
BULLETIN

OF THE
NEW YORK CITY BOARD OF STANDARDS
AND APPEALS

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February 22, 2001

DIRECTORY

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651-70-BZ	500 Baychester Avenue, Bronx
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Affecting Calendar Numbers:

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DOCKET

New Case Filed Up to February 13, 2001

37-01-A B.S.I. 481B Father Capodanno
Boulevard, west side, 1877.86' south of Sand Lane, Block 3500, Lot 27, Borough of Staten Island. Applic. #500463508.
Proposed construction of a three family dwelling, located within the bed of a mapped street is contrary to Section 35, Article 3 of the General City Law.

38-01-A B.S.I. 481C Father Capodanno
Boulevard, west side, 1877.86' south of Sand Lane, Block 3500, Lot 26, Borough of Staten Island. Applic. #500463517.
Proposed construction of a three family dwelling, located within the bed of a mapped street is contrary to Section 35, Article 3 of the General City Law.

39-01-A B.S.I. 481D Father Capodanno
Boulevard, west side, 1877.86' south of Sand Lane, Block 3500, Lot 25, Borough of Staten Island. Applic. #500463526.
Proposed construction of a three family dwelling located within the bed of a mapped street is contrary to Section 35, Article 3 of the General City Law.

40-01-A B.S.I. 481E Father Capodanno
Boulevard, west side, 1877.86' south of Sand Lane, Block 3500, Lot 24, Borough of Staten Island. Applic. #500463535.
Proposed construction of a three family dwelling, located within the bed of a mapped street is contrary to Section 35, Article 3 of the General City Law.

41-01-A B.S.I. 481F Father Capodanno
Boulevard, west side, 1877.86' south of Sand Lane, Block 3500, Lot 23, Borough of Staten Island. Applic. #500463544.
Proposed construction of a three family dwelling, located within the bed of a mapped street is contrary to Section 35, Article of the General City Law.

42-01-BZ B.BK. 1145 East 22nd Street,
180' north of Avenue "K", Block 7604, Lot 15, Borough of Brooklyn. Applic.#301112310. Proposed enlargement to an existing one family dwelling, Use Group 1, located in an R-2 zoning district, which creates non-compliance with respect to side yard, floor area ratio, open space ratio and rear yard, is contrary to Z.R. §23-461, §23-141 and §23-47.
COMMUNITY BOARD #14BK

43-01-A B.Q. 59-21 Francis Lewis
Boulevard, east side, 245.7' north of 147th Drive, Block 13682, Lot 156, Borough of Queens. Applic.#401183330. Proposed construction of a two-story, two-family dwelling, located in the bed of a mapped street is contrary to Section 35, Article 3 of the General City Law.

44-01-A B.Q. 259-21A Francis Lewis
Boulevard, east side, 215.90' north of 147th Drive, Block 13682, Lot 154, Borough of Queens. Applic.#401183367.
Proposed construction of a two-story,two-family dwelling, located in the bed of a mapped street is contrary to Section 35, Article 3 of the General City Law.

45-01-BZ B.BK. 115 Falmouth Street,
east side, 100.0' south of Hampton Avenue, Block 8749, Lot 319, Borough of Brooklyn. Applic.#301109510. Proposed addition of a second floor, and the enlargement of the first floor of an existing one story, one family dwelling, located in an R3-1 zoning district, which creates non-compliance with respect to lot coverage, floor area ratio and rear yard, is contrary to Z.R.§23-141, §54-31 and §23-47.

COMMUNITY BOARD #15BK

46-01-A B.S.I. 133 Giegerich Avenue,
south side, 215' east of Bedell Avenue, Block 7793, Lot 188, Borough of Staten Island. Applic. #500453065. Proposed two family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

47-01-A B.S.I. 145 Giegerich Avenue,
south side, 100' east of Bedell Avenue, Block 7793, Lot 187, Borough of Staten Island. Applic. #500453056. Proposed two family dwelling not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

48-01-A B.Q. 29 Gotham Walk,
east side, 35' north of Breezy Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens. Applic. #401275124. Proposed enlargement of the existing first floor and the addition of a new second floor, to a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

DOCKET

49-01-BZ B.BK. 54 Coleridge Street,
west side, 340.0' north of Hampton Avenue, Block 8728, Lot
46, Borough of Brooklyn. Applic. #301137222. Proposed
enlargement to an existing two family dwelling, Use Group
2, located in an R3-1 zoning district, which does not comply
with the zoning requirements for floor area ratio and lot
coverage, is contrary to Z.R. §23-141 and 54-31.

COMMUNITY BOARD #15BK

50-01-A B.S.I. 146 Bartow Avenue,
south side, 159' east of Page Avenue, Block 7756, Lot 14,
Borough of Staten Island. Applic. #500466202. Proposed
two family dwelling not fronting on a legally mapped street
is contrary to Section 36, Article 3 of the General City Law.

51-01-A B.S.I. 148 Bartow Avenue,
south side, 129' east of Page Avenue, Block 7756, Lot 13,
Borough of Staten Island. Applic. #5004662112. Proposed
two family dwelling not fronting on a legally mapped street
is contrary to Section 36, Article 3 of the General City Law.

52-01-BZ B.BK. 2312/16 Atlantic Avenue,
south side, 79.11' west of Eastern Parkway, Block 1435, Lot
36, Borough of Brooklyn. Applic. #301102045. The
reestablishment of an expired variance, previously granted
under Cal. #426-31-BZ, which permitted a motor vehicle
repair shop, Use Group 16, in a C2-3 zoning district.

COMMUNITY BOARD #8BK

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.

CALENDAR

MARCH 13, 2001, 11:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday morning*, March 13, 2001, at 11 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

APPEALS CALENDAR

14-01-A

APPLICANT - Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; Jack Nacmias, lessee.

SUBJECT - Application January 17, 2001 - proposed enlargement to an existing one family dwelling, not fronting on a legally mapped street and located within the bed of a mapped street, which is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED - 3 Clinton Walk, west side, 55.0' north of 12th Avenue, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

MARCH 13, 2001, 2:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, March 13, 2001, at 2 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

227-00-BZ

APPLICANT - Sheldon Lobel, P.C., for Moshe Nachum, owner.

SUBJECT - Application October 6, 2000 - under Z.R. 73-622, to permit the legalization of the reduction in the size of the third floor in an existing one family dwelling, which creates non-compliance with respect to floor area, lot coverage and open space, and is contrary to Z.R. §23-141.

PREMISES AFFECTED - 1869 East 23rd Street, between Avenue R and Avenue S, Block 6829, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Pasquale Pacifico, Executive Director

MARCH 27, 2001, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday morning*, March 27, 2001, at 10 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

200-24-BZ

APPLICANT -Stephen Ely, for Haymes Investment Company, owner; Cha Duk Kim, Hail Super Corp, lessee.

SUBJECT - Application October 20, 2000 - reopening for an extension of term of the variance which expired September 23, 2000, and for an amendment to legalize the change use from automotive related service (U.G.16) to use food store (U.G.6).

PREMISES AFFECTED -3030 Jerome Avenue a.k.a 3103 Villa Avenue, 161.81' south of East 204th Street, Block 3321, Lots 25 Borough of The Bronx.

COMMUNITY BOARD #7BX

93-72-BZ

APPLICANT - Fischbein Badillo Wager Harding, for Sovereign Apartment., owner.

SUBJECT - Application January 8, 2001 - reopening for an amendment of the variance.

PREMISES AFFECTED -405,411 to 449 East 58th Street/ 408, 420 to 438 East 59th Street, 106.6' West of Sutton Place, Block 1370, Lot(s)102,6,7108, 8, 15, 16, 17, 117, 18, 19, 29, 30, 31, 121, 44.

COMMUNITY BOARD #6M

854-87-BZ

APPLICANT - Sheldon Lobel, P.C., for Ansano Construction Corp, owner.

SUBJECT - Application November 30, 2000 - request for a waiver of the Rules of Practice and Procedure and a reopening for an extension of term of the variance which expired December 20, 1998.

PREMISES AFFECTED - 3924 East Tremont Avenue, Southwesterly corner of the intersection of East Tremont Avenue and Cross Bronx Expressway, Block 5576, Lot 1, Borough of The Bronx.

COMMUNITY BOARD #18BK

CALENDAR

MARCH 27, 2001, 11:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday morning*, March 27, 2001, at 11 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

APPEALS CALENDAR

309-00-A

APPLICANT - New York City Department of Buildings.
OWNER OF PREMISES: J. J. Family Realty, Beach Auto Parts, Inc., Lessee.
SUBJECT - Application December 22, 2000 - Application to review and set aside Certificate of Occupancy No. Q400089079, for subject premises on basis that the Certificate of Occupancy, issued June 10, 1993, which permitted the use of an accessory garage for installation of auto parts, sold at an attached retail auto parts store, was issued in error.
PREMISES AFFECTED - 13-26/36 Beach Channel Drive, bounded by Dix and Redfern Avenues and Beach Channel Drive, Block 15528, Lot 12, Borough of Queens.

31-01-A

APPLICANT - Fischbein Badillo Wagner Harding for Joseph E. Sheehan.
OWNER OF PREMISES: George Pantelidis.
SUBJECT - Application January 26, 2001 - An appeal challenging a decision of the Department of Buildings (DOB), issuance of permits and allowing the construction of a two-story enlargement (greenhouse), in the rear of subject premises.
PREMISES AFFECTED - 116 East 73rd Street, south side, 140.6' east of Park Avenue, Block 1407, Lot 67, Borough of Manhattan.
COMMUNITY BOARD #8M

MARCH 27, 2001, 2:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, March 27, 2001, at 2 P.M., at 40 Rector Street, 6^h Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

222-00-BZ

APPLICANT - Philip P. Agusta, R.A., M.U.P., for Anthony Guddemi, owner.
SUBJECT - Application September 26, 2000 - under Z.R. §72-21, to permit the proposed two story mixed use building consisting of retail and/or business or professional offices on the first floor and four residential units on the second floor (Use Groups 2 and 6) located in an R3-2 (SRD) zoning district, which creates noncompliance with respect to front yard, and exceeds the allowed lot coverage and is contrary to Z.R. §22-00, §23-45 and §23-141.
PREMISES AFFECTED - 4177 Hylan Boulevard, southwest corner of William Avenue, Block 5282, lot 67, Borough of Staten Island.
COMMUNITY BOARD #3S.I.

228-00-BZ

APPLICANT - Sheldon Lobel, P.C., for Hoffman and Partners, LLC, owners.
SUBJECT - Application October 10, 2000 - under Z.R. §72-21, to permit the proposed conversion of a vacant building, zoned for manufacturing use, to be used for residential purposes (Use Group 2) which is contrary to Z.R. §42-00.
PREMISES AFFECTED - 28/32 Locust Street, between Broadway and Beaver Street, Block 3135, Lot 16, Borough of Brooklyn.
COMMUNITY BOARD #4BK

CALENDAR

250-00-BZ

APPLICANT - Paul Hastings, Janofsky & Walker LLP, for New York University, owner.

SUBJECT - Application October 19, 2000 - under Z.R. §11-411, to permit the proposed reestablishment of an expired special permit, previously granted under Cal. No. 374-60-BZ, which permitted transient parking in an existing multiple dwelling accessory garage in an R7-2 within a C1-5 zoning district.

PREMISES AFFECTED - 521-541 and 553-63 LaGuardia Place (West Broadway) a.k.a. 207-245 Mercer Street, bounded by LaGuardia Place, West Third, Mercer and Bleecker Streets, Block 533, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

288-00-BZ

APPLICANT - The Agusta Group, for Dominick Terrasi, owner.

SUBJECT - Application November 29, 2000 - under Z.R. §72-21, to permit the proposed erection of a two family dwelling (Use Group 2) located in an R3-1 zoning district, which creates non-compliance with respect floor area, front yards, lot area, coverage and width, which is contrary to Z.R. §23-141, §23-45 and §23-32.

PREMISES AFFECTED - 3297 Griswold Avenue, northwest corner of Bayshore Avenue, Block 5417, Lot 117, Borough of The Bronx.

COMMUNITY BOARD #10BX

311-00-BZ

APPLICANT - Sheldon Lobel, P.C., for Charles & Diane Suede, owners.

SUBJECT - Application December 22, 2000 - under Z.R. §73-622, to permit the proposed enlargement to an existing one family dwelling (Use Group 1) located in an R-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, side and rear yards, and is contrary to Z.R. §54-31, §23-461 and §23-47.

PREMISES AFFECTED - 3195 Bedford Avenue, 214' north of Avenue K, Block 7607, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Pasquale Pacifico, Executive Director

MINUTES

REGULAR MEETING

**TUESDAY MORNING, FEBRUARY 13, 2001
10:00 A.M.**

Present: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, February 6, 2001, were approved as printed in the Bulletin of February 15, 2001, Volume 86, No. 6-7.

SPECIAL ORDER CALENDAR

240-55-BZ

APPLICANT - Joseph P. Morsellino, for Douglas Callahan, owner.

SUBJECT - Application September 11, 2000 - reopening for an amendment to permit the erection of a 2nd story to the existing one store building.

PREMISES AFFECTED - 207-22 Northern Boulevard, Northern Boulevard and 208th Street, Block 7305, Lot 19, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: Joseph P. Morsellino.

For Administration: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

ACTION OF THE BOARD - Laid over to March 6, 2001, at 10 A.M., for decision, hearing closed.

132-58-BZ

APPLICANT -Vassalotti Associates Architects.,for The Estate of Joseph P. Barone, owner.

SUBJECT - Application November 24, 1999 - reopening for an extension of term of the variance which expired June 18, 2000.

PREMISES AFFECTED - 17-45 and 17-55 Francis Lewis Boulevard, Block 4747, Lots 31 and 41, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Administration: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to April 17, 2001, at 10 A.M., for continued hearing.

651-70-BZ

APPLICANT - Charles R. Foy, Esq., for Exxon Mobil Oil Corp., owner.

SUBJECT - Application January 5, 2001 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to complete construction which expired May 11, 2000.

PREMISES AFFECTED - 500 Baychester Avenue, Block 5141, Lot 101, Borough of The Bronx.

COMMUNITY BOARD #10BX

APPEARANCES -

For Applicant: Charles Foy.

For Administration: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

ACTION OF THE BOARD - Laid over to March 6, 2001, at 10 A.M., for decision, hearing closed.

144-89-BZ

APPLICANT - Sheldon Lobel, P.C., for 1800 2nd Avenue Corp., owner.

SUBJECT - Application December 15, 2000 - reopening for an extension of time to complete construction.

PREMISES AFFECTED - 1800 Second Avenue, Block 1556, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Lyra Altman.

ACTION OF THE BOARD - Laid over to March 6, 2001, at 10 A.M., for decision, hearing closed.

96-90-BZ

APPLICANT - EH & HD 183rd Realty, LLC, by Eyal Schmulevich, for 548 East 183rd Street Corp., c/o Pronto Property Services Inc., owner.

SUBJECT - Application December 21, 2000 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to complete construction which expired February 7, 2000.

PREMISES AFFECTED - 548 East 183rd Street, Block 3501, Lot 31, Borough of The Bronx.

COMMUNITY BOARD #6BX

APPEARANCES -

For Applicant: Eyal Schmulevich.

ACTION OF THE BOARD - Laid over to February 27, 2001, at 10 A.M., for continued hearing.

MINUTES

283-90-BZ

APPLICANT - Rothkrug & Rothkrug, Esqs., for The Road House Inc., owner.

SUBJECT - Application December 19, 2000 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to complete construction.
PREMISES AFFECTED - 1400 Clove Road, aka 2 Oswego Street, southwest corner of Clove Road and Oswego Street, Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Adam Rothkrug.

For Administration: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4
Negative:0

ACTION OF THE BOARD - Laid over to March 6, 2001, at 10 A.M., for decision, hearing closed.

49-91-BZ

APPLICANT - Land Planning and Engineering Consultants, P.C., Vito J. Fossella, P.E., for James Kinsella.

SUBJECT - Application December 7, 2000 - request for a rehearing.

PREMISES AFFECTED - 1845 Richmond Avenue, East side of Richmond Avenue 500.18' South of Eton Place, Block 2030, Lot 57, Borough of Staten Island.

COMMUNITY BOARD #2S.I.

APPEARANCES -

For Applicant: Victor Han.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4
Negative:0

ACTION OF THE BOARD - Laid over to April 6, 2001, at 10 A.M., for decision, hearing closed.

178-00-A

APPLICANT - Sheldon Lobel, P.C., for Arlene Nussdorf, owner.

SUBJECT - Application July 12, 2000 - proposed continuation of cellar occupancy, in a converted multiple dwelling, that is currently being converted to a single family dwelling, is not permitted as per Section D26-34.13 of the Housing Maintenance Code.

PREMISES AFFECTED - 8 East 77th Street, south side, between Fifth and Madison Avenues, Block 1391, Lot 67, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Lyra Altman.

For Opposition: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

For Administration: Lisa Orrantia, Department of Buildings.

ACTION OF THE BOARD - Appeal granted on condition

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4
Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 12, 2000, acting on Alteration Application No. 102325798, reads:

“Occupancy in the cellar for bedroom and maid’s room is not permitted per Housing Maintenance Code, see D26-34.13.”; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, the premises is situated within an R8-B (LH-1A) District; and

WHEREAS, this is an administrative appeal for relief to allow cellar occupancy to continue in a converted multifamily building that is to be used for a single family; and

WHEREAS, the building was built in 1895-97 as a single family residence; and

WHEREAS, the primary issue before the Board is occupancy in the cellar; and

WHEREAS, the Department of Buildings authorized cellar occupancy in January 20, 1958; and

WHEREAS, the Department of Buildings’ 1958 authorization of the cellar occupancy continued until January 2000; and

WHEREAS, the applicant has demonstrated a need for maintaining the cellar occupancy; and

WHEREAS, the applicant has demonstrated a practical difficulty in the discontinuance of the cellar occupancy; and

WHEREAS, the Board notes here that there has been no actual or statutory abandonment of the use of the cellar for living purposes; and

WHEREAS, cellar occupancy was covered at conversion by MDL; and

WHEREAS, based on a review of the record, the Board of Standards and Appeals has the authority to grant this appeal; and

WHEREAS, the Housing Maintenance Code Section 27-2088 references Multiple Dwelling Law §310 which permits the Board of Standards and Appeals to vary the prohibition on cellar occupancy and allow the continuance of the cellar occupancy at the premises after its conversion; and

MINUTES

WHEREAS, neither the Housing Maintenance Code nor the City Charter preempt the Board from applying the Multiple Dwelling Law in evaluating cellar occupancy; and WHEREAS, §310 of the multiple dwelling law states:

“ 2. Where the compliance with the strict letter of this chapter causes any practical difficulties or any unnecessary hardships the board shall have the power, on satisfactory proof at a public hearing, provided the spirit and intent of this chapter are maintained and public health, safety and welfare preserved and substantial justice done, to vary or modify any provision or requirement of this chapter, or of any rule, regulation, supplementary regulation, ruling or order of the department with respect to the provisions of this chapter, as follows:

a. For multiple dwelling and buildings existing on July first, nineteen hundred forty-eight, in cities with a population of one million or more... provisions relating to:

(5) Basements and cellars in tenements and converted dwellings.”; and

WHEREAS, nothing in the MDL alters the dwelling’s status as a “converted dwelling”, hence the use has not left the jurisdiction of the Board; and

WHEREAS, the Board’s site visit revealed that the occupancy meets the light, air, ventilation and space requirements of the MDL; and

WHEREAS, the MDL applies in this situation and it is logical to apply the standard of MDL §310 in a converted dwelling; and

WHEREAS, the Board has jurisdiction “[w]here the compliance with the strict letter of this chapter [the MDL] causes any practical difficulties or any unnecessary hardships.” MDL §310; and

WHEREAS, the practical difficulty illustrated by the facts of this case give the BSA the authority to allow the continuation of the cellar occupancy; and

WHEREAS, the basis of relief ensures substantial justice, as the cellar has been occupied for at least 42 years, was occupied when the current owner contracted to purchase the premises; and

WHEREAS, in its deliberation the Board notes that this is a cellar occupancy covered under the MDL; and

WHEREAS, therefore, the Board finds that it is logical to allow this to remain a cellar occupancy; and

WHEREAS, in response to concerns raised by the Fire Department, the applicant represents that 3"wide pipe for sprinkler service connected to a dedicated line have been installed in new locations in the cellar occupancy; and

WHEREAS, in portions of the building including the cellar occupancy there is a smoke detection system connected to a Fire Department approved central station; and

WHEREAS, in portions of the building including the cellar occupancy there is an automatic wet sprinkler system connected to a Fire Department approved central station; and

WHEREAS, the Board is mandated to review each project on a case by case basis; and

WHEREAS, based on the uniqueness of this situation, the cellar has been occupied for at least 42 years, and totality of the applicants circumstances the Board finds that application of the MDL is warranted; and

WHEREAS, based on a review of the record in this case, the Board finds that a waiver of the applicable sections of the Building Code and the Multiple Dwelling Law is warranted; and

Therefore it is resolved that the decision of the Manhattan Borough Commissioner, dated June 12, 2000, acting on Alt. Application No. 102325798 is modified and the appeal is granted on condition that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received January 30, 2001"-(1) sheet; and on further condition;

THAT 3"wide pipe for sprinkler service connected to a dedicated line have been installed in new locations in the cellar occupancy;

THAT in portions of the building, including the cellar occupancy, there is a smoke detection system connected to a Fire Department approved central station;

THAT in portions of the building including the cellar occupancy there is an automatic wet sprinkler system connected to a Fire Department approved central station.

THAT the development, as approved, is subject to verification by the Department of Buildings for Compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department.

Adopted by the Board of Standards and Appeals, February 13, 2001.

269-00-A

APPLICANT - Miro C. Stracar, P.E., Stracar Engineering, P.C., for Breezy Point Cooperative, owner; Mr. and Mrs. William Hayes, lessees.

SUBJECT - Application November 15, 2000 - Proposed building not fronting on a legally mapped street is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 34 Marion Walk, west side, 160' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES -

For Administration: Battalion Chief Robert J. Stec and John

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Scrofani, Fire Department.

ACTION OF THE BOARD - Appeal granted on condition.
THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Bonfilio,
Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Department of Buildings, dated November 13, 2000 acting on Alt. Applic. No. 401174858 reads:

1. "THE SITE AND BUILDING ARE NOT FRONTING ON AN OFFICIAL MAPPED STREET AND ARE CONTRARY TO ARTICLE 3, SECTION 36 OF THE GENERAL CITY LAW. ADDITIONALLY, THE BUILDING IS CONTRARY TO SECTION 27-291 OF THE NEW YORK CITY BUILDING CODE SINCE IT DOES NOT HAVE AT LEAST 8% OF THE TOTAL PERIMETER OF THE BUILDING FRONTING DIRECTLY UPON A LEGALLY MAPPED STREET OR FRONTAGE SPACE.";

WHEREAS, a public hearing was held on this application on January 9, 2001 after due notice by publication in *The City Record*, laid over to January 23, 2001 and then to February 13, 2001 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-Chair Paul Bonfilio, R.A., Commissioner Mitchell Korbey, and Commissioner Peter Caliendo; and

WHEREAS, by letter dated December 22, 2000 the Fire Department indicated they have no objection to the proposed action; and

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

Resolved, that the decision of the Borough Commissioner, dated November 13, 2000 acting on Alt. Applic. No. 401174858, objection #1, is modified under the powers vested in the Board by §36 of the General City Law, and that the appeal is granted, limited to the decision noted, *on condition*; that construction shall substantially conform to drawing filed with the application marked, "Received , January 16, 2001"- (7) sheets and that all applicable laws, rules and regulations shall be complied with.

Adopted by the Board of Standards and Appeals, February 13, 2001.

279-00-A

APPLICANT - Sal T. Tartaglione, for Glen Oaks Volunteer Ambulance Corps. Richard Keller - Chairman, owner.

SUBJECT - Application November 21, 2000 - proposed construction of a two story and cellar masonry building (Glen Oaks Volunteer Ambulance Corporation), without providing accessibility in the form of an elevator for the entire building, which is contrary to Section 27-295.5 of the New York City Building Code.

PREMISES AFFECTED - 257-02 Union Turnpike a.k.a. 79-03 257th Street, southeast corner, Block 8694, Lot 25, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Administration: Lisa Orrantia, Department of Buildings.

ACTION OF THE BOARD - Appeal granted on condition.
THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Bonfilio,
Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Queens Borough Commissioner, dated June 14, 2000, updated January 31, 2001 acting on Application#401076955, reads:

"Proposed a "NEW BUILDING with total gross floor area of 6,082 square feet without accessibility for entire building that is contrary to section 27-292.5 B.C."; and

WHEREAS, the premises and the surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice Chair Paul Bonfilio, R.A., Commissioner Mitchell Korbey, and Commissioner Peter Caliendo;

WHEREAS, this is an appeal to permit, in an R-2 zoning district, the construction of a new building used for the Glenn Oaks Volunteer Ambulance Corporation; and

WHEREAS, the appellant seeks to construct a 6082 sq ft. two-story and cellar masonry building, without providing an elevator for the entire building; and

WHEREAS, the building will contain a cellar containing a crew room, locker room and accessory storage and bathroom; and

WHEREAS, the first floor will contain a dispatch office, meeting room, a kitchenette, a three-ambulance garage and a unisex bathroom accessible to people with disabilities; and

WHEREAS, the second floor will contain a training room, kitchen, male/female bathrooms and training offices; and

WHEREAS, the primary function areas and primary

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program areas will be located on the first floor; and

WHEREAS, the appellant asserts that during meetings with the Commissioner of the Department of Buildings and the plan examiner, the above objection was determined to mean, that an elevator serving all floors of the building had to be provided; and

WHEREAS, the appellant is a not for profit (501(c)3 entity) volunteer ambulance Corporation; and

WHEREAS, the record indicates that the appellant has no set budget and relies on donations for its existence; and

WHEREAS, the Department of Buildings contends that no waiver from accessibility requirements can be made pursuant to the Administrative Code §27-292.6; and

WHEREAS, this appeal requests that the Board make a determination as to whether the Department of Buildings interpretation that no waiver is available to the appellant under Administrative Code §27-292.5; and

WHEREAS, under the Department of Buildings interpretation, no waiver is available regardless of economic burden, status as a not-for-profit entity, physical fitness of the intended occupants, or proposed alternative accommodations; and

WHEREAS, after providing the above interpretation that no alternative or accommodation is available, the Department of Buildings then finds that a less expensive option than a full service elevator exists for the applicant; and

WHEREAS, the Board agrees with the Department of Buildings that a volunteer ambulance corp does not have the same status as a city department with special requirements; and

WHEREAS, therefore, the Board finds that the subject facility is a non-profit place of public accommodation; and

WHEREAS, the record indicates that requiring elevator access would create an undue financial burden for the appellant; and

WHEREAS, however, the Board notes that elevators and ramps provide vertical access to users and employees of a facility; and

WHEREAS, issues of accessibility relate to equal enjoyment of the goods, services, facilities, privileges or accommodations; and

WHEREAS, some programs and services can only provide equal enjoyment of goods and services by providing vertical elevator access; and

WHEREAS, the Board finds the that the subject volunteer ambulance Corporation provides programs for the community; and

WHEREAS, the Americans with Disabilities Act Accessibility Guide Lines Section 4.1.3(5) provides that new public accommodation facilities, such as the one before the Board, are exempt from having to provide an elevator, if the structure is less than 3 stories or contains less than 3,000

square feet per story; and

WHEREAS, the record indicates that the subject proposal qualifies for the elevator exemption under the Americans with Disabilities Act; and

WHEREAS, it is a Board mandate and a requirement of the Americans with Disabilities Act, that projects be reviewed on a case by basis; and

WHEREAS, therefore, the issue before the Board, is a functional one, whether equivalent program access is provided for people with disabilities; and

WHEREAS, under the concept of equivalent facilitation departure from particular technical and scoping requirements is permitted where the alternative designs and technologies used will provide substantially equivalent or greater access to and usability of the facility or program; and

WHEREAS, the record indicates that all programs and services offered at the subject facility will be provided on the first floor; and

WHEREAS, the first floor will be accessible to people with disabilities including those using wheelchairs; and

WHEREAS, for the Board to make an inquiry of accessibility to employees of the site, the Board would be required to inquire about the essential functions needed to perform those duties; and

WHEREAS, the Board finds that when viewed under the totality of its circumstances, the appellant's proposal provides equivalent access to people with disabilities including those using wheelchairs.

Therefore, it is resolved that the decision of the Queens Borough Commissioner dated January 31, 2001, acting on Application # 401076955, is modified and the appeal is granted on condition that all work shall substantially conform to the drawings as they apply to the objection above noted, filed with this application marked "Received January 16, 2001"- (9) sheets; and that all applicable laws, rules, and regulations shall be complied with.

Adopted by the Board of Standards and Appeals, February 13, 2001.

278-00-A

APPLICANT - Rachel Tanur for FC 42nd Street Associates, L.P., Ground Lessee

OWNER OF PREMISES: 42nd Street Development Project, Inc.,

SUBJECT - Application November 20, 2000 - proposed marquee sign does not comply with Section 27-504(a) of the New York City Building Code, in that the total height of the proposed sign exceeds 8' above the fascia of the marquee.

PREMISES AFFECTED - 234 West 42nd Street, southwest corner of 8th Avenue, Block 1013, Lots 12, 45, 46, 49, 50, 51, 53, 55 and 57, Borough of Manhattan.

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COMMUNITY BOARD #5M

APPEARANCES -

For Opposition: John Reisinger, Department of Buildings.

For Administration: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to March 6, 2001, at 10 A.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 11:05 A.M.

REGULAR MEETING

TUESDAY AFTERNOON, FEBRUARY 13, 2001

2:00 P.M.

Present: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.

ZONING CALENDAR

92-00-BZ

CEQR #00-BSA-107M

APPLICANT - Sheldon Lobel, P.C., for 227 East 56th Company, owner; Club Robert Paul, Inc. d/b/a Spa 227, lessee.

SUBJECT - Application March 24, 2000 - under Z.R. §73-36, to permit the legalization of an existing physical culture establishment (Use Group 9) located in a C1-9 zoning district.

PREMISES AFFECTED - 227 East 56th Street, northside, between Second and Third Avenues, Block 1330, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Sheldon Lobel and Eric Palatnik.

For Administration: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

ACTION OF THE BOARD - Application denied.

THE VOTE TO GRANT -

Affirmative:0

Negative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4

THE RESOLUTION -

WHEREAS, the decision of the Department of Buildings, dated February 24, 2000, acting on Alt. Applic. No. 102675197 reads:

“Proposed physical culture establishment (UG-9) is not permitted in a C1-9 zoning district and requires a special permit from the Board of Standards and Appeals as per

ZR §32-31.”

WHEREAS, Community Board 6, Manhattan, recommended disapproval of this application; and

WHEREAS, a public hearing was held on this application on September 19, 2000, after due notice by publication in *The City Record*, laid over to October 17, 2000, November 21, 2000, January 23, 2001 and February 23, 2001 for decision; and

WHEREAS, the premises and surrounding area had several site and neighborhood examinations by a committee of the Board consisting of Chairman James Chin, Vice-Chair Paul Bonfilio, R.A., Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §§73-01 and 73-36 to permit the operation of a physical culture establishment located on the 2nd and 3rd floors of 227 E. 56th Street, which is in a C1-9 zoning district; and

WHEREAS, the subject application involves a facility which has been open and operating over seven years; and

WHEREAS, Z.R. §73-36 allows the Board to issue a special permit for a facility which contains certain enumerated racquet sports, a swimming pool, facilities for physical improvements, body building, weight reduction, aerobics or martial arts, or facilities for massage performed by licensed professionals; and

WHEREAS, in granting the permit, the Board must find that the proposed use will not alter the essential character or future use or development of the surrounding area; and

WHEREAS, Z.R. §73-36 requires the Board to look specifically at the beneficiaries of the permit, not just the general land use impacts; and

WHEREAS, according to Z.R. §73-03, the Board shall make all the findings required under §73-36 with respect to use and shall find that the hazards or disadvantages to the community at large through the location of the use at the site are outweighed by the advantages to be derived by the community from the grant of the special permit; and

WHEREAS, this unique role for the Board is rooted in the legislative motivation behind the passage of this special permit; and

WHEREAS, in order to stop the continued proliferation of the number of “massage parlors” in New York City, a moratorium was instituted on all physical culture establishments in 1976; and

WHEREAS, at that time, there was significant difficulty in distinguishing health and exercise clubs and legitimate massage parlors from sex clubs; and

WHEREAS, after a two year study, a special permit for physical culture establishments was developed and the Board of Standards and Appeals was entrusted with issuing the permit; and

WHEREAS, the special permit included a background check of the owner, operator and all principals having an

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interest in the application filed under a partnership or corporate name; and

WHEREAS, the moratorium on all physical culture or health establishments was deleted; and

WHEREAS, in 1981, an application under Cal. No. 1099-81-BZ was filed under Z.R. §73-36 for the 6th and 7th floors within the building; and

WHEREAS, in 1981, the Board was unconvinced that the facility operated as a legitimate physical culture and health establishment and denied the application; and

WHEREAS, according to the record, Robert N. DeBenedictis was one of three initial corporate directors of the East Side Sauna which operated the 6th and 7th floors in 1981 at 227 East 56th Street; and

WHEREAS, according to the record, Mr. DeBenedictis is presently the General Partner of 227 East 56th Company, the current owner of the building; and

WHEREAS, according to the record, Mr. DeBenedictis is also the President and 75% owner in equity of Spa 227 which occupies the 2nd and 3rd floors at 227 East 56th Street; and

WHEREAS, the proposal shows the layout of Spa 227 on the 2nd and 3rd floors not uncommon with physical culture and health establishments; and

WHEREAS, Board site visits revealed that the building does in fact have equipments for physical improvement and exercise; and

WHEREAS, the Board has received information from numerous city agencies (i.e. The Department of Health, The Office of Midtown Enforcement, The Department of Investigation, The Department of Buildings) detailing activities inconsistent with the operation of a true physical culture establishment; and

WHEREAS, specifically, the information detailed evidence of sexual activity, including eye witness accounts of sex acts within the building and signs directing proper disposal of condoms and sanitary procedures for soiled sheets; and

WHEREAS, this application is no more meritorious than the 1981 application in regard to the establishment being used exclusively as a physical culture establishment; and

WHEREAS, the Board does not doubt that some patrons of the subject building do use the equipment on the 2nd and 3rd floors for exercise and health improvement; and

WHEREAS, however, the Board can reasonably conclude from the information in the record that the building is not being used exclusively for legitimate physical improvement; and

WHEREAS, rather, the building is clearly used for sexual activity which is inconsistent with a commercial establishment seeking a special permit under Z.R. §73-36; and

WHEREAS, therefore, the application must be denied.

Therefore, it is resolved, that the decision of the Department of Buildings is affirmed and the application is denied.

Adopted by the Board of Standards and Appeals, February 13, 2001.

124-00-BZ
CEQR #00-BSA-134K

APPLICANT - Rothkrug and Rothkrug, for Spartacus Realty Inc., owner.

SUBJECT - Application April 26, 2000 - under Z.R. §72-21, to permit in an R4 district, the proposed construction of a one-family dwelling on a lot with less than the required lot width and does not provide the required side yards and is contrary to Z.R. § 23-461.

PREMISES AFFECTED - 1213 Doone Court, north side, 90' east of East 12th Street, Block 7413, Lot 83, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Gus Potanis and Harry Roch.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

THE RESOLUTION

WHEREAS, the decision of the Borough Commissioner, dated January 25, 2001 acting on Application No. 301004936 reads:

“Proposed one family dwelling in an R4 Zoning District which does not provide the required side yards is contrary to sections 23-461 of the Zoning Resolution, and must be referred to the Board of Standards and Appeals.”;

and

WHEREAS, a public hearing was held on this application on November 14, 2000 after due notice by publication in *The City Record*, laid over to December 12, 2000, January 23, 2001, and then to February 13, 2001 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-Chair Paul Bonfilio, R.A., Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. § 72-21, to permit, in an R4 district, the proposed construction of a one-family dwelling on a lot with less than the required lot width and does not provide the required side yards and is contrary to Z.R. § 23-461; and

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WHEREAS, the premises consist of a plot with 20' of frontage by 100' of depth; and

WHEREAS, the record indicates that the subject lot is unusually narrow and was not developed along with other similarly situated lots, prior to the enactment of the current zoning regulations; and

WHEREAS, the subject premises was in common ownership with a contiguous property on December 15, 1961; and

WHEREAS, however, the contiguous property was not located so as to permit common development with the subject premises; and

WHEREAS, the applicant represents that due to the small size of the subject premises, construction of any dwelling would require a zoning variance; and

WHEREAS, the applicant proposes to construct a cellar and two-story, one-family house that is 17' wide by 52' in depth, a total of 1,768 square feet in area, with one 3' wide side yard along the easterly lot line (adjacent to the existing building on Lot 84 which has a contiguous side yard which is less than three feet in width); and

WHEREAS, in response to Board and community concerns, the application has been revised from a two-family dwelling to the present one-family dwelling proposed; and

WHEREAS, the subject dwelling was reduced from 3 stories to 2 stories in height; and

WHEREAS, the proposed floor area was reduced from 2,694 square feet to 1,768 square feet; and

WHEREAS, the proposed floor area ratio was reduced from 1.35 to 0.88; and

WHEREAS, the applicant represents and the Board notes that the proposed floor area is significantly less than the maximum floor area permitted in the underlying R4 zoning district; and

WHEREAS, the Zoning Resolution requires two side yards totaling 13' in width, with a minimum width of 5'; and

WHEREAS, the record indicates that strict compliance with the zoning resolution would yield a dwelling that is 7' in width; and

WHEREAS, the unique conditions demonstrate that the development of this site with a complying development creates a practical difficulty; and

WHEREAS, evidence in the record, including a feasibility study, demonstrates that developing the site with a complying development would not yield a reasonable return; and

WHEREAS, many dwellings, including the two lots immediately to the east of the subject premises, are only 20' in width and were developed with structures that do not provide required yards; and

WHEREAS, the Board finds that the proposed application, as modified, will not alter the essential character of the surrounding neighborhood, impair the use or

development of adjacent properties nor be detrimental to the public welfare; and

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

WHEREAS, the Board finds that the variance is the minimum variance necessary to afford relief; and

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

Therefore, it is Resolved that the Board of Standards and Appeals issues a Type II Determination, under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and *grants* a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, in an R4 district, the proposed construction of a one-family dwelling on a lot with less than the required lot width and does not provide the required side yards and is contrary to Z.R. § 23-461, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 9, 2001"-(3) sheets and "January 23, 2001"-(3) sheets, and *on further condition*;

THAT the development, as approved, is subject to verification by the Department of Buildings for compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department; and

THAT a new certificate of occupancy be obtained within one year from the date of this resolution.

Adopted by the Board of Standards and Appeals, February 13, 2001.

136-00-BZ CEQR #00-BSA-142M

APPLICANT - Sheldon Lobel, P.C., for Four O Realty, LLC, owner; Spa and Health Club, Inc., lessee.

SUBJECT - Application May 12, 2000 - under Z.R. §73-36, to permit the proposed physical culture establishment (Use Group 9) located on the second floor of a three story building, in an M1-6 zoning district (Special District G.C.), which requires a special permit.

PREMISES AFFECTED - 585 Eight Avenue (aka 306 West 39th Street), Southwest corner, Block 762, Lot 38, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Eric Palatnik.

For Opposition: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

ACTION OF THE BOARD - Application withdrawn.

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THE VOTE TO WITHDRAW -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

Adopted by the Board of Standards and Appeals, February 13, 2001.

171-00-BZ

CEQR #00-BSA-164K

APPLICANT - Sheldon Lobel, P.C., for CRAgro Realty Co., owner.

SUBJECT - Application June 27, 2000 - under Z.R. §72-21, to permit in an R6A zoning district, the elimination of a non-conforming automotive repair shop (Use Group 16) and replace it with a Use Group 16 automotive service station with an accessory convenience store; which is contrary to Z.R. §54-31.

PREMISES AFFECTED - 6417 3rd Avenue a.k.a. 6499 3rd Avenue, northeast corner of 65th Street, Block 5817, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES -

For Applicant: Eric Palatnik.

For Opposition: Battalion Chief Robert J. Stec and John Scrofani, Fire Department

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 28, 2000 acting on Application No. 301014104 reads, in pertinent part:

“Proposed enlargement to existing automotive service station is contrary to section 54-31 of the Zoning Resolution and, therefore, must be referred to the BSA.”;

and

WHEREAS, a public hearing was held on this application on December 5, 2000 after due notice by publication in *The City Record*, laid over to January 16, 2001 and then to February 13, 2001 for decision; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-Chair Paul Bonfilio, R.A., Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21, to permit in an R6A zoning district, the elimination of a non-conforming automotive repair shop (Use Group 16) and

replace it with a Use Group 16 automotive service station with an accessory convenience store contrary to Z.R. §54-31; and

WHEREAS, the record indicates that the subject premises has operated as a gasoline service station since 1940; and

WHEREAS, in 1995, a truck rental establishment operated concurrently with the filling and service station; and

WHEREAS, in 1998 the underground storage tanks were removed; and

WHEREAS, therefore, the subject premises has operated as an automotive repair and truck rental facility; and

WHEREAS, the existing 1,307 square foot building will remain; and

WHEREAS, however, the applicant seeks to enlarge the existing building by 837 square feet to allow for the proposed accessory convenience store; and

WHEREAS, the record suggests that the applicant’s proposal complies with the floor area ratio, floor area, open space ratio, perimeter wall, total height, side yards and front yards; and

WHEREAS, therefore, the Board finds that the applicant’s proposal is in substantial compliance with the Special Bay Ridge District; and

WHEREAS, the applicant represents that the existing non-conforming automotive repair shop is obsolete; and

WHEREAS, the site’s history of development with automotive repair, gasoline service and truck rental uses are unique conditions creating unnecessary hardships and practical difficulties in developing the site in strict conformity with the current zoning regulations; and

WHEREAS, the applicant represents that the above referenced conditions leave no reasonable possibility of obtaining a reasonable return through conforming development; and

WHEREAS, evidence in the record, including a feasibility study, demonstrates that developing the site with a conforming use would not yield a reasonable return; and

WHEREAS, evidence in the record indicates that automotive- related uses have occupied the site for over 60 years and;

WHEREAS, the subject premises is adjacent to a Police Station on its south and a vacant lot to its east; and

WHEREAS, furthermore, there are few residential uses within the vicinity of the site; and

WHEREAS, the proposed structure will be set back approximately 15' from residential uses and will contain a dense buffer of grass, landscaping and fencing; and

WHEREAS, the subject premises is located immediately next to an on-ramp for the Gowanus Expressway and will draw patrons from the existing traffic flow; and

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WHEREAS, therefore, the applicant represents that the proposed convenience store fits within the character of this neighborhood; and

WHEREAS, the record indicates that the applicants proposal is consistent with New York City's Waterfront policies; and

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

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

WHEREAS, the Board finds that the variance is the minimum variance necessary to afford relief; and

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

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

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

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and *grants* a variation in the application of the Zoning Resolution, limited to the objections cited, to permit in an R6A zoning district, the elimination of a non-conforming automotive repair shop (Use Group 16) and replace it with a Use Group 16 automotive service station with an accessory convenience store; which is contrary to Z.R. §54-31 , *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 8, 2001"-(7) sheets; and *on further condition*;

THAT the hours of operations for the car vacuuming systems shall be limited to 8:00 a.m. to 9:00 p.m.;

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

THAT the development, as approved, is subject to verification by the Department of Buildings for compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department; and

THAT a substantial construction be completed in accordance with Z.R. §72-23.

Adopted by the Board of Standards and Appeals, February 13, 2001.

189-00-BZ

CEQR #01-BSA-005M

APPLICANT - Law Offices of Howard Goldman PLLC, for Houston Street Properties LLC, owner.

SUBJECT - Application July 19, 2000 - under Z.R. §72-21, to permit in an C6-1 zoning district, the proposed erection of a twenty-three story residential building which creates non-compliance with regard to apartments permitted.

PREMISES AFFECTED - 215 East Houston Street, East Houston Street, between Ludlow and Essex Streets, Block 412, Lot 53, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES -

For Applicant: Chris Wrigh.

For Opposition:

For Administration: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated September 21, 2000, acting on N.B. Applic. No. 102698706, reads;

1. Proposed floor area exceeds floor areas permitted by Section 23-142, 35-313 and 35-32.
2. Proposed open space does not provide requisite open space as per Section 23-142 and 35-33.
3. Proposed number of zoning rooms exceeds number of zoning rooms permitted by section 23-223.
4. Proposed height and setback does not comply with height and setback requirements of Sections 23-632, 33-432 and 35-62.

and

WHEREAS, a public hearing was held on this application on November 21, 2000, after due notice by publication in the Bulletin, laid over to December 19, 2000, January 9, 2001, January 23, 2001 and then to February 13, 2001 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-Chair Paul Bonfilio, R.A., Commissioner Mitchell Korbey, and Commissioner Peter Caliendo; and

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WHEREAS, this is an application under Z.R. §72-21, to permit, on a site previously before the Board, the proposed erection of a 23 story mixed use building, which exceeds the permitted floor area for residential and commercial space, O.S.R. for residential and commercial space, number of zoning rooms and violates the allowable height and setback requirements; and

WHEREAS, the property is zoned C6-1, which permits residential use at 3.4 F.A.R. and commercial use a base of 6.0 F.A.R., plus bonuses for a total F.A.R of 7.2. with an as-of-right and a total F.A.R., including ground floor rental, of 7.6 (23 stories); and

WHEREAS, variances from floor area, open space, zoning rooms and height setback regulations are requested; and

WHEREAS, under a prior BSA application under Calendar No. 479-39-BZ, the Board permit a gasoline service station which was approved in 1958; and

WHEREAS, the gas station was demolished in 1977 and the site is currently used as a public parking lot; and

WHEREAS, the need for a variance stems from the odd shape of the site and the presence of a subway tunnel directly under the site at an unusually shallow depth; and

WHEREAS, at its deepest point, near East Houston Street, the top of the tunnel is 11' below the surface of the site; and

WHEREAS, at the southern end of the site, along Essex Street, the top of the tunnel is only 3' below grade; and

WHEREAS, the remaining portion of the site, frontage on East Houston and Ludlow Streets, would contain the new building, which requires specially designed foundations and structural components; and

WHEREAS, evidence in the record demonstrates that the shape of the parcels and the presence of a subway tunnel under the site create significant construction inefficiencies leading to increased construction costs; and

WHEREAS, these unique conditions create practical difficulties and unnecessary hardship in developing this site with a conforming and complying development; and

WHEREAS, the site is unique for two reasons; and

WHEREAS, it is comprised of two rectangles that overlap approximately 25' which, in effect, divides the site into two separate parcels; and

WHEREAS, the subway tunnel underlies both portions of the site; and

WHEREAS, the southern portion of the site, fronting Essex Street, cannot practically be built upon because the top of the tunnel is only 3' below grade, and would remain a parking lot; and

WHEREAS, construction on the northern parcel, along Houston and Ludlow Streets, is possible but complicated because of the presence of the tunnel; and

WHEREAS, the presence of the subway tunnel creates

difficulties with respect to both the foundation and the structure of the building; and

WHEREAS, the portion of the structure directly above the subway tunnel will be supported by a thick concrete mat system; and

WHEREAS, outside the footprint of the tunnel, a deep pile system is required to transfer the load below the subway tunnel structure and major pickup and transfer systems will be required to divert the load away from the tunnel roof; and

WHEREAS, extensive consultation with the New York City Transit Authority will be required to finalize a system that meets their concerns; and

WHEREAS, at the request of the Board, the applicant documented that a lesser non-complying residential use would not yield a reasonable return; and

WHEREAS, therefore, evidence in the record, including a feasibility study, demonstrates that a conforming and complying development would not yield a reasonable return; and

WHEREAS, the proposed building is lower in height than an as-of right commercial building, even though the commercial building would have fewer stories; and

WHEREAS, the height of the building is compatible with other mid and high rise residential buildings in the immediate area, which range from 5 to 21 stories; and

WHEREAS, East Houston Street is over 100' wide; and

WHEREAS, the evidence in the record suggests the predominant land use in the area is residential with ground floor commercial; and

WHEREAS, residential uses in the area include a large concentration of public housing; and

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

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

WHEREAS, this will be a mixed income project with 20% of the dwelling units set aside for low income families and 5% of the dwelling units set aside for middle income families for a duration of no less than 20 years; and

WHEREAS, at the request of the Board, the number of dwelling units containing at least two bedrooms must never fall below 20% of the project's total dwelling units; and

WHEREAS, at the request of the Board, the number of dwelling units containing at least one bedroom must never fall below 50% of the project's total dwelling units; and

WHEREAS, at the Board's insistence, absolutely no more than 30% of the of the project's total dwelling units will contain zero bedrooms (studio apartments); and

WHEREAS, at the Board's insistence, any future three

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bedroom apartments must be designed from the percentage of space allocated for studio apartments and one bedroom apartments; and

WHEREAS, at the request of the Board, there will be no car stackers on the surface parking lot on Essex Street so that the lot will be limited to 50 parking spaces; and

WHEREAS, this proposal, as modified, is the minimum necessary to afford the owner relief; and

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

WHEREAS, the community has expressed concerns about the environmental impact of this project on the community, in particular, overtaking existing public services (i.e. infrastructure, public transportation, and local streets), parking and shadows; and

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

WHEREAS, therefore, the Board has determined that the proposed action, as modified, will not result in any significant environmental effects; and

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

WHEREAS, the community has expressed concerns about gentrification and displacement in the neighborhood; and

WHEREAS, the evidence in the record demonstrates no foreseeable significant socioeconomic impacts as demonstrated in the Socioeconomic Impact Assessment; and

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 N.Y.C.R.R. Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, in an C6-1 zoning district, the proposed erection of a twenty-three story residential building which creates non-compliance with regard to apartments permitted, on condition that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received January 30, 2001"-(5) sheets; and on further condition;

THAT at least 20% of the project's dwelling units will contain two or more bedrooms and 50% of the dwelling units will contain one bedroom;

THAT there will be a 20% set aside of dwelling units pursuant to the 421-a real estate tax exemption program for low income families for a term of not less than 20 years;

THAT there will be a 5% set aside of dwelling units

pursuant to the NYCHDC New Housing Opportunities Program (NHOP) for middle income families for a term of not less than 20 years;

THAT all parking will be at grade and there will not be car parking" stackers" on the surface parking lot on Essex Street

THAT the parking lot will be limited to 50 parking spaces;

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

THAT the development, as approved, is subject to verification by the Department of Buildings for compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department; and

THAT substantial construction shall be completed in accordance with Z.R. §72-23.

Adopted by the Board of Standards and Appeals, February 13, 2001.

**194-00-BZ
CEQR #01-BSA-009M**

APPLICANT - Friedman & Gotbaum, LLP, by Lori G. Cuisinier, Esq., for Reidfield Associates, Inc., owner.

SUBJECT - Application July 31, 2000 - under Z.R. §72-21, to permit the proposed construction of a six story building, with twenty-three apartments (Use Group 2) located in an R7-2 zoning district, which creates non-compliance with respect to F.A.R., O.S.R., room count, rear yard, court area and dimensions, and distance from windows to lot lines, which is contrary to Z.R. §23-142, §23-223, §23-47, §23-86 and §23-851.

PREMISES AFFECTED - 11 Monroe Street, north side, between Catherine and Market Streets, Block 276, Lot 5, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES -

For Opposition: Battalion Chief Robert J. Stec and John Scrofani, Fire Department and Richard Barth.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4
Negative:0

Adopted by the Board of Standards and Appeals, February 13, 2001.

**203-00-BZ
CEQR #01-BSA-017M**

APPLICANT - Jay A. Segal (Greenberg Traurig, LLP), for 603 Greenwich Street LLC, owner.

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SUBJECT - Application August 11, 2000 - under Z.R. §72-21, to permit the proposed conversion of the upper three stories, plus a new partial penthouse, of a former mini-storage facility, from manufacturing to residential (Use Group 2) located in an M1-5 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 603 Greenwich Street, northwest intersection of Greenwich and Clarkson Streets, Block 601, Lot 42, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Jay Segal and Doris Diether, Community Board #2.

For Administration: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo..... 4

Negative: 0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 19, 2000, acting on Alt. Applic. No. 102084520, reads:

“Residential use is not permitted in M1-5 District as per Zoning Resolution 42-00.”; and

WHEREAS, Community Board #2, Manhattan, recommends conditional approval of this application; and

WHEREAS, a public hearing was held on this application on October 24, 2000 after due notice by publication in *The City Record*, laid over to November 21, 2000, December 12, 2000, January 13, 2001 and then to February 13, 2001 for decision; and

WHEREAS, the premises and surrounding area had several site and neighborhood examinations by a committee of the Board consisting of Chairman James Chin, Vice Chair Paul Bonfilio R.A., Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21, to permit, the proposed conversion of the upper three stories, plus a new partial penthouse, of a former mini-storage facility, from manufacturing to residential (Use Group 2) located in an M1-5 zoning district, which is contrary to Z.R. §42-00; and

WHEREAS, the property is situated at the northeast intersection of Greenwich and Clarkson Streets and contains 8,500 square feet in lot area; and

WHEREAS, the subject building completely covers its zoning lot except for an open area of 468 square feet at the northeast corner of the zoning lot; and

WHEREAS, the property is improved with a 5 story with cellar mini-storage warehouse facility; and

WHEREAS, the subject building was constructed in 1895 and contains two interior structural walls which divide the building into three roughly equal interconnected portions; and

WHEREAS, the eastern portion contains 2,200 square feet, the northwest portion contains 2,100 square feet, and the southwest portion contains 2,200 square feet; and

WHEREAS, the subject building housed a general storage warehouse until 1978 and housed a mini-storage facility from 1978 until 1999; and

WHEREAS, the applicant represents that the new owners of the subject building intend to live and work out of the premises; and

WHEREAS, therefore, floors 3 through 5, and a new partial penthouse will house residential uses while the cellar, first floor and second floors will house a conforming use; and

WHEREAS, the record indicates that the two loading docks on Clarkson Street are each only 7.5' wide and allow only street loading; and

WHEREAS, modification of the loading docks is not feasible as the ground floor is 18" higher than the sidewalk; and

WHEREAS, the record suggests that structural columns approximately 18' within the building are in the path of the loading dock and prevent maneuvering; and

WHEREAS, the applicant represents that, 60 wooden structural columns on floors 3-5 have rotted, that a heavy timber beam on the ground floor and some heavy timber columns on the second floor have rotted; and

WHEREAS, the building is functionally obsolete for the purpose for which it was intended by virtue of its vertical arrangement of space with inadequate systems for heating, air conditioning, plumbing and electricity; and

WHEREAS, the Board notes that for modern manufacturing and warehouse uses, large open floor plates on single levels with sufficient loading capability are desirable; and

WHEREAS, the subject building is burdened with an inadequate loading area, and with floor plates interrupted by support columns; and

WHEREAS, the aforementioned burdens pose a suspect capability for use as viable, modern manufacturing or warehouse facility; and

WHEREAS, the aforementioned unique physical condition of the building makes its occupancy for a conforming M1-5 use impractical and creates an unnecessary hardship in developing the site in conformity with the current zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the premises with a conforming use would not yield the owner a reasonable return; and

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WHEREAS, the property is located in an M1-5 manufacturing zone; and

WHEREAS, the record indicates that within the vicinity of the subject premises many residential uses are present; and

WHEREAS, the Board notes that within the immediate block of the subject premises lies the Printing House, a building with 184 units occupying approximately 40% of the block on which the lot is located; and

WHEREAS, within the vicinity of the site there exist other similar residential and community facility uses; and

WHEREAS, while there are some commercial uses within the area surrounding the subject site, the area is characterized by few manufacturing or warehouse uses; and

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

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

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

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

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

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

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objection cited, to permit, the proposed conversion of the upper three stories, plus a new partial penthouse, of a former mini-storage facility, from manufacturing to residential (Use Group 2) located in an M1-5 zoning district, which is contrary to Z.R. §42-00, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked Received November 20, 2000"-(9) sheets; and on further condition;

THAT no eating and drinking establishments shall be housed within the subject building;

THAT no more than six separate residences shall be housed within the subject building;

THAT the development, as approved, is subject to verification by the Department of Buildings for compliance

with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department;

THAT substantial construction will be completed in accordance with Z.R. §72-23.

Adopted by the Board of Standards and Appeals, February 13, 2001.

204-00-BZ

CEQR #01-BSA-018K

APPLICANT - Harold Weinberg, P.E., for Eric Piker, owner.
SUBJECT - Application August 15, 2000 - under Z.R. §73-622, to permit in an R3-1 zoning district, the proposed erection of a rear enlargement, also an enlargement to the second floor of an existing one-family dwelling which would create new non-compliances with regard to floor area ratio, lot coverage, and rear and side yards, which is contrary to Z.R. §§ 23-141, 23-47, 23-464 1(b) and 54-31.

PREMISES AFFECTED - 4294 Ocean Avenue, west side, 594'-3" south of Oriental Boulevard, Block 8743, Lot 96, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Harold Weinberg.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated November 27, 2000, acting on Application No. 301045125 reads, in pertinent part:

THE PROPOSED ENLARGEMENT OF THE TWO STORY AND BASEMENT OF A ONE FAMILY RESIDENCE IN AN R3-1 ZONING DISTRICT:
BOARD OF STANDARDS AND APPEALS
DENIAL

"1. INCREASES THE DEGREE OF NON-COMPLIANCE WITH RESPECT TO FLOOR AREA RATIO AND IS CONTRARY TO SECTIONS 23-141 & 54-31.

4. CREATES NEW NON-COMPLIANCES WITH RESPECT TO LOT COVERAGE AND OPEN SPACE RATIO AND IS CONTRARY TO SECTION 23-141.

5. THE PROPOSED ENLARGEMENT CREATES

MINUTES

A NEW NON-COMPLIANCE BY ENCROACHING ON THE REQUIRED 30' REAR YARD IS CONTRARY TO SECTION 23-47.

6. THE PROPOSED ENLARGEMENT HAS A DEFICIENT SIDE YARD AND IS CONTRARY TO SECTIONS 23-461 (b) & 54-31.

WHEREAS, a public hearing was held on this application on January 23, 2001 after due notice by publication in The *City Record*, laid over to February 13, 2001 for decision; and

WHEREAS, Community Board 15, Brooklyn, approved this application; and

WHEREAS, the premises and surrounding area had site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-Chair Paul Bonfilio, R.A., Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, a special permit is sought under Z.R. §73-622 to allow, in an R3-1 zoning district, the proposed erection of a rear enlargement, also an enlargement to the second floor of an existing one-family dwelling which would create new non-compliances with regard to floor area ratio, lot coverage, and rear and side yards, which is contrary to Z.R. sections 23-141, 23-47, 23-464 1(b) and section 54-31; and

WHEREAS, the proposed enlargement will increase the floor area ratio to .1.01, decrease the open space ratio to .58, increase the lot coverage to .41.2, and decrease the rear yard to 25'-11 1/4"; and

WHEREAS, the perimeter wall height is of a pre-existing non-conforming height of 24'-"0" ; and

WHEREAS, the proposed enlargement will not encroach on any legally required side yards; and

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

WHEREAS, the proposed project will not have any significant adverse impacts upon the quiet, privacy, light and air of the surrounding neighborhood; and

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

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

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-03

and 73-622 and *grants* a special permit to allow, in an R3-1 zoning district, the proposed erection of a rear enlargement, also an enlargement to the second floor of an existing one-family dwelling which would create new non-compliances with regard to floor area ratio, lot coverage, and rear and side yards, which is contrary to Z.R. §§ 23-141, 23-47, 23-464 1(b) and 54-31, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received December 4, 2000"-(10) sheets; and *on further condition*;

THAT the development, as approved, is subject to verification by the Department of Buildings for compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department; and

THAT substantial construction be completed and a new certificate of occupancy be obtained within four years of this grant.

Adopted by the Board of Standards and Appeals, February 13, 2001.

273-00-BZ

CEQR #01-BSA-055M

APPLICANT - Agusta and Ross, for 10 West 33rd Street Joint Venture, owner; Spa Sol Inc., lessee.

SUBJECT - Application November 16, 2000 - under Z.R. §73-36, to permit the proposed physical culture establishment, Use Group 9, to be located on the first floor, mezzanine and basement of an existing eleven story building, in a C6-4 zoning district.

PREMISES AFFECTED - 4 West 33rd Street, south side, 110' west of Fifth Avenue, Block 834, Lot 49, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Mitchell Ross.

For Administration: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4
Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner dated October 19, 2000, acting on Alt. application number 102723368 reads;

"Proposed layout indicates physical culture establishment therefore B.S.A. permit is required per ZR 73-36.";

and

MINUTES

WHEREAS, a public hearing was held on this application on February 6, 2001 after due notice by publication in the *Bulletin*, and laid over to February 13, 2001 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-Chair Paul Bonfilio, R.A., Commissioner Mitchell Korbey, and Commissioner Peter Caliendo; and

WHEREAS, Community Board 5, Manhattan, has recommended approval of this application; and

WHEREAS, this is an application under Z.R. §73-36, to permit the proposed physical culture establishment, Use Group 9, to be located on the first floor, mezzanine and basement of an existing eleven story building, in a C6-4 zoning district, as per Z.R. §32-10; and

WHEREAS, the premises is located on the southerly side of West 33rd Street 100' west of Fifth Avenue; and

WHEREAS, the subject physical culture establishment will be a traditional spa facility; and

WHEREAS, the total floor area of the health club is approximately 1,921 square feet, housing whirlpool, showers rooms, steam room and sauna facilities, facial and body wrap rooms, physiotherapy, men's and women's locker rooms, reception area, and offices; and

WHEREAS, the subject site is located in a mixed-use area of Manhattan, characterized by commercial and office uses; and

WHEREAS, the physical culture establishment is completely enclosed within an existing building which has operated as a physical culture establishment; and

WHEREAS, the hours of operation for the physical culture establishment shall be Sunday to Saturday 10:00 A.M. to 12:00 midnight.; and

WHEREAS, the applicant has agreed to comply with the Fire Department's requirements; and

WHEREAS, the record indicates that the proposed use will not contain any potential hazards that impact on the privacy, quiet, light, and air to residential uses; and

WHEREAS, therefore, the Board finds that the introduction of the physical culture establishment use will not alter the essential character of the surrounding neighborhood nor impair its future development; and

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

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §73-36; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered

all relevant areas of environmental concern; and

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

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

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental quality Review and makes the required findings under Z.R. §73-36 and grants a special permit to permit the proposed physical culture establishment, Use Group 9, to be located on the first floor, mezzanine and basement of an existing eleven story building, in a C6-4 zoning district, requiring a special permit from the Board, *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application marked "Received November 16, 2000"-(4) sheets and "February 6, 2001"-(2) sheets; and on further condition;

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

THAT the hours of operation for the physical culture establishment shall be limited to Sunday to Saturday 10:00 A.M. to 12:00 midnight.

THAT all individuals practicing massage at the premises shall possess valid New York State licenses for such practice which licenses shall be prominently displayed at the premises;

THAT fire protection measures, including an automatic wet sprinkler system, a fire alarm system and a smoke detection system throughout all spaces on the basement, first floor and mezzanine levels, with all three systems connected to a Fire Department-approved central station, shall be provided and maintained in accordance with the BSA-approved plans,

THAT this special permit shall be limited to a term of ten years, to expire on February 13, 2011;

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

THAT the development, as approved, is subject to verification by the Department of Buildings for compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department; and

THAT a new certificate of occupancy shall be obtained within one year of this grant.

Adopted by the Board of Standards and Appeals, February 13, 2001.

173-99-BZ

MINUTES

APPLICANT - Gerald J. Caliendo, R.A., for Andrew Rosenwach, owner; Jerrold Gusick LaGuardia Fitness Center Corp., 163-44 16th Avenue, Whitestone, N.Y. 11357, lessee. SUBJECT - Application August 6, 1999 - under Z.R. §73-36, to permit the proposed physical culture establishment (Use Group 9) located in an M1-1 zoning district, which requires a special permit.

PREMISES AFFECTED - 43-60 Ditmars Boulevard a.k.a. 43-02 Ditmars Boulevard, southeast side of Ditmars Boulevard on the corner formed by Ditmars Boulevard and 43rd Avenue, Block 782, Lot 1, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Gerard Galiendo.

For Opposition: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

ACTION OF THE BOARD - Laid over to March 6, 2001, at 2 P.M., for decision, hearing closed.

29-00-BZ

APPLICANT - Sheldon Lobel, P.C., for Vrbnik Realty LLC, Contract Vendee .

SUBJECT - Application February 4, 2000 - under Z.R. §72-21, to permit the proposed residential building (Use Group 2) located in a C1-6A zoning district, which does not comply with the zoning requirements for floor area, height and setback regulations, and the maximum allowable number of dwelling units, which is contrary to Z.R. §23-145, §23-223(c) and §23-633.

PREMISES AFFECTED - 229 East 13th Street, between Second Avenue and Third Avenue, Block 469, Lot 46, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES -

For Applicant: Sheldon Lobel.

For Opposition: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to March 13, 2001, at 2 P.M., for continued hearing.

86-00-BZ thru 91-00-BZ

APPLICANT - Sheldon Lobel, P.C., for Lorimer Street Realty Inc., owner.

SUBJECT - Applications March 24, 2000 - under Z.R. §72-21, to permit the proposed residential dwellings (Use Group 2), in an M1-2 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED -

171 Lorimer Street, between Throop and Harrison Avenue, Block 2242, Lot Tentative 144 (prior 40), Borough of Brooklyn.

173 Lorimer Street, between Throop and Harrison Avenues, Block 2242, Lot Tentative Lot 145 (prior 40), Borough of Brooklyn.

175 Lorimer Street, between Throop and Harrison Avenues, Block 2242, Lot Tentative Lot 142 (prior 40), Borough of Brooklyn.

177 Lorimer Street, between Throop and Harrison Avenues, Block 2242, Lot Tentative Lot 141 (prior 40), Borough of Brooklyn.

179 Lorimer Street, between Throop and Harrison Avenues, Block 2242, Lot Tentative Lot 140 (prior 40), Borough of Brooklyn.

30 Throop Avenue, between Lorimer and Middleton Streets, Block 2242, Lot Tentative Lot 139 (prior 40), Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Opposition: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to April 3, 2001, at 2 P.M., for continued hearing.

103-00-BZ

APPLICANT - Sheldon Lobel, P.C., for Kimberly Associates LLC, owner.

SUBJECT - Application April 7, 2000 - under Z.R. §72-21, to permit the proposed construction of a two story commercial building for retail use, Use Group 6, located in a C2-3 zoning district, which does not comply with parking and loading berth requirements, and is contrary to Z.R. §36-21 and §36-62.

PREMISES AFFECTED - 5510-5530 Broadway, northeast corner of West 230th Street, Block 3266, Lot 23, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES -

For Applicant: Janice Cahalane.

For Opposition: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to April 3, 2001, at 2 P.M., for continued hearing.

126-00-BZ

APPLICANT - Sheldon Lobel, P.C., for FNW Realty Corporation, owner; 151 Kent Avenue Corporation, Lessee. SUBJECT - Application May 1, 2000 - under Z.R. §72-21, to permit the proposed residential dwellings, Use Group 2,

MINUTES

located in an M3-1 zoning district, which is contrary to Z.R. §42-00

PREMISES AFFECTED - 151 Kent Avenue, between North 4th and North 5th Streets, Block 2341, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane.

For Administration: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

ACTION OF THE BOARD - Laid over to March 6, 2001, at 2 P.M., for decision, hearing closed.

152-00-BZ

APPLICANT - Sheldon Lobel, P.C., for Dominick Schiavone, owner.

SUBJECT - Application June 1, 2000 - under Z.R. §72-21, to permit the proposed legalization of an auto repair shop establishment (Use Group 16) is contrary to a previous variance granted under Cal. No. 585-73-BZ, which permitted an automotive services station and auto repair shop in an R4-4 zoning district.

PREMISES AFFECTED - 135-36 Centerville Street, northwest corner of Centerville Street and Howtree Street, Block 11518, Lots 26 and 192, Borough of Queens.

COMMUNITY BOARD #10Q

APPEARANCES -

For Applicant: Eric Palatnik.

For Administration: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to March 27, 2001, at 2 P.M., for continued hearing.

192-00-BZ

APPLICANT - H. Irving Sigman, for 157-06 Linden Blvd. Corp., owner.

SUBJECT - Application July 24, 2000 - under Z.R. §72-21, to permit the proposed new one story building, located within an R3-2 zoning district, for use as a store (Use Group 6) with an accessory parking lot for seven cars, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 144-43 Farmers Boulevard, southeast corner of Farmer's Boulevard and South Conduit Avenue, Block 13314, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES -

For Applicant: H. Irving Sigman.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

ACTION OF THE BOARD - Laid over to March 6, 2001, at 2 P.M., for decision, hearing closed.

193-00-BZ

APPLICANT - H. Irving Sigman, for Louhal Properties, Inc., owner.

SUBJECT - Application July 24, 2000 - under Z.R. §72-21, to permit the proposed use of a parking lot for 19 cars, located within an R3-1 zoning district (Use Group 6) in conjunction with a proposed new laundromat, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 87-26 Lefferts Boulevard, west side, 210.17' south of Jamaica Avenue and 680' north of 89th Avenue, Block 9328, Lot 16, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES -

For Applicant: Eric Palatnik.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

ACTION OF THE BOARD - Laid over to March 6, 2001, at 2 P.M., for decision, hearing closed.

212-00-BZ

APPLICANT - Walter T. Gorman, P.E., for Show-Raka Enterprises Corp., owner; Belmont Services, Inc., lessee.

SUBJECT - Application September 7, 2000 - under Z.R. §72-21, to permit the proposed construction and operation of a gasoline service station with an accessory convenience store, minor auto repairs with lube oil bays, also the construction and operation of an automatic auto laundry on a site located in a C1-2 within an R5 zoning district, which is contrary to a previous variance granted under Cal. No. 550-55-BZ and Z.R. §32-25.

PREMISES AFFECTED - 640/666 Conduit Blvd. a.k.a. 600/608 Grant Avenue, block bounded by Grant, Belmont, Sheridan Avenues and Conduit Boulevard, Block 4239, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #5BK

MINUTES

APPEARANCES -

For Applicant: John Ronan.

For Administration: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to March 6, 2001, at 2 P.M., for continued hearing.

289-00-BZ

APPLICANT - Fredrick A. Becker, Esq., for 160 Water Street Associates, owner; TSI Water Inc. dba New York Sports Club, lessee.

SUBJECT - Application November 29, 2000 - under Z.R. §73-36, to permit the proposed physical culture establishment (Use Group 9) located in a C5-5CR zoning district, which requires a special permit as per Z.R. §32-31.

PREMISES AFFECTED - 160 Water Street, northwest corner of Fletcher Street, Block 70, Lot 43, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

For Opposition: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to February 27, 2001, at 2 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 2:55 P.M.