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# BULLETIN

OF THE  
NEW YORK CITY BOARD OF STANDARDS  
AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

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Volume 93, No. 30

July 31, 2008

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## CONTENTS

DOCKET .....495

CALENDAR of August 26, 2008

Morning .....496

Afternoon .....496/497

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# CONTENTS

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**MINUTES of Regular Meetings,  
Tuesday, July 22, 2008**

Morning Calendar .....498

**Affecting Calendar Numbers:**

853-53-BZ	2402/16 Knapp Street, Brooklyn
615-57-BZII	154-11 Horace Harding Expressway, Queens
579-68-BZ	152-160 East 88 <sup>th</sup> Street, Manhattan
406-82-BZ	2411 86 <sup>th</sup> Street, Brooklyn
286-86-BZ	100 7 <sup>th</sup> Avenue, Brooklyn
151-90-BZ	115-49 118 <sup>th</sup> Street, Queens
268-06-BZ	80-35 Pitkin Avenue, Queens
302-06-BZ	1791 Ocean Parkway, Brooklyn
546-82-BZIII	148-15 89 <sup>th</sup> Avenue, Queens
16-92-BZ	115 King Street, Brooklyn
340-03-BZ	408 Greenwich Street, Manhattan
728-29-BZ	154-04 Horace Harding Expressway, Queens
713-55-BZ	181-05 Horace Harding Expressway, Queens
7-04-BZ	2208 Boller Avenue, Bronx
180-07-BZ	47 West 13 <sup>th</sup> Street, Manhattan
68-08-A	135-23 82 <sup>nd</sup> Avenue, Queens
251-07-A thru	
254-07-A	63/65 Houston Street, Staten Island
34-08-A	144 North 8 <sup>th</sup> Street, Brooklyn

Afternoon Calendar .....506

**Affecting Calendar Numbers:**

143-07-BZ	6404 Strickland Avenue, Brooklyn
282-07-BZ/	
283-07-BZ	774 Schenck Avenue, Brooklyn
36-08-BZ	1177 East 23 <sup>rd</sup> Street, Brooklyn
80-08-BZ	1073 East 24 <sup>th</sup> Street, Brooklyn
144-08-BZ	225 5 <sup>th</sup> Avenue, Manhattan
268-07-BZ	1644 48 <sup>th</sup> Street, Brooklyn
271-07-BZ	213-219 West 23 <sup>rd</sup> Street, Manhattan
42-08-BZ	182 Girard Street, Brooklyn
44-08-BZ	1015 East 23 <sup>rd</sup> Street, Brooklyn
59-08-BZ	591 Forest Avenue, Staten Island
66-08-BZ	1497 East 21 <sup>st</sup> Street, Brooklyn
84-08-BZ	67-24 Main Street, Queens
165-08-BZ	11 Penn Plaza, Manhattan
167-08-BZ	253 5 <sup>th</sup> Avenue, Manhattan

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# DOCKET

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New Case Filed Up to July 22, 2008  
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**194-08-BZ**

432 Lafayette Street, Westerly side of Lafayette Street 229' 11" south of Astor Place., Block 545, Lot(s) 38, Borough of **Manhattan, Community Board: 2**. Special Permit (73-19) to allow a Use Group 3 school on the first floor of an existing four-story mixed-use building. The proposal is contrary to ZR Section 42-10. M1-5B district.  
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**195-08-BZ**

1350 East 27th Street, West side of East 27th Street between Avenue N and Avenue M., Block 7662, Lot(s) 72, Borough of **Brooklyn, Community Board: 14**. Special Permit for the enlargement of an existing single family residence. This application seeks to vary open space and floor area (23-141); less than the required rear yard (23-47) and less than the required side yard (23-461) in an R-2 zoning district.  
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**196-08-BZ**

792 Tenth Avenue, North east corner of Tenth Avenue and West 53rd Street., Block 1063, Lot(s) 1, Borough of **Manhattan, Community Board: 4**.  
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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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**AUGUST 26, 2008, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, August 26, 2008, 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**

### **218-58-BZII**

APPLICANT – Vassalotti Associates Architects, LLP, for Norman Dawson, owner.

SUBJECT – Application June 3, 2008 – Extension of Term for an existing gasoline service station (Exxon), in a C1-2/R-2 zoning district, which expired on July 29, 2008.

PREMISES AFFECTED – 77-40 Hewlett Street, west side, 80.02' south of 77<sup>th</sup> Road, Block 8555, Lots 60 & 61, Borough of Queens.

**COMMUNITY BOARD #13Q**

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### **705-68-BZ**

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Lanide Realty Corporation, owner; City Auto Corporation, lessee.

SUBJECT – Application March 27, 2008 – Extension of Term/waiver for a (UG8) parking lot in an R4-1 zoning district which expired on April 27, 2007.

PREMISES AFFECTED – 88-14/22 182<sup>nd</sup> Street, 128' south of the intersection of Hillside Avenue and 182<sup>nd</sup> Street, Block 9917, Lots 7, 11, 143, Borough of Queens.

**COMMUNITY BOARD #12Q**

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### **164-99-BZ**

APPLICANT – Gerald J. Caliendo, R.A., AIA, for Ivan Duque, owner.

SUBJECT – Application March 20, 2008 – Extension of Term/waiver for a (UG12) eating and drinking establishment without restrictions on entertainment, in a C2-3/R-6 zoning district, which expired on August 15, 2006; an Amendment to the seating layout on the first and second floors, relocation of the bar on the second floor and the addition of two storage rooms in the cellar.

PREMISES AFFECTED – 79-03 Roosevelt Avenue, north side of Roosevelt Avenue, 22' east of the intersection of 79<sup>th</sup> Street and Roosevelt Avenue, Block 1290, Lot 46, Borough of Queens.

**COMMUNITY BOARD #3Q**

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**APPEALS CALENDAR**

### **96-08-A**

APPLICANT – Gary D. Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Mary Jo and William d'Ecclesiis, lessee.

SUBJECT – Application April 17, 2008 – Proposed reconstruction and enlargement of an existing single family home located within the bed of a mapped street contrary to Section 35 of the General City Law. R4 Zoning district.

PREMISES AFFECTED – 208 Oceanside Avenue, north side of Oceanside Avenue 49.27' east of mapped Beach 203<sup>rd</sup> Street, Block 16350, Lot p/o 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

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### **150-08-A**

APPLICANT – Gary D. Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Kari And Michael Fitzsimmons, lessees.

SUBJECT – Application May 29, 2008 – Proposed reconstruction and enlargement of an existing single family home and the upgrade of an existing non-conforming private disposal system within the bed of a mapped street contrary to General City Law Section 35 and the Department of Buildings Policy.R4 Zoning District.

PREMISES AFFECTED – 331 Hillside Avenue, intersection of Hillside Avenue and the mapped Beach 182<sup>nd</sup> Street, Block 16340, Lot 50, Borough of Queens.

**COMMUNITY BOARD #14Q**

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**AUGUST 26, 2008, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, August 26, 2008, 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**

### **94-08-BZ**

APPLICANT – Law Offices of Howard Goldman, LLC, for ZTI Corp., owner; Pitkin Managers, LLC, lessee.

SUBJECT – Application April 16, 2008 – Variance (§72-21) to waive all the required accessory parking (23 spaces) for the residential portion of a mixed-use redevelopment of an existing theatre building; contrary to § 25-00. C4-3 district.

PREMISES AFFECTED – 1501 Pitkin Avenue, between Legion Street and Saratoga Avenues, Block 3492, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #16BK**

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# CALENDAR

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**145-08-BZ**

APPLICANT – Law Office of Fredrick A. Becker, for Faige Neuman and Stephen Neuman, owner.

SUBJECT – Application May 16, 2008 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary open space and floor area (§23-141); less than the minimum side yards (§23-461) and less than the required rear yard (§23-47) in an R2 zoning district.

PREMISES AFFECTED – 1121 East 28<sup>th</sup> Street, east side of East 28<sup>th</sup> Street, between Avenue K and Avenue L, Block 7628, Lot 37, Borough of Brooklyn.

**COMMUNITY BOARD # 14BK**

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**148-08-BZ**

APPLICANT – Dennis D Dell’Angelo, for Michael Hass, owner.

SUBJECT – Application May 28, 2008 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary floor area and open space (§23-141); less than the required side yards (§23-461) and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1383 East 27<sup>th</sup> Street, east side of East 27<sup>th</sup> Street, 60’ north of Avenue N, Block 7663, Lot 10, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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**155-08-BZ**

APPLICANT – Eric Palatnik, P.C., for Arkadiy Kofman, owner.

SUBJECT – Application June 3, 2008 – Special Permit (§73-622) for the enlargement of an existing two family home to be converted to a one family home. This application seeks to vary floor area, open space and lot coverage (§23-141(a)); less than the minimum required rear yard (§23-47) in an R3-1 zoning district.

PREMISES AFFECTED – 282 Beaumont Street, south of Oriental Boulevard, Block 8739, Lot 71, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, JULY 22, 2008  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**853-53-BZ**

APPLICANT – Walter T. Gorman, P.E., for Knapp LLC, Owner, Exxon Mobil Coperati, Lessee.

SUBJECT – Application May 13, 2008 – Extension of Term/waiver to permit the continued operation of a gasoline service station (Mobil) which expired on October 23, 1999 and an Extension of Time to obtain a Certificate of Occupancy which expired on April 1, 1996 in R3-2/C2-2 zoning district.

PREMISES AFFECTED – 2402/16 Knapp Street, South west corner of Avenue X. Block 7429, Lot 10, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Patrick Gorman.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**THE RESOLUTION:**

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and an extension of term for the continued use of a gasoline service station, which expired on October 23, 1999, and an extension of time to obtain a certificate of occupancy, which expired on April 1, 1996; and

WHEREAS, a public hearing was held on this application on July 1, 2008 after due notice by publication in *The City Record*, with a continued hearing on July 15, 2008, and then to decision on July 22, 2008; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Hinkson and Commissioner Montanez; and

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

WHEREAS, the site is located on the southwest corner of Knapp Street and Avenue X, in a C2-2 (R3-2) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since June 22, 1954 when, under the subject calendar number, the Board granted a variance to permit the premises to be occupied by a gasoline service station with accessory uses for a term of 15 years; and

WHEREAS, subsequently, the grant has been amended and the term extended by the Board at various times; and

WHEREAS, most recently, the grant was extended on May 1, 1990 for a term of ten years from the expiration of the prior grant, to expire on October 23, 1999, and then amended on March 28, 1995 to grant the applicant until April 1, 1996 to obtain a certificate of occupancy; and

WHEREAS, the applicant represents that a certificate of occupancy was not obtained by the stipulated date due to administrative oversight during the merger of the corporate owner; and

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term; and

WHEREAS, based upon the above, the Board finds that the requested extension of term and extension of time to obtain a certificate of occupancy are 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, 1954, so that as amended this portion of the resolution shall read: “to extend the term for ten years from October 23, 1999, to expire on October 23, 2009, and to grant a six-month extension of time to obtain a certificate of occupancy, to expire on January 22, 2009; *on condition* that all use and operations shall substantially conform to plans filed with this application marked “Received May 13, 2008”-(5) sheets; and *on further condition*:

THAT the term of the grant shall expire on October 23, 2009;

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

THAT a certificate of occupancy shall be obtained by January 22, 2009;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 310091708)

Adopted by the Board of Standards and Appeals July 22, 2008.

**615-57-BZII**

APPLICANT – Sheldon Lobel, P.C., for Cumberland Farms, Incorporated, owner.

SUBJECT – Application June 24, 2008 – Extension of Time to obtain a Certificate of Occupancy and waiver of the rules for a Gasoline Service Station (Exxon) which expired on October 9, 2007 in an C1-3/R5B zoning district.

PREMISES AFFECTED – 154-11 Horace Harding Expressway, north side of Horace Harding Expressway between Kissena Boulevard and 154<sup>th</sup> Place, Block 6731, Lot 1, Borough of Queens.

**COMMUNITY BOARD #7Q**

# MINUTES

## APPEARANCES –

For Applicant: Elizabeth Safian for Josh Rinesmith.

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

## THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

## THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and an extension of time to obtain a certificate of occupancy, which expired on October 9, 2007; and

WHEREAS, a public hearing was held on this application on June 24, 2008 after due notice by publication in *The City Record*, and then to decision on July 22, 2008; and

WHEREAS, the site is located on the north side of Horace Harding Expressway between Kissena Boulevard and 154<sup>th</sup> Place, in a C1-3 (R5B) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 14, 1958 when, under the subject calendar number, the Board granted a variance to permit the reconstruction of a gasoline service station with accessory services; and

WHEREAS, subsequently, the grant has been amended and the term extended by the Board at various times; and

WHEREAS, the grant was most recently extended on January 9, 2007, for a period of ten years, to expire on June 5, 2013, with a condition that a certificate of occupancy be obtained by October 9, 2007; and

WHEREAS, the applicant represents that a certificate of occupancy was not obtained by the stipulated date due to there being multiple open applications for the subject premises at DOB, which needed to be closed or withdrawn; and

WHEREAS, based upon the above, 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 January 14, 1958, so that as amended this portion of the resolution shall read: “to permit an extension of time to obtain a certificate of occupancy, to expire on January 22, 2009; *on condition* that all use and operations shall substantially conform to BSA-approved plans associated with the prior grant; and *on further condition*:

THAT a certificate of occupancy shall be obtained by January 22, 2009;

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

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

and/or configuration(s) not related to the relief granted.” (DOB Application No. 400032255)

Adopted by the Board of Standards and Appeals July 22, 2008.

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## 579-68-BZ

APPLICANT – Seldon Lobel, P.C., for Lexington Towers Company Successor II, L.P., owners; Swift Parking, LLC, lessees.

SUBJECT – Application April 25, 2008 – Extension of Term, to permit the operation of a transient parking garage in the cellar of a building located within a C1-8X zoning district originally granted under Section 60(3) of the Multiple Dwelling Law.

PREMISES AFFECTED–152-160 East 88<sup>th</sup> Street, southeast corner of the intersection formed by East 88<sup>th</sup> Street and Lexington Avenue, Block 1516, Lot 52, Borough of Manhattan.

## COMMUNITY BOARD #8M

For Applicant: Elizabeth Safian.

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

## THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

## THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of term for a previously granted special permit allowing the operation of a transient parking garage in the cellar of a building, which expired on May 16, 2008; and

WHEREAS, a public hearing was held on this application on July 15, 2008, after due notice by publication in *The City Record*, and then to decision on July 22, 2008; and

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

WHEREAS, the premises is located on the southeast corner of the intersection formed by Lexington Avenue and East 88<sup>th</sup> Street; and

WHEREAS, the site is located within a C1-8X zoning district and is occupied by a 15-story multi-family mixed-use residential/commercial building with a transient parking garage located in the building’s cellar; and

WHEREAS, the Board has exercised jurisdiction over the subject site since February 18, 1969 when, under the subject calendar number, the Board granted an application to permit transient parking for a maximum of 50 percent of the number of parking spaces permitted on the certificate of occupancy for a term of five years; and

WHEREAS, subsequently, the grant has been amended and the term extended several times; and

WHEREAS, most recently, on July 20, 1999, the Board granted an additional ten-year term, to expire on May 16, 2008; and

WHEREAS, applicant now requests an additional ten-year term; and

# MINUTES

WHEREAS, the applicant does not propose any changes to the physical layout of the parking garage; and

WHEREAS, the applicant also does not propose any changes to the number of parking spaces permitted in the garage; and

WHEREAS, based upon its review of the record, the Board finds the requested extension of term is appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on February 18, 1969 so that as amended this portion of the resolution shall read: “to extend the term for ten years from May 16, 2008, to expire on May 16, 2018 to permit the operation of a transient parking garage *on condition* that that the use and operation of the site shall conform to the previously approved plans associated with this grant; and *on further condition*: THAT the term of this grant shall expire on May 16, 2018;

THAT signage shall comply with C1 zoning district regulations;

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

THAT a sign providing the same information about tenant recapture rights be located in a conspicuous place within the garage, permanently affixed to the wall;

THAT the above conditions and all relevant provisions from prior grants shall be listed on the certificate of occupancy;

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

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

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

Adopted by the Board of Standards and Appeals, July 22, 2008.

## 406-82-BZ

APPLICANT – Joseph P. Morsellino, Esq., for Adolf Clause & Theodore Thomas, owners; Hendel Products, lessee.

SUBJECT – Application April 29, 2008 – Extension of Term/waiver for a Special Permit (§73-243) Eating and Drinking Establishment (McDonald's) with accessory drive-thru which expired on January 18, 2008; and an Extension of Time to obtain a Certificate of Occupancy which expired on January 1, 2006 in an C1-3/R05 zoning district.

PREMISES AFFECTED – 2411 86<sup>th</sup> Street, northeast corner of 24<sup>th</sup> Avenue and 86<sup>th</sup> Street, Block 6859, Lot 1, Borough of Brooklyn.

## COMMUNITY BOARD #11BK

For Applicant: Eric Palatnik.

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

condition

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening, an extension of term for an accessory drive-through, which expired on January 18, 2008, and an extension of time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on July 15, 2008, after due notice by publication in *The City Record*, and then to decision on July 22, 2008; and

WHEREAS, the premises and surrounding area had site and neighborhood examination by Commissioner Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 11, Brooklyn, recommends approval of this application; and

WHEREAS, the is located on the east corner of 24<sup>th</sup> Avenue and 86<sup>th</sup> street, within a C1-3 (R5) zoning district; and

WHEREAS, the site is operated as a McDonald's eating and drinking establishment; and

WHEREAS, on January 18, 1983, under the subject calendar number, the Board adopted a resolution granting the applicant a special permit for the installation of an accessory drive-through facility for an existing eating and drinking establishment; and

WHEREAS, the special permit was subsequently extended at various times and expired on January 18, 2008; and

WHEREAS, the applicant currently seeks an extension of term and extension of time to obtain a new certificate of occupancy; and

WHEREAS, based upon its review of the record, the Board finds that the proposed five-year extension of term and a six-month extension of time to obtain a certificate of occupancy 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 January 18, 1983, so that as amended this portion of the resolution shall read: “to permit the extension of the term of the special permit for an additional five years, to expire on January 18, 2013, and an extension of six months to obtain a certificate of occupancy, to expire on January 22, 2009; *on condition* that all use and operations shall substantially conform to BSA-approved plans associated with the prior grant; and *on further condition*:

THAT the grant shall expire on January 18, 2013;

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

THAT a certificate of occupancy shall be obtained by January 22, 2009;

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

THAT this approval is limited to the relief granted by the

# MINUTES

Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

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

(DOB Application No. 310120142)

Adopted by the Board of Standards and Appeals, July 22, 2008.

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## **286-86-BZ**

APPLICANT – Sheldon Lobel, P.C., for 808 Union Street, LLC, owner.

SUBJECT – Application April 14, 2008 – Extension of Term filed pursuant to §72-01 and §72-22 to allow the continued use of a Physical Cultural Establishment previously granted pursuant to §72-21 of the zoning resolution. The site is located in a R6A/C1-3 zoning district.

PREMISES AFFECTED – 100 7<sup>th</sup> Avenue, southwest corner of the intersection formed by Seventh Avenue and Union Street, Block 957, Lot 33, Borough of Brooklyn.

### **COMMUNITY BOARD #6BK**

APPEARANCES –

For Applicant: Elizabeth Safian.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**THE RESOLUTION:**

WHEREAS, this is an application for, an extension of term for a previously granted variance allowing the operation of a physical cultural establishment, which expired on April 27, 2009; and

WHEREAS, a public hearing was held on this application on June 24, 2008, after due notice by publication in *The City Record*, and then to decision on July 22, 2008; and

WHEREAS, Community Board 6, Brooklyn, has recommends approval of this application; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Montanez and Commissioner Ottley-Brown; and

WHEREAS, the premises is located on the southwest corner of Seventh Avenue and Union Street; and

WHEREAS, the site is located within a C1-3 (R6A) zoning district and is occupied by a three-story commercial building; and

WHEREAS, the Board has exercised jurisdiction over the subject site since April 27, 1999 when, under the subject calendar number, the Board granted a variance to permit the use of the cellar of the subject building by a PCE; and

WHEREAS, applicant now requests an additional ten-

year term; and

WHEREAS, the applicant now proposes, that no changes are sought and that the PCE will continue to operate within the parameters of the former grant; and

WHEREAS, based upon its review of the record, the Board finds the requested extension of term is appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on April 27, 1999, so that as amended this portion of the resolution shall read: “to extend the term for ten years from April 27, 2009, to expire on April 27, 2019 *on condition* that there are no physical alterations to the site layout and that business on the site shall continue to operate within the parameters of the former grant as filed with this application, marked “Received April 14, 2008”-(3) sheets; and *on further condition*:

THAT the term of this grant shall expire on April 27, 2019;

THAT signage shall comply with C1-3 zoning district regulations;

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

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

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

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

Adopted by the Board of Standards and Appeals, July 22, 2008.

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## **151-90-BZ**

APPLICANT – Mitchell S. Ross, for Mega Real Estate Management, Incorporated, owner.

SUBJECT – Application March 13, 2008 – Amendment to allow legalization of existing conventional office use by amending resolution to remove condition limiting occupancy to governmental office use only previously granted by the Board. Located in a R3-2 zoning district.

PREMISES AFFECTED – 115-49 118<sup>th</sup> Street, 115-70 Lefferts Boulevard, East side of 118th Street, 240’north of Sutter Avenue, Block 11711, Lot 18, Borough of Queens.

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

APPEARANCES –

For Applicant: Mitchell Ross.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

# MINUTES

## THE RESOLUTION:

WHEREAS, this is an application for an amendment to legalize existing general office use (Use Group 6) and to eliminate the condition limiting occupancy to strictly governmental office use as previously granted by the Board; and

WHEREAS, a public hearing was held on this application on June 3, 2008, after due notice by publication in *The City Record*, with a continued hearing on July 1, 2008, and then to decision on July 22, 2008; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan and Commissioner Montanez; and

WHEREAS, Community Board 10, Queens, recommends approval of this application on condition that (1) no Use Group 6 use other than office be permitted and that that be noted on the certificate of occupancy, (2) signage be limited in size and be non-illuminated, (3) the existing large sign be removed, and (4) no trucks park overnight at the site; and

WHEREAS, the subject site is located on a through lot with frontage on 118<sup>th</sup> Street and Lefferts Boulevard, between Sutter Avenue and Rockaway Boulevard, in an R3-2 zoning district; and

WHEREAS, the site is occupied by a two-story with basement building with a front entrance on 118<sup>th</sup> Street; and

WHEREAS, on June 25, 1991, the Board permitted the conversion of the existing building at this site from a school and synagogue (Use Group 3), to governmental offices (Use Group 6); and

WHEREAS, a condition of the grant was that the office use be limited to governmental tenants; and

WHEREAS, the applicant represents that the previous tenant, the Board of Education Committee on Special Education, canceled its lease agreement due to a change in policy by the Department of Education that no longer permits rental in buildings with total floor area less than 35,000 square feet; and

WHEREAS, the applicant represents that there will be no change in floor area as a result of the new use, and that no food or drink is proposed to be sold on the premises; and

WHEREAS, at hearing, the Board directed the applicant to remove the large illuminated sign at the site; and

WHEREAS, in response, the applicant provided photographs reflecting that the illuminated sign in front of the building has been removed; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment to remove the condition limiting occupancy to strictly governmental office use is appropriate with the conditions set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on June 25, 1991, so that as amended this portion of the resolution shall read: "to permit general office uses under Use Group 6, *on condition* that the use and operation of the site shall comply with all BSA-approved plans, filed with this application marked "Received March 13, 2008" (5) sheets and "June 17, 2008"-(2) sheets; and *on further condition*:

THAT no food or drink shall be sold on the premises;

THAT there be no signage on the Lefferts Boulevard frontage and that the signage on 118<sup>th</sup> Street not be illuminated and be limited to what is reflected on the BSA-approved plans;

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

(DOB App. No. 401465650)

Adopted by the Board of Standards and Appeals, July 22, 2008.

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## 268-06-BZ

APPLICANT – Slater & Beckerman, LLP, for Mokom Sholom Cemetery Association, owner; Northrop Grumman Information Technology, Inc., lessee.

SUBJECT – Application April 24, 2008 – Reopening for an Amendment to previously approved Special Permit (§73-30) to permit a 90-foot non-accessory radio tower as part of the New York City Department of Information Technology and Telecommunications ("DoITT") New York City Wireless Network ("NYCWIn").

PREMISES AFFECTED – 80-35 Pitkin Avenue, 150' east of 80<sup>th</sup> Street, Lot 9141, Lot 20, Borough of Queens.

## COMMUNITY BOARD #10Q

APPEARANCES –

For Applicant: Carole Slater, Slater & Beckerman.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an amendment to a previously approved special permit for a non-accessory radio tower as part of the New York City Department of Information Technology and Telecommunications (DoITT), New York City Wireless Network (NYCWIn); and

WHEREAS, a public hearing was held on this application on July 1, 2008, after due notice by publication in *The City Record*, and then to decision on July 22, 2008; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Chair Srinivasan; and

WHEREAS, Community Board 10, Queens, has recommended approval of this application; and

WHEREAS, the subject site is bounded by Liberty Avenue to the north, Pitkin Avenue to the south, 80<sup>th</sup> Street to the east and 84<sup>th</sup> Street to the west, within an R4 zoning

# MINUTES

district; and

WHEREAS, the site is occupied by Mokom Sholom Cemetery; and

WHEREAS, on February 27, 2007, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-30, for a non-accessory radio and communications tower with a height of 82 feet at the premises; and

WHEREAS, the proposed telecommunications facility is part of the New York City Department of Information Technology and Telecommunications (DoITT) New York City Wireless Network (NYCWIn) and the application is brought on behalf of the City of New York; and

WHEREAS, the applicant represents that the NYCWiN system will provide a citywide data network designed to provide rich graphical information and real-time video from and to mobile workforces of the City's public safety and public service agencies, thereby allowing faster decision-making and better coordinated emergency responses; and

WHEREAS, the applicant now proposes to construct the non-accessory radio and communications tower, to a height of 94 feet with internally-mounted antennas and related equipment located within a fenced area at the site; and

WHEREAS, the Board notes that no other changes are being made to the original grant other than the extension of the telecommunications pole to a height of 94 feet; and

WHEREAS, based upon its review of the record, the Board finds that the requested reopening and amendment to permit the extension of the telecommunications pole to a height of 94 feet is appropriate with the conditions set forth below; and

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted February 27, 2007, so that as amended this portion of the resolution shall read: "to permit an extension of the telecommunications pole to a height of 94 feet, *on condition* that any and all use shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received April 24, 2008"- (5) sheets; and *on further condition*:

THAT any fencing will be maintained in accordance with BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, July 22, 2008.

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## 302-06-BZ

APPLICANT – Harold Weinberg, P.E., for Mirrer Yeshiva

Central Inst.

SUBJECT – Application April 10, 2008 – Reopening for an Amendment (§§72-01 and 72-22) to allow a small increase in floor area and floor area ratio.

PREMISES AFFECTED – 1791 Ocean Parkway, northeast corner of Avenue R, between Ocean Parkway and East 7<sup>th</sup> Street, Block 6663, Lot 46, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

For Applicant: Harold Weinberg.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an amendment to an existing variance, which permitted the enlargement of an existing yeshiva and synagogue building; and

WHEREAS, a public hearing was held on this application on July 15, 2008, after due notice by publication in *The City Record*, and then to decision on July 22, 2008; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan and Commissioner Montanez; and

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

WHEREAS, the through-block site is located on the north side of Avenue R, with frontage on Ocean Parkway and East Seventh Street, within an R6A zoning district partially within the Special Ocean Parkway District (OP) and partially within the Ocean Parkway Sub-district; and

WHEREAS, the subject site is occupied by a four-story 48,685 sq. ft. yeshiva and synagogue building with an FAR of 1.96; and

WHEREAS, on June 12, 2007, under the subject calendar number, the Board granted a variance, pursuant to ZR § 72-21, to permit the enlargement of an existing yeshiva (Use Group 3) and synagogue (Use Group 4), which did not comply with the requirements for floor area ratio, front yards, setback, sky exposure plane, and perimeter wall and total height, contrary to ZR §§ 54-31, 113-51, 113-542, 23-631, and 24-11; and

WHEREAS, the applicant represents that prior to commencing construction, it discovered that the floor area calculations for the existing and proposed building are erroneous and reflect the following mistakes: (1) the 1,658 sq. ft. of floor area associated with an existing fourth floor mezzanine was not included; and (2) only a portion of the lower level can be classified as cellar and the remainder is classified as basement, which increases the zoning floor area by 4,673.5 sq. ft.; and

WHEREAS, the first, second, third, and fourth floors and the third floor mezzanine also reflect deviations from the actual existing and proposed floor area calculations and have been revised; and

WHEREAS, the applicant does not propose to make any

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# MINUTES

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changes to the BSA-approved plans, except to replace the page which reflects the revised floor area summary; and

WHEREAS, the applicant requests to make the following amendments to the prior grant and floor area calculations: (1) to add 4,673.5 sq. ft. of floor area for the basement, (2) to add 1,658 sq. ft. of floor area for the fourth floor mezzanine, (3) to revise the existing building's floor area from 56,544.4 sq. ft. (2.28 FAR) to 46,685 sq. ft. (1.96 FAR), and (4) to revise the proposed building's floor area from 66,148 sq. ft. (2.67 FAR) to 68,233 sq. ft. (2.75 FAR); and

WHEREAS, as to the floor area, the applicant represents that at the time of the original application, all of the original plan sheets had not been drafted to the same scale, which resulted in erroneous floor area calculations; as noted, the calculations for the existing building had initially exceeded what was actually there and had not properly included the basement or fourth floor mezzanine; and

WHEREAS, the applicant represents that, subsequent to the grant, when a thorough analysis of the plans was performed, the correct floor area calculations for the existing and proposed buildings were determined; and

WHEREAS, the applicant now asks to be permitted to modify the floor area calculations to reflect the accurate existing and proposed conditions; and

WHEREAS, the applicant notes that the current request does not reflect an increase in the size of the approved building, but rather reflects a correction of errors so that the plans and design contemplated by the Board may be approved; and

WHEREAS, the Board notes that the proposed building envelope will not change and that none of the requested corrections reflects a change in what was originally contemplated and understood to be the proposal; and

WHEREAS, accordingly, the Board agrees that all of the requested revisions are within the scope of the original grant and has determined that none of the requested changes affects the required findings; and

WHEREAS, based upon its review of the record, the Board finds that the proposed amendments are appropriate.

*Therefore it is Resolved* that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on June 12, 2007, so that as amended this portion of the resolution shall read: "to permit a correction to the floor area calculations noted on the BSA-approved plans *on condition* that all work and site conditions shall comply with drawings marked "Received July 10, 2008"—one (1) sheet and "Received May 29, 2008"—four (4) sheets and "Received April 10, 2008"—four (4) sheets and *on further condition*:

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

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

(DOB Application No. 301275046)

Adopted by the Board of Standards and Appeals, July 22, 2008.

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## 546-82-BZIII

APPLICANT – Pasquale Carpentiere, owner; Ganesh Budhu, lessee.

SUBJECT – Application April 14, 2008 – Extension of Term for a UG8 parking lot which expires on June 14, 2008 in an R7a/DJ zoning district.

PREMISES AFFECTED – 148-15 89<sup>th</sup> Avenue, north side of 89<sup>th</sup> Avenue, between 148<sup>th</sup> and 150<sup>th</sup> Streets, Block 9693, Lot 60, Borough of Queens.

### COMMUNITY BOARD #12Q

APPEARANCES – Pasquale Carpentiere.

**ACTION OF THE BOARD** – Laid over to August 26, 2008, at 10 A.M., for continued hearing.

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## 16-92-BZ

APPLICANT – Stadtmauer Bailkin, LLP, for High Teck Park, Inc., owner.

SUBJECT – Application May 18, 2007 – Pursuant to Z.R §72-01 and §72-22 to permit a waiver of the rules of practice and procedure, a re-opening, an amendment, and an extension of the term of the variance. The requested application would permit the legalization from the change in use from auto repair and warehouse to a charity auto donation facility (Use Group 16 automotive storage), container storage (Use Group 16), a woodworking and metal working company (Use Group 16) and a legalization of a 2,420 square foot mezzanine addition. The premises is located in a R5/C1-1 zoning district.

PREMISES AFFECTED – 115 King Street, 78 Sullivan Street, lot front King Street and Sullivan Street, between Richardson and Van Brunt Street, Block 556, Lot 15, Borough of Brooklyn.

### COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Elizabeth Safian.

For Opposition: Loris Sones, Molly Rouzie and Risha G.

**ACTION OF THE BOARD** – Laid over to August 26, 2008, at 10 A.M., for continued hearing.

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## 340-03-BZ

APPLICANT – Davidoff Malito & Hutcher, LLP, by Howard S. Weiss, Esq., for 408

SUBJECT – Application February 20, 2008 – Reopening for an Amendment to allow in a mixed use building the change of the use on the fifth floor from commercial use (UG6) to residential use (UG2).

PREMISES AFFECTED – 408 Greenwich Street, a/k/a 22-24 Hubert Street, northwest corner of Hubert and Greenwich Street, Block 217, Lot 23, Borough of Manhattan.

### COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Ron Mandel.

**ACTION OF THE BOARD** – Laid over to August 26, 2008, at 10 A.M., for an adjourned hearing.

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# MINUTES

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## 728-29-BZ

APPLICANT – Walter T. Gorman, P.E., for Exxon Mobil Corporation, owner; Exxon Mobil Franchisee, lessee.

SUBJECT – Application June 27, 2008 – Extension of Time to obtain a Certificate of Occupancy and Waiver of the rules for a UG16 Gasoline Service Station (Mobil), in an R-4 zoning district, which expired on May 15, 2003.

PREMISES AFFECTED – 154-04 Horace Harding Expressway, Block 6744, Lot 71, Borough of Queens.

### COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Patrick C. Gorman.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to July 29, 2008, at 1:30 P.M., for decision, hearing closed.

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## 713-55-BZ

APPLICANT – Walter T. Gorman, P.E., for Exxon Mobil Corporation, owner; Brendan Utopia Mobil, lessee.

SUBJECT – Application May 23, 2008 – Extension of Time to obtain a Certificate of Occupancy/waiver for a gasoline service station (Mobil), in a C2-2/R3-2 zoning district, which expired on May 22, 2003.

PREMISES AFFECTED – 181-05 Horace Harding Expressway, north side blockfront between Utopia Parkway and 182<sup>nd</sup> Street, Block 7065, Lot 8, Borough of Queens.

### COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Patrick C. Gorman.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to July 29, 2008, at 1:30 P.M., for decision, hearing closed.

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## 7-04-BZ

APPLICANT – Lawrence Whiteside, for Reverend Doctor Sheldon E. Williams, owner.

SUBJECT – Application June 26, 2008 – Extension of Time to Complete Construction of a UG4 Church/Community Outreach Center (Co-Op City Baptist Church), in an R3A zoning district, which expired June 8, 2008.

PREMISES AFFECTED – 2208 Boller Avenue, north side of Erskine Place, from Boller Avenue to Hunter Avenue, Block 5135, Lot 1, Borough of Bronx.

### COMMUNITY BOARD #10BX

APPEARANCES –

For Applicant: Lawrence Whiteside and Rev. Dr. Sheldon W. Williams.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to August 19, 2008, at 1:30 P.M., for decision, hearing closed.

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## 180-07-BZ

APPLICANT – Sheldon Lobel, P.C., for 47 Development, LLC, owner; Ritual Spa LLC dba Silk Day Spa, lessee.

SUBJECT – Application June 12, 2008 – Extension of Time to obtain a Certificate of Occupancy for a previously granted PCE (Silk Day Spa), in a C6-2/C6-2M zoning district, which expired on May 20, 2008.

PREMISES AFFECTED – 47 West 13<sup>th</sup> Street, north side of West 13<sup>th</sup> Street, between Fifth and Sixth Avenues, Block 577, Lot 15, Borough of Manhattan.

### COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to August 19, 2008, at 1:30 P.M., for decision, hearing closed.

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# MINUTES

## 68-08-A

APPLICANT – Sheldon Lobel, P.C., for N.J.A. Ventures, LLC, owner.

SUBJECT – Application April 1, 2008 – An appeal seeking a determination that the property owner has acquired a common law vested right to continue construction commenced under the prior R6A zoning. R5D Zoning District.

PREMISES AFFECTED – 135-23 82<sup>nd</sup> Avenue, between 135<sup>th</sup> Street and 138<sup>th</sup> Street (aka Hoffman Avenue), Block 9669, Lot 30, Borough of Queens.

### COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to August 19, 2008, at 1:30 P.M., for decision, hearing closed.

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## 251-07-A thru 254-07-A

APPLICANT – Eric Palatnik, P.C., for Willow/Houston, LLC, owner

SUBJECT – Application November 2, 2007 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development under the prior R3A zoning district. R3X zoning district.

PREMISES AFFECTED – 63/65 Houston Street and 104/106 Willowbrook Road, Block 1478, Lots 542, 543, 150 & 151, Borough of Staten Island.

### COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: James E. Scott, Kim McEvoy, Joan Wojcik and Tricia Ryan on behalf of Councilmember McMahan.

For Administration: Lisa Orrantia, Department of Buildings.

**ACTION OF THE BOARD** – Laid over to September 9, 2008, at 10 A.M., for continued hearing.

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## 34-08-A

APPLICANT – Kevin Christopher Shea, for Neighbors Allied for Good Growth (“NAG”) and People’s Firehouse, Inc. (“PFI”).

OWNER: North Seven Associates LLC

SUBJECT – Application February 20, 2008 – Appeal seeking to revoke permit and approvals that allow the construction of a sixteen story building in violation of ZR 23-142 and ZR 12-10 which fails to provide adequate open space on the zoning lot to support the Building’s floor area.

PREMISES AFFECTED – 144 North 8<sup>th</sup> Street, south side of North 8<sup>th</sup> Street, 100’ east of Berry Street, Block 2319, Lot 11, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to July 29, 2008, at 10 A.M., for continued hearing.

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*Jeffrey Mulligan, Executive Director*

Adjourned: P.M.

## REGULAR MEETING TUESDAY AFTERNOON, JULY 22, 2008 1:30 P.M.

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

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## ZONING CALENDAR

### 143-07-BZ

APPLICANT – Moshe M. Friedman, for Chabad House of Canarsie, Inc., owner.

SUBJECT – Application June 4, 2007 – Variance (§72-21) to permit the construction of a three-story and cellar synagogue, religious pre-school, and Mikva. The proposal is contrary to §24-111 (a) and §23-141 (a) (Floor Area and FAR), §24-11 (Open Space and Lot Coverage), §24-521 (Front Wall and Sky Exposure Plane), §24-34 (Front Yard), §24-35 (Side Yard), §25-31 (Parking). R2 district.

PREMISES AFFECTED – 6404 Strickland Avenue, south east corner of Strickland Avenue and East 64<sup>th</sup> Street, Block 8633, Lot 1, Borough of Brooklyn.

### COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Moshe Friedman.

For Opposition: Arnold Sadownick, M. L., Robert Wisniewski, Brian Khnovich, Anatoliy Shukhman, Francis J. McCade and Herbert Asherman.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated February 19, 2008, acting on Department of Buildings Application No. 302279488 reads, in pertinent part:

“Proposed synagogue contrary to:

- ZR 23-111(a), 23-141(a) Floor Area, Floor Area Ratio
- ZR 24-521 Front Wall
- ZR 24-35 Side Yard
- ZR 24-521 Sky Exposure Plane

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# MINUTES

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- ZR 24-31 Parking;” and

WHEREAS, this is an application under ZR § 72-21 to permit, on a site within an R2 zoning district, the construction of a three-story and cellar synagogue, with an accessory religious-based preschool (Use Group 4) which does not comply with the requirements for front and side yards, floor area and floor area ratio, front wall height, sky exposure plane and parking contrary to ZR §§ 23-111(a), 23-141(a), 24-35, 24-521, and 24-31; and

WHEREAS, the application is brought on behalf of Chabad House of Canarsie, Inc. (“Chabad House” and the “Synagogue”), a nonprofit religious institution; and

WHEREAS, a public hearing was held on this application on January 15, 2008 after due notice by publication in the *City Record*, with continued hearings on March 18, 2008 and July 1, 2008, and then to decision on July 22, 2008; and

WHEREAS, the site and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 18, Brooklyn, recommends disapproval of this application; and

WHEREAS, residents of the surrounding community provided testimony in opposition to the proposal, citing concerns with impacts on neighborhood character and parking and with potential construction impacts (the “Opposition”); and

WHEREAS, the subject site is located on the southeast corner of Strickland Avenue and East 64th Street in the Mill Basin section of Brooklyn and is occupied by a one-story home; and

WHEREAS, the subject lot has a lot area of 5,922 sq. ft. and is located within an R2 zoning district; and

WHEREAS, as originally proposed, the three-story building (UG 4) was to have the following parameters: 10,528 sq. ft. of floor area and an FAR of 1.78, a lot coverage of approximately 64.6 percent, a front wall height of 43’-0” on Strickland Avenue and 34’-0” on 64<sup>th</sup> Avenue, a front yard of 5’-0” on Strickland Avenue and a front yard of 7’-0” on East 64<sup>th</sup> Street, no side yard on the eastern lot line, and a complying side yard of 26’-0” on the southern lot line; and

WHEREAS, the applicant revised the proposal during the hearing process, the current proposal provides for: floor area of 9,197 sq. ft., an FAR of 1.53; a lot coverage of 55.1 percent, a front wall height of 39’-0” on Strickland Avenue and 30’-0” on East 64<sup>th</sup> Street, a complying front yard of 15’-0” on Strickland Avenue and a front yard of 6’-0” on East 64<sup>th</sup> Street, a side yard of 3’-0” on the eastern lot line, and a side yard of 23’-0” on the southern lot line; and

WHEREAS, the relevant zoning district regulations are as follows: (i) a maximum FAR of 0.50; (ii) a front wall height of 25’-0”; (iii) two side yards with minimum widths of at least 8’-0” and 9’-6”, respectively; (iv) two front yards with minimum depths of 15’-0” each; and (v) a minimum of 12 parking spaces; and

WHEREAS, the proposed building will have the following program: (1) a mikva, playroom, kitchen, social room, mechanical space, and storage in the cellar; (2)

synagogue space and rabbi’s office on the first floor; (3) women’s sanctuary and weekend sanctuary space on the second floor; and (4) classrooms on the third floor; and

WHEREAS, the applicant represents that the variance request is necessitated by the programmatic needs of the Chabad House, which includes its mission to provide a larger synagogue for its growing congregation, a mikva, a pre-school for religious and secular education, and a morning program for seniors; and

WHEREAS, the applicant represents that Chabad House has a congregation of approximately 280 adults; and

WHEREAS, the applicant represents that a complying building would be inadequate to accommodate the size of the congregation and would not permit the creation of separate entrances for men and women, or a women’s balcony on the second floor; and

WHEREAS, the applicant states that the requested floor area waiver enables the Synagogue to have the second floor worship space; and

WHEREAS, the applicant further represents that worship space which separates men and women is also critical to its religious practice, thus necessitating the requested waiver of the floor area limitation; and

WHEREAS, the proposed building will also allow Chabad House to offer religious-based education for up to 41 pre-school aged children; and

WHEREAS, the applicant also states that a complying building would be unable to accommodate the characteristic façade that distinguishes the Lubavitch Chasidic synagogues; the applicant provided photographs of numerous Lubavitch synagogues with similar facades located within the United States and other countries; and

WHEREAS, based upon the above, the Board finds that the aforementioned programmatic needs of the Synagogue create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the Board acknowledges that Chabad House, as a religious and educational institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Westchester Reform Temple v. Brown, 22 NY2d 488 (1968), a religious institution’s application is entitled to deference unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, religious institutions are entitled to locate on their property facilities for other uses that are reasonably associated with their overall purposes and a preschool has been found to constitute such a use. See Uni. Univ. Church v. Shorten, 63 Misc.2d 978, 982 (Sup. Ct. 1970); and

WHEREAS, however, the applicant also presents the following site conditions which create an unnecessary hardship in developing the site in compliance with applicable

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# MINUTES

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regulations as to floor area, wall height, yards, and parking: (1) the site's soil and water conditions; and (2) the site's corner location and width; and

WHEREAS, as to the site's soil and water conditions, the applicant states that soil borings indicate the presence of sand and silt throughout the site, and an underground water table was measured to a depth of 12 feet; and

WHEREAS, the applicant represents that the noted soil conditions and high water table together constrain its ability to locate program uses below-grade, and, in order to accommodate the required program on the upper floors, within a building height that is compatible with the neighboring context, the ceiling height has been limited to 8'-0"; and

WHEREAS, the applicant states that the size of the site, the height limitations of the district and the high water table of the property do not permit surface or below-grade parking to be accommodated on the site; and

WHEREAS, the Opposition raised concerns with the water table and its consequential potential for flooding during excavation for construction of the Synagogue; and

WHEREAS, the Board notes that the owner would be required to observe all Building Code requirements relevant to construction of the proposed synagogue; and

WHEREAS, as to the site's corner location and size, the applicant states that it is required to provide two front yards with minimum depths of 15'-0", and two side yards, with minimum widths of 9'-6" and of 8'-0", respectively; and

WHEREAS, the applicant notes that these requirements would result in a complying building with a width of 24'-0", which would be too narrow to accommodate the congregation; the resultant floor plates would be small and inefficient with a significant portion of both space and floor area allocated toward circulation space, egress, and exits; and

WHEREAS, the applicant states that the required floor area cannot be accommodated within the as of right FAR, floor area, height, and yard parameters and allow for efficient floor plates that will accommodate Chabad House's programmatic needs, thus necessitating the requested waivers of these provisions; and

WHEREAS, the applicant states that in addition to facilitating an efficient floor plate, the waivers also allow the building's height to fit into the context of the neighborhood; and

WHEREAS, based upon the above, the Board finds that the aforementioned physical conditions, when considered in conjunction with the programmatic needs of Chabad House, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

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

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

detrimental to the public welfare; and

WHEREAS, at hearing, the Board asked the applicant to provide a survey of nearby front yards to support the initial request for a 5'-0" front yard on Strickland Avenue; and

WHEREAS, the applicant provided a survey indicating that only three out of 23 surveyed sites had front yards of ten feet or less; and

WHEREAS, the applicant subsequently modified the proposal to provide a complying front yard on Strickland Avenue and to provide a 3'-0" side yard on the eastern lot line; the current proposal now also complies with lot coverage requirements; and

WHEREAS, the Board notes that the proposed use is as of right and agrees that the proposed three-story with cellar building is compatible with the neighborhood context; and

WHEREAS, as to traffic and parking impacts, a submission by the applicant indicates that approximately 82 percent of the congregants live within three-quarters of a mile from the premises; and

WHEREAS, the applicant represents that traffic and parking demand would be minimal as congregants are close enough to walk to services and are not permitted to drive to worship on religious holidays, Fridays, or Saturdays – the Synagogue's peak usage periods; and

WHEREAS, the applicant initially stated that a parking study conducted during evening hours indicated that approximately 200 on-street parking spaces were available within a two-block radius of the subject site; and

WHEREAS, the Opposition testified that available parking was inadequate to meet current demand and that the applicant's parking study had failed to evaluate parking availability on the streets during morning hours, when demand from the Synagogue would be most likely to conflict with that of a neighboring public school; and

WHEREAS, the Board directed the applicant to provide a traffic study that evaluated parking availability between the hours of 7:00 a.m. and 8:00 a.m. on streets within a two-block radius of the site; and

WHEREAS, a revised traffic study submitted by the applicant indicated that a total of 313 on-street parking spaces are located within the study area, of which at least 143 spaces were available between 7:00 a.m. and 8:00 a.m., and at least 197 spaces were available between 6:00 p.m. and 8:00 p.m.; and

WHEREAS, the applicant represents that parking demand by congregants would be limited to morning services attracting an average of 50 members daily, and to bi-monthly life-cycle events; and

WHEREAS, the applicant further represents that the number of available on-street parking spaces far exceeds the expected demand by members and guests of the Synagogue; and

WHEREAS, at hearing, the adjacent owner raised concerns about the unbroken façade of the synagogue's wall on its eastern lot line; and

WHEREAS, the Board directed the applicant to add windows to the side wall to create a condition that is more compatible with the residential context; and

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# MINUTES

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WHEREAS, in response, the applicant agreed to install glass blocks in the side wall; and WHEREAS, during the hearing process, the length of the building was reduced to 90'-0"; and

WHEREAS, the Board notes that a maximum building depth of 100'-8" is permitted as of right; and

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

WHEREAS, the applicant states that the hardship was not self-created and is inherent in the soil conditions and corner location of the site, which render it unsuitable for an as of right development which can accommodate its programmatic needs; and

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

WHEREAS, as noted, as originally proposed the building was to have: 10,528 sq. ft. of floor area and an FAR of 1.78, a lot coverage of approximately 64.6 percent, a front wall height of 43'-0" on Strickland Avenue and 34'-0" on 64<sup>th</sup> Avenue, a front yard on Strickland Avenue of 5'-0", and no side yard on the eastern lot line; and

WHEREAS, in response to concerns raised by the Board during the hearing process, the proposal was modified to reduce the degree of waivers requested; the current proposal provides for: 9,197 sq. ft. of floor area, an FAR of 1.53; a lot coverage of 55.1 percent, a front wall height of 39'-0" on Strickland Avenue and 30'-0" on East 64<sup>th</sup> Street, a complying front yard on Strickland Avenue of 15'-0", and a side yard of 3'-0" on the eastern lot line; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to Sections 617.6(ak); 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. 07BSA093K, dated November 29, 2007; and

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

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact

Statement are foreseeable; and

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings application under ZR § 72-21 to permit, within a site located within an R2 zoning district, the construction of a three-story and cellar synagogue with accessory religious-based preschool (Use Group 4), which does not comply with the requirements for side yard, floor area and floor area ratio, front wall height, sky exposure plane, and parking contrary to ZR §§ 23-111(a), 23-141(a), 24-35, 24-521, and 24-31, *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 July 2, 2008" – (12) sheets; and *on further condition*:

THAT, the proposed synagogue shall have floor area of 9,197 sq. ft.; an FAR of 1.53; a front wall height of 39'-0" on Strickland Avenue and 30'-0" on East 64<sup>th</sup> Street; front yards of 15'-0" on Strickland Avenue and 6'-0" on East 64<sup>th</sup> Street; a side yard of 3'-0" on the eastern lot line; and one parking space; and

THAT any change in ownership or use of the building shall be reviewed and approved by the Board;

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

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

THAT the aforementioned condition be noted on the approved plans and on the Certificate of Occupancy; 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, July 22, 2008.

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# MINUTES

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## 282-07-BZ & 283-07-BZ

APPLICANT – Sheldon Lobel, P.C., for 774 Schenck Properties, LLC, owner.

SUBJECT – Application December 17, 2007 – Variance (§72-21) to allow two (2) two-family, two-story detached homes; contrary to front yard requirements (§23-45). R5 district.

PREMISES AFFECTED – 774 Schenck Avenue, a/k/a 764 Schenck Avenue and 825 Hendrix Street, Linden Boulevard and Hendrix Avenue, Block 4330, Lot 28C, Borough of Brooklyn.

## COMMUNITY BOARD #5BK

### APPEARANCES –

For Applicant: Irving Minkin.

For Opposition: Gary Brown.

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

### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

### THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 27, 2007, acting on Department of Buildings Application No. 310045064, reads in pertinent part:

“Proposed residential building, garage and open parking space within required front yard is contrary to section 23-45 of the Zoning Resolution;” and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R5 zoning district, the construction of two two-story two-family homes that do not comply with front yard requirements, contrary to ZR § 23-45; and

WHEREAS, a public hearing was held on this application on May 20, 2008, after due notice by publication in *The City Record*, with a continued hearing on June 24, 2008, and then to decision on July 22, 2008; and

WHEREAS, the site and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

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

WHEREAS, certain community members provided written and oral testimony in opposition to the proposal, citing concerns about compatibility with neighborhood character; and

WHEREAS, the site is a vacant through lot, with frontage on Schenck Avenue, Hendrix Street and Linden Boulevard, with a length of 200 feet and a width of 25 feet; and

WHEREAS, the proposed buildings will each have the following non-complying parameter: one side yard on the Linden Boulevard frontage with a depth of 3’-0” (two front yards with depths of 10’-0” each are the minimum required); and

WHEREAS, further, the proposed homes will each provide one complying front yard with a depth of 20’-0”, and one complying side yard with a depth of 5’-0” and a

20’-0” side yard at the rear, which together provide a complying minimum distance between buildings of 40’-0”; and

WHEREAS, the current proposal reflects for each two-story two-family home: a floor area for each of 1,840 sq. ft., a wall height of 19’-0”, a total height of 25’-0”, and two parking spaces; the total FAR on the site is proposed to be 0.74; all of these parameters comply with zoning district regulations; and

WHEREAS, the applicant states that the site cannot be developed without a variance, due to its narrow width, thus, the instant application was filed; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the site in compliance with underlying district regulations: the corner lot’s narrow width of 25 feet; and

WHEREAS, as to the lot’s width, the applicant notes that without front yard waivers, the site could not feasibly be developed; and

WHEREAS, the applicant has submitted evidence establishing that the subject lot was owned separately and apart from all adjacent lots on December 15, 1961 and on the date of the application; and

WHEREAS, the Board notes that there is an adverse possession claim from someone who has occupied the lot at certain times, against the owner; the Board notes that this claim is not within its jurisdiction and can only be resolved in another forum; and

WHEREAS, the applicant notes that, given the narrow width and position as a corner lot, the provision of two front yards and would result in an uninhabitable home with a width of 10’-0”; and

WHEREAS, the applicant notes that within a 400-ft. radius of the site, there are no other corner lots of comparable size, which have development potential; there are, however, two corner lots with widths of 5’-0”, which resulted from the historic widening of Linden Boulevard; and

WHEREAS, additionally, there are a number of interior lots with different yard requirements that have widths in the range of 20’-0” to 25’-0”, but the majority of them are occupied by homes built prior to December 15, 1961; and

WHEREAS, the applicant notes that many of the existing homes in the area have pre-existing non-complying yards; and

WHEREAS, the Board agrees that the front yard waiver is necessary in order to construct habitable homes; and

WHEREAS, thus, the Board finds that the aforementioned unique physical condition creates a practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the Board has determined that because of the subject lot’s unique physical condition, there is no reasonable possibility that a complying and viable building could be constructed; and

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

# MINUTES

detrimental to the public welfare; and

WHEREAS, the applicant notes that the proposed home complies with all R5 zoning district regulations aside from the front yard requirement, and that the proposed bulk and height is compatible with the other residential buildings in the immediate vicinity; and

WHEREAS, specifically, the applicant proposes to provide complying front yards on the Schenck Avenue and Hendrix Avenue frontages where there is a context for front yards; and

WHEREAS, the Board notes that the applicant initially proposed to provide a wide curb cut on Linden Boulevard, which is a heavily-trafficked street, but re-designed the parking so as to eliminate any curb cut on Linden Boulevard and, instead to provide individual curb cuts for each home on the Schenck Avenue and Hendrix Avenue frontages, respectively; and

WHEREAS, based upon its review of the submitted land use map, the submitted pictures, and site visits, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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

WHEREAS, the Board notes that the one front yard waiver reflects the minimum necessary to afford the applicant relief; and

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 72-21, to permit, within an R5 zoning district, the construction of a two two-story two-family homes that do not comply with front yard requirements, contrary to ZR § 23-45; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received April 2, 2008"— seven (7) sheets; and *on further condition*:

THAT the parameters of the proposed homes are each as follows: one side yard of 5'-0" along the northern lot line, one side yard of 20'-0" along the shared lot line, one front yard of 10'-0" along the Schenck Avenue and Hendrix Avenue frontages, respectively, and one front yard of 3'-0", along the Linden Boulevard frontage; as illustrated on the BSA-approved plans

THAT there shall be no habitable space in the cellar;

THAT the above condition shall appear on the Certificate of Occupancy

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

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

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

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

Adopted by the Board of Standards and Appeals, July 22, 2008.

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## 36-08-BZ

APPLICANT – Lewis Garfinkel, R.A., for Antoninette Mizrachi, owner.

SUBJECT – Application February 21, 2008 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary open space and floor area (§23-141(a)); side yards (§23-461) and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1177 East 23<sup>rd</sup> Street, east side of East 23<sup>rd</sup> Street, 130' north of Avenue L, Block 7623, Lot 12, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lewis Garfinkel.

For Opposition: Samuel M. Rotenberg.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated February 11, 2008, acting on Department of Buildings Application No. 310077403, reads in pertinent part:

- “1) Proposed plans are contrary to ZR 23-141(a) in that the proposed Floor Area Ratio (FAR) exceeds the permitted 50%.
- 2) Proposed plans are contrary to ZR 23-141(b) in that the proposed Open Space Ratio (OSR) is less than required 150%.
- 3) Plans are contrary to ZR 23-461(a) in that the existing minimum side yard is less than the required minimum 5'-0”.
- 4) Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than 30'-0”;" and

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

WHEREAS, a public hearing was held on this

# MINUTES

application on April 8, 2008, after due notice by publication in *The City Record*, with continued hearings on May 13, 2008, and June 24, 2008, and then to decision on July 22, 2008; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Montanez and Commissioner Ottley-Brown; and

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

WHEREAS, certain neighbors provided testimony in opposition to the application, citing concerns about compatibility with neighborhood character; and

WHEREAS, the subject site is located on the east side of East 23<sup>rd</sup> Street, between Avenue L and Avenue K; and

WHEREAS, the subject site has a total lot area of 3,000 sq. ft., and is occupied by a single-family home with floor area of 1,794 sq. ft. (0.60 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 1,794 sq. ft. (0.60 FAR), to 2,994 sq. ft. (1.0 FAR); the maximum floor area permitted is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will provide an open space ratio of 53 percent (a minimum of 150 percent is required); and

WHEREAS, the proposed enlargement will maintain the existing non-complying side yard with a width of 3'-10" (side yards with a total width of 13'-0" and a minimum width of 5'-0" each are required) and a second side yard with a width of 5'-10" will be provided, which is permitted under the narrow lot provisions; and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 22'-0" (a minimum rear yard of 30'-0" is required); and

WHEREAS, at hearing, the Board asked the applicant to document the nearby front yard conditions; and

WHEREAS, in response, the applicant provided a map with photographs, which reflect that there are four homes on the subject block with a front yard depth of 15'-0", including one across the street; and

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

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 73-622 and 73-03.

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, open space ratio, side yard, and rear yard, contrary to ZR §§ 23-141(a), 23-141(b), 23-461(a) and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received February 21, 2008"-(1) sheet, "April 29, 2008"-(8) sheets and "July 8, 2008"-(1) sheet; and *on further condition*:

THAT the floor area of the attic is limited to 480 sq. ft.;

THAT the following shall be the bulk parameters of the building: a total floor area of 2,994 sq. ft. (1.0 FAR), an open space ratio of 53 percent, one side yard with a minimum width of 3'-10", one side yard with a minimum width of 5'-10", and a rear yard with a minimum depth of 22'-0", as illustrated on the BSA-approved plans;

THAT DOB shall review and approve the floor area of the attic;

THAT DOB shall review and approve any porches;

THAT DOB shall review and approve the proposed off-street parking space;

THAT DOB shall confirm that the portions of the existing building noted to be retained on plan sheets A-2 dated February 21, 2008 and A-3, A-4, A-10 and A-11, dated April 29, 2008, shall be retained;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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

THAT DOB shall review and approve the front and rear porches,

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

Adopted by the Board of Standards and Appeals, July 22, 2008.

## 80-08-BZ

APPLICANT – Dennis D. Dell'Angelo, for Joseph Leshkowitz, owner.

SUBJECT – Application April 4, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary the open space ratio and floor area (§23-141); side yards (§23-46) and rear

# MINUTES

yard requirement (§23-47) in an R-2 zoning district.  
PREMISES AFFECTED – 1073 East 24<sup>th</sup> Street, east side of East 24<sup>th</sup> Street, 175’ north of Avenue K, Block 7606, Lot 15, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

### APPEARANCES –

For Applicant: Dennis D. Dell’ Angelo.

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

### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

### THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated March 7, 2008, acting on Department of Buildings Application No. 310091735, reads in pertinent part:

- “1) Proposed FAR and OSR constitutes an increase in the degree of existing non-compliance contrary to sec. 23-141 of the NYC zoning resolution.
- 2) Proposed horizontal enlargement provides less than the required side yards contrary to sec. 23-46 of the NYC zoning resolution and less than the required rear yard contrary to sec. 23-47 of the NYC zoning resolution;” and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space ratio, side yards and rear yard, contrary to ZR §§ 23-141, 23-46 and 23-47; and

WHEREAS, a public hearing was held on this application on June 24, 2008, after due notice by publication in *The City Record*, and then to decision on July 22, 2008; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Hinkson, Commissioner Montanez and Commissioner Ottley-Brown; and

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

WHEREAS, the subject site is located on the east side of East 24<sup>th</sup> Street, between Avenue J and Avenue K; and

WHEREAS, the subject site has a total lot area of 3,750 sq. ft., and is occupied by a single-family home with floor area of 2,247 sq. ft. (0.58 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,247 sq. ft. (0.594 FAR), to 2,683.6 sq. ft. (0.72 FAR); the maximum floor area permitted is 1,875 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will provide an open space ratio of 78 percent (a minimum of 150 percent is

required); and

WHEREAS, the proposed enlargement will maintain the existing non-complying side yard with a width of 3’-½” (side yards with a minimum width of 5’-0” each are required); and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 20’-10” (a minimum rear yard of 30’-0” is required); and

WHEREAS, the Board notes that a greenhouse is subject to DOB approval and requested that the applicant revise drawings to show the proposed greenhouse in dotted lines with a notation regarding approval from DOB; and

WHEREAS, in response, the applicant provided revised drawings reflecting the greenhouse notation; and

WHEREAS, the Board notes that the proposed total floor area includes 145.5 sq. ft. to be allocated to the greenhouse, if it is approved, and which will be subtracted from the total floor area calculation if the greenhouse is not approved; and

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

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 73-622 and 73-03.

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space ratio, side yards and rear yard, contrary to ZR §§ 23-141, 23-46 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received July 8, 2008”–(12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a total floor area of 2,683.6 sq. ft. (0.72 FAR), an open space ratio of 78 percent, one side yard with a minimum width of 3’-½”, and a rear yard with a minimum depth of 20’-10”, as illustrated on the BSA-approved plans;

THAT DOB shall review and approve the proposed greenhouse;

THAT DOB shall review and approve the perimeter wall height and compliance with the sky exposure plane;

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# MINUTES

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THAT the 145.5 sq. ft. of floor area associated with the proposed greenhouse shall be subtracted from the total floor area if the greenhouse is not approved;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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

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

Adopted by the Board of Standards and Appeals, July 22, 2008.

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## 144-08-BZ

APPLICANT – Rizzo Group, for William Nelville & Sons USA LLC, owners; 24 Hour Fitness USA, Inc., lessee.

SUBJECT – Application May 14, 2008 – Special Permit (§73-36) to permit the proposed Physical Culture Establishment on portions of the first and cellar floors. The proposal is contrary to ZR §32-10. C5-2 district.

PREMISES AFFECTED – 225 5<sup>th</sup> Avenue, easterly side of 5<sup>th</sup> Avenue between 26<sup>th</sup> Street and 27<sup>th</sup> Street, Block 856, Lot 7502, Borough of Manhattan.

### COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Kenneth Barbina, Esq.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Manhattan Borough Commissioner, dated May 9, 2008, acting on Department of Buildings Application No. 103925219, reads in pertinent part:

“Proposed physical culture establishment use is contrary to section 32-10 of the zoning resolution. Physical culture establishment use is permitted by special permit;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-2 zoning district, the development of a physical culture establishment (PCE) in the cellar and on the first floor of a 13-story mixed-use residential/commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on July 1, 2008 after due notice by publication in *The City Record*, and then to decision on July 22, 2008; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Hinkson; and

WHEREAS, Community Board 5, Manhattan, recommended approval of this application, conditioned on the consent of the applicant to increase staffing between the hours of 11:00 p.m. to 6:00 a.m.; and

WHEREAS, the subject site is located on the east side of Fifth Avenue, between East 26<sup>th</sup> Street and East 27<sup>th</sup> Street; and

WHEREAS, the proposed PCE will occupy a total of approximately 22,291 sq. ft. of floor space in the cellar and on the first floor; and

WHEREAS, the PCE will be operated as 24 Hour Fitness USA; and

WHEREAS, the applicant represents that the services at the PCE will include (1) cardio equipment, (2) free weights, (3) weight machines, (4) personal training services, and (5) a variety of fitness classes and instruction including but not limited to yoga, pilates and aerobics; and

WHEREAS, the hours of operation will be: daily, 24 hours a day; and

WHEREAS, at hearing, the Board asked the applicant to provide details of the sound attenuation measures at the PCE; and

WHEREAS, in response, the applicant provided a plan devised by project architects regarding sound attenuation measures at the premises; and

WHEREAS, further, the applicant notes that all classes will be held in the cellar and that residential use begins in the second floor; 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 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 617.2 (ak); 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. 08BSA088M, dated June 16, 2008; and

WHEREAS, the EAS documents that the operation of the

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# MINUTES

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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, 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 prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and 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, on a site within a C5-2 zoning district, the establishment of a physical culture establishment in the cellar and on the first floor of a 13-story mixed-use residential/commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received July 2, 2008"-(4) sheets; and *on further condition*:

THAT the term of this grant shall expire on July 22, 2018;

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 sound attenuation measures shall be installed and maintained per the sound attenuation plan;

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 prior to the issuance of any permits, DOB shall review the floor area and location of the PCE for compliance with all relevant commercial use regulations;

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, July 22, 2008.

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**268-07-BZ**

APPLICANT – Eric Palatnik, P.C., for Congregation Adath Jacob, owner.

SUBJECT – Application March 21, 2008 – Variance (§72-21) to permit the development of a new Use Group 4 synagogue with two accessory Use Group 4 apartments (for Rabbi and visiting dignitaries). The proposal is contrary to §24-11 (Total Floor Area and Lot Coverage), §24-35 (Side Yard), §24-36 (Rear Yard), §24-551 (Setback), and §25-31 (Community facility parking). R5 district.

PREMISES AFFECTED – 1644 48<sup>th</sup> Street, south side of 48<sup>th</sup> Street, between 16<sup>th</sup> and 17<sup>th</sup> Avenues, Block 5448, Lot 27, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

APPEARANCES –

For Applicant: Eric Palatnik, Rabbi Perlow, Councilman Felda, Abraham Biderman, Stanley Rieder, Israel Lefkowitz, Jerry Bleier and other.

For Opposition: Randy Mastro.

**ACTION OF THE BOARD** – Laid over to September 16, 2008, at 1:30 P.M., for an adjourned hearing.

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**271-07-BZ**

APPLICANT – The Rizzo Group, for Mitchell Marks, owner; Club Ventures II, LLC., lessee.

SUBJECT – Application November 28, 2007 – Special Permit (§73-36) to permit the legalization of a Physical Culture Establishment (PCE) in the C2-7A portion of the zoning district. A variance is also requested to allow the PCE use in the 22'3" portion of the site in the R8A zoning district. The proposal is contrary to §§ 22-10 and 32-18.

PREMISES AFFECTED – 213-219 West 23<sup>rd</sup> Street, north side of 23<sup>rd</sup> Street between Seventh and Eighth Avenues, Block 773, Lot 34, Borough of Manhattan.

**COMMUNITY BOARD #4M**

APPEARANCES –

For Applicant: Kenneth Barbina

**ACTION OF THE BOARD** – Laid over to August 26, 2008, at 1:30 P.M., for continued hearing.

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**42-08-BZ**

APPLICANT – Eric Palatnik, P.C., for David Nikcchemny, owner.

SUBJECT – Application February 28, 2008 – Special Permit (§73-622) for the enlargement of an existing two family residence to be converted to a single family residence. This application seeks to vary floor area, lot coverage, open space 923-141(b)) and rear yard (§23-47) in an R3-1 zoning district.

PREMISES AFFECTED – 182 Girard Street, corner of Girard Street and Oriental Boulevard, Block 8749, Lot 275, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

# MINUTES

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to September 9, 2008, at 1:30 P.M., for continued hearing.

## 44-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Peggy Hoffman and Abraham Joseph Hoffman, owners.

SUBJECT – Application February 28, 2008 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary open space and floor area (§23-141(a)), and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1015 East 23<sup>rd</sup> Street, East 23<sup>rd</sup> Street between Avenues J and K, Block 7605, Lot 38, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to August 26, 2008, at 1:30 P.M., for decision, hearing closed.

## 59-08-BZ

APPLICANT – Sheldon Lobel, P.C., for 591-595 Forest Avenue Realty Corp., owner; Forest Avenue Fitness Group, LLC, lessee.

SUBJECT – Application March 17, 2008 – Special Permit (§73-36) to allow the operation of a Physical Culture Establishment on the first and second floors of an existing building. The proposal is contrary to section 32-10. C2-1 within R3X district.

PREMISES AFFECTED – 591 Forest Avenue, north side of Forest Avenue, between Pelton Avenue and Regan Avenue, Block 154, Lot 140, Borough of Staten Island.

## COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to August 26, 2008, at 1:30 P.M., for continued hearing.

## 66-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Manic Friendland, owner.

SUBJECT – Application March 28, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary open space and floor area (23-141(a)) and less than the required rear yard (23-47) in an R2 zoning district.

PREMISES AFFECTED – 1497 East 21<sup>st</sup> Street, east side of

East 21<sup>st</sup> Street, between Avenue N and Avenue M, Block 7657, Lot 12, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to August 26, 2008, at 1:30 P.M., for decision, hearing closed.

## 84-08-BZ

APPLICANT – Walter T. Gorman, P.E., for Exxon Mobil Corporation, owner; L & M Service Station, lessee.

SUBJECT – Application April 9, 2008 – Special Permit (§§11-411, 11-412 & 73-01 (d)) to reinstate and amend the variance granted under Cal No. 410-48-BZ for an automotive service station with accessory uses located in a C1-2/R4 zoning district.

PREMISES AFFECTED – 67-24 Main Street, a/k/a 68-12 Main Street, West side Street 315.5' north of 68th Drive, Block 6486, Lot 38, Borough of Queens.

## COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to August 26, 2008, at 1:30 P.M., for continued hearing.

## 165-08-BZ

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP; for Vornado Office Management LLC, owner; Bally Sports Club, Incorporated, lessee.

SUBJECT – Application June 18, 2008 – Special Permit (§73-36) to allow a physical culture establishment on four levels in an existing 26-story building. The proposal is contrary to ZR section 32-10. C6-6 & C6-4.5 MiD districts.

PREMISES AFFECTED – 11 Penn Plaza, a/k/a 166 West 32nd Street, south side of West 32nd Street between Seventh and Sixth Avenues. Block 807, Lot 1, Borough of Manhattan

## COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to September 23, 2008, at 1:30 P.M., for postponed hearing.

## 167-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Profile Enterprises, L.P., owner; for Garden Retreat Spa, LLC, lessee.

SUBJECT – Application June 19, 2008 – Special Permit (§73-36) to allow the legalization of a physical culture establishment on the second floor of an existing seven-story building. The proposal is contrary to ZR section 32-10. C5-2

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# MINUTES

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district.

PREMISES AFFECTED – 253 5<sup>th</sup> Avenue, northeast corner of the intersection formed by 5<sup>th</sup> Avenue and West 28<sup>th</sup> Street, Block 858, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #5M**

APPEARANCES –

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to August 26, 2008, at 1:30 P.M., for continued hearing.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*