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# BULLETIN

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

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June 19, 2007

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### DIRECTORY

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**Affecting Calendar Numbers:**

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# DOCKETS

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**149-07-A**

17 Roosevelt Walk, South east corner roosevelt Walk and West end Avenue., Block 16350, Lot(s) p/o 400, Borough of **Queens, Community Board: 14**. Proposed reconstruction and enlargement of an existing single family dwelling not fronting on a mapped street contrary to Article 3, §36 of the General City Law and the propped upgrade on an exisiting legal non-conforming private disposal system.  
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**150-07-A**

122-02 Liberty Avenue, South side of Liberty Avenue on the corner formed by the intersection of 122nd Street and Liberty Avenue., Block 9576, Lot(s) 1, Borough of **Queens, Community Board: 10**. Appeal – seeking to reverse a Fire Department Order No. 024-07 requiring an automatic sprinkler system to be installed throughout the building. C4-2 Zoning District.  
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**151-07-BZ**

1133 83rd Street, North side, 256' east of 11th Avenue between 11th Avenue and 12th Avenue., Block 6301, Lot(s) 65, Borough of **Brooklyn, Community Board: 10**. Special Permit (§73-622) – Proposed to erect a two story rear enlargement.  
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**152-07-BZ**

8701 Fourth Avenue, Southeast of the corner formed by the intersection of Fourth Avenue and 87th Street., Block 6050, Lot(s) 8, Borough of **Brooklyn, Community Board: 10**. Special Permit (§73-36) – To allow the legalization of a Physical Culture Establishment in a commercial zoning district.  
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**153-07-BZY**

20 Bayard, Bayard Street between Union Avenue and Lorimer Street., Block 2721, Lot(s) 11, Borough of **Brooklyn, Community Board: 1**. Extension of time (§11-332) – To complete construction of a minor development commenced prior to the amendment of the zoning district regulations on May 11, 2005. M1-2/R6B and M1-2/R6A.  
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**154-07-A**

441 East 57th Street, North side of East 57th Street, between 1st Avenue and Sutton., Block 1369, Lot(s) 15, Borough of **Manhattan, Community Board: 6**. Appeal – seeking to revoke permits and approvals that allow a mechanical room which exceeds the maximum height permitted under §23-692(a) and is not listed as a permitted obstruction in §23-62. R10 Zoning district.  
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**155-07-A**

55 Chipperfield Court, 413.88' South of the corner between Chipperfield Court and Ocean Terrace., Block 687, Lot(s) 21, Borough of **Staten Island, Community Board: 2**. Proposed construction of a swimming pool , tennis court and changing room in the bed of a mapped street (Tiber Place) are contrary to General City Law §35. R1-2.  
-----

**156-07-A**

60 Chipperfield Court, 433.95' south of the corner between Chipperfield Court and Ocean Terrace., Block 687, Lot(s) 337, Borough of **Staten Island, Community Board: 2**. Proposed construction of a swimming pool in the bed of mapped street (Tiber Place) is contrary to General City Law §35. R1-2.  
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**157-07-BZY**

55 Eckford Street, Located on the western side of Eckford Street between Driggs Avenue and Engert Avenue., Block 2698, Lot(s) 32, Borough of **Brooklyn, Community Board: 1**. Extension of time (§11-332-) to complete construction of a minor development commenced prior to the amendment of the zoning distirct regulations on May 11, 2005. M1-2/R6A, M1-2/R6B and MX-8.  
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**158-07-BZ**

184-20 Union Turnpike, 110 feet west of south west corner of the intersection of Union Turnpike and Chevy Chase Street., Block 7248, Lot(s) 39, Borough of **Queens, Community Board: 8**. Under §72-21 –To permit the re-establishment of a one-story commercial building.  
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# DOCKET

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**159-07-BZ**

2402 86th Street, South of the corner formed by the intersection of 86th Street and 24th Avenue., Block 6864, Lot(s) 37, Borough of **Brooklyn, Community Board: 11.** Special Permit (§73-36) – To allow the legalization of a Physical Culture or Health Establishment.

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

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# CALENDAR

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**JULY 17, 2007, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, July 17, 2007, 10:00 A.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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**SPECIAL ORDER CALENDAR**

**671-56-BZ**

APPLICANT – Walter T. Gorman, P.E., for 24 Pack LLC, owner; Euclide Enterprises, Inc., lessee.  
SUBJECT – Application March 21, 2007 – Amendment to a previously granted Variance (§72-21) to convert the existing service bays to an accessory convenience store, an area previously approved for a new bay to a mechanical room and (§11-412) to legalize a UG6 eating and drinking establishment (Texas Chicken); Extension of Time to complete construction and to obtain a Certificate of Occupancy and a Waiver of the rules in a C1-2/R-5 zoning district.

PREMISES AFFECTED – 1249-1265 Sutter Avenue, blockfront from Euclid Avenue to Doscher Street, Block 4249, Lots 55 & 59, Borough of Brooklyn.

**COMMUNITY BOARD #5BK**

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**844-86-BZ**

APPLICANT – Rothkrug, Rothkrug & Spector, for Fred Lynn Associates, owner; Pyramida Billiards, lessee.  
SUBJECT – Application February 12, 2007 – Extension of Term of a previously granted Special Permit (§73-50) for the enlargement of a one (1) story building, in a C8-2 zoning district, that encroaches into the open area required along a district boundary which expired on April 28, 1997; an Amendment to legalize the change in use from an auto repair shop (UG16) and custom clothing manufacturer (UG11) to a billiard parlor (UG12) and eating and drinking establishment (UG6) and to permit the addition of a 979. sq. ft. mezzanine in the UG6 portion of the building; an Extension of Time to obtain a Certificate of Occupancy which expired on May 4, 1999 and a Waiver of Rules of Practice & Procedure.

PREMISES AFFECTED – 1828/1836 McDonald Avenue, west side of McDonald Avenue, between Avenue P and Quentin Road, Block 6632, Lots 17 & 20, Borough of Brooklyn.

**COMMUNITY BOARD #11BK**

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**391-04-BZ, Vol. III**

APPLICANT – Moshe M. Friedman, for Mellech Fastag, owner.

SUBJECT – Application May 29, 2007 – Amendment to a Special Permit (§73-622) for a single family residence for an

enlargement to second floor in an R-2 zoning district.  
PREMISES AFFECTED – 2610 Avenue L, south side of Avenue L, 60' east of the intersection of Avenue L and East 26<sup>th</sup> Street, Block 7644, Lot 44, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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**APPEALS CALENDAR**

**67-07-A**

APPLICANT – Kevin Finnegan, Esq., for Benjamin Shaul, Magnum Mgmt., owner.

SUBJECT – Application July 17, 2007 – An appeal seeking to revoke permits and approvals that allow the construction of a penthouse that exceeds the permitted height limitations governed by ZR §23-692 (Sliver Law). R7-2 Zoning District.

PREMISES AFFECTED – 515 East 5<sup>th</sup> Street, between Avenue A and Avenue B, Block 401, Lot 56, Borough of Manhattan.

**COMMUNITY BOARD #3M**

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**70-07-A**

APPLICANT – John C. Chen, AIA, for Tae Wook Chang, owner.

SUBJECT – Application March 23, 2007 – Existing warehouse that does not front a legally mapped street contrary to General City Law Section 36. M3- Zoning District.

PREMISES AFFECTED – 49-30 Galasso Place, east side of 49<sup>th</sup> Street, 274' south of Galasso Place, Block 2575, Lot 292, Borough of Queens.

**COMMUNITY BOARD #4Q**

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**137-07-A**

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Edward Scheibel, lessee.

SUBJECT – Application May 22, 2007 – Reconstruct and enlargement of an existing single family home and the upgrade of an existing non-conforming private disposal system not fronting on a mapped street contrary to General City Law §36. R4 Zoning District.

PREMISES AFFECTED – 19 Janet Lane, north side of Janet Lane, 190.95' east of Beach 203<sup>rd</sup> Street, Block 15350, Lot p/o 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

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**154-07-A**

APPLICANT – Troutman Sanders, LLP, for 435 East 57<sup>th</sup> Apartments, Inc., owner.

SUBJECT – Application June 11, 2007 – Appeal seeking to revoke permits and approvals that allow a mechanical room which exceeds the maximum height permitted under §23-

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# CALENDAR

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692(a) and is not listed as a permitted obstruction in §23-62.

R10 Zoning district.

PREMISES AFFECTED – 441 East 57<sup>th</sup> Street, north side of east 57<sup>th</sup> Street, between 1<sup>st</sup> Avenue and Sutton, Block 1369, Lot 15, Borough of Manhattan.

**COMMUNITY BOARD #6M**

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**JULY 17, 2007, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, July 17, 2007, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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## ZONING CALENDAR

### **342-05-BZ& 343-05-BZ**

APPLICANT – Gerald J. Caliendo, R.A., AIA, for Kingsbridge Terrace, LLC, owner.

SUBJECT – Application November 29, 2005 – Zoning variance (§72-21) to allow six (6) three-family buildings (18 dwellings) and six (6) accessory parking spaces; contrary to regulations for use (§22-12), FAR (§23-141), lot coverage (§23-141), number of dwelling units (§23-22), building height (§23-631), side yards (§23-461), minimum number of accessory parking spaces (§25-23), and special requirements for developments with private roads (§26-21).

PREMISES AFFECTED – 1, 3 & 5 Maya Drive, southeast corner of Kingsbridge Terrace and Perot Street, Block 3253, Lot 204, Borough of Bronx.

**COMMUNITY BOARD #8BX**

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### **126-06-BZ**

APPLICANT – Law Office of Fredrick A. Becker, for Norma Hafif, owner.

SUBJECT – Application June 14, 2006 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary floor area and lot coverage (§23-141); less than the required side yards (§23-461) and less than the minimum rear yard (§23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 1762 East 23<sup>rd</sup> Street, East 23<sup>rd</sup> Street, between Quentin Road and Avenue R, Block 6805, Lot 33, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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### **291-06-BZ**

APPLICANT – Paul Bonfilio, AIA., for 6860 Austin Realty

Corp., owner.

SUBJECT – Application November 2, 2006 – Special Permit (§73-44) to allow the reduction in the number of required parking spaces for an enlargement to an existing community facility building (Ambulatory Diagnostic/Treatment Facility). The Premises is located in a C8-2 zoning district. The proposal is contrary to Section 36-21.

PREMISES AFFECTED – 68-60 Austin Street, Austin Street, between Yellowstone Boulevard and 69<sup>th</sup> Road, Block 3234, Lot 29, Borough of Queens.

**COMMUNITY BOARD #6Q**

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### **329-06-BZ**

APPLICANT – Wholistic Healthworks, Inc., for Albino J. Testani, owner.

SUBJECT – Application December 21, 2006 – Special Permit (§73-36) to legalize a PCE in C2-2/R2A/R4 zoning districts. The proposal is contrary to Section 32-00.

PREMISES AFFECTED – 34-34 Bell Boulevard, west of Bell Boulevard, 184.07' from 35<sup>th</sup> Avenue, Block 6112, Lot 39, Borough of Queens.

**COMMUNITY BOARD #11Q**

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### **10-07-BZ**

APPLICANT – Kenneth Philogene, for George Smirnov, owner.

SUBJECT – Application January 9, 2007 – Variance (§72-21) to construct a two story, one family home on an undersized vacant lot with less than the total required side yards (§23-48) in an R3-1 zoning district.

PREMISES AFFECTED – 118 Graham Boulevard, south side of Graham Boulevard, Block 3768, Lot 23, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

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*Jeff Mulligan, Executive Director*

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# MINUTES

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**REGULAR MEETING  
TUESDAY MORNING, JUNE 12, 2007  
10:00 A.M.**

Present: Chair Srinivasan, Vice Chair Collins,  
Commissioner Ottley-Brown and Commissioner Hinkson.  
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**SPECIAL ORDER CALENDAR**

**8-01-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, for Bruno Savo, owner.

SUBJECT – Application October 20, 2006 – Extension of Time to complete construction to a previously granted Variance (§72-21) for the construction of a single family home on a lot with less than the lot width which expired on December 18, 2005; and an amendment to the off street parking requirement to comply with provisions in an R32(LDGM) zoning district.

PREMISES AFFECTED – 352 Clifton Avenue, south side of Clifton Avenue, 125’ east of Reynolds Street, Block 2981, Lot 7, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES –

For Applicant: Adam Rothkrug.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening, an amendment, and an extension of time to complete construction of a single-family home, which expired on December 18, 2005; and

WHEREAS, a public hearing was held on this application on February 27, 2007, after due notice by publication in *The City Record*, with continued hearings on April 10, 2007, May 8, 2007, and May 22, 2007, and then to decision on June 12, 2007; and

WHEREAS, Community Board 1, Staten Island, recommends disapproval of this application; and

WHEREAS, City Council Member Michael E. McMahon recommends disapproval of this application citing concerns that the building does not adhere with zoning regulations as to lot width and side and front yards; and

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

WHEREAS, the subject premises is located on the south side of Clifton Avenue, 125 feet east of Reynolds Street, within an R3-2 zoning district within a Lower Density Growth Management Area (LDGMA); and

WHEREAS, on December 18, 2001, under the subject

calendar, the Board granted a variance, pursuant to ZR §72-21, to permit the construction of a detached single-family home on a lot that did not provide the required 40’-0” of frontage; and

WHEREAS, on August 12, 2004, the LDGMA zoning provisions, which affect the site, were enacted; and

WHEREAS, the previously approved plans do not comply with the LDGMA provisions as to parking; the provisions require two parking spaces and only one is provided per the approved plans; and

WHEREAS, accordingly, the applicant proposes to comply with the new parking requirement by providing two parking spaces in the cellar level garage; and

WHEREAS, the applicant represents that the building footprint has not changed and that there are not any additional non-compliances; and

WHEREAS, however, the Board notes that the side yards do not comply with ZR §23-461 and a waiver should also have been requested at the time of the previous approval; and

WHEREAS, accordingly, this amendment includes a waiver for side yards which was not incorporated into the previous approval; and

WHEREAS, the instant application seeks an extension of time to complete construction; and

WHEREAS, the applicant states that an additional 18 months are required to complete construction; and

WHEREAS, at hearing, the Board noted a discrepancy in the plans and asked the applicant to confirm that the perimeter wall complies with zoning district regulations; and

WHEREAS, in response, the applicant modified the plans and provided a statement from the architect that the perimeter wall height is a complying 23.31 feet; and

WHEREAS, additionally, the Board directed the applicant to confirm that the slope of the driveway complied with Building Code regulations; and

WHEREAS, at hearing, a neighbor, through counsel, objected to the application and asked the Board to defer decision pending negotiations with the owner to purchase the site; and

WHEREAS, additionally, the neighbor represented that an adverse possession claim was being made to acquire the property; and

WHEREAS, the Board notes that, absent an order from the court, it is not barred from making a determination on this application; and

WHEREAS, additionally, the Board notes that the current proposal does not create any new non-compliances but rather resolves one which results from the enactment of the LDGMA provisions; and

WHEREAS, based upon its review of the record, the Board finds that an 18-month extension is appropriate, with the conditions set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens and amends* the resolution, dated December

# MINUTES

18, 2001, so that as amended this portion of the resolution shall read: "to grant an extension of the time to complete construction for a period of 18 months from the date of this grant and to permit an amendment to the approved plans; *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 15, 2007"-(2) and "June 8, 2007"-(1) sheet and *on further condition*:

THAT substantial construction shall be completed by December 12, 2008;

THAT the slope of the driveway and the required parking shall be as approved by DOB;

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

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

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

(DOB Application No. 500850457)

Adopted by the Board of Standards and Appeals, June 12, 2007.

## 737-86-BZ

APPLICANT – Rampulla Associates Architects, for Angelo Falato, owner.

SUBJECT – Application February 9, 2007 – Extension of Term of a previously granted Variance (§72-21) for an existing one story retail store (Use Group 6) which will expire on June 2, 2007. R3-1 zoning district.

PREMISES AFFECTED – 3304 Amboy Road, between Buffalo Street and Hopkins Avenue, Block 4964, Lot 11, Borough of Staten Island.

### COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Phil Rampulla.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to July 10, 2007, at 10 A.M., for decision, hearing closed.

## 214-00-BZ

APPLICANT – Sheldon Lobel, P.C., for Zaliv, LLC, owner.

SUBJECT – Application October 18, 2006 – Extension of Term/Extension of time to obtain a Certificate of Occupancy and Amendment of a Special Permit granted pursuant to §73-242 to permit within a C3 zoning district an eating and drinking establishment.

PREMISES AFFECTED – 2761 Plumb Second Street,

northeast corner formed by intersection of Plumb Second Street and Harkness Avenue, Block 8841, Lot 500, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Ron Mandel.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to July 10, 2007, at 10 A.M., for decision, hearing closed.

## 20-02-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for 303 Park Avenue South Leasehold Co., LLC, owner; New York Sports Club, lessee.

SUBJECT – Application September 18, 2006 – Extension of Term/Amendment – To allow the operation of a Physical Culture Establishment/Health Club and change in hour of operation, on portions of the cellar, first floor and second floor of the existing five story mixed use loft building.

PREMISES AFFECTED – 303 Park Avenue South, northeast corner of Park Avenue South and East 23<sup>rd</sup> Street, Block 879, Lot 1, Borough of Manhattan.

### COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Fredrick A. Becker.

For Opposition: Nick Lecakes, Kath Grove and Betty LaRoe.

**ACTION OF THE BOARD** – Laid over to July 24, 2007, at 10 A.M., for continued hearing.

## 145-92-BZ

APPLICANT – Deirdre Carson of Greenberg Traurig, for PPI New York, LLC, owner; Eddie Gyms LLC, lessee.

SUBJECT – Application March 23 2007 – Extension of Term/Amendment/Waiver to request a renewal of the term of a special permit granted pursuant to (Z.R. §73-36) which permits the operation of a Physical Culture Establishment located on the third and fourth stories of a building located in a C2-8/C8-4 zoning district.

PREMISES AFFECTED – 403 East 91<sup>st</sup> Street, north side of East 91<sup>st</sup> Street between 1<sup>st</sup> and York Avenues, Block 1571, Lot 5, Borough of Manhattan.

### COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Margo Flug.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to July 24, 2007, at 10 A.M., for decision, hearing closed.

# MINUTES

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**102-95-BZ, Vol. IV**

APPLICANT – The Law Office of Fredrick A. Becker, for The Argo Corporation as agent for 50 West 17 Realty Company, owner; Renegades Associate d/b/a Splash Bar, lessee.

SUBJECT – Application May 8, 2007 – Extension of Term of a special permit (§73-244) for a previously granted UG12 eating and drinking establishment with dancing (Splash Bar) for a term of three years which expired on March 5, 2007 in a C6-4A zoning district.

PREMISES AFFECTED – 50 West 17<sup>th</sup> Street, south side of West 17<sup>th</sup> Street, between 5<sup>th</sup> Avenue and 6<sup>th</sup> Avenue, Block 818, Lot 78, Borough of Manhattan.

**COMMUNITY BOARD #5M**

APPEARANCES –

For Applicant: Fredrick A. Becker.

**ACTION OF THE BOARD** – Laid over to July 17, 2007, at 10 A.M., for continued hearing.

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**149-95-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, for Brodcom West Development Company, owner; AGT Crunch, lessee.

SUBJECT – Application January 12, 2007 – Extension of term/Amendment for a physical culture establishment in a C4-7 zoning district, including legalization of change in operating entity and amend the hours of operations.

PREMISES AFFECTED – 35/75 West End Avenue, northwest corner of West End Avenue and West 61<sup>st</sup> Street, Block 1171, Lot 63, Borough of Manhattan.

**COMMUNITY BOARD #7M**

APPEARANCES –

For Applicant: Adam W. Rothkrug.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to July 10, 2007, at 10 A.M., for decision, hearing closed.

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**196-02-BZ, Vol. II**

APPLICANT – Peter Hirshman, for Dynamic Youth Community, Inc., owner.

SUBJECT – Application April 24, 2007 – Extension of Time to Complete Construction and to obtain a Certificate of Occupancy to a previously granted variance (ZR 72-21) for the addition of sleeping accommodations of 16 beds to an existing community facility (Dynamic Youth Community Inc.) in C8-2 zoning district.

PREMISES AFFECTED – 1826-32 Coney Island Avenue, west side of Coney Island Avenue, 46' North of Avenue O, Block 6549, Lot 48, Borough of Brooklyn.

**COMMUNITY BOARD # 12BK**

APPEARANCES –

For Applicant: Peter Hirshman.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to July 10, 2007, at 10 A.M., for decision, hearing closed.

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**APPEALS CALENDAR**

**238-06-A**

APPLICANT – Kevin A. Finnegan, for Elizabeth Langwith, et al.

OWNER: Hudson 12<sup>th</sup> Development, LLC.

SUBJECT – Application September 12, 2006 – Appeal of the decision of the DOB refusal to revoke permits issued for a proposed dormitory (NYU) on a lot formerly occupied by St Anne's Church that allows the creation of a zoning lot under Section 12-10 (d) utilizing unused developmental rights from the United States Post Office, a government agency that is exempt from zoning regulations. C6-1 zoning district.

PREMISES AFFECTED – 110-124 East 12<sup>th</sup> Street, between Third and Fourth Avenue, Block 556, Lots 48 and 49, Borough of Manhattan.

**COMMUNITY BOARD #3M**

APPEARANCES – None.

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

THE VOTE TO GRANT –

Affirmative: .....0

Negative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

THE RESOLUTION:

WHEREAS, the instant appeal comes before the Board in response to a final determination of the Acting Manhattan Borough Commissioner, dated August 15, 2006 (the “Final Determination”); and

WHEREAS, the Final Determination was issued in response to requests from Elizabeth Langwith and other residents of 111 Fourth Avenue, Manhattan (“Appellants”) dated July 11 and July 12, 2006, asking that the Department of Buildings (“DOB”) withhold or revoke any permit issued in connection with Application No. 104311031 for the construction of a 26-story community facility at 110-124 East 12<sup>th</sup> Street (Block 556, Lots 48 and 49) (“the Dormitory Lots”) that relies on development rights obtained through a zoning lot merger with Block 556, Lot 36 (“the USPS Lot”) at which the United States Postal Service (“USPS”) operates its Cooper Station facility at 101-111 East 11<sup>th</sup> Street; and

WHEREAS, in the Final Determination, the Acting Manhattan Borough Commissioner denied this request on the following basis:

Notwithstanding the Department’s jurisdictional

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limitation over the USPS premises, development rights are associated with Lot 36. The ZR does not prohibit a merger of a lot owned by an entity exempt from the Department's jurisdiction. The new building permissibly used available floor area on the merged zoning lot that was derived from Lot 36. Thus, the applicant was entitled to the referenced building permit as of right.

WHEREAS, as reflected in the Final Determination, the Acting Manhattan Borough Commissioner denied this request because the new building on the Dormitory Lots permissibly used available floor area derived from the USPS Lot as a result of a zoning lot merger pursuant to the Zoning Resolution of the City of New York ("ZR") § 12-10(d); and

WHEREAS, the Final Determination acknowledged that the USPS, as a federal entity, is exempt from compliance with New York City zoning regulations; and

WHEREAS, the Final Determination stated that there is no prohibition in the ZR against the merger of lots, such as the USPS Lot, exempt from DOB's jurisdiction with other regulated lot(s) to form a zoning lot under ZR §12-10(d); and

WHEREAS, there is no provision of the ZR that would prohibit the use of development rights derived from the lot(s) exempt from DOB's jurisdiction anywhere within the zoning lot formed by such merger; and

WHEREAS, the use of the available development rights will result in the construction of a 26-story dormitory building for New York University by Hudson 12<sup>th</sup> Development LLC ("Hudson"), the owner of the Dormitory Lots; and

WHEREAS, a public hearing was held on this appeal on April 17, 2007 after due notice by publication in *The City Record*, and then to decision on June 12, 2007; and

WHEREAS, the Appellants, DOB, Hudson and the USPS have all been represented by counsel in this appeal; and

WHEREAS, various elected officials representing the area in which the Dormitory Site is located, including Councilwoman Mendez, Manhattan Borough President Stringer, U.S. Congressman Nadler, State Senator Duane, and State Assembly Member Glick, testified in support of the Appellants' request to revoke the permit, citing the lack of jurisdiction of the City of New York to prohibit the USPS from further development of the USPS Lot notwithstanding the use by Hudson on the Dormitory Lots of the development rights derived from the USPS Lot; and

WHEREAS, various civic organizations, including the Greenwich Village Society for Historic Preservation, the Village Independent Democrats, the Tribeca Community Association and the Canal West Coalition, and private citizens testified in support of the appeal, citing the same general concern; and

WHEREAS, all parties agree that the City of New York lacks jurisdiction to enforce the terms of the ZR against the USPS pursuant to the Supremacy Clause of the U.S. Constitution; and

WHEREAS, all parties agree that no provision of the

ZR explicitly prohibits the use of development rights derived from properties owned by governmental entities by private parties when there has been a zoning lot merger pursuant to ZR § 12-10 (Appellants' Letter Brief dated May 1, 2007 at 5); and

WHEREAS, Appellants argue that the use of development rights derived from the USPS Lot by Hudson on the Dormitory Lots is illegal (Appellants' Memorandum of Law dated September 12, 2006, at 2); and

WHEREAS, Appellants base their argument on two premises: 1) that because USPS is outside the scope of regulation by the ZR, no development rights generated by the USPS Lot should be deemed to exist, and 2) that because the USPS will remain beyond the jurisdiction of the City after Hudson has erected the building on the Dormitory Lots, the City will have no ability to enforce the ZR with respect to any future development by the USPS within the merged zoning lot; and

WHEREAS, Appellants base their argument on the illegality of the use of the development rights derived from the USPS Lot by Hudson on the Dormitory Lots on the premise that because the USPS, as a governmental entity, is not subject to the ZR, the City will be unable to prohibit the USPS from further development on the USPS Lot even after the development on the Dormitory Lots using the development rights derived from the USPS Lot has been completed (*Id.*); and

WHEREAS, Appellants argue that, despite the absence of any provision in the ZR that prohibits the use of development rights associated with properties owned by governmental entities exempt from City jurisdiction by private parties when there has been a zoning lot merger pursuant to ZR § 12-10, the Board should find that the ZR should treat the USPS differently from a private party in this instance (Appellants' Letter Brief of May 22, 2007 at 2); and

WHEREAS, Appellants base this argument on ZR § 74-792(e)(3), which provides "that in the case of landmark sites owned by the City, State or Federal Government, transfer of development rights shall be contingent upon provision by the applicant of a major improvement of the public pedestrian circulation or transportation system in the area"; and

WHEREAS, Appellants generalize from ZR § 74-792(e) that "Federal landowners are specifically singled out for special treatment under the law based entirely on the special status and identity of the landowner" (*Id.* at 3); and

WHEREAS, Appellants conclude that the Board should treat the USPS differently from a private party regulated under the ZR, deem the use of the development rights derived from the USPS Lot by Hudson on the Dormitory Lots to be contrary to law and against public policy, and grant the present appeal; and

WHEREAS, Appellants also argue that because the City lacks jurisdiction to regulate the USPS, permitting the use of the development rights from the USPS Lot on the Dormitory Lots within the merged zoning lot will result in

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a situation in which the USPS could subsequently enlarge its building on the USPS Lot, resulting in development on the merged zoning lot in excess of what would be allowed by the ZR if the entirety of the merged zoning lot were subject to the City's jurisdiction; and

WHEREAS, Appellants argue that the City's inability to enforce the ZR with respect to future development on the USPS Lot could result in a noncompliance with the ZR of both the merged zoning lot and the 26-story dormitory proposed to be constructed on the Dormitory Lots; and

WHEREAS, Appellants further argue that if the USPS does expand its Cooper Station facility located on the USPS Lot in the future, the City's only recourse would be to order Hudson or its successor to tear down all or part of the Dormitory so as to bring the merged zoning lot into compliance with zoning (Appellants' Letter dated May 1, 2007 at 3); and

WHEREAS, the Appellants deem such future action by the City to reduce any overdevelopment of the merged zoning lot, such as revoking the certificate of occupancy for the completed dormitory building or requiring Hudson to tear down the building, to be "implausible" (Id.); and

WHEREAS, Appellants argue that the use of the development rights derived from the USPS Lot by Hudson on the Dormitory Lots could create a situation in which development in excess of what the ZR would allow could exist on the merged zoning lot and create a condition for which the City would have no effective enforcement mechanism; and

WHEREAS, Appellants further argue that any private agreements that may exist between the USPS and Hudson with respect to future development on the USPS Lot are unenforceable by the City and therefore legally insufficient; and

WHEREAS, even assuming that the USPS has entered into an enforceable agreement with Hudson not to develop the USPS Lot further, Appellants argue that the City should not be forced to rely on Hudson or its successor(s) to enforce its agreements with the USPS that would limit development by USPS on the merged zoning lot to that required by the ZR (Appellants' Letter Brief dated May 1, 2007 at 2); and

WHEREAS, DOB notes that Appellants do not dispute that the USPS Lot and the Dormitory Lots were validly merged into a single zoning lot pursuant to ZR § 12-10(d) (DOB Letter Brief dated January 30, 2007 at 1); and

WHEREAS, DOB states that "[t]he ZR attributes floor area to a zoning lot without regard to ownership" (Id.); and

WHEREAS, in the instant case, DOB stated with respect to the merged zoning lot and the legality of the permit it granted:

[T]he merged lot contains 32,858 square feet. A floor area ratio of 6.5 in the C6-1 zoning district

allows a maximum 213,577 square feet of developable floor area on the zoning lot. Since the existing buildings on the zoning lot contained a total of 37,720 square feet of zoning floor area, 175,857 square feet of zoning floor area remained available for use on the zoning lot. The permit was lawful in that the plans for the proposed development provide that it will contain 175,786 square feet, an amount falling within the floor area limitation imposed on the merged zoning lot. Id.; and

WHEREAS, DOB states that Appellants' position that "the USPS parcel does not possess development rights because it is owned by a federal entity must fail because it contradicts the express recognition of federally-owned development rights set forth in ZR § 74-792" (Id. at 2); and

WHEREAS, DOB argues that Appellants do not claim a present harm and only envision a possible future harm (Id.); and

WHEREAS, consequently Appellants' grievance is not with the application of the ZR by DOB, but rather with the operation of the Supremacy Clause of the U.S. Constitution (Id.); and

WHEREAS, with respect to Appellant's argument that the potential for the USPS to develop the USPS Lot in the future so that the merged zoning lot does not comply with the ZR, DOB observes that possible remedies, such as enforcement of private agreements by the owner of the Dormitory Lots, further enlargement of the zoning lot, or reduction of the structure located on Lot 49, exist to address any noncompliance (Id. at 2); and

WHEREAS, DOB states that its determination to issue the permit is not dependent on "an ability to revoke the new building's certificate of occupancy or to enforce a restrictive declaration that obligates the USPS to limit the amount of floor area on its property" as suggested by Appellants (DOB Letter dated May 31, 2007 at 1); and

WHEREAS, Hudson states that "the ZR expressly recognizes that governmental agencies, like the USPS, have development rights that can be transferred," specifically in ZR § 74-79 (Transfer of Development Rights from Landmark Sites) and § 93-34 (Distribution of Floor Area in the Large Scale Plan Subdistrict A [within the Special Hudson Yards District]) (Memorandum in Opposition to Appellants' Appeal dated December 13, 2006 at 4); and

WHEREAS, ZR § 74-79 contains no prohibition against such transfers involving sites owned by entities otherwise exempt from regulation under the ZR; and

WHEREAS, ZR § 74-792(e)(3) specifically acknowledges the legality of such transfers involving "landmark sites owned by the City, State or Federal Government," by making such transfers contingent on "provision by the applicant of a major improvement of the public pedestrian circulation or transportation system in the

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area”; and

WHEREAS, ZR § 93-34 allows the distribution of floor area from the Eastern Railyards under the ownership of the MTA, a governmental entity that, like USPS, is exempt from the requirements of the ZR; and

WHEREAS, furthermore, DOB had previously expressly acknowledged by a letter dated February 29, 2000, that the development rights of government entities exempt from the requirements imposed by the ZR may be used by private parties when a zoning lot merger has been effected pursuant to ZR § 12-10 (Id. at Exhibit F); and

WHEREAS, DOB’s letter of February 29, 2000 specifically addressed a proposed zoning lot merger involving lots owned by the National Railroad Passenger Corporation (“Amtrak”), a federal entity exempt from the provisions of the Zoning Resolution, and the NYU/Mt. Sinai Medical Center Condominium (“Medical Center”) that would allow the Medical Center to use development rights derived from the Amtrak property notwithstanding Amtrak’s exemption from zoning regulation (Id. at 4); and

WHEREAS, DOB has approved the use of development rights derived from government-owned property in other instances, including two, the Orion Condominiums located at 250 W. 42<sup>nd</sup> Street and an apartment building at the intersection of East 23<sup>rd</sup> Street and Third Avenue, that involved development rights derived from USPS-owned property, and the Hudson Crossing project at Ninth Avenue and 37<sup>th</sup> Street involving development rights derived from a property owned by the Port Authority of New York and New Jersey which is similarly exempt from City jurisdiction (Id. at 4); and

WHEREAS, with respect to the Appellants’ argument that the USPS will be able to develop the USPS Lot in the future so that the merged zoning lot does not comply with the ZR, in addition to proposing to use the development rights from the USPS Lot, Hudson also entered into a Zoning Lot Development Agreement (“ZLDA”) and acquired a perpetual and irrevocable easement for light, air and unobstructed views (“Easement Agreement”) over the USPS Lot, both of which are annexed to the Hudson Memorandum in Opposition as Exhibits B and C; and

WHEREAS, the ZLDA and Easement Agreement restrict the USPS from further development of the USPS Lot; and

WHEREAS, the USPS argues, in response to Appellants’ argument that the use of the development rights derived from the USPS Lot by Hudson could result in a noncompliance of the merged zoning lot with the ZR, that it is subject to 39 U.S.C. § 409(f), which imposes the following affirmative duties on the USPS:

- (2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable

environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

- (3) For purposes of meeting the requirements of [the foregoing paragraph (2)] with respect to a building, the Postal Service shall –
  - (A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located; [and]
  - (B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time . . .
- (4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of [the foregoing paragraph 2]. Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendation. (USPS Letter Brief dated April 10, 2007 at 1); and

WHEREAS, 39 CFR 241.4(f) provides that “in carrying out [projects relating to customer service facilities], it is the policy of the Postal Service to comply with local planning and zoning requirements and building codes consistent with prudent business practices and unique postal requirements” (Id. at 2); and

WHEREAS, Appellants do not dispute the applicability of 39 U.S.C. § 409(f) or 39 CFR 241.4(f) to the USPS; and

WHEREAS, Appellants do not dispute the enforceability of the ZLDA or the Easement Agreement; and

WHEREAS, the Board finds that the ZR explicitly acknowledges the legality of the use by private parties of development rights derived from property owned by governmental entities when such rights are exercised in compliance with the ZR; and

WHEREAS, the Board finds DOB’s interpretation of the ZR in refusing to revoke or withhold the permits to be consistent with the plain language of the ZR; and

WHEREAS, the Board finds that nothing contained in the ZR prohibits or restricts the rights of private parties to use development rights derived from property owned by governmental entities not subject to City jurisdiction when there has been a zoning lot merger pursuant to the provisions of ZR § 12-10 between the government-owned

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and the privately owned lots; and

WHEREAS, the Board finds that the USPS Lot possesses development rights pursuant to the ZR and which are equal to the development rights that it would possess if it were owned by a private party subject to City jurisdiction; and

WHEREAS, the Board finds that DOB's actions in granting the permit to Hudson based on the development rights derived from the USPS Lot were consistent with the requirements of the ZR, DOB's policies, and DOB's past practices; and

WHEREAS, although it is in agreement with DOB's assertion that its issuance of the permit was not contingent on its ability to revoke the certificate of occupancy for the new building or to enforce the private agreements between Hudson and the USPS, the Board finds, in light of the obligations imposed on the USPS by 39 U.S.C. § 409(f), 39 CFR 241.4(f), the ZLDA and the Easement Agreement, that Applicant's argument that the Board should invalidate DOB's issuance of the permits to prevent the USPS from future overdevelopment of the merged zoning lot is entirely speculative; and

*Therefore it is Resolved* that the instant appeal, seeking a reversal of the determination of the Acting Manhattan Borough Commissioner, dated August 15, 2006, refusing to revoke the permit issued for construction of the dormitory at the Dorm Site, is hereby denied.

Adopted by the Board of Standards and Appeals, June 12, 2007.

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## **70-06-A & 71-06-A**

APPLICANT – Eric Palatnik, P.C., for James Pullano, owner.

SUBJECT – Application April 19, 2006 – Proposed construction of a two- story, three family dwelling located within the bed of mapped street (Zev Place) is contrary to General City Law Section 35. Premises is located within an R3-2 Zoning District.

PREMISES AFFECTED – 4 & 8 Rockwell Avenue, west of the intersection of Virginia Avenue and Rockwell Avenue, Block 2998, Lots 1& 3 (tent), Borough of Staten Island.

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

APPEARANCES –

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** – Laid over to July 10,

2007, at 10 A.M., for continued hearing.

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## **219-06-A thru 225-06-A**

APPLICANT – Rothkrug, Rothkrug and Spector, for J. Berardi & C. Saffren, owners.

SUBJECT – Application August 30, 2006 – Application to permit the construction of seven two story one family dwellings within the bed of a mapped street (128th Drive) contrary to Section 35 of the General City Law and not fronting on a legally mapped street contrary to Article 3, Section 36 of the General City Law. Premises is located within the R-2 Zoning District.

PREMISES AFFECTED – 241-10/16/22/28/15/21/25 128<sup>th</sup> Drive, Block 12886, Lots 1003, 1005, 1007, 1009, 1004, 1006, 1008, Borough of Queens.

### **COMMUNITY BOARD #13Q**

APPEARANCES –

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** – Laid over to July 10, 2007, at 10 A.M., for continued hearing.

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*Jeffrey Mulligan, Executive Director*

Adjourned: 11:30 P.M.

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**REGULAR MEETING  
TUESDAY AFTERNOON, JUNE 12, 2007  
1:30 P.M.**

Present: Chair Srinivasan, Vice-Chair Collins,  
Commissioner Ottley-Brown and Commissioner Hinkson.  
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## ZONING CALENDAR

### 86-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Emil Moshkovich, owner.

SUBJECT – Application May 5, 2006 – Variance (§72-21) to allow Use Group 7 (tire sales with installation services) and Use Group 16 (automotive repair) in an R3-2/C1-2 district; contrary to use regulations (§32-10). An as-of-right eating and drinking establishment (Use Group 6) is also proposed. Additionally, a Special Permit under §73-44 is requested to allow the reduction of required off-street parking requirements.

PREMISES AFFECTED – 145-70 Guy R. Brewer Boulevard, northwestern corner of the intersection between Guy Brewer and Farmers Boulevards, Block 13309, Lots 36, 42, 44, Borough of Queens.

### COMMUNITY BOARD #13Q

APPEARANCES – None.

**ACTION OF THE BOARD** – Application withdrawn.

**THE VOTE TO WITHDRAW** –

Affirmative: Chair Srinivasan, Vice-Chair Collins,  
Commissioner Ottley-Brown and Commissioner Hinkson...4  
Negative:.....0

Adopted by the Board of Standards and Appeals, June 12, 2007.  
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### 259-06-BZ

### CEQR #07-BSA-018K

APPLICANT – Law Office of Fredrick A. Becker, for Ahi Ezer Congregation, owner.

SUBJECT – Application September 22, 2006 – Variance (§72-21) to permit the enlargement of an existing synagogue located in an R5 (OP) zoning district. The proposal is contrary to open space coverage (§24-11), side yards (§24-35), front yards (§24-34), height and setback (§24-50 and §24-521), parking (§25-18 and §25-31), and front yard not fully landscaped (§113-30).

PREMISES AFFECTED – 1885-1891 Ocean Parkway, a/k/a 601 Avenue S, Block 6682, Lot 60, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Collins,  
Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 24, 2007, acting on Department of Buildings Application No. 302146997, reads in pertinent part:

- “(1) Proposed enlargement increases the degree of non-compliance of an existing building with respect to floor area ratio, which is contrary to ZR Section 23-141(b)
- (2) Proposed enlargement increases the degree of non-compliance of an existing building with respect to open space/coverage, which is contrary to ZR Section 23-141(b)
- (3) Proposed enlargement increases the degree of non-compliance of an existing building with respect to side yards, which is contrary to ZR Section 23-464 & 23-662
- (4) Proposed enlargement increases the degree of non-compliance of an existing building with respect to front yards, which is contrary to ZR Section 113-12 & 23-45
- (5) Proposed enlargement increases the degree of non-compliance of an existing building with respect to wall height, setback and sky exposure plane, which is contrary to ZR Section 23-631
- (6) Proposed plans are contrary to ZR Section 25-18 and ZR Section 25-31, in that the proposed number of parking spaces is less than the minimum required number of parking spaces
- (7) Proposed plans are contrary to ZR Section 113-30 in that the front yard is not fully landscaped.”; and

WHEREAS, this is an application under ZR § 72-21 to permit, within an R5 zoning district, within the Special Ocean Parkway District (OP), the enlargement of an existing one- and two-story synagogue, which will not comply with the requirements for floor area ratio, open space, lot coverage, side yards, front yards, wall height, setback, sky exposure plane, parking, and landscaping, contrary to ZR §§ 23-141(b), 23-464, 23-662, 113-12, 23-45, 23-631, 25-18, 25-31, and 113-30; and

WHEREAS, the application is brought on behalf of Ahi Ezer Congregation (the “Synagogue”), a nonprofit religious institution; and

WHEREAS, a public hearing was held on this application on April 17, 2007, after due notice by publication in the *City Record*, with a continued hearing on May 15, 2007, and then to decision on June 12, 2007; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

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

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including Chair Srinivasan and Commissioner Hinkson; and

WHEREAS, the site is located on the northeast corner of Ocean Parkway and Avenue S; and

WHEREAS, because the site is within an R5 zoning district within the Special Ocean Parkway District, the residential bulk regulations, not the community facility bulk regulations, apply; and

WHEREAS, the subject site has a total lot area of 8,241.3 sq. ft.; and

WHEREAS, the site is occupied by a one- and two-story synagogue building; and

WHEREAS, the Synagogue currently occupies 6,245.59 sq. ft. of floor area on the first floor and 3,172.32 sq. ft. of floor area on the second floor for a total floor area of 9,417.91 sq. ft. (1.14 FAR) (the maximum permitted floor area and FAR are 10,301.62 sq. ft. and 1.25, respectively); and

WHEREAS, the applicant proposes to build a two-story enlargement above the one-story portion of the building; the envelope of the existing two-story portion of the building at the corner of Ocean Parkway and Avenue S will not change (the existing building with the enlargement is hereinafter the "New Building"); and

WHEREAS, the New Building will provide for a total floor area of 6,327.7 sq. ft. on the first floor, 4,560.68 sq. ft. on the second floor, and 2,292.17 sq. ft. on the third floor for a total of 13,180.55 sq. ft. (1.60 FAR); and

WHEREAS, the applicant proposes to increase the lot coverage from 75.7 percent to 76.7 percent (55 percent is the maximum permitted) and reduce the open space from 1,995.71 sq. ft. to 1,913.60 sq. ft. (3,708.58 sq. ft. is the minimum required); and

WHEREAS, the enlargement of the first floor and the increased lot coverage are due to filling in a small notch of open space at the inside rear corner of the site; and

WHEREAS, the enlargement also increases the degree of non-compliance as to the two side yards and the front yard on Avenue S, in order to maintain a continuous streetwall; and

WHEREAS, the applicant proposes to maintain the wall and total height of the existing two-story portion of the building at 35'-11"; the wall and total height of the new three-story portion will be 36'-6" and will line up with the existing parapet (the maximum permitted wall height is 32'-0" before a 15'-0" setback); and

WHEREAS, the applicant represents that the required landscaping cannot be provided due to the existing site conditions; and

WHEREAS, the applicant represents that the variance request is necessitated by the programmatic needs of the Synagogue, which seeks to expand and reconfigure its existing facilities in order to accommodate its current congregation; and

WHEREAS, the proposed uses include: (1) maintaining the current uses in the cellar; (2) enlarging the

existing conference/classroom area and adding a men's restroom on the first floor; (3) adding of a new passenger elevator; (4) increasing facilities for women on the second floor; (5) adding a new conference/classroom area, rabbi's office, and restrooms on the new second floor; and (6) adding a new conference/classroom area, restrooms, and a kitchen on the new third floor; and

WHEREAS, specifically, the applicant states that the following are the programmatic space needs of the Synagogue: (1) a need to better accommodate an increase in the number of congregants; (2) a need to provide additional worship space and facilities for women and girls; (3) a need to expand the conference/classroom space to accommodate educational programs; (4) a need to provide additional restrooms; (5) a need to provide private meeting space for congregants to meet with the rabbi; and (6) a need to provide handicapped accessibility to all portions of the building; and

WHEREAS, as to attendance, the applicant states that the Synagogue has occupied the existing building since 1970 and now serves approximately 500 families, which cannot be efficiently accommodated in the existing building; and

WHEREAS, the applicant represents that the existing Synagogue space cannot accommodate this number of worshipers on a regular basis or accommodate any anticipated growth; and

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

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

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

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

WHEREAS, specifically, the applicant represents that the context of the immediate neighborhood includes two- and three-story dwellings, a two-story synagogue, a four-story school, a four-story place of assembly, and two-, three-, and four-story multiple dwellings; and

WHEREAS, the applicant notes that the height of the new portion of the building will closely match that of the existing building; and

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WHEREAS, additionally, the applicant notes that the Synagogue is a permitted use which already exists at the site; and

WHEREAS, further, the applicant asserts that the larger capacity of the Synagogue will accommodate the existing number of congregants and will relieve overcrowding, while permitting incremental increases in attendance; and

WHEREAS, additionally, the vast majority of congregants live within a close proximity of the Synagogue and walk to the site, so there is no discernible impact on traffic; and

WHEREAS, the Board agrees that the proposed enlargement, which will relieve overcrowding conditions, is compatible with the surrounding neighborhood; and

WHEREAS, at hearing, the Board directed the applicant to ensure that the proposed roof railing complies with Building Code requirements; and

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

WHEREAS, the applicant states that the hardship was not self-created and that no as of right development at the site would meet the programmatic needs of the Synagogue; and

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

WHEREAS, the applicant represents that the requested waivers are the minimum necessary to accommodate the current and projected needs of the Synagogue; and

WHEREAS, accordingly, the Board finds that the requested relief is the minimum necessary to allow the Synagogue to fulfill its programmatic needs; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07-BSA-018K, dated February 9, 2007; and

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

Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, within an R5 zoning district, within the Special Ocean Parkway District, the enlargement of an existing one- and two-story synagogue, which will not comply with the requirements for floor area ratio, open space, lot coverage, side yards, front yards, wall height, setback, sky exposure plane, parking, and landscaping, contrary to ZR §§ 23-141(b), 23-464, 23-662, 113-12, 23-45, 23-631, 25-18, 25-31 and 113-30, *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 September 22, 2006"-(5) sheets, "February 9, 2007"-(4) sheets and "May 29, 2007"-(1) sheet; and *on further condition*:

THAT the new building will have the following parameters: a total floor area of 13,180.55 sq. ft. (1.60 FAR); lot coverage of 76.7 percent; open space of 1,913.60 sq. ft.; and a wall and total height of 36'-6", as illustrated on the BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, June 12, 2007.

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**302-06-BZ**  
**CEQR #07-BSA-038K**

APPLICANT – Harold Weinberg, P.E., for Mirrer Yeshiva Central Institute, owner.

SUBJECT – Application November 15, 2006 – Variance (§72-21) to permit the construction of a mezzanine and a two-story enlargement over the existing two-story

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community facility building. The premise is located in a R6 zoning district and the Ocean Parkway Special Zoning District Sub-District. The proposal is contrary to §24-11. PREMISES AFFECTED – 1791 Ocean Parkway, northeast corner Avenue R, north side Avenue R between Ocean Parkway and East 77<sup>th</sup> Street, Block 6663, Lot 46, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

### APPEARANCES –

For Applicant: Betty Carr.

### ACTION OF THE BOARD –

#### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4  
Negative:.....0

#### THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 21, 2006, acting on Department of Buildings Application No. 301275046, reads in pertinent part:

“The Proposed enlargement of a synagogue in Use Group 4 and a yeshiva school in Use Group 3 in an R6A zoning district in the Ocean Parkway Special Zoning District:

- (1) Increases the Floor Area Ratio above the permitted and is contrary to Sections 54-31 and 113-51 ZR.
- (2) Increases the degree of non-compliance with respect to front yards and is contrary to Section 113-542.
- (3) Increases the degree of non-compliance with respect to setback and sky exposure plane and is contrary to Section 23-631 ZR.
- (4) Creates non-compliance with respect to FAR for community facility use in Use Groups 3 & 4 and is contrary to Section 24-11 ZR.
- (5) Extends the degree of non-compliance with respect to perimeter wall height and total height and is contrary to Sections 23-631 and 54-31.”; and

WHEREAS, this is an application under ZR §72-21 to permit, within an R6A zoning district, within the Special Ocean Parkway District (OP), the enlargement of an existing yeshiva (Use Group 3) and synagogue (Use Group 4), which will not comply with the requirements for floor area ratio, front yards, setback, sky exposure plane, and perimeter wall and total height, contrary to ZR §§54-31, 113-51, 113-542, 23-631, and 24-11; and

WHEREAS, the application is brought on behalf of Mirrer Yeshiva Central Institute (the “Yeshiva”), a nonprofit religious institution; and

WHEREAS, a public hearing was held on this application on May 8, 2007, after due notice by publication in the *City Record*, and then to decision on June 12, 2007; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, City Council Member Simcha Felder

provided testimony in support of the application; and

WHEREAS, the applicant submitted 24 letters in support of the application; and

WHEREAS, the site and surrounding area had a visit and examination by a committee of the Board, including Chair Srinivasan; and

WHEREAS, the through-block site is located on the north side of Avenue R, with frontage on Ocean Parkway and East 77<sup>th</sup> Street, within an R6A (OP) zoning district; and

WHEREAS, the subject site has a total lot area of 24,807.7 sq. ft.; and

WHEREAS, for zoning purposes, the site is divided into the following four components: (1) the westernmost portion of the site at the corner of Ocean Parkway and Avenue R is identified as a corner lot within the Special Ocean Parkway District; (2) the middle portion of the site, which is located on Avenue R, 100 feet from Ocean Parkway and 100 feet from East 77<sup>th</sup> Street, is identified as an interior lot; the western half is within only the Special Ocean Parkway District and the eastern half is also within the Ocean Parkway Sub-district; and (3) the easternmost portion of the site at the corner of East 77<sup>th</sup> Street and Avenue R is identified as a corner lot within both the Special Ocean Parkway District and the Ocean Parkway Sub-district; and

WHEREAS, accordingly, community facility zoning regulations apply to the two western portions of the site, which are within the Special Ocean Parkway District and residential zoning regulations apply to the two eastern portions of the site, which are also within the Ocean Parkway Sub-district; thus, not all the noted DOB objections apply across the entire site; and

WHEREAS, specifically, (1) the westernmost portion of the site does not require any waivers, (2) the second portion of the site requires waivers for front yards, and (3) the remainder of the site requires waivers for FAR, height, setback, and encroachment into the sky exposure plane since it is subject to residential zoning district regulations; and

WHEREAS, the site is occupied by a yeshiva and synagogue building with portions of heights of one, two, and four stories; the yeshiva provides facilities for nursery, elementary, and high school levels, a rabbinical seminary, a post graduate division, and a dormitory; and

WHEREAS, the Yeshiva currently occupies 56,544.43 sq. ft. of total floor area (2.28 FAR); note that the FAR is based on an average across the site; and

WHEREAS, the maximum permitted FAR within the western half of the site, which is within only the Special Ocean Parkway District is 3.0 and the maximum permitted FAR within the eastern half of the site, which is also within the Ocean Parkway Sub-district is 1.5; and

WHEREAS, the easternmost portion of the site has pre-existing non-complying conditions from when it was built in approximately 1950; and

WHEREAS, the applicant proposes to build a two-story and mezzanine enlargement above the two-story portion of the building, which will fill in the middle of the building and result in a four-story building across the site; and

WHEREAS, the height of the middle portion of the

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building is designed to match the height of the western portion of the building and provides a slight increase in height from the existing eastern portion of the building; and

WHEREAS, the building is currently under construction, at the westernmost portion, pursuant to as of right building plans approved by DOB; and

WHEREAS, the applicant represents that the Yeshiva's needs have changed since the first enlargement was contemplated; and

WHEREAS, therefore, the applicant now proposes to modify the plans to remove a small portion of the approved building and add the components which are the subject of this application (the existing building with the enlargement is hereinafter the "New Building"); and

WHEREAS, the New Building will provide for a total floor area of 66,148.04 sq. ft. (2.67 FAR); this includes an additional 3,552.49 sq. ft. on the third floor, a new 3,025.56 sq. ft. third-floor mezzanine, and an additional 3,025.56 sq. ft. on the fourth floor; and

WHEREAS, the enlargement increases the degree of non-compliance as to yards; and

WHEREAS, the applicant proposes to maintain the wall and total height of the existing and approved four-story portions of the building at 56'-2" and 58'-0", respectively; and

WHEREAS, the applicant represents that the variance request is necessitated by the programmatic needs of the Yeshiva, which seeks to expand and reconfigure its existing facilities in order to accommodate its current enrollment; and

WHEREAS, specifically, the applicant states that the following are the programmatic space needs of the Synagogue: (1) a need to better accommodate the current student enrollment and relieve overcrowding; (2) a need to provide additional classroom space; (3) a need to reduce class size; (4) a need to provide additional dormitory space; (5) a need to permit students to traverse from the eastern and western ends of the building without having to exit and re-enter the building; and (6) the establishment of a Holocaust memorial; and

WHEREAS, as to enrollment, the applicant states that the Yeshiva now serves approximately 1200 students and has a waiting list; and

WHEREAS, the applicant represents that this enrollment cannot be accommodated in the existing classrooms and that portions of the gym and library are being used as classrooms; and

WHEREAS, the applicant represents that the proposed enlargement would permit classes to be held in classrooms and to resume the intended use of the gym and library; and

WHEREAS, as to class size, the applicant represents that a goal of the school is to alleviate overcrowding of classes by reducing class size from 27 to 25 students; and

WHEREAS, as to the dormitory space, the applicant represents that the current facilities, including two off-site dormitories, cannot accommodate the demand for beds; and

WHEREAS, the proposal provides for 14 additional dorm rooms, which would alleviate overcrowding of the existing dorm rooms and provide additional space for those

on the waiting list; and

WHEREAS, the applicant represents that there is a waiting list of approximately 40 students for the dormitory; and

WHEREAS, as to student circulation within the building, because the eastern and western portions of the building, as approved, are both four stories and the middle portion is only two stories, students must exit the building on the Avenue R frontage and re-enter across the site; and

WHEREAS, the proposal which would match the height of the two end portions of the building would permit smooth circulation within the building and eliminate the need to exit to get across the site; and

WHEREAS, the applicant represents that the Yeshiva will provide a Holocaust memorial within the New Building; and

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

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

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

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

WHEREAS, specifically, the applicant represents that the context of the immediate neighborhood includes two- and three-story dwellings, and five- and six-story multiple dwellings, and several community facilities and schools of comparable heights; and

WHEREAS, the applicant notes that the height of the new portion of the building will closely match that of the existing building; and

WHEREAS, additionally, the applicant notes that the Yeshiva is a permitted use which already exists at the site; and

WHEREAS, further, the applicant asserts that the larger capacity of the Yeshiva will accommodate the existing enrollment and will relieve overcrowding, while permitting incremental enrollment increases; and

WHEREAS, additionally, the vast majority of students and congregants live within a close proximity of the Yeshiva and walk to the site, so there is no discernible impact on traffic; and

WHEREAS, the Board agrees that the proposed

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enlargement, which will relieve overcrowding conditions, is compatible with the surrounding neighborhood; and

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

WHEREAS, the applicant states that the hardship was not self-created and that no as of right development at the site would meet the programmatic needs of the Yeshiva; and

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

WHEREAS, the applicant represents that the requested waivers are the minimum necessary to accommodate the current and projected needs of the Yeshiva; and

WHEREAS, accordingly, the Board finds that the requested relief is the minimum necessary to allow the Yeshiva to fulfill its programmatic needs; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07-BSA-038K, dated February 1, 2007; and

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

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §72-21 and grants a variance to permit, within an R6A zoning district, within the Special Ocean Parkway District, the enlargement of an existing yeshiva (Use Group 3) and synagogue (Use Group 4), which will not comply

with the requirements for floor area ratio, front yards, setback, sky exposure plane, and perimeter wall and total height, contrary to ZR §§54-31, 113-51, 113-542, 23-631, and 24-11, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 28, 2007"-(4) sheets and "May 29, 2007"-(4) sheets; and *on further condition*:

THAT the new building will have the following parameters: a total floor area of 66,148.04 sq. ft. (2.67 FAR); and a wall and total height of 58'-0", as illustrated on the BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, June 12, 2007.

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## **378-04-BZ**

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

SUBJECT – Application November 29, 2004 – Variance (§72-21) to permit the construction of a four-story residential building and a four-car garage. The Premise is located on a vacant lot in an M1-1 zoning district. The proposal is contrary to §42-00.

PREMISES AFFECTED – 94 Kingsland Avenue, northeast corner of the intersection between Kingsland Avenue and Richardson Street, Block 2849, Lot 1, Borough of Brooklyn.

## **COMMUNITY BOARD #1BK**

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to August 7, 2007, at 1:30 P.M., for deferred decision.

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## **43-06-BZ**

APPLICANT– Law Office of Fredrick A. Becker, for Emmanuel Charismatic Church, owner.

SUBJECT – Application March 13, 2006 – Zoning variance under §72-21 to allow a proposed house of worship to violate requirements for lot coverage (§24-11), front wall height (§24-521), front yard (§24-34), side yards (§24-35(a)), and accessory parking (§25-31). R5 district.

PREMISES AFFECTED – 31-09 35<sup>th</sup> Avenue, north side of 35<sup>th</sup> Avenue, 80' 10" east of 31<sup>st</sup> Street, Block 608, Lots 3 and 4, Borough of Queens.

## **COMMUNITY BOARD #1Q**

APPEARANCES –

For Applicant: Fredrick A. Becker and Melguisedee

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Quintero.

**THE VOTE TO CLOSE HEARING –**

Affirmative: Chair Srinivasan, Vice-Chair Collins,  
Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD –** Laid over to July 10,  
2007, at 1:30 P.M., for decision, hearing closed.

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**73-06-BZ**

APPLICANT – Eric Palatnik, P.C., for John J. Freeda,  
owner; Elite Fitness, lessee.

SUBJECT – Application April 21, 2006 – Special Permit  
(\$73-36) to allow the legalization of a PCE in a portion of  
the cellar and a portion of the first floor in a three-story  
building in a C2-3/R6 zoning district.

PREMISES AFFECTED – 111 Union Street, northwest  
corner of Union Street and Columbia Street, Block 335, Lot  
7501, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

APPEARANCES –

For Applicant: Eric Palatnik.

For Administration: Anthony Scaduto, Fire Department.

**ACTION OF THE BOARD –** Off Calendar.

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**75-06-BZ**

APPLICANT – Joseph P. Morsellino, Esq., for Cord Meyer  
Development, owner.

SUBJECT – Application April 25, 2006 – Zoning variance  
pursuant to §72-21 to allow a proposed twenty-one (21)  
story residential building with ground floor retail and  
community facility uses to violate applicable FAR (§23-142  
and §35-22), open space ratio (§23-142, §35-22 and §35-33)  
and sky exposure plane (§23-632) regulations. The proposed  
building would include 136 dwelling units and 146 parking  
spaces. The project site is located within an R7-1/C1-2  
zoning district.

PREMISES AFFECTED – 108-20 71<sup>st</sup> Avenue, northeast  
corner of Queens Boulevard and 71<sup>st</sup> Avenue, Block 2224,  
Lot 1, Borough of Queens.

**COMMUNITY BOARD #6Q**

APPEARANCES –

For Applicant: Joseph P. Morsellino.

For Opposition: C. Louis Putallaz, Judith Roga, Margot  
Lauchheimer, Obert, Walter Lauchheimer, Lane Steinberg,  
Allen Steinberg and Abe Kregger.

**ACTION OF THE BOARD –** Laid over to July 17,  
2007, at 1:30 P.M., for continued hearing.

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**108-06-BZ**

APPLICANT– Eric Palatnik, P.C., for S & L-G Realty  
Corp., owner.

SUBJECT – Application May 30, 2006 – Zoning variance  
under §72-21 to allow a proposed 15-story residential

building (U.G. 2) containing twenty-six (26) dwelling units  
and ground floor retail use (U.G. 6) to locate in an M1-6  
district; contrary to §42-00 (use regulations).

PREMISES AFFECTED – 143 West 30<sup>th</sup> Street, between 6<sup>th</sup>  
and 7<sup>th</sup> Avenues, Block 806, Lot 4, Borough of Manhattan  
**COMMUNITY BOARD #5M**

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD –** Laid over to July 17,  
2007, at 1:30 P.M., for continued hearing.

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**114-06-BZ**

APPLICANT – Sheldon Lobel, P.C., for Aleksandr  
Levchenko, owner.

SUBJECT – Application June 6, 2006 – Special Permit  
(\$73-622) to allow the legalization of an enlargement to a  
single family home in an R3-1 zoning district, which  
exceeds the allowable floor area ratio, open space and lot  
coverage (§23-141); provides less than the minimum  
required side yards (§23-48).

PREMISES AFFECTED – 124 Norfolk Street, west side of  
Norfolk Street between Shore Boulevard and Oriental  
Boulevard, Block 8756, Lot 10, Borough of Brooklyn

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Richard Lobel.

**ACTION OF THE BOARD –** Laid over to July 24,  
2007, at 1:30 P.M., for continued hearing.

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**131-06-BZ**

APPLICANT – Papa Architects, for Beach-Land Realty,  
owner.

SUBJECT – Application June 23, 2006 – Special Permit  
pursuant to Z.R. §73-36 to permit the legalization of an  
existing Physical Culture Establishment in a one-story  
portion of the existing building. The Premise is located in a  
C4-2 zoning district. The proposal is contrary to Z.R. §32-  
10.

PREMISES AFFECTED – 146 New Dorp Lane, a/k/a 146-  
154 New Dorp Lane, Block 4209, Lot 1, Borough of Staten  
Island.

**COMMUNITY BOARD #2 SI**

APPEARANCES –

For Applicant: Papa Architects and Philip Pennacchia.

**THE VOTE TO CLOSE HEARING –**

Affirmative: Chair Srinivasan, Vice-Chair Collins,  
Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD –** Laid over to July 10,  
2007, at 1:30 P.M., for decision, hearing closed.

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**152-06-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for

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Gregory Montalbano, owner.

SUBJECT – Application July 11, 2006 – Special Permit (§73-125) to allow the proposed two-story ambulatory diagnostic/treatment care facility containing 5,565 square feet of floor area and parking for fourteen vehicles. The Premise is located in an R3X zoning district. The proposal is contrary to §22-14.

PREMISES AFFECTED – 82 Lamberts Lane, southwest corner of Lamberts and Seldin Avenue, Block 1609, Lot 16, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Adam W. Rothkrug.

For Opposition: Thomas J. Carbone and William Tanzosh FDNY.

**ACTION OF THE BOARD** – Laid over to July 17, 2007, at 1:30 P.M., for continued hearing.

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## 261-06-BZ

APPLICANT – Sheldon Lobel, P.C, for Congregation Mazah, owner.

SUBJECT – Application September 25, 2006 – Variance (§72-21) to permit the construction and operation of a Yehsiva (Use Group 3A) and accessory synagogue (Use Group 4A) in a M1-2 zoning district. The proposal is contrary to section 42-10.

PREMISES AFFECTED – 87-99 Union Avenue, west side of Union Avenue at the intersection of Harrison Avenue, Union Avenue and Lorimer Street, Block 2241, Lot 39, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to July 10, 2007, at 1:30 P.M., for decision, hearing closed.

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## 301-06-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Cornerstone Residence LLC, owner.

SUBJECT – Application November 14, 2006 – Variance (§72-21) for the construction of a two-family dwelling on an existing narrow lot with special provisions for party or side lot line walls that does not provide the minimum required side yard of 8 feet (§23-49) in an R5 zoning district.

PREMISES AFFECTED – 148 Fountain Avenue, west side of Fountain Avenue, 111’ north of intersection with Glenmore Avenue, Block 4190, Lot 40, Borough of Brooklyn.

## COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** – Laid over to July 17, 2007, at 1:30 P.M., for an adjourned hearing

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## 322-06-BZ

APPLICANT – Rothkrug Rothkrug & Spector, for Hamid Kavian, owner.

SUBJECT – Application December 13, 2006 – Variance (§72-21) to permit the construction of a two family dwelling on a vacant lot with less than the required side yards contrary to ZR §23-48 in an R3-2 zoning district.

PREMISES AFFECTED – 117-57 142<sup>nd</sup> Place, east side of 142<sup>nd</sup> Place, between 119<sup>th</sup> Road and Foch Boulevard, Block 12015, Lot 317, Borough of Queens.

## COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Adam W. Rothkrug.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to July 10, 2007, at 1:30 P.M., for decision, hearing closed.

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## 32-07-BZ

APPLICANT– Omnipoint Communications Inc., for E.C. Hassell Inc., owner; Omnipoint Communications Inc., lessee.

SUBJECT – Application January 24, 2007 – Special Permit §73-30 and §22-21 – In an R3-2 zoning district, for a non-accessory radio tower for a public utility wireless communications facility and consist of a 62-ft. stealth flagpole (gold ball on top), together with antennas mounted and equipment cabinets on roof of nearby commercial building.

PREMISES AFFECTED – 146-10/16 Guy R. Brewer Boulevard, 240’ south of the intersection of Guy R. Brewer Boulevard and Farmers Boulevard, Block 13310, Lots 69 & 70, Borough of Queens.

## COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Robert Bandioso.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to July 10, 2007, at 1:30 P.M., for decision, hearing closed.

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## 46-07-BZ

APPLICANT– Sheldon Lobel, P.C., for Moishe Bergman, owner.

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SUBJECT – Application February 15, 2007 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary open space and floor area (§23-141(a)); side yard (§23-461) and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1328 East 23<sup>rd</sup> Street, located on the west side of East 23<sup>rd</sup> Street between Avenue M and Avenue N, Block 7658, Lot 62, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** – Laid over to July 17, 2007, at 1:30 P.M., for continued hearing.

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**54-07-BZ**

APPLICANT – Robert Akerman, Esq., for Ella Weiss, owner.

SUBJECT – Application February 23, 200 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary floor area, lot coverage and open space (§23-141); side yard (§23-461) and rear yard (§23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 1776 East 26<sup>th</sup> Street, west side of 26<sup>th</sup> Street, between Avenue R and Quentin Road, 200' north of Avenue R, Block 6808, Lot 34, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Richard Lobel.

For Opposition: Katherine A. Levine and Edward Jaworski.

**ACTION OF THE BOARD** – Laid over to July 17, 2007, at 1:30 P.M., for an adjourned hearing.

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**72-07-BZ**

APPLICANT– Sheldon Lobel, P.C. for Iren Israel Laniado, owner.

SUBJECT – Application March 28, 2007 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary open space, lot coverage and floor area (§23-141); side yard (§23-461); rear yard (§23-47) and perimeter wall height (§23-631) in an R3-2 zoning district.

PREMISES AFFECTED – 1941 East 26<sup>th</sup> Street, eastern side of 26<sup>th</sup> Street between Avenue S and Avenue T, Block 7305, Lot 70, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Richard Lobel.

For Opposition: Ed Jacorski.

**ACTION OF THE BOARD** – Laid over to July 17, 2007, at 1:30 P.M., for continued hearing

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**99-07-BZ**

APPLICANT – Eric Palatnik, P.C., for Orkin Arkadly, owner.

SUBJECT – Application April 24, 2007 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary floor area, open space and lot coverage (§23-141) and rear yard (§23-47) in an R3-1 zoning district.

PREMISES AFFECTED – 170 Girard Street, north of Oriental Boulevard, south of Hampton Avenue, Block 8749, Lot 271, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Susan Klapper for MBCG

Judith Baron, Dr. Leonard F.

**ACTION OF THE BOARD** – Laid over to July 24, 2007, at 1:30 P.M., for a continued hearing.

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*Jeff Mulligan, Executive Director*

*Adjourned: 4:30 P.M.*