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# BULLETIN

OF THE  
NEW YORK CITY BOARD OF STANDARDS  
AND APPEALS

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

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Volume 96, Nos. 36-38

September 22, 2011

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## DIRECTORY

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Tuesday, September 13, 2011**

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**Affecting Calendar Numbers:**

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302-06-BZ	1791 Ocean Parkway, Brooklyn
677-53-BZ	61-26/30 Fresh Meadow Lane, Queens
329-59-BZ	910-924 Ninth Avenue, aka 22-44 West 60 <sup>th</sup> Street, Manhattan
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1045-64-BZ	300-330 East 33 <sup>rd</sup> Street, Manhattan
624-68-BZ	188-07 Northern Boulevard, Queens
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351-05-BZ	146 Conover Street, Brooklyn
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13-09-BZ	5611 21 <sup>st</sup> Street, Brooklyn
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219-10-A	74-76 Adelphi Street, Brooklyn
69-11-A & 70-11-A	88-11 & 88-13 173 <sup>rd</sup> Street, Queens

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**Affecting Calendar Numbers:**

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51-11-BZ	1226 East 26 <sup>th</sup> Street, Brooklyn
65-11-BZ	1750 East Gun Hill Road, Bronx
68-11-BZ	1636 East 23 <sup>rd</sup> Street, Brooklyn
230-09-BZ	1700 White Plain Road, Bronx
194-10-BZ	175 Exeter Street, Brooklyn
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Correction .....600

**Affecting Calendar Number:**

19-11-BZ	1271 East 24 <sup>th</sup> Street, Brooklyn
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# DOCKET

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New Case Filed Up to September 13, 2011  
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**123-11-BZ**

350 Amsterdam Avenue, west side Amsterdam Avenue between West 76th Street and West 77th Street., Block 1168, Lot(s) 1001/7501, Borough of **Manhattan, Community Board: 07**. Special Permit (ZR §73-36) to allow the operation of a physical culture establishment (SoulCycle). C2-7A & C4-6A zoning districts. C2-7A & C4-6A district.  
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**124-11-BZ**

2488 Grand Concourse, located on the east side of Grand Concourse between East 188th Street and Fordham Road., Block 3153, Lot(s) 9, Borough of **Bronx, Community Board: 05**. C4-4 district.  
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**125-11-A**

514-516 East 6th Street, south side of East 6th Street, between Avenue A and Avenue B., Block 401, Lot(s) 17, 18, Borough of **Manhattan, Community Board: 03**. Appeal challenging Department of Buildings determination denying the reinstatement of permits that allowed the enlargement to the existing building . R7B zoning district . R7B district.  
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**126-11-BZ**

87-89 Chambers Street, midblock bounded by Chambers Street, Church Street, Reade Street and Broadway., Block 149, Lot(s) 7, Borough of **Manhattan, Community Board: 01**. 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 Section 23-145 and 23-532, respectively, and the accessory off-street parking regulations of Z.R. 13-00. C6-3A Tribeca district.  
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**127-11-BZ**

11-38 Foam Place, east side of Foam Place between Central Avenue and Beach 18th Street., Block 15545, Lot(s) 19, Borough of **Queens, Community Board: 14**. Variance (ZR 72-21) to allow for the construction of a new residential building, contrary to rear yard required pursuant to ZR 23-47, and a side yard at grade adjacent to a zoning district boundary required pursuant to ZR 34-233. C4-2 district.  
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**128-11-BZ**

1860 East 23rd Street, west side of East 23rd Street, between Avenue R and Avenue S., Block 6828, Lot(s) 31, Borough of **Brooklyn, Community Board: 15**. Application filed pursuant to Section 73-622 of the Zoning Resolution, as amended, to request a special permit to allow the enlargement of a single family residence located in a residential (R3-2) zoning district. R3-2 district.  
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**129-11-BZ**

465 Carroll Street, north side of Carroll Street, 100' from the corner of 3rd Avenue., Block 447, Lot(s) 43, Borough of **Brooklyn, Community Board: 06**. Variance (ZR 72-21) to allow for the construction of a residential building contrary to use regulations. M1-2 zoning district M1-2 district.  
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**130-11-BZ**

3600 Bedford Avenue, west side of Bedford Avenue, between Avenue N and Avenue O., Block 7678, Lot(s) 90, Borough of **Brooklyn, Community Board: 14**. Application filed pursuant to Section 73-622 of the Zoning Resolution, as amended, to request a special permit to allow the enlargement of a single family residence in a residential (R2) zoning district. R2 district.  
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**131-11-A**

464 Arthur Kill Road, 249.79' west of intersection of Arthur Kill Road and Giffords Lane., Block 5450, Lot(s) 35, Borough of **Staten Island, Community Board: 03**. Proposed construction of three two story dwellings with parking located within the bed of a mapped street Pemberton Avenue contrary to General City Law Section 35 . R3-1 Zoning District . Companion cases 132-11-A & 133-11-A R3-1 district.  
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**132-11-A**

468 Arthur Kill Road, west of intersection of Arthur Kill Road and Giffords Lane, Block 5450, Lot(s) 36, Borough of **Staten Island, Community Board: 03**. Proposed construction of three two story dwellings with parking located within the bed of a mapped street Pemberton Avenue contrary to General City Law Section 35 . R3-1 Zoning District . Companion cases 131-11-A & 133-11-A R3-1 district.  
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# DOCKET

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## 133-11-A

120 Pemberton Avenue, 249.79' west of intersection of Arthur Kill Road and Giffords Lane., Block 5450, Lot(s) 37, Borough of **Staten Island, Community Board: 03**. Proposed construction of three two story dwellings with parking located within the bed of a mapped street Pemberton Avenue contrary to General City Law Section 35 . R3-1 Zoning District . Companion cases 131-11-A & 132-11-A R3-1 district.

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## 134-11-BZ

335 Madison Avenue, corner of Madison Avenue and East 43rd Street., Block 1278, Lot(s) 20, Borough of **Manhattan, Community Board: 05**. Special Permit (ZR §73-36) to allow the operation of a physical culture establishment (Spa Castle). C5-3 zoning district. C5-3 district.

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## 135-11-BZ

2080 Clove Road, southwest corner of Clove Road and Giles Place., Block 3162, Lot(s) 22, Borough of **Staten Island, Community Board: 02**. Variance (ZR 72-21) to allow for the construction of a commercial use UG6, contrary to use regulations, ZR 22-00. R3-2 district.

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## 136-11-A

2080 Clove Road, southwest corner of Clove Road and Giles Place., Block 3162, Lot(s) 22, Borough of **Staten Island, Community Board: 02**. Application to permit proposed use group 6 development which is located within the mapped but not built portion of a mapped street (Clove Road and Sheridan Avenue) which is contrary to General City Law Section 35. R3-2 Zoning District. Companion application filed under 135-11-BZ for a variance under 72-21 . R3-2 district.

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## 137-11-BZ

455 Carroll Street, mid-block on the north side of Carroll Street between Nevins Street and Third Avenue., Block 447, Lot(s) 47, Borough of **Brooklyn, Community Board: 06**. Variance (ZR 72-21) to allow for the conversion of the second floor and second floor mezzanine of the building from manufacturing and commercial uses to residential use, contrary to ZR 42-10. M1-2 district.

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## 138-11-A

64-01 Woodside Avenue, north side of Woodside Avenue, between 64th and 65th Street., Block 1296, Lot(s) 75, Borough of **Queens, Community Board: 02**. Appeal seeking a common law vested right to complete construction under the prior R6 zoning district regulations . R5D zoning district. R5D district.

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## 139-11-A

63 Hillside Avenue, south side Hillside Avenue, east of mapped Beach 178th Street., Block 16340, Lot(s) 50, Borough of **Queens, Community Board: 14**. Proposed reconstruction and enlargement to the existing single dwelling partially in the bed of the mapped street 12th Avenue is contrary to Article 3, Section 35 of the General City Law. R4 zoning district . R4 district.

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## 140-11-A

69-17 38th Avenue, north side of 38th Avenue, between the BQE and 69th Street., Block 1282, Lot(s) 64, Borough of **Queens, Community Board: 02**. Appeal seeking a common law vested right to complete construction under the prior R6 zoning district regulations . R5D zoning district. R5D district.

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## 141-11-A

69-19 38th Avenue, north side of 38th Avenue, between the BQE and 69th Street., Block 1282, Lot(s) 65, Borough of **Queens, Community Board: 02**. Appeal seeking a common law vested right to complete construction under the prior R6 zoning district regulations. R5D zoning district. R5D district.

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## 142-11-BZ

207 West 75th Street, north side of West 75th Street, between Broadway and Amsterdam Avenue., Block 1167, Lot(s) 28, Borough of **Manhattan, Community Board: 07**. Variance (ZR 72-21) to allow for a new residential building contrary to height and setback, rear setback and lot coverage requirements. C4-6A zoning district. C4-6A 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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**SEPTEMBER 27, 2011, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, September 27, 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**

**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**

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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**

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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 previously granted 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**

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**APPEALS CALENDAR**

**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 to continue development under prior zoning district. 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**

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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 a 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**

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**SEPTEMBER 27, 2011, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, September 27, 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**

**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**

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# CALENDAR

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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**

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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 for 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**

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*Jeff Mulligan, Executive Director*

# MINUTES

## REGULAR MEETING TUESDAY MORNING, SEPTEMBER 13, 2011 10:00 A.M.

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

### SPECIAL ORDER CALENDAR

#### 662-56-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for  
Flatbush Holdings LLC, owner.

SUBJECT – Application April 6, 2011 – Extension of Term  
(§11-411) of a previously approved variance which  
permitted a public parking lot (UG 8), which expired on  
January 23, 2011; Waiver of the Rules. C1-2/R5 zoning  
district.

PREMISES AFFECTED – 3875 Flatbush Avenue,  
Northerly side of Flatbush Avenue, 100' east of the  
intersection of Flatlands Avenue. Block 7821, Lots 21, 23.  
Borough of Brooklyn.

#### COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Todd Dale.

**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

**RESOLUTION** –

WHEREAS, this is an application for a waiver of the  
Rules of Practice and Procedure, a reopening, and an  
extension of the term for a previously granted variance for  
the operation of a Use Group 8 parking lot; and

WHEREAS, a public hearing was held on this  
application on June 14, 2011, after due notice by publication  
in *The City Record*, with continued hearings on July 12,  
2011 and August 16, 2011, and then to decision on September  
13, 2011; and

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

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

WHEREAS, the subject site is located on the north side  
of Flatlands Avenue, between Flatbush Avenue and Harden  
Street, partially within a C1-2 (R5) zoning district and partially  
within an R5 zoning district; and

WHEREAS, the site consists of two tax lots, with the  
subject open parking lot occupying the entirety of tax lot 21  
and the eastern portion of tax lot 23; the remainder of tax lot 23  
is occupied by a one-story retail building fronting on Flatbush

Avenue; and

WHEREAS, the Board has exercised jurisdiction over  
the site since February 26, 1957 when, under the subject  
calendar number, the Board granted a variance to permit the  
site to be occupied for the parking of motor vehicles, for a term  
of five years; and

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

WHEREAS, most recently, on January 23, 2001, the  
Board granted a ten-year extension of term, which expired on  
January 23, 2011; and

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

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

WHEREAS, at hearing, the Board directed the applicant  
to make the existing fence 100 percent opaque in order to  
provide a buffer between the subject parking lot and the  
adjacent residential uses, and to ensure that all exterior lighting  
would be directed downward and away from the adjacent  
residences; and

WHEREAS, in response, the applicant submitted revised  
plans reflecting that the fence will be 100 percent opaque; 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 *waives* the Rules of Practice and Procedure, *reopens*  
and *amends* the resolution, dated February 26, 1957, so that as  
amended this portion of the resolution shall read: “to extend  
the term for ten years from January 23, 2011, to expire on  
January 23, 2021; *on condition* that all use and operations  
shall substantially conform to plans filed with this  
application marked ‘Received March 31, 2011’-(1) sheet;  
and *on further condition*:

THAT the term of the grant shall expire on January 23,  
2021;

THAT the fence separating the site from adjacent  
residences shall be 100 percent opaque, as illustrated on the  
BSA-approved plans;

THAT all exterior lighting shall be directed downward  
and away from adjacent residential uses;

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

THAT there shall be no overnight parking or storage of  
motor vehicles permitted on the site;

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

THAT all conditions from 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.”

(Alt. 2112/56)

Adopted by the Board of Standards and Appeals  
September 13, 2011.

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**586-87-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Frasca Real Estate Incorporated, owner; 65<sup>th</sup> Street Auto Service Center, Incorporated, lessee.

SUBJECT – Application April 5, 2011 – Extension of Term (§11-411) for the continued operation of an existing gasoline service station (*Emporium*) with lubritorium, auto repairs and the sale of new/used cars which expired on July 12, 2008; waiver of the rules. R5B/C2-3 zoning district.

PREMISES AFFECTED – 1302/12 65<sup>th</sup> Street, southeast corner of intersection of 65<sup>th</sup> Street and 13<sup>th</sup> Avenue, Block 5754, Lot 8, Borough of Brooklyn.

**COMMUNITY BOARD #10BX**

APPEARANCES –

For Applicant: Todd Dale.

**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

RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of the term for a previously granted variance for the operation of a gasoline service station with lubritorium, auto repairs and the sale of cars; and

WHEREAS, a public hearing was held on this application on June 7, 2011, after due notice by publication in *The City Record*, with continued hearings on July 12, 2011 and August 16, 2011, and then to decision on September 13, 2011; and

WHEREAS, Community Board 10, Brooklyn, recommends approval of this application, with the following conditions: (1) that the sidewalks and curbs serving the site be kept in repair at the applicant’s expense; (2) that there be no repair or parking of vehicles on the sidewalk or in such a manner as to obstruct pedestrian or vehicular traffic; (3) that there be no razor ribbon or barbed wire installed on the fence surrounding the area used for storage and display of cars for sale; (4) that the premises be kept clean and free of graffiti; (5) that outdoor lighting be directed down and away from adjacent residences; (6) that no dogs be kept on the site; (7) that no automobile alarms be installed on the site; (8) that no seats, benches, or vending machines be installed or located outside the building on the site; and (9) that the hours of operation, except for gasoline sales, be limited to 8:00 a.m. to 6:00 p.m., seven days per week; and

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

WHEREAS, the subject site is located on the southeast corner of 65<sup>th</sup> Street and 13<sup>th</sup> Avenue, within a C2-3 (R5B) zoning district; and

WHEREAS, the site is occupied by a gasoline service station with lubritorium, auto repairs, and the sale of cars; and

WHEREAS, the Board has exercised jurisdiction over the site since October 22, 1957 when, under BSA Cal. No. 449-41-BZ, the Board granted a variance to permit the site to be occupied by a gasoline service station with accessory uses, for a term of 15 years; and

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

WHEREAS, on July 12, 1988, under the subject calendar number, the Board permitted the reestablishment of the variance for a gasoline service station, lubritorium, minor motor vehicle repairs with hand tools only, non-automatic car laundry, sales place for automobile accessories, parking of motor vehicles awaiting service and an office, and legalized the addition of the sales and display of used cars, for a term of ten years; and

WHEREAS, most recently, on July 25, 2000, the Board granted an extension of term and an amendment to permit a modification of the site layout, which expired on July 12, 2008; and

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

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

WHEREAS, at hearing, the Board directed the applicant to: (1) remove the advertising sign located at the southeast portion of the site and bring the site in compliance with the underlying C2 district signage regulations; and (2) remove the boat from the site and provide an affidavit from the owner stating that boat sales and storage will not be permitted on the site; and

WHEREAS, in response, the applicant submitted photographs, revised plans, and a signage analysis reflecting that the advertising sign has been removed and that the proposed signage complies with C2 regulations, and submitted an affidavit from the owner stating that the boat has been removed from the site and that neither boat sales nor boat storage will be permitted on the site; and

WHEREAS, as to the concerns raised by the Community Board, the applicant states that the site is in compliance with all of the Community Board’s conditions, and submitted a chart reflecting that the site is also in compliance with all other relevant conditions from the Board’s previous grants; 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 *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated July 12, 1988, so that as amended this portion of the resolution shall read: “to extend the term for ten years from July 12, 2008, to expire on July 12, 2018; *on condition* that all use and operations shall substantially conform to plans filed with this application marked ‘Received July 6, 2011’-(1) sheet and ‘August 8, 2011’-(1) sheet; and *on further condition*:

THAT the term of the grant shall expire on July 12, 2018;

THAT all signage on the site shall comply with C2

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district regulations;

THAT the sidewalks and curbs serving the site shall be kept in repair at the applicant's expense;

THAT there shall be no repair or parking of vehicles on the sidewalk or in such a manner as to obstruct pedestrian or vehicular traffic;

THAT there shall be no razor ribbon or barbed wire installed on the fence surrounding the area used for storage and display of cars for sale;

THAT the premises shall be kept clean and free of graffiti;

THAT outdoor lighting shall be directed down and away from adjacent residences;

THAT no dogs shall be kept on the site;

THAT no automobile alarms shall be installed on the site;

THAT no seats, benches, or vending machines shall be installed or located outside the subject building;

THAT the hours of operation, except for gasoline sales, shall be limited to 8:00 a.m. to 6:00 p.m., daily;

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

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

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

(Alt. 4641/1955)

Adopted by the Board of Standards and Appeals September 13, 2011.

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## 259-06-BZ

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

SUBJECT – Application July 11, 2011 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the enlargement of an existing one and two-story synagogue which expired on June 12, 2011. R-5 (OP) zoning district.

PREMISES AFFECTED – 1885-1891 Ocean Parkway, northeast corner of Ocean Parkway and Avenue S, Block 682, Lot 60, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman.

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

**THE VOTE TO GRANT** –

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

Negative:.....0

**RESOLUTION** –

WHEREAS, this is an application for a reopening and an extension of time to complete construction of a

previously granted variance to permit, in an R5 zoning district within the Special Ocean Parkway District, the enlargement of an existing one- and two-story synagogue, which expired on June 12, 2011; and

WHEREAS, a public hearing was held on this application on August 16, 2011, after due notice by publication in *The City Record*, and then to decision on September 13, 2011; and

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

WHEREAS, the subject site is located on the northeast corner of Ocean Parkway and Avenue S, in an R5 zoning district within the Special Ocean Parkway District; and

WHEREAS, the Board has exercised jurisdiction over the site since June 12, 2007 when, under the subject calendar number, the Board granted a variance to permit the proposed enlargement of an existing one- and two-story synagogue, which does not comply with applicable zoning requirements for floor area ratio, open space, lot coverage, side yards, front yards, wall height, setback, sky exposure plane, parking and landscaping, contrary to ZR §§ 23-141(b), 23-464, 23-662, 113-12, 23-45, 23-631, 25-18, 25-31 and 113-30; and

WHEREAS, substantial construction was to be completed by June 12, 2011, in accordance with ZR § 72-23; and

WHEREAS, the applicant states that due to financing delays, construction has not yet commenced on the site and 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 *reopens* and *amends* the resolution, dated June 12, 2007, 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, to expire on June 12, 2015; *on condition:*

THAT substantial construction shall be completed by June 12, 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. 302146997)

Adopted by the Board of Standards and Appeals, September 13, 2011.

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# MINUTES

## 302-06-BZ

APPLICANT – Harold Weinberg, for Mirrer Yeshiva, owner.

SUBJECT – Application July 8, 2011 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the construction of a mezzanine and a two-story enlargement over the existing two-story community facility building which expired on June 12, 2011. R6A in OP zoning district.

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

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg and Frank Sellitto.

**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

RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of time to complete construction of a previously granted variance to permit, in an R6A zoning district within the Special Ocean Parkway District, the enlargement of an existing yeshiva (Use Group 3) and synagogue (Use Group 4), which expired on June 12, 2011; and

WHEREAS, a public hearing was held on this application on August 16, 2011, after due notice by publication in *The City Record*, and then to decision on September 13, 2011; and

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

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

WHEREAS, the Board has exercised jurisdiction over the site since June 12, 2007 when, under the subject calendar number, the Board granted a variance to permit the proposed enlargement of an existing yeshiva (Use Group 3) and synagogue (Use Group 4), which does not comply with applicable zoning requirements for floor area ratio, front yards, setback, sky exposure plane, and perimeter wall and total height, contrary to ZR §§ 54-31, 113-51, 113-542, 23-631 and 24-11; and

WHEREAS, substantial construction was to be completed by June 12, 2011, in accordance with ZR § 72-23; and

WHEREAS, most recently, on July 22, 2008, the Board granted an amendment to permit a correction to the floor area calculations on the BSA-approved plans; and

WHEREAS, the applicant states that the proposed construction is approximately 40 percent complete, but 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 *reopens* and *amends* the resolution, dated June 12, 2007, 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, to expire on June 12, 2015; *on condition:*

THAT substantial construction shall be completed by June 12, 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. 301275046)

Adopted by the Board of Standards and Appeals, September 13, 2011.

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## 677-53-BZ

APPLICANT – Rothkrug Rothkrug & Spector, for James Marchetti, owner.

SUBJECT – Application April 22, 2010 – Extension of Term (§11-411) of a Variance for the operation of a UG16 Auto Body Repair Shop (*Carriage House*) with incidental painting and spraying which expired on March 24, 2007; Extension of Time to Obtain a Certificate of Occupancy which expired on January 13, 1999; Amendment (§11-412) to enlarge the building; Waiver of the Rules. R4/C2-2 zoning district.

PREMISES AFFECTED – 61-26/30 Fresh Meadow Lane, west side of Fresh Meadow Lane, 289’ northerly of the intersection with 65<sup>th</sup> Avenue, Block 6901, Lot 48, Borough of Queens.

### COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Todd Dale.

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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# MINUTES

## 329-59-BZ

APPLICANT – Mango & Iacoviello, LLP, for Coliseum Tenants Corporation c/o Punia & Marx, Incorporate, owner; Central Parking Systems of New York, Incorporated, lessee. SUBJECT – Application June 1, 2011 – Extension of Term for the continued operation of transient parking in a multiple dwelling which expired on November 4, 2008; an Extension of Time to obtain a Certificate of Occupancy which expired on January 15, 2003 and waiver of rules. R8/C6-6(MID) zoning district.

PREMISES AFFECTED – 910-924 Ninth Avenue aka 22-44 West 60<sup>th</sup> Street, Block 1049, Lot 1, Borough of Manhattan.

### COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Anthony Mango.

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.

## 502-60-BZ

APPLICANT – Patrick O' Connell P.E. for Raymond Edwards, owner; Angel R. Hernandez, lessee.

SUBJECT – Application February 23, 2011 – Extension of Term (§11-411) of a variance permitting the use of a parking lot (UG 8) for parking and storage of more than five (5) motor vehicles which expired on January 20, 2011. C2-4/R7-2 zoning district.

PREMISES AFFECTED – 4452 Broadway, Broadway & Fairview Avenue. Block 2170, Lot 62 & 400. Borough of Manhattan.

### COMMUNITY BOARD #12M

APPEARANCES – None.

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

## 1045-64-BZ

APPLICANT – Hal Dorfman, R.A., for Kips Bay Tower Associates, owner.

SUBJECT – Application June 10, 2011 – Extension of Term for the continued operation of transient parking which expired on June 21, 2011. R8 zoning district.

PREMISES AFFECTED – 300-330 East 33<sup>rd</sup> Street, Northwest corner of East 33rd Street and First Avenue. Block 936, Lot 7501. Borough of Manhattan.

### COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Robert A. Jacobs and Peter Hirshman.

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.

## 624-68-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for MMT Realty Associates LLC, owner.

SUBJECT – Application June 7, 2011 – Extension of Term of a Variance (§72-21) to permit wholesale plumbing supply (UG16), stores and office (UG6) which expired on January 13, 2011; Extension of Time to obtain a Certificate of Occupancy and waiver of the rules. R3-2 zoning district.

PREMISES AFFECTED – 188-07 Northern Boulevard, north side of Northern Boulevard between Utopia Parkway and 189<sup>th</sup> Street, Block 5364, Lots 1, 5, 7, Borough of Queens.

### COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Todd Dale.

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

## 742-70-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 830 Bay Street, LLC, owner.

SUBJECT – Application May 27, 2011 – Extension of Term of a Variance (§72-21) for the continued operation of an automotive service station which expired on May 18, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on February 26, 2009 and waiver of the rules. C1-1/R3-2 zoning district.

PREMISES AFFECTED – 830 Bay Street, southwest corner of Bay Street and Vanderbilt Avenue, Block 2836, Lot 15, Borough of Staten Island.

### COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Todd Dale.

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

## 118-95-BZ

APPLICANT – Carl A Sulfaro, for White Castle System, Incorporated, owner.

SUBJECT – Application April 11, 2011 – Extension of Term of a previously granted Special Permit (§73-243) for the continued operation of a drive-thru facility at an eating and drinking establishment (*White Castle*) which expires on July 25, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on May 22, 2008; Waiver of the rules. C1-2/R6 zoning district.

PREMISES AFFECTED – 89-03 57<sup>th</sup> Avenue, southeast corner of Queens Boulevard and 57th Avenue, Block 1845, Lot 45, Borough of Queens.

### COMMUNITY BOARD #4Q

APPEARANCES – None.

# MINUTES

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

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**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.

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 September 27, 2011, at 10 A.M., for decision, hearing closed.

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**51-07-BZ**

APPLICANT – Sheldon Lobel, P.C., for 70-50 Kissena Boulevard LLC, owner.

SUBJECT – Application May 26, 2011 – Amendment to a Variance (§72-21) to legalize the change of use from a (UG6) one-story retail building to a (UG3) community facility with changes to the exterior façade and interior layout. R4 zoning district.

PREMISES AFFECTED – 70-44/52 Kissena Boulevard, southeast corner of 70<sup>th</sup> Road and Kissena Boulevard, Block 6656, Lot 52, Borough of Queens.

**COMMUNITY BOARD #8Q**

APPEARANCES –

For Applicant: Josh Rinesmith.

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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**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.

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 September 27, 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: Mosh Friedman.

**ACTION OF THE BOARD** – Laid over to September 27, 2011, at 10 A.M., for continued hearing.

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**APPEALS CALENDAR**

**224-10-A**

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative, Incorporated, owners, John & Daniel Lynch, lessee.

SUBJECT – Application December 7, 2010 – Proposed reconstruction and enlargement not fronting on a legally mapped street contrary to General City Law Section 36 and the building and private disposal system is located within the bed of a mapped street contrary to General City Law Section 35 and Department of Buildings Policy. R4 Zoning District.

PREMISES AFFECTED – 173 Reid Avenue, east side of Reid Avenue 245.0 north of Breezy Point Boulevard. Block 16359, Lot 400, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES –

For Applicant: Joseph A. Sherry.

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

THE VOTE TO GRANT –

# MINUTES

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

Negative:.....0

## RESOLUTION –

WHEREAS, the decision of the Queens Borough  
Commissioner dated November 17, 2010, acting on  
Department of Buildings Application No. 420205405, reads in  
pertinent part:

A-1 - The proposed enlargement is on a site located  
partially in the bed of a mapped street  
therefore no permit or Certificate of  
Occupancy can be issued as per Art 3. Section  
35 of the General City Law.

A-2 - 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.

A-3 - The private disposal system is in the bed of a  
proposed mapped street contrary to  
Department of Buildings Policy; and

WHEREAS, a public hearing was held on this  
application on August 16, 2011, after due notice by publication  
in the *City Record*, with a continued hearing on September 13,  
2011, and then to closure and decision on the same date; and

WHEREAS, by letter dated August 1, 2011, the Fire  
Department states that it has reviewed the subject proposal and  
has no objections provided the following conditions are met:  
(1) the entire building be fully sprinklered in conformity with  
the sprinkler provisions of Local Law 10 of 1999 as well as  
Reference Standard 17-2B of the New York City Building  
Code; and (2) the entire building be provided with smoke  
alarms in accordance with Section 907.2.10 of the NYC  
Building Code; and

WHEREAS, in response, the applicant submitted revised  
plans reflecting that the entire building will be fully sprinklered  
and that hard-wired smoke detectors will be installed; and

WHEREAS, by letter dated December 30, 2010, the  
Department of Environmental Protection states it has reviewed  
the subject proposal and has no objections; and

WHEREAS, by letter dated April 11, 2011, the  
Department of Transportation (“DOT”) states it has reviewed  
the subject proposal and has no objections; and

WHEREAS, DOT further states that the applicant’s  
property is not included in the agency’s ten-year capital plan;  
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 November 17, 2010, acting on

Department of Buildings Application No. 420205405, is  
modified by the power vested in the Board by Section 35 and  
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 August 26, 2011” - 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 the home shall be sprinklered in accordance with  
the BSA-approved plans;

THAT hard wire smoke detectors shall be installed in  
accordance with the BSA-approved plans;

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,  
September 13, 2011.

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## 77-11-A

APPLICANT – Akerman Senterfitt LLP, for 3516  
Development LLC, owner.

SUBJECT – Application May 27, 2011 – Appeal seeking a  
determination that the property owner has acquired a  
common law vested right to continue development under the  
prior R6 zoning regulations. R6B zoning district.

PREMISES AFFECTED – 35-16 Astoria Boulevard, South  
side of Astoria Boulevard between 35th and 36th Streets.  
Block 633, Lots 39 & 140, Borough of Queens.

## COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Jessica Laser.

**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

## RESOLUTION –

WHEREAS, this is an appeal requesting a Board  
determination that the owner of the premises has obtained the  
right to complete construction of a six-story mixed-use  
residential/community facility building under the common law  
doctrine of vested rights; and

WHEREAS, this application was brought subsequent to a

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# MINUTES

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companion application under BSA Cal. No. 116-10-BZY, which was a request to the Board for a finding that the owner of the premises has obtained a right to continue construction pursuant to ZR § 11-331; and

WHEREAS, the Board notes that separate applications were filed and that the applicant withdrew the application for the statutory vested rights case on March 1, 2011; the record is the same for both cases; and

WHEREAS, a public hearing was held on this application on June 21, 2011, after due notice by publication in *The City Record*, with continued hearings on July 19, 2011 and August 16, 2011, and then to decision on September 13, 2011; 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 south side of Astoria Boulevard, between 35<sup>th</sup> Street and 36<sup>th</sup> Street, and has a lot area of 3,418 sq. ft.; and

WHEREAS, the applicant proposes to develop the site with a six-story mixed-use residential/community facility building with a floor area of 11,798 sq. ft. (3.4 FAR), and a height of 59'-10" (the "Building"); and

WHEREAS, the subject site is currently located within an R6B zoning district, but was formerly located within an R6 zoning district; and

WHEREAS, the Building complies with the former R6 zoning district parameters; specifically with respect to floor area and height; and

WHEREAS, however, on May 25, 2010 (the "Enactment Date"), the City Council voted to adopt the Astoria Rezoning, which rezoned the site to R6B, as noted above; and

WHEREAS, the Building does not comply with the R6B zoning district parameters as to floor area and height; and

WHEREAS, as a threshold matter in determining this appeal, the Board must find that the construction was conducted pursuant to a valid permit; and

WHEREAS, the applicant states that New Building Permit No. 420139843-01-NB (the "New Building Permit"), which authorized the development of a six-story mixed-use residential/community facility building pursuant to R6 zoning district regulations was issued on May 11, 2010; and

WHEREAS, the New Building Permit lapsed by operation of law on the Enactment Date because the plans did not comply with the new R6B zoning district regulations and the Department of Buildings ("DOB") determined that the Building's foundation was not complete; and

WHEREAS, by letter dated August 17, 2011, DOB stated that the New Building Permit was lawfully issued, authorizing construction of the Building prior to the Enactment Date; and

WHEREAS, the Board has reviewed the record and agrees that the New Building Permit was lawfully issued to the owner of the subject premises prior to the Enactment Date; and

WHEREAS, the Board notes that when work proceeds under a valid permit, a common law vested right to continue construction after a change in zoning generally exists if: (1) the owner has undertaken substantial construction; (2) the owner

has made substantial expenditures; and (3) serious loss will result if the owner is denied the right to proceed under the prior zoning; and

WHEREAS, specifically, as held in Putnam Armonk, Inc. v. Town of Southeast, 52 A.D.2d 10 (2d Dept. 1976), where a restrictive amendment to a zoning ordinance is enacted, the owner's rights under the prior ordinance are deemed vested "and will not be disturbed where enforcement [of new zoning requirements] would cause 'serious loss' to the owner," and "where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance"; and

WHEREAS, however, notwithstanding this general framework, as discussed by the court in Kadin v. Bennett, 163 A.D.2d 308 (2d Dept. 1990) "there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess 'a vested right'. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action"; and

WHEREAS, as to substantial construction, the applicant states that prior to the Enactment Date, the owner had completed 50 percent of the total work required for the foundation, consisting of the following: the excavation of 1,076 cubic yards of total fill, or 85 percent of the required excavation work, installation of 100 percent of the 32 required H-piles; installation of 100 percent of the 131.5 linear feet of shoring work; and the pouring of 93.29 cubic yards of concrete, or 35 percent of the concrete required for the foundation; and

WHEREAS, in support of this assertion, the applicant submitted the following evidence: photographs of the site showing the amount of work completed prior to the Enactment Date, concrete pour tickets, an excavation and foundation diagram, affidavits from the project manager and the owner, construction contracts, copies of cancelled checks, and invoices; and

WHEREAS, the applicant states that the site was not 100 percent excavated prior to the Enactment Date because approximately 190 cubic yards of total fill, or 15 percent, was kept in place to create a construction ramp to the site from curb level at Astoria Boulevard; thus, the applicant could not satisfy the threshold requirement of ZR § 11-331 that excavation be completed, and the applicant filed the subject application under the common law doctrine of vested rights; and

WHEREAS, the Board has reviewed the representations as to the amount and type of work completed before the Enactment Date and the documentation submitted in support of these representations, and agrees that it establishes that substantial work was performed; and

WHEREAS, the Board concludes that, given the size of the site, and based upon a comparison of the type and amount of work completed in this case with the type and amount of work discussed by New York State courts, a significant amount of work was performed at the site during the relevant period; and

# MINUTES

WHEREAS, as to expenditure, the Board notes that unlike an application for relief under ZR § 11-30 *et seq.*, soft costs and irrevocable financial commitments can be considered in an application under the common law and accordingly, these costs are appropriately included in the applicant's analysis; and

WHEREAS, the applicant states that prior to the Enactment Date, the owner expended \$228,692, including hard and soft costs and irrevocable commitments, out of \$1,686,550 budgeted for the entire project; and

WHEREAS, as proof of the expenditures, the applicant has submitted construction contracts, copies of cancelled checks, and invoices; and

WHEREAS, in relation to actual construction costs, the applicant specifically notes that the owner had paid or contractually incurred \$114,652 for the work performed at the site as of the Enactment Date, representing 50 percent of the foundation-related hard costs; and

WHEREAS, the applicant further states that the owner paid an additional \$114,040 in soft costs related to the work performed at the site as of the Enactment Date; and

WHEREAS, thus, the expenditures up to the Enactment Date represent approximately 14 percent of the projected total cost; and

WHEREAS, the Board considers the amount of expenditures significant, both for a project of this size, and when compared with the development costs; and

WHEREAS, again, the Board's consideration is guided by the percentages of expenditure cited by New York courts considering how much expenditure is needed to vest rights under a prior zoning regime; and

WHEREAS, as to serious loss, the Board considers not only whether certain improvements and expenditures could not be recouped under the new zoning, but also considerations such as the diminution in income that would occur if the new zoning were imposed and the reduction in value between the proposed building and the building permitted under the new zoning; and

WHEREAS, the applicant states that if the owner is not permitted to vest under the former R6 zoning, the floor area would decrease from the proposed 11,798 sq. ft. (3.4 FAR) to 6,837 sq. ft. (2.0 FAR); and

WHEREAS, the applicant states that the 4,961 sq. ft. loss in floor area would result in a loss of \$1,927,863 in residential floor area and \$750,400 in community facility floor area; and

WHEREAS, the applicant notes that the estimated reduction in construction costs from a complying development would be approximately \$223,442; and

WHEREAS, accordingly, the total estimated loss that would result if vesting were not permitted, taking into account the reduced construction costs associated with a complying development, would be approximately \$2,454,821; and

WHEREAS, the Board agrees that the reduction in floor area of the Building, coupled with the need to redesign, constitutes a serious economic loss, and that the evidence submitted by the applicant supports this conclusion; and

WHEREAS, in sum, the Board has reviewed the representations as to the work performed, the expenditures made, and serious loss, and the supporting documentation for such representations, and agrees that the applicant has satisfactorily established that a vested right to complete construction of the Building had accrued to the owner of the premises as of the Enactment Date.

*Therefore it is Resolved* that this appeal made pursuant to the common law of vested rights requesting a reinstatement of New Building Permit No. 420139843-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for two years from the date of this grant.

Adopted by the Board of Standards and Appeals, September 13, 2011.

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## **182-06-A thru 211-06-A**

APPLICANT – Akerman Senterfitt, LLP, for Boymelgreen Beachfront Community, LLC, owners.

SUBJECT – Application April 18, 2011 – Extension of time to complete construction and obtain a Certificate of Occupancy for a previously-granted Common Law Vesting which expired March 19, 2011. R4A zoning district  
PREMISES AFFECTED – 126, 128, 130, 134, 136, 140, 146, 148, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 161, and 163 Beach 5<sup>th</sup> Street. 150, 152, 154, 156, 158, 160, and 162 Beach 6<sup>th</sup> Street and 511 SeaGirt Avenue Block 15609, Lots 1, 3, 6, 8, 10, 12, 14, 16, 18, 58, 63, 64, 65, 66, 67, and 68 and Block 15608, Lots 1, 40, 42, 45, 51, 52, 53, 57, 58, 61, 63, 65, 67, and 69. Borough the Queens

## **COMMUNITY BOARD #14Q**

APPEARANCES –

For Applicant: Jessica Laser.

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

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## **219-10-A**

APPLICANT – Sheldon Lobel, P.C., for 74-76 Adelphi Realty LLC, owner.

SUBJECT – Application November 24, 2010 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under the prior R6 zoning district. R5B zoning district.

PREMISES AFFECTED – 74-76 Adelphi Street, west side of Adelphi Street, between Park and Myrtle Avenues, Block 2044, Lots 52, 53, Borough of Brooklyn.

## **COMMUNITY BOARD #2BK**

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

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18, 2011, at 10 A.M., for decision, hearing closed.

## 69-11-A & 70-11-A

APPLICANT – Sheldon Lobel, P.C., for Fiesta Latina Sports Bar Corporation, owner.

SUBJECT – Application May 23, 2011 – Appeal seeking a determination that the owner of has acquired a common law vested right to continue development commenced under the prior R6 zoning district. R4-1 Zoning District.

PREMISES AFFECTED – 88-11 & 88-13 173<sup>rd</sup> Street, East side of 173<sup>rd</sup> Street between 89<sup>th</sup> Avenue and Warwick Circle. Block 9830, Lot 22, 23 (tentative), Borough of Queens.

### COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Josh Rhinesmith.

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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*Jeff Mulligan, Executive Director*

Adjourned: P.M.

## REGULAR MEETING

**TUESDAY AFTERNOON, SEPTEMBER 13, 2011**

**1:30 P.M.**

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

## ZONING CALENDAR

### 177-10-BZ

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

SUBJECT – Application September 9, 2010 – Variance (§72-21) for the construction of a detached three-story single family home, contrary to open space (§23-141); front yard (§23-45) and side yard (§23-461). R3A zoning district.

PREMISES AFFECTED – 8 Orange Avenue, south west corner of Decker Avenue and Orange Avenue, Block 1061, Lot 1, Borough of Staten Island.

### COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

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

### THE VOTE TO GRANT –

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

Negative:.....0

### RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated August 9, 2010 acting on Department of Buildings Application No. 520034542, reads in pertinent part:

Front yard is non-compliant in that a second front yard with a depth of 10 feet is required along Orange Avenue and not provided. ZR 23-45.

Lot coverage is non-compliant in that lot coverage is governed by yard regulations. Since the front...yards are non-compliant, the lot coverage is therefore non-compliant. ZR 23-14; and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R3A zoning district, the proposed construction of a two-story single-family home that does not provide the required front yards or lot coverage, contrary to ZR §§ 23-45 and 23-14; and

WHEREAS, a public hearing was held on this application on March 29, 2011 after due notice by publication in *The City Record*, with continued hearings on May 10, 2011, July 12, 2011 and August 16, 2011, and then to decision on September 13, 2011; and

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

WHEREAS, Community Board 1, Staten Island, recommends disapproval of this application, citing concerns that the proposed home is out of character with the surrounding neighborhood and the proposed curb cuts will create a hazardous traffic condition; and

WHEREAS, certain members of the community testified in opposition to this application (the “Opposition”), citing the following primary concerns: (1) the proposed home is not compatible with neighborhood character; and (2) the proposed home would infringe upon the adjacent home’s light and air; and

WHEREAS, the site is located on the northeast corner of Orange Avenue and Decker Avenue, within an R3A zoning district; and

WHEREAS, the subject site is an irregularly shaped lot with a width ranging between 17’-2” and 11’-7”, a depth of approximately 164’-0”, and a total lot area of 2,359 sq. ft.; and

WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to construct a two-story single-family home on the site; and

WHEREAS, the proposed home will have the following complying parameters: 1,344 sq. ft. of floor area (0.57 FAR) (the maximum permitted FAR is 0.60); a front yard with a depth of 18’-11” along the eastern lot line (a front yard with a depth of 18’-11’ is the minimum required); a side yard with a width of 86’-1½” along the western lot line and a side yard with a width of 3’-2” along the southern lot line (one side yard with a width of 8’-0” is the minimum

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required); an open area of 8'-0" between the proposed home and the residential building on the adjacent lot (a minimum open area of 8'-0" is required); a street wall height of 17'-2" (the maximum permitted street wall height is 26'-0"); a total height of 22'-3" (the maximum permitted total height is 35'-0"); and two parking spaces; and

WHEREAS, however, the applicant proposes to provide no front yard along the northern lot line (a front yard with a minimum depth of 10'-0" is required), which results in non-complying lot coverage; and

WHEREAS, the applicant originally proposed to construct a three-story home with a floor area of 1,407 sq. ft. (0.6 FAR), a front yard with a depth of 18'-0" along the eastern lot line, a street wall height of 26'-0", a total height of 30'-11", and two parking spaces at the front of the home along Decker Avenue; and

WHEREAS, at the Board's direction, the applicant revised the plans on several occasions, ultimately submitting the current proposal which provides a compliant front yard along Decker Avenue, reduces the height of the proposed home to two stories and 22'-3", and relocates the two parking spaces to the rear of the home along Orange Avenue in compliance with ZR § 25-622; and

WHEREAS, the Board notes that the original DOB objection submitted by the applicant included an objection under ZR § 23-46, requiring that a minimum open area of 10'-0" be provided between the proposed home and the residential building on the adjacent lot; and

WHEREAS, due to a recent text amendment to the Zoning Resolution, ZR § 23-46 now requires a minimum open area of only 8'-0" between the proposed home and the residential building on the adjacent lot; and

WHEREAS, accordingly, the proposed home, which provides the required open area of 8'-0" between the residential building on the adjacent lot, complies with ZR § 23-46; and

WHEREAS, the applicant has provided documentation establishing that the subject lot is an undersized lot pursuant to ZR § 23-32; and

WHEREAS, the Board notes that ZR § 23-33 eliminates lot area and width requirements for single-family homes where the zoning lot was owned separately and individually from all adjoining tracts of land both on December 15, 1961 and on the date of the application for a building permit; and

WHEREAS, a title search submitted by the applicant reflects that the site has existed in its current configuration since before December 15, 1961 and its ownership has been independent of the ownership of the adjoining lots; and

WHEREAS, the Board notes that ZR § 23-33 would eliminate a lot area and width requirement for a single-family dwelling, but not the yard and lot coverage requirements; and

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

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the subject site is an irregularly shaped, narrow corner lot; and

WHEREAS, the applicant represents that the requested waivers are necessary to develop the site with a habitable home; and

WHEREAS, specifically, the applicant represents that the pre-existing lot width ranging between 11'-7" and 17'-2" cannot feasibly accommodate a complying development; and

WHEREAS, the applicant states that the subject site is a corner lot, which requires two front yards of 18'-11" and 10'-0", respectively; and

WHEREAS, the applicant further states that the proposed home has a maximum exterior width of only 13'-0", and that compliance with the applicable yard regulations and corresponding lot coverage requirements would result in an infeasible home with a width of only 1'-0"; and

WHEREAS, accordingly, the applicant represents that the yard and lot coverage waivers are necessary to create a home of a reasonable width; and

WHEREAS, based upon the above, the Board finds that the cited unique physical condition creates practical difficulties in developing the site in strict compliance with the applicable front yard regulations; and

WHEREAS, the Board has determined that because of the subject site's unique physical condition, 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 surrounding community is characterized by detached single-family homes ranging in height from one to three stories; and

WHEREAS, the applicant notes that the proposed bulk is compatible with nearby residential development and that that it complies with all applicable zoning regulations, with the exception of front yard and lot coverage; and

WHEREAS, specifically, the applicant notes that the proposed home complies with the R3A zoning district regulations for use, FAR, side yards, height, and parking; and

WHEREAS, the Board notes that the lot has approximately 164'-0" of frontage along Orange Avenue while the non-compliant front yard only extends for the 58'-2" length of the proposed home, or approximately 35 percent of the Orange Avenue frontage; accordingly, nearly 106'-0" of frontage along Orange Avenue will not be affected by the front yard non-compliance, as it will be left undeveloped; and

WHEREAS, the applicant submitted a corner lot study reflecting that there are at least 12 corner lots within three blocks of the site that do not provide two compliant front yards; and

WHEREAS, the corner lot study submitted by the applicant also reflects that, similar to the proposed home, the non-compliant front yard for each of the 12 corner lots noted in the study is located adjacent to the side of the home situated along the deepest portion of the lot, thereby minimizing the extent of its impact; and

WHEREAS, at hearing, the Board directed the applicant to provide the entrance to the home at the Decker Avenue frontage, which is consistent with surrounding homes located

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on corner lots along Decker Avenue; and

WHEREAS, in response, the applicant submitted revised plans reflecting the addition of a covered porch and entrance along Decker Avenue, consistent with surrounding homes on corner lots along Decker Avenue; and

WHEREAS, in response to the concerns raised by the Opposition that the site is too small to be developed, the Board notes that the subject lot is viable for development pursuant to the Zoning Resolution despite its undersized nature by means of its grandfathered status based on the lot's existence in its current configuration and its individual ownership prior to December 15, 1961; and

WHEREAS, the Board further notes that the title search submitted by the applicant reflects that the subject lot was owned by the City from 1954 until its unrestricted disposition to a private party in 1993; therefore, if the City did not intend for the subject lot to be developed it could have retained ownership of the lot; and

WHEREAS, in response to the concerns raised by the Opposition regarding the effect of the proposed development on the adjacent home, the Board notes that the proposed 3'-2" side yard along the southern lot line provides 8'-0" of open space between the proposed home and the adjacent home; and

WHEREAS, the Board further notes that the applicant submitted several different design proposals throughout the hearing process and that the current proposal provides as much open space between the proposed home and the adjacent home on Decker Avenue as possible, while still providing for a habitable home on the subject site; and

WHEREAS, as to the Community Board's concerns regarding traffic impacts resulting from the proposed curb cut, the Board notes that the curb cut was relocated from Decker Avenue to the rear of the site along Orange Avenue, and that it will be approximately 150 feet from the intersection of these streets; 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 applicant states that the unnecessary hardship encountered by compliance with the zoning regulations is inherent to the site's irregular shape and narrow width; 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 historic lot dimensions; and

WHEREAS, as noted above, the applicant originally proposed to construct a three-story home with a floor area of 1,407 sq. ft. (0.6 FAR), a non-compliant front yard along the eastern lot line, a total height of 30'-11", and non-complying parking spaces along Decker Avenue; and

WHEREAS, during the course of the hearing process, the applicant revised its plans on several occasions, ultimately submitting the current proposal for a two-story home with a floor area of 1,344 sq. ft. (0.57 FAR), a complying front yard along the eastern lot line, a total height of 22'-3", and complying parking spaces; 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 R3A zoning district, a two-story single-family home that does not provide the required front yards or lot coverage, contrary to ZR §§ 23-45 and 23-14; *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 3, 2011"- twelve (12) sheet; and *on further condition*:

THAT the parameters of the proposed building shall be as follows: a maximum of 1,344 sq. ft. of floor area (0.57 FAR); a side yard with a width of 86'-1½" along the western lot line; a side yard with a width of 3'-2" along the southern lot line; a front yard with a depth of 18'-11" along the eastern lot line; no front yard along the northern lot line; a street wall height of 17'-2"; a total height of 22'-3"; and parking for a minimum of two cars, as per 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 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 13, 2011.

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## 4-11-BZ

### CEQR #11-BSA-051K

APPLICANT – Law Office of Fredrick A. Becker, for 1747 East 2<sup>nd</sup> Street, LLC, owner.

SUBJECT – Application January 10, 2011 – Variance (§72-21) to allow a three-story synagogue, contrary to lot coverage (§24-11), floor area (§113-51), wall height and total height (§113-55), front yard (§113-542), side yards (§113-543), encroachment into required setback and sky exposure plane (§113-55), and parking (§25-18, §25-31, and §113-561). R5 zoning district.

PREMISES AFFECTED – 1747-1751 East 2<sup>nd</sup> Street, aka 389 Quentin Road, northeast corner of East 2<sup>nd</sup> Street and Quentin Road, Block 6634, Lot 49, Borough of Brooklyn.

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## COMMUNITY BOARD #15BK

### APPEARANCES –

For Applicant: Lyra J. Altman.

**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

### RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated September 12, 2011, acting on Department of Buildings Application No. 320197381 reads, in pertinent part:

1. Proposed plans are contrary to ZR 113-51 in that the proposed floor area exceeds the maximum permitted.
2. Proposed plans are contrary to ZR 24-11 in that the proposed lot coverage is greater than the maximum permitted.
3. Proposed plans are contrary to ZR 113-55 in that the proposed wall height is greater than the maximum permitted.
4. Proposed plans are contrary to ZR 113-55 in that the proposed total height is greater than the maximum permitted.
5. Proposed plans are contrary to ZR 113-542 in that the proposed front yard is less than the minimum required.
6. Proposed plans are contrary to ZR 113-11 in that the proposed side yards are less than the minimum required.
7. Proposed plans are contrary to ZR 113-55 in that the proposed building encroaches into the required setback and sky exposure plane.
8. Proposed plans are contrary to ZR 25-18, ZR 25-31 and 113-561 in that the proposed number of parking spaces is less than the minimum required number of parking spaces; and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21 to permit, on a site in an R5 zoning district within the Special Ocean Parkway Sub-District, the construction of a three-story building to be occupied by a synagogue (Use Group 4), which does not comply with the underlying zoning district regulations for floor area, lot coverage, height and setback, sky exposure plane, front yard, side yards, and parking for community facilities, contrary to ZR §§ 113-51, 24-11, 113-55, 113-542, 113-11, 25-18, 25-31 and 113-561; and

WHEREAS, a public hearing was held on this application on June 21, 2011, after due notice by publication in *The City Record*, with continued hearings on July 19, 2011 and August 16, 2011, and then to decision on September 13, 2011; and

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

Commissioner Ottley-Brown; and

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

WHEREAS, this application is being brought on behalf of the Quentin Road Synagogue (the “Synagogue”), a non-profit religious entity; and

WHEREAS, the subject site is located on the northeast corner of Quentin Road and East 2<sup>nd</sup> Street, in an R5 zoning district within the Special Ocean Parkway Sub-District; and

WHEREAS, the subject lot has a width of 40 feet, a depth of 100 feet, and a lot area of 4,000 sq. ft.; and

WHEREAS, the subject site is currently occupied by a two-story semi-detached residential building, which is proposed to be demolished; and

WHEREAS, the applicant proposes to construct a three-story building with the following parameters: a floor area of 8,748 sq. ft. (2.19 FAR) (the maximum permitted floor area is 6,000 sq. ft. (1.5 FAR)); lot coverage of 84 percent (the maximum permitted lot coverage is 60 percent); a wall height of 32’-0” along East 2<sup>nd</sup> Street and 39’-0” along Quentin Road (the maximum permitted wall height is 21’-0”); a total height of 48’-0” (the maximum permitted total height is 35’-0”); a front yard with a depth of 14’-0” along East 2<sup>nd</sup> Street and a front yard with a depth of 1’-0” along Quentin Road (two front yards with minimum depths of 14’-0” and 10’-0”, respectively, are required); no side yards (two side yards with minimum widths of 2’-0” and 20’-0”, respectively, are required); encroachment into the sky exposure plane; and no parking spaces (a minimum of 42 parking spaces are required); and

WHEREAS, the applicant originally proposed to construct a three-story building with a floor area of 10,081 sq. ft. (2.52 FAR), lot coverage of 88 percent, a maximum wall height of 39’-6”, a total height of 52’-0”; a front yard with a depth of 10’-0” along East 2<sup>nd</sup> Street, and no front yard along Quentin Road; and

WHEREAS, in response to concerns raised by the Board throughout the hearing process, the applicant revised its plans to reflect the current proposal; and

WHEREAS, the proposal provides for the following uses: (1) a multi-purpose room at the cellar level; (2) the main sanctuary at the first floor; (3) a worship gallery for female congregants at the second floor; and (4) a Beit Midrash at the third floor; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Synagogue which necessitate the requested variances: (1) to accommodate the congregation of approximately 214 families and allow for future growth; (2) to provide a separate worship space for male and female congregants; and (3) to provide space for religious studies and bible classes; and

WHEREAS, the applicant states that the congregation currently has a membership of 214 families; and

WHEREAS, the applicant states that the congregation has been renting part of a building located at 1741 East 3<sup>rd</sup> Street since approximately 2003, but that they are now forced to relocate because the current facility does not have sufficient capacity to accommodate the growing congregation, as it only

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provides seating for approximately 200 people, or less than one seat per family; and

WHEREAS, the applicant further states that the current facility does not provide a suitable separation between the men's and women's worship areas, as a portable divider is used to create the separation in a single room; and

WHEREAS, the applicant notes that the current facility also does not provide any study rooms or Beit Midrash, and does not provide any space for religious events other than services, forcing such events to take place at alternate locations which damages the cohesiveness of the congregation; and

WHEREAS, the applicant states that the requested waivers enable the Synagogue to construct a building that can accommodate its growing congregation as well as provide a separate worship space for men and women, as required by religious doctrine, and a Beit Midrash with study rooms and an office on the third floor; and

WHEREAS, the applicant represents that worship space which separates men and women is critical to its religious practice; and

WHEREAS, the applicant further represents that the proposed Beit Midrash is necessary to meet the Synagogue's programmatic needs because it allows the congregation to provide additional space for lectures, religious services and bible classes, as well as providing an office for the Synagogue's Rabbi; and

WHEREAS, the applicant states that the requested waivers are necessary to provide enough space to meet the programmatic needs of the congregation; and

WHEREAS, specifically, the applicant states that the requested floor area, lot coverage and yard waivers will allow the proposed synagogue to provide floor plates large enough to accommodate approximately 222 men in the main sanctuary, 167 women in the gallery, and 187 people in the Beit Midrash at full capacity, which is the minimum space required to provide the congregation with sufficient worship space; and

WHEREAS, the applicant further states that the requested height and sky exposure plane waivers are necessary to provide a third floor that can accommodate additional religious services, study spaces, and an office for the Rabbi; and

WHEREAS, the applicant submitted as-of-right plans which reflected that a complying building would result in a significantly smaller building with a worship space too constrained to accommodate the size of the congregation, and would result in the elimination of the third floor; and

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

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

application; and

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

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

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

WHEREAS, the applicant states that that the proposed use is permitted in the subject zoning district; and

WHEREAS, as to bulk, the applicant submitted a 400-ft. radius diagram which reflects that there are three- and four-story buildings across the street from the subject site on East 2<sup>nd</sup> Street, including a four-story commercial building with no front yard directly across from the site on the corner of East 2<sup>nd</sup> Street and Quentin Road; and

WHEREAS, the radius diagram submitted by the applicant also reflects that a three-story synagogue is located one block from the site on East 3<sup>rd</sup> Street; and

WHEREAS, the applicant also submitted a floor area table which reflects that at least four buildings in the vicinity of the subject site exceed the permitted 1.5 FAR, and two of the buildings (1742 East 2<sup>nd</sup> Street and 1747 East 3<sup>rd</sup> Street) exceed the 2.4 FAR proposed for the subject synagogue; and

WHEREAS, the applicant states that there is a 23-ft. easement abutting the site to the east, which provides a buffer between the eastern lot line of the proposed synagogue and the adjacent homes located on Quentin Road; and

WHEREAS, the applicant further states that the proposed building will remain attached to the adjacent building on East 2<sup>nd</sup> Street, which has no lot line windows and currently extends nearly to the front of the existing garage on the subject site; and

WHEREAS, at hearing, the Board directed the applicant to reduce the height of the building and provide a front yard with a depth of 14'-0" along East 2<sup>nd</sup> Street, in order to match the adjacent residences on that street; and

WHEREAS, in response, the applicant submitted revised plans which reduced the total height of the building to 48'-0" and provided a front yard with a depth of 14'-0" along East 2<sup>nd</sup> Street; and

WHEREAS, as to traffic impact and parking, the applicant notes that the traffic impact would be minimal as a majority of congregants live nearby and would walk to services, specifically to worship services on Fridays and Saturdays; and

WHEREAS, the applicant represents that this proposal would meet the requirements for a parking waiver at the City Planning Commission, pursuant to ZR § 25-35 – Waiver for Locally Oriented Houses of Worship, but for the fact that a maximum of ten spaces can be waived in the subject R5 zoning district under ZR § 25-35; and

WHEREAS, in support of this assertion, the applicant

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submitted evidence reflecting that at least 75 percent of the congregants live within three-quarters of a mile of the subject site; and

WHEREAS, accordingly, 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 applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of the Synagogue could occur on the existing lot; and

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

WHEREAS, as noted above, the applicant originally proposed to construct a three-story building with a floor area of 10,081 sq. ft. (2.52 FAR), lot coverage of 88 percent, a total height of 52'-0"; a front yard with a depth of 10'-0" along East 2<sup>nd</sup> Street, and no front yard along Quentin Road; and

WHEREAS, at the direction of the Board, the applicant revised its plans to reduce the size of the building on multiple occasions, ultimately submitting the current proposal with a floor area of 8,748 sq. ft. (2.19 FAR), lot coverage of 84 percent, a total height of 48'-0", a complying front yard with a depth of 14'-0" along East 2<sup>nd</sup> Street, and a front yard with a depth of 1'-0" along Quentin Road; and

WHEREAS, accordingly, the Board finds the requested waivers to be the minimum necessary to afford the Synagogue the relief needed to meet its programmatic needs; and

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; 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. 11BSA051K, dated January 10, 2011; and

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

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration 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, on a site in an R5 zoning district within the Special Ocean Parkway Sub-District, the construction of a three-story building to be occupied by a synagogue (Use Group 4), which does not comply with the underlying zoning district regulations for floor area, lot coverage, height and setback, sky exposure plane, front yard, side yards, and parking for community facilities, contrary to ZR §§ 113-51, 24-11, 113-55, 113-542, 113-11, 25-18, 25-31 and 113-561; *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 23, 2011" – (10) sheets and "Received September 8, 2011" – (1) sheet and *on further condition*:

THAT the building parameters shall be: a maximum floor area of 8,748 sq. ft. (2.19 FAR); a maximum lot coverage of 84 percent; a maximum wall height of 32'-0" along East 2<sup>nd</sup> Street and 39'-0" along Quentin Road; a maximum total height of 48'-0"; a front yard with a minimum depth of 14'-0" along East 2<sup>nd</sup> Street; a front yard with a minimum depth of 1'-0" along Quentin Road; encroachment into the sky exposure plane; and no parking spaces, as illustrated on the BSA-approved plans;

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

THAT the use shall be limited to a house of worship (Use Group 4);

THAT no commercial catering shall take place onsite;

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

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

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

THAT 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 13, 2011.

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## **38-11-BZ**

APPLICANT – Eric Palatnik, P.C., for Arveh Schimmer, owner.

SUBJECT – Application April 5, 2011 – Special Permit (§73-622) for the enlargement of an existing two family home to be converted into a single family home, contrary to floor area and open space (§23-141(a)); side yard (§23-461(a)) and less than the required rear yard (§23-47). R-2

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zoning district.

PREMISES AFFECTED – 1368 East 27<sup>th</sup> Street, between Avenue M and N, Block 7662, Lot 80, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

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

**THE VOTE TO GRANT** –

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

Negative:.....0

**RESOLUTION** –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 17, 2011, acting on Department of Buildings Application No. 320274494, 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 two-family home and its conversion into 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 12, 2011 after due notice by publication in *The City Record*, with a continued hearing on August 16, 2011, and then to decision on September 13, 2011; and

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

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

WHEREAS, the subject site is located on the west side of East 27<sup>th</sup> Street, between Avenue M and Avenue N, within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 4,000 sq. ft., and is occupied by a two-family home with a floor area of 2,687 sq. ft. (0.67 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 2,687 sq. ft. (0.67 FAR) to 3,978 sq. ft. (0.99

FAR); the maximum permitted floor area is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of 56 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 3'-4" and to provide a side yard with a width of 9'-8" along the southern lot line (two side yards with minimum widths 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, at hearing, the Board raised concerns about the amount of the original home that is being retained and the structural stability of the existing portions of the home that will remain; and

WHEREAS, in response, the applicant submitted revised plans and a letter from the architect stating that the northern exterior wall will remain, accounting for approximately 34 percent of the existing perimeter wall, and that this wall will be stabilized laterally throughout the proposed construction; 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, the applicant provided an analysis of the FAR of homes in the surrounding area, which reflects that a significant number of the homes on the subject block and on adjacent block 7663 which front on East 27<sup>th</sup> Street have non-compliant FARs and that there are four homes on the subject block with frontage on East 27<sup>th</sup> Street which have an FAR of 0.98 or greater; and

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

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

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

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

*Therefore it is resolved*, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the enlargement of a two-family home and its conversion into a single-family home, which does not comply with the zoning requirements for floor area ratio,

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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 June 21, 2011'-(12) sheets and 'August 2, 2011'-(1) sheet; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,978 sq. ft. (0.99 FAR); an open space ratio of 56 percent; a side yard with a minimum width of 3'-4" along the northern lot line; a side yard with a minimum width of 9'-8" 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 13, 2011.

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## 51-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Susan Sherer and Shimishon Sherer, owners.

SUBJECT – Application April 18, 2011 – Special Permit (§73-622) for the enlargement of an existing single family residence, contrary to floor area and open space (§23-141); and rear yard (§23-47) regulations. R2 zoning district.

PREMISES AFFECTED – 1226 East 26<sup>th</sup> Street, west side of 26<sup>th</sup> Street, between Avenue L and Avenue M, Block 7643, Lot 55, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra A. Altman.

**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

**RESOLUTION** –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 5, 2011, acting on Department of Buildings Application No. 320279916, reads in pertinent part:

Proposed plans are contrary to ZR 23-141 in that

the proposed building exceeds the maximum permitted floor area ratio of .50

Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required open space ratio of 150.

Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required rear yard of 30 feet; 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, and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on July 9, 2011 after due notice by publication in *The City Record*, with a continued hearing on August 16, 2011, and then to decision on September 13, 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 14, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the west side of East 26<sup>th</sup> Street, between Avenue L and Avenue M, within an R2 zoning district; and

WHEREAS, on May 2, 2000, under BSA Cal. No. 146-99-BZ, the Board granted an application for a special permit allowing the enlargement of the existing single-family home at the site; and

WHEREAS, the applicant states that the construction approved under the previous grant was never performed, and the owner now proposes to enlarge the existing home pursuant to the current application; and

WHEREAS, the subject site has a total lot area of 3,750 sq. ft., and is occupied by a single-family home with a floor area of 2,349 sq. ft. (0.63 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 2,349 sq. ft. (0.63 FAR) to 3,760 sq. ft. (1.0 FAR); the maximum permitted floor area is 1,875 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of 57 percent (150 percent is the minimum 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

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impair the future use and development of the surrounding area; and

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

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the enlargement of a single-family home which does not comply with the zoning requirements for floor area ratio, open space ratio, and rear yard, contrary to ZR §§ 23-141 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 1, 2011"-(11) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,760 sq. ft. (1.0 FAR); an open space ratio of 57 percent; 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 13, 2011.

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## 65-11-BZ

### CEQR #11-BSA-095X

APPLICANT – Sheldon Lobel, P.C., for Vornado Gun Hill Road LLC, for Gun Hill Road Fitness Group, lessee.

SUBJECT – Application May 12, 2011 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) in an existing one-story building. C2-1/R3-2 zoning district.

PREMISES AFFECTED – 1750 East Gun Hill Road, frontage on East Gun Hill Road, Gunther Avenue, and Bergen Avenue, Block 4494, Lot 1, Borough of Bronx.

### COMMUNITY BOARD #11BX

APPEARANCES –

For Applicant: Josh Rinesmith.

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

THE VOTE TO GRANT –

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

Negative:.....0

RESOLUTION –

WHEREAS, the decision of the Bronx Borough Commissioner, dated April 12, 2011, acting on Department of Buildings Application No. 201077592, reads in pertinent part:

“Proposed use as a physical culture establishment is contrary to ZR Section 32-10 and must be referred to the BSA for approval pursuant to ZR Section 73-36;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within a C2-1 (R3-2) zoning district, the operation of a physical culture establishment (PCE) on a portion of the first floor of a one-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on August 16, 2011, after due notice by publication in *The City Record*, and then to decision on September 13, 2011; and

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

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

WHEREAS, the subject site is located on an irregularly-shaped corner lot bounded by East Gun Hill Road to the north, Gunther Avenue to the west, and Mace Avenue to the south, within a C2-1 (R3-2) zoning district; and

WHEREAS, the subject site has a total lot area of 322,465 sq. ft. and is occupied by a shopping center consisting of three separate buildings: (1) a one-story commercial building located on the southeast corner of the zoning lot; (2) a small one-story commercial building located along the East Gun Hill Road frontage; and (3) a large one-story building located at the rear portion of the zoning lot; and

WHEREAS, the proposed PCE will occupy 16,259 sq. ft. of floor area on a portion of the first floor of the large one-story commercial building located at the rear portion of the zoning lot; and

WHEREAS, the PCE will be operated as Planet Fitness; and

WHEREAS, the proposed hours of operation for the PCE are: 24 hours a day from Monday at 12:00 a.m. through Friday at 10:00 p.m.; and Saturday and Sunday, from 7:00

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a.m. to 7:00 p.m.; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; and

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

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

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

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 11BSA095X, dated May 12, 2011; and

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

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site located within a C2-1 (R3-2) zoning district, the operation of a physical culture establishment on a portion of the first floor of a one-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed

with this application marked "Received July 28, 2011 - (7) sheets and *on further condition*:

THAT the term of this grant shall expire on September 13, 2021;

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

THAT all massages shall be performed by New York State licensed massage therapists;

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, September 13, 2011.

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## 68-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Rivkie Weingarten and Nachum Weingarten, owners.

SUBJECT – Application April 16, 2011 – Special Permit (§73-622) for enlargement of existing single family home, contrary to floor area, lot coverage and open space (§23-141); rear yard (§23-47) and side yard (§23-461). R3-2 zoning district.

PREMISES AFFECTED – 1636 East 23<sup>rd</sup> Street, between Avenue P and Quentin Road, Block 6785, Lot 20, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

**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

RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 15, 2011, acting on Department of Buildings Application No. 320281510, reads in pertinent part:

“Proposed floor area is contrary to ZR 23-141.

Proposed open space ratio is contrary to ZR 23-

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141.

Proposed lot coverage is contrary to ZR 23-141.

Proposed rear yard is contrary to ZR 23-47.

Proposed side yard is contrary to ZR 23-461(a);”  
and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, open space ratio, lot coverage, 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 August 16, 2011, after due notice by publication in *The City Record*, and then to decision on September 13, 2011; and

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

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

WHEREAS, the subject site is located on the west side of East 23<sup>rd</sup> Street, between Avenue P and Quentin Road, within an R3-2 zoning district; and

WHEREAS, the subject site has a total lot area of 4,000 sq. ft., and is occupied by a single-family home with a floor area of 1,660 sq. ft. (0.42 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 1,660 sq. ft. (0.42 FAR) to 3,987 sq. ft. (1.0 FAR); the maximum permitted floor area is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of 50 percent (65 percent is the minimum required); and

WHEREAS, the applicant proposes to provide lot coverage of 50 percent (35 percent is the maximum permitted); and

WHEREAS, the applicant proposes to maintain the existing side yard along the southern lot line with a width of 4’-1¼” (a minimum width of 5’-0” is required for each side yard) and to provide a side yard with a width of 5’-6½” along the northern lot line; 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

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 R3-2 zoning district, the enlargement of a single-family home, which does not comply with the zoning requirements for floor area, open space ratio, lot coverage, 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 25, 2011”-(12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,987 sq. ft. (1.0 FAR); an open space ratio of 50 percent; lot coverage of 50 percent; a side yard with a minimum width of 4’-1¼” along the southern lot line; a side yard with a minimum width of 5’-6½” along the northern 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 13, 2011.

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## 230-09-BZ

APPLICANT – Peter Hirshman, for Mr. Filipp T Tortora, owner.

SUBJECT – Application July 20, 2009 – Variance (§72-21) for the construction of a three story, three family residence, contrary to front yard regulations (§23-45). R-5 zoning district.

PREMISES AFFECTED – 1700 White Plains Road,

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northeast corner of White Plains and Van Nest Avenue, Block 4033, Lot 31, Borough of Bronx.

## COMMUNITY BOARD #11BX

### 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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to October 18, 2011, at 1:30 P.M., for decision, hearing closed.

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## 194-10-BZ

APPLICANT – Eric Palatnik, P.C., for Revekka Kreposterman, owner.

SUBJECT – Application October 26, 2010 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area (§23-141). R3-1 zoning district.

PREMISES AFFECTED – 175 Exeter Street, north of Oriental Avenue, Block 8737, Lot 17, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

### APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Judith Balon.

### 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 1:30 P.M., for decision, hearing closed.

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## 196-10-BZ

APPLICANT – James Chin & Associates, LLC, for Turtle Bay Inn, LLC., owner.

SUBJECT – Application October 25, 2010 – Variance (§72-21) to allow ground floor commercial use in an existing residential building, contrary to use regulations (§22-00). R8B zoning district.

PREMISES AFFECTED – 234 East 53<sup>rd</sup> Street, mid-block parcel located on the south side of 53<sup>rd</sup> Street, between 2<sup>nd</sup> and 3<sup>rd</sup> Avenue, Block 1326, Lot 34, Borough of Manhattan.

## COMMUNITY BOARD #6M

### APPEARANCES –

For Applicant: Chris Wright and Barbara Cohen.

### 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 1:30 P.M., for decision, hearing closed.

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## 6-11-BZ

APPLICANT – Paul Bonfilio, for Denis Forde, Rockchapel Reality, LLC, owner.

SUBJECT – Application January 19, 2011 – Variance (§72-21) to permit the construction of a one family detached residence on a vacant corner tax lot contrary to ZR §23-711 for minimum distance between buildings on the same zoning lot; ZR §23-461 for less than the required width of a side yard on a corner lot and ZR §23-89(b) less than the required open area between two buildings. R2A zoning district.

PREMISES AFFECTED – 50-20 216<sup>th</sup> Street, corner of 51<sup>st</sup> Avenue, Block 7395, Lot 13, 16, Borough of Queens.

## COMMUNITY BOARD #11Q

### APPEARANCES –

For Applicant: Paul Bonfilio.

For Opposition: Xavier San Migual, Michael Feiner, Armando Coutinlo, Elen Feiser, Andrea R Kovzynski, Nancy Tognan, Joseph Lubomski and other.

### 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 1:30 P.M., for decision, hearing closed.

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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: Harold Weinberg and Frank Sellitto.

**ACTION OF THE BOARD** – Laid over to September 27, 2011, at 1:30 P.M., for continued hearing.

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## 54-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Bay Parkway Group LLC, owner.

SUBJECT – Application April 21, 2011 – Special Permit (§73-44) to permit the reduction in required parking for an ambulatory diagnostic or treatment facility building. R6/C1-3 zoning district.

PREMISES AFFECTED – 6010 Bay Parkway, west side of Bay Parkway between 60<sup>th</sup> Street and 61<sup>st</sup> Street, Block 5522, Lot 36 & 32, Borough of Brooklyn.

## COMMUNITY BOARD #12BK

# MINUTES

## APPEARANCES –

For Applicant: Lyra J. Altman and Jim Heineman.

For Opposition: Council Member David G. Greenfield, Msgr. David L. Casseto, Anna Cali, Natalie DeNicola, Lorraine Macia, Madelon Vitucci, Louaire Cardozo, Jackie Santulli, Vivian Biondolillo and others.

**ACTION OF THE BOARD** – Laid over to October 18, 2011, at 1:30 P.M., for continued hearing.

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## 58-11-BZ

APPLICANT – Friedman & Gotbaum, LLP, for The Trustees of The Spence School, Incorporated, owner.

SUBJECT – Application May 4, 2011 – Variance (§72-21) to permit the expansion of a (UG 3) community facility (*The Spence School*) contrary to lot coverage (§24-11) and rear yard equivalent (§24-382). R8B zoning district.

PREMISES AFFECTED – 20-22 East 91st Street, South side of East 91st Street, 62.17 ft. westerly from the corner formed by the intersection of the southerly side of 91st Street & the westerly side of Madison Avenue. Block 1502, Lot 59 & 12, Borough of Manhattan.

## COMMUNITY BOARD #8M

### APPEARANCES –

For Applicant: Shelly Friedman, Michael Neiman, Gregg Poke, Bodie Brizendine, Doug Brophy, Michele Krauthamer, Jose DeJesus, Michele Murphy, M. Barry Schneider, Jon Lindsey, Judy Schneider, Sarah O'Hagan, Jennifer Conovitz, Laurie Gordon Mandelbaum and Franklin Speyer.

For Opposition: Ross Moskowitz, Christopher Rizzo, Chloe Levy, Caroline Harris, George Jones, A. Dietrich, Roger M. Levin, Lo van der Valk, Garfield Miller, John C. Calderon, Michael Simon.

### 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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## 64-11-BZ

APPLICANT – Rampulla Associates Architects, for 3232 49<sup>th</sup> Realty, LLC, owner; K & G Fitness Group, LLC, lessee.

SUBJECT – Application May 12, 2011 – Special Permit (§73-36) to allow the operation of a physical cultural establishment (*Retro Fitness*). C8-1 zoning district.

PREMISES AFFECTED – 32-28 49<sup>th</sup> Street, between Northern Boulevard and New Town Road, Block 734, Lot 47, Borough of Queens.

## COMMUNITY BOARD #1Q

### APPEARANCES –

For Applicant: Phillip L. Rampulla.

### 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 September 20, 2011, at 1:30 P.M., for decision, hearing closed.

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## 82-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Mr. Livaho Choueka, owner.

SUBJECT – Application June 8, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area (§23-141); side yard (§23-461); rear yard (§23-47) regulations. R5 zoning district.

PREMISES AFFECTED – 2020 Homecrest Avenue, west side of Homecrest Avenue, 165' south of Avenue T, Block 7316, Lot 13, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

### APPEARANCES –

For Applicant: Josh Rinesmith.

### 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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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

# MINUTES

## \*CORRECTION

This resolution adopted on July 12, 2011, under Calendar No. 19-11-BZ and printed in Volume 96, Bulletin Nos. 27-29, is hereby corrected to read as follows:

### 19-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Chaya Brown and Yechiel Fastag, owners.

SUBJECT – Application February 24, 2011 – Special Permit (§73-622) for the enlargement of an existing single family residence, contrary to floor area and open space (§23-141); side yards (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1271 East 24<sup>th</sup> Street, east side of East 24<sup>th</sup> Street, between Avenue L and Avenue M, Block 7642, Lot 15, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

#### APPEARANCES –

For Applicant: Lyra J. Altman.

**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 February 7, 2011, acting on Department of Buildings Application No. 320245542, reads in pertinent part:

“Proposed plans are contrary to ZR 23-141 in that the proposed building exceeds the maximum permitted floor area ratio of .50.

Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required open space of 150.

Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required rear yard of 30 feet.

Proposed plans are contrary to ZR 23-461 in that the proposed side yard straight-line extension is less than the 5 foot minimum side yard permitted;”

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 May 17, 2011 after due notice by publication in *The City Record*, with a continued hearing on June 14, 2011, and then to decision on July 12, 2011; and

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

Commissioner Ottley-Brown; and

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

WHEREAS, the subject site is located on the east side of East 24<sup>th</sup> Street, between Avenue L and Avenue M, within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 3,750 sq. ft., and is occupied by a single-family home with a floor area of 1,999 sq. ft. (0.53 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 1,999 sq. ft. (0.53 FAR) to 3,764 sq. ft. (1.0 FAR); the maximum permitted floor area is 1,875 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of 52 percent (150 percent is the minimum required); and

WHEREAS, the applicant proposes to maintain the existing side yard along the southern lot line with a width of 4’-2½” (a minimum width of 5’-0” is required for each side yard); 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

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

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# MINUTES

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marked "Received June 1, 2011"-(11) sheets and "June 27, 2011"-(1) sheet; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,764 sq. ft. (1.0 FAR); an open space ratio of 52 percent; a side yard with a minimum width of 4'-2½" 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, July 12, 2011.

**\*The resolution has been revised to correct the open space ratio calculations, which read : "...57 percent..." now reads: "...52 percent..." . Corrected and Printed in Bulletin Nos. 36-38, Vol. 96, dated September 22, 2011.**