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# BULLETIN

OF THE  
NEW YORK CITY BOARD OF STANDARDS  
AND APPEALS

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October 5, 2011

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## DIRECTORY

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*Commissioners*

**Jeffrey Mulligan, *Executive Director***

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**Affecting Calendar Number:**

237-06-BZ	1462 East 26 <sup>th</sup> Street, Brooklyn
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# DOCKET

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New Case Filed Up to September 27, 2011

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**153-11-BZ**

27-11 30th Avenue, between 27th Street and 39th Street., Block 575, Lot(s) 23, Borough of **Brooklyn, Community Board: 4**. Application seeks a special permit pursuant to Sections 11-411 and 11-413 to re-instate an auto repair use previously approved by the Board; to enlarge the existing one story building, an additional 120 sf; and to legalize an existing metal canopy. C1-3 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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**OCTOBER 25, 2011, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, October 25, 2011, 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**

**390-61-BZ**

APPLICANT – Peter Hirshman, for Rapid Park Industries, owner.

SUBJECT – Application February 22, 2011 – Amendment (§11-413) of a previously granted variance for a UG8 parking garage (Rapid Park Industries) in an R8B zoning district. The amendment proposes to permit the addition of a auto rental establishment (UG8) in the cellar level. Extension of time to obtain a certificate of occupancy which expired on June 29, 2008. R8B zoning district.

PREMISES AFFECTED – 148-150 East 33<sup>rd</sup> Street, south side of East 33rd Street, 151.9' east of East 33rd Street and Lexington Avenue. Block 888, Lot 51. Borough of Manhattan.

**COMMUNITY BOARD #6M**

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**608-85-BZ**

APPLICANT – Sheldon Lobel, P.C., for J.C. Organization, LLC, owner.

SUBJECT – Application July 18, 2011 – Extension of Term of a previously granted Variance (72-21) which permitted a custom Woodworking Shop (UG 16) which expired on June 17, 2011; an Amendment to permit a change of use to a (UG16) General Contractors Establishment and to allow the expansion of two existing mezzanines to create a full second floor. R5 zoning district.

PREMISES AFFECTED – 33-56 11<sup>th</sup> Street, located on the west side of 11<sup>th</sup> Street, 235' south of 33<sup>rd</sup> Street, Block 319, Lot 36, Borough of Queens.

**COMMUNITY BOARD #1Q**

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**17-99-BZ**

APPLICANT – The Law Office of Fredrick A. Becker, for Cropsy and Mitchell, owners; TSI Brooklyn Belt LLC dba New York Sports Club, lessee.

SUBJECT – Application July 21, 2011 – Extension of Term of a previously granted Special Permit (73-36) for the continued operation of a Physical Culture Establishment (New York Sports Club), on portions of the first floor and second floor of the subject premises, which expired on December 29, 2008; Waiver of the Rules. M3-1 zoning district.

PREMISES AFFECTED – 1736 Leif Ericson Drive, west side of Leif Ericson Drive, south of Bay Parkway, block 6419, Lot 198, Borough of Brooklyn.

**COMMUNITY BOARD #11BK**

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**APPEALS CALENDAR**

**138-11-A**

APPLICANT – Sheldon Lobel, P.C., for 64-01 Woodside Realty, Inc., owner.

SUBJECT – Application September 7, 2011 – Appeal seeking a common law vested right to complete construction under the prior R6 zoning district regulations. R5D zoning district.

PREMISES AFFECTED – 64-01 Woodside Avenue, between 64<sup>th</sup> and 65<sup>th</sup> Street, Block 1295, Lot 75, Borough of Queens.

**COMMUNITY BOARD #2Q**

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**140-11-A & 141-11-A**

APPLICANT – Sheldon Lobel, P.C., for BQM Management, LLC, owner.

SUBJECT – Application September 8, 2011 – Appeal seeking a common law vested right to complete construction under the prior R6 zoning district regulations. R5D zoning district.

PREMISES AFFECTED – 69-17 & 69-19 38<sup>th</sup> Avenue, between the BQE and 69<sup>th</sup> Street, Block 1282, Lot 64 & 65, Borough of Queens.

**COMMUNITY BOARD #2Q**

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**OCTOBER 25, 2011, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, October 25, 2011, 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**

**81-11-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Parkchester Preservation Co., LP, owner; Blink Metropolitan Avenue, Inc., lessee.

SUBJECT – Application June 7, 2011 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Blink Fitness*). C4-2 zoning district.

PREMISES AFFECTED – 1380 Metropolitan Avenue aka 44/64 Metropolitan Oval, south side of Parkchester Road, 200' east of intersection of Parkchester Road and Metropolitan Avenue, Block 3938, Lot 7501, Borough of the Bronx.

**COMMUNITY BOARD #9BX**

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# CALENDAR

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**126-11-BZ**

APPLICANT – Greenberg Traurig, LLP by Jay A. Segal, Esq., for 87 Chambers LLC and IBC Chambers LLC, owners.

SUBJECT – Application August 19, 2011 – Variance (ZR §72-21) to allow for the construction of a new mixed use building contrary to lot coverage and rear yard equivalent requirements of §23-145 and §23-532, respectively, and the accessory off-street parking regulations of Z.R. §13-00.

PREMISES AFFECTED – 87-89 Chambers Street, midblock bounded by Chambers Street, Church Street, Reade Street and Broadway, Block 149, Lot 7, Borough of Manhattan.

**COMMUNITY BOARD #1M**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, SEPTEMBER 27, 2011  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**713-55-BZ**

APPLICANT – Walter T. Gorman, P.E., for East River Petroleum Realty LLC, owner; Brendan Utopia Mobil, lessee.

SUBJECT – Application May 3, 2011 – Extension of Term (§11-411) of a variance for the continued operation of a gasoline service station (*Mobil*) which expired on December 11, 2011. C2-2/R3-1 zoning district.

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

**COMMUNITY BOARD #11Q**

APPEARANCES –

For Applicant: Kieron Bachan.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5  
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for an extension of the term of a previously granted variance for a gasoline service station, which expires on December 11, 2011; and

WHEREAS, a public hearing was held on this application on July 26, 2011 after due notice by publication in *The City Record*, with a continued hearing on August 23, 2011, and then to decision on September 27, 2011; and

WHEREAS, Community Board 11, Queens, recommends approval of this application, with the following conditions: (1) graffiti at the rear of the station and any other graffiti be removed; (2) only vehicles awaiting service be parked on the site; (3) no commercial vehicles or renting of parking spaces be permitted on the site; and (4) no sale of beer or alcohol be permitted on the site; and

WHEREAS, Queens Borough President Helen Marshall recommends approval of this application, with conditions as stipulated by the Community Board; and

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

WHEREAS, the site is located on the north side of the Horace Harding Expressway between Utopia Parkway and 182<sup>nd</sup> Street, in a C2-2 (R3-2) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since December 11, 1956, when, under the subject calendar number, the Board granted a variance to permit the occupation of the premises by a gasoline station and accessory uses; and

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

WHEREAS, on May 21, 2002, the Board granted an extension of term for a period of ten years, which expires on December 11, 2011; and

WHEREAS, most recently, on July 29, 2008, the Board granted an extension of time to obtain a certificate of occupancy, to expire on January 29, 2009; and

WHEREAS, the applicant now seeks an additional ten-year extension of term; and

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

WHEREAS, in response to the concerns raised by the applicant submitted a photograph reflecting the removal of the graffiti at the site, and agreed to comply with the other conditions stipulated by the Community Board and Queens Borough President regarding site maintenance and parking; and

WHEREAS, however, the applicant requests that a condition prohibiting the sale of alcohol or beer not be included because the sale of alcoholic beverages is appropriately regulated on the State level by the New York State Liquor Authority; and

WHEREAS, based upon the above, 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, dated December 11, 1956, so that as amended this portion of the resolution shall read: “to extend the term for ten years from December 11, 2011, to expire on December 11, 2021; *on condition* that all use and operations shall substantially conform to plans filed with this application marked ‘May 3, 2011’-(6) sheets; and *on further condition*:

THAT the term of the grant shall expire on December 11, 2021;

THAT the site shall be maintained free of debris and graffiti;

THAT parking on the site shall be limited to vehicles awaiting service, and no commercial vehicles or renting of parking spaces shall be permitted;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 420344121)

Adopted by the Board of Standards and Appeals September 27, 2011.

# MINUTES

## 351-05-BZ

APPLICANT – Simons & Wright LLC, for Atlas Packaging Solutions Holding Co., Inc., owner.

SUBJECT – Application August 11, 2011 – Extension of Time to Complete Construction of a Variance (§72-21) for the construction of six-unit, four story residential building which expired on August 22, 2010; Waiver of the rules. M2-1 zoning district.

PREMISES AFFECTED – 146 Conover Street, northeast side of Conover Street, between Sullivan and King Streets, Block 554, Lot 29, Borough of Brooklyn.

### COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Emily Simons.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5  
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time to complete construction of a previously granted variance to permit, in an M2-1 zoning district, the construction of a four-story residential building with six dwelling units, which expired on August 22, 2010; and

WHEREAS, a public hearing was held on this application on September 13, 2011, after due notice by publication in *The City Record*, and then to decision on September 27, 2011; and

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

WHEREAS, the subject site is located on the south side of Conover Street between King Street and Sullivan Street, within an M2-1 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the site since August 22, 2006 when, under the subject calendar number, the Board granted a variance to permit the proposed construction of a four-story residential building with six dwelling units, which did not comply with the underlying use regulations, contrary to ZR § 42-10; and

WHEREAS, substantial construction was to be completed by August 22, 2010, in accordance with ZR § 72-23; and

WHEREAS, the applicant states that due to financing delays, additional time is necessary to complete the project; thus, the applicant now requests an extension of time to complete construction; and

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

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens, and amends the resolution, dated August 22, 2006, so that as

amended this portion of the resolution shall read: “to grant an extension of the time to complete construction for a term of four years from the date of this grant, to expire on September 27, 2015; on condition:

THAT substantial construction shall be completed by September 27, 2015;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 302050394)

Adopted by the Board of Standards and Appeals, September 27, 2011.

## 265-08-BZ

APPLICANT – Richard Bass/Herrick, Feinstein, LLP for 70 Wyckoff, LLC, owner.

SUBJECT – Application August 11, 2011 – Extension of Time to obtain a Certificate of Occupancy of a Variance (§72-21) for the legalization of residential units in a manufacturing building which expired on August 9, 2011. M1-1 zoning district.

PREMISES AFFECTED – 70 Wyckoff Avenue, south east corner of Wyckoff Avenue and Suydam Street. Block 3221, Lot 31, Borough of Brooklyn.

### COMMUNITY BOARD #4BK

APPEARANCES –

For Applicant: Richard Bass.

**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 four-story residential building; and

WHEREAS, a public hearing was held on this application on September 13, 2011, after due notice by publication in *The City Record*, and then to decision on September 27, 2011; and

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

WHEREAS, the site is located on the southeast corner of Wyckoff Avenue and Suydam Street, within an M1-1 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since June 23, 2009 when, under the subject

# MINUTES

calendar number, the Board granted a variance to legalize the residential conversion of an existing four-story manufacturing building; a condition of the grant was that a new certificate of occupancy be obtained by December 23, 2009; and

WHEREAS, most recently, on February 9, 2010, the Board granted an extension of time to obtain a certificate of occupancy, which expired on August 9, 2011; and

WHEREAS, the applicant now seeks an additional extension of time to obtain a certificate of occupancy; and

WHEREAS, the applicant represents that delays resulting from the need to resolve Department of Buildings (“DOB”) objections, obtain permits to implement DOB requirements, complete the required physical changes, and schedule the required DOB inspections prevented the owner from obtaining a new certificate of occupancy within the prescribed time frame; and

WHEREAS, the applicant submitted evidence reflecting that nearly all of the required physical changes have been implemented, and that the applicant is in the process of scheduling DOB inspections for the work performed, including the sprinkler system, electrical system, plumbing system, and for general construction; and

WHEREAS, accordingly, the applicant requests an additional two years to obtain a certificate of occupancy; and

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

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated June 23, 2009, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy to September 27, 2013; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT a certificate of occupancy shall be obtained by September 27, 2013;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 310199969)

Adopted by the Board of Standards and Appeals September 27, 2011.

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## 281-39-BZ

APPLICANT – Eric Palatnik, P.C., for 1599 Lexington Avenue Corporation, owner.

SUBJECT – Application May 3, 2011 – Extension of Term (§11-411) of a variance permitting the operation of an automotive service station (UG 16B) with accessory uses which expired on May 18, 2009; Waiver of the Rules. C1/R7-2 zoning district.

PREMISES AFFECTED – 1605 Lexington Avenue, southeast corner of 102<sup>nd</sup> Street, Block 1629, Lot 150, Borough of Manhattan.

### COMMUNITY BOARD #11M

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to November 1, 2011, at 10 A.M., for continued hearing.

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## 672-65-BZ

APPLICANT – Joseph Pell Lombardi, for Earth Pledge Fund, owner.

SUBJECT – Application July 20, 2011 – Extension of Term for the continued use of UG6 offices on three floors of a five-story residential building which expired on November 13, 2004; Waiver of the Rules. R8B zoning district.

PREMISES AFFECTED – 122 East 38<sup>th</sup> Street, south side of East 38<sup>th</sup> Street, 139’5” west of the corner, Block 893, Lot 78, Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Joseph Pell Lombardi.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to November 1, 2011, at 10 A.M., for decision, hearing closed.

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## 224-66-BZ

APPLICANT – Peter Hirshman, for Building Management Co., Inc., owner; Champion Parkind Corp., lessee.

SUBJECT – Application July 8, 2011 – Extension of Term for the continued use of transient parking in a multiple dwelling building which expired on June 14, 2011. R8B zoning district.

PREMISES AFFECTED – 325-335 East 49<sup>th</sup> Street, aka 328-334 East 50<sup>th</sup> Street, northside of East 49<sup>th</sup> Street, 262.33’ west of First Avenue, Block 1342, Lot 12, Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Peter Hirshman.

THE VOTE TO CLOSE HEARING –

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

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Negative:.....0  
**ACTION OF THE BOARD** – Laid over to November 1, 2011, at 10 A.M., for decision, hearing closed.  
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## 926-86-BZ

APPLICANT – Sheldon Lobel, P.C., for Manes Bayside Realty LLC, owner.

SUBJECT – Application November 1, 2010 – Extension of Term of a variance for the operation of an automotive dealership with accessory repairs (UG 16B) which expired on November 4, 2010; Extension of time to obtain a Certificate of Occupancy which expired on January 6, 2006; Waiver of the Rules. C2-2/R6-B/R3X zoning district.

PREMISES AFFECTED – 217-07 Northern Boulevard, block front on the northerly side of Northern Boulevard between 217<sup>th</sup> Street and 218<sup>th</sup> Street, Block 6320, Lot 18, Borough of Queens.

## COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Jordan Most.

**ACTION OF THE BOARD** – Laid over to October 25, 2011, at 10 A.M., for continued hearing.  
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## 172-96-BZ

APPLICANT – Law Office of Mitchell Ross, for Don Mitchell, owner; D/B/A Mitchell Iron Works, lessee.

SUBJECT – Application June 29, 2011 – Extension of Time to obtain a Certificate of Occupancy for an existing (UG 16) welding shop which expired on May 17, 2010; Waiver of the Rules. C1-3/R6 zoning district.

PREMISES AFFECTED – 597/599 Marcy Avenue, southeast corner of March and Vernon Avenue, Block 1759, Lot 7, Borough of Brooklyn.

## COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Mitchell S. Ross.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to November 1, 2011, at 10 A.M., for decision, hearing closed.  
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## 188-96-BZ

APPLICANT – Mitchell S. Ross, Esq., for 444 Soundview Services Stations, Incorporated c/o William McCombs, owner; Scott Greco, lessee.

SUBJECT – Application June 22, 2010 – Extension of Term (§11-411) of a variance for the continued operation of a Gasoline Service Station (*Gulf*) with accessory convenience store which expired January 6, 2008; Waiver of the rules. R5 zoning district.

PREMISES AFFECTED – 444 Soundview Avenue, north side of Soundview Avenue and west of Underhill Avenue,

Block 3498, Lot 51, Borough of Bronx.

## COMMUNITY BOARD #9BX

APPEARANCES –

For Applicant: Mitchell Ross.

**ACTION OF THE BOARD** – Laid over to November 15, 2011, at 10 A.M., for continued hearing.  
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## 269-98-BZ

APPLICANT – Mothiur Rahman, for Fordham Zone Realty LLC, owner.

SUBJECT – Application August 24, 2011 – Extension of Time to obtain a Certificate of Occupancy for a Variance (§72-21) for the construction of a two-story building with UG6 commercial use which expired on August 25, 2011. R8 zoning district.

PREMISES AFFECTED – 70 East 184<sup>th</sup> Street, Southwest corner of East 184<sup>th</sup> Street and Morris Avenue, Block 3183, Lot 42, Borough of Bronx.

## COMMUNITY BOARD #5BX

APPEARANCES –

For Applicant: Mothiur Rahman.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to November 1, 2011, at 10 A.M., for decision, hearing closed.  
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## 13-09-BZ

APPLICANT – Moshe M. Friedman, P.E. for Congregations Tehilos Yotzchok, owner.

SUBJECT – Application May 27, 2011 – Amendment to a previously approved variance (§72-21) to allow a synagogue contrary to Floor & Lot Coverage (§24-11), Front Yard (§24-34) and Side Yard (§24-35). R5 zoning district

PREMISES AFFECTED – 5611 21<sup>st</sup> Street, 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: Tzvi Friedman.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to November 1, 2011, at 10 A.M., for decision, hearing closed.  
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## APPEALS CALENDAR

### 176-10-A

APPLICANT – Sheldon Lobel, P.C., for LIV Realty LLC, owner.

SUBJECT – Application September 8, 2010 – Proposed construction of a residential building not fronting a mapped street, contrary to General City Law Section 36. R6 zoning District.

PREMISES AFFECTED – 62 Brighton 2<sup>nd</sup> Place, east side, Block 8662, Lot 155, Borough of Brooklyn.

#### COMMUNITY BOARD #13BK

APPEARANCES –

For Applicant: Jordan Most.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to October 18, 2011, at 10 A.M., for decision, hearing closed.

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### 40-11-A

APPLICANT – Bryan Cave LLP, Margery Perlmutter, Esq., for CPW Retail, LLC c/o American Continental Properties, LLC, owner.

SUBJECT – Application April 8, 2011 – Appeal challenging the Department of Building’s determination that non-conforming commercial use was discontinued pursuant to ZR §52-61. R10A & C4-7 LSD Zoning district.

PREMISES AFFECTED – 25 Central Park West, West 62<sup>nd</sup> and West 63<sup>rd</sup> Streets, Block 1115, Lot 7501(2) Borough of Manhattan.

#### COMMUNITY BOARD #7M

APPEARANCES –

For Applicant: Steven Bennett.

**ACTION OF THE BOARD** – Laid over to October 18, 2011, at 10 A.M., for adjourned hearing.

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### 50-11-A

APPLICANT – Steven Bennett, Esq., for Premchand Parag and Vadewattie Parag, owners.

SUBJECT – Application April 15, 2011 – Appeal seeking a common law vested right to continue development under prior zoning (§23-541). R4-1 zoning district.

PREMISES AFFECTED – 134-07 87<sup>th</sup> Avenue, north side of 87<sup>th</sup> Avenue, 50’ east of the corner formed by the intersection of 87<sup>th</sup> Avenue and 134<sup>th</sup> Street, Block 9630, Lot 11, Borough of Queens.

#### COMMUNITY BOARD #9Q

APPEARANCES – None.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to November 1, 2011, at 10 A.M., for decision, hearing closed.

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### 114-11-A

APPLICANT – Greenberg Traurig, LLP by Deirdre A. Carson, Esq., for Salanter Akiba Riverdale Academy, owner.

SUBJECT – Application August 10, 2011 – Proposed construction of stone wall, pier, curbs and related footings for an accessory parking area to SAR Academy to be located within the bed of the mapped street (West 245<sup>th</sup>), contrary to General City Law Section 35. R1-1/Riverdale SNAD zoning district.

PREMISES AFFECTED – 655 West 254<sup>th</sup> Street, north side of West 254<sup>th</sup> Street, between Palisade and Independence Avenues. Block 5947, Lot 1, Borough of Bronx.

#### COMMUNITY BOARD #8BX

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to October 18, 2011, at 10 A.M., for postponed hearing.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

## REGULAR MEETING TUESDAY AFTERNOON, SEPTEMBER 27, 2011 1:30 P.M.

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

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## ZONING CALENDAR

### 236-09-BZ

APPLICANT – Marvin Mitzner, Esq. for Crosstown West 28 LLC, owner.

SUBJECT – Application July 31, 2009 – Variance (§72-21) to allow for a 29 story mixed use commercial and residential building contrary to use regulations (§42-00), floor area (§43-12), rear yard equivalent (§43-28), height (§43-43), tower regulations (§43-45) and parking (§13-10). M1-6 zoning district.

PREMISES AFFECTED – 140-148 West 28<sup>th</sup> Street, south side of West 28<sup>th</sup> Street, between 6<sup>th</sup> Avenue and 7<sup>th</sup> Avenue, block 803, Lots 62 and 65, Borough of Manhattan.

#### COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Marvin Mitzner.

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

THE VOTE TO WITHDRAW –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough  
Commissioner, dated August 4, 2009, acting on Department of  
Buildings Application No. 120041481, reads in pertinent part:

ZR 42-00 – A residential use is not permitted, ‘as-  
of-right,’ in an M1-6 zoning district; and

WHEREAS, this is an application under ZR § 72-21, to  
permit, on a site within an M1-6 zoning district, the  
construction of a mixed use commercial and residential  
building contrary to use regulations; and

WHEREAS, the applicant filed the variance application  
on July 31, 2009; and

WHEREAS, the Board issued a Notice of Comments on  
October 19, 2009; and

WHEREAS, the Board did not receive any response  
from the applicant, thus it issued a dismissal warning on  
January 18, 2011; and

WHEREAS, the applicant subsequently provided a  
partial submission and the Board held a first public hearing on  
the matter on April 5, 2011; at the applicant’s request, the  
Board adjourned continued hearings scheduled for May 24,  
2011 and July 26, 2011; and

WHEREAS, during the course of its review, the Board  
directed the applicant to provide significant additional  
information to complete its application; and

WHEREAS, to address the finding required pursuant to  
ZR § 72-21(a), the Board directed the applicant to provide  
additional evidence to support that the claimed hardships are  
unique to the subject site as compared to other surrounding  
sites; specifically, the insufficiencies include a failure to  
establish sub-surface soil conditions, bedrock depth, water  
table depth, and shoring and underpinning requirements due to  
adjacent site conditions are unique and that they create an  
unnecessary hardship; and evidence that supports the need,  
requirements and/or costs associated with providing a Con  
Edison substation for an as-of-right development; and

WHEREAS, to address the finding required pursuant to  
ZR § 72-21(b), the Board directed the applicant to provide  
credible conforming scenarios which address issues related to  
the ability and necessity of using development rights, and  
supporting evidence related to the site value, hardship and  
construction costs, and other assumptions made in the financial  
analyses;

WHEREAS, to address the finding required pursuant to  
ZR § 72-21(c), the Board directed the applicant to provide  
evidence which supports the claim that the proposed large  
residential use would not change the essential character, and  
that proposed use, bulk, and building height are not out of scale  
for the neighborhood; and

WHEREAS, to address the finding required pursuant to  
ZR § 72-21(d), the Board directed the applicant to provide  
evidence to show that certain proposed conditions, including  
the demolition of an existing residential building, cantilever  
and multiple cellar levels, are not self-created hardships which

make the project unnecessarily costly; and

WHEREAS, the Board requires the evidence noted  
above and any other evidence to support the required findings  
including all other information it requested at the April 5, 2011  
hearing; and

WHEREAS, additionally, based on the extent of the soil  
contamination identified in the applicant’s March 2009 Limited  
Phase II Environmental Subsurface Investigation report, DEP  
requires that a Remedial Action Plan and Construction Health  
& Safety Plan be submitted for review and approval; and

WHEREAS, by letter dated September 29, 2011, the  
applicant requested that the Board accept a withdrawal of the  
application, without prejudice; the applicant seeks to re-file an  
application including all missing requirements in the future  
once the owner’s financial concerns are resolved; and

WHEREAS, the Board notes that the applicant filed the  
application more than two years ago and that there remain  
significant outstanding issues related to establishing the  
required findings, which must be answered before it can  
analyze the merits of the application; and

WHEREAS, accordingly, the Board accepts the  
applicant’s request for withdrawal with prejudice; and

WHEREAS, the Board will not accept a re-filing that  
fails to include the noted evidence to support the findings set  
forth at ZR § 72-21, requested at the April 5, 2011 public  
hearing, and DEP’s supplemental requirements; additionally,  
the Board notes that other portions of the application may  
require updating and/or re-submission depending on the extent  
of time between filings; and

*Therefore it is Resolved* that the Board accepts the  
withdrawal of the application filed under BSA Cal. No. 236-  
09-BZ, with prejudice.

Adopted by the Board of Standards and Appeals,  
September 27, 2011.

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## 56-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Mr. Adam Cohen,  
owner.

SUBJECT – Application April 25, 2011 – Variance (§72-  
21) for the enlargement of an existing one-family semi-  
detached residence, contrary to use (§ 22-11) and (§52-22);  
side yard (§23-461(a)) and floor area (§23-141). R2X  
zoning district.

PREMISES AFFECTED – 957 East 7<sup>th</sup> Street, East side of  
East 7th Street, approximately midblock between Avenue  
and Avenue I. Block 6510, Lot 68. Borough of Brooklyn.

## COMMUNITY BOARD #12BK

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 .....5

Negative:.....0

THE RESOLUTION –

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WHEREAS, the decision of the Brooklyn Borough Superintendent, dated April 13, 2011, and acting on Department of Buildings Application No. 320221327 reads, in pertinent part:

The existing semi-detached one family building is non-conforming as per ZR 22-11 and therefore the proposed structural enlargement is contrary to ZR 52-22.

Proposed enlargement in required side yard is contrary to ZR 23-461(a).

Proposed enlargement exceeds the maximum floor area permitted, contrary to ZR 23-141; and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R2X zoning district within the Special Ocean Parkway District, the enlargement of an existing semi-detached single-family home that does not comply with the underlying zoning district regulations for use, floor area, and side yards, contrary to ZR §§ 22-11, 23-141, 23-461 and 52-22; and

WHEREAS, a public hearing was held on this application on July 19, 2011, after due notice by publication in *The City Record*, with a continued hearing on August 23, 2011, and then to decision on September 27, 2011; and

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

WHEREAS, Community Board 12, Brooklyn, recommends approval of this application; and

WHEREAS, the site is located on the east side of East 7<sup>th</sup> Street, approximately 350 feet north of Avenue I, in an R2X zoning district within the Special Ocean Parkway District; and

WHEREAS, the site has a width of 23'-3", a depth of 120'-6", and a total lot area of approximately 2,802 sq. ft.; and

WHEREAS, the site is currently occupied by a semi-detached two-and-one-half-story single-family home with a floor area of 2,012 sq. ft. (0.72 FAR) and an existing non-complying side yard with a width of 5'-2" along the northern lot line; and

WHEREAS, the applicant notes that the existing home was constructed when the site was located in an R3-2 zoning district, which had a minimum lot width requirement of 18 feet and permitted semi-detached homes; and

WHEREAS, however, on October 13, 1991, the site was rezoned from R3-2 to R2X, which requires a minimum lot width of 30 feet, does not permit semi-detached homes, and requires two side yards with a minimum width of 2'-0" each and a total width of 10'-0"; and

WHEREAS, accordingly, the applicant states that due to its pre-existing non-conforming semi-detached use, any enlargement of the existing home is prohibited under ZR § 52-22; and

WHEREAS, the applicant proposes to construct an enlargement at the rear of the existing home, which will result in the following parameters: a floor area of 2,743 sq. ft. (0.98 FAR) (a base FAR of 0.85 is the maximum permitted, with a 20 percent attic bonus available to increase the maximum FAR to 1.02); a front yard with a depth of 15'-0" (a front yard with a minimum depth of 15'-0" is required); a side yard with a

minimum width of 5'-2" along the northern lot line, and no side yard along the southern lot line (two side yards with a minimum width of 2'-0" each and a total width of 10'-0" are required); a rear yard with a depth of 26'-4" (a rear yard with a minimum depth of 20'-0" is required); a perimeter wall height of 21'-0" (the maximum permitted perimeter wall height is 21'-0"); and a total height of 30'-8" (the maximum permitted total height is 35'-0"); and

WHEREAS, the applicant states that the proposed enlargement increases the degree of non-conformance for the semi-detached home, and increases the degree of side yard non-compliance by extending the existing non-complying side yard along the northern lot line; and

WHEREAS, the applicant notes that although the as-of-right floor area for the site is 2,858 sq. ft. (1.02 FAR), a floor area waiver is necessary because the narrow lot size prevents the applicant from adding the full 20 percent floor area bonus available under a sloping roof within an R2X zoning district as-of-right; and

WHEREAS, the applicant states that requested relief is necessary, for reasons stated below; thus, the instant application was filed; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying zoning regulations: the site's narrow width and the practical difficulties associated with enlarging the existing semi-detached home; and

WHEREAS, the applicant states that the existing semi-detached home was constructed in approximately 1925 and has a floor area of 2,012 sq. ft. (0.72 FAR), which is significantly less than what is permitted as-of-right; and

WHEREAS, as noted above, because the subject home is an existing non-conforming semi-detached home, any enlargement of the home is considered a structural alteration which is prohibited pursuant to ZR § 52-22; and

WHEREAS, the applicant represents that the subject home is one of only four semi-detached homes out of approximately 314 buildings in the subject R2X district; and

WHEREAS, the applicant submitted an analysis of 67 lots on the surrounding blocks, which reflects that homes in the surrounding area have an average floor area of 2,835 sq. ft.; and

WHEREAS, the analysis provided by the applicant further reflects that there is only one lot in the study area with a lot area less than that of the subject site, and 96 percent of the lots surveyed have lot areas of at least 3,000 sq. ft., which would allow for an as-of-right home with a floor area of at least 3,060 sq. ft.; and

WHEREAS, the applicant states that the existing home, with a lot area of only 2,802 sq. ft. and a floor area of 2,012 sq. ft. (0.72 FAR), is not habitable as compared to other homes in the surrounding area; and

WHEREAS, accordingly, the applicant represents that the waiver of ZR § 52-22 is necessary to enlarge the existing undersized home; and

WHEREAS, as to the site's narrow width, the applicant states that the lot has an existing non-complying width of 23'-

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3”; and

WHEREAS, the applicant states that due to the narrow width of the lot, any enlargement on the site would be limited to 13’-3” in width, which would result in narrow, inefficient floor plates for the enlarged portion of the home, which would be significantly narrower than the existing home with a width of 18’-6”;

WHEREAS, therefore, the applicant requires a side yard waiver to allow for the proposed rear enlargement with a width of 15’-4” at the first floor and a width of 17’-11” at the second floor; and

WHEREAS, as to the uniqueness of this condition, the lot survey submitted by the applicant reflects that, of the 67 lots included in the study, there is only one lot which is narrower than the subject lot; and

WHEREAS, the lot survey further reflects that the average lot width in the surrounding area is approximately 33 feet, which is almost ten feet wider than the width of the subject lot; and

WHEREAS, the applicant notes that the minimum required lot width in the subject zoning district is 30 feet, which would allow for a home with a width of 20 feet after providing the minimum required side yards; therefore, the requested side yard waiver would allow for an enlargement with a width similar to that of other homes in the surrounding area; and

WHEREAS, the applicant represents that the requested floor area waiver is necessary because the home cannot be built to the maximum permitted FAR due to the narrow lot condition, which prevents the addition of usable floor area under a sloping roof, which is required to obtain the 20 percent attic bonus permitted in the subject R2X district; and

WHEREAS, specifically, the applicant states that the existing zoning allows for a home with a floor area of 2,858 sq. ft. (1.02 FAR with attic bonus), and represents that the floor area waiver to accommodate the proposed home with a floor area of 2,743 sq. ft. (0.98 FAR) allows the applicant to utilize a portion of the 20 percent attic floor area bonus it would be permitted as-of-right if not for the narrow width of the lot; and

WHEREAS, the applicant concludes that the requested waivers of use, side yards, and floor area requirements are necessary to develop the site with a habitable home; and

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

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

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, or impact adjacent uses; and

WHEREAS, the applicant states that the bulk of the proposed home, which has a complying height, front yard, and rear yard, is compatible with nearby residential development; and

WHEREAS, the lot survey submitted by the applicant

reflects that nine of the 22 homes on the subject block have a floor area at or above the proposed 2,743 sq. ft., and all except one of these homes can be developed with a floor area of more than 2,743 sq. ft.; and

WHEREAS, the lot survey further reflects that 16 of the 22 homes on the subject block can be developed to a width of greater than 18 feet as-of-right; and

WHEREAS, the applicant states that the proposed width of the home is consistent with the character of the surrounding neighborhood, wherein the majority of homes are able to provide complying side yards and still develop a home with a width of at least 20’-0”;

WHEREAS, accordingly, the applicant represents that the proposed enlargement, which results in a home with a floor area of 2,743 sq. ft. (0.98 FAR) and maintains the existing maximum width of 18’-6”, is consistent with the size of other homes in the area; and

WHEREAS, the applicant submitted letters of support for the proposal from more than 40 neighbors in the surrounding area, including the adjacent neighbor to the north of the site, at 953 East 7<sup>th</sup> Street; and

WHEREAS, at hearing, the Board raised concerns about the proposed 2’-7” overhang above the first floor along the northern side of the enlargement; and

WHEREAS, in response, the architect submitted a maneuverability plan reflecting that building the first and second floor flush along this portion of the enlargement would create difficulty in maneuvering a vehicle into and out of the garage located at the rear of the site, due to the limited width (4’-4”) that would be available; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is a result of the site’s unique physical conditions; and

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 72-21 to permit, in an R2X zoning district within the Special Ocean Parkway District, the enlargement of an existing semi-detached single-family home that does not comply with the underlying zoning district regulations for use, floor area, and side yards, contrary to ZR §§ 22-11, 23-141, 23-461, and 52-22; *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 August 15, 2011”–(9) sheets; and *on further condition*:

THAT the parameters of the proposed building shall be as follows: a maximum floor area of 2,743 sq. ft. (0.98

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FAR); and a side yard of with a minimum width of 5'-2" along the northern lot line, as per the BSA-approved plans;

THAT there shall be no habitable room in 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 the approved plans shall be considered approved only for the portions related to the specific relief granted;

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

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, September 27, 2011.

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## 60-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Zvi Turk and Miriam Turk, owners.

SUBJECT – Application May 5, 2011 – Special Permit (§73-622) for the enlargement of existing single family home, contrary to floor area and open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1214 East 29<sup>th</sup> Street, west side of East 29<sup>th</sup> Street and Avenue L, Block 7646, Lot 52, 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 .....5

Negative:.....0

**THE RESOLUTION** –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 5, 2011, acting on Department of Buildings Application No. 320285197, reads in pertinent part:

Proposed plans are contrary to Z.R. 23-141(a) in that the proposed floor area ratio (FAR) exceeds the permitted 50%.

Proposed plans are contrary to Z.R. 23-141(a) in that the proposed open space ratio (OSR) is less than the required 150%.

Plans are contrary to Z.R. 23-461(a) in that the existing minimum side yard is less than the required minimum 5'-0".

Proposed plans are contrary to Z.R. 23-47 in that the proposed rear yard is less than 30'-0"; and

WHEREAS, this is an application under ZR §§ 73-622

and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR"), open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on July 26, 2011, after due notice by publication in *The City Record*, with a continued hearing on August 23, 2011, and then to decision on September 27, 2011; and

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

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

WHEREAS, the subject site is located on the west side of East 29<sup>th</sup> Street, between Avenue L and Avenue M, within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 3,000 sq. ft., and is occupied by a single-family home with a floor area of 2,049 sq. ft. (0.68 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,049 sq. ft. (0.68 FAR) to 3,000 sq. ft. (1.0 FAR); the maximum permitted floor area is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of 58 percent (150 percent is the minimum required); and

WHEREAS, the applicant proposes to maintain the existing side yard along the northern lot line with a width of 2'-9", and to maintain the existing side yard along the southern lot line with a width of 6'-11" (two side yards with a minimum width of 5'-0" and 8'-0", respectively, are required); and

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

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, and will not impair the future use or development of the surrounding area; 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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received August 9, 2011"-(12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,000 sq. ft. (1.0 FAR); a minimum open space ratio of 58 percent; a side yard with a minimum width of 2'-9" along the northern lot line; a side yard with a minimum width of 6'-11" along the southern lot line; and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

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

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

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 the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 27, 2011.

## 221-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Chris Xu, owner.  
SUBJECT – Application August 28, 2008 – Variance (§72-21) to permit the development of a transient hotel, contrary to district use regulations. M2-1 zoning district.

PREMISES AFFECTED – 34-08 Collins Place, north side of Collins Place, 34<sup>th</sup> Avenue, College Point Boulevard and 35<sup>th</sup> Avenue, Block 4945, Lot 34, Borough of Queens.

### COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Richard Lobel.

For Opposition: Laura Imperiale, Kevin McDermott and Beverly McDermott.

## THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to November 1, 2011, at 1:30 P.M., for decision, hearing closed.

## 31-10-BZ

APPLICANT – Eric Palatnik, P.C., for 85-15 Queens Realty, LLC, owner.

SUBJECT – Application March 16, 2010 – Variance (§72-21) to allow for a commercial building, contrary to use (§22-00), lot coverage (§23-141), front yard (§23-45), side yard (§23-464), rear yard (§33-283), height (§23-631) and location of uses within a building (§32-431) regulations. C1-2/R6, C2-3/R6, C1-2/R7A, R5 zoning districts.

PREMISES AFFECTED – 85-15 Queens Boulevard, aka 51-35 Reeder Street, north side of Queens Boulevard, between Broadway and Reeder Street, Block 1549, Lot 28, 41, Borough of Queens.

### COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to November 15, 2011, at 1:30 P.M., for adjourned hearing.

## 230-10-BZ

APPLICANT – Eric Palatnik, P.C., for Leonid Fishman, owner.

SUBJECT – Application December 17, 2010 – Special Permit (§73-622) for the enlargement of a single family home, contrary to open space, lot coverage and floor area (§23-141(b)) and perimeter wall height (§23-631(b)). R3-1 zoning district.

PREMISES AFFECTED – 177 Kensington Street, Oriental Boulevard and Kensington Street, Block 8754, Lot 78, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Janna Kolfman, Laura Krasner and Jerome Fox.

## THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to October 25, 2011, at 1:30 P.M., for decision, hearing closed.

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## 235-10-BZ

APPLICANT – Paul J. Proulux, Esq., c/o Cozen O’Connor, for Avenue K Corporation, owner; TD Bank c/o Facilities Department, lessees.

SUBJECT – Application December 30, 2010 – Variance (§72-21) to allow a commercial use in a residential zone, contrary to use regulations (§22-00). R3-2 zoning district. PREMISES AFFECTED – 2363 Ralph Avenue, corner of Ralph Avenue and Avenue K, Block 8339, Lot 1, Borough of Brooklyn.

### COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Paul J. Proulux.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to November 1, 2011, at 1:30 P.M., for decision, hearing closed.

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## 17-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Mr. David Mizrahi, owners.

SUBJECT – Application February 23, 2011 – Special Permit (§73-622) for the enlargement of an existing two family residence, to be converted to a single family residence, contrary to floor area, lot coverage and open space (§23-141(b)) and rear yard (§23-47) regulations. R4/OP zoning district.

PREMISES AFFECTED – 2255 East 2<sup>nd</sup> Street, East side of East 2nd Street, approximately 145 feet south of Gravesend Neck Road. Block 7154, Lots 71 & 72, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to November 1, 2011, at 1:30 P.M., for decision, hearing closed.

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## 21-11-BZ

APPLICANT – Eric Palatnik, P.C., for 1810-12 Voorhies Avenue, LLC, owner.

SUBJECT – Application February 28, 2011 – Special Permit (§73-44) to permit the reduction in required parking for an ambulatory or diagnostic treatment facility. C1-2/R4 zoning district.

PREMISES AFFECTED – 1810 Voorhies Avenue, south side of Voorhies Avenue, between East 19<sup>th</sup> Street and Sheepshead Bay Road, Block 8772, Lot 3, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to November 1, 2011, at 1:30 P.M., for adjourned hearing.

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## 31-11-BZ

APPLICANT – Goldman Harris LLC, for Bronx Sheperds Restoration Corporation, owner.

SUBJECT – Application March 28, 2011 – Variance (§72-21) to allow a mixed use community facility and commercial building, contrary to use (§32-12), floor area (§33-123), rear yard (§33-292), and height and setback (§33-432) regulations. C8-3 zoning district.

PREMISES AFFECTED – 1665 Jerome Avenue, west side of Jerome Avenue between Featherbed Lane and Clifford Lane, Block 2861, Lot 35, Borough of Bronx.

### COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Vivien R. Krieger.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to December 13, 2011, at 1:30 P.M., for decision, hearing closed.

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## 35-11-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Congregation Othel, owners.

SUBJECT – Application March 31, 2011– Variance (§72-21) to allow for the enlargement of an existing synagogue (*Congregation Ohel*), contrary to floor area, lot coverage (§24-11), front yard (§24-34), side yard (§24-35), rear yard (§24-36) and parking (§25-31). R2A zoning district.

PREMISES AFFECTED – 226-10 Francis Lewis Boulevard, 1,105’ west of Francis Lewis Boulevard, Block 12825, Lot 149, Borough of Queens.

### COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Fredrick A. Becker.

For Opposition: Council Member Leroy Comrie, Assembly Member Barbara M. Clark, Lawrence McClellan, Community Board 13, Kelli Singleton, Steven Taylor, Marlene Tapper, Michael Durrer, Edgar Moore, Jeanne Richardson, Doris Bodine, Euclid C. Jordan, Mivtrieg Belgrove, Ruth Hunt, Senora O’Neal, Jean Alexander, Gregory Guezlen, Elain Wallace and Ann Miller.

**ACTION OF THE BOARD** – Laid over to December 13, 2011, at 1:30 P.M., for continued hearing.

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## **43-11-BZ**

APPLICANT – Harold Weinberg, for David Waknin, owner.

SUBJECT – Application April 12, 2011 – Special Permit (§73-622) for the enlargement of an existing two family home to be converted to a single family home contrary to floor area, lot coverage and open space (§23-141), side yard (§23-461) and less than the required rear yard (§23-47). R3-2 zoning district.

PREMISES AFFECTED – 1296 East 21<sup>st</sup> Street, west side 220' south of Avenue R, between Avenues R and S, Block 6826, Lot 19, Borough of Brooklyn.

### **COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Frank Sellitto.

**ACTION OF THE BOARD** – Laid over to October 25, 2011, at 1:30 P.M., for continued hearing.

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## **67-11-BZ**

APPLICANT – Sheldon Lobel, P.C., for Joseph Kleinman, owner.

SUBJECT – Application May 13, 2011 – Special Permit (§73-622) for the enlargement of existing single family home, contrary to floor area and open space (§23-141) side yard and (§23-47) rear yard. R-2 zoning district.

PREMISES AFFECTED – 1430 East 29<sup>th</sup> Street, West side of 29th Street between Avenue N and Kings Highway. Block 7682, Lot 60, Borough of Brooklyn.

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

APPEARANCES –

For Applicant: Jordan Most.

**ACTION OF THE BOARD** – Laid over to November 3, 2011, at 1:30 P.M., for continued hearing.

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## **74-11-BZ**

APPLICANT – James Chin & Associates, LLC, for 1058 Forest Avenue Associates, owners.

SUBJECT – Application May 25, 2011 – Variance (§72-21) to allow the conversion of a community facility building for office use, contrary to use regulations. R3-2 & R-2 zoning district.

PREMISES AFFECTED – 1058 Forest Avenue, southeast intersection of Forest Avenue and Manor Road in West Brighton, Block 315, Lot 29, Borough of Staten Island.

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

APPEARANCES –

For Applicant: Mindy Chin.

**ACTION OF THE BOARD** – Laid over to November 1, 2011, at 1:30 P.M., for continued hearing.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

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## \*CORRECTION

This resolution adopted on March 13, 2007, under Calendar No. 237-06-BZ and printed in Volume 92, Bulletin No. 12, is hereby corrected to read as follows:

### 237-06-BZ

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

SUBJECT – Application September 12, 2006 – Special Permit (§73-622) for the enlargement of a single family semi-detached residence. This application seeks to vary open space and floor area (§23-141(a)); side yard (§23-461) and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1462 East 26<sup>th</sup> Street, west side 333'-7" north of the intersection formed by East 26<sup>th</sup> Street and Avenue O, Block 7679, Lot 79, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

#### APPEARANCES –

For Applicant: Yosef Gottdiener.

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

#### THE VOTE TO GRANT –

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

#### THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 12, 2007, acting on Department of Buildings Application No. 302216395, reads in pertinent part:

“Proposed extension of existing one-family dwelling is contrary to:

- ZR Sec 23-141(a) Floor Area Ratio
- ZR Sec 23-141 (a) Open Space Ratio
- ZR Sec 23-461 Side Yard
- ZR Sec 23-47 Rear Yard.”;

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a single-family semi-detached dwelling, which does not comply with the zoning requirements for floor area, FAR, open space ratio, and side and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on February 6, 2007 after due notice by publication in *The City Record*, with a continued hearing on February 27, 2007, and then to decision on March 13, 2007; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Vice-Chair Collins and Commissioner Hinkson; and

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

WHEREAS, three neighbors, including the adjacent neighbor, submitted forms of consent in support of this application; and

WHEREAS, the subject lot is located on the west side of East 26<sup>th</sup> Street, between Avenue N and Avenue O; and

WHEREAS, the subject lot has a total lot area of 2,120.83 sq. ft., and is occupied by a 1,240.12 sq. ft. (.58 FAR) single-family home; and

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

WHEREAS, the applicant seeks an increase in the floor area from 1,240.12 sq. ft. (.58 FAR) to 2,146.87 sq. ft. (1.01 FAR); the maximum floor area permitted is 1,060.42 sq. ft. (.50 FAR); and

WHEREAS, the proposed enlargement will decrease the open space ratio from 117 percent to 53 percent (a minimum open space ratio of 150 percent is required); and

WHEREAS, the proposed enlargement will maintain the existing 5'-0" and 0'-0" side yards (side yards with a minimum total width of 13'-0" and a minimum width of 5'-0" for one are required); and

WHEREAS, the Board notes that the semi-detached home, with a single 5'-0" side yard, was constructed in 1925 and is therefore an existing legal non-conforming building; semi-detached homes are not permitted in R2 zoning districts; and

WHEREAS, the proposed enlargement will reduce the rear yard from 43'-3" to 24'-0" (the minimum rear yard required is 30'-0"); and

WHEREAS, the enlargement of the building into the rear yard is not located within 20'-0" of the rear lot line; and

WHEREAS, the proposed enlargement will be two stories and an attic and will be located at the rear of the existing home and above the existing second floor; and

WHEREAS, initially, the applicant proposed a total height of 35'-0"; and

WHEREAS, at hearing, the Board asked the applicant to reduce the height and re-design the slope of the roof above the second floor so as to be more compatible with adjacent homes; and

WHEREAS, in response, the applicant reduced the total height to 34'-10¼"; and

WHEREAS, additionally, the applicant re-designed the slope of the roof above the second floor so that it matches the adjacent homes; and

WHEREAS, the applicant submitted a streetscape which reflects that the revised roof plan is compatible with adjacent homes; and

WHEREAS, at hearing, the Board asked the applicant if the rear of the home could have a more efficient layout; and

WHEREAS, the applicant responded that the narrow width of the lot results in layout constraints; and

WHEREAS, the Board notes that the FAR increase is comparable to other FAR increases that the Board has granted through the subject special permit for lots of comparable size in the subject zoning district; and

WHEREAS, accordingly, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the

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future use and development of the surrounding area; and

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

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

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

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a single-family semi-detached dwelling, which does not comply with the zoning requirements for FAR, floor area, open space ratio, and side and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received December 11, 2006”-(4) sheets, “February 5, 2007”-(2) sheets and “February 13, 2007”-(4) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the floor area in the attic shall be limited to 282.73 sq. ft.;

THAT the above condition shall be set forth in the certificate of occupancy;

THAT the following shall be the bulk parameters of the building: a total floor area of 2,146.87 sq. ft., a total FAR of 1.01, a total height of one side yard of 5'-0", a rear yard of 24'-0", a total height of 34'-10¼", a perimeter wall height of 22'-8½", and an open space ratio of 53 percent, as illustrated on the BSA-approved plans;

THAT the use and layout of the cellar shall be as approved by DOB;

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

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

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

Adopted by the Board of Standards and Appeals, March 13, 2007.

**\*The resolution has been corrected to reflect the perimeter wall and total height from the street level rather than the elevation, consistent with BSA practice regarding height measurements. Corrected in Bulletin No. 40, Vol. 96, dated October 5, 2011.**