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# BULLETIN

OF THE  
NEW YORK CITY BOARD OF STANDARDS  
AND APPEALS

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Volume 91, No. 20

May 19, 2006

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## DIRECTORY

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*Commissioners*

**Jeffrey Mulligan**, *Executive Director*

**Roy Starrin**, *Deputy Director*

**John E. Reisinger**, *Counsel*

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# DOCKETS

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**84-06-BZY**

1472 East 19th Street, Between Avenue N and Avenue O, Block 6756, Lot 36, Borough of **Brooklyn, Community Board: 14**. Extension of Time-11-331-To complete construction for a minor/major development for a period of six months.  
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**85-06-BZY**

1623 Avenue P, Northwest corner of Avenue P and East 17th Street, Block 6763, Lot 46, Borough of **Brooklyn, Community Board: 14**. Extension of time to complete construction of a minor/major development for a period of six months.  
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**86-06-BZ**

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**87-06-A**

131-06 40th Road, South side of 40th Road, 430 feet west of intersection with College Point Boulevard, Block 5060, Lot 70, Borough of **Queens, Community Board: 7**. General City Law Section 35.  
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**88-06-A**

131-04 40th Road, South side of 40th Road, 450 feet west of intersection with College Point Boulevard, Block 5060, Lot 71, Borough of **Queens, Community Board: 7**. General City Law Section 35.  
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**DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.**

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# CALENDAR

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**JUNE 20, 2006, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, June 20, 2006, 10:00 A.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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## **SPECIAL ORDER CALENDAR**

### **393-66-BZ**

APPLICANT – Joseph P. Morsellino, Esq., for Athena Properties, owner; Ace Dropcloth Co., lessee.  
SUBJECT – Application May 2, 2006 – Application for a waiver of the Rules and Procedure and an extension of time to obtain a certificate of occupancy.

PREMISES AFFECTED – 453 East Tremont Avenue, East Tremont Avenue and Washington Avenue, Block 3034, Lot 52, Borough of The Bronx.

### **COMMUNITY BOARD #6BX**

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### **169-93-BZ**

APPLICANT – Law Office of Fredrick A. Becker, for ZKZ Associates, LP., owner; TSI West 80 Inc., dba New York Sports Club, lessee.

SUBJECT – Application October 21, 2005 - Pursuant to ZR73-36 for the Extension of Term for a Physical Culture Establishment (New York Sports Club) which expired on May 17, 2004.

PREMISES AFFECTED – 246-248 West 80<sup>th</sup> Street, southwest corner of West 80<sup>th</sup> Street and Broadway, Block 1227, Lot 54, Borough of Manhattan.

### **COMMUNITY BOARD #7M**

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### **227-98-BZ**

APPLICANT – Rothkrug Rothkrug Weinberg Spector, for 41<sup>st</sup> Street Realty, LLC, owner; Gem Foods of Brooklyn, lessee.

SUBJECT – Application July 19, 2005 – Extension of term of a Special Permit for an eating and drinking establishment with an accessory drive-through facility. The premise is located in a C1-3(R-6) zoning district.

PREMISES AFFECTED – 41-01 4<sup>th</sup> Avenue, aka 400 41<sup>st</sup> Street, southeast corner of 4<sup>th</sup> Avenue and 41<sup>st</sup> Street, Block 719, Lot 6, Borough of Brooklyn.

### **COMMUNITY BOARD #7BK**

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SLG Graybar Sublease, LLC., owner; Equinox 44<sup>th</sup> Street Inc., lessee.

SUBJECT – Application November 2, 2005 - Pursuant to ZR73-11 and ZR73-36 Amendment to a previously granted Physical Culture Establishment (Equinox Fitness) for the increase of 4,527 sq.ft.in additional floor area.

PREMISES AFFECTED – 420 Lexington Avenue, 208’-4” north of East 42<sup>nd</sup> Street, Block 1280, Lot 60, Borough of Manhattan.

### **COMMUNITY BOARD #5M**

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### **112-01-BZ**

APPLICANT – Sheldon Lobel, P.C., for Doris Laufer, owner.

SUBJECT – Application May 15, 2006 - Pursuant to ZR72-01 and 72-21 for an Extension of Time to obtain a Certificate of Occupancy which expired on November 20, 2003 for a Community Use Facility-Use Group 4 (Congregation Noam Emimelech) and an Amendment that seeks to modify the previously approved plans for floor area/FAR- ZR24-11, front wall height-ZR24-521, front yard-ZR24-31, side yard-24-35, lot coverage-ZR24-11 & ZR23-141(b) and off-street parking requirement for dwelling units-ZR25-22.

PREMISES AFFECTED – 102 & 1406 59<sup>th</sup> Street, Block 5713, Lots 8 &10, Borough of Brooklyn.

### **COMMUNITY BOARD #12BK**

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### **121-02-BZ**

APPLICANT – Rothkrug Rothkrug Weinberg Spector, for Harbor Associates, owner.

SUBJECT – Application November 2, 2005 - Pursuant to ZR 73-11 for the proposed Extension of Term of Special Permit and Extension of Time to obtain a Certificate of Occupancy for a Physical culture Establishment (Harbor Fitness Club) which expired on January 1, 2006 is contrary to ZR32-10.

PREMISES AFFECTED – 9215 4<sup>th</sup> Avenue, aka 9216 5<sup>th</sup> Avenue, south of intersection with 92<sup>nd</sup> Street, Block 6108, Lot 17, Borough of Brooklyn.

### **COMMUNITY BOARD #10BK**

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## **APPEALS CALENDAR**

### **197-00-BZII**

APPLICANT – Rothkrug Rothkrug Weinberg Spector, for

### **89-06-A**

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# CALENDAR

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APPLICANT – Gary Lenhart, R.A., for the The Breezy Point Cooperative, owner; Noreen & Vincent Reilly, lessees.

SUBJECT – Application May 9, 2006 - Proposal to permit reconstruction and enlargement of an existing single family dwelling not fronting a mapped street is contrary to Section 36, Article 3 of the General City Law. Premises is located within the R-4 Zoning District.

PREMISES AFFECTED – 19 Beach 220<sup>th</sup> Street, 89.37, north of 4<sup>th</sup> Avenue, Block 16350, Lot 400, Rockaway Point, Borough of Queens.

**COMMUNITY BOARD #14Q**

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**356-05-A**

APPLICANT – The Law Office of Fredrick A. Becker, for Structures LLC, owner.

SUBJECT – Application December 14, 2005 - An appeal seeking a determination that the owner of said premises has acquired a common law vested rights to continue development commenced under the prior R5 zoning. New zoning district is R3X as of September 15, 2005.

PREMISES AFFECTED – 152 Beach 4<sup>th</sup> Street aka 1-70 Beach 4<sup>th</sup> Street, south of Seagirt Avenue, Block 15607, Lot 63, Borough of Queens.

**COMMUNITY BOARD #14Q**

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**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, June 20, 2006, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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## **ZONING CALENDAR**

**338-05-BZ**

APPLICANT – Eric Palatnik, P.C., for Simon Blitz, owner.  
SUBJECT – Application November 25, 2005 - Special Permit ZR 73-622 to permit the proposed enlargement of an existing single family home which creates non-compliances with respect to open space and floor area, ZR23-141, less than the required side yards, ZR 23-461 and less than the required rear yard, ZR23-47.

PREMISES AFFECTED – 2224 East 14<sup>th</sup> Street, west side, between Avenue V and Gravesend Neck Road, Block 7374, Lot 15, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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**358-05-BZ**

APPLICANT – Sheldon Lobel, P.C., for WR Group 434 Port Richmond Avenue, LLC, owner.

SUBJECT – Application December 15, 2005 - Zoning variance pursuant to Section 72-21 to allow UG 6 commercial use (open accessory parking for retail ) in an R3A zoned portion of the zoning lot (split between C8-1 and R3A zoning districts).

PREMISES AFFECTED – 438 Port Richmond Avenue, northwest corner of Port Richmond Avenue and Burden Avenue, Block 1101, Lot 62, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

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**16-06-BZ**

APPLICANT – Eric Palatnik, P.C., for Simon Blitz, owner.  
SUBJECT – Application January 27, 2006 – Special Permit Z.R. §73-622 to permit the proposed enlargement of a one family home, which creates non-compliances with respect to open space and floor area (ZR 23-141), side yards (ZR 23-461) and rear yard (ZR 23-47).

PREMISES AFFECTED – 2253 East 14<sup>th</sup> Street, west side, between Avenue V and Gravesend Neck Road, Block 7375, Lot 50, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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**JUNE 20, 2006, 1:30 P.M.**

**26-06-BZ**

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP, for Empire Staten Island Development, LLC, owner; L. A.

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# CALENDAR

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Fitness International, LLC, lessee.

SUBJECT – Application February 16, 2006 - Special Permit application pursuant to Z.R. Sections 73-03 and 73-36 to operate a 51,609 square foot Physical Culture Establishment (LA Fitness) in an existing vacant one-story building. The site is located in within an existing shopping center in a M1-1 zoning district.

PREMISES AFFECTED – 145 East Service Road/West Shore Expressway, Block 2630, Lot 50, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

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## **62-06-BZ**

APPLICANT – The Law Office of Fredrick A. Becker, for Albert J and Catherine Arredondo, owners.

SUBJECT – Application April 10, 2006 - Pursuant to ZR §72-21 Variance is to allow the addition of a second floor and attic to an existing one story, one family residence. The enlargement will increase the degree of non-compliance for the rear yard, side yards and exceed the permitted floor area.

PREMISES AFFECTED – 657 Logan Avenue, west side of Logan Avenue 100' south of Randall Avenue, Block 5436, Lot 48, Borough of The Bronx.

**COMMUNITY BOARD #10BX**

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*Jeff Mulligan, Executive Director*

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# MINUTES

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## REGULAR MEETING TUESDAY MORNING, MAY 9, 2006 10:00 A.M.

Present: Chair Srinivasan, Vice Chair Babbar,  
Commissioner Chin and Commissioner Collins.

The motion is to approve the minutes of regular meetings of the Board held on Tuesday morning and afternoon, March 7, 2006 as printed in the bulletin of March 16, 2006, Volume 91, No. 11. If there be no objection, it is so ordered.

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## SPECIAL ORDER CALENDAR

### 265-59-BZ

APPLICANT – Martyn & Don Weston, for 11 College Place, Inc., owner.

SUBJECT – Application December 12, 2005 – Extension of term for a variance to permit an eight car garage located in a residential building. The premise is located in an R7-1/LH-1 zoning district.

PREMISES AFFECTED – 11 College Place, west side 89'-6" north of Love Lane, Block 236, Lot 70, Borough of Brooklyn.

### COMMUNITY BOARD #2BK

#### APPEARANCES –

For Applicant: Don Weston.

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

#### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Commissioner Chin and Commissioner Collins.....4

Negative:.....0

#### THE RESOLUTION –

WHEREAS, this is an application for a reopening to extend the term, pursuant to ZR § 11-411, of the prior grant for a parking garage, which expired on December 2, 2005; and

WHEREAS, a public hearing was held on this application on April 25, 2006, after due notice by publication in *The City Record*, and then to decision on May 9, 2006; and

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

WHEREAS, the subject 1,613 sq. ft. lot is located on the west side of College Place, 89.5 feet north of Love Lane, and is located within an R7-1 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since April 5, 1960, when, under the subject calendar number, the Board granted permission for a change in occupancy from a four-car garage and dwelling to an eight-car garage; and

WHEREAS, subsequently, the term has been extended by the Board at various times, most recently on April 16, 1996, for a term of ten years from the expiration of the prior grant, expiring on December 2, 2005; and

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term for a previously granted variance; and

WHEREAS, based upon its review of the application, the Board finds it appropriate to grant the requested extension of time.

*Therefore it is Resolved* that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on April 5, 1960, so that as amended this portion of the resolution shall read: “to permit an extension of term, for an additional period of ten years from the expiration of the prior grant, to expire on December 2, 2015; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked ‘Received December 12, 2005’–(3) sheets; and *on further condition*:

THAT the term of the grant shall expire on December 2, 2015;

THAT the condition above shall be listed on the Certificate of Occupancy;

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

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

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

(Alt. 170/59)

Adopted by the Board of Standards and Appeals, May 9, 2006.

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### 1233-88-A

APPLICANT – Richard Bowers of Stadtmauer Bailkin, LLP, for Sunrise Development, owner.

SUBJECT – Application February 22, 2006 – Extension of Time/Waiver to complete construction of a five-story (with basement) residential building of senior housing (Sunrise) for an additional twenty four months which expired on October 29, 2005. The premise is located in an R3-1 (Hillside Preservation District.

PREMISES AFFECTED – 801 Narrows Road North, north side of Narrows Road, 1162.62' east of Howard Avenue, Block 631, Lot 8, Borough of Staten Island.

### COMMUNITY BOARD #1SI

#### APPEARANCES –

For Applicant: Richard Bowers.

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

#### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar,  
Commissioner Chin and Commissioner Collins.....4

Negative:.....0

#### THE RESOLUTION –

# MINUTES

WHEREAS, this application is for a reopening and an extension of time to complete construction of a five-story plus basement senior residence for an additional 24 months from the last expiration date (October 29, 2005); and

WHEREAS, a public hearing was held on this application on April 25, 2006, after due notice by publication in *The City Record*, and then to decision on May 9, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, including Chair Srinivasan and Commissioner Chin; and

WHEREAS, on October 8, 1991, under the subject calendar number, the Board determined that the owner of the subject premises had a vested right to continue construction of a proposed eight-story apartment building; and

WHEREAS, on the following dates, the Board granted applications for a reopening and an extension of time to complete construction: February 2, 1993; March 28, 1995; February 24, 1998; and December 5, 2000; and

WHEREAS, in each grant of an extension, the Board required that construction be completed within a set amount of time, usually two years; and

WHEREAS, the applicant states that on December 17, 2002, a new owner of the property amended the proposed plans to reflect a five-story plus basement residential building, with 78 units to be used as senior housing; and

WHEREAS, on April 29, 2003, the Board again reopened the case and extended the time to complete construction of this new building for a thirty month period, expiring on October 29, 2005; and

WHEREAS, the applicant represents that certain problems arose during the construction process that have delayed completion approximately eleven months: (1) the presence of sub-surface serpentine rock, which contains naturally occurring asbestos and requires costly and time-consuming removal; (2) storm drainage requirements imposed by the City's Department of Environmental Protection (DEP), which required a redesign of the storm water system, subject to DEP's approval; and (3) increased site safety requirements imposed by the City's Fire Department, which required changes to the site plan; and

WHEREAS, the applicant represents that over 70 percent of the construction process has been completed in spite of these delays, and that construction is anticipated to be completed by December 2006; and

WHEREAS, the applicant has reviewed the claims of the applicant and finds that they are reasonable and supported by evidence in the record; and

WHEREAS, accordingly, the Board finds that the request for a further extension of time is appropriate to grant.

*Therefore it is Resolved*, that the Board of Standards and Appeals *reopens and amends* the resolution to extend the time to complete construction, which expired on October 29, 2005, so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete construction for an additional twenty-four (24) months from October 29, 2005, in conformance with the current approved plans submitted under Department of Buildings N.B. Application No. 500436511, *on condition*:

THAT all construction shall be completed and a certificate of occupancy shall be obtained by October 29, 2007;

THAT all relevant conditions from prior resolutions shall appear on the certificate of occupancy;

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

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

(DOB Application No. 500436511)

Adopted by the Board of Standards and Appeals, May 9, 2006.

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## 359-02-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Wegweiser & Ehrlich, LLC, owner; Montessori School of Manhattan, LLC, lessee.

SUBJECT – Application January 17, 2006 – Reopening for an Amendment to a previous variance ZR 72-21 that allowed the operation of a school on the first floor and cellar in a six story building; a subsequent amendment in 2005 was to relocate the operation of the school from the cellar to the second floor and to maintain partial first floor operation. The current proposed amendment is to allow for the additional expansion of the school to the third floor of the building. The premise is located in an M1-5(TMU) zoning district.

PREMISES AFFECTED – 53-55 Beach Street, north side of Beach Street, west of Collister Street, Block 214, Lot 1, Borough of Manhattan.

## COMMUNITY BOARD #1M

### APPEARANCES –

For Applicant: Fredrick A. Becker.

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

### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4  
Negative:.....0

### THE RESOLUTION –

WHEREAS, this application is a request for a re-opening and an amendment to a previously granted variance, to permit the expansion of a pre-school currently located on the first and second floors of an existing six-story building to the third floor; and

WHEREAS, a public hearing was held on this application on May 2, 2006, after due notice by publication in *The City Record*, and then to decision on May 9, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, including Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, Community Board 1, Manhattan, recommends approval of this application; and



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# MINUTES

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WHEREAS, the subject site is a 5,000 sq. ft. lot, located on the north side of Beach Street, between Greenwich and Collister Streets, and is within an M1-5 (TMU) zoning district; and

WHEREAS, the site is currently occupied by a six-story building with warehouse and storage use in the cellar, part of the first floor, and the third through sixth floors; and

WHEREAS, on May 6, 2003, the Board granted an application pursuant to ZR § 72-21 under the subject calendar number, to permit the establishment of a pre-school (Use Group 3) on the first floor and cellar of the subject building, contrary to ZR § 42-31; and

WHEREAS, on August 23, 2005, the Board approved an amendment which allowed for the school to relocate from the cellar to the second floor and to maintain the use on the first floor; and

WHEREAS, the applicant proposes to convert warehouse space on the 5,000 sq. ft. third floor into four new classrooms; and

WHEREAS, at hearing, the Board asked the applicant about access to a second means of egress through the first floor warehouse space; and

WHEREAS, the applicant responded that there is a clear exit path through the first-floor warehouse space and that the warehouse activity in the building is very limited, with no activity during school hours; and

WHEREAS, the Board suggested that the applicant provide a clearly delineated exit path; and

WHEREAS, the applicant revised the plans to show that the exit path will be indicated by striping on the floor and will be separated from the warehouse space with stanchions or bollards; and

WHEREAS, additionally, the applicant asserts that since the original grant, the composition of the neighborhood has continued to change, and now includes even more mixed and residential uses; and

WHEREAS, based upon the above, the Board finds it appropriate to approve the proposed amendment.

*Therefore it is Resolved* that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on May 6, 2003, so that as amended this portion of the resolution shall read: "to permit, in an M1-5 (TMU) zoning district, the expansion of a pre-school currently located on the first and second floors of an existing six-story building, to the third floor contrary to ZR § 42-31; *on condition* that all work shall substantially conform to drawings filed with this application and marked 'Received January 17, 2006'-(3) sheets, 'April 4, 2006'-(1) sheet and 'May 3, 2006'-(1) sheet; and *on further condition*:

THAT the secondary egress through the first-floor warehouse space shall be demarcated as shown on the BSA-approved plans;

THAT all egress requirements shall be reviewed by the Department of Buildings prior to issuance of any temporary or permanent certificate of occupancy;

THAT all conditions from prior resolutions not

specifically waived by the Board remain in effect;

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

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

(DOB Application No. 103314922)

Adopted by the Board of Standards and Appeals, May 9, 2006.

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## 32-38-BZ

APPLICANT – Steven M. Sinacori, Esq., for 88 Third Avenue Associates, owner.

SUBJECT – Application March 21, 2006 – Reopening for an amendment to the resolution to eliminate the twenty year (20) term for the change in occupancy from Manufacturing (UG17) to Office (UG6) in a four story and cellar building located in an R-6 zoning district, as adopted by the Board of Standards and Appeals on March 16, 1993.

PREMISES AFFECTED – 88 Third Avenue, west side of Third Avenue, between Bergen and Dean Streets, Block 197, Lot 28, Borough of Brooklyn.

## COMMUNITY BOARD #2BK

### APPEARANCES –

For Applicant: Steven Sinacori.

### THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Collins.....4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to June 6, 2006, at 10 A.M., for decision, hearing closed.

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## 203-92-BZ

APPLICANT – Sullivan, Chester & Gardner, P.C., for Austin-Forest Assoc., owner; Lucille Roberts Org., d/b/a Lucille Roberts Figure Salon, lessee.

SUBJECT – Application January 26, 2005 – Extension of Term / Amendment / Waiver for a physical culture establishment. The premise is located in an R8-2 zoning district.

PREMISES AFFECTED – 70-20 Austin Street, south side, 333' west of 71<sup>st</sup> Avenue, Block 3234, Lot 173, Borough of Queens.

## COMMUNITY BOARD #6Q

### APPEARANCES –

For Applicant: Jeffrey Chester and John Fox.

**ACTION OF THE BOARD** – Laid over to July 25, 2006, at 10 A.M., for continued hearing.

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## 26-94-BZ

APPLICANT – Rampulla Associates Architects, for CDC

# MINUTES

Realty, LLC, owner.

SUBJECT – Application March 24, 2006 – Reopening for an Extension of Term for a Special Permit renewal for an eating and drinking establishment (UG6, located in a C3A zoning district.

PREMISES AFFECTED – 141 Mansion Avenue, intersection of Mansion Avenue and McKeon Avenue, Block 5201, Lot 33, Borough of Staten Island.

## COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Phillip Rampulla.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Collins.....4

Negative:.....0

**ACTION OF THE BOARD** - Laid over to June 6, 2006, at 10 A.M., for decision, hearing closed.

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## APPEALS CALENDAR

### 73-05-A

APPLICANT – Ken Fisher of Wolf Block, Associates for GCC, LLC, owner.

SUBJECT – Application March 28, 2005 – Proposed construction of an industrial building, GCC Communications, which lies partially in the bed of a mapped street (125<sup>th</sup> Street) is contrary to GLC §35. Premises is located within a M3-1 zoning district and the College Point II Industrial Renewal Area.

PREMISES AFFECTED – 125-12 31<sup>st</sup> Avenue, bounded by 31<sup>st</sup> Avenue and 125<sup>th</sup> Street, Block 4381, Lot 1, Borough of Queens.

## COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Kenneth Fisher.

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated February 28, 2005, acting on Department of Buildings Application No. 402086014, reads:

“Southwest section of proposed building located within the bed of a mapped city street is contrary to Section 35 of the General City Law”; and

WHEREAS, a public hearing was held on this application on May 9, 2006, after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated March 13, 2006, Community Board 7, Queens has approved this project; and

WHEREAS, the proposed development is a one story industrial building in an M3-1 zoning district, located within the

College Point II Industrial Renewal Area; and

WHEREAS, by letter dated January 9, 2006, the New York City Economic Development Corporation has approved the site plan for the proposed project, pursuant to the Fifth Amended College Point II Urban Renewal Plan (the “URP”); and

WHEREAS, by letter dated June 2, 2005, the Department of Transportation states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated July 21, 2005, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated May 4, 2006, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, the Board notes that its grant herein only pertains to the ability to build within the bed of a mapped street, and that all construction must conform and comply with applicable zoning regulations, as well as regulations applicable to the URP; and

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

*Therefore it is Resolved* that the decision of the Queens Borough Commissioner, February 28, 2005, acting on Department of Buildings Application No. 402086014, is modified under the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received April 18, 2006”–(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT the proposed development shall comply in all respects with the applicable requirements of the Fifth Amended College Point II Urban Renewal Plan;

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

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

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

Adopted by the Board of Standards and Appeals, May 9, 2006.

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### 144-05-BZY

APPLICANT – Alfonso Duarte, for Bel Homes, LLC, owner.

SUBJECT – Application June 9, 2005 – Proposed extension of time to complete construction pursuant to Z.R. 11-331 for two-two family attached dwellings.

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PREMISES AFFECTED – 143-53/55 Poplar Avenue, northwest corner of Parsons Boulevard, and Poplar Avenue, Block 5228, Lots 32 and 34, Flushing, Borough of Queens.

## COMMUNITY BOARD #7Q

### APPEARANCES –

For Applicant: Alsonso Duarte.

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

### THE VOTE TO GRANT –

Affirmative: .....0

Negative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

### THE RESOLUTION –

WHEREAS, this is an application under ZR § 11-331, to renew a building permit and extend the time for the completion of the foundations of two (2) two-family attached dwellings, located on contiguous zoning lots; and

WHEREAS, a public hearing was held on this application on January 31, 2006 after due notice by publication in *The City Record*, with continued hearings on March 7, 2006 and March 28, 2006, and then to decision on May 9, 2006; and

WHEREAS, the site was inspected by a committee of the Board, consisting of Chair Srinivasan, Vice Chair Babbar, Commissioner Chin, and Commissioner Collins; and

WHEREAS, Community Board 7, Queens, opposed the granting of any relief to the applicant, citing concerns that some work took place after hours or on weekends, which was not covered by the issued permit; and

WHEREAS, additionally, the Queens Civic Congress opposed the granting of any relief, stating that the work performed at the site did not rise to the level of substantial completion and that the owner of the site knew of the possible rezoning; and

WHEREAS, the Kissena Park Civic Association also opposed the granting of any relief, stating that the owner had not completed excavation and had not made substantial progress on foundations, both of which are required under ZR § 11-331; and

WHEREAS, the subject site consists of two adjacent zoning lots (Lots 32 and 34), located at the corner of Parsons Boulevard and Poplar Avenue; and

WHEREAS, Lot 34 corresponds to 143-53 Poplar Avenue; Lot 32 corresponds to 143-55 Poplar Avenue; and

WHEREAS, the two lots are the result of a subdivision of a larger, pre-existing lot; this pre-existing lot was formerly occupied by a single-family dwelling, which was demolished; and

WHEREAS, each zoning lot is approximately 50.45 ft. wide by 70 ft. deep; and

WHEREAS, each zoning lot is proposed to be developed with a two-story, two-family attached dwelling (with the units side by side), and a single garage and a single parking pad; and

WHEREAS, thus, on each zoning lot there will two dwelling units, for a total of four units over the entire proposed development (hereinafter, the “Proposed Development”); and

WHEREAS, on April 26, 2005, the Department of Buildings issued two permits for the Proposed Development (NB Permit No. 402096959-01 for the building on Lot 34 and

NB Permit No. 402096968-01 for the building on Lot 32); and

WHEREAS, the validity of these permits when issued has not been questioned and is not at issue in this appeal; and

WHEREAS, when these permits were issued and when construction commenced, the site was within an R3-2 zoning district; and

WHEREAS, the Proposed Development complied with the R3-2 zoning, because attached dwellings and the proposed amount of floor area and other bulk parameters were allowed; and

WHEREAS, however, on May 11, 2005 (hereinafter, the “Rezoning Date”), the City Council voted to enact the Kissena Park rezoning proposal, which changed the site’s zoning from R3-2 to R2; and

WHEREAS, in R2 zoning districts, only detached single-family dwellings are allowed; as noted above, the Proposed Development contemplates attached two-family dwellings; and

WHEREAS, additionally, the Proposed Development would not comply with R2 district provisions regarding floor area, density, lot size, side yards, and side lot line wall; and

WHEREAS, because the Proposed Development violated these provisions of the R2 zoning and work on foundations was not completed, the issued permits lapsed by operation of law; and

WHEREAS, additionally, the Department of Buildings issued a stop work order on the Rezoning Date for each of the issued permits; and

WHEREAS, the applicant now applies to the Board to reinstate the permits pursuant to ZR § 11-331; and

WHEREAS, ZR § 11-331 reads: “If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued . . . to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations.”; and

WHEREAS, a threshold issue in this case was the proper categorization of the Proposed Development; and

WHEREAS, ZR § 11-31(c) sets forth definitions for various types of development, including “major

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development” and “minor development”; and

WHEREAS, major development includes construction of multiple non-complying buildings on contiguous zoning lots, provided that all of the proposed buildings were planned as a unit evidenced by an approved site plan showing all of the buildings; and

WHEREAS, minor development includes construction of multiple non-conforming buildings on contiguous zoning lots, again, provided that it can be shown that the development was planned as a unit; and

WHEREAS, the applicant has submitted a DOB-approved site plan, showing that the Proposed Development was planned as a unit; however, this does not establish whether it is a major or minor development; and

WHEREAS, upon initial application, the applicant contended that the Proposed Development was a major development, noting that the two buildings would be non-complying as to the above-mentioned bulk parameters; and

WHEREAS, pursuant to ZR § 11-331, major developments may be vested upon a showing of progress on foundation construction for just one of the multiple buildings; and

WHEREAS, minor developments, however, may be vested only upon a showing of progress of foundation construction for each of the buildings; and

WHEREAS, the Board observes agrees that the Proposed Development is non-complying in terms of bulk, but also notes that that the Proposed Development contemplates attached homes, which are not permitted in R2 zoning districts pursuant to ZR § 22-00; and

WHEREAS, ZR § 22-00 is a use regulation and sets forth a chart showing permitted residential Use Groups in various zoning districts; the ability to construct an attached, detached, or semi-attached dwelling is illustrated by this chart; and

WHEREAS, Use Group 1 is limited to detached single-family homes only, pursuant to ZR § 22-10; and

WHEREAS, Use Group 2 includes all other types of residential development, including attached, semi-attached, and multiple-family dwellings; the Proposed Development contemplates Use Group 2 residences; and

WHEREAS, R2 zoning districts allow only residences listed in Use Group 1; in other words, only detached single-family homes are permitted (though Use Group 3 and 4 community facilities are also allowed under certain circumstances); and

WHEREAS, Use Group 2 residences are not permitted in R2 zoning districts; and

WHEREAS, thus, the Board disagrees with the appellant that the attached homes of the Proposed Development are merely non-complying; rather, the Board also considers the proposed attached dwellings non-conforming uses under the R2 zoning; and

WHEREAS, ZR § 12-10 defines a “non-conforming use” as “any lawful use, whether of a building or other structure . . . which does not conform to any one or more of the applicable use regulations of the district in which it is located . . . A non-conforming use shall result from failure to

conform to the applicable district regulations on . . . permitted Use Groups . . .”; and

WHEREAS, accordingly, a failure to conform with the residential Use Groups allowed in the R2 district (Use Groups 1, 3, and 4) renders the Proposed Development (Use Group 2) non-conforming by definition; and

WHEREAS, the Board observes that the ZR is structured so that use regulations are plainly distinguished and separated from bulk regulations; thus, the Board views the inclusion of provisions concerning residential building type (attached, semi-detached, detached) in the clearly delineated use regulations as an indication that they are to be treated as use regulations; and

WHEREAS, thus, the Board finds that the Proposed Development meets the definition of both minor development, since it is non-conforming as to Use Group, and major development, since it is non-complying as to floor area, density, lot size, side yards, and side lot line wall; and

WHEREAS, as noted above, the standards for a right to continue construction are different for the two categories; and

WHEREAS, since the Proposed Development meets the definition of both major development and minor development, the Board must determine which definition’s standard to apply; and

WHEREAS, the Board observes that the standard for minor development is more restrictive, in that it requires a consideration of excavation and progress on foundations for all buildings, not just one; and

WHEREAS, ZR § 11-22 provides that when two ZR provisions set forth overlapping or contradictory regulations, “that provision which is more restrictive or imposes higher standards or requirements shall govern”; and

WHEREAS, thus, it is appropriate for the Board to require that the applicant meet the more stringent standard for minor development; that is, to show that excavation had been completed and substantial progress had been made on each of the foundations, not just one; and

WHEREAS, the Board requested that the applicant revise the application to reflect that the Proposed Development is a minor development; and

WHEREAS, initially, the applicant refused, and made various submissions purportedly supporting the classification of the Proposed Development as a major development; and

WHEREAS, specifically, the applicant claimed that ZR § 11-22 was inapplicable since “use and bulk . . . are two entirely different categories that do not contradict or overlap each other; and one is not more restrictive over the other since they relate to two different criteria . . .”; and

WHEREAS, the applicant summarily concluded that since the bulk provisions are violated, the application was appropriately categorized as a major development; and

WHEREAS, the Board does not accept the applicant’s conclusion, since it has no basis in fact; and

WHEREAS, the Board finds that a provision that allows vesting upon a showing that progress has been made on just one foundation for a building in a multi-unit development constructed on contiguous zoning lots is inherently contradictory to a different provision that allows

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vesting only upon a showing that progress has been made on each foundation, where it can be shown that both provisions would apply based upon a development's non-conforming and non-complying status; and

WHEREAS, accordingly, the Board again requested that the application be revised to reflect that the Proposed Development is a minor development; and

WHEREAS, the applicant subsequently revised the application to reflect this change; and

WHEREAS, since the Proposed Development is a minor development, the Board must find that excavation was completed and substantial progress was made over the entire development site and as to each required excavation and foundation; and

WHEREAS, based upon its review of the evidence, the Board has determined that excavation was not completed; and

WHEREAS, specifically, based upon its review of pictures submitted by both the applicant and by the Kissena Park Civic Association, the Board observes that a significant portion of the site, particularly on Lot 34, was not excavated; and

WHEREAS, during the course of the hearing process, the applicant has made various arguments as to why this portion of Lot 34 remains unexcavated; and

WHEREAS, first, in the initial statement dated June 3, 2005, the applicant stated without qualification that excavation had been completed; and

WHEREAS, then, at the January 31, 2006 hearing, the applicant claimed that excavation had been completed for both sites, though some unsupported ground had "slipped down" back into the site; and

WHEREAS, subsequently, in a March 3, 2006 submission, the applicant argued that excavation was not completed because trucks needed to access the site and could not if the site was fully excavated; and

WHEREAS, however, the Board disagrees that truck access to the site would have been compromised if areas around the northern perimeter of Lot 34 were excavated; and

WHEREAS, in fact, if truck access was needed, a simple ramp into the site could have been constructed, and the remainder of the excavation could have been completed; and

WHEREAS, at the March 28, 2006 hearing, the Board asked the applicant to provide further clarification as to the completion of excavation; and

WHEREAS, in an April 26, 2006 submission, the applicant submitted a diagram purportedly showing the extent of excavation; and

WHEREAS, this diagram plainly shows that a substantial portion of Lot 34 is unexcavated; and

WHEREAS, the applicant then argued that this portion of the site was unexcavated so that the unexcavated dirt could later be used for backfill; and

WHEREAS, the Board observes that the applicant did not provided any expert evidence in support of this argument; and

WHEREAS, accordingly, the Board does not accept applicant's unsubstantiated argument, and observes that there is no legitimate construction reason to retain so much of the site as

unexcavated; and

WHEREAS, accordingly, the Board finds that excavation for the Proposed Development was not complete; and

WHEREAS, as to substantial progress on foundations, the Board observes that the only foundation work performed was on Lot 32; and

WHEREAS, the applicant's diagram also illustrate this fact; Lot 34 is labeled "Formwork not in place"; and

WHEREAS, pictures submitted by the applicant and as well as the Kissena Park Civic Association also confirm that no significant foundation work was performed on Lot 34; and

WHEREAS, thus, the only foundation work that the Board can consider is that performed on Lot 32; and

WHEREAS, the applicant alleges that the amount of foundation work performed on Lot 32 consists of: (1) footings and rebar installation for the dwellings to be constructed on Lot 32 (and a very small portion of the footings for one of the other dwellings on Lot 34); and (2) form work for the walls on Lot 32; and

WHEREAS, the applicant claims that the form work was later stolen, but did provide pictures of the site taken on the Rezoning Date that show the form work; and

WHEREAS, nonetheless, the Board observes that forms for the walls on Lot 34 were not constructed, nor was any concrete for the walls poured, on either Lot 32 or Lot 34; and

WHEREAS, the Board informed the applicant that all foundational elements that are below grade needed to be considered, including the foundation walls, and asked the applicant to analyze what remained to be constructed on the below-grade foundation elements as a whole; and

WHEREAS, the Board observes that it has previously considered foundation wall construction in the calculations of the amount of total foundation work performed; and

WHEREAS, however, the applicant failed to provide the Board with an understandable summation of the amount of work done relative to what remains, and the amount of expenditures made relative to what is outstanding, based upon the entire sub-grade foundation construction (including walls) necessary for the Proposed Development; and

WHEREAS, accordingly, because excavation was not complete and substantial progress was not made on foundations, the applicant is not entitled to relief under of ZR § 11-331; and

WHEREAS, as a final matter, the Board observes that the applicant, in a March 3, 2006 submission, claims that the owner has established vested rights under the common law; and

WHEREAS, however, the applicant has not expanded upon this assertion nor provided any evidence in support of it; and

WHEREAS, additionally, the Board notes that the subject application was brought pursuant to ZR § 11-331; the issue of common law vesting was not discussed by the applicant at hearing, nor was a formal application made for the Board's consideration of such a claim, as required by Board practice; accordingly, the Board declines to render a determination as to this claim.

*Therefore it is Resolved* that this application to renew NB

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Permit Nos. 402096959-01 and 402096968-01 pursuant to ZR § 11-331 is denied.

Adopted by the Board of Standards and Appeals, May 9, 2006.

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## 206-05-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Joanne & Thomas DeRosa, lessee.  
SUBJECT – Application September 6, 2005 – Proposed construction of an existing single family frame dwelling situated in the bed of a mapped street contrary to General City Law Article 3, Section 35 and upgrading an existing private disposal system which is contrary to Department of Buildings policy. Premises is located within an R4 zoning district.

PREMISES AFFECTED – 9 Bayside Drive, in the bed of Bayside Drive 109.72 northwest of Rockaway Point Boulevard, Block 16340, part of Lot 50, Borough of Queens.

## COMMUNITY BOARD#14Q

### APPEARANCES –

For Applicant: Gary Lenhart.

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

### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4  
Negative:.....0

### THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated August 24, 2005, acting on Department of Buildings Application No. 402131260, reads:

“A1 – The Existing Building to be altered lies within the bed of a mapped street contrary to General City Law Article 3, Section 35.

A2 – The proposed upgraded private disposal system is in the bed of a mapped street contrary to Department of Buildings Policy.”; and

WHEREAS, a public hearing was held on this application on May 9, 2006, after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated September 13 2005, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated October 19, 2005, the Department of Environmental Protection has reviewed the above project and has no objections; and

WHEREAS, by letter dated, March 30, 2006, the Department of Transportation has reviewed the above project and has no objections; and

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

*Therefore it is Resolved* that the decision of the Queens Borough Commissioner, August 24, 2005, acting on Department of Buildings Application No. 402131260, is modified by the

power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received September 6, 2005”–(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals, May 9, 2006.

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## 30-06-A

APPLICANT – Eric Hecker, Esq. of Emery Celli, Brinkcerhoff & Abady, LLP for Lamar Outdoor Advertising, lessee; EG Clemente Bros., owner.

SUBJECT – Application February 21, 2006 – For an appeal of the Department of Buildings decision dated January 19, 2006 revoking Advertising sign approvals and permits under Application Nos. 5000684324 and 500684315 in that it allows advertising signs that are not within 1/2 mile of the NYC Boundary and as such are in violation of Section 42-55 of the Zoning Resolution.

PREMISES AFFECTED – 50 South Bridge Street, between Arthur Kill Road and Page Avenue, Block 7584, Lot 122, Borough of Staten Island.

## COMMUNITY BOARD #3SI

APPEARANCES – None.

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

### THE VOTE TO GRANT –

Affirmative: .....0  
Negative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4  
THE RESOLUTION –

WHEREAS, the instant appeal comes before the Board in response to a January 19, 2006 (mistakenly dated January 19, 2005) final written determination of the Acting Staten Island Borough Commissioner (the “Final Determination”); and

WHEREAS, the Final Determination was issued in response to July 22 and September 16, 2005 letters from Lamar Outdoor Advertising (hereinafter, the “appellant”) asking the Department of Buildings (“DOB”) to rescind its intent to revoke the permits (Permit Nos. 500684315 and 500884324, hereinafter, the “Permits”) issued for advertising signs (hereinafter, the “Signs”) at the subject premises; and

WHEREAS, as reflected in the Final Determination, the

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Acting Staten Island Borough Commissioner denied this request because the Signs are not within a half-mile of the New York City boundary and are thus in violation of ZR § 42-55(a); and

WHEREAS, ZR § 42-55 provides, in pertinent part: “In all districts, as indicated, the provisions of paragraphs (a), (b) and (c), or paragraph (d) of this Section, shall apply for signs near designated arterial highways . . .

- (a) Within 200 feet of an arterial highway . . . signs that are within view of such arterial highway . . . shall be subject to the following provisions: . . . no advertising sign shall be allowed . . .
- (d) Within one-half mile of any boundary of the City of New York, permitted signs and advertising signs may be located along any designated arterial highway . . . that crosses a boundary of the City of New York, without regard to the provisions of paragraphs (a), (b) and (c) of this Section, provided any such permitted or advertising sign otherwise conforms to the regulations of this Chapter including, with respect to an advertising sign, a location not less than 500 feet from any other advertising sign, except that, in the case of any such permitted or advertising sign erected prior to August 7, 2000, such sign shall have non-conforming use status pursuant to Sections 52-82 . . .”; and

WHEREAS, generally, ZR 42-55(a) acts to prohibit signs placed within 200 feet of a designated arterial highway; and

WHEREAS, however, ZR § 42-55(d) provides an exception for signage that is placed within one-half mile of a boundary of the City of New York on a highway that crosses said boundary, so long as the sign is located at least 500 ft. from any other advertising sign; and

WHEREAS, the primary issue in the appeal is the interpretation of the phrase “boundary of the City of New York”; and

WHEREAS, a public hearing was held on this application on April 11, 2006 after due notice by publication in *The City Record*, and then to decision on May 9, 2006; and

WHEREAS, Communiquez L.L.C., the permit holder for a separate outdoor advertising sign at 100 South Bridge Street (hereinafter, the “Communiquez Sign”), made submissions and gave testimony in opposition to the appeal; and

WHEREAS, the Signs are two back-to-back advertising signs located at 50 South Bridge Street between Arthur Kill Road and Page Avenue; the site is within an M1-1 zoning district; and

WHEREAS, on March 21, 1994 and April 7, 1994, under Application Nos. 500089780 and 500089771, appellant’s predecessor in interest obtained permits for non-advertising accessory business signs; and

WHEREAS, on January 20, 2004, DOB informed the appellant that an inspection revealed that the permitted accessory signs had been converted to advertising signs without

DOB approval and that the Signs were located within 500 feet of the Communiquez Sign, which is not permitted pursuant to ZR § 42-55; and

WHEREAS, DOB requested proof that the Signs existed prior to August 7, 2000 so that they could qualify for non-conforming status under ZR § 42-55(d), despite being within 200 feet of an arterial highway; this would also determine whether the Signs had priority over the Communiquez Sign; and

WHEREAS, on April 2, 2004, DOB wrote to the appellant, stating that it was accepting evidence that the Signs had existed at the premises before August 7, 2000 and therefore were grandfathered as non-conforming signs under ZR § 42-55(d), with priority over the Communiquez Sign as to the 500 ft. distance between signs rule; and

WHEREAS, on April 12, 2004, appellant filed Application Nos. 500684315 and 500684324, and DOB subsequently issued the Permits to convert the permitted accessory signs to advertising signs; and

WHEREAS, on May 5, 2004, upon review of a survey performed for the owner of the Communiquez Sign by Rogers Surveying (the “Rogers Survey”), DOB notified the appellant that the Signs were not within a half-mile boundary of the City of New York and therefore could not be grandfathered under ZR § 42-55(d); and

WHEREAS, DOB noted that if the Signs were not “[w]ithin one-half mile of any boundary of the City of New York,” as specified by ZR § 42-55(d), then they were in violation of ZR § 42-55(a), and thus could not be deemed grandfathered; and

WHEREAS, the appellant responded with a claim that, in accordance with ZR § 76-145, the “boundary of the City of New York” as that phrase is used in ZR § 42-55(d), is the pierhead line, and that the Signs were within a half-mile of the pierhead line; and

WHEREAS, ZR § 76-145, reads, in pertinent part; “In cases of . . . navigable waters, the boundary line shall (unless otherwise fixed) be considered to coincide with the boundary line of . . . the pierhead line . . .”; and

WHEREAS, on September 9, 2004, DOB replied to the appellant that ZR § 76-145 referred to zoning district boundary lines and not City boundaries, was therefore inapplicable to ZR § 42-55(d); and

WHEREAS, in making this response, DOB stated it was relying upon the Rogers Survey, which showed the City boundary line as the border between the City and the State of New Jersey, situated in the middle of the Arthur Kill River, as established by the United States Army Corps of Engineers (the “U.S. A.C.E.”); and

WHEREAS, DOB noted that the Signs were not within one half mile of this City boundary; and

WHEREAS, accordingly, on June 6, 2005, DOB issued an intent to revoke the Permits, because the Signs did not comply with the half-mile requirement of ZR § 42-55(d); and

WHEREAS, in the Final Determination, DOB subsequently revoked the Permits, again citing the established City boundary line as reflected on the Rogers Survey; and

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WHEREAS, the appellant now challenges DOB's Final Determination and the revocation of the Permits, and restates the argument that the boundary of the City of New York is, pursuant to ZR § 76-145, the equivalent of the pierhead line and that since the Signs are within a half mile of the pierhead line, they comply with the requirements of ZR § 42-55; and

WHEREAS, thus, the appellant asks the Board to consider the argument rejected by DOB, that the one-half mile measurement may be taken from the pierhead line; and

WHEREAS, DOB maintains its position stating that the conventional standard used to identify the City boundary line has been established by the U.S. A.C.E. to be the center of the Arthur Kill River; and

WHEREAS, DOB additionally cites to New York City Administrative Code, Title 2, Chapter 2 "Boundaries of the City," Section 2-202, Paragraph 5, which recognizes that a boundary of Staten Island is the state boundary line, as well as Section 7 of the State Law of New York which identifies the boundary line between New York State and New Jersey as the middle of the Arthur Kill River; and

WHEREAS, DOB argues that when the Administrative Code and the State Law are considered together, one must conclude that the City boundary is coincident with the State boundary, which is established by law to be the center of the Arthur Kill River; and

WHEREAS, the U.S.A.C.E.-identified City boundary line, as reflected on the Rogers Survey, reinforces this conclusion; and

WHEREAS, DOB notes that the appellant's own survey, prepared by Wohl & O'Mara, indicated only the location of the pierhead line and not that of the City boundary, and did not claim that the two were coincident; and

WHEREAS, the Board notes that DOB's claim that the Signs are not within the required half-mile from the City boundary as defined by the U.S. A.C.E. has not been disputed by the appellant; and

WHEREAS, as to ZR § 76-145, DOB notes that this provision is part of ZR Chapter 6: "Location of District Boundaries", which is a chapter regulating zoning district boundary lines rather than City boundaries; and

WHEREAS, ZR § 76-145 is a rule of construction that specifies that park, pierhead, or cemetery boundary lines may be construed to be zoning district boundaries; and

WHEREAS, 76-145 is one of eight rules of construction set forth in Chapter 6, and all of them concern zoning district boundaries on the zoning maps; and

WHEREAS, the Board observes that ZR 76-11 "General Provisions", provides that "The *district* boundaries on the zoning maps shall be interpreted in accordance with the provisions of . . . 76-14 (Additional Rules of Construction)"; and

WHEREAS, ZR § 76-145 is one of the "Additional Rules of Construction"; and

WHEREAS, thus, it is illogical to argue, as appellant has, that 76-145 modifies the phrase "boundary of the City of New York" as used in ZR § 42-55(d), when the provision

plainly is a rule of construction concerning zoning district boundaries; and

WHEREAS, accordingly, the Board agrees with DOB that the pierhead line is not relevant when determining whether the signs comply with the one-half mile requirement of ZR § 42-55; and

WHEREAS, instead, the Board agrees that the City boundary is established by laws other than the ZR and has been correctly confirmed on the Rogers Survey as the U.S. A.C.E.-identified boundary line in the middle of the Arthur Kill River; and

WHEREAS, since the appellant does not contest that the Signs are not within one half mile of the City boundary line, the Board concludes that DOB's revocation of the Permits as set forth in the Final Determination is a proper exercise of its authority and should therefore be sustained; and

WHEREAS, accordingly, the Board finds that the subject appeal is without merit and should be denied; and

WHEREAS, subsequent to the Final Determination, DOB responded to the Communique's arguments regarding sign height and size, set forth in a submission to the Board; and

WHEREAS, however, the Board notes that these issues are not subject to the Final Determination and are therefore not properly before the Board in the instant appeal.

*Therefore it is Resolved* that the instant appeal, seeking a reversal of the determination of the Acting Staten Island Borough Commissioner, dated January 19, 2006, revoking DOB Permit Nos. 500684315 and 500884324, is hereby denied.

Adopted by the Board of Standards and Appeals, May 9, 2006.

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## **222-04-A thru 224-04-A**

APPLICANT – Rothkrug, Rothkrug, Weinberg, & Spector, LLC for Dalip Karpuzi, owner.

SUBJECT – Application June 1, 2004 – to permit construction of a three one family dwellings in the bed of a final mapped street (Pemberton Avenue ) contrary to Article 3, Section 35 of the General City Law. Premises is located within an R3-1 (SRD) Zoning District.

PREMISES AFFECTED – 486 Arthur Kill Road, and 120, 122 Pemberton Avenue, Block 5450, Lots 37, 35 and 36, Borough of Staten Island.

## **COMMUNITY BOARD #3SI**

APPEARANCES –

For Applicant: Adam W. Rothkrug.



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**ACTION OF THE BOARD** – Laid over to June 13, 2006, at 10 A.M., for continued hearing.

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## **370-04-A**

APPLICANT – Rothkrug, Rothkrug, Weinberg & Spector, LLC for Edgewater Developers and Builders, Inc., Owner.  
SUBJECT – Application November 23, 2004 – to permit construction of a one family dwelling in the bed of a final mapped street (Edgewater Road) contrary to Article 3, Section 35 of the General City Law. Premises is located within an R2 Zoning District.

PREMISES AFFECTED – 1511 Egmont Place, north side of Egmont Place 705.9 ft east of Mott Avenue, Block 15685, Lot 48, Borough of Queens.

## **COMMUNITY BOARD #14Q**

APPEARANCES –

For Applicant: Adam W. Rothkrug.

**ACTION OF THE BOARD** – Laid over to June 13, 2006, at 10 A.M., for continued hearing.

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## **134-05-A**

APPLICANT – Rothkrug, Rothkrug, Weinberg, Spector, LLP for Gaspare Colomone, owner.

SUBJECT – Application May 31, 2005 – Proposed construction of a three dwellings, which lies in the bed of a mapped street (67<sup>th</sup> Street) which is contrary to Section 35 of the General City Law.

PREMISES AFFECTED – 53-31 67<sup>th</sup> Street, 53-33 67<sup>th</sup> Street, and 67-02 53<sup>rd</sup> Road, Block 2403, Lot 117, 217, 17, Borough of Queens.

## **COMMUNITY BOARD #5Q**

APPEARANCES –

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** – Laid over to June 6, 2006, at 10 A.M., for continued hearing.

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## **153-05-A**

APPLICANT – Rothkrug, Rothkrug, Weinberg, Spector, LLP for MSP Development, owner.

SUBJECT – Application filed on June 28, 2005 – Proposed construction of a two family homes, which lies in the bed of a mapped street (141<sup>st</sup> Avenue) which is contrary to Section 35 of the General City Law. Premises is located in R3-2 zoning district.

PREMISES AFFECTED – 222-50 and 222-54 141<sup>st</sup> Avenue, Block 13149, Lot 148, 48, Borough of Queens.

## **COMMUNITY BOARD #13Q**

APPEARANCES –

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** – Laid over to June 13, 2006, at 10 A.M., for continued hearing.

## **294-05-A thru 296-05-A**

APPLICANT – Rothkrug RothkrugWeinberg & Spector, LLP for Pleasant Place, LLC, owner.

SUBJECT – Application September 29, 2005 – Proposed construction of three two- family homes not fronting on a mapped street is contrary to GCL 36, Article 3. Current R3-2 Zoning District.

PREMISES AFFECTED – 146-34, 36, 38 Pleasant Place, Queens, West side of Pleasant Place, 100ft north of intersection with 146<sup>th</sup> Drive, Block 13351, Tentative Lot #s 100, 101, 103, Borough of Queens.

## **COMMUNITY BOARD #13Q**

APPEARANCES –

For Applicant: Adam Rothkrug.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Collins.....4  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to June 6, 2006, at 10 A.M., for decision, hearing closed.

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## **372-05-BZY & 373-05-BZY**

APPLICANT – Adam Rothkrug, for Woodrow Estates North LLC, owner.

SUBJECT – Application December 27, 2005 – Proposed extension of time to renew building permits and complete construction of a development pursuant to Z.R. §11-332. Prior R4 Zoning District. Current R3-A (HS) Zoning District.

PREMISES AFFECTED – 28 Webster Avenue (aka 101 Stanley Avenue) Block 111, Lot 15, Borough of Staten Island.

## **COMMUNITY BOARD #1SI**

APPEARANCES –

For Applicant: Adam Rothkrug.

**ACTION OF THE BOARD** – Laid over to June 13, 2006, at 10 A.M., for continued hearing.

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*Jeffrey Mulligan, Executive Director.*

Adjourned: A.M.

## **REGULAR MEETING TUESDAY AFTERNOON, MAY 9, 2006 1:30 P.M.**

Present: Chair Srinivasan, Vice Chair Babbar, Commissioner Chin and Commissioner Collins.

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## **ZONING CALENDAR**

## **229-04-BZ**

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APPLICANT – Eric Palatnik, P.C., for Absolute Power & Fitness Center, Inc., owner.

SUBJECT – Application June 16, 2004 – Under Z.R. §72-21 – the legalization of an existing physical cultural establishment, occupying approximately 8000 square feet of floor area spread over two stories, located in an R-5 (OPSD) zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED – 202/04 Caton Avenue, between East 2<sup>nd</sup> and East 3<sup>rd</sup> Streets, Block 5325, Lot 1, Borough of Brooklyn.

## COMMUNITY BOARD #12BK

### APPEARANCES –

For Applicant: Eric Palatnik.

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

### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4  
Negative:.....0

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated May 17, 2004, acting on Department of Buildings Application No. 301773249, reads, in pertinent part:

“Proposed Physical Culture Establishment is not permitted as of right within R5(OP Special District) and is contrary to ZR Section 22-00 . . .”; and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R5 zoning district within the Special Ocean Parkway Subdistrict (OP), the legalization of a physical culture establishment (PCE) located in an existing two-story commercial building; and

WHEREAS, a public hearing was held on this application on February 28, 2006 after due notice by publication in *The City Record*, with continued hearings on April 11, 2006, and then to decision on May 9, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioners Chin and Collins; and

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

WHEREAS, the site is a 4,000 sq. ft. lot located on the southeast corner of Caton Avenue and Second Street; and

WHEREAS, the existing building has 8,000 sq. ft. of floor area, all of which is currently occupied by the PCE (the Absolute Power Fitness Center); and

WHEREAS, the existing building was previously occupied by a Use Group 16 carpet cleaning establishment, subject to a previous variance granted under BSA Cal. No. 841-48-BZ; and

WHEREAS, the applicant states that the building was later occupied as a roofing, storage facility, and construction office, and then fell vacant until purchased by the Absolute Power Fitness Center; and

WHEREAS, since a PCE is not permitted in an R5 zoning district, a variance is required; and

WHEREAS, the applicant states that the following is a

unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject lot in conformance with underlying district regulations: the site is improved upon with an obsolete industrial structure that was designed for, and historically has been occupied by, non-conforming uses; and

WHEREAS, as noted above, the building was occupied as a factory prior to 1948, and, pursuant to a Board grant, as a UG 16 carpet cleaning establishment and storage and construction office since 1948; and

WHEREAS, the applicant discussed previous Board cases where the Board has approved variances for PCEs that occupy non-conforming commercial buildings, where the existing non-conforming building was cited as the unique physical condition giving rise to unnecessary hardship; and

WHEREAS, the applicant states that the instant case is comparable to these approvals; and

WHEREAS, the Board observes that the design of the existing building for commercial use is a condition which prevents a feasible conversion to conforming residential use, due to increased construction costs, as discussed below; and

WHEREAS, based on the above, the Board finds that there are unique physical conditions inherent to the site, which create an unnecessary hardship in conforming strictly with the applicable use provisions of the Zoning Resolution; and

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

WHEREAS, specifically, this study showed that due to the fact that the building was designed for and has been occupied by commercial uses since at least 1948, as of right residential or community facility scenarios would produce only negligible returns due to the significant demolition and construction costs and the modest rents that could be realized; and

WHEREAS, these costs include expenditures for base construction, HVAC equipment, and installation of windows, as well as the removal of approximately 1,400 sq. ft. of floor area from the building to comply with the residential FAR maximum of 1.65 and to allow for light and air; and

WHEREAS, these costs and the diminution in the amount of usable floor area render a residential scenario infeasible; and

WHEREAS, additionally, the feasibility study analyzed a conforming community facility scenario, which was also determined to be infeasible due to the excessive costs of construction for the conversion; and

WHEREAS, the Board observes that a ground up residential development involving the demolition of the existing building would not be feasible, given that the costs of demolition and new construction would not be offset by the rents that could be gained from such construction; and

WHEREAS, based upon the above, the Board has determined that because of the subject site’s unique physical condition, there is no reasonable possibility that development in strict compliance with applicable zoning provisions will provide

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a reasonable return; and

WHEREAS, further, the Board observes that without the variance, the building would likely remain vacant, given its apparent lack of desirability for other commercial uses; and

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

WHEREAS, the applicant states that the PCE will occupy a building that has historically been occupied by commercial and manufacturing uses; and

WHEREAS, the Board also observes that the PCE use is more compatible with the character of the neighborhood than the prior uses; and

WHEREAS, the applicant states that the height of the two story structure is compatible with the existing six and seven story multiple dwellings in the immediate vicinity; and

WHEREAS, further, the applicant notes that none of the OP regulations, which concern the existing scale and character of the community, among other things, are violated by the proposed variance; and

WHEREAS, as to parking, the applicant states that the PCE is not expected to result in significant impacts, and has submitted a modal split parking analysis that concludes that only approximately 12 patrons per day will arrive via car, with the overwhelming majority arriving by foot or public transportation; and

WHEREAS, the parking analysis also shows that there is sufficient available on-street parking to accommodate the anticipated parking demand generated by the PCE; and

WHEREAS, additionally, the PCE is intended to be a neighborhood gym, and will likely not draw significant patronage from outside the area; accordingly, significant visitation by car is not anticipated; and

WHEREAS, the hours of operation for the PCE are 5 a.m. to 10 p.m. Monday thru Friday, and 8 a.m. to 8 p.m. Saturday and Sunday; the Board finds these hours reasonable; and

WHEREAS, finally, the Board, through a condition in this resolution, will limit signage to one non-illuminated sign fronting on Caton Avenue, with

WHEREAS, at the request of the Board, the applicant modified the proposed plans to show the sign; said sign will be 8'-6" in length and 1'-6" in height; and

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

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

WHEREAS, the Board finds that 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 ZR § 72-21; and

WHEREAS, the Board notes that although a variance is being requested, the subject application meets all of the

requirements of the special permit for a PCE, except for the required zoning district; and

WHEREAS, the PCE will contain facilities for classes, instruction and programs for physical improvement, bodybuilding, weight reduction and aerobics; and

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR 04-BSA-215K dated December 23, 2005 and

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21, to permit, in an R5(OP) zoning district, the legalization of a physical culture establishment located in an existing two-story commercial building; *on condition* that all work shall substantially conform to drawings, filed with this application marked "Received April 25, 2006" - (6) sheets; and *on further condition*:

THAT the term of this variance will be ten years from November 1, 2003, to expire on November 1, 2013;

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 shall be limited to 5 a.m. to 10 p.m. Monday thru Friday, and 8 a.m. to 8 p.m. Saturday and Sunday;

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

THAT only one non-illuminated accessory business sign shall be permitted, with dimensions and location as illustrated on the BSA-approved plans;

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THAT all other aspects of the sign shall comply with regulations applicable in C1-1 zoning districts;

THAT all fire protection measures, including, but not limited to, an interior fire alarm system, as indicated on the BSA-approved plans, shall be installed and maintained, as approved by DOB;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT all exiting requirements shall be as reviewed and approved by the Department of Buildings;

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

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

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

Adopted by the Board of Standards and Appeals, May 9, 2006.

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## 260-04-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Leewall Realty by Nathan Indig, owner.

SUBJECT – Application July 20, 2004 – under Z.R. §72-21 to permit the proposed construction of a four story, penthouse and cellar three-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 222 Wallabout Street, 64' west of Lee Avenue, Block 2263, Lot 44, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Lyra Altman and Fredrick A. Becker.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to July 11, 2006, at 1:30 P.M., for decision, hearing closed.

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## 262-04-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Tishrey-38 LLC by Malka Silberstein, owner.

SUBJECT – Application July 22, 2004 – under Z.R. §72-21, to permit the proposed construction of a four story, penthouse and cellar four-family dwelling, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED – 218 Wallabout Street, 94' west of Lee Avenue, Block 2263, Lot 43, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Lyra Altman and Fredrick A. Becker.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to July 11, 2006, at 1:30 P.M., for decision, hearing closed.

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## 89-05-BZ

APPLICANT – Stadtmauer Bailkin, LLP (Steven M. Sinacori, Esq.) for 18 Heyward Realty, Inc., owner.

SUBJECT – Application April 12, 2005 – under Z.R. §72-21 to allow an enlargement of the rear portion of an existing five-story community facility/commercial building; site is located in an R6 district; contrary to Z.R. §24-11, §24-37 and §24-33.

PREMISES AFFECTED – 18 Heyward Street, Heyward Street, between Bedford and Wythe Avenues, Block 2230, Lot 7, Borough of Brooklyn.

### COMMUNITY BOARD #1BK

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to June 6, 2006, at 1:30 P.M., for continued hearing.

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## 128-05-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Yisroel Y. Leshkowitz & Esther S. Leshkowitz, owner.

SUBJECT – Application May 24, 2005 – under Z.R. §73-622 – to permit the proposed enlargement of an existing single family residence, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space ratio, also side and rear yard, is contrary to Z.R. §23-141, §23-461 and §23-47.

PREMISES AFFECTED – 1406 East 21<sup>st</sup> Street, between Avenue “L” and “M”, Block 7638, Lot 79, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra Altman.

**ACTION OF THE BOARD** – Laid over to June 20, 2006, at 1:30 P.M., for continued hearing.

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## 151-05-BZ

APPLICANT – The Law Office of Frederick A. Becker for 100 Varick Street, LLC, Owner.

SUBJECT – Application June 16, 2005 – Zoning Variance (use) pursuant to Z.R. §72-21 to allow a proposed ten (10) story residential building containing seventy-nine (79) dwelling units located in an M1-6 district; contrary to Z.R. §42-00.

PREMISES AFFECTED – 100 Varick Street, located on the easterly side of Varick Street between Watts and Broome Streets, Block 477, Lots 35 and 42, Borough of Manhattan.

### COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Fredrick A. Becker, Michael Even and Peter Bergman.

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For Opposition: David Reck and Sheila Pozon.

**ACTION OF THE BOARD** – Laid over to June 20, 2006, at 1:30 P.M., for continued hearing.  
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## 11-06-BZ

APPLICANT – The Law Office of Frederick A. Becker for Miriam Schubert and Israel Schubert, owner.

SUBJECT – Application January 18, 2006 – Under Z.R. §73-622 to permit the enlargement to an existing single family residence, located in an R-2 zoning district, which do not comply with the zoning requirements for floor area ratio, open space ratio and rear yard (Z.R. §23-141 and §23-47).

PREMISES AFFECTED – 1245 East 22<sup>nd</sup> Street, East 22<sup>nd</sup> Street between Avenue K and Avenue L, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra Altman.

**ACTION OF THE BOARD** – Laid over to June 20, 2006, at 1:30 P.M., for continued hearing.  
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## 15-06-BZ

APPLICANT – Eric Palatnik, PC for the Yeshiva Tifereth Moshe, Owner.

SUBJECT – Application January 26, 2006 – Zoning Variance (bulk) pursuant to Zoning Resolution Section §72-21 to facilitate the construction of a new yeshiva located in an R4 zoning district. The proposed variance would allow modifications of zoning requirements for lot coverage, side yards, rear yard and height and setback; contrary to Z.R. §§ 24-11, 24-35, 24-36, 24-521 and 24-551.

PREMISES AFFECTED – 147-22 73<sup>rd</sup> Avenue located on the south side of 73<sup>rd</sup> Avenue between 147<sup>th</sup> and 150<sup>th</sup> streets (Block 6682, Lots 11 and 13), Borough of Queens.

## COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Eric Palatnik, Mark Mariscal and Don Goldschein.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4

Negative:.....0

**ACTION OF THE BOARD** – Laid over to June 13, 2006, at 1:30 P.M., for decision, hearing closed.  
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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*