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# BULLETIN

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

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Volume 92, Nos. 4-5

February 1, 2007

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### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**CHRISTOPHER COLLINS, *Vice-Chair***

**DARA OTTLEY-BROWN**

**SUSAN M. HINKSON**

*Commissioners*

**Jeffrey Mulligan, *Executive Director***

**Roy Starrin, *Deputy Director***

**John E. Reisinger, *Counsel***

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<b>OFFICE -</b>	<b>40 Rector Street, 9th Floor, New York, N.Y. 10006</b>
<b>HEARINGS HELD -</b>	<b>40 Rector Street, 6th Floor, New York, N.Y. 10006</b>
<b>BSA WEBPAGE @</b>	<b><a href="http://www.nyc.gov/html/bsa/home.html">http://www.nyc.gov/html/bsa/home.html</a></b>

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287-05-A	32-42 33 <sup>rd</sup> Street, Queens
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77-06-A &	
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**Affecting Calendar Numbers:**

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115-06-BZ	1820 East 28 <sup>th</sup> Street, Brooklyn
122-06-BZ	2671 86 <sup>th</sup> Street, Brooklyn
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**Affected Calendar Number:**

374-02-BZ	267-20 74 <sup>th</sup> Avenue, Queens
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# DOCKETS

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New Case Filed Up to January 23, 2007  
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## 12-07-A

25 Allegro Street, North side of Allegro Street, 101.33 southwest corner of Bertram Avenue & Allegro Street., Block 6462, Lot(s) 44 Borough of **Staten Island, Community Board: 3**. General City Law Section 36, Article 3-Proposed construction of a one family dwelling building. Was on as new for 3-6-07.  
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## 13-07-BZ

1120 East New York Avenue, Northeast corner of East New York Avenue and Rockaway Parkway., Block 4600, Lot(s) 1 & 7 Borough of **Brooklyn, Community Board: (SPECIAL PERMIT)11-413**-For a change in use from a parking and vehicle storage lot (UG8) to an accessory parking lot (UG6).  
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## 14-07-BZ

152 Franklin Street, The site contains 50.33 feet of frontage on Franklin Street., Block 189, Lot(s) 7506 Borough of **Manhattan, Community Board: 1**. (SPECIAL PERMIT)-73-36-Establishment is not in operation, due to financial hardship and contractual obligations, the facility opened for business on January 26, 2007. To legalize the Tribeca West Historic District.  
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## 15-07-BZ

199 Mount Eden Parkway, Mount Eden Parkway between Selwyn Avenue and Morris Avenue., Block 2824, Lot(s) 19 Borough of **Bronx, Community Board: 4**. Under 72-21-To permit the erection of a (UG4) ambulatory care facility.  
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## 17-07-BZY

421 West 250th Street, Located at the corner of Grosvenor Avenue and 250th Street., Block 5831, Lot(s) 10 Borough of **Bronx, Community Board: 8**. Extension of Time-11-332-To complete construction and /or obtain Certificate of Occupancy for a minor development.  
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## 18-07-BZY

5000 Iselin Avenue, Located at the corner of Grosvenor Avenue and 250th Street., Block 5831, Lot(s) 20 Borough of **Bronx, Community Board: 8**. Extension of Time-11-332-To complete construction and /or obtain Certificate of Occupancy for a minor development.  
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## 19-07-BZY

5020 Iselin Avenue, Located at the corner of Grosvenor Avenue and 250th Street., Block 5831, Lot(s) 30 Borough of **Bronx, Community Board: 8**. Extension of Time-11-332-To complete construction and /or obtain Certificate of Occupancy for a minor development.  
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## 20-07-BZY

5310 Grosvenor Avenue, The premises are part of an approximately 15-acre site known a Chapel Farm, Located in the Riverdale section of the Bronx, NY. These parcel projects are located in an area that is zoned as Special Natural Area District number 2 ("SNAD")., Block 5839, Lot(s) 4018 Borough of **Bronx, Community Board: 8**. Extension of Time-11-332-Time to complete construction and obtain a Certificate of Occupancy for a major development.  
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## 21-07-BZY

5300 Grosvenor Avenue, The premises are part of an approximately 15-acre site known a Chapel Farm, Located in the Riverdale section of the Bronx, NY. These parcel projects are located in an area that is zoned as Special Natural Area District number 2 ("SNAD")., Block 5839, Lot(s) 4025 Borough of **Bronx, Community Board: 8**. Extension of Time-11-332-Time to complete construction and obtain a Certificate of Occupancy for a major development.  
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## 22-07-BZY

5000 Grosvenor Avenue, The premises are part of an approximately 15-acre site known as Chapel Farm, located in the Riverdale section of the Bronx, New York. These parcel projects are located in an area that is zoned as Special Natural Area District number 2 ("SNAD")., Block 5830, Lot(s) 3912 Borough of **Bronx, Community Board: 8**. Extension of Time-11-332-Time to complete construction and obtain a Certificate of Occupancy.  
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## 23-07-BZY

5020 Grosvenor Avenue, The premises are part of an approximately 15-acre site known as Chapel Farm, located in the Riverdale section of the Bronx, New York. These parcel projects are located in an area that is zoned as Special Natural Area District number 2 ("SNAD")., Block 5830, Lot(s) 3920 Borough of **Bronx, Community Board: 8**. Extension of Time-11-332-Time to complete construction and obtain a Certificate of Occupancy.  
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# DOCKET

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## **24-07-BZY**

5030 Grosvenor Avenue, The premises are part of an approximately 15-acre site known as Chapel Farm, located in the Riverdale section of the Bronx, New York. These parcel projects are located in an area that is zoned as Special Natural Area District number 2 ("SNAD")., Block 5830, Lot(s) 3920 Borough of **Bronx, Community Board: 8**. Extension of Time-11-332-Time to complete construction and obtain a Certificate of Occupancy.

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## **25-07-BZY**

5041 Goodridge Avenue, The premises are part of an approximately 15-acre site known as Chapel Farm, located in the Riverdale section of the Bronx, New York. These parcel projects are located in an area that is zoned as Special Natural Area District number 2 ("SNAD")., Block 5830, Lot(s) 3940 Borough of **Bronx, Community Board: 8**. Extension of Time-11-332-Time to complete construction and obtain a Certificate of Occupancy.

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## **26-07-BZY**

5030 Goodridge Avenue, The premises are part of an approximately 15-acre site known as Chapel Farm, located in the Riverdale section of the Bronx, New York. These parcel projects are located in an area that is zoned as Special Natural Area District number 2 ("SNAD")., Block 5829, Lot(s) 3630 Borough of **Bronx, Community Board: 8**. Extension of Time-11-332-Time to complete construction and obtain a Certificate of Occupancy.

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## **27-07-BZY**

5040 Goodridge Avenue, The premises are part of an approximately 15-acre site known as Chapel Farm, located in the Riverdale section of the Bronx, New York. These parcel projects are located in an area that is zoned as Special Natural Area District number 2 ("SNAD")., Block 5829, Lot(s) 3635 Borough of **Bronx, Community Board: 8**. Extension of Time-11-332-Time to complete construction and obtain a Certificate of Occupancy.

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## **28-07-BZY**

5051 Grosvenor Avenue, The premises are part of an approximately 15-acre site known as Chapel Farm, located in the Riverdale section of the Bronx, New York. These parcel projects are located in an area that is zoned as Special Natural Area District number 2 ("SNAD")., Block 5831, Lot(s) 40 Borough of **Bronx, Community Board: 8**. Extension of Time-11-332-Time to complete construction and obtain a Certificate of Occupancy.

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## **29-07-BZY**

5041 Grosvenor Avenue, The premises are part of an approximately 15-acre site known as Chapel Farm, located in the Riverdale section of the Bronx, New York. These parcel projects are located in an area that is zoned as Special Natural Area District number 2 ("SNAD")., Block 5831, Lot(s) 50 Borough of **Bronx, Community Board: 8**. Extension of Time-11-332-Time to complete construction and obtain a Certificate of Occupancy.

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## **30-07-BZY**

5031 Grosvenor Avenue, The premises are part of an approximately 15-acre site known as Chapel Farm, located in the Riverdale section of the Bronx, New York. These parcel projects are located in an area that is zoned as Special Natural Area District number 2 ("SNAD")., Block 5831, Lot(s) 60 Borough of **Bronx, Community Board: 8**. Extension of Time-11-332-Time to complete construction and obtain a Certificate of Occupancy.

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## **31-07-BZY**

5021 Grosvenor Avenue, The premises are part of an approximately 15-acre site known as Chapel Farm, located in the Riverdale section of the Bronx, New York. These parcel projects are located in an area that is zoned as Special Natural Area District number 2 ("SNAD")., Block 5831, Lot(s) 70 Borough of **Bronx, Community Board: 8**. Extension of Time-11-332-Time to complete construction and obtain a Certificate of Occupancy.

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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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**FEBRUARY 6, 2007, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, February 6, 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**

**597-39-BZ**

APPLICANT – Walter T. Gorman, P.E., P.C., for Exxon Mobil Corporation, owner; Kings Parsons Car Care Inc., lessee.

SUBJECT – Application December 11, 2006 – 11-412 Amendment to a gasoline service station (Exxon Mobil) for the erection of a new steel canopy and to legalize the conversion from one pump island to two pump islands, conversion of a portion of the service building to a convenience store, the installation of a car vacuum and public telephone on site, four curb cuts and wood planters in a C1-4/R5D zoning district.

PREMISES AFFECTED – 84-04 Parsons Boulevard, aka 152-16 84<sup>th</sup> Avenue, southwest corner of 84<sup>th</sup> Avenue, Block 9751, Lot 1, Borough of Queens.

**COMMUNITY BOARD #8Q**

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**166-75-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, for Kassiani Katos, owner; KPS Food Corporation, lessee.

SUBJECT – Application August 30, 2006 – Extension of Term and waiver of the rules for variance to permit an eating and drinking establishment (Burger King & Popeye's) which expired in January 6, 2006 in a C1-2(R3-2) and R3-2 zoning district; and an extension of Time to obtain a certificate of occupancy which expired on March 18, 1998.

PREMISES AFFECTED – 164-17 Union Turnpike, north side of Union Turnpike, 148.83' east of 164<sup>th</sup> Street, Block 6972, Lot 21, Borough of Queens.

**COMMUNITY BOARD #8Q**

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**APPEALS CALENDAR**

**213-06-A**

APPLICANT – Fredrick A. Becker, Esq., for 7217 Grand Avenue Corp., owner.

SUBJECT – Application August 23, 2006 – to permit the construction of three story mixed use commercial /residential structure within the bed of a mapped street (72nd Place), contrary to General City Law Section 35. Premises is located in an C1-2 (R6B) Zoning District.

PREMISES AFFECTED – 72-19 Grand Avenue, northwest corner of Grand Avenue and 72<sup>nd</sup> Place, Block 2506, Lot 96 (tent.), Borough of Queens.

**COMMUNITY BOARD #5Q**

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**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 & 49, Borough of Manhattan.

**COMMUNITY BOARD #3M**

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**FEBRUARY 6, 2007, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, February 7, 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**

**183-05-BZ**

APPLICANT – Joseph Morsellino, Esq., for Dimitrios Spanos.

SUBJECT – Application August 5, 2005 – Variance (§ 72-21) to allow the residential redevelopment and enlargement of an existing two-story commercial building. The proposed multiple dwelling building will be six (6) floors and will contain ground floor commercial space. Twenty (20) dwelling units and ten (10) accessory parking spaces are proposed. The proposal is contrary to use regulations (§ 42-00). M1-3D district.

PREMISES AFFECTED – 25-09 38<sup>th</sup> Avenue, north east corner of the intersection of Crescent Street and 38<sup>th</sup> Avenue, Block 368, Lot 1, Borough of Queens.

**COMMUNITY BOARD #1Q**

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**118-06-BZ**

APPLICANT – Harold Weinberg, P.E., for Moshe Cohn, owner.

SUBJECT – Application June 9, 2006 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary lot coverage, open space and floor area, ZR 23-141(a) and rear yard, ZR 23-47 in an R3-1 zoning district.

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# CALENDAR

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PREMISES AFFECTED – 71 Beaumont Street, east side, 220' north of Hampton Avenue and Shore Boulevard, Block 8728, Lot 77, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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**157-06-BZ**

APPLICANT– The Law Office of Fredrick A. Becker, for C & K Steinway, LLC, owner; TSI Astoria Inc. dba New York Sports Club, lessee.

SUBJECT – Application July 15, 2006 – Special Permit (§73-36) to legalize the enlargement of a previously approved physical culture establishment on the first and second floor of a three story commercial building. C4-2A, C2-2(R6) zoning district.

PREMISES AFFECTED – 28-56 Steinway Street, northwest corner of Steinway Street and 30<sup>th</sup> Avenue, Block 662, Lot 41, Borough of Queens.

**COMMUNITY BOARD #1Q**

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**237-06-BZ**

APPLICANT – Moshe M. Friedman, for Jonathan M. Schwartz, owner.

SUBJECT – Application September 12, 2006 – Special Permit (73-622) for the enlargement of a single family semi-detached 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 – 1462 East 26<sup>th</sup> Street, west side 333'-7" north of the intersection formed by East 26<sup>th</sup> Street and Avenue O, Block 7679, Lot 79, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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**262-06-BZ**

APPLICANT – Law Offices of Howard Goldman, LLC for Ridgewood Equities, LLC, owner.

SUBJECT – Application September 26, 2006 – Variance (§ 72-21) to allow the residential conversion of an existing four (4) story industrial building. The proposed project would include fifty-five (55) dwelling units and twenty-seven (27) accessory parking spaces and is contrary to requirements for minimum distance between legally required windows and walls or lot lines (§ 23-861). R6B district.

PREMISES AFFECTED – 71-13 60<sup>th</sup> Lane, between 71<sup>st</sup> Avenue and Myrtle Avenue, Block 3538, Lot 67, Borough of Queens.

**COMMUNITY BOARD #5Q**

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**266-06-BZ**

APPLICANT – Friedman & Gotbaum, LLP, for Woodcutters Realty Corp., owner; Three on Third LLC,

lessee.

SUBJECT – Application September 29, 2006 – Special Permit (§ 73-52) to extend C6-1 zoning district use and bulk regulations twenty-five (25) feet into an adjacent R7-2 district to allow a mixed-use building containing Use Group 5 (transient hotel) on the residentially zoned portion of the subject zoning lot. C6-1 and R7-2.

PREMISES AFFECTED – 4 East 3<sup>rd</sup> Street, a/k/a 335-343 Bowery, Block 458, Lot 6, Borough of Manhattan.

**COMMUNITY BOARD #3M**

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*Jeff Mulligan, Executive Director*

**FEBRUARY 13, 2007, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, February 13, 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**

**27-96-BZ**

APPLICANT – Sheldon Lobel, P.C., for Matt Realty Corp., owner.

SUBJECT –Application October 23, 2006 - Extension of Term and Amendment for an existing Physical Cultural Establishment which was granted pursuant to §73-36 of the zoning resolution on October 16, 1996 and expired on October 16, 2006. The site is located in a C2-3/R5 zoning district.

PREMISES AFFECTED – 602-04 Coney Island Avenue, west side of Coney Island Avenue between Beverley Road and Avenue C, Block 5361, Lot 21, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

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**APPEALS CALENDAR**

**292-06-A**

APPLICANT – Sheldon Lobel, P.C., for 126 Newton St., LLC, owner.

SUBJECT – Application November 3, 2006 - An appeal seeking a determination that the owner of said premises has acquired a common law vested right to continue development commenced under the prior R6/M1-1. M1-2/R6A & Mx-8 zoning district.

PREMISES AFFECTED – 128 Newton Street, south side of Newton Street, between Graham Avenue and Manhattan Avenue, Block 2719, Lot 14, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

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# CALENDAR

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**FEBRUARY 13, 2007, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, February 13, 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**

**318-05-BZ**

APPLICANT- Marc A. Chiffert, P.E., for 2040 MLK Realty, LLC, owner.

SUBJECT - Application November 1, 2005 - Zoning variance under §72-21 to allow a proposed horizontal enlargement of an existing one-story non-conforming commercial building in an R7-1 district. The proposal calls for Use Group 6 retail use and is contrary to §52-22.

PREMISES AFFECTED - 2040 Dr. MLK JR Boulevard f/k/a 2040 University Avenue, northeast corner of intersection of West Burnside Avenue and Dr. MLK Jr. Boulevard, Block 3210, Lot 2, Borough of Bronx.

**COMMUNITY BOARD #5BX**

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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**

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**96-06-BZ**

APPLICANT - Stuart A. Klein, Esq., for West Properties, Inc., owner; Acqua Beauty Bar NY, Inc., lessee.

SUBJECT - Application May 15, 2006 - Special Permit (§73-36) to permit, in a C5-P zoning district located within the Midtown Special District and Preservation Subdistrict, the placement of a Spa within the cellar, first and second floors of an existing six (6) story commercial building. The proposal is contrary to section 32-10.

PREMISES AFFECTED - 39 West 56<sup>th</sup> Street, north side of 56<sup>th</sup> Street between 5<sup>th</sup> and 6<sup>th</sup> Avenues, Block 1272, Lot 14, Borough of Manhattan.

**COMMUNITY BOARD #5M**

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**97-06-BZ**

APPLICANT - Stuart A. Klein, Esq., for BFB Partners, LLC, owner; Thai Privilege Spa Company (NY), Limited, lessee.

SUBJECT - Application May 15, 2006 - Special Permit (§73-36) to permit, in an M1-5A zoning district located within the Landmark's Preservation Commission's Shoh Cast Iron District, the placement of a physical culture establishment (PCE) within a portion of an existing six (6) story commercial building.

PREMISES AFFECTED - 153-155 Spring Street, aka 411 West Broadway, frontage east side of West Broadway, Block 501, Lot 37, Borough of Manhattan.

**COMMUNITY BOARD #2M**

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**98-06-BZ & 284-06-A**

APPLICANT- Eric Palatnik, P.C., for Siach Yitzchok, owner.

SUBJECT - Applications May 16, 2006 and October 25, 2006 - Variance (72-21) to permit, in a R4A zoning district, a four (4)-story yeshiva, which is contrary to floor area (24-11); total height (24-521); front yard (2434); side yard (24-35); sky exposure plane (24-521); setback requirements (24-521); and level of yards (24-531).

Proposed construction of a four story yeshiva (Siam Yitzchok) that lies within the bed of a mapped street Beach 9th Street which is contrary to Section 35 of the General City Law Section 35. R4A zoning district.

PREMISES AFFECTED - 1045 Beach 9<sup>th</sup> Street, southwest corner of the intersection of Beach 9<sup>th</sup> Street and Dinsmore Avenue, Block 15554, Lots 49 & 51, Borough of Queens.

**COMMUNITY BOARD #14Q**

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**136-06-BZ**

APPLICANT- Kenneth Fisher, Wolf Block, LLP, for Ironworks, LLC, owner.

SUBJECT - Application June 29, 2006 - Zoning variance under § 72-21 to allow the residential conversion and one-story enlargement of three (3) existing four (4) story buildings. The proposed development violates use (§ 42-00), FAR (§ 43-12), and rear yard (§ 43-26 and § 43-27) regulations. The project would include ground floor retail space and twelve (12) dwelling units on the upper floors. M2-1 zoning district.

PREMISES AFFECTED - 11-15 Old Fulton Street, between Front and Water Street, Block 35, Lots 7,8,9, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

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**290-06-BZ**

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for Rusabo 386 LLC, owner; 11 Great Jones, LLC, lessee.

SUBJECT - Application November 1, 2006 - Variance under §72-21 to allow a six (6) story residential building

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# CALENDAR

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containing ground floor retail and eight (8) dwelling units.

The project site is located within an M1-5B district and is contrary to use regulations (§§ 42-00 and 42-14(d)(2)(b)).

**PREMISES AFFECTED** – 372 Lafayette Street, 11 Great Jones Street, block bounded by Lafayette, Great Jones and Bond Streets, Sinbone Alley, Block 530, Lot 13, Borough of Manhattan.

**COMMUNITY BOARD #2M**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, JANUARY 23, 2007  
10:00 A.M.**

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

The motion is to approve the minutes of regular meetings of the Board held on Tuesday morning and afternoon, October 17, 2006 as printed in the bulletin of October 26, 2006, Vol. 91, Nos. 39 and 40. If there be no objection, it is so ordered.

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## SPECIAL ORDER CALENDAR

### 308-79-BZ

APPLICANT – Stuart A. Klein, Esq., for St. George Tower & Grill Owners Corp., owner; St. George Health & Racquet Assoc. LLC; lessee.

SUBJECT – Application July 3, 2006 – Extension of Term/Amendment/Waiver – To allow the continuation of an existing Physical Culture Establishment, located in a R7-1 (LH-1) zoning district, which was granted pursuant to §73-36 of the zoning resolution. The amendment seeks to make minor interior modifications.

PREMISES AFFECTED – 43 Clark Street, a/k/a 111 Hicks Street, south west corner of Hicks and Clark Streets, Block 231, Lot 19, Borough of Brooklyn.

### COMMUNITY BOARD #2BK

#### APPEARANCES –

For Applicant: Madeline Fletcher.

**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, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an amendment to legalize interior modifications, and an extension of the term for a previously granted special permit for a Physical Culture Establishment (PCE), which expired on July 3, 2004; and

WHEREAS, a public hearing was held on this application on December 5, 2006 after due notice by publication in *The City Record*, to continued hearing on January 9, 2007, and then to decision on January 23, 2007; and

WHEREAS, the subject premises is located on the southwest corner of Hicks Street and Clark Street; and

WHEREAS, the site is located within an R7-1 zoning district within a Limited Height (LH-1) zoning district, and is occupied by a 29-story residential building with commercial uses on the ground floor; and

WHEREAS, the PCE is operated as Eastern Athletic Club

and occupies 23,406.19 sq. ft. on the cellar level, 26,155.63 sq. ft. in the basement, 14,291.73 sq. ft. on the first floor, 8,052.96 sq. ft. on the second floor, 3,035.39 sq. ft. on the fourth floor, and 895.4 sq. ft. on the fifth floor for a total floor space of approximately 75,837.4 sq. ft.; and

WHEREAS, on July 3, 1979, the Board granted a variance, pursuant to ZR § 72-21, to permit the continued operation of the PCE in the subject building; and

WHEREAS, on October 31, 1995, the Board extended the term of the variance and permitted the expansion of the PCE onto the second floor; and

WHEREAS, the instant application seeks to extend the term of the variance for an additional ten years; and

WHEREAS, additionally, the applicant proposes to legalize a number of interior modifications; and

WHEREAS, the modifications include: reconfiguration of the cellar space; relocation of the basement level shop, offices, and child care area; enlargement and relocation of the stairs; reconfiguration of the first floor sports courts; and reconfiguration of the second floor spectator area; and

WHEREAS, the applicant does not propose any change to the approved bulk, egress, floor area, or occupancy; and

WHEREAS, at hearing, the Board asked the applicant to clearly indicate the exit paths and travel distances on the plans; and

WHEREAS, the applicant responded that the exits all complied with Building Code requirements and revised the plans to indicate the exit paths; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of term and amendment to the approved plans are appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated July 3, 1979, so that as amended this portion of the resolution shall read: “to grant an extension of the variance for a term of ten years from the expiration of the last grant to expire on July 3, 2014 and to legalize site modifications; *on condition* that the use and operation of the PCE shall substantially conform to BSA-approved plans, and that all work and site conditions shall comply with drawings marked ‘Received December 26, 2006’– (5) sheets; and *on further condition*:

THAT there shall be no change in ownership or operating control of the PCE without prior approval from the Board;

THAT this grant shall be limited to a term of ten years from July 3, 2004, expiring July 3, 2014;

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

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

THAT 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

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# MINUTES

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laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

(DOB Application No. 302185427)

Adopted by the Board of Standards and Appeals, January 23, 2007.

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## **230-98-BZ**

APPLICANT – Augusta & Ross, for John and Gaetano Iacono, owners.

SUBJECT – Application October 16, 2006 – Extension of Time to obtain a Certificate of Occupancy which expired on April 30, 2003 for an automotive repair shop and the sale of used cars (2) in an R5 zoning district.

PREMISES AFFECTED – 5810-5824 Bay Parkway, northeasterly corner of Bay Parkway and 59<sup>th</sup> Street, Block 5508, Lot 44, Borough of Brooklyn.

## **COMMUNITY BOARD #12BK**

APPEARANCES – None.

**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, this is an application for a waiver, a reopening, and an extension of the time to obtain a Certificate of Occupancy for an automotive repair and sales business, which expired on April 30, 2003; and

WHEREAS, a public hearing was held on this application on January 9, 2007 after due notice by publication in *The City Record*, and then to decision on January 23, 2007; and

WHEREAS, the subject premises is located on the northeast corner of Bay Parkway and 59<sup>th</sup> Street, within an R5 zoning district; and

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

WHEREAS, in 1948, under BSA Cal. No. 594-24-BZ, the Board granted a variance to permit automotive repair and sales at the site; and

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

WHEREAS, the grant was re-established in 1982, under BSA Cal. No. 736-82-BZ, which permitted additional automotive repair services; the Board denied the renewal of the grant in 1995; and

WHEREAS, on June 22, 1999, under the subject calendar number, the Board granted a variance to again legalize the existing automotive repair and sales business; the term of the variance was for one year, to expire on June 22, 2000; and

WHEREAS, on October 30, 2001, the Board extended the term of the variance for ten years to expire on June 22, 2010; and

WHEREAS, the Board also approved the sub-division of

the lot which resulted in an as of right use at 5810 Bay Parkway and the subject use at 5824 Bay Parkway; and

WHEREAS, one of the conditions of the most recent grant was that a new certificate of occupancy be obtained within 18 months of October 30, 2001; and

WHEREAS, the applicant states that, although almost all of the work is completed, a new certificate of occupancy has not been obtained; and

WHEREAS, the applicant now requests one year to obtain a new certificate of occupancy; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to obtain a certificate of occupancy is appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated June 22, 1999, so that as amended this portion of the resolution shall read: “to grant an extension time to obtain a certificate of occupancy for one year from the date of this grant; *on condition* that the use and operation of the site shall substantially conform to BSA-approved plans; and *on condition*:

THAT a certificate of occupancy shall be obtained by January 23, 2008;

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

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

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

(Alt. 592/1981)

Adopted by the Board of Standards and Appeals, January 23, 2007.

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## **105-05-A**

APPLICANT – New York City Board of Standards and Appeals.

OWNER: Elizabeth Iocovello.

SUBJECT – Application May 9, 2005 – To consider dismissal for lack of prosecution.

PREMISES AFFECTED – 3242 Reservoir Oval East, south side, approx. 240’ east of Bainbridge Avenue, west of Holt Place, Block 3343, Lot 28, Borough of The Bronx.

## **COMMUNITY BOARD #7BX**

APPEARANCES –

For Applicant: John Saracco.

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

**THE RESOLUTION:**

WHEREAS, the decision of the Bronx Borough Commissioner, dated April 12, 2005, acting on Department of Buildings Application No. 200944522, reads, in pertinent part:

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“Proposed construction is located within the bed of a mapped street contrary to Section 35 of the General City Law.”; and

WHEREAS, this is an application to permit, within an R7-1 zoning district, the construction of a multi-family residential building within the bed of a mapped street, contrary to Section 35 of the General City Law; and

WHEREAS, the application was filed on May 9, 2005; and

WHEREAS, on June 8, 2005, Board staff sent notification about the application to the Department of Transportation (DOT), the Department of Environmental Protection (DEP), and Community Board 1, Queens; and

WHEREAS, on July 14, 2005, the Board received a letter from DEP requesting that a survey be performed since there was an Adopted Drainage Plan for a future sewer to be installed at Reservoir Oval East; Board staff sent the letter to the original applicant, David Vandor; and

WHEREAS, on August 9, 2005, the Board received a letter from the Fire Department stating that it had no objection to the application; and

WHEREAS, on August 22, 2005, the Board received a letter from DOT stating that it would require a 10 ft. sidewalk between the curb and the new structure; Board staff sent the letter to the original applicant, David Vandor; and

WHEREAS, in December 2005, Board staff contacted the applicant for a status update and was informed that the owner was investigating whether or not to proceed with the project; and

WHEREAS, on March 14, 2006, the original applicant, David Vandor, informed the Board that he was no longer representing the owner and that John Saracco, the architect for the project, would be prosecuting the application; and

WHEREAS, on July 31, 2006, Board staff sent John Saracco the DOT and DEP letters; and

WHEREAS, on August 1, 2006, the new applicant submitted a letter stating that the owner planned to proceed with the application and would respond to the DOT and DEP requests; and

WHEREAS, the Board did not receive any subsequent response from the applicant; and

WHEREAS, at hearing, the Board asked the applicant about the status of the application; and

WHEREAS, the applicant responded that due to the owner needed additional time to determine whether or not the project was financially viable, given the expense of the sewer system; and

WHEREAS, accordingly, the Board placed the matter on the calendar for a dismissal hearing; and

WHEREAS, on November 16, 2006, the Board sent the applicant a notice stating that the case had been put on the January 23, 2007 dismissal calendar; and

WHEREAS, the applicant did not respond to this notice; and

WHEREAS, because of the applicant’s lack of prosecution of this application, it must be dismissed in its entirety.

*Therefore it is Resolved* that the application filed under

BSA Cal. No. 105-05-A is hereby dismissed for lack of prosecution.

Adopted by the Board of Standards and Appeals, January 23, 2007.

## **287-05-A**

APPLICANT – New York City Board of Standards and Appeals.

OWNER: 32-42 33 Street, LLC, owner.

SUBJECT – Application September 15, 2005 – To consider dismissal for lack of prosecution.

PREMISES AFFECTED – 32-42 33<sup>rd</sup> Street, between Broadway and 34<sup>th</sup> Avenue, Block 612, Lot 53, Borough of Queens.

### **COMMUNITY BOARD #1Q**

APPEARANCES – None

**ACTION OF THE BOARD** – Application withdrawn from the dismissal calendar.

**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, January 23, 2007.

## **312-05-BZ**

APPLICANT – New York City Board of Standards and Appeals.

OWNER: Gladiator Gymnasium.

SUBJECT – Application October 19, 2005 – To consider dismissal for lack of prosecution.

PREMISES AFFECTED – 82-24 Northern Boulevard, between 82<sup>nd</sup> and 83<sup>rd</sup> Streets, Block 1430, Lot 6, Borough of Queens.

### **COMMUNITY BOARD #3Q**

APPEARANCES –

For Applicant: Josh Rinesmith.

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

**THE VOTE TO DISMISS** –

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

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Queens Borough Commissioner, dated September 19, 2005, acting on Department of Buildings Application No. 401583087, reads in pertinent part:

“Zoning objection for proposed use on 2<sup>nd</sup> and 3<sup>rd</sup> floors. Physical Culture or Health Establishments, including gymnasiums are not permitted within a C1-2 in R4 zoning district as per Zoning Resolution Sections 32-00 and 22-00.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within a C1-2 zoning district, the legalization of a Physical Culture Establishment, which occupies the second floor and penthouse of an existing two-story and penthouse

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# MINUTES

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commercial building; and

WHEREAS, the PCE has occupied and operated within the building illegally since June 2000; and

WHEREAS, the variance application was filed on October 19, 2005; and

WHEREAS, on January 13, 2006, Board staff issued a Notice of Objections to the applicant; and

WHEREAS, the Notice of Objections requested that the applicant submit the following: a revised BSA zoning analysis, an objection from DOB regarding the FAR and any other non-complying conditions, detailed building plans, plans reflecting the legal conditions, additional information on the physical characteristics of the site and existing building, and a revised feasibility analysis; and

WHEREAS, on July 12, 2006, the applicant requested additional time to reply to the Notice of Objections; an extension of time to respond was granted; and

WHEREAS, on November 1, 2006, the applicant requested to have until November 6, 2006 to notify the Board as to whether or not the PCE operator was prepared to proceed with the application; and

WHEREAS, the Board did not receive any subsequent response from the applicant; and

WHEREAS, accordingly, the Board placed the matter on the calendar for a dismissal hearing; and

WHEREAS, on November 16, 2006, the Board sent the applicant a notice stating that the case had been put on the January 23, 2007 dismissal calendar; and

WHEREAS, by letter dated January 17, 2007, the applicant requested a two-week postponement to allow additional time to respond to the Notice of Objections; and

WHEREAS, Board staff informed the applicant, by telephone, that the postponement would not be granted and that he should appear at the dismissal hearing with any submissions; and

WHEREAS, at the January 23, 2007 hearing, the applicant stated that there had been a fire on the roof of the subject building; and

WHEREAS, the applicant stated that the owner had taken more than a year to repair the roof and the related water damage in the PCE so that the PCE could re-open and serve its members; and

WHEREAS, the applicant did not provide any submissions in response to the Notice of Objections; and

WHEREAS, the Board asked the applicant why, after the fire and disruption of business, a variance was not sought before resuming operation of the PCE; and

WHEREAS, the applicant responded that the owner resumed operation without seeking to first legalize the PCE because of the financial hardship that would be incurred if the PCE were closed; and

WHEREAS, the Board is concerned about the willingness of the PCE operator to expend resources to reopen an illegal use while failing utterly to prosecute an existing legalization application before the Board; and

WHEREAS, the Board notes that the PCE use is not even

permitted on this site through a special permit, and that the operator has engaged in illegal use of the site for approximately six and one-half years; and

WHEREAS, accordingly, because of the applicant's lack of good faith prosecution of this application, it must be dismissed in its entirety.

*Therefore it is Resolved* that the application filed under BSA Cal. No. 312-05-BZ is hereby dismissed for lack of prosecution.

Adopted by the Board of Standards and Appeals, January 23, 2007.

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## **619-83-BZ**

APPLICANT – Harold Weinberg, P.E., for Shalmoni Realty, Inc., owner.

SUBJECT – Application May 25, 2006 – Extension of Term/Waiver-for an existing automotive repair facility (use group 16) with parking for more than 5 vehicles located in a R5 zoning district. The waiver is sought due to the fact that the term expired on December 20, 2003.

PREMISES AFFECTED – 552-568 McDonald Avenue, corner of Avenue C and Church Avenue, Block 5352, Lot 33, Borough of Brooklyn.

### **COMMUNITY BOARD #12BK**

APPEARANCES –

For Applicant: Harold Weinberg and Karen Shalmoni.

**ACTION OF THE BOARD** – Laid over to February 27, 2007, at 10 A.M., for continued hearing.

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## **133-94-BZ**

APPLICANT – Alfonso Duarte, for Barone Properties, Inc., owner.

SUBJECT – Application November 23, 2005 – Pursuant to ZR §11-411 and §11-413 for the legalization in the change of use from automobile repair, truck rental facility and used car sales (UG16) to the sale of automobiles (UG8) and to extend the term of use for ten years which expired on September 27, 2005. The premise is located in a C1-2/R2 zoning district.

PREMISES AFFECTED – 166-11 Northern Boulevard, northwest corner of 167<sup>th</sup> Street, Block 5341, Lot 1, Borough of Queens.

### **COMMUNITY BOARD #1Q**

APPEARANCES –

For Applicant: Alfonso Duarte, P.E.

For Opposition: Terri Pouymari.

**ACTION OF THE BOARD** – Laid over to March 6 23, 2007, at 10 A.M., for continued hearing.

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## **395-04-BZ**

APPLICANT – Moshe M. Friedman, P.E., for Congregation Imrei Yehudah Contract Vendee, owner; Meyer Unsorfer, lessee.

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SUBJECT – Application June 16, 2006 – Request for a re-opening and amendment to a previously-granted variance (§ 72-21) that allowed bulk waivers for a new house of worship in an R5 district. The proposed amendment includes the following: (1) increase in floor area and FAR, (2) increase in perimeter wall height; and (3) minor reduction in front yard provided.

PREMISES AFFECTED – 1232 54<sup>th</sup> Street, southwest side 242’-6” southeast of the intersection formed by 54<sup>th</sup> and 12<sup>th</sup> Avenue, Block 5676, Lot 17, Borough of Brooklyn.

## COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Moishe Friedman.

**ACTION OF THE BOARD** – Laid over to March 20, 2007, at 10 A.M., for continued hearing.

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## 1053-88-BZ

APPLICANT – Freda Design Associates, Ltd., for Isidore Izzo, owner.

SUBJECT – Application August 23, 2006 – Extension of Term and waiver of the rules for a variance (§72-21) to allow a (UG6) pharmacy (Rite-Aid) in a R7-1 zoning district which expired on September 27, 2004.

PREMISES AFFECTED – 590/596 East 183<sup>rd</sup> Street, located between Arthur Avenue and Adams Avenue, Block 3071, Lots 16 & 17, Borough of The Bronx.

## COMMUNITY BOARD #6BBX

APPEARANCES –

For Applicant: Lyra J. Altman.

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 February 6, 2007, at 10 A.M., for decision, hearing closed.

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## 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: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to February 13, 2007, at 10 A.M., for continued hearing.

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## 265-02-BZ

APPLICANT – Peter Hirshman, for Ramakrishna Vivekananda Center, owner.

SUBJECT – Application October 13, 2006 – Extension of time to complete construction and to obtain a Certificate of Occupancy which expires on August 12, 2007 for a community facility use (UG4) (Ramakrishna-Vivekananda Center of New York) located in an R8B and R10 zoning district.

PREMISES AFFECTED – 19 East 94<sup>th</sup> Street, south side 108’ west of the intersection of Madison Avenue, Block 1506, Lot 13, Borough of Manhattan.

## COMMUNITY BOARD #8M

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 February 6, 2007, at 10 A.M., for decision, hearing closed.

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## 383-04-BZ

APPLICANT – New York City Board of Standards and Appeals.

OWNER: Israel Realty; lessee: Total Fitness & Karate Center.

SUBJECT – Application December 6, 2004 – To consider dismissal for lack of prosecution.

PREMISES AFFECTED – 46-21 Greenpoint Avenue, 47<sup>th</sup> Street, Block 152, Lot 1, Borough of Queens.

## COMMUNITY BOARD #2 Q

APPEARANCES –

For Applicant: Silvia Boscolo.

**ACTION OF THE BOARD** – Laid over to February 27, 2007, at 10 A.M., for continued hearing.

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## APPEALS CALENDAR

### 84-06-BZY

APPLICANT – Eric Palatnik, P.C., for Debra Wexelman,owner.

SUBJECT – Application May 4, 2006 – Proposed extension of time to complete construction minor development pursuant to ZR §11-331 for a four story mixed use building. Prior zoning was R6 and new zoning district is R4-1 as of April 5, 2006.

PREMISES AFFECTED – 1472 East 19<sup>th</sup> Street, between Avenue N and Avenue O, Block 6756, Lot 36, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik and Harold Weinberg.

For Opposition: Mark J. Kurzman and Joel Cohen.

For Administration: Angelina Martinez, Department of Buildings.

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**ACTION OF THE BOARD** – Laid over to February 27, 2007, at 10 A.M., for continued hearing.  
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**85-06-BZY**

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

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

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

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Eric Palatnik, Sanford Sulny,, Harold Weinberg and Oscar Lehmann.

For Opposition: Bernard Weill and Sidney Stern.

For Administration: Narisa Sasitorn, Department of Buildings.

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 February 13, 2007, at 10 A.M., for decision, hearing closed.  
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**182-06-A thru 211-06-A**

APPLICANT – Stadtmauer Bailkin, LLP, for Beachfront Community, LLC, owner.

SUBJECT – Application August 22, 2006 – An appeals seeking a determination that the owner of said premises has acquired a common law vested right to continue development commenced under the prior R5 Zoning district. Premises is located in an R4-A Zoning district.

PREMISES AFFECTED – Beach 5<sup>th</sup> Street, Beach 6<sup>th</sup> Street and Seagirt Avenue, bound of Seagrit Avenue to the north, Beach 5<sup>th</sup> Street to the east, Beach 6<sup>th</sup> Street to the west Reynolds Channel to the south, Block 15609, Lots 1, 3, 6, 8, 10, 12, 14, 16, 18, 58, 63, 64, 65, 66, 67 and 68; Block 15608, Lots 1, 40, 42, 45, 51, 52, 53, 57, 58, 61, 63, 65, 67 and 69 Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES –

For Applicant: Richard Bowers, Mitch Korbey and Steven Sinacori.

For Opposition: Susan Wagner, Tracy A Conroy and Frantuuccio.

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 March 20, 2007, at 10 A.M., for decision, hearing closed.  
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**77-06-A & 78-06-A**

APPLICANT – Stephen J. Rizzo, Esq., for Block 7092 LLC, owner.

SUBJECT – Application April 27, 2006 – An appeal seeking a determination that the owner of said premises has acquired a common law vested right to continue development commenced under the zoning district regulations in effect as of March 1999. R3-2 Zoning District.

PREMISES AFFECTED – 96 Crabtree Avenue, Woodrow Road east of Turner Street, Block 7092, Lot 1, Block 7105, Lots 555 & 561, Borough of Staten Island.

**COMMUNITY BOARD #3SI**

APPEARANCES –

For Applicant: Steve Rizzo.

**ACTION OF THE BOARD** – Laid over to February 13, 2007, at 10 A.M., for continued hearing.  
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**229-06-A**

APPLICANT – Sheldon Lobel, P.C., for Breezy Point Cooperative, Inc., owner; Thomas Carroll, lessee.

SUBJECT – Application September 6, 2006 – Appeal seeking to revoke permits and approvals for the reconstruction and enlargement of an existing one family dwelling which creates new non-compliances, increases the degree of existing non-compliances with the bulk provisions of the Zoning Resolutions and violates provisions of the Building Code, regarding access and fire safety. R4-Zoning District.

PREMISES AFFECTED – 607 Bayside Drive, adjacent to service road, Block 16350, Lot 300, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES – None.

**ACTION OF THE BOARD** – Off Calendar.  
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*Jeffrey Mulligan, Executive Director*

Adjourned: 1:00 P.M.

# MINUTES

**REGULAR MEETING  
TUESDAY AFTERNOON, JANUARY 23, 2007  
1:30 P.M.**

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

**ZONING CALENDAR**

**151-04-BZ**

APPLICANT – Philips Nizer, LLP, for Fred M. Schildwachter & Son, Inc., c/o Dan Schildwachter, owner; Adriana A. Salamone, lessee.

SUBJECT – Application April 9, 2004 – Special Permit (§73-36) to permit the legalization of an existing physical culture establishment (Star Fitness) in an M3-1 Zoning District.

PREMISES AFFECTED – 1385 Commerce Avenue, southwest corner of Butler Place, Block 1385, Lot 13, Borough of The Bronx.

**COMMUNITY BOARD #10BX**

**APPEARANCES –**

For Applicant: Phillips Nizer and Kevin B. McGrath.

**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 Bronx Borough Commissioner, dated April 8, 2004 and updated on October 5, 2006, acting on Department of Buildings Application No. 200801016, reads in pertinent part:

“The proposed Physical Culture Establishment or health establishment in an M3-1 zoning district requires a special permit by the Board of Standards and Appeals as per ZR Sec 73-36 and ZR Sec 42-31.”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, within an M3-1 zoning district, the legalization of a physical culture establishment (PCE) on the first floor and mezzanine of an existing commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on December 12, 2006 after due notice by publication in *The City Record*, and then to decision on January 23, 2007; and

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

WHEREAS, Community Board 10, Bronx, recommends approval of this application; and

WHEREAS, the subject site is located on the southwest corner of Commerce Avenue and Butler Place; and

WHEREAS, the PCE currently occupies 9,908 sq. ft. of floor area on the first floor and 2,612 sq. ft. of floor area on

the mezzanine for a total of 12,492 sq. ft.; and

WHEREAS, the applicant represents that the PCE offers facilities for physical fitness, including cardiovascular equipment and group exercise classes; and

WHEREAS, the PCE is operated as Star Fitness; and

WHEREAS, the PCE will maintain the following hours of operation: continuous 24-hour operation from Monday at 5:00 a.m. through Saturday at 7:00 p.m.; and Sunday from 7:00 a.m. to 5:00 p.m.; and

WHEREAS, at hearing, the Board asked the applicant to clarify the ceiling height at the mezzanine level and to include the floor area of the mezzanine in the total floor area calculations; and

WHEREAS, in response, the applicant submitted revised plans and a zoning analysis reflecting the suggested changes; and

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

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

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No.04-BSA-159X, dated November 21, 2006; and

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance

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with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, within an M3-1 zoning district, the legalization of a PCE on the first floor and mezzanine of an existing commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received January 9, 2007”-(2) sheets; and *on further condition*:

THAT the term of this grant shall be for ten years from the date the PCE began operating at the site, expiring on July 14, 2014;

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

THAT the hours of operation shall be limited to: continuous 24-hour operation from Monday at 5:00 a.m. through Saturday at 7:00 p.m.; and Sunday from 7:00 a.m. to 5:00 p.m.;

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, January 23, 2007.

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## 55-06-BZ

APPLICANT – Rampulla Associates Architects, for Nadine Street, LLC, owner.

SUBJECT – Application March 24, 2006 – Zoning variance pursuant to ZR §72-21 to allow a proposed office building in an R3-2/C1-1 (NA-1) district to violate applicable rear yard regulations; contrary to ZR §33-26 and §33-23. Special Permit is also proposed pursuant to ZR §73-44 to allow reduction in required accessory parking spaces.

PREMISES AFFECTED – 31 Nadine Street, St. Andrews Road and Richmond Road, Block 2242, Lot (Tentative 92, 93, 94), Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Phil Rampulla and Nora Curry.

**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 Staten Island Borough Commissioner, dated August 23, 2006, acting on Department of Buildings Application No. 500822844, reads in pertinent part:

- “1. 33-36, 33-23 ZR. The proposed portion of the professional office building Use Group 6 in C1-1 Zoning District within the required rear yard and that exceed[s] one story is contrary to Zoning Resolution . . .
2. 73-44 ZR. The proposed off-street parking spaces are contrary to . . . Section 36-21.
3. 33-431 ZR. The proposed professional office building . . . in excess of 2 stories is contrary to the Zoning Resolution”; and

WHEREAS, this is: (1) an application under ZR § 72-21, to permit, within a C1-1/R3-2 (NA-1) zoning district, the proposed construction of a three-story with cellar, 15,995 sq. ft. Use Group 6B office building that does not comply with zoning requirements concerning rear yard, wall height, and maximum number of stories, contrary to ZR §§ 33-26, 33-23 and 33-431; and (2) an application under ZR § 73-44, to permit a decrease in required off-street accessory parking spaces, contrary to ZR § 36-21; and

WHEREAS, the Board notes that when this application was originally filed, the applicant only requested the rear yard waiver and the parking reduction, but proposed a 16,968 sq. ft. four-story building; and

WHEREAS, during the course of the hearing process, the applicant identified the need for the maximum amount of stories and height waivers and modified the application accordingly; the proposal was also reduced in terms of floor area and proposed height and stories at the request of the Board; and

WHEREAS, the proposed building has the following parameters: a commercial and total floor area of 15,955 sq. ft., a commercial and total Floor Area Ratio (“FAR”) of 0.90, a lot coverage of 29 percent, a total height of 34 ft., three stories and a cellar, a front yard of 15 ft., no rear yard, and 40 accessory parking spaces; and

WHEREAS, the FAR and lot coverage are as of right; a commercial FAR of 1.0 and a lot coverage of 29 percent are the permitted maximums; and

WHEREAS, however, a rear yard of 20 ft. is required above the first floor, the maximum amount of stories allowed for an office building is two, the maximum wall height is 30 ft., and the required amount of accessory parking is 113 spaces; therefore, the requested waivers are required; and

WHEREAS, a public hearing was held on this application on July 25, 2006 after due notice by publication in *The City Record*, with continued hearings on September 12, 2006 and December 5, 2006, and then to decision on January 23, 2007; and

WHEREAS, Community Board 2, Staten Island,

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recommends approval of the application as initially presented to the Board (i.e. without the height waiver noted), on condition that the Board consult with the Department of Transportation about an alleged unsafe curb cut; and

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

WHEREAS, the site is located in a C1-1/R3-2 zoning district, within the Special Natural Area District (NA-1), and has a lot area of 17,718 sq. ft.; the site is currently vacant; and

WHEREAS, as to the site's configuration, the applicant notes that it is five-sided, with two distinct rear lot lines that intersect but that are not parallel to one another; and

WHEREAS, the applicant notes that the site fronts on Nadine Street, which is a final mapped street that is unopened and not traveled; and

WHEREAS, the applicant also notes that the site is also adjacent to and across the street from the mapped but un-built Willowbrook Expressway, which is considered part of the "Greenbelt" (natural undisturbed woodland) on Staten Island; and

WHEREAS, the site is the subject of a variety of prior municipal actions made by this Board, the City Planning Commission, and other City agencies, summarized in a submission dated December 26, 2006; and

WHEREAS, in sum and substance, the various municipal actions concerned a proposed two-story office building with accessory parking for 25 cars; the applicant represents that all of these actions have expired by limitation and that the proposed two-story building was not constructed; and

WHEREAS, the proposed building will be located at the rear of the site, at the point where the rear lot lines intersect, and the site will also be developed with a retaining wall around its rear perimeter; and

WHEREAS, the applicant (an architectural firm) proposes to occupy the building in part as its own offices; other proposed occupancies include law firms and offices for engineers and surveyors; and

WHEREAS, because of the need for the above-mentioned waivers, the instant applications were filed; and

WHEREAS, as to the variance application, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: 1) the afore-mentioned site configuration prevents the provision of a standard 20 ft. rear yard, in that the two rear lot lines are at an oblique angle to one another; 2) the varying and shallow lot depths that arise due the site's configuration; (3) the site's poor soil conditions, to a depth of 12 feet, which necessitates the installation of structural piles; (4) the site is surrounded by streets (both built and un-built) that are at a much higher elevation than the site, which causes excessive storm water overflow on the site, necessitating increased drywell construction costs; and (5) Nadine Street must be paved to its full width and otherwise improved by the owner beyond the property line pursuant to DOT requirements, thereby increasing

construction costs; and

WHEREAS, the Board notes that the applicant submitted evidence that establishes that each of these site conditions exists on the site; and

WHEREAS, specifically, the applicant has submitted: (1) a site plan that shows the irregular configuration and varying shallow depths of the site (77.90 ft. and 84.16 ft., and 114 ft. at the deepest point); (2) soil boring reports that establish the poor soil condition (specifically, moist, silty soil at a depth of 12 ft.); (2) evidence of the elevation discrepancies between the site and surrounding streets (specifically, a change of approximately 10 ft.), the resulting excessive storm water run-off, and the specific oversized drywell requirements; and (3) evidence of the DOT-imposed requirements to pave Nadine Street, extend its bed, repair and replace existing sidewalk, and install other improvements; and

WHEREAS, the Board also notes that the applicant has established that this particular convergence of factors is sufficiently unique to this site and creates hardship; and

WHEREAS, the Board observes that the threshold difficulty that any viable commercial development on the site faces are the costs associated with the soil conditions, the DOT-required roadway improvements, and the storm water disposal (drywell) improvements; and

WHEREAS, accordingly, the costs associated with these conditions necessitate first that the commercial FAR be maximized to the extent proposed; and

WHEREAS, once a building of a certain bulk must be developed, such a building must be configured and located in such a way so as to avoid further increased construction costs; and

WHEREAS, thus, instead of creating a wider but shorter building with the same proposed FAR, which would increase the number of piles and therefore constructions costs related to the soil condition, it is more reasonable to construct a taller building that will limit the number of structural columns (and therefore piles) and avoid excessive cellar construction costs; and

WHEREAS, further, a taller building is also needed because the soil and slope conditions make it infeasible to provide a deeper cellar, which would lower the height of the building; and

WHEREAS, however, a taller building necessitates the height waiver; and

WHEREAS, the rear yard waiver results from the need to locate a tall building on the site at a location that avoids excessive piles costs, as well as from the afore-mentioned site configuration and limited depths; and

WHEREAS, specifically, due to the grade change from rear of the site to the street frontage, as well as the grade change from the adjacent sites, a retaining wall is required along the rear lot lines; and

WHEREAS, the location of the building at the rear lot lines also allows the utilization of the retaining walls as the rear building walls, which further avoids excessive and duplicative construction costs; and

WHEREAS, based upon the above, the Board finds that the cited unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulties

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in developing the site in strict compliance with the applicable height and rear yard regulations; and

WHEREAS, the applicant asserts that because of these unique physical conditions, there is no reasonable possibility that the development of the property in compliance with the applicable regulations will bring a reasonable return to the owner; and

WHEREAS, the applicant submitted a feasibility study analyzing a complying commercial building, a complying community facility medical building, and a complying residential development; and

WHEREAS, the applicant concluded that these complying scenarios would not realize a reasonable return; and

WHEREAS, based upon its review of the feasibility study, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable bulk regulations will provide a reasonable return; and

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

WHEREAS, the applicant notes first that the proposed office building is as of right in terms of use, and is compatible with other uses on the block, including other office buildings and retail uses; and

WHEREAS, the applicant also notes that the proposed height of the building is compatible with existing adjacent adjoining properties, as indicated on the submitted land use map and in a computer generated photograph of the proposed office building superimposed in context with the surrounding conditions; and

WHEREAS, specifically, the applicant notes that the photograph shows that because of the above-mentioned grade change, surrounding properties are at a higher elevation than the subject site and the proposed building is not higher than the adjoining properties to the rear; and

WHEREAS, the Board also observes that the height of the building has been reduced from the original proposal, and is now three stories and 34 ft. high; and

WHEREAS, the applicant notes that while no rear yard will be provided, because of the yards of the adjacent properties to the rear and the grade change between the properties, no negative impact will occur; and

WHEREAS, the applicant also notes that the opening and improvement of Nadine Street allows for the provision of a reasonable amount of accessory parking spaces, and will provide a new street for general use within the existing street network; and

WHEREAS, finally, the Board observes that it has reviewed the proposed curb cuts and finds that there is no evidence that any of them will create an unsafe condition; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is a result of the above-mentioned site conditions; and

WHEREAS, as noted above, at the Board's request, the applicant reduced the proposed height of the building and the amount of stories, thereby decreasing the degree of waiver as to these parameters; and

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

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

WHEREAS, as to the special permit application, the Board notes that pursuant to ZR § 73-44, it may, in the subject C1-1 zoning district, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable ZR provision, for Use Group 6 uses in the B1 parking category; and

WHEREAS, for the C1-1 zoning district and the subject UG 6B use (which is in parking category B1), the Board may reduce the required parking from 1 space per 150 sq. ft. of floor area to 1 space per 400 sq. ft. of floor area; and

WHEREAS, the applicant represents that assuming a special permit is obtained, the site will be developed with a 40 space accessory parking lot (as opposed to a 106 space lot, which would be required absent the special permit); and

WHEREAS, ZR § 73-44 requires that the Board must determine that the proposed UG 6 use in the B1 parking category is contemplated in good faith; and

WHEREAS, the applicant has submitted sufficient evidence of the good faith of the owner in pursuing the proposed UG 6 office use; in particular, the Board observes that the owner has previously sought municipal approvals to develop the site with a UG 6 use, and plans on using it, in part, for its own offices; and

WHEREAS, the applicant also notes that the proposed offices will be occupied primarily by professionals (architects, attorneys, engineers, or surveyors); and

WHEREAS, the applicant claims that the proposed occupancies will generate less overall vehicle trips than a retail business or other types of offices; and

WHEREAS, at hearing, the Board suggested that if parking were to be located in the cellar of the building below grade, then perhaps more parking spaces could be provided; and

WHEREAS, the applicant responded that extensive construction below grade would not be viable, due to the afore-mentioned soil conditions; and

WHEREAS, finally, the Board notes that the applicant prepared an Environmental Assessment Statement that analyzed the potential impacts from the parking reduction and concluded that no significant impacts would occur; and

WHEREAS, accordingly, the Board finds that the applicant has sufficiently met the requirements set forth at ZR § 73-44; and

WHEREAS, further, the Board finds that, under the

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

WHEREAS, in sum, the Board has determined that the evidence in the record supports the findings set forth at Z.R. §§ 72-21, 73-44 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; 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. 06BSA070R dated June 9, 2006; and

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

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

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

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings for: (1) an application under ZR § 72-21, to permit, within a C1-1/R3-2 (NA-1) zoning district, the proposed construction of a three-story with cellar, 15,995 sq. ft. Use Group 6B office building that does not comply with zoning requirements concerning rear yard, wall height, and maximum number of stories, contrary to ZR §§ 33-26, 33-23 and 33-431; and (2) an application under ZR § 73-44 and 73-30, to permit a decrease in required off-street accessory parking spaces, contrary to ZR § 36-21; *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 January 8, 2007" – twelve (12) sheets; and *on further condition*:

THAT the only permitted uses within the building shall be UG 6B professional offices;

THAT a total of 40 accessory parking spaces shall be provided;

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

THAT the parameters of the proposed building shall be as follows: a total and commercial floor area of 15,955 sq. ft., a total and commercial Floor Area Ratio ("FAR") of 0.90, a lot coverage of 29 percent, a total height of 34 ft., three stories and a

cellar, a front yard of 15 ft., and no rear yard;

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

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

THAT all landscaping and fencing shall be installed and maintained as indicated on the BSA-approved plans;

THAT prior to the issuance of any building permit, authorization for proposed tree removal will be obtained from City Planning Commission;

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, January 30, 2007.

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## **239-04-BZ**

APPLICANT – Agusta & Ross, for 341 Scholes Street, LLC, owner.

SUBJECT – Application June 24, 2004 – Variance (§72-21) to permit the proposed residential occupancy, Use Group 2, within an existing loft building, located in an M1-1 zoning district, is contrary to Z.R. §42-10.

PREMISES AFFECTED – 225 Starr Street, northerly side of Starr Street, 304' east of Irving Avenue, Block 3188, Lot 53, Borough of Brooklyn.

## **COMMUNITY BOARD #4BK**

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to February 13, 2007, at 1:30 P.M., for an adjournment.

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## **159-05-BZ**

APPLICANT – Vito J. Fossella, P.E., for Antonio Ciccotto, owner.

SUBJECT – Application July 7, 2006 – Variance under ZR §72-21 to allow a three (3) story mixed-use building containing residential use on the upper floors and retail use (UG 6) on the ground and cellar levels on a site zoned R3X and R3X/C2-1; contrary to ZR §22-00.

PREMISES AFFECTED – 880 Annadale Road, located on the west of the corner formed by the intersection of Annadale Road and South Railroad Avenue, Block 6249, Lot 436T, Borough of Staten Island.

## **COMMUNITY BOARD #3SI**

APPEARANCES –

For Applicant: SamehEI Meniawy.

**ACTION OF THE BOARD** – Laid over to April 10, 2007, at 1:30 P.M., for an adjourned hearing.

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**427-05-BZ**

APPLICANT – Eric Palatnik, P.C., for Linwood Holdings, LLC, owner.

SUBJECT – Application December 28, 2005 – Pursuant to ZR §73-44 Special Permit to permit the proposed retail, community facility and office development (this latter portion is use group 6, parking requirement category B1, office use) which provides less than the required parking and is contrary to ZR §36-21.

PREMISES AFFECTED – 133-47 39<sup>th</sup> Avenue, between Prince Street and College, Block 4972, Lot 59, Borough of Queens.

**COMMUNITY BOARD #7Q**

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to February 27, 2007, at 1:30 P.M., for continued hearing.

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**25-06-BZ**

APPLICANT– Dominick Salvati and Son Architects, for Josef Packman, owner.

SUBJECT – Application February 14, 2006 – Variance (§ 72-21) to allow an eight (8) story residential building with ground floor community facility use to violate applicable regulations for dwelling unit density (§ 23-22), street wall height (§ 23-631 & § 24-521), maximum building height (§ 23-631), front yard (§ 24-34), side yards (§ 24-35 & §24-551), FAR (§ 24-11, 24-162 & 23-141) and lot coverage (§ 23-141 & § 24-11). Project is proposed to include 29 dwelling units and 31 parking spaces. R3-2 district.

PREMISES AFFECTED – 2908 Nostrand Avenue, Block 7690, Lots 79 and 80, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Peter Hirshman.

For Opposition: Alice Loubaton and Mitchell Fruchter.

**ACTION OF THE BOARD** – Laid over to February 27, 2007, at 1:30 P.M., for continued hearing.

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**36-06-BZ**

APPLICANT – Sheldon Lobel, P.C., for The RNR Group Ltd., owner.

SUBJECT – Application March 1, 2006 – Special Permit pursuant to Z.R. §73-53 to permit the enlargement of an existing non-conforming manufacturing building located within a district designated for residential use (R3-2). The application seeks to enlarge the subject contractor's establishment (Use Group 16) by 2,485 square feet.

PREMISES AFFECTED – 2125 Utica Avenue, east side of Utica Avenue between Avenue M and Avenue N, Block 7875, Lot 20, Borough of Brooklyn.

**COMMUNITY BOARD #18BK**

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to February 27, 2007, at 1:30 P.M., for adjourned hearing.

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**67-06-BZ**

APPLICANT – Joseph P. Morsellino, Esq., for Jhong Ulk Kim, owner; Walgreens, lessee.

SUBJECT – Application April 14, 2006 – Variance pursuant to Z.R. §72-21 to permit the proposed 8,847 square foot drugstore without the number of parking spaces required in a C2-1 zoning district (59 spaces) and to use the R2 portion of the zoning lot for accessory required parking. The proposal is requesting waivers of ZR §22-00 and §36-21. The proposed number of parking spaces pursuant to a waiver of ZR §36-21 will be 34. The site is currently occupied by a 5,594 square foot diner with accessory parking for 37 cars.

PREMISES AFFECTED – 2270 Clove Road, corner of Clove Road and Woodlawn Avenue, Block 3209, Lots 149, 168, Richmond, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to February 6, 2007, at 1:30 P.M., for an adjourned hearing.

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**103-06-BZ**

APPLICANT– Eric Palatnik, P.C., for Charles Mandlebaum, owner.

SUBJECT – Application May 23, 2006 – 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)) and rear yard (23-47) in R-2 zoning district.

PREMISES AFFECTED – 1324 East 23<sup>rd</sup> Street, East 23<sup>rd</sup> Street between Avenues M and N, Block 7658, Lot 60, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to March 13, 2007, at 1:30 P.M., for continued hearing.

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**107-06-BZ**

APPLICANT– Kramer Levin Naftalis & Frankel, LLP, for Barbizon Hotel Associates, L.L.P.

SUBJECT – Application May 25, 2006 – Special Permit (§ 73-36) to allow a physical culture establishment use (Equinox) in the cellar, subcellar, first floor and second floor of a 22 story mixed use building. C1-8X/R8B zoning district.

PREMISES AFFECTED – 140 East 63<sup>rd</sup> Street, northwest corner block bounded by Lexington and Third Avenues, Block 1397, Lot 49, Borough of Manhattan.

**COMMUNITY BOARD #8M**

APPEARANCES –

For Applicant: James Power and Deirdre Carson.

THE VOTE TO CLOSE HEARING –

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

**ACTION OF THE BOARD** – Laid over to February  
27, 2007, at 1:30 P.M., for decision, hearing closed.

## 115-06-BZ

APPLICANT– Harold Weinberg, for Saul Mazor, owner.  
SUBJECT – Application June 7, 2006 – Special Permit (73-  
622) for the enlargement of a single family detached  
residence. This application seeks to vary open space, floor  
area and lot coverage (23-141); side yard (23-461) and rear  
yard (23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 1820 East 28<sup>th</sup> Street, west side  
140’ south of Avenue R, between Avenue R and S, Block  
6833, Lot 13, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg, P.E.

For Opposition: Councilmember Fiddler and Ed Jaworski

**ACTION OF THE BOARD** – Laid over to February  
27, 2007, at 1:30 P.M., for continued hearing.

## 122-06-BZ

APPLICANT– Sheldon Lobel, P.C., for Revelation  
Development, Inc., owner.

SUBJECT – Application June 12, 2006 – Variance (§72-21)  
to permit the proposed enlargement of an existing medical  
office building and construction of residences without the  
required front and side yard. The Premise is located in a  
portion of an R5 and a portion of a C2-3/R5 zoning district.  
The proposal is seeking waivers relating to §23-45 and §24-  
34 (Front yard) and §23-462 and §24-35 (Side Yard).

PREMISES AFFECTED – 2671 86<sup>th</sup> Street, West 12<sup>th</sup> and  
West 11<sup>th</sup> Streets, Block 7115, Lot 27, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Nora Curry.

**ACTION OF THE BOARD** – Laid over to February  
6, 2007, at 1:30 P.M., for deferred decision.

## 128-06-BZ

APPLICANT– Juan D. Reyes III, Esq., for Atlantic Walk,  
LLC, owner.

SUBJECT – Application June 16, 2006 – Zoning variance  
pursuant to ZR §72-21 to allow a nine-story residential  
building in an M1-5 district (Area B-2 of Special Tribeca  
Mixed Use District). Twenty Six (26) dwelling units and  
twenty six (26) parking spaces are proposed. The  
development would be contrary to use (Z.R. §111-104(d) and  
§42-10), height and setback (Z.R. §43-43), and floor area  
ratio regulations (Z.R. §111-104(d) and §43-12). The number  
of parking spaces exceeds the maximum allowed is contrary  
to Z.R. §13-12.

PREMISES AFFECTED – 415 Washington Street, west side  
of Washington Street, corner formed by Vestry Street and

Washington Street, Block 218, Lot 6, Borough of Manhattan.

### COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Juan Reyes and John Strauss.

For Opposition: Jack Lester, Mark Stern, Sean Turner,  
Richard Herschlagg, P.E. and Bess Natassa (A/M Glick).

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 March 13,  
2007, at 1:30 P.M., for decision, hearing closed.

## 133-06-BZ

APPLICANT– The Law Office of Fredrick A. Becker, for  
Parish of Trinity Church, owner; TSI Varick Street dba New  
York Sports Club; lessee.

SUBJECT – Application June 23, 2006 – Special Permit  
(§73-36) Proposed physical culture establishment to be  
located on the second floor of an existing 12 story  
commercial building. M1-5 Zoning District.

PREMISES AFFECTED – 225 Varick Street, westerly side  
of Varick Street between West Houston Street and Clarkson  
Street, Block 581, Lot 63, Borough of Manhattan.

### COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Lyra Altman and Doris Diether.

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 February  
6, 2007, at 1:30 P.M., for decision, hearing closed.

## 175-06-BZ

APPLICANT– Rothkrug Rothkrug & Spector, for Sal  
Calcagno & Family Realty, LLC, owner.

SUBJECT – Application August 14, 2006 – Special Permits  
(Sections 73-243 and 73-44) to allow, within C1-1 (R1-2)  
(NA-1) zoning districts, the development of an eating and  
drinking establishment (UG 6) with an accessory drive-  
through facility and to permit a reduction in the amount of  
required off-street parking for UG 6 parking category B-1  
uses. The proposal is contrary to Sections 32-15 and 36-21  
respectively.

PREMISES AFFECTED – 1653/9 Richmond Road, west side  
of Richmond Road, 417.06’ south of intersection with Four  
Corners Road, Block 883, Lot Tentative 27, Borough of  
Staten Island.

### COMMUNITY BOARD # 2SI

APPEARANCES –

For Applicant: Adam W. Rothkrug and Vincent McDermott.

For Opposition: Dr. Mohammad Khalid, Michael Marotta,  
Lilian M. Popp, William Tanzush, F.D.N.Y., Helen Phinney  
and Charles LaGanga.

**ACTION OF THE BOARD** – Laid over to March 13,

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2007, at 1:30 P.M., for continued hearing.  
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## **177-06-BZ**

APPLICANT– Sheldon Lobel, P.C., for 1840 EMAB LLC, owner.

SUBJECT – Application August 16, 2006 – Special permit (§§ 11-411, 11-413). On a lot consisting of 9,700 SF, in a C2-2 in R3A district, permission sought to legalize auto repair and sale of used cars (UG 16). The existing and proposed FAR is .14 for the one-story commercial building. DOB Objection: Section 32-25: Auto repair and auto sales (UG16) not permitted in C2-2 district.

PREMISES AFFECTED – 1840 Richmond Terrace, Clove Road and Bodine Street, Block 201, Lot 32, Borough of Staten Island.

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

APPEARANCES –

For Applicant: Irving Minkin.

**ACTION OF THE BOARD** – Laid over to March 6, 2007, at 1:30 P.M., for continued hearing.  
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## **180-06-BZ**

APPLICANT– Kramer Levin Naftalis & Frankel, LLP, for Yeshiva University, owner.

SUBJECT – Application August 18, 2006 – Zoning variance to allow a new six (6) story academic building (UG3) for Yeshiva University that would violate applicable lot coverage (§24-11), rear yard (§24-36 and §24-391) and height and setback requirements (§24-522).

PREMISES AFFECTED – 515 West 185<sup>th</sup> Street, northwest corner of Amsterdam Avenue and West 185<sup>th</sup> Street, Block 2156, Lots 46, 61, 64, 146, 147, Borough of Manhattan.

### **COMMUNITY BOARD #12M**

APPEARANCES –

For Applicant: Al Fredericks.

**ACTION OF THE BOARD** – Laid over to March 6, 2007, at 1:30 P.M., for deferred decision.  
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## **236-06-BZ**

APPLICANT– Moshe M. Friedman, for Michael Dalezman, owner.

SUBJECT – Application September 12, 2006 – Special Permit (73-622) for the enlargement of a single family residence. This application seeks to vary open space, floor area (23-141) and rear yard (23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1500 East 21<sup>st</sup> Street aka Kenmore Place, 115’ north of intersection formed by East 21<sup>st</sup> Street and Avenue N, Block 7656, Lot 4, Borough of Brooklyn.

### **COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Moshe M. Friedman.

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 February 13, 2007, at 1:30 P.M., for decision, hearing closed.  
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## **274-06-BZ**

APPLICANT– Stadtmauer Bailkin, LLP, for Rockaway Homes, Inc., owner.

SUBJECT – Application October 11, 2006 – Variance (§72-21) for the construction of a two-story one family residence on a vacant lot which seeks to vary the required front yards (§23-45) and minimum lot width (§23-32) in an R3-2 zoning district.

PREMISES AFFECTED – 116-07 132<sup>nd</sup> Street, vacant triangular lot with Lincoln Street to the east 132<sup>nd</sup> Street to the west and 116<sup>th</sup> Avenue to the north, Block 11688, Lot 1, Borough of Queens.

### **COMMUNITY BOARD #10Q**

APPEARANCES –

For Applicant: Calvin Wong.

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 February 13, 2007, at 1:30 P.M., for decision, hearing closed.  
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*Jeff Mulligan, Executive Director*

*Adjourned: 5:45P.M.*

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## \*CORRECTION\*

This resolution adopted on December 9, 2003, under Calendar No. 374-02-BZ and printed in Volume 88, Bulletin Nos. 48-50, is hereby corrected to read as follows:

### 374-02-BZ

#### CEQR #03-BSA-114Q

APPLICANT – Salans, for Long Island Jewish Medical Center, owner.

SUBJECT – Application December 30, 2002 – under Z.R. §§73-481 and 73-49 to permit in an R3-2 zoning district, a proposed 1,660 space parking garage and the creation of rooftop parking, which are contrary to Z.R. §§ 25-11, 25-12 and 25-13.

PREMISES AFFECTED – 267-20 74<sup>th</sup> Avenue, block bounded by 74<sup>th</sup> and 76<sup>th</sup> Avenues, also 263<sup>rd</sup> Street and the Queens/Nassau Border, Block 8520, Lot 2, and Block 8489, Lots 50, 95, 100 and 120, Borough of Queens.

#### COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Martin Baker.

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

**THE VOTE TO GRANT** –

Affirmative: Chairman Chin, Vice-Chair Babbar, and Commissioner Miele.....3

Negative: .....0

Abstaining: Commissioner Caliendo .....1

**THE RESOLUTION** –

WHEREAS, the decision of the Borough Commissioner, dated December 20, 2002, acting on NB Application No. 401573784, reads:

“The proposed parking structure is contrary to the following section of the NYC ZR:

- 1) “ZR 25-11, General Provisions, Permitted Accessory Off Street Parking Spaces. Open parking is not permitted above a story other than above a basement. and
- 2) ZR 25-12, 25-13, Maximum Size of Accessory Group Parking Facilities and Modification of Maximum Size Group Parking Facilities. Total number of proposed parking spaces exceed 150-space maximum of §25-12 and 225-space maximum of §25-13.”; and

WHEREAS, a public hearing was held on this application on June 3, 2003 after due notice by publication in The City Record, laid over to July 15, 2003 and September 30, 2003 and then to October 21, 2003 for decision; and then the decision was deferred on October 21, 2003, deferred again on November 18, 2003, and then to December 9 for decision; and

WHEREAS, Community Board No. 13 in Queens recommends conditional approval of the subject application; and

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

consisting of Chairman James Chin, Vice Chairman Satish Babbar, Commissioner Joel Miele, and Commissioner Peter Caliendo; and

WHEREAS, this is an application for two special permits under Z.R. §§73-03, 73-481 and 73-49, to allow, in an R3-2 zoning district, a proposed 1,660 space parking garage and the creation of rooftop parking, which are contrary to Z.R. §§25-11, 25-12 and 25-13; and

WHEREAS, the subject lot is a 48 acre, 1,926,213 square foot parcel, that is roughly rectangular, with “out-parcels” at the northeasterly and northwesterly corners, bounded by 76th Avenue and 263rd Street; and

WHEREAS, the Long Island Jewish Hospital, Schneider Children’s Hospital and Zucker Hillside Hospital comprise the subject medical center, a 829 bed voluntary, non-profit tertiary care teaching medical center serving the greater Metropolitan New York area; and

WHEREAS, in the northeasterly corner of the block, the zoning lot is notched to accommodate an approximately 130,000 square “out-parcel” (Lot 175) which is occupied by a non-affiliated healthcare institution; and

WHEREAS, in the northwesterly corner of the block, a rectangular parcel is occupied by a medical center that is affiliated with the applicant; and

WHEREAS, the record indicates that the proposed attended parking is needed to meet the programmatic requirements of the subject medical center; and

WHEREAS, the proposed parking garage will contain 307,345 square feet of floor area housing seven levels above grade, two levels below grade and parking on the roof and provide spaces for 1,660 cars ; and

WHEREAS, the lower levels will be operated as attended parking and the upper levels will be self-park, and the applicant anticipates that the upper levels will be used by hospital staff and the lower levels by patients and visitors to the medical center: and

WHEREAS, the main entrance to the proposed garage will be from the North, adjacent to the Emergency Department and will be configured to permit easy pedestrian access; and

WHEREAS, the proposal will also provide an entrance on the West face of the subject garage, across an internal roadway from Hillside Hospital and another entrance on the South face to serve the patients and visitors to Schneider Children’s Hospital; and

WHEREAS, the record indicates that changes in the needs of the medical center’s patients and visitors including changes in the nature of patient visits make the existing parking resources inadequate; and

WHEREAS, the applicant represents that the length of in-patient hospital stays have decreased and ambulatory patient visits have increased; and

WHEREAS, moreover, the reconfiguration of the internal roadway system within the campus to accommodate the route for emergency vehicles and several other modernization projects have increased patient visits and parking needs; and

WHEREAS, the subject campus contains 1,789 parking

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spaces; additionally, the medical center leases 800 parking spaces on the eastside of Lakeville Road across from the main entrance located in Nassau County; and

WHEREAS, the applicant represents that many visitors and staff have been displaced from 350 parking spaces that are not available on the south side of the campus due to an ongoing road construction project; and

WHEREAS, the Board notes that the entrance to the proposed parking garage is approximately one-half a mile along interior campus roads and far from neighborhood streets; and

WHEREAS, the record indicates that vehicles proceeding to the proposed garage will turn into the campus at the main entrance and proceed west on a four-lane private roadway; and

WHEREAS, the Zoning Resolution requires the medical center to provide one accessory parking space per five beds, for a total of 166 parking spaces, but it exceeds this number based on its programmatic need and its pledge to the community that the facility would minimize parking impacts in the neighborhood; and

WHEREAS, the existing garage is on the major entrance way, entirely within the applicant's campus, from a four-lane roadway running westerly from its interchange with Lakeville Road; and

WHEREAS, the record indicates that there is reservoir space inside the entrances to the proposed garage and on the private roadway on the campus that exceeds the minimums required by Z.R. §73-481(b); and

WHEREAS, the Board notes that the instant application will not generate any new traffic as the proposed attended parking will only serve staff, patients, and visitors to the medical center complex; and

WHEREAS, the record indicates that the proposed rooftop parking is not visible from adjacent streets and is will not impair the essential character or the future use or development of adjacent areas; and

WHEREAS, therefore, the Board finds that the proposed use will not impair the character or the future use or development of the surrounding residential or mixed use neighborhood; and

WHEREAS, therefore, the Board finds that the subject proposal meets the findings required to be made under Z.R. §§73-03, 73-481 and 73-49; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

WHEREAS, therefore, the Board has determined that the proposed action will not result in any significant environmental effects.

Therefore, it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration under 6 N.Y.C.R.R. Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the

required findings and grants two special permits pursuant to Z.R. §§73-03, 73-481 and 73-49 to allow, in an R3-2 zoning district, a proposed 1,660 space parking garage and the creation of rooftop parking, which are contrary to Z.R. §§ 25-11, 25-12 and 25-13, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received October 27, 2003"--(9) sheets; and on further condition;

THAT there shall be no loitering on the premises;

THAT lighting shall be directed down and away from residential uses, and in accordance with BSA approved plans;

THAT substantial construction shall be completed in accordance with Z.R. §73-70;

THAT prior to filing plans with the Department of Buildings, the Applicant shall submit to Community Board Number 13 for its information, a landscaping plan for the frontage of its property along 74th Avenue and 76th Avenue.

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

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

THAT the 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) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals December 9, 2003.

**\*The resolution has been corrected in the part of the plans date, which read: "October 27, 2002..." now reads: "October 27, 2003...". Corrected in Bulletin Nos. 4-5, Vol. 92, dated February 1, 2007.**