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# BULLETIN

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

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68-94-BZ	2100 Bartow Avenue, Bronx
26-09-BZ	97 Crooke Avenue, Brooklyn
8-96-BZ	175-22 Horace Harding Expressway, Queens
174-96-BZ	1108/10 Allerton Avenue, Bronx
55-97-BZ	76-36 164 <sup>th</sup> Street, Queens
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**Affecting Calendar Numbers:**

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17-09-BZ	5421 Beverly Road, Brooklyn
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42-09-BZ	441-477 Prospect Avenue, Brooklyn
99-08-BZ	102 Drumgoole Road, Staten Island
169-08-BZ	46 Laight Street, Manhattan
229-08-BZ	866 East 8 <sup>th</sup> Street, Brooklyn
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288-08-BZ	2955 Veterans Road West, Staten Island
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15-09-BZ	8-10 Astor Place, Manhattan
36-09-BZ	53-01 32 <sup>nd</sup> Avenue, Queens
52-09-BZ	1438 East 26 <sup>th</sup> Street, Brooklyn

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# DOCKETS

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New Case Filed Up to June 16, 2009  
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**191-09-A**

1291 Carroll Street, North side, 60 ft. west of the intersection of Brooklyn Avenue and Carroll Street., Block 1284, Lot(s) 48, Borough of **Brooklyn, Community Board: 9**. Appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced prior to the text amendment of April 30, 2008. R2 Zoning District  
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**192-09-BZ**

912 Broadway, Northeast corner of the intersection of Broadway and Stockton Street., Block 1584, Lot(s) 11, Borough of **Brooklyn, Community Board: 3**. Variance to allow the construction of department stores, contrary to use regulations.  
-----

**193-09-A**

78-46 78th Place, West side of 79th Place, between Myrtle Avenue to the south and 78th Avenue to the north., Block 3828, Lot(s) 73, Borough of **Queens, Community Board: 5**. Appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under the prior R5 Zoning district. R4-1 Zoning district.  
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**DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.**

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# CALENDAR

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**JULY 14, 2009, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, July 14, 2009, 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**

**198-66-BZ**

APPLICANT – Eric Palatnik, P.C., for 300 East 74 Owners Corporation, owner.

SUBJECT – Application June 8, 2009 – Extension of Time to complete substantial construction of an existing plaza for a residential high rise building which expires on July 28, 2009; located in a C1-9 zoning district.

PREMISES AFFECTED – 300 East 74<sup>th</sup> Street, between first and Second Avenues, Block 1448, Lot 3, Borough of Manhattan.

**COMMUNITY BOARD #8M**

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**200-00-BZ**

APPLICANT – Eric Palatnik, P.C., for Blans Development Corporation, owner.

SUBJECT – Application June 1, 2009 – Extension of Time to obtain a Certificate of Occupancy for a Physical Culture Establishment (Squash Total Fitness), in a C1-4(R6B) zoning district, which expired on February 19, 2009.

PREMISES AFFECTED – 107-24 37<sup>th</sup> Avenue, southwest corner of 37<sup>th</sup> Avenue and 108<sup>th</sup> Street, Block 1773, Lot 10, Borough of Queens.

**COMMUNITY BOARD #3Q**

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**26-02-BZ**

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

SUBJECT – Application June 8, 2009 – Extension of Time to obtain a Certificate of Occupancy for a UG16 Gasoline Service Station (Mobil), in a C1-2(R3X) zoning district, which expires on July 13, 2009.

PREMISES AFFECTED – 1680 Richmond Avenue, north west corner of Victory Boulevard, Block 2160, Lot 1, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

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**322-05-BZ**

APPLICANT – Eric Palatnik, P.C., for Queens Jewish Community Council, owner.

SUBJECT – Application June 8, 2009 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for an enlargement of a single family home and the change in use from Residential to Community Use Facility (Queens Jewish community Council), located in an R4B

zoning district, which will expire on March 7, 2010.

PREMISES AFFECTED – 69-69 Main Street, Main Street and 70<sup>th</sup> Avenue, Block 6642, Lot 1, Borough of Queens.

**COMMUNITY BOARD #8Q**

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**APPEALS CALENDAR**

**317-08-A**

APPLICANT – Margaret R. Garcia, AIA, for Block 17 Lot 112 LLC, owner.

SUBJECT – Application December 23, 2009 – Proposed construction of a four story dwelling located within the bed of a mapped street contrary to General City Law Section 35. R5 Zoning District.

PREMISES AFFECTED – 124 Montgomery Avenue, west side of Montgomery Avenue, 140' north of Victory Boulevard, Block 17, Lot 112, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

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**172-09-A**

APPLICANT – Gary D. Lenhart, for The Breezy Point Cooperative, Inc., owner; Susan & Brett Flynn, lessees.

SUBJECT – Application May 19, 2009 – Reconstruction and enlargement of an existing single family dwelling not fronting on a legally mapped street contrary to General City Law Section 36 The proposed upgrade of the existing non complying private disposal located partly in the bed of the service road is contrary to Department of Building Policy. R4 zoning district.

PREMISES AFFECTED – 10 Gotham Walk, west side of Gotham Walk, 105.46' south of mapped Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

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**165-09-A**

APPLICANT – Law Office of Howard Goldman, for 13 Hendricks LLC, owner.

SUBJECT – Application April 30, 2009 – Appeal seeking a determination that the owner has acquired common law vested rights for a development commenced under the prior R4 district regulations. R3 Zoning district.

PREMISES AFFECTED – 150 Hendricks Avenue, between Jersey Street and Bismark Avenue, Block 44, Lot 15, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

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**191-09-A**

APPLICANT – Michael T. Cetera, AIA, for Devorah Halberstam, owner.

SUBJECT – Application June 16, 2009 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced prior to the text amendment of April 30, 2008. R2 zoning district.

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# CALENDAR

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PREMISES AFFECTED – 1291 Carroll Street, north side, 60' west of the intersection of Brooklyn Avenue and Carroll Street, Block 1284, Lot 48, Borough of Brooklyn.

**COMMUNITY BOARD #9BK**

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**JULY 14, 2009, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, June 16, 2009, 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

### **46-09-BZ**

APPLICANT – Eric Palatnik, P.C., for Igor Orak, owner.  
SUBJECT – Application March 23, 2009 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary floor area, lot coverage and open space (§23-141(b)); side yards (§23-461) and rear yard (§23-47) in an R3-1 zoning district.

PREMISES AFFECTED – 122 Oxford Street, between Shore Boulevard and Oriental Avenue, Block 8757, Lot 92, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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### **56-09-BZ**

APPLICANT – Omnipoint Communications, Inc., for The South Shore Swimming Club, Inc., owner.  
SUBJECT – Application April 15, 2009 – Special Permit (§73-30) to allow a proposed non-accessory radio tower and related equipment.

PREMISES AFFECTED – 6736 Hylan Boulevard, south side of Hylan Boulevard between Culotta Lane and Page Avenue, Block 7734, Lot 50, Borough of Staten Island.

**COMMUNITY BOARD #3SI**

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### **168-09-BZ**

APPLICANT – Lewis E. Garfinkel R.A., for Yaakov Miller, owner.

SUBJECT – Application May 7, 2009 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to combine two semi-attached homes to create one single family home that varies in floor area and open space (ZR §23-141(a)) and less than the required rear yard (ZR §23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1435 & 1437 East 26<sup>th</sup> Street, east side of East 26<sup>th</sup> Street, 292' south of Avenue N, Block 7680, Lots 34 and 35, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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### **177-09-BZ**

APPLICANT – Raymond H. Levin, Esquire Wachtel Masyr, LLP, for FTC Residential Company III, L.P., owner.

SUBJECT – Application May 29, 2009 – Special Permit (§73-66) for to seek a waiver of the height restrictions within the Flight Obstruction Area (ZR §61-21) for six mid-rise residential towers located above a three story commercial/retail/accessory parking base.

PREMISES AFFECTED – 40-22 College Point Boulevard, west side of College Point Boulevard, between Roosevelt Avenue and 40<sup>th</sup> Road, Block 5066, Lots 1 and 100 (tent. 9001, 9002 and 9100), Borough of Queens.

**COMMUNITY BOARD #7Q**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, JUNE 16, 2009  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**951-55-BZ**

APPLICANT – Eric Palatnik, P.C., for Deborah Luciano, owner; Gaseteria Oil Corporation, lessee.

SUBJECT – Application March 18, 2009 – Amendment (§11-411) to permit the installation of a canopy and minor modifications to the existing pump islands to a previously granted variance for a UG16 gasoline service station in a C2-1/R3-2 zoning district.

PREMISES AFFECTED – 1098 Richmond Road, Targee Street and Richmond Road, Block 3181, Lot 1, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

APPEARANCES – None.

**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 granted variance permitting a gasoline service station (Use Group 16) to permit certain modifications to the site pursuant to ZR § 11-412; and

WHEREAS, a public hearing was held on this application on May 12, 2009 after due notice by publication in *The City Record*, with a continued hearing on June 9, 2009, and then to decision on June 16, 2009; and

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

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

WHEREAS, the site is a triangular-shaped lot located at the intersection of Richmond Road, Targee Street and West Fingerboard Road, between Columbus Avenue and Tacoma Street, within a C2-1 (R3-2) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 24, 1956 when, under the subject calendar number, the Board granted a variance to permit a gasoline service station, including a one-story service station building, sales office, lubritorium, minor motor vehicle repairs, and new gasoline pump island on the subject site; and

WHEREAS, subsequently, the grant has been amended by the Board at various times, most recently on April 2, 1974, when the Board permitted alterations to the accessory building and pump islands; and

WHEREAS, the applicant now seeks an amendment to permit minor modifications of the existing pump islands and the installation of a canopy over the pump islands; and

WHEREAS, pursuant to ZR § 11-412, the Board may grant a request for changes to the site; and

WHEREAS, at hearing, the Board raised concerns regarding the applicant's compliance with signage regulations, the parking of cars on the sidewalk, and the condition of the retaining wall located at the base of the fence located along the Targee Street side of the premises; and

WHEREAS, in response, the applicant submitted revised signage calculations and a letter from the project engineer indicating that the proposed signage is compliant with C2 zoning regulations, and provided photographs establishing that cars are no longer being improperly parked on the sidewalk; and

WHEREAS, in addition, the applicant represents that the retaining wall will be repaired at the same time that the proposed canopy is installed; and

WHEREAS, the Board has determined that evidence in the record supports the findings required to be made under ZR § 11-412.

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated July 24, 1956, so that as amended this portion of the resolution shall read: "to permit minor modifications of the existing pump islands and the installation of a canopy over the pump islands; *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 May 28, 2009"– (4) sheets; and *on further condition:*

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

THAT the retaining wall located along the Targee Street side of the building shall be repaired;

THAT the site be maintained free of debris and graffiti;

THAT all signage shall comply with C2 zoning 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) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 510062762)

Adopted by the Board of Standards and Appeals June 16, 2009.

# MINUTES

## 165-93-BZ

APPLICANT – Francis R. Angelino, Esq., for Claudia Stone & Goran Sare, owners.

SUBJECT – Application April 3, 2009 – Extension of Term of a previously granted Variance (§72-21) for a UG6 art gallery on the first floor of an existing three story and cellar mixed use front building in an R8B zoning district which expired on April 12, 2009.

PREMISES AFFECTED – 113 East 90<sup>th</sup> Street, between Park and Lexington Avenues, Block 1519, Lot 7, Borough of Manhattan.

### COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Francis R. Angelino.

**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 the term of a previously granted variance permitting the operation of a commercial art gallery (Use Group 6) on the first floor of an existing three-story mixed-use commercial/community facility building, which expired on April 12, 2009; and

WHEREAS, a public hearing was held on this application on May 19, 2009 after due notice by publication in *The City Record*, and then to decision on June 16, 2009; and

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

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

WHEREAS, the site is located on the north side of East 90<sup>th</sup> Street, between Park Avenue and Lexington Avenue, within an R8B zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since April 12, 1994 when, under the subject calendar number, the Board granted a variance to permit a commercial art gallery on the first floor of a three-story mixed-use commercial/facility building located on the south side of a lot occupied by two buildings, to expire on April 12, 2009; and

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

WHEREAS, based upon its review of the record, the Board finds that 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 12, 1994, so that as amended this portion of the resolution shall read: “to extend the term for fifteen years from April 12, 2009, to expire on April 12, 2024, *on condition* that any and all work shall substantially conform to drawings filed

with this application marked “Received April 3, 2009”-(6) sheets; and *on further condition*:

THAT the term of this grant shall expire on April 12, 2024;

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

THAT a new certificate of occupancy shall be obtained by December 16, 2009;

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.” (DOB Application No. 110476486)

Adopted by the Board of Standards and Appeals, June 16, 2009.

## 68-94-BZ

APPLICANT – Cozen O’Connor for Bay Plaza Community Center LLC, owner; Jack Lalanne Fitness Centers, Incorporated, lessee.

SUBJECT – Application August 14, 2008 – Extension of Time to obtain a Certificate of Occupancy for a previously granted special for the operation of a PCE (Bally’s Total Fitness) on the first and second floors of the Co-Op City Bay Plaza Shopping Center, located in an C4-3 zoning district, which expired on April 7, 2009.

PREMISES AFFECTED – 2100 Bartow Avenue, south side of Baychester Avenue, Block 5141, Lot 810, Borough of Bronx.

### COMMUNITY BOARD #10BX

APPEARANCES –

For Applicant: Peter Geis.

**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 time to obtain a certificate of occupancy for a previously granted special permit for the operation of a physical culture establishment (PCE), which expired on April 7, 2009; and

WHEREAS, a public hearing was held on this application on May 19, 2009, after due notice by publication in *The City Record*, and then to decision on June 16, 2009; and

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

# MINUTES

WHEREAS, the site is located on the south side of Bartow Avenue, between Baychester Avenue and the Hutchinson River Parkway, within a C4-3 zoning district; and

WHEREAS, the PCE is located on a portion of the first and second floors of the Co-op City Bay Plaza shopping center and occupies 20,290 sq. ft. of floor area; and

WHEREAS, the PCE is operated as “Bally Total Fitness”; and

WHEREAS, on November 1, 1994, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-36, to permit, in a C3-4 district, the operation of a PCE for a term of ten years; and

WHEREAS, on April 12, 2005, the grant was extended for a term of ten years, to expire on November 1, 2014; and

WHEREAS, a condition of the prior grant was that a certificate of occupancy be obtained by September 12, 2006; and

WHEREAS, on September 12, 2006 the Board granted an 18-month extension of time to obtain a certificate of occupancy, to expire March 12, 2008; and

WHEREAS, most recently, on October 7, 2008, the Board granted a six-month extension of time to obtain a certificate of occupancy, to expire on April 7, 2009; and

WHEREAS, the applicant represents that its application to DOB for a certificate of occupancy for the PCE is pending and that it is conditioned on approval by the Board of the instant application; and

WHEREAS, based upon its review of the record, the Board finds that an 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 *reopens* and *amends* the resolution, dated November 1, 1994, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy to December 16, 2009; *on condition* that all use and operations shall substantially conform to all BSA-approved drawings associated with the prior grant; and *on further condition*:

THAT a certificate of occupancy shall be obtained by June 16, 2010;

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.”

Adopted by the Board of Standards and Appeals, June 16, 2009.

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## 26-09-BZ

APPLICANT – Board of Standards and Appeals/Sheldon Lobel, P.C.

OWNER: CAMBA Housing Ventures, Inc., owner.

SUBJECT –Review pursuant to Sec 1-10(f) of Board Rules and 666(8) of the Charter of a previously-granted Variance (§72-21) to permit the construction of a nine-story community facility building (*CAMBA Housing*). The proposal is contrary to §24-36. R7-1 district.

PREMISES AFFECTED – 97 Crooke Avenue, north side of Crooke Avenue, 164’ west of Ocean Avenue, Block 5059, Lot 51, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Richard Lobel.

**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 .....

Negative:.....5

THE RESOLUTION: Negative:.....0

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 3, 2009, acting on Department of Buildings Application No. 310246061, reads in pertinent part:

“Proposed rear yard on Crooke Avenue for a community facility in an R7-1 district is contrary to ZR 24-36. Required rear yard = 30’. Proposed rear yard = 24’”; and

WHEREAS, this is an application under ZR §72-21, to permit, within an R7-1 zoning district, the proposed construction of a nine-story community facility building with sleeping accommodations (UG 3), contrary to ZR § 24-36; and

WHEREAS, the applicant filed a companion case under BSA Calendar No. 48-09-A pursuant to General City Law § 36, to allow the proposed building to be constructed without a 30-foot turnaround frontage space; this application was granted on May 12, 2009; and

WHEREAS, a public hearing was held on this application on March 31, 2009 after due notice by publication in *The City Record*, and then to decision on May 12, 2009; and

WHEREAS, subsequent to the Board’s decision, certain community members raised concerns to the Board that the applicant had not performed the required notification to property owners within a 400-ft. radius of the site, pursuant to the Board’s Rules of Practice and Procedure § 1-06 (g); and

WHEREAS, in response, the Board agreed that the notification was not sufficient and in accordance with § 666(8) of the Charter and § 1-10(f) of the Rules of Practice and Procedure, the Board moved to review its May 12, 2009 decision by re-opening and re-hearing on June 9, 2009; and

WHEREAS, that Board informed the applicant that the hearing would be re-opened and directed the applicant to perform the full required notice; and

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WHEREAS, the Board notes that the applicant provided documentation, which reflects that proper notification of the re-hearing scheduled for June 9, 2009 had been effectuated; and

WHEREAS, the Board re-opened the hearing and a public hearing was held on this application on June 9, 2009 after due notice by publication in *The City Record*, and then to decision on June 16, 2009; and

WHEREAS, accordingly, this resolution supersedes the resolution dated May 12, 2009; and

WHEREAS, this application is brought on behalf of CAMBA Housing Ventures, Inc. ("CAMBA"), a not-for-profit entity; and

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

WHEREAS, Borough President Marty Markowitz submitted a letter supporting the proposal; and

WHEREAS, certain community members submitted written and oral testimony in support of the proposal at the initial hearing and the re-hearing; and

WHEREAS, certain community members submitted written and oral testimony in opposition to the proposal, citing concerns about neighborhood character and a potential negative impact that the building's residents and affiliated programs might have on quality of life issues such as crime and safety; and

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

WHEREAS, the site is located on the north side of Crooke Avenue, 164 feet west of Ocean Avenue within an R7-1 zoning district; and

WHEREAS, the site has an irregular triangular shape and a lot area of approximately 8,227 sq. ft.; and

WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to construct a nine-story 53-unit community facility building (UG 3) with a floor area of 28,290 sq. ft. (3.4 FAR); and

WHEREAS, the building will provide a rear yard of 24'-0" (a rear yard of 30'-0" is the minimum required), but will comply with all other bulk parameters of the underlying zoning district; and

WHEREAS, the applicant represents that the requested variance is necessitated by unique conditions of the site that create a hardship, specifically: (1) the site's triangular shape; (2) an adjacent below-grade subway line; and (3) the site's limited frontage; and

WHEREAS, the applicant states that the triangular shape of the site creates substantial difficulty in designing an efficient residential building without encroaching into the rear yard; and

WHEREAS, as to the adjacent subway line, the subject site abuts an 18-foot below-grade right-of-way for the Metropolitan Transit Authority ("MTA") B and Q subway lines; and

WHEREAS, the applicant states that the presence of the subway line requires there to be an MTA retaining wall adjacent to the right-of-way, with a height of five feet, separating the right-of-way from the subject site and that MTA regulations mandate that eight feet of clearance be provided

between development on the subject site and the retaining wall to protect the existing railroad structure; and

WHEREAS, the applicant states that providing the required clearance further constrains the floor plates of a complying development; and

WHEREAS, the applicant notes that the rear lot line extends for a width of 118'-3" at the rear, but narrows to a width of 25 feet at the Crooke Avenue frontage; and

WHEREAS, additionally, the applicant notes that more than half of the 25-ft. frontage on Crooke Avenue is occupied by an MTA easement, leaving just 12 feet of frontage on Crooke Avenue; and

WHEREAS; the applicant further states that, in order to provide access, the building utilities must be located within the western portion of the site, in line with the 12-ft. street frontage; and

WHEREAS, the applicant states that the unique configuration of the subject site, when combined with the requirement to provide eight feet of clearance in the side yard between the subject site and the adjacent MTA site, and the limited street frontage results in a narrow and irregular floorplate and sharply reduces the number of units possible in a complying building; plans submitted by the applicant indicate that such a constrained building, without rear yard relief could accommodate no more than 39 units; and

WHEREAS, the applicant represents that a standard rectangular lot with the same lot area as the subject site could accommodate a 60-unit building; and

WHEREAS, the applicant notes that there are no other such irregularly-shaped sites with as little street frontage, and with limitations due to proximity to an MTA subway line such as the subject site within a 400-ft. radius of the site; and

WHEREAS, in addition to the noted physical constraints of the site, the applicant states that CAMBA's programmatic needs to provide supportive housing and social services to low-income tenants contributes to the waiver request; and

WHEREAS, the applicant states that its programmatic needs require more than the 39 units for homeless and formerly homeless persons, and low-income individuals which could be provided in an as of right building; and

WHEREAS, specifically, the applicant states that 53 units are required, 60 percent of which will be restricted to individuals with special needs living in City shelter and transitional facilities and 40 percent of which will be reserved for individuals with annual incomes at or below 60 percent of the adjusted median income established for the New York metropolitan area; and

WHEREAS, the applicant further states that the building program includes access to onsite accessory social service programming, which includes job training, counseling, and case management; and

WHEREAS, the applicant provided documentation of preliminary funding commitments from the NYC Department of Health and Human Services, the NYC Department of Homeless Services, the NYC Department of Housing Preservation and Development, and the Office of the Brooklyn Borough President; and

WHEREAS, the applicant represents that the building

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program is determined in part by the requirements of the government funding sources concerning building design and unit count; and

WHEREAS, the Board agrees that the unique physical conditions cited above, when considered in the aggregate and in conjunction with the programmatic need of the applicant, create practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the applicant need not address ZR § 72-21(b) since it is a not-for-profit organization and the development will be in furtherance of its not-for-profit mission; and

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

WHEREAS, the applicant states that the proposed development is consistent with that of the surrounding area, which is characterized by multi-family residential buildings, which includes buildings of comparable height and bulk; and

WHEREAS, the applicant further states that the requested rear yard waiver, which would result in a rear yard with a depth of 24'-0" is compatible with the adjacent property to the rear because both benefit from the adjacent MTA subway right-of-way with a width of 60 feet, which remains open and vacant and is an additional source of light and air; and

WHEREAS, the applicant asserts that a non-complying rear yard is not out of character with the surrounding area since three other nearby properties, including the adjacent property to the rear with a non-complying depth of 15'-9", have non-complying rear yards; and

WHEREAS, the applicant proposes to provide landscaping and an outdoor recreation area at the rear of the site; and

WHEREAS, the applicant notes that the proposed community facility use is permitted as-of-right in the subject R7-1 zoning district; and

WHEREAS, several neighborhood residents testified in opposition to the proposed building, citing concerns with its bulk, height, population density, and the potential negative impact that a community facility with CAMBA's program would have on the surrounding neighborhood; and

WHEREAS, as to bulk, the Board notes that the proposed FAR of 3.44 is within the limit for an as-of-right Use Group 3 community facility building with sleeping accommodations within the subject R7-1 zoning district; and

WHEREAS, the Board also notes that an FAR of 4.8 is permitted within the subject zoning district for other community facility uses; and

WHEREAS, accordingly, the Board notes that the applicant could build a taller building with more floor area within an as of right building envelope, but that such a design is inefficient due to the unique site conditions and would not satisfy CAMBA's programmatic needs; and

WHEREAS, the Board notes that the proposed floor area, building height and setback are within the parameters of the subject zoning district and that the applicant only seeks a

rear yard waiver due to the noted unique physical constraints of the site; and

WHEREAS, further, as to the density, the Board notes that the applicant could accommodate more than the proposed 53 units if the lot were of a regular shape or if the programmatic needs did not require a uniform floorplate and the applicant proposed additional smaller floors; and

WHEREAS, as to the proposed use, the Board has reviewed the opposition's concerns but notes that the proposed use is among the uses permitted as of right in the subject zoning district and that the waiver request is limited to bulk, rather than use; and

WHEREAS, the Board finds that assertions about potential illegal, or otherwise incompatible, activity associated with the building's future residents and programs are not appropriate within the context of this bulk variance and the analysis of whether the findings for a rear yard waiver are met; and

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

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

WHEREAS, as discussed above, CAMBA requires a minimum number of housing units in order to achieve its programmatic needs and to be eligible for certain funding; and

WHEREAS, additionally, the Board notes that the proposed building will maintain a rear yard with a depth of 24 feet, which allows for the design of an efficient floorplate, and is greater than the depths of two adjacent rear yards; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford relief and allow CAMBA to carry out the stated needs; and

WHEREAS, thus, 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 6 NYCRR, Sections 617.6(h) and 617.2(h) of 6NYCRR; 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. 09BSA073K, dated April 20, 2009; 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

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Statement are foreseeable; and

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, within an R7-1 zoning district, the proposed construction of a nine-story community facility building, contrary to ZR § 24-36, on condition that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 11, 2009"- (6) sheets; and "Received May 12, 2009"- (1) sheet and on further condition:

THAT any change in ownership, operator, or control of the building shall require the prior approval of the Board;

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

THAT the building shall provide rear yard of 24'-0";

THAT double-glazed windows with a 35 dBA shall be provided to achieve a 45 dBA interior noise level, as shown on the BSA-approved plans;

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

THAT construction shall proceed in accordance with ZR § 72-23;

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

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

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

Adopted by the Board of Standards and Appeals, June 16, 2009.

## 8-96-BZ

APPLICANT – Walter T. Gorman, P.E., for Motiva Enterprises LLC, owner; Shell Service Station, lessee.

SUBJECT – Application April 20, 2009 – Extension of Term for a Gasoline Service Station (Shell), located in an C2-2/R3-2 zoning district, which expired on July 16, 2006; Extension of Time/waiver to obtain a Certificate of Occupancy which expired on July 16, 2000 and an Amendment to legalize modification to the building which does not comply with previously approved plans.

PREMISES AFFECTED – 175-22 Horace Harding Expressway, southwest corner of Utopia Parkway, Block 6891, Lot 32, Borough of Queens.

## COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Cindy Bachan.

**ACTION OF THE BOARD** – Laid over to August 23, 2009, at 10 A.M., for continued hearing.

## 174-96-BZ

APPLICANT – Sheldon Lobel, P.C., for Phillip Pollicina, owner.

SUBJECT – Application June 19, 2008 – Extension of term and Waiver for a previously granted variance pursuant to §72-21. The application seeks the authorization to continue operation of an existing food products manufacturing establishment (Use Group 17B) within a R4 zoning district. The most recent term expired on July 1, 2007.

PREMISES AFFECTED – 1108/10 Allerton Avenue, South side of Allerton Avenue between Laconia Avenue and Yates Avenue. Block 4456, Lot 47, Borough of the Bronx.

## COMMUNITY BOARD #11BX

APPEARANCES –

For Applicant: Elizabeth Safian.

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 21, 2009, at 10 A.M., for decision, hearing closed.

## 55-97-BZ

APPLICANT – Sheldon Lobel, P.C. for Baker Tripi Realty, owner.

SUBJECT – Application March 18, 2009 – Extension of term filed pursuant to §11-411 of the Zoning Resolution requesting an extension of the term of a variance previously granted by the Board of Standards and Appeals and an extension of time to obtain a certificate of occupancy allowing the continued operation of an automotive repair shop (Use Group 16) located in a C2-2/R3-2 zoning district. The previous term expired on September 23, 2007.

PREMISES AFFECTED – 76-36 164<sup>th</sup> Street, southwest corner of the intersection formed by 164<sup>th</sup> Street and 76<sup>th</sup> Road. Block 6848, Lot 1, Borough of Queens.

## COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Elizabeth Safian.

**ACTION OF THE BOARD** – Laid over to July 21, 2009, at 10 A.M., for continued hearing.

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## APPEALS CALENDAR

### 311-08-BZY

APPLICANT – Slater & Beckerman, LLP, for D.A.B. Group LLC, owner.

SUBJECT – Application December 18, 2008 – Extension of time to complete construction (§11-331) of a minor development commenced prior to the amendment of the Zoning district regulations. C4-4A.

PREMISES AFFECTED – 77, 79 & 81 Rivington Street, Block 415, Lots 61, 62, 63, 66, 67, Borough of Manhattan.

### COMMUNITY BOARD #3M

#### APPEARANCES –

For Applicant: Neil Weisbard.

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

#### 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 under ZR §11-331 to renew building permits and extend the time for the completion of the foundation of a 16-story transient hotel (Use Group 5) building; and

WHEREAS, a public hearing was held on this application on March 24, 2009, after due notice by publication in *The City Record*, with continued hearings on April 21, 2009 and May 19, 2009, and then to decision on June 16, 2009; and

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

WHEREAS, Community Board 3, Manhattan, recommends disapproval of this application; and

WHEREAS, the owner of the adjacent building, 137 Orchard Street (hereinafter, the “Opposition”), testified in opposition to this application on the basis that their building was damaged in the process of the work performed on the subject building; and

WHEREAS, Council Member Alan Jay Gerson submitted written testimony requesting that the Board refrain from deciding whether to renew the subject building permits until the applicant resolves the damage to 137 Orchard Street; and

WHEREAS, the subject site is a through-block site with frontages on the west side of Orchard Street, the south side of Rivington Street, and the east side of Allen Street; and

WHEREAS, the site has a width of 87’-9” and a depth of 127’-3”, and a total lot area of approximately 9,828 sq. ft.; and

WHEREAS, the subject site is a single zoning lot comprising five separate tax lots (Lots 61, 62, 63, 66 and 67); and

WHEREAS, the applicant proposes to construct a 16-story transient hotel (Use Group 5) building (the “Building”) on Lots 61, 66 and 67, utilizing development rights transferred from Lots 62 and 63; the existing building located on Lot 62

will remain; and

WHEREAS, the Building is proposed to have a total floor area of approximately 39,064 sq. ft., which contributes to a total FAR of 6.0 for the entire zoning lot, and a building height of 191’-0”; and

WHEREAS, the site was formerly located within a C6-1 zoning district; and

WHEREAS, on September 29, 2008, Alteration Type 2 Permit No. 110251361-EW-OT (the “Foundation Permit”) was issued by the Department of Buildings (“DOB”) permitting excavation of the premises and the construction of the foundation of the Building, and work commenced on October 14, 2008; on November 19, 2008, New Building Permit No. 104870392-01-NB (the “New Building Permit”) was issued by DOB permitting the construction of the Building (collectively, the “Permits”); and

WHEREAS, on November 19, 2008 (hereinafter, the “Enactment Date”), the City Council voted to enact the East Village/Lower East Side Rezoning, which changed the zoning district to C4-4A; and

WHEREAS, the Board notes that the applicant provided documentation establishing that the New Building Permit was issued prior to the zoning amendment;<sup>1</sup> and

WHEREAS, the applicant represents that the Building complies with the former C6-1 zoning district parameters; specifically, the proposed 6.0 FAR and building height of 191’-0” were permitted; and

WHEREAS, because the site is now within a C4-4A zoning district, the Building would not comply with the maximum FAR of 4.0 or the maximum total building height of 80’-0”; and

WHEREAS, because the Building violated these provisions of the C4-4A zoning district and work on the foundation was not completed as of the Enactment Date, the Permits lapsed by operation of law; and

WHEREAS, additionally, DOB issued a Stop Work Order on November 28, 2008 halting work on the Building; and

WHEREAS, the applicant now applies to the Board to reinstate the Permits pursuant to ZR § 11-331, so that the proposed development may be fully constructed under the prior C6-1 zoning district; and

WHEREAS, ZR § 11-331 reads: “If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued . . . to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be

<sup>1</sup> The official transcript of minutes for the November 19, 2008 New York City Council meeting indicates that the meeting began at 2:20 p.m. and recessed at 3:21 p.m. and that the vote to approve the East Village/Lower East Side Rezoning occurred towards the end of the meeting. The Board finds this to be sufficient evidence that the New Building Permit, which was issued at 2:21 p.m. on November 19, 2008, was issued prior to the zoning amendment.

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continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations”; and

WHEREAS, a threshold requirement in this application is that the Permits are valid; and

WHEREAS, ZR § 11-31(a) provides that “[a] lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution;” and

WHEREAS, the record indicates that permits were issued to the owner by DOB on (1) September 29, 2008 authorizing excavation of the premises and the construction of a foundation for the 16-story hotel (Use Group 5) building, and (2) on November 19, 2008, authorizing the construction of the 16-story hotel (Use Group 5) building; and

WHEREAS, by letter dated March 13, 2009, DOB stated that the Foundation Permit and the New Building Permit were lawfully issued on September 29, 2008 and November 19, 2008, respectively; and

WHEREAS, DOB initiated a special audit review of the New Building Permit on January 15, 2009, and certain zoning and Building Code objections were raised (the “Objections”); and

WHEREAS, on January 16, 2009, DOB issued a letter to the owner providing notice of its intent to revoke the New Building Permit based on the Objections (the “Notice of Intent”); and

WHEREAS, DOB approved revised plans on January 27, 2009 that addressed the objections identified by the audit and rescinded the letter of intent to revoke the New Building Permit on January 30, 2009; and

WHEREAS, thus, the Board finds that the Foundation Permit was lawfully issued by DOB on September 29, 2008, and that the New Building Permit was lawfully issued by DOB on November 19, 2008; and

WHEREAS, accordingly, the Board finds that the record contains sufficient evidence to satisfy the findings set forth in ZR § 11-31(a) and that a decision may be rendered provided the other findings are met; and

WHEREAS, because the proposed development contemplates construction of one building, it meets the

definition of minor development; and

WHEREAS, since the proposed development is a minor development, the Board must find that excavation was completed and substantial progress was made as to the required foundation; and

WHEREAS, the applicant states that excavation began on October 14, 2008 and was completed on November 17, 2008, and that substantial progress was made on the foundation as of the Enactment Date; and

WHEREAS, in support of this statement, the applicant has submitted construction logs documenting the amount and type of work performed each day of construction, and dated photographs of the site showing the progress of excavation; and

WHEREAS, at hearing, the Board raised concerns about a foundation chart submitted by the applicant on December 16, 2008, which indicated that a portion of the site was not excavated prior to the Enactment Date; and

WHEREAS, in response, the applicant submitted an affidavit of the contractor stating that the entire site was excavated as of the Enactment Date and that the foundation chart in question referred to a portion of the premises that was backfilled for use as a staging area for the storage of equipment, materials, and excess soil; and

WHEREAS, the Board finds that the excavation performed at the site for the foundation of the Building is complete for vesting purposes under ZR § 11-331; and

WHEREAS, as to substantial progress on the foundation, the applicant represents that approximately 63 percent of the foundation was complete as of the Enactment Date; and

WHEREAS, specifically, the applicant states that as of the Enactment Date, all shoring was complete, all of the required 28 H-beams and 100 timber lags were installed, all of the rebar was installed for the elevator pits, the forms for the elevator pits were constructed and installed and all of the concrete for the elevator pit floors and walls was poured, approximately 24.5 tons of the required 35 tons for the 4,300 sq. ft. rebar steel cage for the mat foundation were installed, and 83 percent of the total waterproofing for the premises was installed; and

WHEREAS, in support of this statement, the applicant has submitted construction logs documenting the amount and type of work performed each day of construction, affidavits from the contractor, and photographs of the foundation work as of the Enactment Date; and

WHEREAS, the applicant states that the work that has been completed as of the Enactment Date constitutes the most time-consuming and labor-intensive portions of the foundation work; and

WHEREAS, to attest to the complexity of the work performed as of the Enactment Date, the applicant provided an analysis of the hours of labor completed as of the Enactment Date as compared to the hours of labor remaining to complete the foundation; and

WHEREAS, specifically, the applicant states that 2,526 hours of labor, or approximately 63 percent, of the total estimated hours of labor required to complete construction of approximately 4,019 hours were complete as of the Enactment

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Date; and

WHEREAS, at hearing, the Board questioned why the shoring technique utilized on the premises differed from the technique referenced in the drawings submitted to the Board accompanying the subject application; and

WHEREAS, in response, the applicant stated that due to the soil conditions at the site, the project engineers determined that revised shoring drawings would be necessary, as a mat structure, consisting of a 39-inch thick concrete slab poured into a 4,300 sq. ft. steel cage and functioning as a single large footing, would be a more efficient approach than individual footings for each column and bearing wall; and

WHEREAS, the applicant subsequently submitted the revised shoring drawings, which reflect the noted mat structure and were approved by DOB on October 17, 2008; and

WHEREAS, the applicant has also submitted financial documents, including invoices, cancelled checks, contracts, and dated photographs which reflect significant expenditure associated with the excavation and foundation work incurred as of the Enactment Date; and

WHEREAS, specifically, the applicant states that \$390,190, or approximately 53 percent, of the total estimated foundation cost of approximately \$742,772 was spent as of the Enactment Date; and

WHEREAS, the Board finds all of the above-mentioned submitted evidence sufficient and credible; and

WHEREAS, the Opposition testified that their building sustained damage in the form of a large crack on the building facade during the applicant's demolition process, and in further cracks, wall separation, and other problems as a result of excessive vibrations during the excavation and pile driving process, and requests that the Board refrain from renewing the Permits until the applicant resolves the damage done to the adjacent building and reimburses the adjacent building owner for the expenses already incurred as a result of the damage; and

WHEREAS, in response, the applicant submitted a letter from its architect dated February 25, 2009, conceding that certain damage did occur during excavation and that the applicant is in negotiations with the adjacent building owner to resolve their concerns, but contends that cracks on the exterior façade of the adjacent building existed prior to any work being done on the subject site; and

WHEREAS, in addition, the applicant submitted a vibration analysis from an engineering firm, indicating that vibration readings were below the DOB peak particle velocity threshold; and

WHEREAS, the Board notes that disputes regarding property damage are not within the purview of the analysis for a vested rights application and the Opposition's claims may be resolved in a different forum; and

WHEREAS, the Board has reviewed all of the applicant's representations and the submitted evidence and agrees that it establishes that substantial progress was made on the required foundation as of the Enactment Date; and

WHEREAS, accordingly, based upon its consideration

of the arguments made by the applicant as outlined above, as well as its consideration of the entire record, the Board finds that the owner has met the standard for vested rights under ZR § 11-331 and is entitled to the requested reinstatement of the Permits, and all other related permits necessary to complete construction.

WHEREAS, because the Board finds that excavation was complete and that substantial progress had been made on the foundation, it concludes that the applicant has adequately satisfied all the requirements of ZR § 11-331.

*Therefore it is Resolved* that this application to renew New Building Permit No. 104870392-01-NB and Alteration Type 2 Permit No. 110251361-EW-OT pursuant to ZR § 11-331 is granted, and the Board hereby extends the time to complete the required foundations for one term of six months from the date of this resolution, to expire on December 16, 2009.

Adopted by the Board of Standards and Appeals, June 16, 2009.

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## 163-09-A

APPLICANT – Valentino Pompeo, for Breezy Point Cooperative, Inc., owner; Joseph Lind, lessee.

SUBJECT – Application April 27, 2009 – Proposed reconstruction and enlargement of an existing single family home not fronting on an official mapped street contrary to General City Law Section 36. R4 zoning district.

PREMISES AFFECTED – 115 Beach 220<sup>th</sup> Street, east side of Beach 220<sup>th</sup> Street (unmapped street) south of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

## COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Loretta Papa.

## ACTION OF THE BOARD –

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 Queens Borough Commissioner, dated April 15, 2009, and acting on Department of Buildings Application No. 410235981, reads in pertinent part:

“A1- The site and building is not fronting on an official mapped street, therefore no permit or certificate of occupancy can be issued as per Art 3, Sect. 36 of the General City Law; also no permit can be issued since proposed construction does not have at least 8% of total perimeter of building fronting directly upon a legally mapped street or frontage space and therefore contrary to Section C27-291 (C26-401.1) of the Administrative Code of the City of New York;” and

WHEREAS, a public hearing was held on this application on June 16, 2009, after due notice by publication in

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the *City Record*, then to closure and decision on the same date; and

WHEREAS, by letter dated May 4, 2009, the Fire Department states that it has reviewed the subject proposal and has no objections; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

*Therefore it is Resolved* that the decision of the Queens Borough Commissioner, dated April 15, 2009, acting on Department of Buildings Application No. 410235981, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received April 27, 2009"—one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

THAT DOB shall review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

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

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

Adopted by the Board of Standards and Appeals, June 16, 2009.

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## 83-08-A

APPLICANT – NYC Department of Buildings, for H. Patel, P.M. – Purvi Enterprises, LLC, owner.

SUBJECT – Application April 9, 2008 – An appeal seeking to revoke Certificate of Occupancy No. 301279319 issued on January 17, 2007 as it was issued in error due to failure to comply with ZR §62-711 requiring waterfront certification and the failure to comply with ZR §12-10(d) in the formation of the zoning lot R5 SP Sheepshead Bay District.

PREMISES AFFECTED – 3218 Emmons Avenue, Emmons Avenue between Bringham Street, and Bragg Street, Block 8815, Lot 590, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to July 28, 2009, at 10 A.M., for continued hearing.

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## 147-08-BZY

APPLICANT – Hui-Li Xu, for Beachway Equities, Inc., owner.

SUBJECT – Application May 23, 2008 – Extension of time (§11-331) to complete construction of a minor development commenced prior to the amendment of the zoning district regulations on April 30, 2008. R5 zoning district.

PREMISES AFFECTED – 95-04 Allendale Street, between Atlantic Avenue and 97<sup>th</sup> Avenue, Block 10007, Lot 108, Borough of Queens.

## COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Hui-Li-Xu and Richard J. Zimmerman.

For Administration: Lisa M. Orrantia, Department of Buildings.

**ACTION OF THE BOARD** – Laid over to August 25, 2009, at 10 A.M., for continued hearing.

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## 4-09-A

APPLICANT – NYC Department of Buildings

OWNER OF RECORD – 27-00 Queens Plaza South, LLC.

SUBJECT – Application January 13, 2009 – An appeal filed by the Department of Buildings seeking to amend the Certificate of Occupancy No. 400872631 issued on June 17, 1999 to remove the reference to "Adult" Establishment use on the second floor. M1-6/R-10 Special Mixed Use.

PREMISES AFFECTED – 27-02 Queens Plaza South, southeast corner of Queens Plaza South and 27<sup>th</sup> Street, Block 422, Lot 9, Borough of Queens.

## COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: John Beene, Department of Buildings.

For Opposition: Kerry J. Katsorhis.

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 14, 2009, at 10 A.M., for decision, hearing closed.

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**REGULAR MEETING  
TUESDAY AFTERNOON, JUNE 16, 2009  
1:30 P.M.**

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

**ZONING CALENDAR**

**268-08-BZ**

APPLICANT – Sheldon Lobel, P.C., for 314 7th Avenue, LLC, owner.

SUBJECT – Application October 30, 2008 – Special Permit filed, pursuant to §73-621 of the New York City Zoning Resolution, to permit the enlargement of an as-of-right eating and drinking establishment (Use Group 6) into the footprint of an existing accessory parking garage of a mixed-use residential and commercial building. The subject site is located in a R6A/C1-4 zoning district.

PREMISES AFFECTED – 314 Seventh Avenue, southwest corner of the intersection formed by Eight Street and Seventh Avenue, Block 1006, Lot 37, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

APPEARANCES –

For Applicant: Elizabeth Satian.

**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 October 24, 2008, acting on Department of Buildings Application No. 310279828, reads in pertinent part:

“Extension of commercial use is contrary to ZR Section 33-10. Applicant must be filed with the Board of Standards and Appeals pursuant to Section 73-621”; and

WHEREAS, this is an application under ZR §§ 73-621 and 73-03, to permit, within a C1-4 (R6A) zoning district, the proposed enlargement of an eating and drinking establishment (Use Group 6), which does not comply with the zoning requirements for floor area, contrary to ZR § 33-10; and

WHEREAS, a public hearing was held on this application on April 21, 2009, after due notice by publication in *The City Record*, with a continued hearing on May 19, 2009, and then to decision on June 16, 2009; and

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

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

WHEREAS, the subject site is located on the southwest corner of the intersection at 8<sup>th</sup> Street and Seventh Avenue; within a C1-4 (R6A) zoning district; and

WHEREAS, the subject site has a total lot area of 1,760 sq. ft., and is occupied by an existing non-complying four-story mixed-use commercial/residential building with a floor area of 5,456 sq. ft. (3.1 FAR), and a 343 sq. ft. one-story accessory parking garage; and

WHEREAS, the applicant proposes to demolish the existing parking garage and construct a one-story enlargement to the first floor eating and drinking establishment (Use Group 6) in its place; and

WHEREAS, the applicant seeks an increase in the total floor area from 5,456 sq. ft. (3.1 FAR), to 5,806 sq. ft. (3.3 FAR); the maximum floor area permitted is 5,280 sq. ft. (3.0 FAR); and

WHEREAS, the applicant represents that the proposed floor area exceeds the maximum permitted floor area by 526 sq. ft., or ten percent; and

WHEREAS, the Board notes that ZR § 73-621 permits the enlargement of a building containing a residential use, such as the subject mixed-use commercial/residential building, if the following requirements are met: (1) the proposed FAR does not exceed the maximum permitted FAR by more than ten percent; (2) the proposed lot coverage does not exceed 110 percent of the maximum permitted; and (3) the proposed enlargement creates no new non-compliance nor increases the amount or degree of any existing non-compliance; and

WHEREAS, as to floor area ratio, the Board notes that the proposed 3.3 FAR reflects an increase of ten percent over the maximum permitted FAR of 3.0, which is within the amount permitted under the special permit; and

WHEREAS, the Board further notes that the proposed one-story enlargement is within the lot coverage requirement and does not create any new non-compliances or increase the degree of any existing non-compliance since it complies with all height and setback, lot coverage, and yard requirements; and

WHEREAS, accordingly, the Board has determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 73-621; 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

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the evidence in the record supports the findings required to be made under ZR §§ 73-621 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 §§ 73-621 and 73-03, to permit, within a C1-4 (R6A) zoning district, the proposed enlargement of an eating and drinking establishment (Use Group 6), which does not comply with the zoning requirements for floor area, contrary to ZR § 33-10; *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 May 6, 2009" – (3) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a floor area increase of 526 sq. ft. above the maximum permitted FAR, for a total floor area of 5,806 sq. ft. (3.3 FAR), as illustrated on the BSA-approved plans;

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

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 substantial construction shall be completed in accordance with ZR § 73-70; and

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

Adopted by the Board of Standards and Appeals, June 16, 2009.

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## 275-08-BZ

### CEQR #09-BSA-043K

APPLICANT – Eric Palatnik, P.C., for South Side House LLC, owner.

SUBJECT – Application November 20, 2008 – Special Permit (§73-36) to allow a physical culture establishment on the ground floor of an existing building. The proposal is contrary to ZR §42-10. M1-2/R6 (MX8) district.

PREMISES AFFECTED – 98 South 4<sup>th</sup> Street, south side of South 4<sup>th</sup> Street, between Bedford Avenue and Berry Street, Block 2443, Lot 13, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES – None.

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

**THE VOTE TO WITHDRAW** –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, June

16, 2009.

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## 17-09-BZ

### CEQR #09-BSA-067K

APPLICANT – MetroPCS New York, LLC, for Pearl Beverly, LLC, owner; MetroPCS New York, LLC, lessee. SUBJECT – Application February 4, 2009 – Special Permit (§73-03 & §73-30) to allow a non-accessory radio facility and all accessory equipment.

PREMISES AFFECTED – 5421 Beverly Road, northside of Beverly Road, between East 54<sup>th</sup> and East 55<sup>th</sup> Street, Block 4739, Lot 33, Borough of Brooklyn.

### COMMUNITY BOARD #17BK

APPEARANCES –

For Applicant: Ben Weisel.

**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 January 29, 2009, acting on Department of Buildings Application No. 310235037, reads in pertinent part:

“Communication facility exceeds the 400 square feet allowed under TPPN # 5/98 and therefore will require a special permit from the Board of Standards and Appeals as per Section 73-30 ZR;” and

WHEREAS, this is an application under ZR §§ 73-30 and 73-03, to permit, within an R4 zoning district, the proposed construction of a telecommunications facility, which consists of six panel antennas and related equipment for public utility wireless communications, which is contrary to ZR § 22-21; and

WHEREAS a public hearing was held on this application on May 12, 2009, after due notice by publication in *The City Record*, and then to decision on June 16, 2009; and

WHEREAS, Community Board 17, Brooklyn, recommends disapproval of this application; and

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

WHEREAS, a resident of the subject building provided testimony in opposition to this application; and

WHEREAS, the proposed telecommunications facility will be located on the roof of a seven-story residential building upon which existing antennas are already situated; and

WHEREAS, the applicant states that the proposed telecommunications facility consists of: (i) three panel antennas mounted to the face of the exterior wall of the building parapet and extending to a maximum height of six feet above the parapet; (ii) three panel antennas mounted to the existing penthouse and extending to a maximum height

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of six feet above the penthouse; (iii) two new equipment cabinets, two new battery cabinets and one new PPC cabinet, to be placed on a 10'-0" by 16'-0" equipment platform located on the rooftop; (iv) two GPS units mounted to the equipment platform; and (v) all accessory equipment, wires, cables, conduits and other necessary appurtenances; and

WHEREAS, the applicant represents that the telecommunications facility is necessary to remedy a significant gap in reliable service in the vicinity of the site caused by a lack of coverage and capacity; and

WHEREAS, pursuant to ZR § 73-30, the Board may grant a special permit for a non-accessory radio tower such as the proposed telecommunications facility, provided it finds "that the proposed location, design, and method of operation of such tower will not have a detrimental effect on the privacy, quiet, light and air of the neighborhood;" and

WHEREAS, the applicant represents that the facility has been designed and sited to minimize adverse visual effects on the environment and adjacent residents; that the construction and operation of the facility will comply with all applicable laws, that no noise or smoke, odor or dust will be emitted; and that no adverse traffic impacts are anticipated; and

WHEREAS, the applicant further represents that the size and profile of the facility is the minimum necessary to provide the required wireless coverage, and that the facility will not interfere with radio, television, telephone or other uses; and

WHEREAS, based upon its review of evidence in the record, the Board finds that the proposed facility and related equipment will be located, designed, and operated so that there will be no detrimental effect on the privacy, quiet, light, and air of the neighborhood; and

WHEREAS, therefore, the Board finds that the subject application meets the findings set forth at ZR § 73-30; and

WHEREAS, the Board further finds that the subject use will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, 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 finds that the application meets the general findings required for special permits set forth at ZR § 73-03; and

WHEREAS, the project is classified as a Type I action pursuant to 6NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 09-BSA-067K, dated February 4, 2009; and

WHEREAS, the EAS documents show 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.

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type I Negative Declaration 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 the required findings and *grants* a special permit under ZR § 73-03 and § 73-30, to permit, within an R4 zoning district, the proposed construction of a telecommunications facility (non-accessory radio facility) for public utility wireless communications, which is contrary to ZR § 22-21, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received February 4, 2009"- (7) sheets; and *on further condition*;

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

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

THAT substantial construction be completed in accordance with ZR § 73-70; 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, June 16, 2009.

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**21-09-BZ**

**CEQR #09-BSA-070Q**

APPLICANT – MetroPCS New York, LLC, for Braddock Avenue Owners, Inc., owner; MetroPCS New York, LLC, lessee.

SUBJECT – Application February 10, 2009 – Special Permit (§73-03 & §73-30) to allow a non-accessory radio facility on the rooftop of the existing building.

PREMISES AFFECTED – 222-89 Braddock Avenue, north west corner of Braddock Avenue and Ransom Street, Block 7968, Lot 31, Borough of Queens.

**COMMUNITY BOARD #13Q**

APPEARANCES –

For Applicant: Ben Weisel.

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

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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 Queens Deputy Borough Commissioner, dated January 26, 2009, acting on Department of Buildings Application No. 410118493, reads in pertinent part:

“Communication facility exceeds the 400 square feet allowed under TPPN # 5/98 and therefore will require a special permit from the Board of Standards and Appeals as per Section 73-30 ZR;”  
and

WHEREAS, this is an application under ZR §§ 73-30 and 73-03, to permit, within an R4 zoning district, the proposed construction of a telecommunications facility, which consists of seven panel antennas and related equipment for public utility wireless communications, which is contrary to ZR § 22-21; and

WHEREAS a public hearing was held on this application on May 12, 2009, after due notice by publication in *The City Record*, and then to decision on June 16, 2009; and

WHEREAS, Community Board 13, Queens, does not object to this application, but requests that the applicant provide additional screening; and

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

WHEREAS, the Board has exercised jurisdiction over the subject site since July 15, 2008 when, under BSA Cal. No. 85-08-BZ, the Board approved a special permit for a prior non-accessory radio facility as part of the NYC Department of Information Technology and Telecommunications (DoITT) NYC Wireless Network (NYCWIn); and

WHEREAS, the proposed telecommunications facility will be located on the roof of a six-story residential building upon which existing antennas are already situated; and

WHEREAS, the applicant states that the proposed telecommunications facility consists of: (i) five panel antennas mounted to the interior of the building parapet and extending to a maximum height of six feet above the parapet; (ii) two panel antennas mounted to the existing stair penthouse and extending to a maximum height of six feet above the penthouse; (iii) two new equipment cabinets, two new battery cabinets and one new PPC cabinet, to be placed on a steel equipment platform located on the rooftop; (iv) two GPS units mounted to the steel equipment platform; and (v) all accessory equipment, wires, cables, conduits and other necessary appurtenances; and

WHEREAS, the applicant represents that the telecommunications facility is necessary to remedy a significant gap in reliable service in the vicinity of the site caused by a lack of coverage and capacity; and

WHEREAS, pursuant to ZR § 73-30, the Board may grant a special permit for a non-accessory radio tower such

as the proposed telecommunications facility, provided it finds “that the proposed location, design, and method of operation of such tower will not have a detrimental effect on the privacy, quiet, light and air of the neighborhood;” and

WHEREAS, the applicant represents that the facility has been designed and sited to minimize adverse visual effects on the environment and adjacent residents; that the construction and operation of the facility will comply with all applicable laws, that no noise or smoke, odor or dust will be emitted; and that no adverse traffic impacts are anticipated; and

WHEREAS, the applicant further represents that the size and profile of the facility is the minimum necessary to provide the required wireless coverage, and that the facility will not interfere with radio, television, telephone or other uses; and

WHEREAS, based upon its review of evidence in the record, the Board finds that the proposed facility and related equipment will be located, designed, and operated so that there will be no detrimental effect on the privacy, quiet, light, and air of the neighborhood; and

WHEREAS, therefore, the Board finds that the subject application meets the findings set forth at ZR § 73-30; and

WHEREAS, in response to the concerns raised by the Community Board, the applicant agreed to provide rooftop screening for the telecommunications facility; and

WHEREAS, the Board further finds that the subject use will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, 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 finds that the application meets the general findings required for special permits set forth at ZR § 73-03; and

WHEREAS, the project is classified as a Type I action pursuant to 6NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 09-BSA-070Q, dated February 10, 2009; and

WHEREAS, the EAS documents show 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

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environment that would require an Environmental Impact Statement are foreseeable.

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type I Negative Declaration 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 the required findings and *grants* a special permit under ZR § 73-03 and § 73-30, to permit, within an R4 zoning district, the proposed construction of a telecommunications facility (non-accessory radio facility) for public utility wireless communications, which is contrary to ZR § 22-21, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received March 17, 2009"-(8) sheets; and *on further condition*;

THAT rooftop screening shall be provided for the telecommunications facility as per the BSA-approved drawings;

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 substantial construction be completed in accordance with ZR § 73-70; 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, June 16, 2009.

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## 42-09-BZ

APPLICANT – Francis R. Angelino, Esq., for Arrow Linen Supply Company, Inc., owner.

SUBJECT – Application March 6, 2009 – Special Permit filed pursuant to §11-411 & §11-412 to permit a reinstatement of a variance which expired on July 12, 1992 which allowed the extension of a legal non conforming use within a residential zoning district. The application seeks an amendment to allow for a one-story enlargement of approximately 770 sq. ft. in the rear of the lot for additional storage for the commercial laundry. The subject site is located in a R5B zoning district.

PREMISES AFFECTED – 441-477 Prospect Avenue, between Eight Avenue and Prospect Park West, Block 1113, Lot 73, Borough of Brooklyn.

## COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Francis R. Angelino, Vincent Trocchia, Alvazo Bottaro and Frank Park.

For Opposition: Ricardo Franco and Arabella Hutter.

THE VOTE TO REOPEN 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 14, 2009, at 1:30 P.M., for continued hearing.

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## 99-08-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Cee Jay Real Estate Development Company, owner.

SUBJECT – Application April 21, 2008 – Variance (§72-21) to construct a three story with cellar single family home on an irregular triangular lot that does not meet the rear yard requirement (§23-47) in an R3-2 (SRD) zoning district.

PREMISES AFFECTED – 102 Drumgoole Road, South side of Drumgoole Road, 144.62 ft. west of the intersection of Drumgoole Road and Wainwright Avenue, Block 5613, Lot 221, Borough of Staten Island.

## COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Todd Dale.

THE VOTE TO REOPEN 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 14, 2009, at 1:30 P.M., for continued hearing.

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## 169-08-BZ

APPLICANT – James Chin & Associates, LLC, for Jeffrey Bennett, owner.

SUBJECT – Application June 24, 2008 – Variance (§72-21) to allow the residential redevelopment of an existing five-story commercial building. Six residential floors and six (6) dwelling units are proposed; contrary to use regulations (§42-00 & §111-104 (e)). M1-5 (TMU- Area B-2) district. PREMISES AFFECTED – 46 Laight Street, north side of Laight Street, 25' of frontage on Laight Street, Block 220, Lot 35, Borough of Manhattan.

## COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Ivan Khoury, Jeffrey Bennett and Ivy Hidalgo-Olberding.

**ACTION OF THE BOARD** – Laid over to July 28, 2009, at 1:30 P.M., for continued hearing.

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## 229-08-BZ

APPLICANT – Sheldon Lobel, P.C. for Edward Haddad, owner.

SUBJECT – Application September 3, 2008 – Variance (§72-21) for the construction of a new single family home. This applications seeks to vary floor area (§23-141), less than the minimum side yards (§23-461) and the location of the required off street parking to the front yard (§25-62) in an R2X zoning district.

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PREMISES AFFECTED – 866 East 8<sup>th</sup> Street, West side of East 8th Street, north of Avenue I, and adjacent to railroad, Block 6510, Lot 25, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

APPEARANCES –

For Applicant: Richard Lobel.

**ACTION OF THE BOARD** – Laid over to July 14, 2009, at 1:30 P.M., for adjourned hearing.

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**259-08-BZ**

APPLICANT – Jeffrey A. Chester, Esq., for AAC Douglaston Plaza, LLC, owner.

SUBJECT – Application October 20, 2008 – Variance (§72-21) to permit the proposed expansion to an existing supermarket. The proposal is contrary to ZR §52-41 (increase in the degree of non-conforming use of the building. R4 district.

PREMISES AFFECTED – 242-02 61<sup>st</sup> Avenue, Douglaston Parkway at 61<sup>st</sup> Avenue, Block 8266, Lot 185, Borough of Queens.

**COMMUNITY BOARD #11Q**

APPEARANCES –

For Applicant: Jeffrey Chester and Elliott Socci.

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 14, 2009, at 1:30 P.M., for decision, hearing closed.

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**266-08-BZ**

APPLICANT – Lewis E. Garfinkel R.A., for Harold Willig, owner.

SUBJECT – Application October 28, 2008 – Special Permit (§73-621) for the enlargement of an existing single family home. This application seeks to vary §34-141(b) as the proposed floor area ratio (FAR) exceeds what is permitted in an R-4 zoning district.

PREMISES AFFECTED – 2007 New York Avenue, east side of New York Avenue between Avenue K and Avenue L, Block 7633, Lot 25, Borough of Brooklyn.

**COMMUNITY BOARD #18BK**

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to July 21, 2009, at 1:30 P.M., for adjourned hearing.

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**288-08-BZ**

APPLICANT – Jeffrey Geary, for Vincent Passarelli, owner; Roland Costanzo, lessee.

SUBJECT – Application November 21, 2008 – Special Permit (§73-36) to allow the legalization of a physical culture establishment (Costanzo's Martial Arts Studio) on the second floor of a two-story commercial building. The proposal is contrary to ZR §42-10. M1-1 district.

PREMISES AFFECTED – 2955 Veterans Road West, Cross Streets, Tyrellian Avenue and West Shore Parkway, Block 7511, Lot 1, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

APPEARANCES –

For Applicant: Jeffrey Geary.

**ACTION OF THE BOARD** – Laid over to July 21, 2009, at 1:30 P.M., for continued hearing.

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**295-08-BZ**

APPLICANT – Akerman Senterfitt Stadtmauer Bailkin, for Ronald & Meryl Bratt, owners.

SUBJECT – Application November 25, 2008 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary lot coverage and floor area (§23-141), side yards (§23-461) and does not comply with the required perimeter wall height (§23-631) in an R3-2 zoning district.

PREMISES AFFECTED – 1934 East 26<sup>th</sup> Street, east side between Avenue S and T, Block 7304, Lot 20, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Jessica Loeser.

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 14, 2009, at 1:30 P.M., for decision, hearing closed.

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**314-08-BZ**

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for 437-51 West 13<sup>th</sup> Street, LLC, owner.

SUBJECT – Application December 22, 2008 – Variance pursuant to §72-21 to allow for the construction of a 12 story commercial building contrary to bulk regulations §§43-12, 43-43, 43-26 and use regulations §42-12. M1-5 District.

PREMISES AFFECTED – 437-447 West 13<sup>th</sup> Street, 862-868 Washington Street, southeast portion, block bounded by West 13<sup>th</sup>, West 14<sup>th</sup> and Washington Streets, Tenth Avenue, Block 646, Lots 19, 20, Borough of Manhattan.

**COMMUNITY BOARD #2M**

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to July 21, 2009, at 1:30 P.M., for adjourned hearing.

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**13-09-BZ**

APPLICANT – Moshe M. Friedman, P.E., for 5621 21<sup>st</sup> Avenue LLC, for Congregation Tehilos Yitzchok, owner.

SUBJECT – Application January 26, 2009 – Variance (§72-21) to permit a synagogue contrary to bulk regulations ZR §24-34, §24-35, §24-11. R5 District.

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PREMISES AFFECTED – 5611 21<sup>st</sup> Avenue, east side 95’-8” north of intersection of 21<sup>st</sup> Avenue and 57<sup>th</sup> Street, Block 5495, Lot 430, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

APPEARANCES –

For Applicant: Moshe M. Friedman and Shlomo Gombo.

For Opposition: Stella Albano.

**ACTION OF THE BOARD** – Laid over to July 21, 2009, at 1:30 P.M., for continued hearing.

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**15-09-BZ**

APPLICANT – Francis R. Angelino, Esq., for Lafayette Astor Associates, LLC, owner; David Barton Gym, lessee.  
SUBJECT – Application February 3, 2009 – Special Permit (§73-36) to allow a physical culture establishment on portions of the sub-cellar, cellar and ground floors and the entire second floor in an existing seven-story commercial building. The proposal is contrary to ZR §42-10. M1-5B district.

PREMISES AFFECTED – 8-10 Astor Place, south side between Broadway and Lafayette Street, Block 545, Lot 3, Borough of Manhattan.

**COMMUNITY BOARD #2M**

APPEARANCES –

For Applicant: Francis R. Angelino.

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 14, 2009, at 1:30 P.M., for decision, hearing closed.

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**36-09-BZ**

APPLICANT – MetroPCS New York, LLC, for Milford House, LLC, owner; MetroPCS New York, lessee.

SUBJECT – Application March 3, 2009 – Special Permit (§§73-03, 73-30) to allow a non-accessory radio tower on the rooftop of an existing building with all accessory equipment.

PREMISES AFFECTED – 53-01 32<sup>nd</sup> Avenue, north side of 32<sup>nd</sup> Avenue between 51<sup>st</sup> Street and 54<sup>th</sup> Street, Block 1131, Lot 1, Borough of Queens.

**COMMUNITY BOARD #1Q**

APPEARANCES –

For Applicant: Ben Weisel.

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 14, 2009, at 1:30 P.M., for decision, hearing closed.

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**52-09-BZ**

APPLICANT – Dennis Dell’Angelo, for Yehuda A. Lieberman, owner.

SUBJECT – Application April 6, 2009 – 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) and less than the required rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1438 East 26<sup>th</sup> Street, west side of East 26<sup>th</sup> Street, between Avenue H and Avenue O, Block 7679, Lot 66, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Dennis Dell’Angelo.

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 14, 2009, at 1:30 P.M., for decision, hearing closed.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*