
BULLETIN

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AND APPEALS

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June 16, 2006

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100-06-BZ

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101-06-A

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102-06-A

1 Arcadia Walk , East side Arcadia Walk at interseccion of Oceanside Avenue & Breezy Point Boulevard., Block 16350, Lot 400, Borough of **Queens, Community Board: 14**. General City Law Section 35, Article 3 - Proposed reconstruction and enlargement of existing single family dwelling.

103-06-BZ

1324 East 23rd Street, East 23rd Street, between Avenues M and N., Block 7658, Lot 60, Borough of **Brooklyn, Community Board: 14**. SPECIAL PERMIT - 73-622-To seek the enlargement of the existing single family home.

104-06-BZ

3584 Bedford Avenue, Bedford Avenue., north of Avenue O, Block 7678, Lot 84, Borough of **Brooklyn, Community Board: 14**. SPECIAL PERMIT-73-622 - To partially legalize and partially alter a long standing, relatively minor enlargement of an existing single family residence.

105-06-A

240-23 128th Avenue, Corner of 128th Avenue and Hook Creek Boulevard, Block 12866, Lot 1, Borough of **Queens, Community Board: 13**. General City Law Section 35 - To permit the proposed development which rests partially within the mapped, but unbuilt portion of Hook Creek Boulevard.

106-06-BZ

1436 East 28th Street, West side of East 28th Street 280 between Avenue N and Kings Highway, Block 7681, Lot 62, Borough of **Brooklyn, Community Board: 14**. SPECIAL PERMIT - 73-622-To allow the enlargement of a two-family residence.

107-06-BZ

140 East 63rd Street, Northwest corner, block bounded by Lexington and third Avenue, East 62nd and East 63rd Streets., Block 1397, Lot 49, Borough of **Manhattan, Community Board: 8**. SPECIAL PERMIT - 73-36 - To allow a physical culture establishment use in the cellar, subcellar, first floor and second floor of a 22 story mixed use building.

108-06-BZ

143 West 30th Street, Between 6th and 7th Avenues, Block 806, Lot 4, Borough of **Manhattan, Community Board: 5**. Under 72-21 - To permit the proposed 15 story residential development.

109-06-BZ

1201 Avenue Z, North east corner of East 12th Street., Block 7433, Lot 148, Borough of **Brooklyn, Community Board: 15**. Under 72-21 - Proposed 2 1/2 story vertical extension with commercial remaining on first floor and 5 dwelling units above.For toatal floor area, yards, wall height, building height, setback, sky exposure plane and parking requirrements.

110-06-BZ

1473 East 21st Street, 325' north of intersection formed by East 21st Street and Avenue N, Block 7657, Lot 23, Borough of **Brooklyn, Community Board: 14**. SPECIAL PERMIT-73-622 - Extension to propose one family dwelling contrary to 23-141 floor area ratio and open space ratio, 23-461 side yard and 23-47 rear yard.

111-06-BZ

124 Norfolk Street, West side of Norfolk Street between Shore Boulevard and Oriental Boulevard, Block 8756, Lot 14, Borough of **Brooklyn, Community Board: 15**. SPECIAL PERMIT-73-622 - To allow the legalization in part of the enalrgement of a single family residence.

DOCKET

112-06-BZ

507 East 176th Street, Northwest corner of Third Avenue and 176th Street, Block 2924, Lot 38,39,42, Borough of **Bronx, Community Board: 6**. Under 72-21 - To permit the construction of a seven-story and cellar community facility/residential building within an accessory supportive social services.

113-06-BZ

3030 Broadway, Broadway, Amsterdam Avenue, West 116th and West 120th Streets, Block 1973, Lot 1, Borough of **Manhattan, Community Board: 8**. Under 72-21 - To allow a proposed 13-story academic building to be constructed on an existing university campus (Columbia University). The project requires lot coverage and height and setback waivers and is contrary to Z.R. sections 24-11 and 24-522.

114-06-BZ

124 Norfolk Street, West side of Norfolk Street between Shore Boulevard and Oriental Boulevard., Block 8756, Lot 10, Borough of **Brooklyn, Community Board: 15**. SPECIAL PERMIT-73-622 - To allow the legalization of the enlargement of a single family residence, which exceeds the allowable floor area ratio and lot coverage and provides less than the minimums open space required.

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

JULY 18, 2006, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, July 18, 2006, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

405-71-BZ

APPLICANT – Sheldon Lobel, P.C., for Sarlanis Enterprises, LLC, owner; Amerada Hess Corporation, lessee.

SUBJECT – Application April 21, 2006 - Pursuant to ZR 73-11 for the proposed redevelopment of an existing automotive service station (Shell Station) with accessory uses (UG16) to a Gasoline Service Station (Hess) with an accessory convenience store (UG16).

PREMISES AFFECTED – 3355 East Tremont Avenue, eastern side of East Tremont Avenue at the intersection with Baisley Avenue, Block 5311, Lot 7, Borough of The Bronx.

COMMUNITY BOARD #10BX

286-79-BZ

APPLICANT – Walter T. Gorman, P.E., for Amerada Hess Corp., owner.

SUBJECT – Application April 13, 2006 - Proposed Extension of Term for an automobile service station located in a C1-2/R2 zoning district. The application also seeks to waive the Board's rules of practice and procedure and extend the term of the special permit for a period of ten (10) years which expired on June 19, 2004 and extend it to June 19, 2014.

PREMISES AFFECTED – 219-28 to 219-38 Hillside Avenue, southeast corner of Springfield Boulevard, Block 10680, Lot 1, Borough of Queens.

COMMUNITY BOARD #1Q

182-95-BZ

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

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

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

COMMUNITY BOARD #7M

183-95-BZ

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

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

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

COMMUNITY BOARD #7M

269-98-BZ

APPLICANT – Mothiur Rahman, for Mothiur Rahman, owner.

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

PREMISES AFFECTED – 70 East 184th Street, aka 2363 Morris Avenue, south side of East 184th Street, corner formed by the intersection of Morris Avenue, Block 3183, Lot 42, Borough of The Bronx.

COMMUNITY BOARD #5BX

APPEALS CALENDAR

161-05-A

APPLICANT – Tottenville Civic Association, for Willow Avenue Realty, Inc., owner.

SUBJECT – Application July 15, 2005 – Appeal challenging a Department of Buildings determination, dated June 12, 2005, that the subject premises is comprised of two separate zoning lots based on DOB 's interpretation of the definition of ZR 12-10" zoning lot"(c) & (e) and therefore could be developed as individual lots.

PREMISES AFFECTED – 7194, 7196 Amboy Road and 26 Joline Avenue, Block 7853, Lots 47, 74, Richmond, Borough of Staten Island.

COMMUNITY BOARD #3SI

12-06-A

APPLICANT – Stuart A. Klein, Esq., for Carl F. Mattone, owner.

SUBJECT –Application January 23, 2006 - Appeal seeking a reconsideration of Department of Buildings refusal to revoke permits for a single family home which allowed numerous violations of the Zoning Resolution required side yards, waterfronts yards, and bulk regulations. Premises is located within R1-2 Zoning District.

PREMISES AFFECTED – 37-19 Regatta Place, bounded by Bay Street and the Little Neck Bay, Block 8071, Lot

CALENDAR

32, Borough of Queens.

COMMUNITY BOARD #11Q

JULY 18, 2006, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, July 18, 2006, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

363-05-BZ

APPLICANT – Dominick Salvati and Son Architects, for 108 Dwelling, LLC, owner.

SUBJECT – Application December 16, 2005 – Zoning variance pursuant to Z.R. Section 72-21 to allow a proposed three (3) story residential building containing six (6) dwelling units and three (3) accessory parking spaces in an R5 district; contrary to Z.R. sections 23-141, 23-45(a), 23-462(a), 23-861, and 25-23.

PREMISES AFFECTED – 5717 108th Street, Westside Avenue between Van Doren Street and Waldron Street, Block 1966, Lot 83, Borough of Queens.

COMMUNITY BOARD #4Q

32-06-BZ

APPLICANT – Stadtmauer Bailkin, LLP, by Steven M. Sinacori, for Manhattan College, owner.

SUBJECT – Application February 28, 2006 – Special permits pursuant to Z.R. sections 73-482 and 73-49 to allow an accessory group parking facility in excess of 150 spaces and to allow roof-top parking. Zoning variance pursuant to Z.R. Section 72-21 is also proposed to allow proposed parking facility to violate applicable height and setback requirements of Z.R. Section 33-431. Premises is located within an R6/C2-3 zoning district.

PREMISES AFFECTED – 5935 Broadway, east side of Broadway between 242nd Street and Manhattan College Parkway, Block 5776, Lot 632, Borough of The Bronx.

COMMUNITY BOARD #8BX

54-06-BZ

APPLICANT – Eric Palatnik, P.C., for The Cheder, owner.

SUBJECT – Application March 21, 2006 – Variance application pursuant to Z.R. 72-21 to permit the development of a three-story & cellar Use Group 3 Yeshiva for grades 9 through 12 and first, second, and third years of college as well as an accessory dormitory use (Use Group 4) to house a small portion of those college age students. The Premises is located within a R3-1 zoning district. The site is currently occupied by two single-family dwellings which

would be demolished as part of the proposal. The proposal seeks to vary ZR Sections 113-51 (Floor Area); 113-55 & 23-631 (Perimeter Wall Height, Total Height & Sky Exposure Plane); 113-542 & 23-45 (Front Yard & Setback); 113-543 & 23-461(a) (Side Yard); 113-544 (Rear Yard); 113-561 & 23-51 (Parking); and 113-22 (Loading Berth).

PREMISES AFFECTED – 401 and 403 Elmwood Avenue, between East 3rd and East 5th Streets, Block 6503, Lot 99, Borough of Brooklyn.

COMMUNITY BOARD #12BK

64-06-BZ

APPLICANT – Greenberg Traurig LLP/Jay A. Segal, for 363 Lafayette LLC, owner.

SUBJECT – Application April 11, 2006 – Zoning variance pursuant to Z.R. Section 72-21 to allow a seven (7) story multi-family residential building with ground floor retail containing fourteen (14) dwelling units. The site is located within an M1-5B district; contrary to Z.R. 42-10.

PREMISES AFFECTED – 363-371 Lafayette Street, between Great Jones and Bond Streets, Block 530, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

Jeff Mulligan, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, JUNE 6, 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, March 28, 2006 as printed in the bulletin of April 6, 2006, Volume 91, Nos. 13 & 14. If there be no objection, it is so ordered.

SPECIAL ORDER CALENDAR

32-38-BZ

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

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

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

COMMUNITY BOARD #2BK

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 for an amendment to eliminate the term of a previously granted variance; and

WHEREAS, a public hearing was held on this application on May 9, 2006, after due notice by publication in *The City Record*, and then to decision on June 6, 2006; and

WHEREAS, Community Board 2, Brooklyn, recommends approval of this application; and

WHEREAS, the subject premises is located on the west side of Third Avenue between Bergen and Dean Streets; and

WHEREAS, the lot is located within an R6 zoning district, and is surrounded primarily by residential uses, there are also some manufacturing uses in the vicinity; and

WHEREAS, the lot area is approximately 43,500 sq. ft. and is improved upon with an approximately 98,000 sq. ft., four-story building; and

WHEREAS, in 1938, the Board granted an application under the referenced calendar number to permit use of the site as a milk plant; and

WHEREAS, subsequently, in 1961, the Board approved a change of use in a portion of the building from milk plant to UG 17 manufacturing use; and

WHEREAS, most recently, on March 19, 1993, the Board, pursuant to ZR § 11-413, authorized a change of the UG 17 manufacturing use to UG 6 office use; and

WHEREAS, the term of the authorization was limited to 20 years, to expire on March 19, 2013; and

WHEREAS, the application is brought on behalf of the New York City Human Resources Administration (HRA); and

WHEREAS, HRA occupies the first and second floors of the building and the third and fourth floors are currently vacant; and

WHEREAS, HRA intends to expand its operations to the third and fourth floors, which requires extensive renovations including the installation of an HVAC system, computer wiring, and new bathrooms; and

WHEREAS, HRA asserts that it has already invested more than \$6.5 million for renovations and plans to contribute another \$1 million; and

WHEREAS, HRA represents that its lender requires that there be no term limit on the authorization, in order to secure funding for the renovations; and

WHEREAS, the Board notes HRA's long-term commitment to the building; and

WHEREAS, upon review, the Board finds the requested elimination of the twenty-year term appropriate, provided that there is compliance with the conditions set forth below and in the prior resolutions.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated March 19, 1993, so that as amended this portion of the resolution shall read: "to eliminate the term of the previously granted change of use; *on condition*:

THAT any change in ownership or occupancy of the subject building shall require the prior approval of the Board;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (Alt. No. 300349825)

Adopted by the Board of Standards and Appeals, June 6, 2006.

295-77-BZ

MINUTES

APPLICANT – Walter T. Gorman, P.E., for Alfred M. Lama, Barnik Associates LLC, owner; Exxon Mobil, lessee.

SUBJECT – Application September 27, 2005 – Reopening for extension of term/waiver of a variance Z.R. §72-21 for the continued use of a gasoline service station which expired on October 1, 2003 for an additional ten (10) years; and an amendment to legalize the conversion of a portion of the service building from office/sales and attendant’s area to an accessory convenience store, the erection of a trash enclosure, air pump tower and car vacuum, a public telephone and wooden planter boxes. The premise is located in an C1-2 in R4 zoning district.

PREMISES AFFECTED – 87-10 Northern Boulevard, southside blockfront between 87th and 88th Street, Block 1435, Lot 1, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Walter T. Gorman.

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 waiver of the Rules of Practice and Procedure, a re-opening, an amendment to the previously granted variance, and an extension of term; and

WHEREAS, a public hearing was held on this application on April, 4, 2006, after due notice by publication in *The City Record*, with continued hearing on May 16, 2006, and then to decision on June 6, 2006; and

WHEREAS, Community Board 3, Queens, recommends approval of this application on condition that fencing and planting improvements are implemented and that the restrooms be made handicapped accessible; and

WHEREAS, the premises is located on the south side of Northern Boulevard between 87th and 88th Streets; and

WHEREAS, the site is located within an R4 (C1-2) zoning district and is improved upon with a gasoline service station; and

WHEREAS, the Board has exercised jurisdiction over the subject site since October 1, 1957 when, under BSA Cal. No. 395-39-BZ, Vol. II, the Board granted an application for a gasoline service station; and

WHEREAS, subsequently, on December 5, 1989, under the subject calendar number and, the Board granted an amendment to permit a re-design of the service station; and

WHEREAS, most recently, on November 23, 1993, the Board granted an extension of term of the 1989 grant, to expire on October 1, 2003; and

WHEREAS, the applicant now seeks an extension of term for ten years; and

WHEREAS, in addition to a new extension of term, the applicant requests an amendment to legalize the conversion of a portion of the service building from office/sales use to an accessory convenience store; the erection of a trash enclosure;

the installation of an air tower and car vacuum in front of the service building; the installation of a public telephone along the westerly lot line; and the installation of wooden planter boxes; and

WHEREAS, at hearing, the Board asked the applicant to investigate the possibility of designing a handicapped accessible restroom; and

WHEREAS, at the Board’s suggestion, the applicant proposed a larger restroom that could provide better maneuverability; and

WHEREAS, the applicant also revised the site plans to include six ft. tall opaque fencing with slats to provide screening for the adjacent neighbors; and

WHEREAS, additionally, the applicant proposes to remove enough accessory parking spaces to provide two handicapped accessible parking spaces; and

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

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure and *reopens and amends* the resolution, as adopted on December 5, 1989, as subsequently extended, so that as amended this portion of the resolution shall read: “to legalize the conversion of a portion of the service building from office/sales use to an accessory convenience store; the erection of a trash enclosure; the installation of an air tower and car vacuum in front of the service building; the installation of a public telephone along the westerly lot line; and the installation of wooden planter boxes; and to extend the term of ten years from October 1, 2003 to expire on October 1, 2013, *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received May 1, 2006’–(6) sheets; and *on further condition*:

THAT the term of this grant shall be for ten years, to expire on October 1, 2013;

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

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

THAT DOB shall review and approve the layout of the onsite parking;

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)/configuration(s) not related to the relief granted.” (DOB Application No. 402212191)

Adopted by the Board of Standards and Appeals, June 6, 2006.

MINUTES

545-78-BZ

APPLICANT – Petraro & Jones, for Cotaldo Vasapolli, owner.

SUBJECT – Application January 15, 2004 – Reopening for an extension of term of a variance for a commercial vehicle storage establishment in an R4 zoning district. The term expired on March 27, 2002. The application also seeks a waiver of the Board’s rules of practice and procedure for an extension of term application filed more than one year, but less than two years, following expiration of the term. The premise is located in an R4 zoning district.

PREMISES AFFECTED – 901/903 Pine Street, west side of Pine Street 250 feet north of intersection of Pine Street and Cozine Avenue. Block 4547, Lot 49 (formerly 49/50), Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Steven Simicich.

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 waiver of the Rules of Practice and Procedure, a re-opening, and an extension of term of a previously granted variance; and

WHEREAS, a public hearing was held on this application on April 4, 2006, after due notice by publication in *The City Record*, with continued hearing on May 16, 2006, and then to decision on June 6, 2006; and

WHEREAS, a committee of the Board conducted a site visit of the subject premises; and

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

WHEREAS, the premises is a 4,000 sq. ft. lot located on the west side of Pine Street, 250 ft. north of the intersection of Pine Street and Cozine Avenue; and

WHEREAS, the site is located within an R4 zoning district and is improved upon with a 4,000 sq. ft., one-story masonry building occupied as a commercial vehicle storage establishment for a contractor; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 27, 1978, when, under the subject calendar number, the Board granted a variance for the vehicle storage establishment with a 15-year term; this term expired on March 27, 1994; and

WHEREAS, on March 19, 1996, the Board granted an extension of term for only three years, to expire on March 27, 1997; and

WHEREAS, further, the grant also provided that no waiver of the Board’s Rules of Practice and Procedure would be available to extend the time to seek a new extension of term; and

WHEREAS, the resolution for this extension of term indicates that evidence was presented to the Board concerning a

lack of compliance with the prior resolution, including improper usage of the site, significant truck traffic, and impermissible fuel pumps; and

WHEREAS, on October 28, 1997, the Board again extended the term for a period of five years, to expire on March 27, 2002, and the resolution included the same condition that no waiver of the Board’s Rules would be available; and

WHEREAS, the applicant is now before the Board for an additional five year term, and represents that the terms and conditions of prior resolutions have been complied with, including that the vehicle storage will be restricted to the contractor’s establishment; and

WHEREAS, the applicant represents that this will be the last application for an extension of term, as the business at the site will be closing; and

WHEREAS, as noted above, the Board conducted a site visit and did not observe any objectionable effects from the establishment, though it did appear that new residential development was occurring on the subject block; and

WHEREAS, since the Board observed significant conforming development in the immediate vicinity, the Board concludes that any extension of the term of this grant should be limited to a single term; this will allow the site to be developed residentially and will also minimize any impact on the character of the community, which is becoming predominantly residential; and

WHEREAS, accordingly, based upon the submitted evidence and its site visit, the Board finds the requested extension appropriate to grant for a single, non-renewable term of five years, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure and *reopens and amends* the resolution, as adopted on March 27, 1978, as subsequently extended, so that as amended this portion of the resolution shall read: “to extend the term for five years from June 6, 2006, *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received January 15, 2006’-(2) sheets and ‘April 12, 2006’-(1) sheet; and *on further condition*:

THAT the term of this grant shall be for five years from the last expiration date, to expire on June 6, 2011;

THAT upon expiration of the term, the premises shall only be used for conforming uses;

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

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect and shall be listed on the certificate of occupancy;

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

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

MINUTES

(DOB Application No. 301664553)

Adopted by the Board of Standards and Appeals, June 6, 2006.

26-94-BZ

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

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

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

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Phillip Rampulla.

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 re-opening and an extension of term of a previously granted special permit for an eating and drinking establishment; and

WHEREAS, a public hearing was held on this application on May 9, 2006, after due notice by publication in *The City Record*, and then to decision on June 6, 2006; and

WHEREAS, a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar, conducted a site visit of the subject premises; and

WHEREAS, Community Board 3, Staten Island, recommends approval of this application; and

WHEREAS, the premises is a 10,400 sq. ft. lot located at the intersection of Mansion and McKeon Avenues; and

WHEREAS, the site is located within a C3A zoning district, within the Special South Richmond district (SSRD), and is improved upon with a 4,270 sq. ft. two-story building occupied as an eating and drinking establishment doing business as the Marina Grande (the “Restaurant”); and

WHEREAS, the Restaurant has two dining rooms and a clam bar, with a total occupancy of 244 persons, as well as a 5,210 sq. ft. outdoor attended parking area for 28 cars; and

WHEREAS, the Board has exercised jurisdiction over the subject site since October 4, 1984, when, under BSA Cal. No. 826-84, the Board granted a special permit under ZR § 73-242 for an eating and drinking establishment for a term of five years; this term expired on April 2, 1990; and

WHEREAS, on March 5, 1996, under the subject calendar number, the Board granted a reinstatement of the lapsed special permit, and extended the term for an additional five years to expire on March 5, 2001; this grant was extended again for five years on December 4, 2001, expiring on March 5, 2006; and

WHEREAS, the Restaurant is now before the Board for an additional five year term; and

WHEREAS, at hearing, the Board asked about compliance with certain conditions indicated on the previously approved site plan, specifically: (1) whether a “no left turn” sign was placed at the exit from the Restaurant’s accessory parking lot, as required; and (2) whether a storage container in the parking lot, which was not part of the approved site plan, had been removed; and

WHEREAS, in response, the applicant provided a picture of the sign, and a picture of the parking lot showing that the container had been removed; and

WHEREAS, at hearing, the Board also asked whether perpendicular parking was allowed on Mansion Avenue; and

WHEREAS, the applicant responded perpendicular parking on Mansion Avenue near the premises had been allowed since 1992 and that DOT was in the process of placing signage allowing such perpendicular parking, and submitted a work order from DOT for such signage; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, as adopted on March 5, 1996, as subsequently extended, so that as amended this portion of the resolution shall read: “to extend the term of the special permit for an eating and drinking establishment for five years from March 5, 2006, *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received May 23, 2006’–(3) sheets and ‘June 6, 2006’–(1) sheet; and *on further condition*:

THAT the term of this grant shall be for five years from the last expiration date, to expire on March 5, 2011;

THAT the hours of operation shall be from 8 a.m. to midnight Sunday through Thursday, and 8 a.m. to 2 a.m. Friday and Saturday;

THAT the accessory parking area shall be attended;

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

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect and shall be listed on the certificate of occupancy;

THAT the layout of the parking area shall be 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; 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.”

(DOB Application No. 500824236)

Adopted by the Board of Standards and Appeals, June 6, 2006.

MINUTES

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

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 June 20, 2006, at 10 A.M., for decision, hearing closed.

540-84-BZ

APPLICANT – Kenneth H. Koons, for Herman Pieck, owner.
SUBJECT – Application December 8, 2005 – Pursuant to section Z.R. §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

APPEARANCES –

For Applicant: Caroline Harris and Kenneth H. Koons.

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 20, 2006, at 10 A.M., for decision, hearing closed.

335-88-BZ

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

SUBJECT – Application December 16, 2005 – Pursuant to Z.R. §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

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 July 11, 2006, at 10 A.M., for decision, hearing closed.

132-97-BZ/24-06-A

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

SUBJECT – Application June 7, 2005 and January 3, 2006 – Extension of Term/Amendment/Waiver for an eating and drinking establishment with no entertainment or dancing and occupancy of less than 200 patrons, UG 6 located in a C-3 (SRD) zoning district. Proposed legalization of four on-site parking spaces for an eating and drinking establishment (Fiore Di Mare) located in the bed of a mapped street, in contrary to Section 35 of the General City Law.

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

COMMUNITY BOARD# 3SI

APPEARANCES –

For Applicant: Joseph D. Manno, Esq.

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 July 11, 2006, at 10 A.M., for decision, hearing closed.

111-01-BZ

APPLICANT – Eric Palatnik, P.C., for George Marinello, owner; Wendy's Restaurant, lessee.

SUBJECT – Application January 12, 2006 – Pursuant to Z.R. §§72-21 and 72-22 for the extension of term for ten years for an accessory drive thru facility at an eating and drinking establishment (Wendy's) which one-year term expired February 1, 2006. An amendment is also proposed to extend the hours of operation of the accessory drive-thru facility to operate until 4 a.m. daily. The premise is located in a C1-2/R-5 zoning district.

PREMISES AFFECTED – 9001 Ditmas Avenue, between 91st Street and Remsen Avenue, Block 8108, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD#17BK

APPEARANCES –

MINUTES

For Applicant: Eric Palatnik.

For Opposition: Esme Trotman and Maria Shake.

ACTION OF THE BOARD – Laid over to July 18, 2006, at 10 A.M., for continued hearing.

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

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Zara Fernades.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated November 23, 2004, acting on Department of Buildings Application Nos. 401994277 and 401994286 reads, in pertinent part:

“Building contrary to GCL 35.”; and

WHEREAS, a public hearing was held on this application on June 6, 2006, after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated January 27, 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated February 23, 2006, the Department of Environmental Protection has reviewed the above project and has no objections; and

WHEREAS, by letter dated April 11, 2006, the Department of Transportation 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 November 23, 2004, acting on Department of Buildings Application Nos. 401994277 and 401994286, is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed

with the application marked “Received June 6, 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, June 6, 2006.

162-05-A

APPLICANT – Jay Segal, Esq., Greenberg & Traurig, LLP, for William R. Rupp, owner.

SUBJECT – Application July 15, 2005 – To appeal a final determination from the Department of Buildings dated June 15, 2005 in which they contend that the a privacy wall must be demolished because it exceeds the height limitation set by the Building Code and that the project engineer has failed to show that the Wall has been engineered and built according to code.

PREMISES AFFECTED – 19-21 Beekman Place, a/k/a 461 East 50th Street, located at east side of Beekman Place between East 50th Street and East 51st Street, Block 1361, Lot 117, Borough of Manhattan.

COMMUNITY BOARD#6BK

APPEARANCES –

For Applicant: Jay Segal.

ACTION OF THE BOARD – Appeal denied.

THE VOTE TO GRANT –

Affirmative: Vice-Chair Babbar.....1

Negative: Chair Srinivasan, Commissioner Chin and Commissioner Collins.....3

THE RESOLUTION–

WHEREAS, the instant appeal comes before the Board in response to a final determination of the Manhattan Borough Commissioner, dated June 15, 2005 (the “Final Determination”), issued as to a structure that the Department of Buildings (“DOB”) deemed to be unsafe and as to DOB Permit No. 103981318 (the “Permit”), under which part of this structure was built; and

WHEREAS, the Final Determination reads, in pertinent part: “This is to set forth the Department’s final determination, pursuant to the April 8, 2005 stipulation in Rupp v. NYC Department of Buildings (the “Stipulation”) for purposes of appeal to the Board of Standards and Appeals (“BSA”). The referenced application and this determination concern construction of a brick and masonry wall (the “Wall”) that rises to a height of approximately 60 feet above the roof of the second story of the Premises.

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By letter dated February 15, 2005, the Department set forth objections to the structural adequacy or reliability of the Wall and issued a Stop Work Order. On February 18, 2005 the Department issued an Emergency Declaration directing that the Wall be demolished. Following the commencement of an Article 78 proceeding challenging the Emergency Declaration and the issuance of a temporary restraining order on February 28, 2005 prohibiting the Department from demolishing the Wall or from otherwise interfering with Mr. Rupp's enjoyment of the Premises, Mr. Rupp's representatives and the Department have had interaction pursuant to the terms of the Stipulation regarding temporary measures to shore the Wall pending appeal to the BSA.

As of this date, the Department has accepted from Louis Silbert, P.E. submissions indicating that the Wall has been temporarily stabilized by means of temporary construction. However, Mr., Silbert's submissions failed to show that the Wall, as constructed, has been engineered or otherwise designed and built in accordance with the Building Code. Specifically, there is insufficient evidence that the Wall as designed and built has adequate lateral support. While Mr. Silbert has submitted sketches and calculations purporting to demonstrate otherwise, these submissions are not based on the as-built construction nor on the construction proposed in the original submission and accordingly have not undergone technical review. Because construction of the Wall is questionable, pursuant to the provisions of Administrative Code §27-597, it must be demolished.

Apart from the deficiencies detailed above, the Wall is too high. If and when the Wall is proposed to be constructed in a manner that accords with Code and with proper engineering practices, consistent with §27-509, it will only be allowed to a height of six feet above the roof of the second story portion of the building. This is the Department's final determination.”; and

WHEREAS, appellant is the owner of the subject premises and was represented by counsel; and

WHEREAS, DOB and the owner of the adjacent building at 23 Beekman Place also appeared and gave testimony as to the instant appeal; 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 February 7, 2006, April 4, 2006, and then to decision on June 6, 2006; and

WHEREAS, the premises had a site inspection conducted by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioners Chin and Collins; and

WHEREAS, the premises is located within an R8B zoning district and is occupied by a two and five-story townhouse building (the “19 Beekman Building”); the two-story portion is at the rear of the site and the five-story portion is near the Beekman Place street line; and

WHEREAS, 23 Beekman, the adjacent premises, is occupied by a nine-story multiple dwelling (the “23 Beekman Building”); and

WHEREAS, the lot line between 19 and 23 Beekman contains a party wall, which, as set forth on a plan submitted by appellant, extends the length of the five-story portion of the 19

Beekman Building, for approximately 42 ft.; and

WHEREAS, as noted in the Final Determination, this appeal arises from DOB’s revocation of the Permit and its determination that the structure constructed under the Permit (the “New Structure”), as well as the previously existing structure on top of which the new structure was built (the “Existing Structure”), is unsafe and needs to be demolished (the New and Existing Structures are hereinafter collectively referred to as the “Structure”); and

WHEREAS, the Board notes that the Existing Structure is an eight inch thick masonry vertical extension added to the roof of the two story section of the 19 Beekman Building; it rises to a height of 15’-0” at approximately 22’-8” from the street line, then sets back 9’-6” and rises another 11’-6” to a total height of 26’-6”;

WHEREAS, at hearing, the Board questioned how the Existing Structure was constructed; and

WHEREAS, in response, appellant provided copies of plans professionally certified under DOB Application No. 102597799; and

WHEREAS, Application No. 102597799 was for an alteration permit; the job description, as set forth in DOB’s Building Information System, reads: “New exterior balcony to be stucco over steel structure; New ceramic tile roof surface to replace existing; Extend metal roof structure”; and

WHEREAS, Plan Sheet A11 for this application, submitted by appellant, includes the following notation “New brick wall to be brick both sides with case limestone cap”; and

WHEREAS, however, the height dimension for the “new brick wall” appears to be 33’-0”, whereas the Existing Structure is 26’-6” high; and

WHEREAS, while the Final Determination does not reference the permit that was issued through professional certification under DOB Job No. 102597799, it does address the Existing Structure, purportedly constructed under it; and

WHEREAS, the Board notes that the Existing Structure, since it is built on top of the two-story section of the 19 Beekman Building, is not adjacent or attached to the party wall between the 19 Beekman Building and the 23 Beekman Building; and

WHEREAS, the Permit was sought to allow the construction of the New Structure, the 33’-6” high, eight inch thick masonry addition to the Existing Structure; and

WHEREAS, the Permit was initially applied for on November 29, 2004 and was obtained on December 1, 2004; and

WHEREAS, like the Existing Structure, the New Structure is also not adjacent or attached to the party wall; and

WHEREAS, as indicated on the DOB’s Business Information System, the Permit was obtained under Directive 14 of DOB’s procedures, which provides for a limited review of plans and application materials; the examination is limited to zoning compliance only; and

WHEREAS, the job description in the Permit application reads: “Installation of brick veneer on party wall at roof level. No changes to uses, egress or occupancy.”; and

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WHEREAS, as indicated on the plan submitted with the Permit application, the scope of work included the installation of a new four inch brick veneer on the existing party wall above the roof level of the five-story section of the 19 Beekman Building, and a new extension of the Existing Structure, located on the roof level of the two-story section of the 19 Beekman Building; and

WHEREAS, the Board observes that both the Permit application and an "Additional Information" Form, dated January 27, 2005, submitted by the 19 Beekman project engineer, indicate that the scope of work is limited to installation of brick veneers, and that any free-standing wall would be anchored to the party wall; and

WHEREAS, the applicant states that construction under the Permit began shortly after its issuance, and the New Structure was fully built in late December 2004; and WHEREAS, in December of 2004, DOB initiated an audit of this construction and the Permit and sent a notice to the project engineer on January 3, 2005, indicating its intent to revoke the Permit in ten days unless additional information as to the Permit was submitted; and

WHEREAS, on January 11, 2005, the engineer responded to DOB; and

WHEREAS, after further communication between DOB and the engineer, DOB approved revised plans on or about January 28, 2005 and indicated on them "audit accepted"; and

WHEREAS, DOB raised two new objections in a notice dated February 1, 2005; this notice states that DOB discovered records indicating different field conditions than what was shown on the revised plans, and requested clarification of the anchoring system for the New Structure; the notice also requested that the applicant provide "structural details of 30 feet high free standing masonry wall" and advised that "masonry/reinforced masonry controlled inspections are required"; and

WHEREAS, subsequently, in a letter dated February 15, the Manhattan Borough Commissioner notified appellant and the project engineer that field inspections had raised questions about the structural stability of the New Structure, and that its compliance with the Building Code had not been resolved; the letter stopped all work at the premises and requested that appellant and the engineer meet with the Borough Commissioner by February 17, 2005; and

WHEREAS, the February 15 letter indicates that that DOB had significant issues with the proposed anchor system that would allegedly connect the New Structure with the adjacent wall; and

WHEREAS, in particular, point 3 of the February 15 letter states that a DOB inspection did not reveal steel angles needed to transfer loads, as shown on the revised plans; point 8 indicates that DOB questioned whether the angles, even if installed, would comply with Building Code anchorage requirements for veneers; and

WHEREAS, thus, DOB responded to an apparent discrepancy between what is shown on the plans and was ultimately constructed versus what was represented to DOB by the project engineer in the application and the "Additional Information"

form, insofar as the New Structure was not comparable to a veneer since it was not adjacent to a party wall and appeared to have been constructed contrary to approved plans and the Building Code; and

WHEREAS, on February 18, 2005, the Borough Commissioner issued a declaration that the Structure was unsafe and needed to be repaired or demolished immediately; and

WHEREAS, also on this date, the Borough Commissioner permitted the lift of the stop work order to allow only for emergency remediation and shoring of the Structure; and

WHEREAS, on February 23, the project engineer submitted a letter to DOB that purported to respond to DOB's February 15 letter; and

WHEREAS, a new engineer and architect retained by the owner of 19 Beekman then consulted with the Borough Commissioner and, in a letter dated February 24, 2005, proposed an exterior steel frame to support the Structure; and

WHEREAS, this letter also purportedly responded to the points made by DOB in its February 15 letter, referenced above; and

WHEREAS, however, on February 25, the Borough Commissioner performed a field inspection and determined that notwithstanding the temporary measures taken to shore the structure, the order to demolish in the February 18 declaration needed to be effected immediately; and

WHEREAS, appellant challenged the declaration in an Article 78 proceeding, which was dismissed pursuant to an April 8, 2005 stipulation that the disagreement would be resolved in the first instance by a determination of this Board; and

WHEREAS, DOB then issued the Final Determination and the instant appeal was filed; and

WHEREAS, appellant states that a representative of 19 Beekman met with DOB's executive engineer in August of 2005, and the engineer allegedly took a position contrary to that stated in the Final Determination; and

WHEREAS, however, DOB, through its counsel, repudiated the determination of the executive engineer, and stated that the Final Determination was the official position of the Department; and

WHEREAS, in any event, the Board has no jurisdiction to review a determination of the executive engineer as a final determination of DOB; consequently, the appeal proceeded to hearing; and

WHEREAS, the appellant's initial submission advances three primary arguments: (1) Building Code § 27-509 does not apply to the Structure because it is not a fence; (2) DOB has approved other similar structures in Manhattan and has not provided a "reason or justification for the inconsistent treatment" of the Structure; and (3) the Structure is structurally sound and does not need to be demolished; and

WHEREAS, as to the first argument, the appellant claims that Building Code § 27-509 governs the height only of fences, and that the Structure is a wall, not a fence; and

WHEREAS, in disputing that the Structure is a fence, appellant notes that it is referred to as a wall by DOB in the February 15 letter, the February 18 declaration, and the Final

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Determination; and

WHEREAS, Building Code § 27-509 is the sole provision of Article 18 “Fences” in Subchapter 7 of the Code, which pertains to special uses and occupancies, and provides, in pertinent part, “In residence districts, no fences, whether of masonry, steel, wood, or any other materials shall be erected to a height of more than six feet above the ground, except that fences used in conjunction with nonresidence buildings and public playgrounds, excluding buildings accessory to dwellings, may be erected to a height of fifteen feet. Higher fences may be permitted by the commissioner where required for the enclosure of public playgrounds, school yards, parks and similar public facilities.”; and

WHEREAS, during the course of the hearing process, the appellant offered two different characterizations of the Structure as a wall, first alleging it is a screen (or privacy) wall, and then suggesting that it is a non-load bearing parapet wall; and

WHEREAS, as to the first characterization, appellant states that the Oxford Dictionary of Architecture defines the term “screen wall” as: “1. Solid unperforated wall hiding something, e.g. a court in front of a house. 2. Retaining wall in a garden, often decorated with niches, etc. 3. Wall carried up between columns.”; and

WHEREAS, presumably appellant considers the Structure a “solid unperforated wall hiding something” since the Board observes that the structure obviously is not a garden retaining wall and is also not a wall carried up between columns”; and

WHEREAS, the Board observes that this definition of “screen wall,” provided by the appellant, relates to the function of a structure, and suggests that the purpose is to hide something; and

WHEREAS, the Structure abuts the building wall of the 23 Beekman Building, so presumably appellant believes it hides this building wall, or that it hides the roof of the two-story portion of the 19 Beekman Building from the 23 Beekman premises; and

WHEREAS, in response to appellant’s characterization of the Structure as a “screen wall”, DOB states that the function of a “screen wall” and a “fence” are very similar, such that any distinction between the two is not meaningful; and

WHEREAS, DOB cites to Ballentine’s Law Dictionary, which defines a “fence”, in pertinent part, as “a visible or tangible obstruction which may be a hedge, ditch, wall, trestle, frame of wood, wire, rails of any line of obstacle interposed between two portions of land so as to part off and shut in the land and set it off as private property or for the purpose using it separately from the adjacent land of the same owner” (*emphasis added*); and

WHEREAS, DOB argues that “hiding something” is not functionally different than providing a “line of obstacle interposed between two portions of land so as to part off and shut in the land and set it off as private property”; and

WHEREAS, the Board agrees and notes the two definitions are not mutually exclusive: a “screen wall” may be a “fence” and vice versa; and

WHEREAS, in fact, the Ballentine’s definition of “fence”

includes walls, since walls can function as fences, in that they can be a visible obstruction or line of obstacle between two portions of land, that sets off private property; and

WHEREAS, here, the Structure arguably both hides the 23 Beekman Building and sets off the 19 Beekman premises from the 23 Beekman premises; thus, functionally, it meets both the definition of “screen wall” offered by appellant and the definition of “fence” used by DOB; and

WHEREAS, thus, appellant’s insistence that the Structure is intended to be a “screen wall” does not negate DOB’s determination that the Structure is a fence for Building Code enforcement purposes; and

WHEREAS, appellant’s second categorization is that the structure is a non-load parapet bearing wall, which is a conflation of two defined terms in the Building Code; and

WHEREAS, Building Code § 27-232 defines “non-load bearing” as follows “As applied to a wall or partition, shall mean one that supports no vertical load other than its own weight”; and

WHEREAS, appellant argues that the Structure does not support any weight other than its own, and is therefore non-load bearing; and

WHEREAS, even assuming this to be true, the Board does not find this compelling, as fences are typically non-load bearing; and

WHEREAS, appellant then argues that the Structure is also a parapet wall; and

WHEREAS, Building Code § 27-232 defines “parapet” as follows: “The continuation of an exterior wall, fire wall, or party wall above the roof line”; and

WHEREAS, appellant argues that the Structure, even though it was constructed in 2001 and 2005, well after the two-story section of the 19 Beekman Building was built, is an extension of an exterior wall of the two-story section; and

WHEREAS, the appellant argues that while the Building Code establishes a minimum height for a parapet, there is no maximum height; and

WHEREAS, appellant states that Building Code § 27-305, which sets forth height limitations of buildings, provides the maximum heights of parapet walls, as set forth in the referenced Tables 4-1 and 4-2; and

WHEREAS, these tables do not reference parapets specifically, but instead set forth maximum heights of walls generally based upon whether a building is sprinklered, as well as its occupancy code and construction class; and

WHEREAS, the Board has reviewed these two tables and notes that for many occupancy codes and construction classes, there is no Building Code height limit if the building is sprinklered; and

WHEREAS, thus, categorization of structures of this type as parapets is contrary to common sense: if parapet wall height is unregulated by the Code in many instances, parapets as high as the overall zoning height limit could be constructed on top of a building without any regulation whatsoever; and

WHEREAS, in those zoning districts without a height or sky exposure plane limitation, this means independent non-load

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bearing structures could be constructed on the tops of roofs to any height; and

WHEREAS, moreover, and most importantly, the Board again observes that even assuming that the Structure is a non-load bearing parapet wall, that does not prevent DOB from properly categorizing it as a fence as well, especially where it functions not as a parapet but a fence; and

WHEREAS, as to the categorization of the Structure as a fence by DOB, the Board notes that the Building Code does not define “fence” or “wall”; and

WHEREAS, however, Building Code § 27-229 provides, in pertinent part “Where terms are not defined they shall have their ordinarily accepted meanings or such as the context may imply.”; and

WHEREAS, thus, DOB is at liberty to apply a reasonable definition of a term, and may take into account the context in which said definition is applied; and

WHEREAS, here, DOB gave the word “fence” its ordinary meaning based on a reasonable definition of the word from a respected legal dictionary, and determined that the Structure met the definition, based upon an assessment of its function and its location between two buildings; and

WHEREAS, the Board finds this rational, as it allows DOB to apply a definition that will best address the fundamental purpose of the Building Code; and

WHEREAS, Building Code § 27-102 provides: “The purpose of this code is to provide reasonable minimum requirements and standards, based upon current scientific and engineering knowledge, experience and techniques . . . and forms and methods of construction in the city of New York in the interest of public safety, health and welfare . . .”; and

WHEREAS, DOB must be able to determine that a structure meets a definition that is regulated by the Building Code in order to effectuate this purpose, so long as that determination has a rational basis; and

WHEREAS, thus, as to DOB’s contention that the Structure is a fence for purposes of the Building Code, the Board concurs; and

WHEREAS, the Board observes that it functions as a fence, in that it sets off and separates the 19 Beekman property from the 23 Beekman property; and

WHEREAS, as conceded by the appellant, it is non-load bearing, so it plainly does not function as a support for another structure; and

WHEREAS, the fact that it is made of masonry, is of a certain thickness, and looks like a wall and was referred to as such by DOB (as noted above) is not relevant; and

WHEREAS, the Board notes that Building Code § 27-509, cited above, specifically states that a fence may be made of masonry materials; and

WHEREAS, nothing in this section suggests that a masonry fence is not subject to the general six ft. height limitation; and

WHEREAS, nor does this section specify a maximum thickness for fences; and

WHEREAS, further, as indicated by the Ballentine’s

definition of “fence”, a fence may be a wall; and

WHEREAS, additionally, it is contrary to the purpose of the Building Code, set forth above, to categorize a structure as a “screen wall” or a “non-load bearing parapet wall”, when said terms are either undefined or represent a conflation of two defined terms, and, as a result, are not specifically regulated in the Code; and

WHEREAS, in other words, appellant appears to take a position that would require that DOB ignore the function of a structure, and accept a categorization that eliminates safety regulation; and

WHEREAS, the Board does not accept this position; and
WHEREAS, instead, the Board finds that DOB’s categorization of the Structure as a fence, which puts it under the Building Code for safety purposes, is: (1) reasonable given the definition of fence and the function of the Structure; and (2) in alignment with DOB’s public safety enforcement mandate; and

WHEREAS, in conclusion, the Board finds that DOB’s determination that the Structure is a fence is rational and supported by its review of a common definition of the word, as well as its assessment of the function of the Structure; and

WHEREAS, appellant’s second argument is that even if the Structure is correctly categorized as a fence, it appears that DOB has routinely approved, as a general policy, similar masonry structures at comparable heights, pursuant to its authority to do so set forth in Building Code § 27-509; and

WHEREAS, appellant alleges that DOB has no “reason or justification for the inconsistent treatment of” the Structure; and

WHEREAS, in support of the argument that DOB has a policy to approve higher fences than normally permitted by Building Code § 27-509, appellant initially submitted photos of 33 allegedly similar structures; and

WHEREAS, appellant also submitted a list of the addresses of these 33 structures; and

WHEREAS, at the outset, the Board notes that none of these structures are before it, subject to a final determination from DOB; and

WHEREAS, appellant has attempted to place the burden on DOB, and, consequently, this Board, to determine the nature of the other structures, and if and how they may have been approved; and

WHEREAS, the Board, however, finds that appellant must initially show that the other cited structures are in fact comparable to the Structure, in order to establish that their existence is evidence of a DOB policy to allow higher fences such that it can be said that 19 Beekman is being treated unfairly or inconsistently; and

WHEREAS, the Board makes this finding even though, in light of the need to process the appeal, it requested that DOB also make an attempt to discover information about the other structures that might be useful; and

WHEREAS, as set forth below, the Board is unconvinced that appellant has satisfactorily established the comparability of the Structure to these other structures; and

WHEREAS, as to the 33 structures, DOB responded that many of the photos submitted by appellant were actually of

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veneers attached to party walls, dissimilar from the Structure, which is free-standing and not attached to a party wall; DOB also suggested that some of the structures may have been illegally constructed; and

WHEREAS, appellant stated that two of the structures, at 65 East 55th Street and 425 East 52nd Street, have nothing behind them and therefore can not be veneers; appellant also cited to three others – 425 Lexington Avenue, 1166 Sixth Avenue, and 780 Third Avenue – which allegedly are too thick to be veneers; and

WHEREAS, DOB stated, and the Board agrees, that the thickness of veneers is irrelevant; veneers can be as thick as the structures as depicted in the photos, so long as they are structurally supported by the wall to which they are attached; and

WHEREAS, DOB further responded that some of the structures were distinguishable because they were part of public spaces, and thus represented part of a design scheme reviewed by the Department of City Planning (“DCP”); and

WHEREAS, the Board agrees, and notes that it has reviewed the 33 structures initially submitted by appellant and at least 14 of them are structures that are part of a public space approved by DCP as part of an integrated plan design; and

WHEREAS, specifically, the Chair of the Board, a former Deputy Director of the Department of City Planning, recognized some of the public areas in the photos, and later confirmed this recognition through review of the treatise *Privately Owned Public Spaces*, by Jerold S. Kayden, in conjunction with DCP and the Municipal Art Society, which sets forth a listing of such public areas; and

WHEREAS, the locations of the public space structures as shown in the photos are as follows: 1. 54th and Third Avenue; 2. 780 Third Avenue at 49th Street; 3. 100 UN Plaza; 4. 1114 Sixth Avenue – Grace Plaza (misidentified by appellant as 1166 Sixth Avenue); 5. 590 Madison Avenue at 57th Street; 6. 140 East 45th Street – Grand Central Tower; 7. 301 East 45th Street; 8. 747 Third Avenue; 9. 300 East 62nd Street; 10. 800 Third Avenue at 49th Street; 11. 599 Lexington Avenue; 12. 425 Lexington Avenue; 13. 415 East 54th Street; 14. 66 East 55th Street; and 15. 871 UN Plaza; and

WHEREAS, the Board also notes that the photo of the premises identified as 338 East 49th Street appears to be of the UNICEF House public space, which is actually on East 44th Street between First and Second Avenues; and

WHEREAS, thus, as DOB states, it is plausible that many of the structures were approved at heights in excess of what is normally permitted pursuant to DOB Commissioner discretion as per Building Code § 27-509; and

WHEREAS, as noted above, this Code section allows the Commissioner to permit fences higher than 15 feet “where required for the enclosure of public playgrounds, school yards, parks and similar public facilities”; and

WHEREAS, the Board observes that these public spaces are public facilities, comparable to parks; and

WHEREAS, appellant, in response to this argument, contends that at least some of the structures in public areas are

too high to merely serve enclosure purposes; and

WHEREAS, the Board observes that this contention is based on speculation that DOB would, through the discretion granted to it in Section 27-509, only allow structures to a certain height; and

WHEREAS, however, Section 27-509 does not contain a height limitation that must be applied when the Commissioner exercises discretion to allow a fence in a public space to exceed six feet in height; and

WHEREAS, further, even though, as noted above, the Board expressed concern about free-standing masonry structures not being limited in height potentially (depending on the zoning district and building type), there is a distinct difference in allowing the Commissioner of DOB to ascertain when a free-standing masonry fence may exceed six feet in height and still be safe versus allowing such structures to be built by private parties without any height regulation whatsoever as of right; in fact, requiring Commissioner approval when free-standing masonry fences exceed six feet comports with DOB’s public safety enforcement mandate, and apparently was codified for this reason; and

WHEREAS, leaving this aside, the Board notes that the Structure is not part of a DCP-approved public space, and does not represent an exercise of DOB’s discretion under Section 27-509; and

WHEREAS, thus, the apparent DOB and DCP approval of the structures associated with public spaces does not support the argument that DOB has a policy of approving structures comparable to the Structure; and

WHEREAS, the Board notes that the remaining structures out of the 33 may or may not be free-standing, veneers, or party walls; and

WHEREAS, however, appellant has not submitted any information as to these other structures aside from pictures and certificates of occupancy; and

WHEREAS, this information is of limited probative value and does not conclusively show that these structures and the Structure are similar in all respects; and

WHEREAS, accordingly, appellant’s reference to the other structures likewise does not support the allegation that DOB has a policy of allowing higher than allowed fence structures; and

WHEREAS, appellant then cited to another structure at 125/27 East 70th Street, which it alleges is similar to the Structure; and

WHEREAS, appellant states that the structure at this address is 20 ft. high and is adjacent to a party wall; and

WHEREAS, the adjacency to a party wall distinguishes this structure from the Structure, as it is possible that it is a veneer; there is no possibility that the Structure is a veneer, because it is not adjacent or attached to a party wall; and

WHEREAS, later during the hearing process, appellant cited to three other structures at the following addresses: (1) 1001 Fifth Avenue, (2) 328 East 86th Street; and (3) 225 East 85th Street; appellant submitted photos of each of these structures; and

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WHEREAS, as to 1001 Fifth Avenue, the Board notes that the photo shows a braced masonry extension of the façade of the building; and

WHEREAS, while the Board can not ascertain merely from a photo the function of this extension, it appears to be a design element rather than a line of obstacle; and

WHEREAS, the Board observes that the extension clearly faces the street; and

WHEREAS, accordingly, it is distinct from the Structure, which functions to set off a property line and which abuts an adjacent building; and

WHEREAS, as to 225 East 85th Street, the Board notes that the photos show a roof enclosed on four sides by walls, with window cutouts facing the street; and

WHEREAS, again, the walls surrounding the roof are not against an adjacent building and do not appear set off a property boundary, and thus can not be said to serve the same fencing function as the Structure; unfortunately, from the photo submitted by appellant, the Board is again unable to conclusively ascertain the function of the enclosure; and

WHEREAS, as to 328 East 86th Street, the photos show what appears to be a somewhat comparable structure to the Structure, although the Board notes that the free-standing portion of the structure appears to extend horizontally from an existing wall and appears to have been constructed as part of the wall, unlike the Structure, which is a new vertical extension built on top of an existing building; and

WHEREAS, DOB agrees, and states that all three of these structures appear to be fully integrated into the buildings, unlike the Structure; and

WHEREAS, finally, appellant cites to a recent reconsideration granted by the Borough Commissioner related to 15 William Street; and

WHEREAS, appellant states that the structure approved under the reconsideration is also comparable to the Structure; and

WHEREAS, however, the Board notes that the plans associated with this reconsideration show that it serves as a street wall for zoning compliance and is connected to the primary building section by terraces, and thus serves a structural support function; and

WHEREAS, the Board notes that it is taking no position as to the validity of the reconsideration; and

WHEREAS, in sum, of the multiple structures identified by appellant, only a few are arguably comparable to the Structure in terms of function, location between buildings, and free-standing status; and

WHEREAS, the Board notes that this does not support a conclusion that DOB has a policy to approve private masonry free-standing fences between buildings, such as the Structure, at a height greater than what the Building Code permits; and

WHEREAS, at most, appellant has put DOB on notice that there may be certain structures, whether permitted or not, that might need to be reviewed in light of concerns that they may not comply with the Building Code; since DOB was present at the hearing, the Board trusts that it will investigate

those structures of which it is concerned; and

WHEREAS, thus, the Board, based upon the representations of DOB as set forth above and upon its own analysis of the submitted evidence, rejects appellant's argument that DOB has unfairly or arbitrarily singled out the Structure for enforcement as a fence; and

WHEREAS, appellant's third argument is that the steel reinforcing apparatus installed to support the Structure after DOB discovered its instability provides sufficient structural stability such that it meets the Building Code; and

WHEREAS, however, the Board finds that a determination as to this issue has been rendered moot, since the Board concludes that the Structure is a fence and therefore can not be higher than six feet; and

WHEREAS, in sum, the Board finds that appellant's arguments are without merit, and that DOB's determination with respect to the Permit and the Structure was rational and a proper exercise of its enforcement authority.

Therefore it is Resolved that the instant appeal, seeking a reversal of the determination of the Manhattan Borough Commissioner, dated June 15, 2005, refusing to reinstate the Permit or cancel an emergency declaration as to the Structure, is hereby denied.

Adopted by the Board of Standards and Appeals, June 6, 2006.

294-05-A thru 296-05-A

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

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

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

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Adam Rothkrug.

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 August 30, 2005, acting on Department of Buildings Application Nos. 402147299, 402147271, and 402147280 which reads, in pertinent part:

“Street giving access to the proposed building is not placed on the official map of the City of New York, therefore:

- a. No certificate of Occupancy can be issued as per

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- Article 3 Section 36 of the General City Law, and
- b. Permit may not be issued since proposed construction does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street or frontage space, and, therefore, is contrary to Section 27-291 of the Administrative Code.”; and

WHEREAS, a public hearing was held on this application on May 9, 2006, after due notice by publication in the *City Record*, and then to decision on June 6, 2006; and

WHEREAS, by letter dated April 5, 2006, the Fire Department states that it has reviewed the above project and has recommended that the owner sprinkler the buildings due to the limited street access; and

WHEREAS, by letter dated May 10, 2006, the owner has agreed to provide sprinklers and post “No Parking” signs along the length of Pleasant Place, and has submitted a revised site plan; and

WHEREAS, by letter dated May 30, 2006, the Fire Department has reviewed the revised site plan submitted for 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, August 30, 2005, acting on Department of Buildings Application Nos. 402147299, 402147271, and 402147280 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 May 16, 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, June 6, 2006.

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

APPEARANCES –

For Applicant: Marcus Marino.

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 Staten Island Borough Commissioner, dated December 1, 2005, acting on Department of Buildings Application No. 500810919 which reads, in pertinent part:

- “1. GCL §36 – Municipal improvements in streets, buildings not fronting on mapped streets: The lot is not fronting and the building permit and Certificate of Occupancy can’t be issued unless special conditions are met, including approval from the Board of Standards and Appeals (BSA).
2. BC §27-291 – Frontage: Every Building, exclusive of accessory buildings, shall have at least eight percent of the total perimeter of the building fronting directly upon a street or frontage space.

Frontage Space – A *street*; or an open space outside of a *building*, not less than thirty feet in any dimension, that is accessible from a *street* by a driveway, lane alley, or alley at least twenty feet in width, and that is permanently maintained free of all obstructions that might interfere with its use by the Fire Department.”; and

WHEREAS, a public hearing was held on this application on June 6, 2006, after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated February 9, 2006, the Fire Department states that it has reviewed the above project and has recommended the owner sprinkler the building and provide street signs throughout the development to read: “No Parking - Fire Lane”; and

WHEREAS, by in response to the Fire Department’s request the owner has agreed to fully sprinkler the building and submitted a revised site plan; and

WHEREAS, by letter dated, April 27, 2006, the Fire Department has reviewed the revised site plan submitted for 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 Staten Island Borough Commissioner, dated December 1, 2005, acting on Department of Buildings Application No. 500810919, is modified by the power vested in the Board by Section 36 of the

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General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received March 9, 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, June 6, 2006.

134-05-A

APPLICANT – Rothkrug, Rothkrug, Weinberg, Spector, LLP for Gaspare Colomone, owner.

SUBJECT – Application May 31, 2005 – Proposed construction of a three dwellings, which lies in the bed of a mapped street (67th Street) which is contrary to Section 35 of the General City Law.

PREMISES AFFECTED – 53-31 67th Street, 53-33 67th Street, and 67-02 53rd Road, Block 2403, Lot 117, 217, 17, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Laid over to July 11, 2006, at 10 A.M., for continued hearing.

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.

For Administration: Lisa Orrantia, Department of Buildings.

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

173-05-A

APPLICANT – Stuart Klein for Trevor Fray, owner.

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

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

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Stuart Klein.

For Opposition: Lisa Orrantia, 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 20, 2006, at 10 A.M., for decision, hearing closed.

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

APPEARANCES –

For Applicant: Zara Fernandes.

ACTION OF THE BOARD – Laid over to July 11, 2006, at 10 A.M., for continued hearing.

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 –

For Applicant: Kevin Shea.

For Opposition: Irving Gotbaum.

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For Administration: Janine Gaylard, Department of Buildings.

ACTION OF THE BOARD – Laid over to July 18, 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: Peter Geis.

For Opposition: Michael J. Schweinsburg of Office of Councilwoman Gonzalez, John Keefe, Assembly Member Brennan's Office, Aaron Brashear, Russell Wylig, Monica Staleia and Bo Samajopoulos.

For Administration: Janine Gaylard, 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 July 18, 2006, at 10 A.M., for decision, hearing closed.

355-05-BZY

APPLICANT – Rothkrug, Rothkrug, Weinberg, Spector, LLP for Adda 422 Prospect Avenue, 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 multi family 3 story residential building under the prior Zoning R5. New Zoning District is R5B as of November 16, 2005.

PREMISES AFFECTED – 422 Prospect Avenue, Brooklyn, Prospect Avenue, west of 8th Avenue, Block 869, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Adam W. Rothkrug.

For Opposition: Aaron Brashear.

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

364-05-A & 365-05-A

APPLICANT – Sheldon Lobel, P.C., for Hamida Realty, Inc., owner.

SUBJECT – Application December 19, 2005 – An appeal seeking a determination that that the owner of said premises has acquired a common-law vested right to continue development commenced under the prior R5 zoning district. Current Zoning District is R4A.

PREMISES AFFECTED – 87-30 and 87-32 167th Street, 252' north of the corner formed by the intersection of Hillside Avenue and 167th Street, Block 9838, Lots 114 and 116, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to July 11, 2006, at 10 A.M., for adjourned hearing.

8-06-A & 9-06-A

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

SUBJECT – Application January 11, 2006 – Proposed 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 149th Place, West side of 149th Place, 255' N/W of Beech Avenue, Block 5380, Lot 49, Borough of Queens.

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

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Victor Han.

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 20, 2006, at 10 A.M., for decision, hearing closed.

Jeffrey Mulligan, Executive Director

Adjourned: A.M.

REGULAR MEETING TUESDAY AFTERNOON, JUNE 6, 2006 1:30 P.M.

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

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ZONING CALENDAR

274-04-BZ

APPLICANT – Harold Weinberg, P.E., for Dr. Elena Starosta, owner.

SUBJECT – Application August 6, 2004 – under Z.R. §72-21 Variance under Section 72-21, in an R4 district and on a lot consists of 2,470 SF, permission sought to legalize the extension of a medical use to the second floor on an existing building consisting of two-stories. The use is contrary to side yard requirements.

PREMISES AFFECTED – 2114 Gravesend Neck Road, south side, 63'-7½" south of East 22nd Street, Block 7381, Lot 101, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg.

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, June 6, 2006.

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.

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 Brooklyn Borough Commissioner, dated July 12, 2005, acting on Department of Buildings Application No. 301932942, reads, in pertinent part:

“ZR 23-461(b), requires one 8’-0” side yard for two-family semi-detached residences, this lot is only 20’-0” wide and in existence prior to 1961.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R5 zoning district, the proposed construction of a 1.20 Floor Area Ratio (FAR), two-family, two-story plus basement home that does not provide the required side yard, contrary to ZR § 23-461; and

WHEREAS, an initial DOB objection cited to ZR § 25-621(a)(1), which provides that parking be permitted only in the side lot ribbon or in any area on the zoning lot that is not between the street line and the street wall; and

WHEREAS, on October 25, 2005, the Brooklyn Borough Commissioner accepted a parking configuration that permits the location of one parking space between the street wall and the street line if the other required parking space is located inside the building; and

WHEREAS, the applicant subsequently revised the proposal to reflect this parking configuration; and

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

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

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

WHEREAS, the site is located on the west side of Logan Street, 190 ft. south of Pitkin Avenue; and

WHEREAS, the site is 20 ft. in width and 100 ft. in depth, with a total lot area of 2,000 sq. ft.; and

WHEREAS, the applicant represents that available records indicate that the lot was not in common ownership with either of the two contiguous lots on December 15, 1961; and

WHEREAS, the site is currently vacant and has been so since at least 1929, as evidenced by the 1929 Belcher Hyde Atlas excerpt submitted by the applicant; and

WHEREAS, the applicant proposes to construct a two-story, two-family home, with one parking space located in a basement garage and another located in the area between the street line and the street wall; and

WHEREAS, the proposed home will be 17 ft. in width and will range from 45.33 and 50.33 ft. in depth; thus, it will have a total residential floor area of 2,392 sq. ft. (3,300 sq. ft. is the maximum permitted); a total residential FAR of 1.20 (1.25 is the maximum permitted); an OSR of 59.5 percent (45 percent is the minimum required); one side yard of three feet (a side yard of five feet is required); and a 35.67 ft. rear yard (a 30 ft. rear yard is the minimum required); two off-street parking space will also be provided; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the site is a pre-existing 20 ft. wide and 100 ft. deep lot that can not accommodate a habitable as of right residential development; and

WHEREAS, as to uniqueness, the applicant has submitted a 400 foot radius diagram that illustrates that the subject premises is one of approximately three vacant lots in the area, and appears to be the only undeveloped site located adjacent to an existing multiple dwelling; and

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

WHEREAS, the Board observes that if the applicant were to provide the required five ft. side yard, the result would be a home of approximately 15 feet in width, which the applicant contends is not marketable; and

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

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

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

WHEREAS, the applicant has submitted a radius diagram and photographs that show that many of the buildings in the surrounding area are attached dwellings without side yards; and

WHEREAS, the applicant also notes that although a maximum height of 40 feet is permitted, the height of the proposed building is 26 feet, which is consistent with the height of neighbors on either side, and with the height of other buildings on the subject block; and

WHEREAS, the Board notes that a dwelling with one lot line wall and one side yard of three feet would not negatively impact the adjacent uses, as the property to the north is occupied by a multiple dwelling with a 4'-6" side yard and the property to the south does not have any lot line windows; 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, accordingly, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 72-21, to permit, within an R5 zoning district, the proposed construction of a two-family, two-story plus basement home that does not provide the required side yard, contrary to ZR § 23-461; *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 May 16, 2006"—eight (8) sheets; and *on further condition*:

THAT the parameters of the proposed building shall be as

follows: an FAR of 1.20; a floor area of 2,392 sq. ft.; an OSR of 59.5 percent; a rear yard of 30 ft.; a side yard of three feet; one parking space in an internal garage and one parking space between the street line and the street wall;

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, June 6, 2006.

290-02-BZ thru 314-02-BZ

APPLICANT – Rothkrug Rothkrug Weinberg & Spector, for Edgewater Development, Inc., owner. (Tapei Court)

SUBJECT – Application October 24, 2002 – under Z.R. §72-21 – to permit the construction of 28 attached, three-story and cellar, two-family dwellings on a vacant site. The subject site is located in an M1-1 zoning district. The proposal would create 56 dwelling units and 56 parking spaces. The 28 proposed dwellings are intended to be part of a larger and substantially complete development which is located within the adjacent C3 zoning district. The proposed project has been designed to conform and comply with the C3 district regulations that govern the remainder of the subject property and which permits residential development in accordance with the C3 district's equivalent R3-2 zoning district regulations (pursuant to Sections 32-11 and 34-112). The development as a whole is the subject of a homeowners' association that will govern maintenance of the common areas, including the parking area, driveways, planted areas and the proposed park. The proposal is contrary to applicable use regulations pursuant to Z.R. Section 42-10.

PREMISES AFFECTED – 114-01/03/05/07/09/11/13/17/19/15/21/21/23/25/27/29/31/33/35/20/22/24/26/28/30/32/34 Taipei Court, west of 115th Street, Block 4019, Lot 120, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Laid over to July 18, 2006, at 1:30 P.M., for adjourned hearing.

374-03-BZ thru 376-03-BZ

APPLICANT – Rothkrug Rothkrug Weinberg & Spector, for Edgewater Development, Inc., owner.

SUBJECT – Application December 2, 2003 – under Z.R. §72-21 – to permit the construction of 28 attached, three-

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

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

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Laid over to July 18, 2006, at 1:30 P.M., for adjourned hearing.

249-04-BZ

APPLICANT – Harold Weinberg, P.E. for Prince Parkside LLP, owner.

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

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

COMMUNITY BOARD #9BK

APPEARANCES –

For Applicant: Harold Weinberg, P.E.

ACTION OF THE BOARD – Laid over to July 18, 2006, at 1:30 P.M., for adjourned decision.

14-05-BZ

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

SUBJECT – Application January 26, 2005 – under Z.R. §73-36 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

APPEARANCES –

For Applicant: Fredrick A. Becker and James Coleman.

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 20, 2006, at 1:30 P.M., for decision, hearing closed.

89-05-BZ

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

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

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

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Steven Sinacori.

For Opposition: Christian Hylia.

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 20, 2006, at 1:30 P.M., for decision, hearing closed.

100-05-BZ

APPLICANT – Martyn & Don Weston, for 223 Water Street, LLC, owner.

SUBJECT – Application April 25, 2005 – under Z.R. §72-21 to permit the proposed conversion of the second and third floors, of a six story manufacturing building, to residential use, Use Group 2, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 223 Water Street, a/k/a 48 Bridge Street, northwest corner, Block 31, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Don Weston and Jack Freeman.

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 July 11, 2006, at 1:30 P.M., for decision, hearing closed.

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119-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Sam Malamud, owner.

SUBJECT – Application May 16, 2005 – under Z.R. §72-21 to permit the proposed enlargement to an existing one and two story warehouse building, with an accessory office, Use Group 16, located in a C4-3 and R6 zoning district, which does not comply with the zoning requirements for floor area, floor area ratio, perimeter wall height, parking and loading berths, is contrary to Z.R. §52-41, §33-122, §33-432, §36-21 and §36-62.

PREMISES AFFECTED – 834 Sterling Place, south side, 80' west of Nostrand Avenue, Block 1247, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to July 25, 2006, at 1:30 P.M., for adjourned hearing.

132-05-BZ

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

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

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

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

For Opposition: Susan Klopper and Judith Bar.

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 July 11, 2006, at 1:30 P.M., for decision, hearing closed.

199-05-BZ

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

SUBJECT – Application August 23, 2005 – under Z.R. §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 Z.R. §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

APPEARANCES –

For Applicant: Joseph Morsellino, A. Morali and Robert Pauls.

For Opposition: Jack Lester.

ACTION OF THE BOARD – Laid over to July 18, 2006, at 1:30 P.M., for continued hearing.

297-05-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Vestry Acquisition, LLC, owner.

SUBJECT – Application September 30, 2005 – Zoning Variance (use) pursuant to Z.R. §72-21 to allow a proposed nine (9) story residential building containing seven (7) dwelling units and eight (8) accessory parking spaces located in an M1-5 district (Area B2) of the Special Tribeca Mixed Use District; contrary to Z.R. §42-00, §111-104(b) and §13-12.

PREMISES AFFECTED – 33 Vestry Street, located on the southerly side of Vestry Street, 100' west of Hudson Street, Block 219, Lot 18, Borough of Manhattan.

COMMUNITY BOARD#1M

APPEARANCES –

For Applicant: Fredrick A. Becker and Winica Dubbeldam.

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 July 11, 2006, at 1:30 P.M., for decision, hearing closed.

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 #8M

APPEARANCES –

For Applicant: Eric Palatnik and Robert Pauls.

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

313-05-BZ

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

SUBJECT – Application October 20, 2005 – under Z.R. §72-

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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

APPEARANCES –

For Applicant: Richard Lobel, I.C. Kinniburgh and D. Brenner.

For Opposition: Stuart Beckerman and other.

ACTION OF THE BOARD – Laid over to July 25, 2006, at 1:30 P.M., for continued hearing.

314-05-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Raymond Mouhadeb, owner.

SUBJECT – Application October 25, 2005 – Special Permit Z.R. §73-622 for an enlargement to a single family residence which proposed an increase in the degree of non-compliance with respect to floor area ratio and open space/lot coverage as per Z.R. §23-141b, less than the total required side yards as per Z.R. §23-361a and a rear yard less than the required rear yard as per Z.R. §23-47. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 1670 East 23rd Street, East 23rd Street between Avenue P and Quentin Road, Block 6785, Lot 35, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman.

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 July 18, 2006, at 1:30 P.M., for decision, hearing closed.

349-05-BZ

APPLICANT – Law Offices of Howard Goldman, LLC, for Church of the Resurrection, owner.

SUBJECT – Application December 8, 2005 – Zoning Variance (bulk) pursuant to Z.R. §72-21 – to allow a proposed eight (8) story residential building with community facility use on the 1st and 2nd floors in an R7A Zoning District; contrary to Z.R. §23-145.

PREMISES AFFECTED – 325 East 101st Street, between First and Second Avenues, Block 1673, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #11M

APPEARANCES –

For Applicant: Chris Wright.

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 July 11, 2006, at 1:30 P.M., for decision, hearing closed.

22-06-BZ

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

SUBJECT – Application February 9, 2006 – 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; (Z.R. §23-45, §23-47 and §23-48) the proposed enlargement also exceeds the allowable setback and is contrary to Z.R. §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

APPEARANCES –

For Applicant: Harold Weinberg.

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

Jeff Mulligan, Executive Director

Adjourned: P.M.

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**SPECIAL HEARING
WEDNESDAY MORNING, JUNE 7, 2006
10:00 A.M.**

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

174-05-A

APPLICANT – Norman Siegel on behalf of Neighbors
Against N.O.I.S.E., GVA Williams for (Hudson Telegraph
Associates, LP) owner; Multiple lessees.

SUBJECT – Application July 29, 2005 – Neighbors against
N.O.I.S.E. is appealing the New York City Department of
Buildings approval of a conditional variance of the New York
City Administrative Code §27-829(b)(1) requirements for
fuel oil storage at 60 Hudson Street.

PREMISES AFFECTED – 60 Hudson Street, between Worth
and Thomas Streets, Block 144, Lot 40, Borough of
Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Norman Siegel, Doris Diether, Tim Lannan,
Luis E. Reyes, Council Member Alan J. Gerson, Madelyn
Wils, Alyssa Ziegel, on behalf of Assemblymember Deborah
J. Glick; Charles Komanoff, Matt Viggliario, on behalf of
NYS Senator Connors, Bruce Ehrmann, Todd Stone, Deborah
Allen, Leo Debobes, Paul Goldstein, Brian Lok and Aziz
Dehkan.

For Opposition: Phyllis Arnold, Chief Patrick McNally,
Julian Bazel, Fire Department Counsel and James Farley.

For Administration: Phyllis Arnold, Department of Buildings.

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

Jeffrey Mulligan, Executive Director.