appellant argues that the Building did not vest prior to the Amendment because the foundation was constructed under a prior permit for a residential building that did not include a dormitory and that that use did not comply with the law in effect at the time of construction; and

WHEREAS, the appellant contends that since a residential use is not a permitted obstruction, the vesting cannot be applied to the Building with its dormitory use; and

WHEREAS, DOB observes that the plans approved at the time construction began included community facility use in the rear yard and that this was permitted prior to the adoption of the Amendment, when the Building vested; and

WHEREAS, DOB further observes that sleeping accommodations were not approved in the rear yard obstruction as they were not permitted pursuant to ZR § 24-33(b)(1), before or after the Amendment's adoption; and

WHEREAS, the Board agrees with DOB as to appellant's vesting argument, and notes that prior to the Amendment, the owner had completed construction on a substantial portion of the Building, including the community facility portion in the rear yard, and that work was performed under a valid building permit that was never revoked; and

WHEREAS, the owner of the subject premises also observes that the recreation space is in the cellar, which is below-grade, and because the rear yard starts at grade, the rear yard obstruction provisions have no applicability to the recreation space; and

WHEREAS, accordingly, the Board finds that all of the appellant's arguments are without merit.

Therefore it is Resolved that the instant appeal, seeking a reversal of the determination of the Manhattan Borough Commissioner, dated May 27, 2005, refusing to cancel the rescission of the notice of revocation as to the Final Application, is hereby denied.

Adopted by the Board of Standards and Appeals, April 25, 2006.

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.

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 under ZR § 11-332, to permit an extension of time for the completion of construction of, and obtainment of certificates of occupancy for, 26 townhouses currently under construction at the subject premises; and

WHEREAS, the Board notes that while separate applications were filed for each permit for each of the townhouses, in the interest of convenience, it heard the cases together and the record is the same for all the applications; and

WHEREAS, a public hearing was held on this application on April 11, 2005 after due notice by publication in The City Record, and then to decision on April 25, 2006; and

WHEREAS, the site was inspected by a committee of the Board; and

WHEREAS, the Oakwood Civic Association raised concerns about the development's impact on flooding in the area; and

WHEREAS, the Board notes that all Building Code and other legal requirements must be met, including those concerning drainage, as enforced by the Department of Environmental Protection (DEP); and

WHEREAS, additionally, in response to the opposition's concern about the flooding conditions, the applicant stated that DEP had examined the issue before granting permits; and

WHEREAS, the subject premises are five separate groups of four to six townhouses, all bound by Mill Road, Aviston Street, and Riga Street; and

WHEREAS, the premises are currently located within an R3-X zoning district, but were formerly located within an R3-2 zoning district; and

WHEREAS, the development complies with the former R3-2 zoning district parameters as to floor area, building height, and lot coverage; and

WHEREAS, however, on December 3, 2003 (hereinafter, the "Enactment Date"), the City Council voted to adopt the

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rezoning of the area, which rezoned the sites to R3-X; and

WHEREAS, as of that date, foundation construction had been completed, such that the right to continue construction was vested pursuant to ZR § 11-331, which allows the Department of Buildings (DOB) to determine that construction may continue under such circumstances; and

WHEREAS, however, only two years are allowed for completion of construction and to obtain certificates of occupancy; and

WHEREAS, accordingly, because the two-year time limit has expired and construction is still ongoing, the applicant seeks relief pursuant to ZR § 11-30 et seq., which sets forth the regulations that apply to a reinstatement of a permit that lapses due to a zoning change; and

WHEREAS, first, the Board notes that ZR § 11-31(c)(1) defines construction such as the proposed enlargement, which involves the construction of two or more buildings on contiguous zoning lots, as a “minor development”; and

WHEREAS, for “minor development,” an extension of time to complete construction may be granted by the Board pursuant to ZR § 11-332; and

WHEREAS, ZR § 11-332 reads, in pertinent part: “In the event that construction permitted in Section 11-331 (Right to construct if foundations completed) has not been completed and a certificate of occupancy including a temporary certificate of occupancy, issued therefore within two years after the effective dater of any applicable amendment . . . the building permit shall automatically lapse 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 such building permit for two terms of not more than two years each for a minor development . . . In granting such an extension, the Board shall find that substantial construction has been completed and substantial expenditures made, subsequent to the granting of the permit, for work required by any applicable law for the use or development of the property pursuant to the permit.”; and

WHEREAS, as a threshold issue, the Board must determine that proper permits were issued, since ZR § 11-31(a) requires: “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, the applicant represents that all of the relevant DOB permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the record indicates that the following permits, and renewals, for the proposed development were lawfully issued to the owner by DOB, prior to the Enactment

Date: Permit Nos. 500592539-01-NB, 500592548-01-NB, 500592557-01-NB, 500592566-01-NB, 500592575-01-NB, 500592584-01-NB, 500592593-01-NB, 500592600-01-NB, 500592619-01-NB, 500592628-01-NB, 500592637-01-NB, 500592646-01-NB, 500592655-01-NB, 500592664-01-NB, 500592726-01-NB, 500592717-01-NB, 500592708-01-NB, 500592691-01-NB, 500592682-01-NB, 500592673-01-NB, 500592780-01-NB, 500592771-01-NB, 500592762-01-NB, 500592753-01-NB, 500592744-01-NB, and 500592735-01-NB (hereinafter, the “New Building Permits”); and

WHEREAS, the Board has reviewed the record and agrees that the New Building Permits were lawfully issued to the owner of the subject premises on the referenced date, prior to the Enactment Date; and

WHEREAS, turning to the substantive findings of ZR § 11-332, the Board notes that there is no fixed standard in an application made under this provision as to what constitutes substantial construction or substantial expenditure in the context of new development; and

WHEREAS, the Board also observes that the work to be measured under ZR § 11-332 must be performed after the issuance of the permit; and

WHEREAS, similarly, the expenditures to be assessed under ZR § 11-332 are those incurred after the permit is issued; and

WHEREAS, accordingly, as is reflected below, the Board only considered post-permit work and expenditures, as submitted by the applicant; and

WHEREAS, in its written statements and testimony, the applicant represents that, since the issuance of the New Building Permits, substantial construction has been completed and substantial expenditures were incurred; and

WHEREAS, the applicant states that work on the proposed townhouse developments subsequent to the issuance of the New Building Permits resulted in full townhouse completion in some cases, and 27 percent completion in others; and

WHEREAS, in support of this statement the applicant has submitted the following evidence: photographs of each lot showing the amount of work completed, ranging from partial framing at the least to total completion; building plans, stamped and sealed by the architect, indicating the amount of work completed; and copies of contracts, work orders, invoices, and cancelled checks; and

WHEREAS, the submitted plans, stamped and signed by the architect of record, indicating the extent of completion, corroborate the applicant’s statements as to the scope of work; and

WHEREAS, the Board has reviewed all documentation and agrees that it establishes that the afore-mentioned work was completed subsequent to the issuance of the valid New Building Permits; and

WHEREAS, the applicant represents that the following work remains to be done: some interior work throughout the development, and building construction at addresses 15 thru 25 Carmela Court and 589 thru 599 Mill Road; and

WHEREAS, thus, taken as a whole, the applicant asserts that construction of the five groups of townhouses was 69.26 percent complete as of December 3, 2005, with 32,564 square

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feet improved and 10,014 square feet remaining to be improved; and

WHEREAS, the Board notes that the actual completion of physical construction is substantial in of itself, in that it resulted in tangible above-grade construction; and

WHEREAS, as to costs, the applicant represents that the total value of the construction already completed is \$1,707,129.00 while the total project cost is \$2,464,800.00 (69 percent completion); the estimated financial expenditures actually paid are \$1,462,975.69 (59 percent paid); in support of this claim, the applicant has submitted invoices and cancelled checks; and

WHEREAS, the applicant contends that this percentage constitutes a substantial expenditure sufficient to satisfy the finding in ZR § 11-332; and

WHEREAS, based upon its review of all the submitted evidence, the Board finds that substantial construction was completed and that substantial expenditures were made since the issuance of the New Building Permits; therefore, the Board finds that the applicant has adequately satisfied all the requirements of ZR § 11-332, and that the owner is entitled to the requested reinstatement of the New Building Permits, and all other permits necessary to complete the proposed development; and

WHEREAS, accordingly, the Board, through this resolution, grants the owner of the site the requested two-year extension for completion of construction that is allowed under ZR § 11-332.

Therefore it is Resolved that this application made pursuant to ZR §11-332 to renew New Building Permits Nos. 500592539-01-NB, 500592548-01-NB, 500592557-01-NB, 500592566-01-NB, 500592575-01-NB, 500592584-01-NB, 500592593-01-NB, 500592600-01-NB, 500592619-01-NB, 500592628-01-NB, 500592637-01-NB, 500592646-01-NB, 500592655-01-NB, 500592664-01-NB, 500592726-01-NB, 500592717-01-NB, 500592708-01-NB, 500592691-01-NB, 500592682-01-NB, 500592673-01-NB, 500592780-01-NB, 500592771-01-NB, 500592762-01-NB, 500592753-01-NB, 500592744-01-NB, and 500592735-01-NB, 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 townhouse developments for one term of two years from the date of this resolution, to expire on April 25, 2008.

Adopted by the Board of Standards and Appeals, April 25, 2006.

263-03-A

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

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

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

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: John Carroll and Lawrence Einstein.

For Opposition: Michael J. Schweinsburg of Office of Councilwoman Gonzalez, and Deirdre Carson.

For Administration: Lisa Orrantia, 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 June 6, 2006, at 10 A.M., for decision, hearing closed.

317-05-A

APPLICANT – Kevin Shea, applicant; Woodcutters Realty Corp. Owner; Three on Third LLC, lessee.

SUBJECT – Application November 1, 2005 – Appeal challenging DOB’s interpretation of various provisions of the Zoning Resolution relating to the construction of a 16 story mixed use building in an C6-1/R7-2 Zoning district, which violates Zoning Floor Area exclusions, height and setback, open space and use regulations.

PREMISES AFFECTED – 4 East 3rd Street, South east corner of East Third and the Bowery, Block 458, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES – None.

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

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 7th Avenue, Brooklyn, northwest corner of 7th Avenue and 23rd Street, Block 900, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Howard Hornstein and Peter Geis.

For Opposition: Michael J. Schweinsburg of Office of Councilwoman Gonzalez, Aaron Brashear, Anne Marie Surfuro-Boehme, Yic Holwin and Monica Staleia.

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

THE VOTE TO CLOSE HEARING –

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

354-05-BZY

APPLICANT – Cozen & O'Connor for Global 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 62 unit 11 story
multiple dwelling under the prior Zoning R6. New Zoning
District is R6B/ C2-3 as of November 16, 2005.

PREMISES AFFECTED – 182 15th Street, Brooklyn, south
side of 15th Street, 320 feet west of 5th Avenue, Block 1047,
Lot 22 Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Howard Hornstein and Peter Geis.

For Opposition: Michael J. Schweinsburg of Office of
Councilwoman Gonzalez, Hannibal Galin, Jane Cypher, Bo
Samjopoulos, Joe Levine, and Jay Zeid.

For Administration: Janine Garland, 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 June 13,
2006, at 10 A.M., for decision, hearing closed.

361-05-BZY

APPLICANT – Greenberg & Traurig, LLP for Prospect
Terrace LLC, owner.

SUBJECT – December 19, 2005 – Proposed extension of
time to complete construction of a minor development
pursuant to Z.R. §11-331 under the prior R5 zoning district.
Current R5B zoning district.

PREMISES AFFECTED – 1638 8th Avenue, lot fronting on
8th Avenue between Prospect Avenue and Windsor Place,
Block 1112, Lots 52, 54, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Deirdre Carson.

For Opposition: Michael J. Schweinsburg of Office of
Councilwoman Gonzalez, John W. Carroll, Lawrence
Einstein, Mary Lakaszawski, Ann Schaetzel, Scott Neumann,
Marie Ann Patrissi, Margaret Lakaszawski, Josh Erman,
Lilian West, Rosalie Keenan, Anna M. Gargiuto, Phyllis
Lawless and Peter Brown.

For Administration: Lisa Orrantia, Department of Buildings.

ACTION OF THE BOARD – Laid over to June 20,
2006, at 10 A.M., for continued hearing.

366-05-A

APPLICANT – Greenberg & Traurig, LLP for Prospect
Terrace LLC, owner.

SUBJECT – Application December 19, 2005 – An appeal
seeking a determination that the owner of said premises has
acquired a common law vested rights to continue
development commenced under the prior R5 zoning district.
Current R5B zoning district.

PREMISES AFFECTED – 1638 8th Avenue, lot fronting on
8th Avenue between Prospect Avenue and Windsor Place,
Block 1112, Lots 52, 54, Borough of Brooklyn.

COMMUNITY BOARD #7BK

For Applicant: Deirdre Carson.

For Opposition: Michael J. Schweinsburg of Office of
Councilwoman Gonzalez, John W. Carroll, Lawrence
Einstein, Mary Lakaszawski, Ann Schaetzel, Scott Neumann,
Marie Ann Patrissi, Margaret Lakaszawski, Josh Erman,
Lilian West, Rosalie Keenan, Anna M. Gargiuto, Phyllis
Lawless and Peter Brown.

For Administration: Lisa Orrantia, Department of Buildings.

ACTION OF THE BOARD – Laid over to June 20,
2006, at 10 A.M., for continued hearing.

Jeffrey Mulligan, Executive Director.

Adjourned: 2:20 P.M.

REGULAR MEETING TUESDAY AFTERNOON, APRIL 25, 2006 1:30 P.M.

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

ZONING CALENDAR

160-04-BZ/161-04-A

APPLICANT – Mitchell S. Ross, Esq., Augusta & Ross, for
Daffna, LLC, owner.

SUBJECT – Application April 21, 2004 – Under Z.R. §72-21
to permit, in an M1-2 zoning district, the residential
conversion of an existing four-story commercial loft building
into eight dwelling units, contrary to Z.R. §42-10.

PREMISES AFFECTED – 73 Washington Avenue, East side

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of Washington Avenue 170' north of Park Avenue, Block 1875, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Mitchell Ross.

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 25, 2006.

81-05-BZ

CEQR #05-BSA-117K

APPLICANT – Bryan Cave LLP (Margery Perlmutter, Esq.) for the Lyon Group, LLC, owner.

SUBJECT – Application April 5, 2005 – Under Z.R. §72-21 to construct a 7-story plus mezzanine residential building containing 39 dwelling units and 10 accessory parking spaces in an R6 district, contrary to Z.R. §§23-145, 23-632, 23-633, 25-23.

PREMISES AFFECTED – 1061/71 52nd Street, north side, 229' east of Fort Hamilton Parkway, Block 5653, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Margery Perlmutter.

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, the decision of the Brooklyn Borough Commissioner, dated March 8, 2005, acting on Department of Buildings Application No. 301320372, reads, in pertinent part:

“[P]roposed residential FAR . . . does not comply (ZR 23-142 and 23-145)

[P]roposed lot coverage does not comply (ZR 23-145)

[S]treetwall [and] building height . . . does not comply (ZR 23-633)

[S]etback does not comply

[R]equired parking . . . does not comply (ZR 25-23)”;

and

WHEREAS, this is an application under ZR § 72-21, to

permit, on a site within an R6 zoning district, a six-story plus cellar residential building, with 31 dwelling units and ten accessory parking spaces, which does not comply with zoning provisions concerning residential Floor Area Ratio (FAR), lot coverage, street wall height, total building height, setback, and required parking, contrary to ZR §§ 23-142, 23-145, 23-633, and 25-23; and

WHEREAS, the applicant proposes to construct a six-story residential building with a cellar, with a total residential FAR of 4.08, a street wall height of 50.42 ft., a total height of 59.75 ft., lot coverage of 69.7 percent, one 15 ft. setback at 50.42 ft., no rear setback, and ten accessory parking spaces; and

WHEREAS, the proposed development will be based upon the Quality Housing zoning regulations set forth at Chapter 8, Article II of the ZR; and

WHEREAS, the applicant initially proposed to construct a seven story plus mezzanine, 79.33-foot high, 39-unit, 5.16 FAR residential building with ten parking spaces; and

WHEREAS, the Board expressed concern about this proposal, noting that there did not appear to be any justification for such significant FAR and height waivers, and also that the proposed building was too large for the character of the community and did not represent the minimum variance; and

WHEREAS, the applicant submitted two intermediate proposals, which were also determined by the Board to be too large; and

WHEREAS, the first intermediate proposal was a six-story plus mezzanine, 69.75 foot high, 33-unit, 4.48 FAR, residential building; and

WHEREAS, the second intermediate proposal was a six-story, 69.75-foot high, 33-unit, 4.53 FAR residential building, with a reduced mezzanine level set back 20 feet from the street line and 10 feet from the rear wall at that level; and

WHEREAS, however, the applicant presented the current version to the Board at the same time as the 4.53 FAR intermediate proposal; when the Board expressed a strong preference for it, since it was acceptable in terms of compatibility with the neighborhood and minimum variance, the applicant modified its 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 January 10, 2006 and March 14, 2006, and then to decision on April 25, 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 12, Brooklyn, recommends approval of the application on condition that the building only rise to six stories; and

WHEREAS, the subject premises is located on the north side of 52nd Street, 229 feet east of Fort Hamilton Parkway, and is a vacant 12,020 sq. ft. interior lot with 120 feet of frontage on 52nd Street (a 60 foot wide narrow street); and

WHEREAS, the applicant states that the site was historically occupied by an automobile repair and storage

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garage, but has been vacant since 2002; and

WHEREAS, the applicant notes that a Quality Housing development of six three-family homes was originally proposed for the site around 2002, but then abandoned when soil problems were discovered; and

WHEREAS, subsequently, an as-of-right hospital facility was proposed, but the sponsoring hospital abandoned the project in the face of community opposition; and

WHEREAS, the proposed building has the following non-complying bulk and parking parameters, based upon the Quality Housing regulations: (1) a residential FAR of 4.08 (2.43 is the maximum permitted); lot coverage of 69.7 percent (60 percent is the maximum permitted); a street wall height of 50.42 ft. (45 ft. is the maximum permitted); a building height of 59.75 ft. (55 ft. is the maximum permitted); a 15 ft. front setback at 50.42 ft. and no rear setback (a 15 ft. front setback and a 10 ft. rear setback is required at 45 ft.); and ten accessory parking spaces (16 spaces are required); and

WHEREAS, the applicant states that approximately 0.38 of the residential FAR will be located below grade in the cellar, but will still count as zoning floor area as the space will be allocated to individual units rather than the building as a whole; and

WHEREAS, the applicant states that the following are unique physical conditions, which create an unnecessary hardship in developing the site in compliance with applicable regulations: (1) the site is burdened with unsatisfactory soil conditions that necessitate a deep pile foundation system; (2) the soil is contaminated, and requires remediation; and (3) there are numerous one-story garage structures located directly to the north of the site, which are in poor condition and rest on no or little foundation; and

WHEREAS, as to the soil conditions, the applicant states that soil boring tests were taken in 2001; and

WHEREAS, the results of the tests were compiled in a geotechnical report submitted to the Board; and

WHEREAS, this report states that the upper layer of soil is fill, followed by layers of peat, inconsistent clay, and then silty sand and gravel, which extends to the maximum depths drilled; and

WHEREAS, the report recommends the removal of the first three layers of soil; and

WHEREAS, the applicant submitted a further soil analysis, which corroborates the earlier report, and which recommends a deep pile foundation system; and

WHEREAS, in addition to a deep pile foundation system, the applicant also states that construction preparation costs will be increased, as the soil must first be stabilized by gravel fill in order to support construction equipment; and

WHEREAS, the applicant also represents that the soil condition is unique to the site; and

WHEREAS, in support of this representation, the second analysis contains a comparison of the site to four other properties in the area, which reveals that the other properties' soil profiles are significantly different and could support a shallow conventional foundation; and

WHEREAS, additionally, the applicant cites to the soil boring test logs of a nearby hospital development site, which also reveal soil with better bearing capacity than the subject site; and

WHEREAS, as to contamination, the applicant states that the prior automotive uses contaminated the site with gasoline, which likely leaked from pre-existing tanks; and

WHEREAS, the applicant has submitted a report from an environmental consultant, which states that Phase I and II testing revealed the presence of petroleum-based contamination, likely related to tank spillage, all of which was remediated in 2004; and

WHEREAS, finally, as to the adjacency of the garages to the rear, the applicant states that any attempt to excavate or underpin the surrounding soils or drive piles within 20 to 25 feet of these structures is likely to cause vibration or undermine the surrounding soils, which could result in damage to these structures; and

WHEREAS, the applicant states that this prevents the building and the cellar (which will contain residential floor area and mechanical space) from being built full to the rear lot line, as setting back the cellar avoids increased construction costs; and

WHEREAS, the applicant also states that the setting back of the building constrains the ability to put in the required amount of parking on the first floor, as not enough space exists to accommodate both Building Code-compliant ramps and the required number of spaces; and

WHEREAS, the Board has reviewed this claim and the evidence submitted in support of it, and agrees that this condition, when considered in conjunction with the premium costs created by the soil and contamination conditions, leads to increased construction costs; and

WHEREAS, based upon the above, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant initially submitted a feasibility study analyzing the following as-of-right scenarios: (1) a 12-story, 4.8 FAR conforming community facility development; and (2) an 18-unit, 2.2 FAR conforming Quality Housing residential development; and

WHEREAS, the applicant initially concluded that these two as-of-right scenarios would result in a loss, due to the premium construction costs related to the above-stated unique physical conditions; and

WHEREAS, additionally, the applicant submitted a zoning and bulk study of an as-of-right height-factor residential development, with an FAR of 2.38; the applicant explained that 32 percent of the site would have to be devoted to open space, resulting in a building floor plate of 2,858 sq. ft., which would be costly to develop, and which would result in small unmarketable units due to the loss of usable floor area accorded to stairs and elevator cores; and

WHEREAS, as to the zoning and bulk study for as-of-

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right height-factor development, the Board agrees that the constraints of the site would prevent viable development; and

WHEREAS, however, the Board had concerns regarding certain aspects of the feasibility study common to the analyses of the two complying scenarios (as well as the lesser variance scenarios, discussed below), and identified them at hearing; and

WHEREAS, specifically, the Board questioned: (1) the significant amount of unexplained “carrying” costs and “holding and preparation” costs, ascribed to overall construction costs; and (2) the claimed sell-out prices of the condominium units, which the Board felt were too low; and

WHEREAS, in a subsequent submission, the applicant attempted to address these concerns, but the Board was not persuaded that the submission was adequate; and

WHEREAS, specifically, the Board noted that the carrying costs were described by the applicant to be related to “time constraints” without further explanation, and the holding costs were stated by the applicant to be related to the prior, failed community facility development; and

WHEREAS, accordingly, the Board expressed concern about the legitimacy of folding either of these costs into the feasibility analysis; and

WHEREAS, as to the condominium prices, the Board noted that while the applicant increased them, no evidence in support of the increase was presented; and

WHEREAS, however, the Board concluded that even if appropriate adjustments were made in response to each of these issues, neither of the complying scenarios analyzed by the applicant would result in a reasonable return; and

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

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

WHEREAS, the applicant states that the building would be consistent with the built conditions in the surrounding area in terms of bulk and height, and

WHEREAS, specifically, the applicant notes that there is a large four story school building (79.26 ft. above curb level) to the west of the site, and that there are six story apartment buildings (68.3 ft. above curb level) to the north; and

WHEREAS, the applicant states that the proposed building would rise to a height above curb level of approximately 59 ft., not including bulkheads, which is less than the school building and the apartment buildings; and

WHEREAS, the Board agrees that the proposed height of the building, in terms of visible impact, is compatible with the adjacent built conditions; and

WHEREAS, the applicant also submitted a study that showed that mid-block sites in the subject R6 zoning district have been developed with a significant number of six story

and taller buildings; and

WHEREAS, the Board agrees that this evidence supports the contention that the proposed building is compatible with the broader context of midblock development within the R6 zoning district and the subject neighborhood; and

WHEREAS, additionally, the Board also notes that the proposed street wall height, setback and overall height only minimally exceed what is permitted by the Quality Housing regulations, and would actually comply with what would be permitted under height-factor regulations; and

WHEREAS, thus, the Board concludes that the proposed development fits within the with the bulk envelope anticipated for multiple dwelling development in the subject R6 zoning district; and

WHEREAS, further, as noted above, not all of the 4.08 FAR will be located above grade such that it will be visible; 0.38 of the FAR is located below grade, further minimizing the impact of the bulk; and

WHEREAS, based upon the above, the Board agrees that the proposed building’s height and FAR are consistent with other buildings in the neighborhood; and

WHEREAS, as to parking, the applicant notes that it conducted a survey of on-street demand within 400 ft. of the site, which showed that during the midday peak period of parking demand, eight non-metered spaces were available within 400 ft., and an additional 17 spaces were available one block beyond the 400 ft. study area; 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 Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, in addition to the analyses of the conforming scenarios, the applicant also submitted analyses of the lesser variance scenarios described above (including the proposal), as well as a five-story, 25-unit, 3.5 FAR, conforming Quality Housing residential development, which complied with street wall and building height parameters; and

WHEREAS, the applicant initially concluded that none of these scenarios would realize a reasonable return, due to the significant premium construction costs and the extended construction period; and

WHEREAS, however, the feasibility analysis for these scenarios contained the same flaws identified above, namely the improper inclusion of excessive holding and carrying costs and the low condominium sell-out values; and

WHEREAS, the Board suggested to the applicant that these problems skewed any analysis of the lesser-variance scenarios in terms of return, and that the proposed 4.08 FAR building represented the minimum variance; and

WHEREAS, accordingly, after accepting guidance from the Board as to the amount of bulk waiver necessary to overcome the stated hardship costs, as well as to the need to reduce the building’s bulk in order to minimize impact on the character of the community, the applicant amended the proposal

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to the current version, which the Board finds to be 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 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. 05BSA117K, dated September 26, 2005; 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 within an R6 zoning district, a six-story plus cellar residential building, with 31 dwelling units and ten accessory parking spaces, which does not comply with applicable zoning provisions concerning residential Floor Area Ratio, lot coverage, street wall height, total building height, setback, and required parking, contrary to ZR §§ 23-142, 23-145, 23-633, and 25-23, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received April 25, 2006” – two (2) sheets and “Received March 21, 2006” – eleven (11) sheets; and *on further condition*:

THAT the following shall be the parameters of the proposed building: six stories plus a cellar, a residential FAR of 4.08; lot coverage of 69.7 percent; a street wall height of 50.42 ft; a building height of 59.75 ft.; a 15 ft. front setback at 50.42 ft. and no rear setback; and ten accessory parking spaces;

THAT all Quality Housing regulations not waived or

modified by the Board shall be complied with, as reviewed and approved by the Department of Buildings;

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

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

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

Adopted by the Board of Standards and Appeals, April 25, 2006.

187-05-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Salvatore Porretta and Vincenza Porretto, owners.

SUBJECT – Application August 9, 2005 – Under Z.R. §72-21– Propose to build a two family dwelling that will comply with all zoning requirements with the exception of two non-complying side yards and undersized lot area due to a pre-existing condition.

PREMISES AFFECTED – 78-20 67th Road, Southerly side of 67th Road, 170’ easterly of 78th Street, Block 3777, Lot 17, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Fredrick A. Becker.

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 August 3, 2005, acting on Department of Buildings Application No. 402168845, reads:

- “1. Proposed side yard is contrary to Section 23-461(a) of the Zoning Resolution.
2. Proposed floor area is contrary to section 23-141 of the Zoning Resolution. As per zoning changes from R5 to R4-1”; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, within an R4-1 zoning district, the proposed construction of a two-story plus attic, two-family home, that does not comply with applicable side yard and Floor Area Ratio requirements, contrary to Z.R. §§ 23-461(a) and 23-141; and

WHEREAS, the Board notes that the area in which the

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site is situated has recently been rezoned to an R4-1 district from R5, which cured the lot area and width objections that would arise within an R5 zoning district, but not the side yard objection; and

WHEREAS, additionally, the proposed Floor Area Ratio (FAR) of 0.98 does not comply with the maximum FAR in R4-1 districts; and

WHEREAS, a public hearing was held on this application on December 6, 2005, after due notice by publication in *The City Record*, with continued hearings on January 24, 2006 and February 28, 2006, and then to closure and decision on April 25, 2006; and

WHEREAS, Community Board 5, Queens, recommends disapproval of this application; and

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

WHEREAS, the site is located on the south side of 67th Road, 170 ft. east of 78th Street; and

WHEREAS, the site is 25 ft. in width, with a total lot area of 2,500 sq. ft.; and

WHEREAS, the site is currently vacant, and, according to the applicant, has never been developed; and

WHEREAS, the applicant states that the lot has existed in its present configuration since prior to 1961, and that there is no evidence that it was ever owned by the adjacent property owners or used in conjunction with the adjacent parcels; and

WHEREAS, the applicant proposes to construct a two-story plus attic, two-family home, with one parking space located within the building and one located between the street wall and street line, for which a reconsideration from DOB has been obtained; and

WHEREAS, the proposed home will have a total residential floor area of 2,447 sq. ft. (2,250 is the maximum permitted in a R4-1 district); a total residential FAR of 0.98 (0.90 is the maximum permitted in an R4-1 zoning district); and two side yards of 3'-0" each in width (8'-0" total width is required); and

WHEREAS, the applicant originally proposed a three-story home with an FAR of 1.25, and one 3'-0" side yard and one 2'-0" side yard; and

WHEREAS, the Board expressed concern about this proposal, finding it out of context relative to adjacent and area homes, and relative to the proposed rezoning; and

WHEREAS, at the request of the Board, the applicant modified the amount of stories and FAR, and proposed a home with a total FAR of 1.03; and

WHEREAS, the applicant then modified the proposal again to the current version; 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 vacant and narrow pre-existing lot that can not accommodate as of right development; and

WHEREAS, specifically, the applicant states that the width of the lot would only allow for a home with width of 12'-

0" and an inner dimension of 10'-0" due to the required side yards of 8'-0" and 5'-0"; and

WHEREAS, to reinforce the uniqueness of the lot, the applicant conducted a review of lots within the neighborhood, and concluded that of the 147 properties shown on the submitted 400 ft. radius diagram, only three vacant narrow lots exist, including the subject lot; 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 applicant represents that the requested waivers are necessary to develop the site with a habitable home; and

WHEREAS, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that an as of right development 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 applicant represents that the proposed residence, as modified over the course of the hearing process, will be consonant with the other homes existing in the area, and more in alignment with the new R4-1 zoning district parameters; and

WHEREAS, the applicant also notes that most of the properties on the subject block are occupied by two-family dwellings, and that the proposed building is identical in size or smaller than said dwellings; and

WHEREAS, the applicant observes that the width of the side yards as now proposed, when considered in conjunction with the yard conditions on the adjacent properties, will provide open area of at least five feet on each side; and

WHEREAS, at hearing, the Board expressed concern about the proposed garage and the slope of the ramp, on the basis that the slope did not comply with legal requirements; and

WHEREAS, however, the applicant stated that to comply with the slope would require that the garage door be set back more than six feet from the front wall of the home, which the applicant stated would not be desirable; and

WHEREAS, the applicant proposed that the Board waive the two-space requirement, and allow a single space parking pad on the side of the building; and

WHEREAS, however, the Board expressed a preference that the applicant seek a reconsideration from the Department of Buildings instead; as noted above, a reconsideration was obtained; 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, because the applicant reduced the amount of proposed floor area and increased the width of one of the side

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yards, the Board finds that this proposal is the minimum necessary to afford the applicant 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 R4-1 zoning district, the proposed construction of a two-story plus attic, two-family home, that does not comply with applicable side yard and Floor Area Ratio requirements, contrary to Z.R. §§ 23-461(a) and 23-141; *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 15, 2006”–two (2) sheets, “Received March 15, 2006”–one(1) sheet, and “Received April 10, 2006”–two (2) sheets; and *on further condition*:

THAT the parameters of the proposed building shall be as follows: an FAR of 0.98; a floor area of 2,447 sq. ft.; and two side yards of 3’-0” each;

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 25, 2006.

193-05-BZ

CEQR #06-BSA-012M

APPLICANT – The Law Office of Fredrick A. Becker, for 32 East 31st Street Corp., owner; Forever Young Spa Inc., lessee.

SUBJECT – Application August 16, 2005 – Under Z.R. 73-36 to allow the operation of a physical culture establishment in the cellar, first floor and first floor mezzanine of a ten story commercial building which is contrary to §32-21 Z.R.

PREMISES AFFECTED – 32 East 31st Street, East 31st Street between Park & Madison Avenues, Block 860, Lot 55, Borough of Manhattan

COMMUNITY BOARD #5M

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 Manhattan Borough Commissioner, dated August 8, 2005, acting on Department of Buildings Application No. 103761671, reads, in pertinent part:

“Proposed use of cellar and 1st floor for Physical Cultural Establishment and enlargement (1st floor mezzanine) accessory to Physical Cultural Establishment is not permitted as of right in C5-2 district and it is contrary to ZR 32-10.”; and

WHEREAS, this is an application under Z.R. §§ 73-36 and 73-03, to permit, within a C5-2 zoning district, the legalization of a physical culture establishment (“PCE”) located on the cellar, first floor, and first floor mezzanine of an existing ten-story commercial building, contrary to ZR § 32-10; 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 25, 2006; and

WHEREAS, Community Board 5, 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 south side of 31st Street, between Madison Avenue and Park Avenue; and

WHEREAS, the subject PCE occupies 2,500 sq. ft. in the cellar, 3,500 sq. ft. on the first floor, and 1,350 sq. ft. on the mezzanine; and

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

WHEREAS, the PCE will have the following hours of operation: daily, 9:00 A.M. to 12:00 A.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

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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. 06-BSA-012M, dated August 15, 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 C5-2 zoning district, the legalization of a physical culture establishment located on the cellar level, first floor, and first floor mezzanine of an existing ten-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received April 20, 2006"-(3) 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 25, 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 9:00 A.M. to 12:00 A.M., daily;

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 25, 2006.

194-04-BZ thru 199-04-BZ

APPLICANT – Agusta & Ross, for Always Ready Corp., owner.

SUBJECT – Application May 10, 2004 – Under Z.R. §72-21 Proposed construction of a six- two family dwelling, Use Group 2, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED –

9029 Krier Place, a/k/a 900 East 92nd Street, 142' west of East 92nd Street, Block 8124, Lot 75 (tentative 180), Borough of Brooklyn.

9031 Krier Place, a/k/a 900 East 92nd Street, 113.5' west of East 92nd Street, Block 8124, Lot 75 (tentative 179), Borough of Brooklyn.

9033 Krier Place, a/k/a 900 East 92nd Street, 93' west of East 92nd Street, Block 8124, Lot 75 (tentative 178), Borough of Brooklyn.

9035 Krier Place, a/k/a 900 East 92nd Street, 72.5' west of East 92nd Street, Block 8124, Lot 75 (tentative 177), Borough of Brooklyn.

9037 Krier Place, a/k/a 900 East 92nd Street, 52' west of East 92nd Street, Block 8124, Lot 75 (tentative 176), Borough of Brooklyn.

9039 Krier Place, a/k/a 900 East 92nd Street, corner of East 92nd Street, Block 8124, Lot 75 (tentative 175), Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Mitchell Ross.

ACTION OF THE BOARD – Laid over to June 13, 2006, at 1:30 P.M., for continued hearing.

286-04-BZ & 287-04-BZ

APPLICANT – Rothkrug Rothkrug Weinberg & Spector, LLP for Pei-Yu Zhong, owner.

SUBJECT – Application August 18, 2004 – Under Z.R. §72-21 to permit the proposed one family dwelling, without the required lot width and lot area is contrary to Z.R. §23-32.

PREMISES AFFECTED –

85-78 Santiago Street, west side, 11.74' south of McLaughlin Avenue, Block 10503, Part of Lot 13 (tent.#13), Borough of Queens.

85-82 Santiago Street, west side, 177' south of McLaughlin Avenue, Block 10503, Part of Lot 13 (tent.#15), Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Adam Rothkrug.

For Opposition: Kurt E. Huppe, Linda Valentino, Hueichun Shing and Tom Tang.

ACTION OF THE BOARD – Laid over to June 13,

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2006, at 1:30 P.M., for continued hearing.

351-04-BZ

APPLICANT – The Agusta Group, for Stahva Realty, owner.
SUBJECT – Application November 1, 2004 – Under Z.R. §73-44 – to allow parking reduction for proposed enlargement of existing office building located in an R6B/C2-2.

PREMISES AFFECTED – 210-08/12 Northern Boulevard, thru lot between Northern Boulevard and 45th Road, 150' east of 211th Street, Block 7309, Lots 21 and 23 (Tentative Lot 21), Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Sol Korman and Hiram Rothkrug.

ACTION OF THE BOARD – Laid over to June 13, 2006, at 1:30 P.M., for continued hearing.

396-04-BZ

APPLICANT – Stroock & Stroock & Lavan, LLP, by Ross Moskowitz, Esq., for S. Squared, LLC, owner.

SUBJECT – Application December 21, 2004 – Under Z.R. §72-21 to permit the Proposed construction of a thirteen story, mixed use building, located in a C6-2A, TMU zoning district, which does not comply with the zoning requirements for floor area, lot coverage, street walls, building height and tree planting, is contrary to Z.R. §111-104, §23-145, §35-24(c)(d) and §28-12.

PREMISES AFFECTED – 180 West Broadway, northwest corner, between Leonard and Worth Streets, Block 179, Lots 28 and 32, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Ross Moskowitz.

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

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

398-04-BZ

APPLICANT – Eric Palatnik, P.C., for Babavof Avi, owner.
SUBJECT – Application December 23, 2004 – Under Special Permit Z.R. §73-622 – proposed legalization of an enlargement of a single family residence which causes non-compliance to Z.R. §23-14 for open space and floor area. The premise is located in R2 zoning district.

PREMISES AFFECTED – 2103 Avenue M, northeast corner

of East 21st Street, Block 7639, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

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.

124-05-BZ

APPLICANT – Greenberg Traurig LLP/Deirdre A. Carson, Esq., for Red Brick Canal, LLC, Contract Vendee.

SUBJECT – Application May 20, 2005 – Under Z.R. §72-21 to allow proposed 11-story residential building with ground floor retail located in a C6-2A district; contrary to Z.R. §35-00, 23-145, 35-52, 23-82, 13-143, 35-24, and 13-142(a).

PREMISES AFFECTED – 482 Greenwich Street, Block 7309, Lot 21 and 23, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Deirdre Carson, Thomas McKam, Garrett Goorlay and William McQuizkin.

For Opposition: Victoria Faust, Peter Himmelstein, Geoffrey Hendricks, Filippo Manlia, Kate Koster and R. Barrett.

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

202-05-BZ

APPLICANT – Eric Palatnik, P.C., for Steve Chon, owner; Inn Spa World, Inc., lessee.

SUBJECT – Application August 24, 2005 – Under Z.R. to §73-36 to allow the proposed Physical Culture Establishment in a Manufacturing (M1-1) zoning district.

PREMISES AFFECTED – 11-11 131st Street, between 11th and 14th Avenues, Block 4011, Lot 24, Borough of Queens

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik, Steve Chon, Hiram Rothkrug.

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

320-05-BZ

APPLICANT – Rothkrug Rothkrug Weinberg, for John Catsimatidis, owner; 113 4th Sports Club, LLC, lessee.

SUBJECT – Application November 2, 2005 – Special Permit Under Z.R. §73-36, to allow the proposed operation of a physical cultural establishment located on portions of the cellar and first floor of an existing eight story mixed use structure. PCE use is 25, 475 sq ft of floor area. The site is located in a C6-1 Zoning District.

PREMISES AFFECTED – 113/9 Fourth Avenue, a/k/a 101/117 East 12th Street, N/E/C of Fourth Avenue and East

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12th Street, Block 558, Lot 7502, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Adam W. Rothkrug.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

323-05-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP for DB
Real Estate Enterprises, LLC, owner.

SUBJECT – Application November 9, 2005 – Under Z.R.
§72-21 to allow a proposed two-family dwelling that does not
provide a required side yard in an R5 Zoning District;
contrary to Z.R. §23-461(b).

PREMISES AFFECTED – 488 Logan Street, West side of
Logan Street, 190ft south of intersection with Pitkin Avenue,
Block 4227, Lot 33, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Adam W. Rothkrug.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

351-05-BZ

APPLICANT – The Law Offices of Howard Goldman/Emily
Simons, Esq., for Atlas Packaging Solutions Holding Co.,
owner.

SUBJECT – Application December 14, 2005 – Variance ZR
§72-21 to allow a proposed four (4) story residential building
containing eight (8) dwelling units in an M2-1 Zoning
District; contrary to Z.R. §42-00.

PREMISES AFFECTED – 146 Conover Street, south facing
block of Conover Street, between King and Sullivan Streets,
Block front of Conover Street, between King and Sullivan
Streets. Block 554, Lot 29, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Emily Simons and Jack Freeman.

ACTION OF THE BOARD – Laid over to July 11,
2006, at 1:30 P.M., for continued hearing.

369-05-BZ

APPLICANT – Eric Palatnik, P.C., for 908 Clove Road,
LLC, owner.

SUBJECT – Application December 22, 2005 – Variance ZR
§72-21 to allow a proposed four (4) story multiple dwelling
containing thirty (30) dwelling units in an R3-2 (HS) Zoning

District; contrary to Z.R. §§23-141, 23-22, 23-631, 25-622,
25-632.

PREMISES AFFECTED – 908 Clove Road (formerly 904-
908 Clove Road) between Bard and Tyler Avenue, Block
323, Lots 42-44, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik, Robert Pauls, Randy Lee,
Charles Bontempo and Frank Naso.

For Opposition: Vincent DiGesù, Patricia E. Schwimer and
Mary Ann H. McGowan.

ACTION OF THE BOARD – Laid over to June 13,
2006, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: 8:00 P.M.

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APRIL 26, 2006, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Wednesday morning, April 26, 2006, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL HEARING

334-05-BZ

APPLICANT – Kramer Levin Naftalis & Frank, LLP, for The Whitney Museum of American Art, owner.

SUBJECT – Application November 23, 2005 – Zoning Variance (use and bulk) pursuant to Zoning Resolution Section §72-21 to facilitate the expansion of an existing museum complex including the construction a nine (9) story structure located in C5-1(MP) and R8B (LH-1A) zoning districts. The proposed variance would allow modifications of zoning requirements for street wall height, street wall recess, height and setback, mandatory use, and sidewalk tree regulations; contrary to Z.R. §§ 24-591, 99-03, 99-051, 99-052, 99-054, 99-06.

PREMISES AFFECTED – 933-945 Madison Avenue, 31-33 East 74th Street, East side of Madison Avenue between East 74th and East 75th Streets, Block 1389, Lots 21, 22, 23, 24, 25, 50, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Michael J. Sillerman, Adam D. Weinberg, Mark Carroll, Eric Boorstyn, Robert Hurst, Glenn D. Lowry, Thelma Golden, Lisa Dennison, Samuel Lindenbaum, Anne Locke, Elizabeth Mckie, Judith Schneider, Barry Schneider, Lisa Anastos, William La Riche, Josh Harlan, Leatrice Fresiser, Roger P. Lang, Philae Knight, Barbara Savrin, Marcia Brookler, Terri Wolfe and Juanna Simer.

For Opposition: Howard Zipser, Jee Mee Kim, Rosa Schupbach, Elizabeth Ashby, Don Gringer, Arene Schneider, Sally Barnett, Edward Klimerman, Garretson Clinn, Donna Levy, Cahert Moore, Lane H. MonRongey, Ruth Holzep, Jordan Saunders and Forid Gainfed.

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

Jeffrey Mulligan, Executive Director.

Adjourned: P.M.